

AMENDED IN ASSEMBLY APRIL 18, 2012

AMENDED IN ASSEMBLY MARCH 20, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1989

Introduced by Assembly Member Carter

February 23, 2012

An act to add Article 6.5 (commencing with Section 5077.81) 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 amended, 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 bill~~ *This would require constitute a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.*

The bill would require that, commencing with the 2013–14 fiscal year, the new bicycle surcharge be administered by the State Board of Equalization and collected by the board in accordance with 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 require each person required to pay the surcharge to prepare and file with the board a return using electronic media in the form prescribed by the board, containing specified information. 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 for specified purposes related to the creation and maintenance of bicycle trails.

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: 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. The Legislature finds and declares all of the*
- 2 *following:*
- 3 *(a) Bicycling contributes to positive physical and mental health.*
- 4 *(b) Bicycle paths and trails encourage alternative methods of*
- 5 *commuting, exercise, and tourism, and generate local business*
- 6 *revenue.*
- 7 *(c) Action is needed to provide revenue for bicycle trail*
- 8 *maintenance in order to preserve the quality of trails enjoyed by*
- 9 *millions of people every year.*

1 (d) Additionally, the California state park system is a valuable
2 asset to all Californians and the decrease in funding for the
3 California state park system has created a large backlog of delayed
4 maintenance within the park system, including maintenance of
5 trails open to bicycles, which include multiuse trails open to
6 bicycles, pedestrians, and equestrians, trails for bicycles and
7 pedestrians, and maintenance roads used for trails.

8 **SECTION 1.**

9 **SEC. 2.** Article 6.5 (commencing with Section 5077.81) is
10 added to Chapter 1 of Division 5 of the Public Resources Code,
11 to read:

12
13 Article 6.5. State Park Bicycle Facilities Fund

14
15 5077.81. For purposes of this article, the following definitions
16 shall apply:

17 (a) "Bicycle" has the same meaning as that term is defined in
18 Section 890.2 of the Streets and Highways Code.

19 (b) "Board" means the State Board of Equalization.

20 (c) "Retailer" has the same meaning as that term is defined in
21 Section 6015 of the Revenue and Taxation Code.

22 5077.82. On and after July 1, 2013, there is hereby imposed a
23 surcharge on every retailer for the privilege of selling a bicycle in
24 this state at a rate of two dollars (\$2) per new bicycle.

25 5077.83. Commencing with the 2013–14 fiscal year, the new
26 bicycle surcharge imposed pursuant to Section 5077.82, shall be
27 administered and collected by the board in accordance with the
28 Fee Collection Procedures Law (Part 30 (commencing with Section
29 55001) of Division 2 of the Revenue and Taxation Code). For
30 purposes of this article, the references in the Fee Collection
31 Procedures Law to "fee" shall include the surcharge imposed by
32 this article and references to "feepayer" shall include a person
33 required to pay the surcharge imposed by this section.

34 5077.84. Pursuant to Section 55040 of the Revenue and
35 Taxation Code, each person required to pay the surcharge imposed
36 pursuant to Section 5077.82 shall prepare and file with the board
37 a return using electronic media, in the form prescribed by the board
38 containing information as the board deems necessary or appropriate
39 for the proper administration of this article and the Fee Collections
40 Procedures Law. The return shall be filed on or before the last day

1 of the calendar month following the calendar quarter to which it
2 relates, together with a remittance payable to the board for the
3 amount of surcharge due for that period. Returns shall be
4 authenticated in a form or pursuant to methods as may be
5 prescribed by the board.

6 5077.85. (a) The board may prescribe, adopt, and enforce
7 regulations relating to the administration and enforcement of this
8 article, including, but not limited to, collections, reporting, refunds,
9 and appeals.

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

20 5077.86. The State Park Bicycle Facilities Fund is hereby
21 created in the State Treasury. All revenues, interest, penalties, and
22 other amounts collected pursuant to Section 5077.83 shall be
23 deposited into the State Park Bicycle Facilities Fund, less refunds
24 and reimbursement to the board for expenses incurred in the
25 administration and collection of the surcharge. For purposes of
26 this article, "fund" means the State Park Bicycle Facilities Fund
27 established by this section.

28 5077.87. All *remaining* moneys in the fund shall, upon
29 appropriation by the Legislature, be used by the department to pay
30 for in the following manner:

31 ~~(a) The maintenance of bicycle trails and bicycle paths within~~
32 ~~units of the state park system.~~

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

35 ~~(c) The maintenance of related bicycle facilities, including, but~~
36 ~~not limited to, bicycle parking facilities, within units of the state~~
37 ~~park system.~~

38 (a) (1) *Sixty percent shall be used for the following purposes:*

39 (A) *To establish a local assistance program to distribute grants,*
40 *on a competitive basis, to eligible cities, counties, joint powers*

1 *authorities, districts, and nonprofit organizations for the creation*
2 *or maintenance, or both creation and maintenance, of bicycle*
3 *trails and paths, related signage, and related bicycle facilities,*
4 *including, but not limited to, bicycle parking facilities.*

5 *(B) To encourage joint partnership projects, if available,*
6 *between two or more entities, including, but not limited to, school*
7 *districts, nonprofit organizations, and local governmental agencies*
8 *to enhance investment of public resources.*

9 *(2) The director shall, by regulation, specify the procedures for*
10 *applying grant funds.*

11 *(b) Forty percent shall be used for the following purposes:*

12 *(1) The maintenance of bicycle trails and bicycle paths within*
13 *units of the state park system.*

14 *(2) The maintenance of signage with respect to the trails and*
15 *bicycle paths within the units of the state park system.*

16 *(3) The maintenance of related bicycle facilities, including, but*
17 *not limited to, bicycle parking facilities, within the units of the*
18 *state park system.*

19 *5077.88. It is the intent of the Legislature that the revenues*
20 *generated pursuant to this article fund bicycle trail establishment*
21 *and maintenance in cities, counties, and state parks throughout*
22 *the state.*

23 ~~SEC. 2.~~

24 *SEC. 3. No reimbursement is required by this act pursuant to*
25 *Section 6 of Article XIII B of the California Constitution because*
26 *the only costs that may be incurred by a local agency or school*
27 *district will be incurred because this act creates a new crime or*
28 *infraction, eliminates a crime or infraction, or changes the penalty*
29 *for a crime or infraction, within the meaning of Section 17556 of*
30 *the Government Code, or changes the definition of a crime within*
31 *the meaning of Section 6 of Article XIII B of the California*
32 *Constitution.*

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

- 1 ~~In order to provide for the maintenance of bicycle facilities~~
- 2 ~~within the state park system at the earliest possible date, it is~~
- 3 ~~necessary that this act take effect immediately.~~

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