

Introduced by Senator Negrete McLeodFebruary 18, 2010

An act to amend Section 5919 of the Public Resources Code, relating to land conservation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1124, as introduced, Negrete McLeod. Land conservation: California Wildlife, Coastal, and Park Land Conservation Act.

The California Wildlife, Coastal, and Park Land Conservation Act, an initiative measure approved by the voters in the June 7, 1988, statewide primary election, provided bond funds for wildlife, coastal, and parkland conservation. The initiative measure may be amended by a $\frac{2}{3}$ vote of the Legislature if the amendment is consistent with the purposes of the act. Existing law requires an applicant receiving state funds under the act to maintain any property acquired in perpetuity, as specified, and use the property only for the purposes stated in the act.

This bill would require a grantee, or its successors in interest, to record a conservation easement at the time property is acquired, developed, rehabilitated, or restored with funds allocated pursuant to the act. With respect to previously acquired, developed, rehabilitated, or restored properties, the bill would require the recording of a grant easement on or before April 1, 2011. The bill would require the conservation easement to, among other things, provide that the property is to be maintained and operated in perpetuity, only for the purposes set forth in the act, and no other use, sale, or other disposition of the property shall be made except as authorized by specific act of the Legislature.

The bill would declare that this requirement is an amendment of the act within the meaning of Section 6 of the act and is consistent with the act.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 5919 of the Public Resources Code is
 2 amended to read:
 3 5919. (a) (1) ~~No state~~ State funds authorized under Section
 4 5907 ~~may~~ shall not be disbursed unless the applicant agrees to all
 5 of the following:
 6 (1)
 7 (A) To maintain and operate the property acquired, developed,
 8 rehabilitated, or restored with the funds in perpetuity. With the
 9 approval of the granting agency, the applicant or its successors in
 10 interest in the property may transfer the responsibility to maintain
 11 and operate the property in accordance with this section.
 12 (2)
 13 (B) To use the property only for the purposes of this division
 14 and to make no other use, sale, or other disposition of the property
 15 except as authorized by specific act of the Legislature.
 16 ~~All applicants~~
 17 (2) An applicant for a grant pursuant to paragraph (3) of
 18 subdivision (b), and pursuant to subdivisions (c), (d), and (e), of
 19 Section 5907 shall submit an application to the administering
 20 agency for grant approval. Each application shall include in writing
 21 the agreements specified in ~~paragraphs paragraph (1) and (2) of~~
 22 ~~this subdivision.~~
 23 ~~The~~
 24 (3) The agreements specified in ~~paragraphs paragraph (1) and~~
 25 ~~(2) of this subdivision~~ shall not prevent the transfer of property
 26 acquired, developed, rehabilitated, or restored with funds
 27 authorized pursuant to Section 5907 from the applicant to a public
 28 agency, provided the successor public agency assumes the
 29 obligations imposed by those agreements.
 30 (b) (1) If the use of the property acquired through grants
 31 pursuant to this division is changed to one other than permitted
 32 under the category from which the funds were appropriated, or the
 33 property is sold or otherwise disposed of, an amount equal to the
 34 (1) (A) amount of the grant, (2) (B) the fair market value of the
 35 real property, or (3) (C) the proceeds from the portion thereof,

1 acquired, developed, rehabilitated, or restored with the grant shall
2 be used by the grantee, subject to subdivision (a), for a purpose
3 authorized in that category or shall be reimbursed to the fund and
4 be available for appropriation only for a use authorized in that
5 category.

6 If

7 (2) *If the property sold or otherwise disposed of is less than the*
8 *entire interest in the property originally acquired, developed,*
9 *rehabilitated, or restored with the grant, an amount equal to the*
10 *proceeds or the fair market value of the property interest sold or*
11 *otherwise disposed of, whichever is greater, shall be used by the*
12 *grantee, subject to subdivision (a) of this section, for a purpose*
13 *authorized in that category or shall be reimbursed to the fund and*
14 *be available for appropriation only for a use authorized in that*
15 *category.*

16 (c) *To implement the agreements made pursuant to paragraph*
17 *(1) of subdivision (a), the grantee or its successors in interest shall*
18 *record, or shall require the recording of, a conservation easement*
19 *on the property acquired, developed, rehabilitated, or restored*
20 *with the state funds authorized under Section 5907. The*
21 *conservation easement shall be recorded in accordance with*
22 *Section 815.5 of the Civil Code at the time that the property is*
23 *acquired, developed, rehabilitated, or restored and, in the case of*
24 *properties previously acquired, developed, rehabilitated, or*
25 *restored with the funds authorized under Section 5907, on or before*
26 *April 1, 2011. The conservation easement shall provide both of*
27 *the following:*

28 (1) *That the real property will be maintained and operated in*
29 *perpetuity consistent with the requirements of Chapter 4*
30 *(commencing with Section 815) of Division 2 of Part 2 of Title 2*
31 *of the Civil Code, only for the purposes set forth in this division,*
32 *and no other use, sale, or other disposition of the real property*
33 *shall be made except as authorized by specific act of the*
34 *Legislature.*

35 (2) *That the grantee, a subsequent transferee or assignee of the*
36 *grantee, the administering agency, the granting agency, the state,*
37 *and the holder of the conservation easement shall have standing*
38 *as interested parties and as third-party beneficiaries to enforce*
39 *the terms of the easement and to seek the appropriate relief for*
40 *either actual or threatened violations of the terms of the easement,*

1 *including injunctive relief, specific performance of the terms of*
2 *the easement, and all of the rights and remedies set forth in*
3 *Chapter 5 (commencing with Section 815) of Title 2 of Part 2 of*
4 *Division 2 of the Civil Code.*

5 SEC. 2. Section 1 of this act is an amendment to the California
6 Wildlife, Coastal, and Park Land Conservation Act (Division 5.8
7 (commencing with Section 5900) of the Public Resources Code)
8 within the meaning of Section 6 of that act, and is consistent with
9 the purpose of that act.

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