

AMENDED IN SENATE AUGUST 19, 2016

AMENDED IN SENATE AUGUST 2, 2016

AMENDED IN SENATE JUNE 22, 2016

AMENDED IN SENATE JUNE 9, 2016

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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 Chapter 10.5 (commencing with Section 5845) to Division 5 of the Public Resources Code, relating to the Lower American River, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1716, as amended, McCarty. Lower American River 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 *the* 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.

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

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

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

3
4 CHAPTER 10.5. LOWER AMERICAN RIVER CONSERVANCY
5 PROGRAM
6

7 5845. This chapter shall be known, and may be cited, as the
8 Lower American River Conservancy Program Act.

9 5845.1. (a) The Legislature finds and declares all of the
10 following:

11 (1) The Lower American River is one of California’s most
12 important natural environments, providing recreational,
13 environmental, and educational opportunities to more than
14 8,000,000 visitors each year. It also serves as a unique urban
15 greenbelt composed of more than 5,000 acres and lying

1 immediately next to and within two incorporated cities and the
2 unincorporated County of Sacramento.

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

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

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

18 (5) The American River Parkway provides additional benefits
19 to the state and the Sacramento region including flood control,
20 water supply, water quality, habitat for anadromous fisheries,
21 including salmon and steelhead, habitat for migratory waterfowl,
22 habitat for sensitive species, including Swainson’s hawks, peregrine
23 falcons, northern harriers, white-tailed kites, and western pond
24 turtles, and habitat for other wildlife, including river otters.

25 (6) The Legislature recognized the statewide importance of the
26 American River Parkway in enacting the Urban American River
27 Parkway Preservation Act (Chapter 10 (commencing with Section
28 5840)), which culminated with the adoption of the American River
29 Parkway Plan and the Bushy Lake Preservation Act (Chapter 9
30 (commencing with Section 5830)).

31 (7) The statewide and national importance of the Lower
32 American River Parkway was further recognized when it was
33 designated as part of the California Wild and Scenic Rivers System
34 and the National Wild and Scenic Rivers System. The American
35 River Parkway Plan acts as the management plan for the lower
36 American River under the California Wild and Scenic Rivers Act
37 (Chapter 1.4 (commencing with Section 5093.50)), providing
38 management guidance and direction for state departments and
39 agencies, as well as local governments, in carrying out their
40 responsibilities under that act.

1 (8) The state has an interest in working with local agencies to
2 expand, enhance, and restore the natural, recreational, cultural,
3 and educational resources in and adjacent to the American River
4 Parkway.

5 (9) The establishment of the Lower American River
6 Conservancy Program will provide a state partner to work
7 cooperatively with local agencies, particularly the County of
8 Sacramento in its role as the Parkway Manager, and nonprofit
9 organizations to help fund projects and provide grants to restore,
10 enhance, interpret, protect, and improve public access to the
11 American River Parkway’s natural, recreational, educational, and
12 cultural resources.

13 (b) It is the intent of the Legislature that the Lower American
14 River Conservancy Program be a continuation of the state’s historic
15 role in providing funding to advance the protection and restoration
16 of the natural resources of the Lower American River while
17 continuing the County of Sacramento’s historic role in managing
18 the lands and public uses of the American River Parkway.

19 5845.2. For purposes of this chapter, the following definitions
20 apply:

21 (a) “Adjacent to” means downstream of the Nimbus Dam and
22 next to or in the immediate vicinity of the American River
23 Parkway.

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

26 (c) “American River Parkway” means those portions of the area
27 described in the American River Parkway Plan between the Nimbus
28 Dam and the confluence of the American River with the
29 Sacramento River.

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

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

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

36 (g) “Nonprofit organization” means a private, nonprofit
37 organization, with nonprofit status acknowledged by the United
38 States Internal Revenue Service, that qualifies under Section
39 501(c)(3) of the Internal Revenue Code, as amended, and that has
40 among its principal charitable purposes the preservation,

1 restoration, or interpretation of land for scientific, historic,
2 educational, recreational, scenic, or open-space purposes, the
3 protection of the natural environment or biological resources, or
4 both, or the preservation or enhancement of wildlife, or both.

5 (h) “Parkway Manager” means the Sacramento County Board
6 of Supervisors or its designee.

7 (i) “Program” means the Lower American River Conservancy
8 Program established pursuant to Section 5845.3.

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

14 (b) In administering the program, the board shall prioritize
15 expending moneys to develop and implement a natural resource
16 management plan and to improve access to, and protection and
17 restoration of, the American River Parkway.

18 5845.4. (a) The board shall establish an advisory committee
19 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.~~ *supervisors, or their designees.*

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.~~ *council, or their designees.*

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 *council, or his or her designee.*

30 (4) Representatives from the Natural Resources Agency, the
31 Department of Finance, ~~the Department of Parks and Recreation,~~
32 and the State Lands Commission.

33 (5) Three members from the public *at large* who have a
34 demonstrated knowledge of and expertise in the American River
35 Parkway and the American River Parkway Plan. *One member shall*
36 *be appointed by the Governor; one member shall be appointed by*
37 *the Senate Committee on Rules, and one member shall be appointed*
38 *by the Speaker of the Assembly.*

39 (b) A person shall not continue as a member of the advisory
40 committee if that person ceases to hold the office that qualifies

1 that person for membership. In that event, the person’s membership
2 on the advisory committee shall automatically terminate.

3 (c) Members of the advisory committee shall serve without
4 compensation.

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

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

11 5845.5. In implementing the program, the board shall do all
12 of the following:

13 (a) Coordinate its activities with the County of Sacramento,
14 each city that includes a portion of the American River Parkway,
15 appropriate local and regional flood control districts, and relevant
16 state agencies.

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

19 (1) Consult with the County of Sacramento as to whether the
20 board’s proposed actions pursuant to this chapter are consistent
21 with the American River Parkway Plan.

22 (2) Draft a staff report that includes all findings, written
23 comments, and reports submitted by the County of Sacramento
24 and the Parkway Manager as to whether the board’s actions are
25 consistent with the American River Parkway Plan.

26 (c) Administer any moneys appropriated to the board for the
27 program or any revenues generated by the board pursuant to the
28 program.

29 (d) Provide funding and assistance to the County of Sacramento
30 for the development, update, adoption, and implementation of a
31 natural resource management plan for the American River Parkway,
32 and grants to other local agencies and nonprofit organizations
33 whose projects are approved by the County of Sacramento for
34 implementation of that plan.

35 (e) Prior to providing funding for any acquisition project within
36 the American River Parkway, require and ensure that title to the
37 lands to be acquired shall be held by the County of ~~Sacramento~~.
38 *Sacramento or another local public entity willing to hold title to*
39 *those lands.*

1 5845.6. Consistent with the American River Parkway Plan, the
2 board, in administering the program, may do any of the following:

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

5 (1) The acquisition, restoration, enhancement, and maintenance
6 of fish and wildlife habitat and other natural resources, including
7 resources impacted by wildfire, within and adjacent to the
8 American River Parkway. Any land acquisition funded pursuant
9 to this paragraph shall be subject to subdivision (e) of Section
10 5845.5.

11 (2) The improvement and expansion of public access,
12 recreational areas, and recreational facilities, including trails.

13 (3) The enhancement of interpretive and educational facilities
14 related to the American River Parkway and its natural, cultural,
15 and historic resources.

16 (4) The control and removal of invasive species and the
17 propagation of native species.

18 (b) Improve and enhance lands within and adjacent to the
19 American River Parkway. Projects funded on adjacent lands shall
20 contribute to the advancement of American River Parkway values.

21 (c) Design, implement, and provide grants to local agencies and
22 nonprofit organizations for stormwater capture and treatment
23 projects to improve the quality of water that flows within and into
24 the American River Parkway and to increase habitat for fish and
25 wildlife. Stormwater projects may include lands within and
26 adjacent to the American River Parkway and its tributaries
27 downstream of the Nimbus Dam and within Sacramento County.

28 (d) Solicit grants, donations of in-kind services, and other
29 contributions from federal, state, and private sources for the
30 purposes of this chapter.

31 5845.7. In administering the program, the board shall not do
32 any of the following:

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

35 (b) Manage, regulate, or control the use of any land owned or
36 leased by another public agency or private party, except as provided
37 pursuant to a written agreement between that public agency or
38 private party.

39 (c) Levy any tax or special assessment.

1 (d) Provide grants or take other actions that are inconsistent
2 with the American River Parkway Plan, the Bushy Lake
3 Preservation Act (Chapter 9 (commencing with Section 5830) of
4 Division 5), or the Urban American River Parkway Preservation
5 Act (Chapter 10 (commencing with Section 5840) of Division 5).

6 (e) Own or acquire land.

7 5845.8. To the extent feasible, in administering the program,
8 the board shall give preference to projects that utilize the services
9 of the California Conservation Corps or Community Conservation
10 Corps, as defined in Section 14507.5.

11 5845.9. (a) The Lower American River Conservancy Program
12 Fund is hereby created in the State Treasury. Moneys in the fund
13 shall be available, upon appropriation, for the purposes of this
14 chapter. Moneys received by the board pursuant to this chapter
15 shall be deposited in the fund, unless otherwise provided by the
16 State General Obligation Bond Law (Chapter 4 (commencing with
17 Section 16720) of Part 3 of Division 4 of Title 2 of the Government
18 Code). The board shall administer the moneys appropriated to it
19 for the program and may expend those moneys for capital
20 improvements, land acquisition, support for the program's
21 operations, and other purposes consistent with this chapter.

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

26 (2) Notwithstanding Section 13340 of the Government Code,
27 moneys in the account are hereby continuously appropriated,
28 without regard to fiscal year, to the board for the purposes of this
29 chapter.

30 (3) Upon receipt of goods and services pursuant to paragraph
31 (1), the board may use those goods and services for the purposes
32 of this chapter.

33 5845.10. This chapter does not supersede or diminish the
34 existing authority of any of the following:

35 (a) The County of Sacramento or any other entity responsible
36 for the management, operation, maintenance, or protection of lands
37 and resources within the American River Parkway.

38 (b) The Sacramento County Board of Supervisors acting as the
39 Parkway Manager pursuant to its authority to interpret and
40 implement the American River Parkway Plan.

- 1 (c) The board pursuant to other law.

O