

AMENDED IN SENATE JUNE 22, 2016

AMENDED IN SENATE JUNE 9, 2016

AMENDED IN ASSEMBLY APRIL 26, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1716**

---

---

**Introduced by Assembly Members McCarty and Cooley**  
(Coauthor: Senator Pan)

January 27, 2016

---

---

An act to add ~~Division 22.2 (commencing with Section 32280)~~ to Chapter 10.5 (commencing with Section 5845) to Division 5 of the Public Resources Code, relating to the Lower American ~~River Conservancy~~ River, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1716, as amended, McCarty. Lower American River ~~Conservancy~~ Conservancy Program.

*The Urban American River Parkway Preservation Act adopts the American River Parkway Plan to provide coordination among governmental agencies in the protection and management of natural land, water, native wildlife, and vegetation of the American River Parkway and requires actions of state and local agencies with regard to land use decisions be consistent with the plan, as provided. Existing law establishes the Wildlife Conservation Board within the Department of Fish and Wildlife and requires the board to investigate, study, and determine areas in the state that are most suitable for certain wildlife-related purposes.*

*This bill would require the board to implement and administer the Lower American River Conservancy Program to receive and expend*

*moneys for the benefit of the Lower American River and related lands by, among other things, providing grants to local public agencies and nonprofit organizations for projects benefiting the Lower American River. The bill would require the board to establish an advisory committee, as specified. The bill would establish the Lower American River Conservancy Program Fund in the State Treasury and would make moneys in the fund available, upon appropriation by the Legislature, for purposes of the program. The bill would authorize the board to accept moneys, grants, goods or services contributed to it by public agencies, or private entities or persons and would require those moneys be deposited in the Donation Account, which the bill would establish in the fund. The bill would continuously appropriate the moneys in the account to the board for purposes of the program, thereby making an appropriation. The bill would authorize the board, upon receipt, to use goods and services contributed by public agencies, or private entities or persons.*

~~Existing law establishes various conservancies in the Natural Resources Agency to acquire, manage, direct the management of, and conserve public lands in the state.~~

~~This bill would create the Lower American River Conservancy in the Natural Resources Agency to receive and expend proceeds from bonds or other appropriations for the benefit of the American River Parkway, as defined. The bill would create the Lower American River Conservancy Fund in the State Treasury and would specify that moneys in the fund shall be available, upon appropriation, for the purposes of the conservancy, as provided.~~

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

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

1 SECTION 1. ~~Division 22.2 (commencing with Section 32280)~~  
 2 ~~is added to the Public Resources Code, to read:~~

3  
 4 DIVISION 22.2. LOWER AMERICAN RIVER  
 5 CONSERVANCY

6  
 7 SECTION 1. Chapter 10.5 (commencing with Section 5845)  
 8 ~~is added to Division 5 of the Public Resources Code, to read:~~

CHAPTER 10.5. LOWER AMERICAN RIVER CONSERVANCY PROGRAM

32280.

5845. This ~~division~~ chapter shall be known, and may be cited, as the Lower American River Conservancy Program Act.

~~32280.1.~~

5845.1. (a) The Legislature finds and declares all of the following:

(a)

(1) The ~~lower~~ Lower American River is one of California’s most important natural environments, providing recreational, environmental, and educational opportunities to more than 8,000,000 visitors each year. It also serves as a unique urban greenbelt composed of more than 5,000 acres and lying immediately next to and within two incorporated cities and the unincorporated County of Sacramento.

~~(b)~~

(2) The American River Parkway includes natural and recreational resources of statewide interest and is often referred to as “the jewel” of the Sacramento region, and it is managed as such with an intent to fulfill the vision set forth through past collaborative efforts involving advocates and stakeholders, the County of Sacramento, state agencies, and the Legislature.

(e)

(3) The American River Parkway was established by the County of Sacramento, with financial support from the state and other public and private entities.

~~(d)~~

(4) Since establishing the American River Parkway in 1959, the County of Sacramento has and will continue to update, maintain, and determine consistency with the American River Parkway Plan and to serve as the Parkway Manager to own, manage, operate, and patrol the lands and resources within the American River Parkway.

(e)

(5) The American River Parkway provides additional benefits to the state and the Sacramento region including flood control, water supply, water quality, habitat for anadromous fisheries, including salmon and steelhead, ~~and~~ habitat for migratory

1 ~~waterfowl~~ *waterfowl, habitat for sensitive species, including*  
 2 *Swainson’s hawks, peregrine falcons, northern harriers,*  
 3 *white-tailed kites, and western pond turtles, and habitat for other*  
 4 ~~wildlife~~. *wildlife, including river otters.*

5 (f)

6 (6) The Legislature recognized the statewide importance of the  
 7 American River Parkway in enacting the Urban American River  
 8 Parkway Preservation Act (Chapter 10 (commencing with Section  
 9 ~~5840) of Division 5), 5840)), which culminated with the adoption~~  
 10 of the American River Parkway Plan and the Bushy Lake  
 11 Preservation Act (Chapter 9 (commencing with Section ~~5830) of~~  
 12 ~~Division 5), 5830)).~~

13 (g)

14 (7) The statewide and national importance of the Lower  
 15 American River Parkway was further recognized when it was  
 16 designated as part of the California Wild and Scenic Rivers System  
 17 and the National Wild and Scenic Rivers System. The American  
 18 River Parkway Plan acts as the management plan for the lower  
 19 American River under the California Wild and Scenic Rivers Act  
 20 (Chapter 1.4 (commencing with Section ~~5093.50) of Division 5),~~  
 21 ~~5093.50)), providing management guidance and direction for state~~  
 22 departments and agencies, as well as local governments, in carrying  
 23 out their responsibilities under that act.

24 (h)

25 (8) The state has an interest in ~~assisting~~ *working with* local  
 26 agencies ~~in expanding, enhancing, and restoring to expand,~~  
 27 ~~enhance, and restore~~ the natural, recreational, *cultural,* and  
 28 educational resources in and adjacent to the American River  
 29 Parkway.

30 (i)

31 (9) The establishment of the Lower American River  
 32 Conservancy ~~can~~ *Program will* provide a state partner to work  
 33 cooperatively with local agencies, particularly the County of  
 34 Sacramento in its role as the Parkway Manager, and nonprofit  
 35 organizations to help fund projects and provide grants to restore,  
 36 enhance, interpret, protect, and improve public access to the  
 37 American River Parkway’s natural, recreational, educational, and  
 38 cultural resources.

39 (b) *It is the intent of the Legislature that the Lower American*  
 40 *River Conservancy Program be a continuation of the state’s*

1 *historic role in providing funding to advance the protection and*  
2 *restoration of the natural resources of the Lower American River*  
3 *while continuing the County of Sacramento’s historic role in*  
4 *managing the lands and public uses of the American River*  
5 *Parkway.*

6 ~~32280.5.~~

7 5845.2. For purposes of this ~~division~~, *chapter*, the following  
8 ~~terms have the following meanings:~~ *definitions apply:*

9 (a) “Adjacent to” means downstream of the Nimbus Dam and  
10 next to or in the immediate vicinity of the American River  
11 Parkway.

12 (b) “Advisory committee” means the advisory committee  
13 established pursuant to Section 5845.4.

14 ~~(b)~~

15 (c) “American River Parkway” means those portions of the area  
16 described in the American River Parkway Plan between the Nimbus  
17 Dam and the confluence of the American River with the  
18 Sacramento River.

19 ~~(e)~~

20 (d) “American River Parkway Plan” has the same meaning as  
21 in subdivision (a) of Section 5841.

22 (e) “Board” means the Wildlife Conservation Board established  
23 pursuant to Section 1320 of the Fish and Game Code.

24 ~~(d) “Conservancy” means the Lower American River~~  
25 ~~Conservancy established by this division.~~

26 ~~(e) “Governing board” means the governing board of the~~  
27 ~~conservancy.~~

28 (f) “Fund” means the Lower American River Conservancy Fund  
29 established pursuant to Section 5845.9.

30 ~~(f)~~

31 (g) “Nonprofit organization” means a private, nonprofit  
32 organization, with nonprofit status acknowledged by the United  
33 States Internal Revenue Service, that qualifies under Section  
34 501(c)(3) of the Internal Revenue Code, as amended, and that has  
35 among its principal charitable purposes the preservation,  
36 restoration, or interpretation of land for scientific, historic,  
37 educational, recreational, scenic, or open-space purposes, the  
38 protection of the natural environment or biological resources, or  
39 both, or the preservation or enhancement of wildlife, or both.

40 ~~(g)~~

1 (h) "Parkway Manager" means the Sacramento County Board  
2 of Supervisors or its designee.

3 (i) "Program" means the Lower American River Conservancy  
4 Program established pursuant to Section 5845.3.

5 ~~32281.~~

6 5845.3. (a) The board shall implement and administer the  
7 Lower American River Conservancy Program, which is hereby  
8 created in the Natural Resources Agency to receive and expend  
9 proceeds from bonds or other appropriations made in the annual  
10 Budget Act or other statutes for the benefit of the American River  
11 Parkway. Parkway and related lands.

12 (b) ~~To the extent permissible under this division, the~~  
13 ~~conservancy~~ In administering the program, the board shall  
14 prioritize expending moneys to develop and implement a natural  
15 resource management plan and to improve access to and to, and  
16 protection of and restoration of, the American River Parkway.

17 ~~32281.5.~~

18 5845.4. (a) ~~The governing~~ board shall ~~consist~~ establish an  
19 advisory committee consisting of the following members:

20 (1) Three members of the Board of Supervisors of the County  
21 of Sacramento, selected by a majority vote of the board of  
22 supervisors.

23 (2) Two representatives of the City of Sacramento, which may  
24 include the Mayor and one member of the City Council of the City  
25 of Sacramento, or two members of the city council, selected by a  
26 majority vote of the city council.

27 (3) The Mayor or a member of the City Council of the City of  
28 Rancho Cordova, selected by a majority vote of the city council.

29 (4) ~~The Secretary of Representatives from relevant state~~  
30 ~~agencies, including, but not limited to, the Natural Resources~~  
31 ~~Agency, or his or her designee. the Department of Finance, the~~  
32 ~~Department of Parks and Recreation, and the State Lands~~  
33 ~~Commission.~~

34 (5) ~~The Director of Finance, or his or her designee.~~

35 (6) ~~The Director of Parks and Recreation, or his or her designee.~~

36 (7) ~~The Director of Fish and Wildlife, or his or her designee.~~

37 (8) ~~The Executive Director of the Wildlife Conservation Board,~~  
38 ~~or his or her designee.~~

39 (9) ~~The Executive Officer of the State Lands Commission, or~~  
40 ~~his or her designee.~~

1     ~~(10)~~  
2     ~~(5) Three members from the public-at-large, one appointed by~~  
3 ~~the Governor, one appointed by the Senate Committee on Rules,~~  
4 ~~and one appointed by the Speaker of the Assembly. who have a~~  
5 ~~demonstrated knowledge of and expertise in the American River~~  
6 ~~Parkway and the American River Parkway Plan.~~

7     ~~(b) Public-at-large members appointed pursuant to paragraph~~  
8 ~~(10) of subdivision (a) may serve for one or more four-year terms.~~  
9 ~~These members shall have a demonstrated knowledge of and~~  
10 ~~expertise in the American River Parkway and the American River~~  
11 ~~Parkway Plan.~~

12     ~~(c) Members appointed pursuant to paragraphs (1) to (3),~~  
13 ~~inclusive, of subdivision (a) shall serve at the pleasure of their~~  
14 ~~appointing authority.~~

15     ~~(d) All members of the governing board shall be voting~~  
16 ~~members.~~

17     ~~(e)~~

18     ~~(b) A person shall not continue as a member of the governing~~  
19 ~~board advisory committee if that person ceases to hold the office~~  
20 ~~that qualifies that person for membership. In that event, the~~  
21 ~~person's membership on the governing board advisory committee~~  
22 ~~shall automatically terminate.~~

23     ~~(c) Members of the advisory committee shall serve without~~  
24 ~~compensation.~~

25     ~~(d) The advisory committee shall meet at least twice each~~  
26 ~~calendar year at one or more locations in the County of~~  
27 ~~Sacramento.~~

28     ~~(e) Meetings of the advisory committee shall be open to the~~  
29 ~~public and subject to the Bagley-Keene Open Meeting Act (Article~~  
30 ~~9 (commencing with Section 11120) of Chapter 1 of Part 1 of~~  
31 ~~Division 3 of Title 2 of the Government Code).~~

32     ~~32282. The members of the governing board who are not~~  
33 ~~full-time public employees may be compensated for attendance at~~  
34 ~~regular meetings of the conservancy at the rate of one hundred~~  
35 ~~dollars (\$100) per regular meeting, not to exceed 12 regular~~  
36 ~~meetings a year. All members of the governing board may be~~  
37 ~~reimbursed the actual amount of the reasonable and necessary~~  
38 ~~expenditures incurred in attending meetings of the conservancy~~  
39 ~~and carrying out the duties of their office.~~

1     ~~32282.5. The governing board shall elect from its own members~~  
2 ~~a chair and vice chair, whose terms of office shall be two years,~~  
3 ~~and who may serve more than one term. In the event of a vacancy,~~  
4 ~~a new chair or vice chair may be elected by the governing board~~  
5 ~~before the expiration of the two-year term to fill the remainder of~~  
6 ~~that two-year term.~~

7     ~~32283. The governing board shall meet at least once each~~  
8 ~~quarter at one or more locations within the County of Sacramento.~~  
9 ~~A majority of the membership of the governing body shall~~  
10 ~~constitute a quorum for the transaction of the business of the~~  
11 ~~conservancy. If a quorum is present, a majority vote of the~~  
12 ~~members present is sufficient to transact the business of the~~  
13 ~~governing board. Meetings of the governing board shall be open~~  
14 ~~to the public and subject to the Bagley-Keene Open Meeting Act~~  
15 ~~(Article 9 (commencing with Section 11120) of Chapter 1 of Part~~  
16 ~~1 of Division 3 of Title 2 of the Government Code).~~

17     ~~32284. The governing board shall adopt rules and procedures~~  
18 ~~necessary to conduct its business.~~

19     ~~32285.~~

20     ~~5845.5. The conservancy~~*In implementing the program, the*  
21 *board shall do all of the following:*

22     (a) Coordinate its activities with the County of Sacramento,  
23 each city that includes a portion of the American River Parkway,  
24 appropriate local and regional flood control districts, and relevant  
25 state agencies.

26     (b) Prior to approving funding for any project, do both of the  
27 following:

28     (1) Consult with the County of Sacramento as to whether the  
29 ~~conservancy's board's~~ proposed actions *pursuant to this chapter*  
30 are consistent with the American River Parkway Plan.

31     (2) Draft a staff report that includes all findings, written  
32 comments, and reports submitted by the County of Sacramento  
33 and the Parkway Manager as to whether the ~~conservancy's board's~~  
34 actions are consistent with the American River Parkway Plan.

35     (c) Administer any moneys appropriated to the ~~conservancy~~  
36 *board for the program* or any revenues generated by the  
37 ~~conservancy. board pursuant to the program.~~

38     (d) Provide funding and assistance to the County of Sacramento  
39 for the development, update, adoption, and implementation of a  
40 natural resource management plan for the American River Parkway,



1 and grants to other local agencies and nonprofit organizations  
2 whose projects are approved by the County of Sacramento for  
3 implementation of that plan.

4 ~~(e) Prior to providing funding for any acquisition project within  
5 the American River Parkway, require and ensure that title to the  
6 lands to be acquired shall be held by the County of Sacramento.~~

7 *(e) For projects that involve fee acquisition of lands within the  
8 American River Parkway, give preference to projects in which the  
9 County of Sacramento would be either the fee owner or the  
10 long-term manager of the property.*

11 ~~32286.~~

12 5845.6. Consistent with the American River Parkway Plan, the  
13 ~~conservancy board, in administering the program,~~ may do any of  
14 the following:

15 (a) Provide grants to local public agencies and nonprofit  
16 organizations to be used for one or more of the following purposes:

17 (1) The acquisition, restoration, enhancement, and maintenance  
18 of fish and wildlife habitat and other natural resources, including  
19 resources impacted by wildfire, within and adjacent to the  
20 American River Parkway. ~~Any land acquisition funded pursuant  
21 to this paragraph shall be subject to subdivision (e) of Section  
22 32285.~~

23 (2) The improvement and expansion of public access,  
24 recreational areas, and recreational facilities, ~~including trails.~~ *trails,*  
25 *in a manner that does not have significant adverse impacts on  
26 wildlife or wildlife habitat.*

27 (3) The enhancement of interpretive and educational facilities  
28 related to the American River Parkway and its natural, cultural,  
29 and historic resources.

30 (4) The control and removal of invasive species and the  
31 ~~propagation~~ *propagation* of native species.

32 (b) Improve and enhance lands within and adjacent to the  
33 American River Parkway. *Projects funded on adjacent lands shall  
34 contribute to the advancement of American River Parkway values.*

35 (c) Design, implement, and provide grants to local agencies and  
36 nonprofit organizations for ~~both of the following:~~

37 ~~(1) Stormwater~~

38 *stormwater* capture and treatment projects to improve the quality  
39 of water that flows within and into the American River ~~Parkway.~~  
40 *Parkway and to increase habitat for fish and wildlife.* Stormwater

1 projects may include lands within and adjacent to the American  
2 River Parkway and its tributaries downstream of the Nimbus Dam  
3 and within Sacramento County.

4 ~~(2) Projects to enhance fish and wildlife habitat and increase~~  
5 ~~open space.~~

6 (d) Solicit grants, donations of in-kind services, and other  
7 contributions from federal, state, and private sources for the  
8 purposes of this ~~division~~: *chapter*.

9 ~~(e) Establish necessary advisory boards or committees related~~  
10 ~~to the purposes of this division.~~

11 ~~32287.~~

12 ~~5845.7. The conservancy~~ *In administering the program, the*  
13 *board shall not do any of the following:*

14 (a) Fund or implement projects on lands without the written  
15 consent of the landowner.

16 (b) ~~Regulate~~ *Manage, regulate, or control* the use of ~~lands or~~  
17 ~~waters~~: *any land owned or leased by another public agency or*  
18 *private party, except as provided pursuant to a written agreement*  
19 *between that public agency or private party.*

20 (c) Levy any tax or special assessment.

21 (d) Provide grants or take other actions that are inconsistent  
22 with the American River Parkway Plan, the Bushy Lake  
23 Preservation Act (Chapter 9 (commencing with Section 5830) of  
24 Division 5), or the Urban American River Parkway Preservation  
25 Act (Chapter 10 (commencing with Section 5840) of Division 5).

26 (e) Own or acquire land.

27 ~~5845.8. To the extent feasible, in administering the program,~~  
28 ~~the board shall give preference to projects that utilize the services~~  
29 ~~of the California Conservation Corps or Community Conservation~~  
30 ~~Corps, as defined in Section 14507.5.~~

31 ~~32290.~~

32 ~~5845.9. (a) The Lower American River Conservancy Program~~  
33 ~~Fund is hereby created in the State Treasury. Moneys in the fund~~  
34 ~~shall be available, upon appropriation, for the purposes of this~~  
35 ~~division~~: *chapter. Moneys received by the board pursuant to this*  
36 *chapter shall be deposited in the fund, unless otherwise provided*  
37 *by the State General Obligation Bond Law (Chapter 4*  
38 *(commencing with Section 16720) of Part 3 of Division 4 of Title*  
39 *2 of the Government Code). The board shall administer the moneys*  
40 *appropriated to it for the program and may expend those moneys*

1 *for capital improvements, land acquisition, support for the*  
2 *program's operations, and other purposes consistent with this*  
3 *chapter.*

4 *(b) (1) The board may accept money, grants, goods, or services*  
5 *contributed to it by a public agency or a private entity or person.*  
6 *Moneys received pursuant to this paragraph shall be deposited in*  
7 *the Donation Account, which is hereby established in the fund.*

8 *(2) Notwithstanding Section 13340 of the Government Code,*  
9 *moneys in the account are hereby continuously appropriated,*  
10 *without regard to fiscal year, to the board for the purposes of this*  
11 *chapter.*

12 *(3) Upon receipt of goods and services pursuant to paragraph*  
13 *(1), the board may use those goods and services for the purposes*  
14 *of this chapter.*

15 ~~32291.~~

16 ~~5845.10. Nothing in this act shall~~ *This chapter does not*  
17 *supersede or diminish the existing authority of either any of the*  
18 *following:*

19 *(a) The County of Sacramento or any other entity responsible*  
20 *for the management, operation, maintenance, or protection of lands*  
21 *and resources within the American River Parkway.*

22 *(b) The Sacramento County Board of Supervisors acting as the*  
23 *Parkway Manager pursuant to its authority to interpret and*  
24 *implement the American River Parkway Plan.*

25 *(c) The board pursuant to other law.*