

AMENDED IN ASSEMBLY JULY 5, 2012

AMENDED IN SENATE MAY 29, 2012

AMENDED IN SENATE MAY 1, 2012

AMENDED IN SENATE APRIL 11, 2012

SENATE BILL

No. 974

Introduced by Senator Evans

(Coauthors: Assembly Members Achadjian, Alejo, Blumenfield,
Monning, V. Manuel Pérez, and Yamada)

January 19, 2012

An act to *amend Section 5007 of, and to add Sections 5080.45 and 5080.46 to, the Public Resources Code, relating to state parks.*

LEGISLATIVE COUNSEL'S DIGEST

SB 974, as amended, Evans. State parks: proposed closures.

Existing law vests with the Department of Parks and Recreation control of the state park system. Existing law requires the department to achieve any required budget reductions, as defined, by closing, partially closing, and reducing services at selected units of the state park system, based on specified factors.

This bill would instead declare that it is the intent of the Legislature that the department should achieve any required budget reductions by implementing efficiencies and increasing revenue collection, or reducing services at selected units of the state park system, as prescribed. The bill would revise the factors the department is required to use as a basis for selecting which units of the state park system are to be closed, and would, for any parks proposed or designated for closure on or after January 1, 2013, require the department to document and publicly

disclose the methodology, rationale, and scoring system used to evaluate and select parks designated for closure.

Existing law authorizes the ~~Department of Parks and Recreation~~ department to enter into agreements between the department and the federal and local governments and other public agencies for the care, maintenance, administration, and control of lands under the jurisdiction of any party to this agreement for the purpose of the state park system, as prescribed.

This bill would require the department to conduct a review of the parks that are proposed, as of July 1, 2012, or thereafter, for future closure. The bill would require the review process required to be conducted pursuant to those provisions to include an examination of proposed park closures recommended by the department, based on specified criteria. The bill would require the department, no later than July 1, 2013, with respect to any park that is closed on or after July 1, 2012, to prepare a plan for the reopening of that unit of the state park system, within one year from the date of a unit being closed to public access or the ending of all department support, including specified information. The bill would require the department to annually update any plan prepared pursuant to those provisions, if needed, or if there are any additional park closures on or after July 1, 2013, and to post a copy of the plan on its Internet Web site.

The bill would require the department, no later than January 1, 2014, and by January 1 of each year thereafter so long as any unit of the state park system remains closed or is designated for closure due to budgetary restrictions, to prepare and submit to the Legislature a master parks reopening plan, which shall be compiled from park reopening plans or updated park reopening plans required to be prepared pursuant to provisions of the bill, and that sets out priority actions and determines a process for reopening any park that has been temporarily closed, to the extent that circumstances permit, as prescribed.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. It is the intent of the Legislature to enact
- 2 legislation that will facilitate the reopening of state parks that have
- 3 been temporarily closed as a result of California's fiscal crisis, at
- 4 the earliest possible time.

1 SEC. 2. Section 5007 of the Public Resources Code is amended
2 to read:

3 5007. (a) ~~The~~ *It is the intent of the Legislature that the*
4 *department shall should achieve any required budget reductions*
5 *by closing, partially closing, and implementing efficiencies and*
6 *increasing revenue collection, or reducing services at selected*
7 *units of the state park system, and that full park closures should*
8 *only be considered as a last resort to address required budget*
9 *reductions after all other feasible alternatives, including, but not*
10 *limited to, operating agreements with qualified nonprofit entities*
11 *and local governments have been explored. For purposes of this*
12 *section, “required budget reductions” means the amount of funds*
13 *appropriated in the annual Budget Act to the department that is*
14 *less than the amount necessary to fully operate the 2010 level of*
15 *278 units of the state park system. The*

16 (b) *For any parks proposed or designated for closure on or*
17 *after January 1, 2013, the department shall document and publicly*
18 *disclose the methodology, rationale, and scoring system used to*
19 *evaluate and select parks designated for closure, and shall select*
20 *the units to be closed based solely on all of the following factors:*

21 (1) *The relative statewide significance of each park unit,*
22 *preserving to the extent possible, parks identified in the*
23 *department’s documents including “Outstanding and*
24 *Representative Parks,” the “California State History Plan,” and*
25 *the “California State Parks Survey of 1928.”*

26 (2) *The rate of visitation to each unit, to minimize impacts to*
27 *visitation in the state park system. Visitation shall be measured*
28 *not only based on the raw number of visitations to the unit, but on*
29 *the extent to which the total capacity of the unit is utilized.*

30 (3) (A) *The estimated net savings from closing each unit, to*
31 *maximize savings to the state park system.*

32 (B) *For purposes of this subdivision, “net savings” means the*
33 *estimated costs of operation for the unit less the unit’s projected*
34 *revenues and less the costs of maintaining the unit after it is closed.*

35 (4) *The feasibility of physically closing each unit.*

36 (5) *The existence of, or potential for, partnerships that can help*
37 *support each unit, including ~~concessions and both for-profit and~~*
38 *public and nonprofit partners and concessions.*

39 (6) *Significant operational efficiencies to be gained from closing*
40 *a unit based on its proximity to other closed units where the units*

1 typically share staff and other operating resources, *except where*
2 *this would create a cluster of park closures that would have a*
3 *disproportionate impact on a local or regional economy.*

4 (7) Significant and costly infrastructure deficiencies affecting
5 key systems at each unit so that continued operation of the unit is
6 less cost effective relative to other units.

7 (8) Recent or funded infrastructure investments at a unit.

8 (9) Necessary but unfunded capital investments at a unit.

9 (10) Deed restrictions and grant requirements applicable to each
10 unit.

11 (11) The extent to which there are substantial dedicated funds
12 for the support of the unit that are not appropriated from the
13 General Fund.

14 (12) *The extent to which the closure of a unit would impact local*
15 *and regional economies, or disproportionately impact one region*
16 *of the state over another.*

17 (13) *The extent to which the closure of a unit would limit*
18 *availability of Americans with Disabilities Act of 1990 (ADA),*
19 *including changes made by the ADA Amendments Act of 2008*
20 *(Public Law 110-325), compliant facilities.*

21 (14) *The extent to which closure of a unit would impair*
22 *firefighter access to water resources or otherwise increase fire*
23 *risk.*

24 (15) *The extent to which closure of a unit would increase public*
25 *safety hazards or impair the state’s ability to protect iconic natural*
26 *and historical resources.*

27 ~~(b)~~

28 (c) Notwithstanding Division 3.6 (commencing with Section
29 810) of Title 1 of the Government Code, a public entity or a public
30 employee is not liable for injury or damage caused by a condition
31 of public property located in, or injury or damage otherwise
32 occurring in, or arising out of an activity in, a state park system
33 unit that is designated as closed by the department pursuant to
34 subdivision (a), except for conduct that constitutes gross negligence
35 or is wanton or reckless. This immunity shall apply notwithstanding
36 the fact that the public has access, whether invited or uninvited,
37 to the state park system unit, and notwithstanding that the
38 department may take actions such as patrols, inspections,
39 maintenance, and repairs necessary to protect the state park system
40 unit facilities and resources from deterioration, damage, or

1 destruction. This immunity shall apply only to units of the state
2 park system that are designated as closed pursuant to subdivision
3 (a) and shall not apply to units that are partially closed or subject
4 to service reductions but not closure. The closed units shall be
5 maintained in a list by the department and the list shall be made
6 publicly available and posted on the department's Internet Web
7 site. The list shall include the date the unit is considered closed.
8 The immunity provided by this subdivision does not limit any
9 other immunity or immunities available to a public entity or a
10 public employee. The governmental immunity provided in this
11 section does not apply to a third party or entity that has reopened
12 a park listed as closed pursuant to subdivision (a). The immunity
13 shall continue to apply to the state.

14 *(d) This section shall not apply to any unit of the state park*
15 *system that was proposed or designated for closure prior to July*
16 *1, 2012.*

17 ~~SEC. 2.~~

18 *SEC. 3.* Section 5080.45 is added to the Public Resources Code,
19 to read:

20 5080.45. (a) The department shall conduct a review of the
21 parks that are proposed as of July 1, 2012, or thereafter, for future
22 closure.

23 (b) The review of park closures required to be conducted
24 pursuant to subdivision (a) shall include an examination of
25 proposed park closures recommended by the department, based
26 on the criteria mandated by Section 5007.

27 (c) (1) The department shall prepare a report that includes, for
28 each park proposed for closure, information supporting the basis
29 for that closure recommendation, as prescribed in subdivision (b),
30 and any other relevant factors considered. A park closure report
31 prepared pursuant to this subdivision shall be posted on the
32 department's Internet Web site. The department shall invite public
33 comments on the report, for a period of 30 days after release of
34 the report, including comments relating to requests for additional
35 information about potential economic impacts on local
36 communities, consideration of future costs incurred by the
37 department related to park closures, and the safety and
38 environmental impacts of park closures.

39 (2) The report prepared pursuant to paragraph (1) shall comply
40 with Section 9795 of the Government Code.

1 (3) The department shall submit a copy of the park closure report
2 required to be prepared pursuant to this section, including any
3 public comments received, to the State Parks Commission and the
4 Legislature.

5 (4) The park closure report shall be reviewed by the State Parks
6 Commission at its regularly scheduled meetings as an agenda item.

7 (d) (1) No later than July 1, 2013, with respect to any park that
8 is closed on or after July 1, 2012, the department shall prepare a
9 plan for the reopening of that unit of the park system within one
10 year from the date of a park unit being closed to public access or
11 the ending of all department support. The plan shall include, at a
12 minimum, all of the following:

13 (A) A description of any work that needs to be completed in
14 order to reopen the park and address safety and health issues.

15 (B) A summary of resource protection issues, expected park
16 usage, and revenue projections.

17 (C) Recommendations for staffing, maintenance, revenue
18 generation projects, resource restoration, potential operating
19 partners, and community involvement at the unit of the park
20 system.

21 (D) A consideration of alternative strategies that may facilitate
22 reopening the unit, including the transfer of the unit to another
23 public entity.

24 (2) The department shall annually update any plan prepared
25 pursuant to this subdivision if needed, or if there are any additional
26 park closures on or after July 1, 2013, and shall post a copy of the
27 plan on its Internet Web site.

28 (e) This section does not affect or interfere with any existing
29 agreements between the department and federal or local agencies
30 and nonprofits to operate any unit of the state park system that was
31 identified for closure in the May 2011 state park closure list, if
32 those contractual agreements have not expired.

33 ~~SEC. 3.~~

34 *SEC. 4.* Section 5080.46 is added to the Public Resources Code,
35 to read:

36 5080.46. (a) No later than January 1, 2014, and by January 1
37 annually thereafter so long as any unit of the state park system
38 remains closed or is designated for closure due to budgetary
39 restrictions, the department shall prepare and submit to the
40 Legislature a master parks reopening plan, which shall be compiled

1 from park reopening plans or updated park reopening plans, and
2 shall set out priority actions and determine a process for reopening
3 any park that has been closed, to the extent that circumstances
4 permit. The plan shall consider ways to facilitate the reopening of
5 any closed park through the use of department staff and resources,
6 or operating agreements with nonprofit organizations or public
7 agencies, *or other means available to the department under its*
8 *existing authority*. The plan prepared pursuant to this subdivision
9 shall be posted on the department's Internet Web site.

10 (b) The plan shall utilize the department's recommendations
11 with regard to park closures and reopenings and shall consider the
12 following criteria in prioritizing which parks shall be reopened:

13 (1) Whether a park had or may enter into operating agreements
14 with nonprofit organizations, and had prior to closure or may have
15 in the future significant community support as demonstrated
16 through community involvement and donations.

17 (2) The impact of a park closure on nearby communities.

18 (3) An evaluation of the potential for the reduction of
19 environmental and economic costs of deteriorating facilities,
20 liability, and security concerns relating to the reopening of a
21 particular park.

22 (4) Whether the reopening of a park would result in the reduction
23 of illegal activity and resource degradation.

24 (c) Nothing in this section is intended to prevent the department
25 from reopening any unit of the state park system that has been
26 closed where any source of nongovernmental funding has been
27 secured to maintain and operate that unit.

28 (d) A copy of the department's master list of park closures shall
29 be posted on its Internet Web site.