

Assembly Bill No. 42

CHAPTER 450

An act to add and repeal Section 5080.42 of the Public Resources Code, relating to state parks.

[Approved by Governor October 4, 2011. Filed with
Secretary of State October 4, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 42, Huffman. State parks.

Existing law gives control of the state park system to the Department of Parks and Recreation. Existing law authorizes the department to enter into agreements with an agency of the United States, a city, county, district, or other public agency or any combination thereof, for the care, maintenance, administration, and control by a party to the agreement of lands under the jurisdiction of a party to the agreement, for the purpose of the state park system.

This bill would authorize the department to enter into an operating agreement for the development, improvement, restoration, care, maintenance, administration, or operation of a unit or units, or portion of a unit, of the state park system, as identified by the director, with a qualified nonprofit organization, as provided. This bill would require the operating agreement to include, among other things, a requirement that the nonprofit organization annually submit a report to the department, to be available on the Internet Web site of both the department and the nonprofit organization. The bill would require the nonprofit organization and the district superintendent for the department to hold a joint public meeting for discussion of the report.

The bill would require the department to notify a Member of the Legislature of an intention to enter into an operating agreement relating to a park in the member's district, as well as notify specified committees of the Legislature. The bill would also require the department to report to the Legislature, on a biennial basis, the status of any operating agreement.

The bill would repeal these provisions on January 1, 2019.

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

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

(a) The California state park system is a unique resource that requires preservation and protection for future generations.

(b) California's state park system is the largest in the nation and contains over 1.5 million acres of land managed for natural, cultural, and historical values in 278 parks across the state.

(c) California's state park system hosts more than 80 million visitors annually and houses over 3,100 historic buildings and more than 14,000 individual and group campsites.

(d) California's state park system is a major draw for tourism in the state and generates over \$4 billion annually in economic activity in communities near state parks and in park-related expenditures.

(e) The budget for the state park system has not kept pace with the state's population growth and growing demand. The annual budget for state parks has been significantly below the amount necessary to maintain the parks in their current condition. The ongoing shortfall has caused a burgeoning backlog of deferred maintenance of over \$1.3 billion in 2010, inadequate staff to protect park resources and maintain public access and safety, and partial closures of many state parks.

(f) Current budget resources will force the closure of state parks throughout the system and create impediments to public access and enjoyment of those parks.

(g) Californians deserve a world-class state park system that will preserve and protect the unique resources of the state for future generations. In order to safeguard those resources and maintain public access, California's state park system must have stable, reliable, and adequate funding sources to fully fund and support our state parks.

(h) As the search for stable funding sources continues in this current budget crisis, it is critical that all efforts be made to continue public access to state parks and to keep our parks open. Nonprofit organizations can be important partners in meeting those objectives, and where possible, they should be invited to assist the state with operating parks in order to keep them open.

(i) For effective protection of the natural, cultural, and historic resources in state parks, and to continue to facilitate public access to state parks, new partnerships, including intergovernmental partnerships, partnerships with local governments, and involvement from local, community, and regional groups should be encouraged as a way to protect California's state parks.

SEC. 2. Section 5080.42 is added to the Public Resources Code, to read:

5080.42. (a) Notwithstanding any other provision of this article, the department may enter into an operating agreement with a qualified nonprofit organization for the development, improvement, restoration, care, maintenance, administration, or operation of a unit or units, or portion of a unit, of the state park system, as identified by the director. If the department enters into an operating agreement that involves the operation of the entirety of a park unit, that agreement may be entered into pursuant to this section only to the extent that the agreement would enable the department to avoid closure of a unit or units of the state park system that may otherwise be subject to closure. The department may only enter into an operating agreement that involves the operation of the entirety of a park unit for no more than 20 park units. An operating agreement with a qualified nonprofit organization shall include, but shall not be limited to, the following conditions:

(1) The district superintendent for the department shall provide liaison with the department, the nonprofit organization, and the public.

(2) The nonprofit organization shall annually submit a written report to the department regarding its operating activities during the prior year and shall make copies of the report available to the public upon request. The report shall be available on the Internet Web sites of both the department and the nonprofit organization. The report shall include a full accounting of all revenues and expenditures for each unit of the state park system that the nonprofit organization operates pursuant to an operating agreement.

(3) All revenues received from a unit shall be expended only for the care, maintenance, operation, administration, improvement, or development of the unit. The qualified nonprofit organization may additionally contribute in-kind services and funds raised from outside entities for the care, maintenance, operation, administration, improvement, or development of the unit.

(4) No General Fund moneys shall be provided to a nonprofit organization to subsidize the operation or maintenance of a park unit. This paragraph applies to state parks, the full operation of which are turned over to a nonprofit organization, but does not apply to or preclude the department from entering into agreements with nonprofit organizations to operate a portion of a state park unit, or from entering into comanagement agreements with nonprofit organizations that involve the sharing of operational and financial responsibilities for the park unit and that have the effect of reducing state costs. This paragraph does not apply to park entrance fees, concession revenues, or any other revenues generated within a park operated by a nonprofit organization pursuant to this section.

(b) An operating agreement entered into pursuant to subdivision (a) shall honor the existing term of a current concession contract for the state park unit subject to the operating agreement.

(c) An operating agreement entered into pursuant to subdivision (a) shall specify the duties that the nonprofit organization shall be responsible for carrying out relative to management and protection of natural, historical, and cultural resources, and shall identify those management duties that shall continue to be conducted by the department, so that all core operations of the park are delineated. Scientific, architectural, and engineering functions that require special expertise or professional training shall only be conducted by or under the supervision of qualified persons with applicable expertise or training and subject to oversight by the department.

(d) This section does not supersede the requirements of Section 5019.53 regarding the protection of natural, scenic, cultural, and ecological values.

(e) The nonprofit organization and the district superintendent for the department shall, following submittal of the annual report pursuant to subdivision (a), hold a joint public meeting for discussion of the report.

(f) If the department intends to enter into an operating agreement for the development, improvement, restoration, care, maintenance, administration, or operation of a unit or units, or a portion of a unit, the department shall notify the Member of the Legislature in whose district the unit is located,

the Chair of the Senate Committee on Natural Resources and Water, the Chair of the Assembly Committee on Water, Parks and Wildlife, and the chairs of the Assembly and Senate budget committees of that intention. The notification shall include estimated operating costs and revenues and core duties and responsibilities that are likely to be assigned to the nonprofit organization and the department.

(g) For purposes of this section, a qualified nonprofit organization is an organization that is all of the following:

(1) An organization that is exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.

(2) An organization that has as its principal purpose and activity to provide visitor services in state parks, facilitate public access to park resources, improve park facilities, provide interpretive and educational services, or provide direct protection or stewardship of natural, cultural, or historical lands, or resources.

(3) An organization that is in compliance with the Supervision of Trustees and Fundraisers for Charitable Purposes Act, Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code.

(h) (1) Notwithstanding Section 10231.5 of the Government Code, the department shall provide a report to the Legislature, on a biennial basis, of the status of operating agreements it has entered into pursuant to this section. The report shall include a list of units of the state park system with operating agreements, discussion of the management and operations of each unit subject to an operating agreement, an accounting of the revenues and expenditures incurred under each operating agreement, and an assessment of the benefit to the state from operating agreements entered into pursuant to this section.

(2) A report submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(i) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.