

AMENDED IN ASSEMBLY SEPTEMBER 1, 2015

AMENDED IN ASSEMBLY JULY 14, 2015

AMENDED IN ASSEMBLY JULY 8, 2015

AMENDED IN ASSEMBLY JUNE 24, 2015

AMENDED IN SENATE APRIL 15, 2015

AMENDED IN SENATE MARCH 19, 2015

SENATE BILL

No. 204

Introduced by Senator Pavley

February 11, 2015

An act to amend Section 10110 of the Public Contract Code, and to amend Sections 513, 5001, 5002.2, 5080.16, and 5080.42 of, *and* to add Sections 5001.2 and 5080.44 to, ~~and to add and repeal Section 5003.9 of,~~ the Public Resources Code, relating to state parks.

LEGISLATIVE COUNSEL'S DIGEST

SB 204, as amended, Pavley. State parks.

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.

~~The bill would require the Department of Parks and Recreation, on or before December 1, 2016, to prepare a report to the Legislature that 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.

This bill would authorize the department to prepare a management or development plan that includes appropriate environmental review and analysis instead of a general plan for a park unit to which new development is necessary to comply with public service delivery obligations, operational or code compliance upgrades, or resource preservation requirements that are compatible with the classification of the unit.

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, but authorizes the department to enter into an operating agreement that involves the operation of the entirety of a park unit only to avoid closure of a unit or units of the state park system that may otherwise be subject to closure.

This bill would delete the repeal date of that provision, thereby extending its operation indefinitely, and would delete the above limitation on the department's authority to enter into an operating agreement that involves the operation of the entirety of a park unit. The bill would also authorize the department to accept donations of 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 agreements with public or nonprofit organizations that serve youth, to provide service and learning opportunities for youth, as described.

Existing law authorizes the ~~Director of the Department~~ of General Services to permit the department to carry out a project where the nature of work is historic preservation of the state park system. Existing law requires the department to solicit bids and award the project to the lowest responsible bidder or reject all bids, if the estimated total cost of the project exceeds \$25,000, except as provided.

This bill would ~~increase the dollar threshold described above to make those requirements applicable if the total estimated cost of the project exceeding \$750,000. exceeds \$50,000.~~

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

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

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

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

8 (2) The department estimates that volunteers contribute more
9 than 1,000,000 hours each year and generate nearly twenty-five
10 million dollars (\$25,000,000) in economic value to the local and
11 regional economies around state parks through these substantial
12 volunteer efforts.

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

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

27 SEC. 2. Section 10110 of the Public Contract Code is amended
28 to read:

29 10110. (a) Where the nature of the work is historic restoration
30 for the state park system, as determined jointly by the director and
31 the Director of Parks and Recreation, the department may authorize

1 the carrying out of the project directly by the Department of Parks
2 and Recreation.

3 (b) If the estimated total cost of any construction project or work
4 carried out under this section exceeds ~~seven hundred~~ fifty thousand
5 dollars ~~(\$750,000)~~, (\$50,000), the Department of Parks and
6 Recreation shall solicit bids in writing and award the work to the
7 lowest responsible bidder or reject all bids. However, the director
8 may authorize the Department of Parks and Recreation to carry
9 out work in excess of ~~seven hundred~~ fifty thousand dollars
10 ~~(\$750,000)~~ (\$50,000) under the provisions of this section by day
11 labor if the director determines, in consultation with the Director
12 of Parks and Recreation, that the award of a contract, the
13 acceptance of bids, or the acceptance of further bids is not in the
14 best interests of the state. The Department of Parks and Recreation
15 shall establish, by regulation, criteria to be considered by the
16 Department of Parks and Recreation in requesting authorization
17 from the director to perform all or part of a project by day labor.

18 SEC. 3. Section 513 of the Public Resources Code is amended
19 to read:

20 513. (a) The department, as a means of furthering the
21 interpretive and educational functions of the state park system,
22 may enter into an agreement to act cooperatively with a nonprofit
23 cooperating association engaged in educational or interpretive
24 work in a state park system unit, as the director may designate,
25 whereby the cooperating association would furnish educational
26 and interpretive materials, or educational and interpretive services,
27 or educational and interpretative materials and services, for sale
28 to the public.

29 (b) Pursuant to Article 1 (commencing with Section 5080.02)
30 of Chapter 1.2 of Division 5, a concession may provide materials
31 and services that are intended to add to the convenience, enjoyment,
32 and safety of state park system visitors. A concession may also
33 provide, pursuant to this section, educational and interpretive
34 materials and services, as described in paragraphs (2) and (3) of
35 subdivision (d), with the approval of the department.

36 (c) A cooperating association may provide, pursuant to this
37 section, noneducational and noninterpretive materials and services,
38 as described in paragraph (4) of subdivision (d), or other materials
39 or services that would enhance the visitor experience, as part of
40 its cooperating association program with the approval of the

1 department, if the department is unable to obtain, through a good
2 faith effort, a concessionaire to provide those materials and
3 services.

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

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

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

10 (B) The articles of incorporation of the corporation state that
11 the specific purpose of the corporation is to provide support for
12 educational and interpretive programs of the state park system, or
13 portions of the programs.

14 (C) The corporation has a cooperating association program
15 contract with the department.

16 (D) The corporation is in compliance with the department’s
17 policies and guidelines regarding cooperating associations and has
18 obtained the department’s approval for its educational and
19 interpretive materials and services.

20 (2) “Educational and interpretive materials” include items that
21 promote visitor appreciation, understanding, and knowledge of
22 natural, cultural, and historic resources of the state park system,
23 including educational and interpretive gifts and souvenirs.

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

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

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

1 (f) Subject to rules and regulations that the director shall adopt,
 2 all moneys collected by the cooperating association or received
 3 by the department from the sale of cooperating association
 4 materials, services, or both, provided by a cooperating association
 5 shall be retained by or returned to the cooperating association for
 6 use in the programs of the state park system unit that the
 7 cooperating association has been designated to serve.

8 SEC. 4. Section 5001 of the Public Resources Code is amended
 9 to read:

10 5001. (a) The Legislature finds and declares all of the
 11 following:

12 (1) California’s state parks are a true reflection of our state’s
 13 collective history, natural and cultural heritage, and ideals. The
 14 state parks can be models of healthy, natural, and sustainable
 15 ecosystems and they can also commemorate important cultural
 16 traditions or historic events. To remain relevant now and into the
 17 future, state parks must protect California’s heritage and be
 18 welcoming in order that visitors may understand and appreciate
 19 these special places that have been set aside for their inspiration
 20 and enjoyment.

21 (2) The state parks and other nature, recreation, and historic
 22 areas deserve to be preserved and managed for the benefit and
 23 inspiration of all state residents and visitors to the state parks. It
 24 is the intent of the Legislature to clarify the priorities and
 25 responsibilities of state agencies with respect to the management
 26 and administration of the state park system.

27 (3) Individual units of the state park system derive increased
 28 importance and recognition through their inclusion in a unified
 29 state park system that is preserved and managed for the benefit
 30 and inspiration of all Californians and visitors to the state.

31 (b) The Department of Parks and Recreation has control of the
 32 state park system.

33 SEC. 5. Section 5001.2 is added to the Public Resources Code,
 34 to read:

35 5001.2. The director shall promote and regulate the use of the
 36 state park system in a manner that conserves the scenery, natural
 37 and historic resources, and wildlife in the individual units of the
 38 system for the enjoyment of future generations.

39 SEC. 6. Section 5002.2 of the Public Resources Code is
 40 amended to read:

1 5002.2. (a) (1) Following classification or reclassification of
2 a unit by the State Park and Recreation Commission, and prior to
3 the development of any new facilities in any previously classified
4 unit, the department shall prepare a general plan or revise any
5 existing plan, for the unit.

6 (2) The general plan shall consist of elements that will evaluate
7 and define the proposed land uses, facilities, concessions, operation
8 of the unit, any environmental impacts, and the management of
9 resources, and shall serve as a guide for the future development,
10 management, and operation of the unit.

11 (3) The general plan constitutes a report on a project for the
12 purposes of Section 21100. The general plan for a unit shall be
13 submitted by the department to the State Park and Recreation
14 Commission for approval.

15 (b) The resource element of the general plan shall evaluate the
16 unit as a constituent of an ecological region and as a distinct
17 ecological entity, based upon historical and ecological research of
18 plant-animal and soil-geological relationships and shall contain a
19 declaration of purpose, setting forth specific long-range
20 management objectives for the unit consistent with the unit's
21 classification pursuant to Article 1.7 (commencing with Section
22 5019.50), and a declaration of resource management policy, setting
23 forth the precise actions and limitations required for the
24 achievement of the objectives established in the declaration of
25 purpose.

26 (c) Notwithstanding subdivision (a), the department is not
27 required to prepare a general plan for a unit that has no general
28 plan or to revise an existing plan if the only development
29 contemplated by the department consists of the repair, replacement,
30 or rehabilitation of an existing facility; the construction of a
31 temporary facility, if the construction does not result in the
32 permanent commitment of a resource of the unit; any undertaking
33 necessary for the protection of public health or safety; or any
34 emergency measure necessary for the immediate protection of
35 natural or cultural resources; or any combination of these activities
36 at a single unit. Any development is subject to the requirements
37 of the California Environmental Quality Act (Division 13
38 (commencing with Section 21000)).

39 (d) Notwithstanding subdivision (a), the department is not
40 required to prepare a general plan or revise an existing plan for a

1 unit to which new development is necessary to comply with public
2 service delivery obligations, operational or code compliance
3 upgrades, or resource preservation requirements that are compatible
4 with the classification of the unit. The department may instead
5 prepare a management or development plan with appropriate
6 environmental review and analysis.

7 (e) Consistent with good planning and sound resource
8 management, the department shall, in discharging its
9 responsibilities under this section, attempt to make units of the
10 state park system accessible and usable by the general public at
11 the earliest opportunity.

12 (f) The department may prepare a general plan that includes
13 more than one unit of the state park system for units that are in
14 close proximity to one another and that have similar resources and
15 recreational opportunities if that action will facilitate the protection
16 of public resources and public access to units of the state park
17 system.

18 ~~SEC. 7. Section 5003.9 is added to the Public Resources Code,~~
19 ~~to read:~~

20 ~~5003.9. (a) The Legislature finds and declares that the~~
21 ~~department should identify its energy costs, projects that could~~
22 ~~reduce those costs, and potential energy-related infrastructure~~
23 ~~projects that may be eligible for funding from revenues that may~~
24 ~~be generated pursuant to a market-based compliance mechanism~~
25 ~~that may be adopted by the State Air Resources Board pursuant~~
26 ~~to Part 5 (commencing with Section 38570) of Division 25.5 of~~
27 ~~the Health and Safety Code.~~

28 ~~(b) (1) On or before December 1, 2016, the department shall~~
29 ~~prepare a report to the Legislature that identifies the 10 projects~~
30 ~~within units of the state park system or other property of the~~
31 ~~department that may provide the most significant greenhouse gas~~
32 ~~reductions.~~

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

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

38 ~~SEC. 8.~~

39 ~~SEC. 7. Section 5080.16 of the Public Resources Code is~~
40 ~~amended to read:~~

1 5080.16. If the director determines that it is in the best interests
2 of the state, the director, upon giving notice to the State Park and
3 Recreation Commission, may negotiate or renegotiate a contract,
4 including terms and conditions, when one or more of the following
5 conditions exist:

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

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

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

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

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

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

30 ~~SEC. 9.~~

31 *SEC. 8.* Section 5080.42 of the Public Resources Code is
32 amended to read:

33 5080.42. (a) Notwithstanding any other provision of this
34 article, the department may enter into an operating agreement with
35 a qualified nonprofit organization for the development,
36 improvement, restoration, care, maintenance, administration, or
37 operation of a unit or units, or portion of a unit, of the state park
38 system, as agreed to by the director. The prohibition on park
39 closures, pursuant to subdivision (a) of Section 541.5, does not
40 limit the department's authority to enter into an operating

1 agreement pursuant to this section, as provided in subdivision (e)
2 of Section 541.5. The department may only enter into an operating
3 agreement that involves the operation of the entirety of a park unit
4 for no more than 20 park units. An operating agreement with a
5 qualified nonprofit organization shall include, but shall not be
6 limited to, the following conditions:

7 (1) The district superintendent for the department shall provide
8 liaison with the department, the nonprofit organization, and the
9 public.

10 (2) The nonprofit organization shall annually submit a written
11 report to the department regarding its operating activities during
12 the prior year and shall make copies of the report available to the
13 public upon request. The report shall be available on the Internet
14 Web sites of both the department and the nonprofit organization.
15 The report shall include a full accounting of all revenues and
16 expenditures for each unit of the state park system that the
17 nonprofit organization operates pursuant to an operating agreement.

18 (3) (A) Except as provided in subparagraph (B), all revenues
19 that the qualified nonprofit organization receives from a unit shall
20 be expended only for the care, maintenance, operation,
21 administration, improvement, or development of the unit. The
22 qualified nonprofit organization may additionally contribute in-kind
23 services and funds raised from outside entities for the care,
24 maintenance, operation, administration, improvement, or
25 development of the unit.

26 (B) If the qualified nonprofit organization determines that the
27 revenues it has received from a unit are in excess of the revenues
28 that are needed for the care, maintenance, operation, administration,
29 improvement, or development of that unit, and that these funds
30 are not already specified for or committed to specific purposes
31 pursuant to an existing agreement or contract restricting the use
32 of those funds, the qualified nonprofit organization may dedicate
33 those excess revenues to another state park unit for that unit's care,
34 maintenance, operation, administration, improvement, or
35 development.

36 (4) General Fund moneys shall not be provided to a nonprofit
37 organization to subsidize the operation or maintenance of a park
38 unit. This paragraph applies to state parks, the full operation of
39 which are turned over to a nonprofit organization, but does not
40 apply to or preclude the department from entering into agreements

1 with nonprofit organizations to operate a portion of a state park
2 unit, or from entering into comanagement agreements with
3 nonprofit organizations that involve the sharing of operational and
4 financial responsibilities for the park unit and that have the effect
5 of reducing state costs. This paragraph does not apply to park
6 entrance fees, concession revenues, or any other revenues generated
7 within a park operated by a nonprofit organization pursuant to this
8 section.

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

12 (c) An operating agreement entered into pursuant to subdivision
13 (a) shall specify the duties that the nonprofit organization shall be
14 responsible for carrying out relative to management and protection
15 of natural, historical, and cultural resources, and shall identify
16 those management duties that shall continue to be conducted by
17 the department, so that all core operations of the park are
18 delineated. Scientific, architectural, and engineering functions that
19 require special expertise or professional training shall only be
20 conducted by or under the supervision of qualified persons with
21 applicable expertise or training and subject to oversight by the
22 department.

23 (d) This section does not supersede the requirements of Section
24 5019.53 regarding the protection of natural, scenic, cultural, and
25 ecological values.

26 (e) The nonprofit organization and the district superintendent
27 for the department shall, following submittal of the annual report
28 pursuant to subdivision (a), hold a joint public meeting for
29 discussion of the report.

30 (f) If the department intends to enter into an operating agreement
31 for the development, improvement, restoration, care, maintenance,
32 administration, or operation of a unit or units, or a portion of a
33 unit, the department shall notify the Member of the Legislature in
34 whose district the unit is located, the Chair of the Senate Committee
35 on Natural Resources and Water, the Chair of the Assembly
36 Committee on Water, Parks, and Wildlife, and the chairs of the
37 Assembly and Senate budget committees of that intention. The
38 notification shall include estimated operating costs and revenues
39 and core duties and responsibilities that are likely to be assigned
40 to the nonprofit organization and the department.

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

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

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

10 (3) An organization that is in compliance with the Supervision
11 of Trustees and Fundraisers for Charitable Purposes Act, Article
12 7 (commencing with Section 12580) of Chapter 6 of Part 2 of
13 Division 3 of Title 2 of the Government Code.

14 (h) (1) Notwithstanding Section 10231.5 of the Government
15 Code, the department shall provide a report to the Legislature, on
16 a biennial basis, of the status of operating agreements it has entered
17 into pursuant to this section. The report shall include a list of units
18 of the state park system with operating agreements, discussion of
19 the management and operations of each unit subject to an operating
20 agreement, an accounting of the revenues and expenditures incurred
21 under each operating agreement, and an assessment of the benefit
22 to the state from operating agreements entered into pursuant to
23 this section.

24 (2) A report submitted pursuant to paragraph (1) shall be
25 submitted in compliance with Section 9795 of the Government
26 Code.

27 ~~SEC. 10.~~

28 *SEC. 9.* Section 5080.44 is added to the Public Resources Code,
29 to read:

30 5080.44. (a) The department may accept donations of money
31 from public or private sources to be used for the purpose of funding
32 park programs to benefit youth, as described in subdivision (b).

33 (b) Notwithstanding Article 4 (commencing with Section 10335)
34 of Chapter 2 of Part 2 of Division 2 of the Public Contract Code,
35 the department may enter into agreements, including agreements
36 that involve the transfer of funds appropriated to the department,
37 with public or nonprofit organizations that serve youth to provide
38 service and learning opportunities for young people by performing
39 work on state park system programs and projects under the
40 supervision of department employees, where the work is not being

- 1 performed by state park employees. Programs and projects covered
2 under this subdivision include all of the following:
- 3 (1) Restoring California's natural, historic, archaeological,
4 recreational, and scenic resources.
 - 5 (2) Training young people to be public land and resources
6 managers and stewards for careers in public service.
 - 7 (3) Undertaking appropriate cultural and natural resource
8 conservation in a cost-effective and appropriate manner.