

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 594**

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**Introduced by Assembly Member Hueso**

February 20, 2013

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An act to amend Sections 541.5, 5007, 5010.6, and 5080.42 of the Public Resources Code, relating to state parks.

LEGISLATIVE COUNSEL'S DIGEST

AB 594, as amended, Hueso. State parks: operating ~~agreements~~.  
~~agreements~~: park closures.

*(1) Existing law requires the Department of Parks and Recreation to achieve any required budget reductions by closing, partially closing, and reducing services at selected units of the state park system.*

*This bill would instead state that it is the intent of the Legislature that the department consistently operate the state park system, as specified. This bill would state that it is the intent of the Legislature, if budget reductions necessitate changes to the continued operation of state park units, that the department achieve any required budget reductions by implementing efficiencies and increasing revenue collection or reducing services and that full park closures only be considered as a last option, as provided. The bill would require, for any park units proposed for closure on or after July 1, 2014, that the department document and publicly disclose, among other things, the methodology used to evaluate and select the park units proposed for closure.*

*Existing law requires the department to select park units for closure based on certain factors, including factors related to rate of visitation and proximity to other closed park units.*

*This bill would require that the rate of visitation be measured not only based on the raw number of visitations to the park unit, but also to the extent to which the total capacity of the park unit is used. The bill would eliminate the factor relating to significant operational efficiencies to be gained from closing a unit based on its proximity to other closed park units. In addition, the bill would add additional factors for consideration, including the extent to which closure of a unit would increase public safety hazards or impair the state's ability to protect iconic natural and historical resources.*

*The bill would require the State Parks and Recreation Commission to hold a public hearing on any park unit closures that are proposed by the department on or after July 1, 2014.*

**Existing**

(2) Existing law prohibits the ~~Department of Parks and Recreation~~ department from closing or proposing to close a state park in the 2012–2013 or 2013–2014 fiscal year. Existing law authorizes the department to enter into an operating agreement with a qualified nonprofit organization for the purposes of operating the entirety of a park unit, as identified by the director of the department, to the extent the operating 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.

This bill would provide that the prohibition to close, or propose to close, a state park in the 2012–13 or 2013–14 fiscal year does not limit or affect the department's authority to enter into an operating agreement during the 2012–13 or 2013–14 fiscal year, for purposes of the operation of the entirety of a state park, as agreed to by the director, during the 2012–13 or 2013–14 fiscal year.

(3) Existing law establishes the State Parks Revenue Incentive Subaccount in the State Parks and Recreation Fund. Existing law continuously appropriates moneys in the account to the department to create incentives for projects that are consistent with the mission of the department and generate revenue, as provided.

*This bill would specify that projects referred to above include, but are not limited to, capitol outlay projects.*

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. Section 541.5 of the Public Resources Code is  
2 amended to read:

3 541.5. (a) The department shall not close, or propose to close,  
4 a state park in the 2012–13 or 2013–14 fiscal year. The commission  
5 and the department shall recommend all necessary steps to establish  
6 a sustainable funding strategy for the department to the Legislature  
7 on or before January 1, 2015.

8 (b) There is hereby appropriated twenty million five hundred  
9 thousand dollars (\$20,500,000) to the department from the State  
10 Parks and Recreation Fund, which shall be available for  
11 encumbrance for the 2012–13 and 2013–14 fiscal years, to be  
12 expended as follows:

13 (1) Ten million dollars (\$10,000,000) shall be available to  
14 provide for matching funds pursuant to subdivision (c).

15 (2) Ten million dollars (\$10,000,000) shall be available for the  
16 department to direct funds to parks that remain at risk of closure  
17 or that will keep parks open during the 2012–13 and 2013–14 fiscal  
18 years. Priority may be given to parks subject to a donor or operating  
19 agreement or other contractual arrangement with the department.

20 (3) Up to five hundred thousand dollars (\$500,000) shall be  
21 available for the department to pay for ongoing audits and  
22 investigations as directed by the Joint Legislative Audit Committee,  
23 the office of the Attorney General, the Department of Finance, or  
24 other state agency.

25 (c) The department shall match on a dollar-for-dollar basis all  
26 financial contributions contributed by a donor pursuant to an  
27 agreement for the 2012–13 fiscal year for which the department  
28 received funds as of July 31, 2013, and for agreements entered  
29 into in the 2013–14 fiscal year. These matching funds shall be  
30 used exclusively in the park unit subject to those agreements.

31 (d) The department shall notify the Joint Legislative Budget  
32 Committee in writing not less than 30 days prior to the expenditure  
33 of funds under this section of the funding that shall be expended,  
34 the manner of the expenditure, and the recipient of the expenditure.

35 (e) The prohibition to close, or propose to close, a state park in  
36 the 2012–13 or 2013–14 fiscal year, pursuant to paragraph (a),  
37 does not limit or affect the department’s authority to enter into an  
38 operating agreement, pursuant to Section 5080.42, during the

1 2012–13 or 2013–14 fiscal year, for purposes of the operation of  
2 the entirety of a state park during the 2012–13 or 2013–14 fiscal  
3 year.

4 *SEC. 2. Section 5007 of the Public Resources Code is amended*  
5 *to read:*

6 5007. (a) ~~The~~ *It is the intent of the Legislature that the*  
7 *department shall consistently operate the state park system to*  
8 *preserve public access and provide protection of natural, cultural,*  
9 *and historic resources. If budget reductions necessitate changes*  
10 *to the continued operation of state park units, it is the intent of the*  
11 *Legislature that the department achieve any required budget*  
12 *reductions by closing, partially closing, and implementing*  
13 *efficiencies and increasing revenue collection, or reducing services*  
14 *at selected units of the state park system. For purposes of this*  
15 *section, “required budget reductions” means the amount of funds*  
16 *appropriated in the annual Budget Act to the department that is*  
17 *less than the amount necessary to fully operate the 2010 level of*  
18 *278 units of the state park system. The system, and that full park*  
19 *closures only be considered as a last option to address required*  
20 *budget reductions after all other feasible alternatives, including,*  
21 *but not limited to, entering into operating agreements with qualified*  
22 *nonprofit entities and local governments have been explored.*

23 (b) *For any park unit proposed for closure on or after July 1,*  
24 *2014, the department shall document and publicly disclose the*  
25 *methodology, rationale, and scoring system used to evaluate and*  
26 *select park units proposed for closure, and shall select the any*  
27 *units proposed to be closed based solely on all of the following*  
28 *factors:*

29 (1) *The relative statewide significance of each park unit,*  
30 *preserving to the extent possible, parks identified in the*  
31 *department’s documents including “Outstanding and*  
32 *Representative Parks,” the “California State History Plan,” and*  
33 *the “California State Parks Survey of 1928.”*

34 (2) *The rate of visitation to each unit, to minimize impacts to*  
35 *visitation in the state park system. Visitation shall be measured*  
36 *not only based on the raw number of visitations to the unit, but*  
37 *also to the extent that the total capacity of the unit is used.*

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

- 1 (B) For purposes of this subdivision, “net savings” means the  
2 estimated costs of operation for the unit less the unit’s projected  
3 revenues and less the costs of maintaining the unit after it is closed.
- 4 (4) The feasibility of physically closing each unit.
- 5 (5) The existence of, or potential for, partnerships that can help  
6 support each unit, including ~~concessions and both for-profit and~~  
7 *public and nonprofit partners and concessions.*
- 8 ~~(6) Significant operational efficiencies to be gained from closing~~  
9 ~~a unit based on its proximity to other closed units where the units~~  
10 ~~typically share staff and other operating resources.~~
- 11 ~~(7)~~
- 12 (6) Significant and costly infrastructure deficiencies affecting  
13 key systems at each unit so that continued operation of the unit is  
14 less cost effective relative to other units.
- 15 ~~(8)~~
- 16 (7) Recent or funded infrastructure investments at a unit.
- 17 ~~(9)~~
- 18 (8) Necessary but unfunded capital investments at a unit.
- 19 ~~(10)~~
- 20 (9) Deed restrictions and grant requirements applicable to each  
21 unit.
- 22 ~~(11)~~
- 23 (10) The extent to which there are substantial dedicated funds  
24 for the support of the unit that are not appropriated from the  
25 General Fund.
- 26 (11) *The extent to which the closure of a park unit would impact*  
27 *local and regional economies, or disproportionately impact one*  
28 *region of the state over another.*
- 29 (12) *The extent to which the closure of a park unit would limit*  
30 *availability of facilities that are compliant with the Americans*  
31 *with Disabilities Act of 1990 and subsequent amendments to the*  
32 *act.*
- 33 (13) *The extent to which closure of a park unit would impair*  
34 *firefighter access to water resources or otherwise increase fire*  
35 *risk.*
- 36 (14) *The extent to which closure of a park unit would increase*  
37 *public safety hazards or impair the state’s ability to protect iconic*  
38 *natural and historical resources.*
- 39 (c) *The commission shall hold a public hearing on any park*  
40 *unit closures that are proposed by the department on or after July*

1 1, 2014, and information gathered at the hearing shall be  
2 considered by the department before any final decisions regarding  
3 proposed park unit closures.

4 (b)

5 (d) Notwithstanding Division 3.6 (commencing with Section  
6 810) of Title 1 of the Government Code, a public entity or a public  
7 employee is not liable for injury or damage caused by a condition  
8 of public property located in, or injury or damage otherwise  
9 occurring in, or arising out of an activity in, a state park system  
10 unit that is designated as closed by the department pursuant to  
11 subdivision (a), except for conduct that constitutes gross negligence  
12 or is wanton or reckless. This immunity shall apply notwithstanding  
13 the fact that the public has access, whether invited or uninvited,  
14 to the state park system unit, and notwithstanding that the  
15 department may take actions such as patrols, inspections,  
16 maintenance, and repairs necessary to protect the state park system  
17 unit facilities and resources from deterioration, damage, or  
18 destruction. This immunity shall apply only to units of the state  
19 park system that are designated as closed pursuant to subdivision  
20 (a) and shall not apply to units that are partially closed or subject  
21 to service reductions but not closure. The closed units shall be  
22 maintained in a list by the department and the list shall be made  
23 publicly available and posted on the department’s Internet Web  
24 site. The list shall include the date the unit is considered closed.  
25 The immunity provided by this subdivision does not limit any  
26 other immunity or immunities available to a public entity or a  
27 public employee. The governmental immunity provided in this  
28 section does not apply to a third party or entity that has reopened  
29 a park listed as closed pursuant to subdivision (a). The immunity  
30 shall continue to apply to the state.

31 SEC. 3. Section 5010.6 of the Public Resources Code is  
32 amended to read:

33 5010.6. (a) For purposes of this section, “subaccount” means  
34 the State Parks Revenue Incentive Subaccount created pursuant  
35 to this section.

36 (b) The State Parks Revenue Incentive Subaccount is hereby  
37 created within the State Parks and Recreation Fund and the  
38 Controller shall annually transfer fifteen million three hundred  
39 forty thousand dollars (\$15,340,000) from the State Parks and  
40 Recreation Fund to the subaccount.

1 (c) Notwithstanding Section 13340 of the Government Code,  
2 the funds in the subaccount are hereby continuously appropriated  
3 to the department to create incentives for projects, *including, but*  
4 *not limited to, capitol outlay projects*, that are consistent with the  
5 mission of the department and that generate revenue, except the  
6 department shall not expend from the subaccount more than eleven  
7 million dollars (\$11,000,000) annually pursuant to Section 5003.

8 (d) The Office of State Audits and Evaluations shall review the  
9 activities funded from the subaccount pursuant to subdivision (c)  
10 to ensure appropriate internal controls are in place. The department  
11 shall reimburse the Office of State Audits and Evaluations from  
12 the subaccount for any costs related to the review.

13 (e) The revenue generated from projects funded by the  
14 subaccount shall be deposited in the subaccount and are  
15 continuously appropriated for expenditure by the department in  
16 accordance with the following:

17 (1) At least 50 percent of the revenue generated shall be  
18 expended in the district of the department that earned that revenue,  
19 as an incentive for revenue generation.

20 (2) The remaining revenue may be expended by the department  
21 pursuant to subdivision (c), including, but not limited to, for  
22 expenditure pursuant to Section 5003.

23 (f) The funds in the subaccount shall be available for  
24 encumbrance and expenditure until June 30, 2014, and for  
25 liquidation until June 30, 2016.

26 (g) This section shall become inoperative on June 30, 2016,  
27 and, as of January 1, 2017, is repealed, unless a later enacted  
28 statute, that becomes operative on or before January 1, 2017,  
29 deletes or extends the dates on which it becomes inoperative and  
30 is repealed.

31 ~~SEC. 2.~~

32 *SEC. 4.* Section 5080.42 of the Public Resources Code is  
33 amended to read:

34 5080.42. (a) Notwithstanding any other provision of this  
35 article, the department may enter into an operating agreement with  
36 a qualified nonprofit organization for the development,  
37 improvement, restoration, care, maintenance, administration, or  
38 operation of a unit or units, or portion of a unit, of the state park  
39 system, as agreed to by the director. If the department enters into  
40 an operating agreement that involves the operation of the entirety

1 of a park unit, that agreement may be entered into pursuant to this  
2 section only to the extent that the agreement would enable the  
3 department to avoid closure of a unit or units of the state park  
4 system that may otherwise be subject to closure. The prohibition  
5 on park closures, pursuant to subdivision (a) of Section 541.5, does  
6 not limit the department's authority to enter into an operating  
7 agreement pursuant to this section, as provided in subdivision (e)  
8 of Section 541.5. The department may only enter into an operating  
9 agreement that involves the operation of the entirety of a park unit  
10 for no more than 20 park units. An operating agreement with a  
11 qualified nonprofit organization shall include, but shall not be  
12 limited to, the following conditions:

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

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

24 (3) (A) Except as provided in subparagraph (B), all revenues  
25 that the qualified nonprofit organization receives from a unit shall  
26 be expended only for the care, maintenance, operation,  
27 administration, improvement, or development of the unit. The  
28 qualified nonprofit organization may additionally contribute in-kind  
29 services and funds raised from outside entities for the care,  
30 maintenance, operation, administration, improvement, or  
31 development of the unit.

32 (B) If the qualified nonprofit organization determines that the  
33 revenues it has received from a unit are in excess of the revenues  
34 that are needed for the care, maintenance, operation, administration,  
35 improvement, or development of that unit, and that these funds  
36 are not already specified for or committed to specific purposes  
37 pursuant to an existing agreement or contract restricting the use  
38 of those funds, the qualified nonprofit organization may dedicate  
39 those excess revenues to another state park unit for that unit's care,

1 maintenance, operation, administration, improvement, or  
2 development.

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

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

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

30 (d) This section does not supersede the requirements of Section  
31 5019.53 regarding the protection of natural, scenic, cultural, and  
32 ecological values.

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

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

1 whose district the unit is located, the Chair of the Senate Committee  
2 on Natural Resources and Water, the Chair of the Assembly  
3 Committee on Water, Parks and Wildlife, and the chairs of the  
4 Assembly and Senate budget committees of that intention. The  
5 notification shall include estimated operating costs and revenues  
6 and core duties and responsibilities that are likely to be assigned  
7 to the nonprofit organization and the department.

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

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

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

17 (3) An organization that is in compliance with the Supervision  
18 of Trustees and Fundraisers for Charitable Purposes Act, Article  
19 7 (commencing with Section 12580) of Chapter 6 of Part 2 of  
20 Division 3 of Title 2 of the Government Code.

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

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

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

O