

AMENDED IN SENATE JUNE 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 549

Introduced by Assembly Member Levine

February 23, 2015

An act to amend ~~Section 5010.7~~ of Sections 5003.4, 5005, 5009.1, 5010.7, 5080.18, and 5080.20 of, and to add Section 5010.3 to, the Public Resources Code, relating to state parks.

LEGISLATIVE COUNSEL'S DIGEST

AB 549, as amended, Levine. State park system: revenue generation program: reports: system.

Existing law authorizes the Department of Parks and Recreation to install or permit the installation of camping cabins within the units of the state park system if installation of camping cabins is consistent with the general plan of the unit.

This bill would authorize the department to acquire, install or permit the installation of, and operate or permit the operation of, camping cabins, parking facilities for recreational vehicles, and any associated access and public safety facilities, within the units of the state park system, if the installation and operation is consistent with the classification of the park system unit, and with the general plan of the unit, if one exists. The bill would authorize the department to enter into an agreement with a qualified nonprofit organization for those purposes.

Existing law authorizes the department to receive and accept in the name of the people of the state any gift, dedication, devise, grant, or other conveyance of title to or any interest in real property to be added or used in connection with the state park system and to receive and accept gifts, donations, contributions, or bequests of money and personal

property to be used for state park purposes, subject to the approval of the Director of Finance, except as provided.

This bill would authorize the department to accept conditional gifts or bequests of money valued at \$100,000 or less without approval from the Director of Finance, but would require the department to annually report those gifts or bequests to the Director of Finance.

Existing law authorizes the department to enter into an agreement to receive money from any entity for the maintenance or operation, on a nonprofit basis, of a designated state park unit or facility. Existing law requires the money received to be used to supplement existing resources for enhancing the maintenance and operation of the unit or facility, with priority given to preventing closure or reduced hours of service to the public.

This bill would authorize the department to enter into an agreement to receive money from any entity for the maintenance, operation, restoration, repair, or enhancement of a designated state park system unit or facility, would remove the priority given to preventing closure or reduced hours of service to the public, and would also authorize the department to provide free of charge access and use of park facilities to an entity that enters into this agreement.

~~The Department of Parks and Recreation has control of the state park system. Existing~~

Existing law requires the department to develop a revenue generation program as an essential component of a long-term sustainable park funding strategy. Existing law establishes the State Park Revenue Incentive Subaccount in the State Parks and Recreation Fund with money available to the department for activities, programs, and projects, as provided, relating to the revenue generation program. Existing law requires the money to be spent in a specified way, including 50% of the total amount of revenues deposited into the subaccount generated by a park district to that district, as provided. Existing law requires the department to report to the Legislature annually on or before July 1 on the revenue distributed to each park district.

This bill would instead require the department to report to the Legislature annually on or before December 31.

Existing law authorizes the department to collect fees, rents, and other returns for the use of any state park system area, the amounts of which are to be determined by the department.

This bill would require the department to develop a statewide fee policy for assessment of fees, as specified, to report to the Legislature

on the statewide fee policy on or before December 31, 2016, to make its annual fee schedule publicly available on its Internet Web site, and to immediately update the fee schedule on its Internet Web site to reflect fee-rate changes.

Existing law authorizes the department to enter into competitively bid contracts with natural persons, corporations, partnerships, and associations for the construction, maintenance, and operation of concessions within units of the state park system.

This bill would require all renewals of those concession contracts to be subject to competitive bidding requirements.

Existing law requires every concessionaire to submit to the department its sales and use tax returns.

This bill would also require every concessionaire to, at the request of the department, provide an annual financial statement prepared or audited by a certified public accountant.

Existing law requires a concession contract entered into pursuant to specified provisions that is expected to involve a total investment or gross sales in excess of \$500,000 to comply with certain other contract requirements.

This bill would impose those requirements on a concession contract that is expected to involve a total investment or gross sales in excess of \$1,000,000.

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

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

1 SECTION 1. (a) It is the intent of the Legislature to enact
2 changes in law necessary to facilitate and expedite implementation
3 of reforms recommended by the Parks Forward Commission to
4 ensure a vibrant and sustainable park system for all Californians
5 and for present and future generations. The changes to be enacted
6 include, but are not necessarily limited to, those that will facilitate
7 all of the following:

8 (a)
9 (1) The organizational, administrative, and technological
10 changes needed at the Department of Parks and Recreation to
11 modernize the department’s processes, ensure efficiency and
12 accountability throughout the department, diversify the
13 department’s workforce, and better serve the needs of park visitors.

1 ~~(b)~~
 2 (2) New public-private partnerships to provide improved
 3 stewardship of state parks and the natural and cultural resources
 4 they contain and to enhance programs and services for park visitors.

5 ~~(e)~~
 6 (3) Enhanced park access for all Californians, and engagement
 7 of younger generations through increased opportunities for
 8 environmental and outdoor education in parks and for youth
 9 leadership development.

10 ~~(d)~~
 11 (4) Establishment of a stable and diversified funding structure,
 12 including a more entrepreneurial and robust revenue generation
 13 strategy.

14 *(b) (1) In its 2015 report, the California’s Parks Forward*
 15 *Commission recommended expanding the availability of safe,*
 16 *clean, and affordable cabins and similar overnight*
 17 *accommodations in state and local parks as an important means*
 18 *of providing equitable park access and building public support*
 19 *for parks statewide.*

20 *(2) Although coastal parks are among California’s most loved*
 21 *and visited parks, access to affordable cabins and other lower-cost*
 22 *overnight accommodations in coastal parks is limited because of*
 23 *high demand and limited supply.*

24 *(3) It is the intent of the Legislature that the California Coastal*
 25 *Commission and the State Coastal Conservancy, in consultation*
 26 *with the Department of Parks and Recreation and other*
 27 *appropriate entities, develop a proposal describing how*
 28 *unexpended fee revenue, assessed to mitigate the loss of affordable*
 29 *overnight accommodations, in combination with other sources of*
 30 *funding, including any public or philanthropic funds that may*
 31 *become available, may be used to fund the identification,*
 32 *development, and implementation of opportunities to expand*
 33 *availability of affordable cabins and other similar overnight*
 34 *accommodations, and associated public access and safety facilities*
 35 *in coastal parks, including, but not necessarily limited to, state,*
 36 *local, and regional parks.*

37 *SEC. 2. Section 5003.4 of the Public Resources Code is*
 38 *amended to read:*

39 5003.4. (a) There shall be provided in each state park in which
 40 camping is permitted those parking facilities for recreational

1 vehicles, as defined by Section 18010 of the Health and Safety
2 Code, that can be accommodated within the park consistent with
3 the objective of providing camping facilities for the public in these
4 parks. In addition, the Department of Parks and Recreation may
5 ~~install~~ *acquire, install* or permit the installation ~~of of, and operate~~
6 *or permit the operation of*, camping cabins, as defined by Section
7 18862.5 of the Health and Safety Code, *parking facilities for*
8 *recreational vehicles, and any associated access and public safety*
9 *facilities*, within the units of the state park ~~system if system, if the~~
10 ~~installation of camping cabins is consistent with~~ *and operation is*
11 *consistent with the classification of the park system unit and with*
12 *the general plan of the ~~unit.~~ unit, if one exists.*

13 (b) *The department may enter into agreements with qualified*
14 *nonprofit organizations, as defined in subdivision (g) Section*
15 *5080.42, for acquisition, installation, and operation of camping*
16 *cabins or parking facilities for recreational vehicles, and any*
17 *associated access and public safety facilities, as described in*
18 *subdivision (a), within units of the state park system. The*
19 *agreements shall be subject to the requirements of Section 5080.42.*

20 *SEC. 3. Section 5005 of the Public Resources Code is amended*
21 *to read:*

22 5005. (a) The department may receive and accept in the name
23 of the people of the state any gift, dedication, devise, grant, or
24 other conveyance of title to or any interest in real property,
25 including water rights, roads, trails, ~~and~~ rights-of-way, *buildings,*
26 *facilities, and other improvements*, to be added to or used in
27 connection with the park system. It may receive and accept gifts,
28 donations, contributions, or bequests of money to be used in
29 acquiring title to or any interest in real property, or in improving
30 it as a part of or in connection with the State Park System, or to
31 be used for any of the purposes for which the department is created.
32 It may also receive and accept personal property for any purpose
33 connected with the park system.

34 (b) Subdivision (a) is subject to the requirements and exceptions
35 set forth in Section 11005 of the Government ~~Code.~~ *Code, except*
36 *that the department may accept conditional gifts or bequests of*
37 *money valued at one hundred thousand dollars (\$100,000) or less*
38 *without approval from the Director of Finance.*

39 (c) *The department shall annually report to the Director of*
40 *Finance all conditional gifts or bequests of money valued at one*

1 *hundred thousand dollars (\$100,000) or less that it accepts or*
 2 *receives pursuant to subdivision (b).*

3 *SEC. 4. Section 5009.1 of the Public Resources Code is*
 4 *amended to read:*

5 5009.1. (a) The department may enter into an agreement to
 6 accept funds from any person, corporation or other business entity,
 7 or organization for the ~~maintenance or maintenance~~, operation, ~~on~~
 8 ~~a nonprofit basis~~, restoration, repair, or enhancement of a
 9 designated state park system unit or facility. Any funds so received
 10 shall be deposited in a separate account in the State Park
 11 Contingent Fund. The funds received shall supplement existing
 12 resources for the ~~purpose of enhancing the maintenance or~~
 13 ~~operation~~ maintenance, operation, restoration, repair, or
 14 enhancement of the unit or facility, with priority given to
 15 ~~preventing closure or reduced hours of service to the public.~~
 16 *facility.* The department and the sponsoring person, entity, or
 17 organization shall specify in the agreement the level of service
 18 ~~which~~ *that* is to be performed.

19 (b) The department may enter into an agreement to accept
 20 services from any person, corporation or other business entity, or
 21 organization for the cleanup, repair, or enhancement of any
 22 designated state park system unit or facility. Under the direction
 23 of the department, these services shall supplement existing staff
 24 resources for the purpose of enhancing the maintenance and
 25 operation of the unit or facility.

26 (c) The director may authorize the erection of an appropriate
 27 sign in recognition of the sponsorship, consistent with existing
 28 law and with the rules and regulations of the department regarding
 29 signs in units of the state park system.

30 (d) *The department may provide free of charge access to, and*
 31 *use of, park facilities to entities that have entered into agreements*
 32 *as described in this section.*

33 *SEC. 5. Section 5010.3 is added to the Public Resources Code,*
 34 *to read:*

35 5010.3. (a) *The department shall develop a statewide policy*
 36 *for assessment of fees pursuant to Section 5010 that balances the*
 37 *state's goal of sustainable revenue generation to support state*
 38 *parks, with the state's goal of preserving affordable public access*
 39 *to public lands, including, but not limited to, lands in the coastal*
 40 *zone. The fee policy shall, at a minimum, do all of the following:*

1 (1) To the extent feasible, ensure that fees do not serve as a
2 deterrent to equitable public access and are comparable to fees
3 charged for other similar services.

4 (2) Reflect the appropriate role of user fees as part of an overall,
5 equitable, and sustainable revenue generation strategy that
6 includes a proper balance of public funding and earned revenue
7 to support state parks.

8 (3) Be based on uniform principles that reflect the different
9 levels of services provided at different parks, the department's
10 goals for service-based budgeting, and the best practices for
11 pricing that align policy goals with visitor expectations. To the
12 extent feasible, fees should be commensurate with the benefits and
13 services provided to visitors.

14 (4) Describe the process for setting and approving all fee-rate
15 changes.

16 (5) Provide for public accountability and transparency, and
17 advance public notice for proposed changes to fee schedules.

18 (b) The department may consult with the National Park Service
19 for guidance in developing a statewide fee policy.

20 (c) The department shall conduct public workshops on
21 development of the statewide fee policy and may seek assistance
22 with scheduling and conducting of the workshops from the State
23 Park and Recreation Commission.

24 (d) (1) The department shall report to the Legislature on the
25 statewide fee policy on or before December 31, 2016.

26 (2) The report required pursuant to paragraph (1) shall be
27 submitted in compliance with Section 9795 of the Government
28 Code.

29 (3) This subdivision shall be inoperative on December 31, 2020,
30 pursuant to Section 10231.5 of the Government Code.

31 (e) The department shall make its fee schedule publicly available
32 on the department's Internet Web site and immediately update the
33 fee schedule to reflect any fee-rate changes.

34 (f) It is the intent of the Legislature that the department, in
35 addition to developing a statewide fee policy, provide convenient
36 and cost effective options for fee payment and collection by
37 expanding and integrating fee collection methodologies across
38 the state park system and offering modern fee collection and
39 payment options that include, but are not necessarily limited to,
40 cash, credit card, and smart phone technology, if appropriate.

1 (g) *The department may also implement additional options,*
 2 *including hourly fees, regional passes, and promotional free-day*
 3 *annual events, and explore opportunities for collaborative fee*
 4 *arrangements and passes with other federal, state, and local park*
 5 *agencies, if appropriate.*

6 ~~SEC. 2.~~

7 SEC. 6. Section 5010.7 of the Public Resources Code is
 8 amended to read:

9 5010.7. (a) The department shall develop a revenue generation
 10 program as an essential component of a long-term sustainable park
 11 funding strategy. On or before July 1, 2014, and annually thereafter,
 12 the department shall assign a revenue generation target to each
 13 district under the control of the department. The department shall
 14 develop guidelines for districts to report the use of funds generated
 15 by the revenue generation program, and shall post information and
 16 copies of the reports on its Internet Web site.

17 (b) The California State Park Enterprise Fund is hereby created
 18 in the State Treasury as a working capital fund, and the revenue
 19 shall be available to the department upon appropriation by the
 20 Legislature for capital outlay or support expenditures for revenue
 21 generating investments in state parks. These investments may
 22 include, but are not limited to, planning and implementation of a
 23 statewide electronic fee collection system that includes installation
 24 of modern fee collection equipment and technologies to enhance
 25 collection of state park users fees and that will enable park users
 26 to pay fees with commonly used forms of electronic fund transfers,
 27 including, but not limited to, credit and debit card transactions,
 28 and other park revenue generating projects, and shall be available
 29 for encumbrance and expenditure until June 30, 2019, and for
 30 liquidation until June 30, 2021.

31 (1) The department shall prepare guidelines for districts to apply
 32 for funds for capital projects that are consistent with this
 33 subdivision.

34 (2) The guidelines prepared pursuant to this subdivision shall
 35 require all of the following:

- 36 (A) A clear description of the proposed use of funds.
- 37 (B) A timeframe of implementation of the capital project.
- 38 (C) A projection of revenue, including annual income, fees, and
 39 projected usage rates.

1 (D) A projection of costs, including design, planning,
2 construction, operation, staff, maintenance, marketing, and
3 information technology.

4 (E) A market analysis demonstrating demand for the project.

5 (F) A projected rate of return on the investment.

6 (c) The revenue generated by the revenue generation program
7 developed pursuant to subdivision (a) shall be deposited into the
8 State Parks and Recreation Fund. Revenue identified as being in
9 excess of the revenue targets shall be transferred to the State Parks
10 Revenue Incentive Subaccount, established pursuant to Section
11 5010.6, on or before June 1, annually.

12 (d) Moneys transferred to the State Parks Revenue Incentive
13 Subaccount pursuant to subdivision (c) shall be expended as
14 follows:

15 (1) (A) The department shall allocate 50 percent of the total
16 amount of revenues deposited into the State Parks Revenue
17 Incentive Subaccount pursuant to subdivision (c), generated by a
18 park district to that district if the amount of revenues generated
19 exceeds the targeted revenue amount prescribed in the revenue
20 generation program. The revenues to be allocated to a park district
21 that fails to achieve the revenue target shall remain in the
22 subaccount.

23 (B) With the approval of the director, each district shall use the
24 funds it receives pursuant to this section to improve the parks in
25 that district through revenue generation programs and projects and
26 other activities that will assist in the district's revenue generation
27 activities, and the programs, projects, and other activities shall be
28 consistent with the mission and purpose of each unit and with the
29 plan developed for the unit pursuant to subdivision (a) of Section
30 5002.2.

31 (C) The department shall report to the Legislature, commencing
32 on July 1, 2014, and annually on or before each December 31
33 thereafter, on the revenue distributed to each district pursuant to
34 this section.

35 (2) The department shall use 50 percent of the funds deposited
36 into the State Parks Revenue Incentive Subaccount pursuant to
37 subdivision (c) for the following purposes:

38 (A) To fund the capital costs of construction and installation of
39 new revenue and fee collection equipment and technologies and

1 other physical upgrades to existing state park system lands and
2 facilities.

3 (B) For costs of restoration, rehabilitation, and improvement of
4 the state park system and its natural, historical, and visitor-serving
5 resources that enhance visitation and are designed to create
6 opportunities to increase revenues.

7 (C) For costs to the department to implement the action plan
8 required to be developed by the department pursuant to Section
9 5019.92.

10 (D) Pursuant to subdivision (c) of Section 5010.6, for
11 expenditures to support revenue generation projects that include,
12 but are not limited to, staffing kiosks, campgrounds, and parking
13 lots.

14 (e) The funds generated by the revenue generation program
15 shall not be used by the department to expand the park system,
16 unless there is significant revenue generation potential from such
17 an expansion.

18 (f) Notwithstanding Section 5009, moneys received by the
19 department from private contributions and other public funding
20 sources may also be deposited into the California State Park
21 Enterprise Fund and the State Parks Revenue Incentive Subaccount
22 for use for the purposes of subdivision (c) and subdivision (d).

23 (g) The department shall provide all relevant information on its
24 Internet Web site concerning how funds in the State Parks and
25 Recreation Revenue Incentive Subaccount and the California State
26 Park Enterprise Fund are spent.

27 (h) The department may recoup its costs for implementing and
28 administering the working capital from the fund.

29 *SEC. 7. Section 5080.18 of the Public Resources Code is*
30 *amended to read:*

31 5080.18. All concession contracts entered into pursuant to this
32 article shall contain, but are not limited to, all of the following
33 provisions:

34 (a) (1) The maximum term shall be 10 years, except that a term
35 of more than 10 years may be provided if the director determines
36 that the longer term is necessary to allow the concessionaire to
37 amortize improvements made by the concessionaire, to facilitate
38 the full utilization of a structure that is scheduled by the department
39 for replacement or redevelopment, or to serve the best interests of
40 the state. The term shall not exceed 20 years without specific

1 authorization by statute. *Except as provided in Section 5080.16,*
2 *all renewals of concession contracts pursuant to this paragraph*
3 *shall be subject to competitive bidding requirements.*

4 (2) The maximum term shall be 50 years if the concession
5 contract is for the construction, development, and operation of
6 multiple-unit lodging facilities equipped with full amenities,
7 including plumbing and electrical, that is anticipated to exceed an
8 initial cost of one million five hundred thousand dollars
9 (\$1,500,000) in capital improvements in order to begin operation.
10 The term for a concession contract described in this paragraph
11 shall not exceed 50 years without specific authorization by statute.
12 *Except as provided in Section 5080.16, all renewals of concession*
13 *contracts pursuant to this paragraph shall be subject to competitive*
14 *bidding requirements.*

15 (3) Notwithstanding paragraph (1), a concession agreement at
16 Will Rogers State Beach executed prior to December 31, 1997,
17 including, but not limited to, an agreement signed pursuant to
18 Section 25907 of the Government Code, may be extended to exceed
19 20 years in total length without specific authorization by statute,
20 upon approval by the director and pursuant to a determination by
21 the director that the longer term is necessary to allow the
22 concessionaire to amortize improvements made by the
23 concessionaire that are anticipated to exceed one million five
24 hundred thousand dollars (\$1,500,000) in capital improvements.
25 Any extensions granted pursuant to this paragraph shall not be for
26 more than 15 years.

27 (b) Every concessionaire shall submit to the department all sales
28 and use tax ~~returns~~. *returns and, at the request of the department,*
29 *provide an annual financial statement prepared or audited by a*
30 *certified public accountant.*

31 (c) Every concession shall be subject to audit by the department.

32 (d) A performance bond shall be obtained and maintained by
33 the concessionaire. In lieu of a bond, the concessionaire may
34 substitute a deposit of funds acceptable to the department. Interest
35 on the deposit shall accrue to the concessionaire.

36 (e) The concessionaire shall obtain and maintain in force at all
37 times a policy of liability insurance in an amount adequate for the
38 nature and extent of public usage of the concession and naming
39 the state as an additional insured.

1 (f) Any discrimination by the concessionaire or his or her agents
 2 or employees against any person because of the marital status or
 3 ancestry of that person or any characteristic listed or defined in
 4 Section 11135 of the Government Code is prohibited.

5 (g) To be effective, any modification of the concession contract
 6 shall be evidenced in writing.

7 (h) Whenever a concession contract is terminated for substantial
 8 breach, there shall be no obligation on the part of the state to
 9 purchase any improvements made by the concessionaire.

10 *SEC. 8. Section 5080.20 of the Public Resources Code is*
 11 *amended to read:*

12 5080.20. A contract, including a contract entered into on lands
 13 operated pursuant to an agreement entered into under Article 2
 14 (commencing with Section 5080.30), that is expected to involve
 15 a total investment or estimated annual gross sales in excess of ~~five~~
 16 ~~hundred thousand dollars (\$500,000)~~, *one million dollars*
 17 *(\$1,000,000)*, shall not be advertised for bid, negotiated,
 18 renegotiated, or amended in any material respect unless and until
 19 all of the following requirements have been complied with:

20 (a) The commission has reviewed the proposed services,
 21 facilities, and location of the concession and determined that they
 22 meet the requirements of Sections 5001.9 and 5080.03 and are
 23 compatible with the classification of the unit in which the
 24 concession will be operated.

25 (b) The Legislature has reviewed and approved the proposed
 26 concession as part of the annual budget process or the requirements
 27 of subdivision (c) have been complied with. A proposed concession
 28 shall not be submitted for review by the Legislature until the
 29 commission has made its determination pursuant to subdivision
 30 (a), unless deferring review by the Legislature would be adverse
 31 to the interests of the public, in which case the Legislature’s review
 32 may precede the commission’s determination.

33 (c) Following enactment of the Budget Bill, the board has
 34 determined that the proposed concession could not have been
 35 presented to the Legislature for review and approval in the course
 36 of its consideration of the Budget Bill, or the proposed concession
 37 was reviewed and approved but it is necessary to revise the terms
 38 of the invitation to bid or the contract in a material respect, and
 39 that it would be adverse to the interests of the public to defer that
 40 review and approval to a time when the Legislature next considers

1 a Budget Bill. Upon making that determination, the board may
2 review and approve the proposed concession, or any revision
3 thereof, after giving at least 20 days' written notice to the Chair
4 of the Joint Legislative Budget Committee and to the chair of the
5 fiscal and appropriate policy committees of its intended action.
6 All actions taken by the board pursuant to this subdivision shall
7 be reported to the Legislature in the next Governor's Budget.

8 (d) The proposed concession is accompanied with
9 documentation sufficient to enable the Legislature, the commission,
10 and the board, as the case may be, to ascertain whether the
11 concession will conform to the requirements of this article and, as
12 to the Legislature and the board, to evaluate fully all terms on
13 which the concession is proposed to be let, including the rent and
14 other returns anticipated to be received.

O