

Assembly Bill No. 549

CHAPTER 559

An act to amend Sections 5003.4, 5005, 5009.1, 5009.2, 5010.7, 5080.18, and 5080.20 of the Public Resources Code, relating to state parks.

[Approved by Governor October 7, 2015. Filed with
Secretary of State October 7, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 549, 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 and parking facilities for recreational vehicles 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, including water rights, roads, trails, and rights-of-way, to be added or used in connection with the state park system, subject to the approval of the Director of Finance, except as provided.

This bill would 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 funds from any entity for the maintenance, operation, restoration, repair, development, improvement, or enhancement of a designated state park system unit or 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 authorize the department to provide free or reduced-cost access to and use of park 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 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, development, improvement, 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 50% of certain program revenues deposited into the subaccount generated by a park district to be allocated 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 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 and would revise those contract requirements, as specified.

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

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

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

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

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

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

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

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

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

5003.4. (a) There shall be provided in each state park in which camping is permitted those parking facilities for recreational vehicles, as defined by

Section 18010 of the Health and Safety Code, that can be accommodated within the park consistent with the objective of providing camping facilities for the public in these parks. In addition, the Department of Parks and Recreation may acquire, install or permit the installation of, and operate or permit the operation of, camping cabins, as defined by Section 18862.5 of the Health and Safety Code, and parking facilities for recreational vehicles 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.

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

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

5005. (a) The department may 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, including water rights, roads, trails, rights-of-way, buildings, facilities, and other improvements, to be added to or used in connection with the state park system. It may receive and accept gifts, donations, contributions, or bequests of money to be used in acquiring title to or any interest in real property, or in improving it as a part of or in connection with the state park system, or to be used for any of the purposes for which the department is created. It may also receive and accept personal property for any purpose connected with the park system.

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

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

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

5009.1. (a) The department may enter into an agreement to accept funds from any person, educational institution, tribal government, corporation or other business entity, or organization for the maintenance, operation, restoration, repair, development, improvement, or enhancement of a designated state park system unit or facility, or for research, educational, interpretive, recreational, or visitor services provided on or for a designated state park system unit or facility. Any funds so received shall be deposited in a separate account in the State Park Contingent Fund. The funds received shall supplement, but not replace, existing resources for the maintenance, operation, restoration, repair, development, improvement, or enhancement of the unit or facility, or for establishing or enhancing park services provided

to visitors. The department and the sponsoring or donating person, entity, government, or organization shall specify in the agreement the level of service that is to be performed.

(b) The department may enter into an agreement to accept from any person, educational institution, tribal government, corporation or other business entity, or organization services for the cleanup, repair, development, improvement, restoration, or enhancement of any designated state park system unit or facility, or for research, educational, interpretive, recreational, or visitor services provided on or for a state park system unit or facility. Under the direction of the department, these services shall supplement, but not replace, existing staff resources for the purpose of enhancing the maintenance and operation of the unit or facility or for establishing or enhancing park services provided to visitors.

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

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

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

5009.2. (a) The department may enter into an agreement to accept funds from any person, business entity, educational institution, tribal government, or organization for the maintenance, operation, restoration, repair, development, improvement, 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. Any funds so received shall be deposited in a separate account in the State Park Contingent Fund. The funds received shall supplement, but not replace, existing resources for the purposes of enhancing the maintenance, operation, restoration, repair, development, improvement, or enhancement of the state beach, other unit of the state park system that encompasses a beach, or area or facility of the state beach or other unit, or for establishing or enhancing beach services provided to visitors. The department and the sponsoring or donating person, business entity, government, or organization may specify in the agreement the level of maintenance, operation, restoration, repair, development, improvement, or enhancement that will be performed.

(b) The department may also enter into an agreement to accept from any person, educational institution, tribal government, business entity, or organization services for the operation, restoration, repair, development, improvement, maintenance, or enhancement of a state beach, other unit of

the state park system that encompasses a beach, or 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, other unit of the state park system that encompasses a beach, or area or facility of the state beach or other unit. Under the direction of the department, those services shall supplement, but not replace, existing staff resources for the purposes of operation, restoration, repair, development, improvement, maintenance, or enhancement of the state beach, other unit of the state park system that encompasses a beach, or area or facility of the state beach or other unit.

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

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

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

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

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

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

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

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

(A) A clear description of the proposed use of funds.

- (B) A timeframe of implementation of the capital project.
 - (C) A projection of revenue, including annual income, fees, and projected usage rates.
 - (D) A projection of costs, including design, planning, construction, operation, staff, maintenance, marketing, and information technology.
 - (E) A market analysis demonstrating demand for the project.
 - (F) A projected rate of return on the investment.
- (c) The revenue generated by the revenue generation program developed pursuant to subdivision (a) shall be deposited into the State Parks and Recreation Fund. Revenue identified as being in excess of the revenue targets shall be transferred to the State Parks Revenue Incentive Subaccount, established pursuant to Section 5010.6, on or before June 1, annually.
- (d) Moneys transferred to the State Parks Revenue Incentive Subaccount pursuant to subdivision (c) shall be expended as follows:
- (1) (A) The department shall allocate 50 percent of the total amount of revenues deposited into the State Parks Revenue Incentive Subaccount pursuant to subdivision (c), generated by a park district to that district if the amount of revenues generated exceeds the targeted revenue amount prescribed in the revenue generation program. The revenues to be allocated to a park district that fails to achieve the revenue target shall remain in the subaccount.
- (B) With the approval of the director, each district shall use the funds it receives pursuant to this section to improve the parks in that district through revenue generation programs and projects and other activities that will assist in the district's revenue generation activities, and the programs, projects, and other activities shall be consistent with the mission and purpose of each unit and with the plan developed for the unit pursuant to subdivision (a) of Section 5002.2.
- (C) The department shall report to the Legislature, commencing on July 1, 2014, and annually on or before each December 31 thereafter, on the revenue distributed to each district pursuant to this section.
- (2) The department shall use 50 percent of the funds deposited into the State Parks Revenue Incentive Subaccount pursuant to subdivision (c) for the following purposes:
- (A) To fund the capital costs of construction and installation of new revenue and fee collection equipment and technologies and other physical upgrades to existing state park system lands and facilities.
 - (B) For costs of restoration, rehabilitation, and improvement of the state park system and its natural, historical, and visitor-serving resources that enhance visitation and are designed to create opportunities to increase revenues.
 - (C) For costs to the department to implement the action plan required to be developed by the department pursuant to Section 5019.92.
 - (D) Pursuant to subdivision (c) of Section 5010.6, for expenditures to support revenue generation projects that include, but are not limited to, staffing kiosks, campgrounds, and parking lots.

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

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

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

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

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

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

(a) (1) The maximum term shall be 10 years, except that a term of more than 10 years may be provided if the director determines that the longer term is necessary to allow the concessionaire to amortize improvements made by the concessionaire, to facilitate the full utilization of a structure that is scheduled by the department for replacement or redevelopment, or to serve the best interests of the state. The term shall not exceed 20 years without specific authorization by statute. Except as provided in Section 5080.16, all renewals of concession contracts pursuant to this paragraph shall be subject to competitive bidding requirements.

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

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

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

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

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

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

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

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

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

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

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

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

(b) At least 30 days advance written notice of the proposed concession has been provided by the director to the appropriate policy and fiscal committees of the Legislature and the Joint Legislative Budget Committee.

(c) The proposed concession is accompanied with documentation sufficient to enable the commission and the Joint Legislative Budget Committee to ascertain whether the concession will conform to the requirements of this article and to evaluate fully all terms on which the concession is proposed to be let, including the rent and other returns anticipated to be received.