

Assembly Bill No. 2455

Passed the Assembly August 29, 2008

Chief Clerk of the Assembly

Passed the Senate August 20, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 15853 of the Government Code, to amend Section 5006 of, and to add Article 2.1 (commencing with Section 550) to Chapter 1 of Division 1 of, the Public Resources Code, relating to state lands.

LEGISLATIVE COUNSEL'S DIGEST

AB 2455, Laird. State lands: resource land transactions.

The Property Acquisition Law requires the State Public Works Board to acquire, on behalf of the Department of Parks and Recreation, interests in real property, including options to purchase, that have been appraised, selected, and settled through purchase negotiations conducted by the department, subject to certain requirements.

This bill would remove the State Public Works Board as the entity designated to acquire property for the Department of Parks and Recreation, and instead create the State Parks Preservation Board (“board”), and would require the board to review the department’s recommendations, and, subject to authorization by the board, would authorize the department to acquire real property or rights in real property, subject to certain additional requirements.

The bill also would make legislative findings and declarations related to land acquisition processes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) It is vital to ensure the efficient use of state funds for the acquisition of property by state agencies, in terms of both the amounts paid for property and the procedures used for its acquisition.

(b) It is important to ensure that a state agency acquiring property acts expeditiously to purchase critically needed state resource lands for purposes of preserving and protecting those lands.

(c) Several departments within the Resources Agency purchase real property, including the Department of Fish and Game and the Department of Parks and Recreation.

(d) In 2004, the California Performance Review identified numerous concerns with the review and approval processes for state resource land transactions.

(e) In 2006, the Legislature passed and the Governor signed AB 2497 (Chapter 462, Statutes of 2006), which added Section 12805.3 to the Government Code to require the Secretary of the Resources Agency and the Department of Finance to convene a workgroup to evaluate and develop options for improving the efficiency of state resource land transactions.

(f) In 2008, the AB 2497 (Chapter 462, Statutes of 2006) workgroup report was submitted to the Legislature and included recommendations for administrative actions to improve the land appraisal process and options for legislative actions to improve resource land transactions and acquisitions. One of those options included establishing a State Parks Board, and shifting acquisition approval from the State Public Works Board to the new State Parks Board.

SEC. 2. Section 15853 of the Government Code is amended to read:

15853. (a) The board may select and acquire, in the name of and on behalf of the state, with the consent of the state agency concerned, the fee or any lesser right or interest in any real property necessary for any state purpose or function.

(b) If moneys are appropriated by the Budget Act for any fiscal year or by any other act for the acquisition of land or other real property, either (1) subject to this part or (2) for any state agency for whom property is acquired by the board, the moneys and acquisitions are subject to this part and the moneys shall be expended in accordance with this part, notwithstanding any other provisions of law.

(c) Notwithstanding any other provisions of law, all land and other real property to be acquired by or for any state agency, other than the Department of Transportation, the Department of Water Resources, the State Reclamation Board, the Department of Fish and Game, the Wildlife Conservation Board, the Department of Parks and Recreation, the Public Employees' Retirement System, the State Teachers' Retirement System, the Department of Housing

and Community Development, the State Lands Commission, except for property to be acquired for the State Lands Commission pursuant to an appropriation from the General Fund, and the State Coastal Conservancy with respect to acceptance of offers to dedicate public accessways made pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code, shall be acquired by the State Public Works Board in accordance with this part.

(d) The board may acquire furnishings that the owner thereof agrees to sell and that are contained within improvements acquired by the board. Cost of acquisition of furnishings shall be charged to the appropriation available for acquisition of the real property.

SEC. 3. Article 2.1 (commencing with Section 550) is added to Chapter 1 of Division 1 of the Public Resources Code, to read:

Article 2.1. State Parks Preservation Board

550. (a) The Legislature finds and declares that the preservation of the state's extraordinary biological diversity, protection of its most valued natural and cultural resources, and the creation of opportunities for high-quality outdoor recreation are a critical part of providing adequate parks and recreation for the state's people in the interest of public welfare. It is the policy of the state to acquire and restore to the highest possible level, and maintain in a state of high productivity, those areas that can be most successfully used to support biological diversity, natural and cultural resources, and recreation.

(b) To carry out these purposes, a single and coordinated program for the acquisition of lands and facilities suitable for natural, cultural, and recreational purposes, is hereby established.

551. There is within the Department of Parks and Recreation the State Parks Preservation Board, which is hereby created. The board shall consist of the chair of the commission, the director, and the Director of Finance.

552. The members of the board shall elect a chairman.

553. The board shall review recommendations from the department and shall authorize the acquisition of real property or rights in real property, pursuant to this article and as may be necessary to carry out the purposes of this article.

554. Two Members of the Senate, appointed by the Senate Committee on Rules, and two Members of the Assembly, appointed by the Speaker of the Assembly, shall serve as ex officio members.

555. (a) When the department acquires real property, the purchase price for the real property shall not exceed the fair market value of the property, as defined in Section 1263.320 of the Code of Civil Procedure.

(b) The fair market value shall be set forth in an appraisal that is prepared by a licensed real estate appraiser and approved by the Department of General Services.

SEC. 4. Section 5006 of the Public Resources Code is amended to read:

5006. (a) The department, subject to authorization by the State Parks Preservation Board pursuant to Article 2.1 (commencing with Section 550) of Chapter 1 of Division 1, may acquire title to or any interest in real property, including personal property incidental to the purchase of real property and options to purchase property, which the department deems necessary or proper for the extension, improvement, or development of the state park system. All real and personal property acquired by the department for the state park system shall be under the jurisdiction of the department immediately upon transfer of title to the state.

(b) The department shall not acquire property by eminent domain proceedings. The State Parks Preservation Board may authorize acquisition by the State Public Works Board, which may effect acquisitions pursuant to the Property Acquisition Law, Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code.

(c) (1) The department may appraise and select real property for the purpose of acquiring an option to purchase the real property for the state park system. Out of moneys appropriated for the acquisition of options to purchase, no more than ten thousand dollars (\$10,000) may be expended for the acquisition of any single option unless otherwise provided by the Legislature. The department may utilize the services of the Real Estate Services Division of the Department of General Services or may contract with independent appraisers appropriately certified by the Office of Real Estate Appraisers, to assist in appraising property.

(2) The department may appraise and select real property for potential acquisition of, and addition to, the state park system. The

department may utilize the services of the Real Estate Services Division of the Department of General Services or may contract with independent appraisers appropriately certified by the Office of Real Estate Appraisers, to assist in appraising the property. Prior to appraising the property, the Department of Parks and Recreation shall notify the owners of the real property that the department is considering the real property for acquisition, and may have it appraised. The department shall determine the form and manner of giving the notice.

(3) The department may select real property it has appraised and submit purchase offers and negotiate a purchase agreement with the owner or owners of the property. The department shall be responsible for implementing and processing the purchase agreement and conveyance of title to the state. The department may utilize the services of the Real Estate Services Division of the Department of General Services, or may contract with other state agencies with real estate and right-of-way acquisition programs, to assist in negotiating purchase agreements and conveyance of title.

(d) Upon acquisition of real property for the state park system, the department shall be responsible for providing relocation assistance to displaced persons as provided under Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code. The department may utilize the services of the Real Estate Services Division of the Department of General Services, or may contract with other state agencies or private consultants with real estate and right-of-way acquisition programs, to assist in relocation planning and implementation.

(e) (1) Requests for funding to administer the department's acquisition program shall be submitted by the department for inclusion in the Governor's Budget for each fiscal year.

(2) Requests for funding to acquire options to purchase real and personal property for the state park system shall be submitted by the department for inclusion in the Governor's Budget for each fiscal year based upon its estimate of the amount needed for that purpose. If an option to purchase real property for the state park system has been acquired, the funding proposed by the department shall be the appraised value of the property less the sum expended by the state park system for the purchase of the option. The expenditure of the moneys shall be subject to the limitation

specified in paragraph (1) of subdivision (c) unless otherwise provided by the Legislature.

(3) Requests for funding to acquire real property or any interest in real property shall be submitted by the department for inclusion in the Governor's Budget for each fiscal year. The projects shall have been selected and appraised by the department pursuant to subdivision (c) prior to inclusion. The Governor's Budget shall contain a separate description of each project, or acquisition program and its appraised value, or funding allocation.

(4) Purchase negotiations for interests in real property shall be initiated within six months of the effective date of the act that appropriates funds for the acquisition. Purchase negotiations on all projects not proposed pursuant to this subdivision shall be initiated within 12 months of the effective date of the act appropriating funds for the acquisition. Either title shall be conveyed or a written agreement to transfer title shall be executed within the appropriate authorization period unless the department formally abandons the acquisition prior to the conclusion of the appropriate authorization period. For the purposes of this section, in order for the department to "formally abandon" an acquisition, it shall transmit written notification to the Department of General Services and the State Parks Preservation Board of its intent not to proceed with the acquisition.

(f) The requirements imposed by subdivision (e) are in addition to any other provisions of law requiring the inclusion of state park system acquisition projects in the Governor's Budget.

(g) The department shall not enter into any purchase agreements for the acquisition of real property if the consideration to be paid by the department is in excess of five hundred thousand dollars (\$500,000), unless Section 5006.1 has been complied with.

(h) Notwithstanding any other provision of law, all appraisals conducted by the department pursuant to this section shall be reviewed and approved by the Department of General Services or, at the discretion of the Department of General Services, a competent professional appraiser approved by the Department of General Services. Real property shall be appraised and appraisal review completed before commencement of purchasing negotiations. All contracts related to the acquisition of real property shall be reviewed and approved by the Department of General Services pursuant to Section 11005 of the Government Code.

Approved _____, 2008

Governor