

AMENDED IN SENATE MARCH 19, 2015

SENATE BILL

No. 204

Introduced by Senator Pavley

February 11, 2015

An act to amend ~~Section 5080.16~~ Sections 513, 5001, 5080.16, and 5080.42 of, to add Sections 5001.2 and 5080.44 to, and to add and repeal ~~Section~~ Sections 5002.25 and 5003.9 of, the Public Resources Code, relating to state parks.

LEGISLATIVE COUNSEL'S DIGEST

SB 204, as amended, Pavley. State parks.

~~(1) Existing~~

Existing law establishes the Department of Parks and Recreation and vests the department with the control of the state park system.

This bill would require the Director of Parks and Recreation to promote and regulate the use of the state park system in a manner that conserves the scenery, natural and historic resources, and wildlife in the individual units of the system for the enjoyment of future generations.

~~This~~

The bill would require the Department of Parks and Recreation, on or before ~~July~~ December 1, 2016, to prepare a report to the Legislature that fully addresses the department's energy costs, projects that could reduce those costs, and potential energy-related infrastructure projects, as specified: identifies the 10 projects within units of the state park system or on other property of the department that may provide the most significant greenhouse gas reductions.

Existing law requires the department to prepare a general plan or revise an existing plan, for a unit of the state park system following classification or reclassification of the unit by the State Park and

Recreation Commission, and prior to the development of any new facilities in any previously classified unit.

The California Environmental Quality Act (CEQA) requires a lead agency to prepare or cause to be prepared, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect.

This bill would authorize a lead agency responsible for the environmental analysis and review under CEQA of a proposed park development project, until January 1, 2022, to conduct the analysis and review separately from the development and approval of the general plan for the unit, if the proposed project is contained in a management or development plan of the department prepared for that unit that is or was subject to environmental review under CEQA.

~~(2) Existing~~

Existing law authorizes the Director of Parks and Recreation to negotiate or renegotiate a concession contract if specified conditions exist.

This bill would additionally authorize the director to negotiate or renegotiate a concession contract if the services provided pursuant to the contract will have minimal impact on state park resources, are inherently mobile or transitory in nature, and do not occupy a state-owned structure. The bill would also declare the intent of the Legislature that the department shall not compete with specified existing concession contracts.

Existing law, until January 1, 2019, authorizes the department to enter into an operating agreement with a qualified nonprofit organization for the development, improvement, restoration, care, maintenance, administration, or operation of a unit, or units, or portion of a unit, of the state park system.

This bill would delete the repeal date of that provision, thereby extending its operation indefinitely. The bill would also authorize the department to accept donations of real property or money from public or private sources to be used for the purpose of funding park programs to benefit youth, as defined. The bill would authorize the department to enter into cooperative agreements with public or nonprofit organizations that serve youth, to provide service and learning opportunities for youth, as described.

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. It is the intent of the Legislature that the*
2 *Department of Parks and Recreation not compete with existing*
3 *concession contracts through which comparable food and beverage*
4 *services are provided to the public.*

5 *SEC. 2. (a) The Legislature finds and declares all of the*
6 *following:*

7 *(1) Nearly 35,000 volunteers contribute their time and energy*
8 *to the Department of Parks and Recreation, thereby enhancing*
9 *the experiences of visitors, complementing the work of*
10 *departmental staff, and generating economic activity through their*
11 *voluntary efforts at state parks.*

12 *(2) The department estimates that volunteers contribute more*
13 *than one million hours each year and generate nearly twenty-five*
14 *million dollars (\$25,000,000) in economic value to the local and*
15 *regional economies around state parks through these substantial*
16 *volunteer efforts.*

17 *(3) It is the department's existing practice to offer one or more*
18 *types of complimentary passes to the department's volunteers in*
19 *recognition of their value-added contributions. Those*
20 *complimentary passes should also be offered to the volunteers at*
21 *cooperating associations in recognition of the value-added services*
22 *they provide.*

23 *(b) It is the intent of the Legislature that the Department of*
24 *Parks and Recreation extend the existing policies for the issuance*
25 *of complimentary state park passes to persons who volunteer at*
26 *state parks through cooperating associations, as defined in Section*
27 *513 of the Public Resources Code, consistent with the California*
28 *State Government Volunteers Act set forth in Chapter 8.5*
29 *(commencing with Section 3110) of Division 4 of Title 1 of the*
30 *Government Code.*

31 *SEC. 3. Section 513 of the Public Resources Code is amended*
32 *to read:*

33 513. (a) The department, as a means of furthering the
34 interpretive and educational functions of the state park system,
35 may enter into an agreement to act cooperatively with a nonprofit

1 cooperating association engaged in educational or interpretive
2 work in a state park system unit, as the director may designate,
3 whereby the cooperating association would furnish educational
4 and interpretive materials, or educational and interpretive services,
5 or educational and interpretative materials and services, for sale
6 to the public.

7 (b) Pursuant to Article 1 (commencing with Section 5080.02)
8 of Chapter 1.2 of Division 5, a concession may provide materials
9 and services that are intended to add to the convenience, enjoyment,
10 and safety of state park system visitors. A concession may also
11 provide, pursuant to this section, educational and interpretive
12 materials and services, as described in paragraphs (2) and (3) of
13 subdivision (d), with the approval of the department.

14 (c) A cooperating association may provide, pursuant to this
15 section, noneducational and noninterpretive materials and services,
16 as described in paragraph (4) of subdivision (d), *or other materials*
17 *or services that would enhance the visitor experience*, as part of
18 its cooperating association program with the approval of the
19 department, if the department is unable to obtain, through a good
20 faith effort, a concessionaire to provide those materials and
21 services.

22 (d) For purposes of this section, the following definitions apply:

23 (1) “Cooperating association” means a corporation that meets
24 all of the following criteria:

25 (A) The corporation is a nonprofit public benefit corporation,
26 organized pursuant to Part 2 (commencing with Section 5110) of
27 Division 2 of Title 1 of the Corporations Code.

28 (B) The articles of incorporation of the corporation state that
29 the specific purpose of the corporation is to provide support for
30 educational and interpretive programs of the state park system, or
31 portions of the programs.

32 (C) The corporation has a cooperating association program
33 contract with the department.

34 (D) The corporation is in compliance with the department’s
35 policies and guidelines regarding cooperating associations and has
36 obtained the department’s approval for its educational and
37 interpretive materials and services.

38 (2) “Educational and interpretive materials” include items that
39 promote visitor appreciation, understanding, and knowledge of

1 natural, cultural, and historic resources of the state park system,
2 including educational and interpretive gifts and souvenirs.

3 (3) “Educational and interpretive services” include those
4 activities and programs that focus on natural, cultural, and historic
5 resources of the state park system and are not generally offered
6 by the department.

7 (4) “Educational and interpretive materials and services” do not
8 include lodging, food service, horse and equipment rentals,
9 camping supplies, gifts and souvenirs, other than those described
10 in paragraph (2), transportation, except for equipment owned by
11 the department, recreational lessons, and the operation of
12 specialized facilities within a state park unit such as the theater at
13 Hearst San Simeon State Historic Monument and Old Town San
14 Diego State Historic Park, golf courses, and marinas.

15 (e) The department, at its discretion, may provide the services
16 of department personnel and shall provide space, if available, for
17 the sale of cooperating association materials, services, or both,
18 within a state park unit.

19 (f) Subject to rules and regulations that the director shall adopt,
20 all moneys collected by the cooperating association or received
21 by the department from the sale of cooperating association
22 materials, services, or both, provided by a cooperating association
23 shall be retained by or returned to the cooperating association for
24 use in the ~~interpretive and educational~~ programs of the state park
25 system unit that the cooperating association has been designated
26 to serve.

27 *SEC. 4. Section 5001 of the Public Resources Code is amended*
28 *to read:*

29 5001. (a) *The Legislature finds and declares all of the*
30 *following:*

31 (1) *California’s state parks are a true reflection of our state’s*
32 *collective history, natural and cultural heritage, and ideals. The*
33 *state parks can be models of healthy, natural, and sustainable*
34 *ecosystems and they can also commemorate important cultural*
35 *traditions or historic events. To remain relevant now and into the*
36 *future, state parks must protect California’s heritage and be*
37 *welcoming in order that visitors may understand and appreciate*
38 *these special places that have been set aside for their inspiration*
39 *and enjoyment.*

1 (2) *The state parks and other nature, recreation, and historic*
 2 *areas deserve to be preserved and managed for the benefit and*
 3 *inspiration of all state residents and visitors to the state parks. It*
 4 *is the intent of the Legislature to clarify the priorities and*
 5 *responsibilities of state agencies with respect to the management*
 6 *and administration of the state park system.*

7 (3) *Individual units of the state park system derive increased*
 8 *importance and recognition through their inclusion in a unified*
 9 *state park system that is preserved and managed for the benefit*
 10 *and inspiration of all Californians and visitors to the state.*

11 (b) *The Department of Parks and Recreation has control of the*
 12 *state park system.*

13 SEC. 5. *Section 5001.2 is added to the Public Resources Code,*
 14 *to read:*

15 5001.2. *The director shall promote and regulate the use of the*
 16 *state park system in a manner that conserves the scenery, natural*
 17 *and historic resources, and wildlife in the individual units of the*
 18 *system for the enjoyment of future generations.*

19 SEC. 6. *Section 5002.25 is added to the Public Resources Code,*
 20 *to read:*

21 5002.25. (a) *The Legislature finds and declares all of the*
 22 *following:*

23 (1) *The development of general plans by the department is*
 24 *lagging far behind any reasonable schedule for completion, many*
 25 *existing general plans are outdated, and there is no practical*
 26 *ability of the department to complete its backlog of general plan*
 27 *development or to maintain the relevancy of adopted general plans*
 28 *in the future in the face of ever-changing circumstances.*

29 (2) *The conditions described in paragraph (1) should not*
 30 *diminish the importance of long-range planning for state parks,*
 31 *reduce the opportunities for public input to the department for*
 32 *planning, management, or development efforts, or affect the review*
 33 *of proposed management or development, as required by all*
 34 *applicable laws or regulations.*

35 (3) *An alternative approach to the general planning*
 36 *requirements of the department, that does not diminish public input*
 37 *into the operations of a state park unit or reduce in any way the*
 38 *evaluation of a project that is subject to the California*
 39 *Environmental Quality Act (Division 13 (commencing with Section*

1 21000)) and any other applicable law, should be tested on a trial
2 basis in order to assess its strengths and weaknesses.

3 (4) A trial approach to general planning requirements, as
4 described in paragraph (3), should be undertaken in park units
5 where its use would contribute to a successful partnership
6 arrangement with a cooperating association.

7 (b) A lead agency responsible for the environmental analysis
8 and review, pursuant to the California Environmental Quality Act
9 (Division 13 (commencing with Section 21000)), of a proposed
10 development project in a unit of the state park system may conduct
11 the analysis and review separately from the development and
12 approval of the general plan for the unit, if the proposed project
13 is contained in a management or development plan of the
14 department prepared for that unit that is or was subject to
15 environmental review pursuant to the act.

16 (c) This section shall remain in effect only until January 1, 2022,
17 and as of that date is repealed, unless a later enacted statute, that
18 is enacted before January 1, 2022, deletes or extends that date.

19 **SECTION 1.**

20 **SEC. 7.** Section 5003.9 is added to the Public Resources Code,
21 to read:

22 5003.9. (a) The Legislature finds and declares that the
23 department should identify its energy costs, projects that could
24 reduce those costs, and potential energy-related infrastructure
25 projects that may be eligible for funding from revenues that may
26 be generated pursuant to a market-based compliance mechanism
27 that may be adopted by the State Air Resources Board pursuant
28 to Part 5 (commencing with Section 38570) of Division 25.5 of
29 the Health and Safety Code.

30 (b) (1) On or before ~~July~~ December 1, 2016, the department
31 shall prepare a report to the Legislature that ~~fully addresses the~~
32 ~~matter described in subdivision (a):~~ identifies the 10 projects within
33 units of the state park system or other property of the department
34 that may provide the most significant greenhouse gas reductions.

35 (2) The report required pursuant to paragraph (1) shall be
36 submitted in compliance with Section 9795 of the Government
37 Code.

38 (c) Pursuant to Section 10231.5 of the Government Code, this
39 section is repealed on January 1, 2021.

1 ~~SEC. 2.~~

2 *SEC. 8.* Section 5080.16 of the Public Resources Code is
3 amended to read:

4 5080.16. If the director determines that it is in the best interests
5 of the state, the director, upon giving notice to the State Park and
6 Recreation Commission, may negotiate or renegotiate a contract,
7 including terms and conditions, when one or more of the following
8 conditions exist:

9 (a) The bid process as prescribed in this article has failed to
10 produce a best responsible bidder.

11 (b) The negotiation or renegotiation would constitute an
12 extension of an existing contract obtained through the process
13 required by this article and the extended contract would provide
14 for substantial and additional concession facilities, which would
15 be constructed at the sole expense of the concessionaire and which
16 are set forth in the general plan for the unit and are needed to
17 accommodate existing or projected increased public usage.

18 (c) Lands in the state park system administered by the
19 department and lands under the legal control of the prospective
20 concessionaire are so situated that the concession is dependent
21 upon the use of those public and private lands for the physical or
22 economic success, or both, of the concession.

23 (d) Whenever a concession is desired for particular interpretive
24 purposes in a unit of the state park system and the prospective
25 concessionaire possesses special knowledge, experience, skills, or
26 ability appropriate to the particular interpretive purposes.

27 (e) Whenever the concession has been severely and adversely
28 impacted through no fault of the concessionaire by an unanticipated
29 calamity, park closure, major construction, or other harmful event
30 or action.

31 (f) Whenever the estimated administrative costs for the bid
32 process exceed the projected annual net rental revenue to the state.

33 (g) The services provided pursuant to the contract will have
34 minimal impacts on state park resources, are inherently mobile or
35 transitory in nature, and do not occupy a state-owned structure.
36 Those services may include, but are not limited to, mobile food
37 and beverage services.

38 *SEC. 9.* Section 5080.42 of the Public Resources Code is
39 amended to read:

1 5080.42. (a) Notwithstanding any other provision of this
2 article, the department may enter into an operating agreement with
3 a qualified nonprofit organization for the development,
4 improvement, restoration, care, maintenance, administration, or
5 operation of a unit or units, or portion of a unit, of the state park
6 system, as agreed to by the director. If the department enters into
7 an operating agreement that involves the operation of the entirety
8 of a park unit, that agreement may be entered into pursuant to this
9 section only to the extent that the agreement would enable the
10 department to avoid closure of a unit or units of the state park
11 system that may otherwise be subject to closure. The prohibition
12 on park closures, pursuant to subdivision (a) of Section 541.5, does
13 not limit the department's authority to enter into an operating
14 agreement pursuant to this section, as provided in subdivision (e)
15 of Section 541.5. The department may only enter into an operating
16 agreement that involves the operation of the entirety of a park unit
17 for no more than 20 park units. An operating agreement with a
18 qualified nonprofit organization shall include, but shall not be
19 limited to, the following conditions:

20 (1) The district superintendent for the department shall provide
21 liaison with the department, the nonprofit organization, and the
22 public.

23 (2) The nonprofit organization shall annually submit a written
24 report to the department regarding its operating activities during
25 the prior year and shall make copies of the report available to the
26 public upon request. The report shall be available on the Internet
27 Web sites of both the department and the nonprofit organization.
28 The report shall include a full accounting of all revenues and
29 expenditures for each unit of the state park system that the
30 nonprofit organization operates pursuant to an operating agreement.

31 (3) (A) Except as provided in subparagraph (B), all revenues
32 that the qualified nonprofit organization receives from a unit shall
33 be expended only for the care, maintenance, operation,
34 administration, improvement, or development of the unit. The
35 qualified nonprofit organization may additionally contribute in-kind
36 services and funds raised from outside entities for the care,
37 maintenance, operation, administration, improvement, or
38 development of the unit.

39 (B) If the qualified nonprofit organization determines that the
40 revenues it has received from a unit are in excess of the revenues

1 that are needed for the care, maintenance, operation, administration,
2 improvement, or development of that unit, and that these funds
3 are not already specified for or committed to specific purposes
4 pursuant to an existing agreement or contract restricting the use
5 of those funds, the qualified nonprofit organization may dedicate
6 those excess revenues to another state park unit for that unit’s care,
7 maintenance, operation, administration, improvement, or
8 development.

9 (4) General Fund moneys shall not be provided to a nonprofit
10 organization to subsidize the operation or maintenance of a park
11 unit. This paragraph applies to state parks, the full operation of
12 which are turned over to a nonprofit organization, but does not
13 apply to or preclude the department from entering into agreements
14 with nonprofit organizations to operate a portion of a state park
15 unit, or from entering into comanagement agreements with
16 nonprofit organizations that involve the sharing of operational and
17 financial responsibilities for the park unit and that have the effect
18 of reducing state costs. This paragraph does not apply to park
19 entrance fees, concession revenues, or any other revenues generated
20 within a park operated by a nonprofit organization pursuant to this
21 section.

22 (b) An operating agreement entered into pursuant to subdivision
23 (a) shall honor the existing term of a current concession contract
24 for the state park unit subject to the operating agreement.

25 (c) An operating agreement entered into pursuant to subdivision
26 (a) shall specify the duties that the nonprofit organization shall be
27 responsible for carrying out relative to management and protection
28 of natural, historical, and cultural resources, and shall identify
29 those management duties that shall continue to be conducted by
30 the department, so that all core operations of the park are
31 delineated. Scientific, architectural, and engineering functions that
32 require special expertise or professional training shall only be
33 conducted by or under the supervision of qualified persons with
34 applicable expertise or training and subject to oversight by the
35 department.

36 (d) This section does not supersede the requirements of Section
37 5019.53 regarding the protection of natural, scenic, cultural, and
38 ecological values.

39 (e) The nonprofit organization and the district superintendent
40 for the department shall, following submittal of the annual report

1 pursuant to subdivision (a), hold a joint public meeting for
2 discussion of the report.

3 (f) If the department intends to enter into an operating agreement
4 for the development, improvement, restoration, care, maintenance,
5 administration, or operation of a unit or units, or a portion of a
6 unit, the department shall notify the Member of the Legislature in
7 whose district the unit is located, the Chair of the Senate Committee
8 on Natural Resources and Water, the Chair of the Assembly
9 Committee on Water, Parks and Wildlife, and the chairs of the
10 Assembly and Senate budget committees of that intention. The
11 notification shall include estimated operating costs and revenues
12 and core duties and responsibilities that are likely to be assigned
13 to the nonprofit organization and the department.

14 (g) For purposes of this section, a qualified nonprofit
15 organization is an organization that is all of the following:

16 (1) An organization that is exempt from taxation pursuant to
17 Section 501(c)(3) of the Internal Revenue Code.

18 (2) An organization that has as its principal purpose and activity
19 to provide visitor services in state parks, facilitate public access
20 to park resources, improve park facilities, provide interpretive and
21 educational services, or provide direct protection or stewardship
22 of natural, cultural, or historical lands, or resources.

23 (3) An organization that is in compliance with the Supervision
24 of Trustees and Fundraisers for Charitable Purposes Act, Article
25 7 (commencing with Section 12580) of Chapter 6 of Part 2 of
26 Division 3 of Title 2 of the Government Code.

27 (h) (1) Notwithstanding Section 10231.5 of the Government
28 Code, the department shall provide a report to the Legislature, on
29 a biennial basis, of the status of operating agreements it has entered
30 into pursuant to this section. The report shall include a list of units
31 of the state park system with operating agreements, discussion of
32 the management and operations of each unit subject to an operating
33 agreement, an accounting of the revenues and expenditures incurred
34 under each operating agreement, and an assessment of the benefit
35 to the state from operating agreements entered into pursuant to
36 this section.

37 (2) A report submitted pursuant to paragraph (1) shall be
38 submitted in compliance with Section 9795 of the Government
39 Code.

1 ~~(i) This section shall remain in effect only until January 1, 2019,~~
2 ~~and as of that date is repealed, unless a later enacted statute, that~~
3 ~~is enacted before January 1, 2019, deletes or extends that date.~~

4 *SEC. 10. Section 5080.44 is added to the Public Resources*
5 *Code, to read:*

6 *5080.44. (a) The department may accept donations of real*
7 *property or money from public or private sources to be used for*
8 *the purpose of funding park programs to benefit youth, as described*
9 *in subdivision (b).*

10 *(b) The department may enter into cooperative agreements with*
11 *public or nonprofit organizations that serve youth to provide*
12 *service and learning opportunities for young people by performing*
13 *work on state park system programs and projects under the*
14 *supervision of department employees, where the work is not being*
15 *performed by state park employees. Programs and projects covered*
16 *under this subdivision include all of the following:*

17 *(1) Restoring California's natural, historic, archaeological,*
18 *recreational, and scenic resources.*

19 *(2) Training young people to be public land and resources*
20 *managers and stewards for careers in public service.*

21 *(3) Undertaking appropriate cultural and natural resource*
22 *conservation in a cost-effective and appropriate manner.*