

AMENDED IN SENATE JUNE 30, 2015

AMENDED IN SENATE JUNE 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 549

Introduced by Assembly Member Levine
(Coauthor: Assembly Member Rendon)

February 23, 2015

An act to amend Sections 5003.4, 5005, 5009.1, 5009.2, 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.

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~~ *property*,

including water rights, roads, trails, and rights-of-way, 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, system, 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. include buildings, facilities, and other improvements to the types of interests that the department may receive to be used in connection with the state park system.

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 funds from any entity for the maintenance, operation, restoration, repair, or enhancement of a designated state park system unit or facility, facility or for research, educational, interpretive, recreational, or visitor services provided on or for a designated state park system unit or facility. The bill would provide that the funds received shall be used to supplement, but not replace, existing resources, 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 or reduced cost access to and use of park facilities to an entity that enters into this agreement. agreement, if the public benefit provided by the agreement exceeds or is of comparable value, as determined by the department, to the access to or use of park facilities granted.

Existing law authorizes the department to enter into an agreement to receive funds from any entity for the maintenance or operation of a state beach, any other unit of the state park system that encompasses a beach, or any area or facility of the state beach or other unit. Existing law requires funds received to be used to supplement existing resources.

This bill would authorize the department to enter into an agreement to receive funds from any entity for the maintenance, operation,

restoration, repair, or enhancement of a state beach, any other unit of the state park system that encompasses a beach, or any area or facility of the state beach or other unit, or for research, educational, interpretive, recreational, or visitor services provided on or for a state beach, any other unit of the state park system that encompasses a beach, or any area or facility of the state beach or other unit. The bill would provide that funds received shall be used to supplement, but not replace, existing resources, and would authorize the department to provide free or reduced cost access to and use of beach facilities to an entity that enters into this agreement, if the public benefit provided by the agreement exceeds or is of comparable value, as determined by the department, to the access to or use of beach facilities granted.

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

13 (2) New public-private partnerships to provide improved
14 stewardship of state parks and the natural and cultural resources
15 they contain and to enhance programs and services for park visitors.

16 (3) Enhanced park access for all Californians, and engagement
17 of younger generations through increased opportunities for
18 environmental and outdoor education in parks and for youth
19 leadership development.

20 (4) Establishment of a stable and diversified funding structure,
21 including a more entrepreneurial and robust revenue generation
22 strategy.

1 (b) (1) In its 2015 report, the California’s Parks Forward
2 Commission recommended expanding the availability of safe,
3 clean, and affordable cabins and similar overnight accommodations
4 in state and local parks as an important means of providing
5 equitable park access and building public support for parks
6 statewide.

7 (2) Although coastal parks are among California’s most loved
8 and visited parks, access to affordable cabins and other lower-cost
9 overnight accommodations in coastal parks is limited because of
10 high demand and limited supply.

11 (3) It is the intent of the Legislature that the California Coastal
12 Commission and the State Coastal Conservancy, in consultation
13 with the Department of Parks and Recreation and other appropriate
14 entities, develop a proposal describing how unexpended fee
15 revenue, assessed to mitigate the loss of affordable overnight
16 accommodations, in combination with other sources of funding,
17 including any public or philanthropic funds that may become
18 available, may be used to fund the identification, development,
19 and implementation of opportunities to expand availability of
20 affordable cabins and other similar overnight accommodations,
21 and associated public access and safety facilities in coastal parks,
22 including, but not necessarily limited to, state, local, and regional
23 parks.

24 (c) *It is the intent of the Legislature in enacting the changes to*
25 *Section 5003.4 made by this act that agreements entered into*
26 *pursuant to subdivision (b) of that section not compete with existing*
27 *concession contracts through which comparable services, as*
28 *determined by the department, are or could be provided.*

29 SEC. 2. Section 5003.4 of the Public Resources Code is
30 amended to read:

31 5003.4. (a) There shall be provided in each state park in which
32 camping is permitted those parking facilities for recreational
33 vehicles, as defined by Section 18010 of the Health and Safety
34 Code, that can be accommodated within the park consistent with
35 the objective of providing camping facilities for the public in these
36 parks. In addition, the Department of Parks and Recreation may
37 acquire, install or permit the installation of, and operate or permit
38 the operation of, camping cabins, as defined by Section 18862.5
39 of the Health and Safety Code, parking facilities for recreational
40 vehicles, and any associated access and public safety facilities,

1 within the units of the state park system, if the installation and
2 operation is consistent with the classification of the park system
3 unit and with the general plan of the unit, if one exists.

4 (b) The department may enter into agreements with qualified
5 nonprofit organizations, as defined in subdivision (g) Section
6 5080.42, for acquisition, installation, and operation of camping
7 cabins or parking facilities for recreational vehicles, and any
8 associated access and public safety facilities, as described in
9 subdivision (a), within units of the state park system. The
10 agreements shall be subject to the requirements of Section 5080.42.

11 ~~SEC. 3. Section 5005 of the Public Resources Code is amended~~
12 ~~to read:~~

13 ~~5005. (a) The department may receive and accept in the name~~
14 ~~of the people of the state any gift, dedication, devise, grant, or~~
15 ~~other conveyance of title to or any interest in real property,~~
16 ~~including water rights, roads, trails, rights-of-way, buildings,~~
17 ~~facilities, and other improvements, to be added to or used in~~
18 ~~connection with the park system. It may receive and accept gifts,~~
19 ~~donations, contributions, or bequests of money to be used in~~
20 ~~acquiring title to or any interest in real property, or in improving~~
21 ~~it as a part of or in connection with the State Park System, or to~~
22 ~~be used for any of the purposes for which the department is created.~~
23 ~~It may also receive and accept personal property for any purpose~~
24 ~~connected with the park system.~~

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

30 ~~(c) The department shall annually report to the Director of~~
31 ~~Finance all conditional gifts or bequests of money valued at one~~
32 ~~hundred thousand dollars (\$100,000) or less that it accepts or~~
33 ~~receives pursuant to subdivision (b).~~

34 ~~SEC. 3. Section 5005 of the Public Resources Code is amended~~
35 ~~to read:~~

36 5005. (a) The department may receive and accept in the name
37 of the people of the state any gift, dedication, devise, grant, or
38 other conveyance of title to or any interest in real property,
39 including water rights, roads, trails, ~~and~~ rights-of-way, *buildings,*
40 *facilities, and other improvements,* to be added to or used in

1 connection with the state park system. It may receive and accept
2 gifts, donations, contributions, or bequests of money to be used in
3 acquiring title to or any interest in real property, or in improving
4 it as a part of or in connection with the state park system, or to be
5 used for any of the purposes for which the department is created.
6 It may also receive and accept personal property for any purpose
7 connected with the park system.

8 (b) Subdivision (a) is subject to the requirements and exceptions
9 set forth in Section 11005 of the Government Code, except that
10 conditional gifts or bequests of money valued at one hundred
11 thousand dollars (\$100,000) or less, shall not require the approval
12 of the Director of Finance.

13 (c) The department shall annually report to the Department of
14 Finance all conditional gifts or bequests of money valued at one
15 hundred thousand dollars (\$100,000) or less that it accepts and
16 receives pursuant to subdivision (b).

17 SEC. 4. Section 5009.1 of the Public Resources Code is
18 amended to read:

19 5009.1. (a) The department may enter into an agreement to
20 accept funds from any person, *educational institution, tribal*
21 *government*, corporation or other business entity, or organization
22 for the maintenance, operation, restoration, repair, or enhancement
23 of a designated state park system unit or ~~facility~~. *facility, or for*
24 *research, educational, interpretive, recreational, or visitor services*
25 *provided on or for a designated state park system unit or facility.*

26 Any funds so received shall be deposited in a separate account in
27 the State Park Contingent Fund. The funds received shall
28 ~~supplement~~ *supplement, but not replace*, existing resources for the
29 maintenance, operation, restoration, repair, or enhancement of the
30 unit or ~~facility~~. *facility, or for establishing or enhancing park*
31 *services provided to visitors.* The department and the sponsoring
32 *or donating* person, entity, *government*, or organization shall
33 specify in the agreement the level of service that is to be performed.

34 (b) The department may enter into an agreement to accept
35 ~~services~~ from any person, *educational institution, tribal*
36 *government*, corporation or other business entity, or organization
37 *services* for the cleanup, repair, *restoration*, or enhancement of
38 any designated state park system unit or ~~facility~~. *facility, or for*
39 *research, educational, interpretive, recreational, or visitor services*
40 *provided on or for a state park system unit or facility.* Under the

1 direction of the department, these services shall ~~supplement~~
2 *supplement, but not replace*, existing staff resources for the purpose
3 of enhancing the maintenance and operation of the unit or ~~facility~~.
4 *facility or for establishing or enhancing park services provided to*
5 *visitors.*

6 (c) The director may authorize the erection of an appropriate
7 sign in recognition of ~~the sponsorship~~, *a donation or sponsorship*
8 *provided in accordance with this section*, consistent with existing
9 law and with the rules and regulations of the department regarding
10 signs in units of the state park system.

11 (d) The department may provide ~~free of charge or reduced cost~~
12 access to, and use of, park facilities to entities that have entered
13 into agreements as described in this ~~section~~. *section, if the public*
14 *benefit to be provided pursuant to the agreement exceeds or is of*
15 *comparable value, as determined by the department, to the access*
16 *to or use of park facilities granted.*

17 SEC. 5. Section 5009.2 of the Public Resources Code is
18 amended to read:

19 5009.2. (a) The department may enter into an agreement to
20 accept funds from any person, business entity, *educational*
21 *institution, tribal government, or organization for the* ~~maintenance~~
22 ~~or operation~~ *maintenance, operation, restoration, repair, or*
23 *enhancement* of a state beach, any other unit of the state park
24 system that encompasses a beach, or any area or facility of the
25 state beach or other ~~unit~~. *unit, or for research, educational,*
26 *interpretive, recreational, or visitor services provided on or for a*
27 *state beach, any other unit of the state park system that*
28 *encompasses a beach, or any area or facility of the state beach or*
29 *other unit.* Any funds so received shall be deposited in a separate
30 account in the State Park Contingent Fund. The funds received
31 shall ~~supplement~~ *supplement, but not replace*, existing resources
32 for the purposes of enhancing the ~~maintenance or operation~~
33 *maintenance, operation, restoration, repair, or enhancement* of
34 the state beach, other unit of the state park system that encompasses
35 a beach, or area or facility of the state beach or other ~~unit~~. *unit, or*
36 *for establishing or enhancing beach services provided to visitors.*
37 The department and the sponsoring *or donating* person, business
38 entity, *government*, or organization may specify in the agreement
39 the level of ~~maintenance or operation~~ *maintenance, operation,*
40 *restoration, repair, or enhancement* that will be performed.

1 (b) The department may also enter into an agreement to accept
 2 ~~services~~ from any person, *educational institution, tribal*
 3 *government*, business entity, or organization *services* for the
 4 operation, *restoration, repair*, maintenance, or enhancement of a
 5 state beach, other unit of the state park system that encompasses
 6 a beach, or area or facility of the state beach or other ~~unit, on a~~
 7 ~~nonprofit basis.~~ *unit, or for research educational, interpretive,*
 8 *recreational, or visitor services provided on or for a state beach,*
 9 *other unit of the state park system that encompasses a beach, or*
 10 *area or facility of the state beach or other unit.* Under the direction
 11 of the department, those services shall ~~supplement~~ *supplement,*
 12 *but not replace,* existing staff resources for the purposes of
 13 operation, *restoration, repair*, maintenance, or enhancement of
 14 the state beach, ~~area, or facility.~~ *other unit of the state park system*
 15 *that encompasses a beach, or area or facility of the state beach*
 16 *or other unit.*

17 (c) The director may authorize the erection of an appropriate
 18 sign in recognition of ~~that sponsorship,~~ *a donation or sponsorship*
 19 *provided in accordance with this section,* in accordance with
 20 department rules and regulations regarding signs in the state park
 21 system.

22 (d) *The department may provide free or reduced cost access to,*
 23 *and use of, beach facilities to entities that have entered into*
 24 *agreements as described in this section, if the public benefit to be*
 25 *provided pursuant to the agreement exceeds or is of comparable*
 26 *value, as determined by the department, to the access to or use of*
 27 *beach facilities granted.*

28 ~~(d)~~

29 (e) The activities authorized by this section shall be implemented
 30 as part of the department’s Adopt-A-Beach program.

31 ~~SEC. 5.~~

32 *SEC. 6.* Section 5010.3 is added to the Public Resources Code,
 33 to read:

34 5010.3. (a) The department shall develop a statewide policy
 35 for assessment of fees pursuant to Section 5010 that balances the
 36 state’s goal of sustainable revenue generation to support state
 37 parks, with the state’s goal of preserving affordable public access
 38 to public lands, including, but not limited to, lands in the coastal
 39 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 includes
6 a proper balance of public funding and earned revenue to support
7 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 pricing
11 that align policy goals with visitor expectations. To the extent
12 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 *fee-schedule* 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 the
38 state park system and offering modern fee collection and payment
39 options that include, but are not necessarily limited to, cash, credit
40 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. 6.~~

7 *SEC. 7.* 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.~~

30 *SEC. 8.* Section 5080.18 of the Public Resources Code is
31 amended to read:

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

35 (a) (1) The maximum term shall be 10 years, except that a term
36 of more than 10 years may be provided if the director determines
37 that the longer term is necessary to allow the concessionaire to
38 amortize improvements made by the concessionaire, to facilitate
39 the full utilization of a structure that is scheduled by the department
40 for replacement or redevelopment, or to serve the best interests of

1 the state. The term shall not exceed 20 years without specific
2 authorization by statute. Except as provided in Section 5080.16,
3 all renewals of concession contracts pursuant to this paragraph
4 shall be subject to competitive bidding requirements.

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

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

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

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

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

37 (e) The concessionaire shall obtain and maintain in force at all
38 times a policy of liability insurance in an amount adequate for the
39 nature and extent of public usage of the concession and naming
40 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.~~

11 *SEC. 9.* Section 5080.20 of the Public Resources Code is
12 amended to read:

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

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

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

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

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

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