

AMENDED IN ASSEMBLY JUNE 29, 2016

AMENDED IN ASSEMBLY JUNE 23, 2016

**SENATE BILL**

**No. 1111**

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**Introduced by Senator Pavley**

February 17, 2016

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An act to amend Sections 5003.17, 5080.40, and 5080.42 of, and to add Article 1.5 (commencing with Section 520) to Chapter 1 of Division 1 of, the Public Resources Code, relating to state parks.

LEGISLATIVE COUNSEL'S DIGEST

SB 1111, as amended, Pavley. State parks: operating agreements.

Existing law vests control of the state park system with the Department of Parks and Recreation and 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 ~~parks~~ park system, as provided. Existing law provides that the department may only enter into an operating agreement for the entirety of a park unit for no more than 20 park units.

This bill would delete ~~this~~ that provision. The bill would authorize the department to enter into a strategic partnership with a park support organization, as defined, *to facilitate implementation of reforms recommended by the Parks Forward Commission* and to develop and secure expertise, services, resources, and projects that are not readily available to the state park system for specified purposes relating to the funding, maintenance, visitation, use, facilities, and staffing of state parks, as provided. The bill would require the department to take specified actions relating to the development and implementation of such a strategic partnership and would authorize the Director ~~of the~~

Department of Parks and Recreation, or the director's designee, to serve as an ex officio, nonvoting member of the park support organization's board of directors. The bill would require the department to collaborate with the park support organization to develop an annual list of strategic initiatives and projects that are priorities for the state park system. The bill would authorize the department to receive donations of projects, services, and funds to be used for the support of the state park system. The bill would specify that the Director of Finance and the Attorney General shall have 60 days to review and approve or disapprove any strategic partnership agreement or substantial amendment of such an agreement.

Existing law authorizes the department to lease, for any use, all or any portion of any parcel of real property acquired for state park system purposes, if the director finds that the use would be compatible with the use of the real property as a unit or part of a unit and with the sound management and conservation of resources within the unit, but prohibits the department from entering into a lease that extends beyond 10 years unless certain conditions for the review and approval of a proposed lease as part of the annual budget process are met.

This bill would revise certain of those conditions for the review and approval of a proposed lease by appropriate policy and fiscal Committees of the Legislature, including the Joint—Legislature *Legislative* Budget Committee, as specified.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Changes to existing law are necessary to facilitate
- 4 implementation of reforms that have been recommended by the
- 5 Parks Forward Commission to ensure vibrant and sustainable parks
- 6 for all Californians and for present and future generations.
- 7 (b) The Department of Parks and Recreation needs to establish
- 8 a new strategic partnership with a nonprofit park support
- 9 organization that would complement and support the work of the
- 10 department by bringing new resources, expertise, and flexibility
- 11 to assist the department in accomplishing its mission.

1 SEC. 2. Article 1.5 (commencing with Section 520) is added  
2 to Chapter 1 of Division 1 of the Public Resources Code, to read:

3  
4 Article 1.5. PARK SUPPORT ORGANIZATION

5  
6 520. For purposes of this article, the following terms shall have  
7 the following meanings:

8 (a) “Park support organization” means a nonprofit organization  
9 that meets all of the following requirements:

10 (1) Is exempt from taxation pursuant to Section 501(c)(3) of  
11 the Internal Revenue Code.

12 (2) Is established for the principal purpose of increasing park  
13 access and visitation in ways that serve all Californians and visitors  
14 to the state, promote healthy lifestyles and community engagement,  
15 and support the protection and stewardship of California’s natural,  
16 cultural, and historical lands, sites, and resources.

17 (3) Complies with the Supervision of Trustees and Fundraisers  
18 for Charitable Purposes Act (Article 7 (commencing with Section  
19 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the  
20 Government Code).

21 (b) “Priority list” means the annual list of strategic initiatives  
22 and projects developed by the department and *the* park support  
23 organization pursuant to Section 523.

24 521. (a) The department may enter into a strategic partnership  
25 with a park support organization *to facilitate the implementation*  
26 *of reforms recommended by the Parks Forward Commission and*  
27 *to develop and secure expertise, services, resources, and projects*  
28 *that are not readily available to the state park system, for all of the*  
29 *following purposes:*

30 (1) To develop and engage new sources of public and private  
31 funding for the state park system, including philanthropic sources  
32 and enterprise and revenue generation activities, where appropriate.

33 (2) To support marketing and communications activities that  
34 promote the programs, amenities, and resources of the state park  
35 system, the department, and its partners.

36 (3) To support projects that facilitate park access and visitation,  
37 particularly among younger and more diverse audiences.

38 (4) To promote the human health and well-being of the state’s  
39 residents.

1 (5) To establish ~~and improve~~ *or improve, and aid in the*  
2 *completion of projects that establish or improve,* state park visitor  
3 amenities and facilities.

4 (6) To recruit more diverse staffing and improve capacity for  
5 state park programs.

6 (7) To advance the protection and stewardship of natural,  
7 cultural, and historic lands, sites, and resources.

8 (b) If the department enters into a strategic partnership with a  
9 ~~nonprofit~~ park support organization, ~~it~~ *the department* shall do all  
10 of the following:

11 (1) Collaborate with the park support organization, on an  
12 ongoing basis, to identify, develop, and implement strategic  
13 initiatives and projects that are priorities for the state park system.

14 (2) Communicate and coordinate with other park agencies,  
15 partners, friends, and volunteers to ensure that activities undertaken  
16 pursuant to the strategic partnership complement, and do not  
17 supplant, ongoing partnerships, programs, and projects in support  
18 of the state park system.

19 (3) Engage with the park support organization and other public  
20 agencies and organizations that manage, operate, and support other  
21 parks and protected lands in the state.

22 522. The director, or the director's designee, may serve as an  
23 ex officio, nonvoting member of the park support organization's  
24 board of directors in order to provide for effective communication  
25 and coordination of efforts between the department and the park  
26 support organization.

27 523. (a) If the department forms a strategic partnership with  
28 a park support organization pursuant to this article, the department  
29 shall collaborate with the park support organization to develop an  
30 annual list of strategic initiatives and projects that are priorities  
31 for the state park system and that the park support organization  
32 will undertake in partnership with the department.

33 (b) (1) Any initiative or project included on the priority list  
34 shall be consistent with the purposes ~~of~~ *specified in* subdivision  
35 (a) of Section 521.

36 (2) *For the first three years of the agreement entered into*  
37 *pursuant to subdivision (a) of Section 524, the park support*  
38 *organization and the department shall prioritize a limited subset*  
39 *of focus areas and projects from the list of purposes specified in*

1 *subdivision (a) of Section 521, consistent with paragraph (2) of*  
2 *subdivision (b) of Section 521.*

3 (c) The department shall ensure that the priority list is prepared  
4 in sufficient time to inform proposals for potential allocations of  
5 funding in the annual Budget Act.

6 (d) The department shall post a copy of the priority list on its  
7 Internet Web site, and shall provide copies of the list to the  
8 chairpersons of the Senate Budget and Fiscal Review Committee,  
9 the Assembly Committee on Budget, the Senate *Committee on*  
10 *Natural Resources and ~~Water Committee, Water,~~* and the Assembly  
11 *Committee on Water, Parks, and ~~Wildlife Committee. Wildlife.~~*

12 524. (a) In order to establish and facilitate a strategic  
13 partnership as described in subdivision (a) of Section 521, the  
14 department shall enter into an agreement with the park support  
15 organization that, at a minimum, shall include and specify all of  
16 the following:

17 (1) Clear goals and objectives.

18 (2) Any commitments of oversight, staffing, and coordination  
19 that are needed to accomplish the goals and objectives.

20 (3) The process for developing the priority list pursuant to  
21 Section 523.

22 (b) (1) The department may develop and enter into  
23 supplementary agreements with the park support organization for  
24 the purposes of securing any expertise, capacity, or financial  
25 resources that may be needed to identify, plan, develop, or  
26 implement strategic initiatives and projects on the priority list.  
27 Any such agreement may include, but not be limited to, grants,  
28 contracts, memoranda of understanding, staff-sharing agreements,  
29 leases, and rights of entry onto state park property.

30 (2) Notwithstanding Section 5003.17, the department may lease  
31 to the park support organization, for a minimum rental of one dollar  
32 (\$1.00) per year, real property that is owned by the state and  
33 included in any unit of the state park system, if the lease agreement  
34 requires the park support organization to construct, or provide for  
35 the construction of, a structure or improvement on the leased  
36 property and specifies that title to the structure or improvement  
37 shall vest in the state at the expiration of the lease term. The  
38 agreement may provide for the means or method by which title to  
39 the structure or improvement shall vest in the state before the  
40 expiration of that term.

1 (3) Notwithstanding Part 2 (commencing with Section 10100)  
2 of Division 2 of the Public Contract Code, any agreements entered  
3 into by the department pursuant to this subdivision shall be under  
4 the control of the department and shall not be subject to any  
5 advertising or competitive bidding requirements applicable to  
6 public works or other public projects.

7 (c) The director may receive donations of projects, services,  
8 and funds from the park support organization as authorized by  
9 Sections 5005, 5009.1, 5009.2, and 5009.3.

10 (d) Subject to the availability of funds appropriated for that  
11 purpose and pursuant to an agreement established under subdivision  
12 (b), the department may provide funds to the park support  
13 organization for purposes of identifying, planning, developing, or  
14 implementing strategic initiatives and projects on the priority list.

15 (e) The Director of Finance and the Attorney General shall have  
16 60 days to review and approve or disapprove any strategic  
17 partnership agreement or any substantial amendment to such  
18 agreement, proposed under subdivision (a). Upon approval of the  
19 agreement, or substantial amendment, the director may accept  
20 donations and enter into agreements as authorized under  
21 subdivisions (b) and (c).

22 525. Nothing in this article shall be interpreted as a limitation  
23 on the ability of the park support organization to apply for, receive,  
24 or administer grants, loans, or other funds from public entities  
25 other than the department.

26 SEC. 3. Section 5003.17 of the Public Resources Code is  
27 amended to read:

28 5003.17. (a) The department may lease, for any use, all or any  
29 portion of any parcel of real property acquired for state park system  
30 purposes, if the director finds that the use would be compatible  
31 with the use of the real property as a unit or part of a unit and with  
32 the sound management and conservation of resources within the  
33 unit.

34 (b) Rent shall be based on the fair market value of the property  
35 when used for the purpose for which it is leased. All rent shall be  
36 deposited pursuant to Section 5010.

37 (c) The lease term shall not exceed 10 years. All leases are  
38 subject to the approval of the Department of General Services.

39 (d) No lease shall be entered into that extends beyond the  
40 10-year period unless both of the following conditions are met:

1 (1) At least 30 days' prior written notice of the proposed lease,  
2 including a copy of the proposed lease, has been provided by the  
3 director to the appropriate policy and fiscal committees of the  
4 Legislature, including the Joint Legislative Budget Committee.

5 (2) The director has included with the proposed lease sufficient  
6 documentation to enable the Joint Legislative Budget Committee,  
7 and any other appropriate legislative policy and fiscal committees,  
8 to determine whether the lease conforms to the requirements of  
9 this article and to evaluate fully all terms upon which the lease is  
10 proposed to be let, including the amount of the rent and other  
11 revenues that may be generated under the lease.

12 SEC. 4. Section 5080.40 of the Public Resources Code is  
13 amended to read:

14 5080.40. (a) No operating lease or agreement shall be entered  
15 into, or amended, pursuant to this article unless at least 30 days'  
16 written notice and a copy of the proposed operating lease or  
17 agreement, or amendment, has been provided by the director to  
18 the appropriate policy and fiscal committees of the Legislature  
19 and to the Joint Legislative Budget Committee.

20 (b) The director shall include with the proposed lease or  
21 agreement or amendment sufficient documentation to enable the  
22 Joint Legislative Budget Committee, and any other appropriate  
23 policy or fiscal committees of the Legislature, to evaluate fully  
24 the estimated operating costs and revenues and all terms upon  
25 which the lease or agreement or amendment is proposed to be  
26 entered into. Specifically, the documentation shall identify both  
27 of the following:

28 (1) Any anticipated costs to the state for operation or  
29 development under the lease or agreement or amendment and the  
30 anticipated state share of total operation and development costs.

31 (2) The anticipated annual revenues, net of operation costs, for  
32 the unit and the state's share of these revenues.

33 (c) Leases or agreements shall be exempt from subdivisions (a)  
34 and (b) when all of the following conditions exist:

35 (1) The lease or agreement involves operation of only a portion  
36 of a unit of the state park system.

37 (2) The term of the lease or agreement is for a period of 20 years  
38 or less.

1 (3) The lease's or agreement's impact to the unit, including  
2 concessions revenue, will not exceed five hundred thousand dollars  
3 (\$500,000) in annual gross revenue generated on the property.

4 (4) The lease or agreement involves no significant change in  
5 state operational funding or staffing levels, and does not include  
6 present or future state expenditures for development of the unit.

7 (d) Amendments to existing leases or agreements shall be  
8 exempt from subdivisions (a) and (b) when all of the following  
9 conditions exist:

10 (1) The amendment involves operation of only a portion of a  
11 unit of the state park system.

12 (2) The amendment's impact to the unit will not exceed five  
13 hundred thousand dollars (\$500,000) in annual gross revenue  
14 generated on the property.

15 (3) The amendment involves no significant change in state  
16 operational funding or staffing levels, and does not include present  
17 or future state expenditures for development of the unit.

18 SEC. 5. Section 5080.42 of the Public Resources Code is  
19 amended to read:

20 5080.42. (a) Notwithstanding any other provision of this  
21 article, the department may enter into an operating agreement with  
22 a qualified nonprofit organization for the development,  
23 improvement, restoration, care, maintenance, administration, or  
24 operation of a unit or units, or portion of a unit, of the state park  
25 system, as agreed to by the director. The prohibition on park  
26 closures, pursuant to subdivision (a) of Section 541.5, does not  
27 limit the department's authority to enter into an operating  
28 agreement pursuant to this section, as provided in subdivision (e)  
29 of Section 541.5. An operating agreement with a qualified nonprofit  
30 organization shall include, but shall not be limited to, the following  
31 conditions:

32 (1) The district superintendent for the department shall provide  
33 liaison with the department, the nonprofit organization, and the  
34 public.

35 (2) The nonprofit organization shall annually submit a written  
36 report to the department regarding its operating activities during  
37 the prior year and shall make copies of the report available to the  
38 public upon request. The report shall be available on the Internet  
39 Web sites of both the department and the nonprofit organization.  
40 The report shall include a full accounting of all revenues and

1 expenditures for each unit of the state park system that the  
2 nonprofit organization operates pursuant to an operating agreement.

3 (3) (A) Except as provided in subparagraph (B), all revenues  
4 that the qualified nonprofit organization receives from a unit shall  
5 be expended only for the care, maintenance, operation,  
6 administration, improvement, or development of the unit. The  
7 qualified nonprofit organization may additionally contribute in-kind  
8 services and funds raised from outside entities for the care,  
9 maintenance, operation, administration, improvement, or  
10 development of the unit.

11 (B) If the qualified nonprofit organization determines that the  
12 revenues it has received from a unit are in excess of the revenues  
13 that are needed for the care, maintenance, operation, administration,  
14 improvement, or development of that unit, and that these funds  
15 are not already specified for or committed to specific purposes  
16 pursuant to an existing agreement or contract restricting the use  
17 of those funds, the qualified nonprofit organization may dedicate  
18 those excess revenues to another state park unit for that unit's care,  
19 maintenance, operation, administration, improvement, or  
20 development.

21 (4) General Fund moneys shall not be provided to a nonprofit  
22 organization to subsidize the operation or maintenance of a park  
23 unit. This paragraph applies to state parks, the full operation of  
24 which are turned over to a nonprofit organization, but does not  
25 apply to or preclude the department from entering into agreements  
26 with nonprofit organizations to operate a portion of a state park  
27 unit, or from entering into comanagement agreements with  
28 nonprofit organizations that involve the sharing of operational and  
29 financial responsibilities for the park unit and that have the effect  
30 of reducing state costs. This paragraph does not apply to park  
31 entrance fees, concession revenues, or any other revenues generated  
32 within a park operated by a nonprofit organization pursuant to this  
33 section.

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

37 (c) An operating agreement entered into pursuant to subdivision  
38 (a) shall specify the duties that the nonprofit organization shall be  
39 responsible for carrying out relative to management and protection  
40 of natural, historical, and cultural resources, and shall identify

1 those management duties that shall continue to be conducted by  
2 the department, so that all core operations of the park are  
3 delineated. Scientific, architectural, and engineering functions that  
4 require special expertise or professional training shall only be  
5 conducted by or under the supervision of qualified persons with  
6 applicable expertise or training and subject to oversight by the  
7 department.

8 (d) This section does not supersede the requirements of Section  
9 5019.53 regarding the protection of natural, scenic, cultural, and  
10 ecological values.

11 (e) The nonprofit organization and the district superintendent  
12 for the department shall, following submittal of the annual report  
13 pursuant to subdivision (a), hold a joint public meeting for  
14 discussion of the report.

15 (f) If the department intends to enter into an operating agreement  
16 for the development, improvement, restoration, care, maintenance,  
17 administration, or operation of a unit or units, or a portion of a  
18 unit, the department shall notify the Member of the Legislature in  
19 whose district the unit is located, the Chair of the Senate Committee  
20 on Natural Resources and Water, the Chair of the Assembly  
21 Committee on Water, Parks, and Wildlife, and the chairs of the  
22 Assembly and Senate budget committees of that intention. The  
23 notification shall include estimated operating costs and revenues  
24 and core duties and responsibilities that are likely to be assigned  
25 to the nonprofit organization and the department.

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

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

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

35 (3) An organization that is in compliance with the Supervision  
36 of Trustees and Fundraisers for Charitable Purposes ~~Act, Article~~  
37 ~~Act~~ (Article 7 (commencing with Section 12580) of Chapter 6 of  
38 Part 2 of Division 3 of Title 2 of the Government ~~Code. Code~~).

39 (h) (1) Notwithstanding Section 10231.5 of the Government  
40 Code, the department shall provide a report to the Legislature, on

1 a biennial basis, of the status of operating agreements it has entered  
2 into pursuant to this section. The report shall include a list of units  
3 of the state park system with operating agreements, discussion of  
4 the management and operations of each unit subject to an operating  
5 agreement, an accounting of the revenues and expenditures incurred  
6 under each operating agreement, and an assessment of the benefit  
7 to the state from operating agreements entered into pursuant to  
8 this section.

9 (2) A report submitted pursuant to paragraph (1) shall be  
10 submitted in compliance with Section 9795 of the Government  
11 Code.

O