

**ASSEMBLY BILL**

**No. 1989**

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**Introduced by Assembly Member Carter**

February 23, 2012

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An act to add Article 6.5 (commencing with Section 5077.85) to Chapter 1 of Division 5 of the Public Resources Code, relating to parks, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1989, as introduced, Carter. State parks: bicycle facilities.

Existing law vests the Department of Parks and Recreation with control of the state park system and specifies that certain funds are available, upon appropriation by the Legislature, for state park planning, acquisition, and development projects, among other things. Existing law imposes various taxes, including taxes on the privilege of engaging in certain activities. The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.

This bill would, on and after January 1, 2013, impose a surcharge on every retailer for the privilege of selling a new bicycle in this state at the rate of \$2 per new bicycle. The surcharge would be administered by the State Board of Equalization and would be collected pursuant to the procedures set forth in the Fee Collection Procedures Law. By expanding the application of the Fee Collection Procedures Law, the violation of which is a crime, this bill would impose a state-mandated local program. The bill would deposit the revenues, less refunds, of the surcharge into the State Park Bicycle Facilities Fund, which this bill would create, and would require that moneys in the fund, upon appropriation by the Legislature, be used by the Department of Parks

and Recreation to pay for the maintenance of bicycle trails and paths within units of the state park system, the maintenance of signage with respect to those trails and paths, and the maintenance of related bicycle facilities within units of the state park system.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Article 6.5 (commencing with Section 5077.85)  
2 is added to Chapter 1 of Division 5 of the Public Resources Code,  
3 to read:

4  
5 Article 6.5. State Park Bicycle Facilities Fund

6  
7 5077.85. (a) On and after January 1, 2013, there is hereby  
8 imposed a surcharge on every retailer for the privilege of selling  
9 a new bicycle in this state at the rate of two dollars (\$2) per new  
10 bicycle.

11 (b) For purposes of this article, all of the following shall apply:

12 (1) "Bicycle" has the same meaning as that term is defined in  
13 Section 890.2 of the Streets and Highways Code.

14 (2) "Board" means the State Board of Equalization.

15 (3) "Retailer" has the same meaning as that term is defined in  
16 Section 6015 of the Revenue and Taxation Code.

17 (c) The board shall administer and collect the surcharge imposed  
18 by this section pursuant to the Fee Collection Procedures Law  
19 (Part 30 (commencing with Section 55001) of Division 2 of the  
20 Revenue and Taxation Code). For purposes of this section, the  
21 references in the Fee Collection Procedures Law to "fee" shall  
22 include the surcharge imposed by this section and references to  
23 "feepayer" shall include a person required to pay the surcharge  
24 imposed by this section.

1 (d) The board may prescribe, adopt, and enforce regulations  
2 relating to the administration and enforcement of this section,  
3 including, but not limited to, collections, reporting, refunds, and  
4 appeals.

5 (e) The board may prescribe, adopt, and enforce any emergency  
6 regulations as necessary to implement this section. Any emergency  
7 regulation prescribed, adopted, or enforced pursuant to this section  
8 shall be adopted in accordance with Chapter 3.5 (commencing  
9 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
10 Government Code, and, for purposes of that chapter, including  
11 Section 11349.6 of the Government Code, the adoption of the  
12 regulation is an emergency and shall be considered by the Office  
13 of Administrative Law as necessary for the immediate preservation  
14 of the public peace, health and safety, and general welfare.

15 (f) The surcharges imposed by this section are due and payable  
16 to the board quarterly on or before the last day of the month next  
17 succeeding each quarterly period.

18 (g) (1) On or before the last day of the month following each  
19 quarterly period of three months, a return for the preceding  
20 quarterly period shall be filed using electronic media with the  
21 board.

22 (2) The board may prescribe those forms and reporting  
23 requirements as are necessary to implement the surcharge.

24 (3) Returns shall be authenticated in a form, or pursuant to  
25 methods, as may be prescribed by the board.

26 5077.86. The State Park Bicycle Facilities Fund is hereby  
27 created in the State Treasury. All revenues, interest, penalties, and  
28 other amounts collected pursuant to Section 5077.85 shall be  
29 deposited into the State Park Bicycle Facilities Fund, less refunds  
30 and reimbursement to the board for expenses incurred in the  
31 administration and collection of the surcharge. For purposes of  
32 this article, “fund” means the State Park Bicycle Facilities Fund  
33 established by this section.

34 5077.87. All moneys in the fund shall, upon appropriation by  
35 the Legislature, be used by the department to pay for the following:

36 (a) The maintenance of bicycle trails and bicycle paths within  
37 units of the state park system.

38 (b) The maintenance of signage with respect to the trails and  
39 bicycle paths described in subdivision (a).

1 (c) The maintenance of related bicycle facilities, including, but  
2 not limited to, bicycle parking facilities, within units of the state  
3 park system.

4 SEC. 2. No reimbursement is required by this act pursuant to  
5 Section 6 of Article XIII B of the California Constitution because  
6 the only costs that may be incurred by a local agency or school  
7 district will be incurred because this act creates a new crime or  
8 infraction, eliminates a crime or infraction, or changes the penalty  
9 for a crime or infraction, within the meaning of Section 17556 of  
10 the Government Code, or changes the definition of a crime within  
11 the meaning of Section 6 of Article XIII B of the California  
12 Constitution.

13 SEC. 3. This act is an urgency statute necessary for the  
14 immediate preservation of the public peace, health, or safety within  
15 the meaning of Article IV of the Constitution and shall go into  
16 immediate effect. The facts constituting the necessity are:

17 In order to provide for the maintenance of bicycle facilities  
18 within the state park system at the earliest possible date, it is  
19 necessary that this act take effect immediately.