

AMENDED IN ASSEMBLY AUGUST 17, 2016

AMENDED IN ASSEMBLY JUNE 29, 2016

AMENDED IN ASSEMBLY JUNE 23, 2016

SENATE BILL

No. 1111

Introduced by Senator Pavley

February 17, 2016

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 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 that provision. The bill would authorize the department to enter into a ~~strategic partnership~~ *statewide agreement* 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 *an agreement* and would authorize the Director 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~~ *department, if it enters into an agreement with a park support organization,* to collaborate with the park support organization to develop an annual list of strategic initiatives and projects that are *statewide* priorities for the state park ~~system~~ *system and the park support organization*. 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 system, subject to the review and approval of the agreement or substantial amendment of such an agreement.~~ *agreement by the Director of Finance.*

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. *Existing law imposes similar review and approval requirements of operating leases or agreements that are expected to generate over \$500,000 in annual gross revenues.*

This bill would revise certain of those conditions for the review and approval of a proposed lease *or operating lease or agreement* by ~~appropriate policy and fiscal Committees of the Legislature, including the Joint Legislative Budget Committee,~~ as specified. *The bill would make those conditions applicable only to operating leases or agreements that are expected to generate over \$1,000,000 in annual gross revenues.*

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:

1 (a) Changes to existing law are necessary to facilitate
2 implementation of reforms that have been recommended by the
3 Parks Forward Commission to ensure vibrant and sustainable parks
4 for all Californians and for present and future generations.

5 (b) The Department of Parks and Recreation needs to establish
6 a new strategic partnership with a nonprofit park support
7 organization that would complement and support the work of the
8 department by bringing new resources, expertise, and flexibility
9 to assist the department in accomplishing its mission.

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

12
13 Article 1.5. Park Support Organization
14

15 520. For purposes of this article, the following terms shall have
16 the following meanings:

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

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

21 (2) Is established for the principal—~~purpose~~ *purposes* of
22 increasing park access and visitation in ways that serve all
23 Californians and visitors to the state, ~~promote~~ *promoting* healthy
24 lifestyles and community engagement, and ~~support~~ *supporting* the
25 protection and stewardship of California’s natural, cultural, and
26 historical lands, sites, and resources.

27 (3) Complies with the Supervision of Trustees and Fundraisers
28 for Charitable Purposes Act (Article 7 (commencing with Section
29 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the
30 Government Code).

31 (b) “Priority list” means the annual list of strategic initiatives
32 and projects developed by the department and the park support
33 organization pursuant to Section 523.

34 521. (a) The department may enter into a ~~strategic partnership~~
35 *statewide agreement* with a park support organization to facilitate
36 the implementation of reforms recommended by the Parks Forward
37 Commission and to develop and secure expertise, services,
38 resources, and projects that are not readily available to the state
39 park system, for all of the following purposes:

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

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

7 (3) To support projects *and programs* that facilitate park access
8 and ~~visitation~~, *visitation and enhance educational opportunities*,
9 particularly among younger and more diverse audiences.

10 (4) To promote the ~~human~~ health and well-being of the state's
11 residents.

12 (5) To establish or improve, and aid in the completion of projects
13 that establish or improve, state park visitor amenities and facilities.

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

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

18 (b) If the department enters into ~~a strategic partnership~~ *an*
19 *agreement* with a park support organization, the ~~department~~ *park*
20 *support organization*, *in consultation with the department*, shall
21 do all of the following:

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

25 ~~(2)~~
26 (1) Communicate and coordinate with ~~other~~ park agencies,
27 partners, friends, and volunteers to ensure that activities undertaken
28 pursuant to the ~~strategic partnership agreement~~ complement, and
29 do not supplant, ongoing partnerships, programs, and projects in
30 support of the state park system.

31 ~~(3)~~
32 (2) Engage with the ~~park support organization and other~~ public
33 agencies and organizations that manage, operate, and support other
34 parks and protected lands in the state.

35 522. The director, or the director's designee, may serve as an
36 ex officio, nonvoting member of the park support organization's
37 board of directors in order to provide for effective communication
38 and coordination of efforts between the department and the park
39 support organization.

1 523. (a) If the department ~~forms a strategic partnership~~ *enters*
2 *into an agreement* with a park support organization pursuant to
3 this article, the department ~~and the park support organization~~ shall
4 collaborate ~~with the park support organization~~ to develop an annual
5 list of strategic initiatives and projects that are *statewide* priorities
6 for the state park system *and for the park support organization*
7 and that the park support organization will undertake in partnership
8 with the department.

9 (b) (1) Any initiative or project included on the priority list
10 shall be consistent with the purposes specified in subdivision (a)
11 of Section 521.

12 (2) For the first three years of the agreement entered into
13 pursuant to subdivision (a) of Section 524, the park support
14 organization and the department shall prioritize a limited subset
15 of focus areas and projects from the list of purposes specified in
16 subdivision (a) of Section 521, consistent with paragraph (2) of
17 subdivision (b) of Section 521.

18 ~~(e) The department shall ensure that the priority list is prepared~~
19 ~~in sufficient time to inform proposals for potential allocations of~~
20 ~~funding in the annual Budget Act.~~

21 (c) Any initiative or project included on the priority list shall
22 be consistent with Sections 5001.2 and 5019.53 regarding
23 protection of the natural, scenic, cultural, and ecological values
24 of the state park system.

25 (d) The department shall post a copy of the priority list on its
26 Internet Web site, and shall provide copies of the list to the
27 chairpersons of the Senate *Committee on Budget and Fiscal Review*
28 ~~Committee, Review~~, the Assembly Committee on Budget, the
29 Senate Committee on Natural Resources and Water, and the
30 Assembly Committee on Water, Parks, and Wildlife.

31 524. (a) In order to ~~establish and facilitate a strategic~~
32 ~~partnership as~~ *advance the purposes* described in subdivision (a)
33 of Section 521, ~~the department shall enter into an agreement with~~
34 *between the department and the park support organization that,*
35 *pursuant to Section 521 shall,* at a minimum, ~~shall~~ include and
36 specify all of the following:

37 (1) Clear goals and objectives.

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

1 (3) The process for developing the priority list pursuant to
2 Section 523.

3 (b) (1) The department may develop and enter into
4 supplementary agreements with the park support organization for
5 the purposes of securing any expertise, capacity, or financial
6 resources that may be needed to identify, plan, develop, or
7 implement strategic initiatives and projects on the priority list.
8 Any such agreement may include, but not be limited to, grants,
9 contracts, memoranda of understanding, staff-sharing agreements,
10 leases, and rights of entry onto state park property.

11 (2) Notwithstanding Section 5003.17, the department may lease
12 to the park support organization, for a minimum rental of one dollar
13 (\$1.00) per year, real property that is owned by the state and
14 included in any unit of the state park system, if the lease agreement
15 requires the park support organization to construct, or provide for
16 the construction of, a structure or improvement on the leased
17 property and specifies that title to the structure or improvement
18 shall vest in the state at the expiration of the lease term. The
19 agreement may provide for the means or method by which title to
20 the structure or improvement shall vest in the state before the
21 expiration of that term.

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

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

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

36 *(1) Notwithstanding Part 2 (commencing with Section 10100)*
37 *of Division 2 of the Public Contract Code, any agreement to*
38 *transfer funds established pursuant to this subdivision shall be*
39 *under the control of the department and shall not be subject to any*
40 *advertising or competitive bidding requirements.*

(2) Any construction, alteration, demolition, installation, repair, or maintenance work undertaken by or on behalf of a park support organization on property owned by the state pursuant to this section shall constitute a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

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

525. Nothing in this article shall be interpreted as a limitation on the ability of the park support organization to apply for, receive, or administer grants, loans, or other funds from public entities other than the ~~department~~. *department, if the park support organization consults with the department. Moreover, nothing in this article shall be interpreted as a limitation on the ability of the department to apply for, receive, or administer grants, loans, or other funds for park purposes from other entities.*

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

5003.17. (a) The department may 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (2) The amendment's impact to the unit will not exceed ~~five~~
10 ~~hundred thousand dollars (\$500,000)~~ *one million dollars*
11 *(\$1,000,000)* in annual gross revenue generated on the property.

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

15 SEC. 5. Section 5080.42 of the Public Resources Code is
16 amended to read:

17 5080.42. (a) Notwithstanding any other provision of this
18 article, the department may enter into an operating agreement with
19 a qualified nonprofit organization for the development,
20 improvement, restoration, care, maintenance, administration, or
21 operation of a unit or units, or portion of a unit, of the state park
22 system, as agreed to by the director. The prohibition on park
23 closures, pursuant to subdivision (a) of Section 541.5, does not
24 limit the department's authority to enter into an operating
25 agreement pursuant to this section, as provided in subdivision (e)
26 of Section 541.5. An operating agreement with a qualified nonprofit
27 organization shall include, but shall not be limited to, the following
28 conditions:

29 (1) The district superintendent for the department shall provide
30 liaison with the department, the nonprofit organization, and the
31 public.

32 (2) The nonprofit organization shall annually submit a written
33 report to the department regarding its operating activities during
34 the prior year and shall make copies of the report available to the
35 public upon request. The report shall be available on the Internet
36 Web sites of both the department and the nonprofit organization.
37 The report shall include a full accounting of all revenues and
38 expenditures for each unit of the state park system that the
39 nonprofit organization operates pursuant to an operating agreement.

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

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

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

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

(c) An operating agreement entered into pursuant to subdivision (a) shall specify the duties that the nonprofit organization shall be responsible for carrying out relative to management and protection of natural, historical, and cultural resources, and shall identify those management duties that shall continue to be conducted by the department, so that all core operations of the park are

1 delineated. Scientific, architectural, and engineering functions that
2 require special expertise or professional training shall only be
3 conducted by or under the supervision of qualified persons with
4 applicable expertise or training and subject to oversight by the
5 department.

6 (d) This section does not supersede the requirements of Section
7 5019.53 regarding the protection of natural, scenic, cultural, and
8 ecological values.

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

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

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

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

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

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

37 (h) (1) Notwithstanding Section 10231.5 of the Government
38 Code, the department shall provide a report to the Legislature, on
39 a biennial basis, of the status of operating agreements it has entered
40 into pursuant to this section. The report shall include a list of units

1 of the state park system with operating agreements, discussion of
2 the management and operations of each unit subject to an operating
3 agreement, an accounting of the revenues and expenditures incurred
4 under each operating agreement, and an assessment of the benefit
5 to the state from operating agreements entered into pursuant to
6 this section.

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