

AMENDED IN ASSEMBLY AUGUST 19, 2016

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 5003.17 and 5080.40~~ of, to amend and repeal Section 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 enter into an operating agreement for the entirety of a park unit for no more than 20 park units, subject to certain conditions and requirements.

This bill would delete that provision. The repeal those provisions on January 1, 2025. The bill would also provide that an operating agreement may not eliminate jobs maintained under a memorandum of understanding

This bill would authorize the department to enter into a statewide agreement with a park support organization, as defined, to facilitate the 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 an agreement and would authorize the Director of Parks and Recreation, or the director's designee, to serve as an ex officio, nonvoting member Recreation and the Director of Finance, or their designees, to serve as ex officio, nonvoting members of the park support organization's board of directors. The bill would require the 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 and the park support organization, and that the park support organization will undertake in partnership with the department. 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, subject to the review and approval of the agreement or substantial amendment of such an 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 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:

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) *There are numerous existing local, regional, and statewide*
8 *park support organizations collaborating with the Department of*
9 *Parks and Recreation, managing and operating state parks, and*
10 *providing resources and services to state parks.*

11 ~~(b)~~

12 (c) The Department of Parks and Recreation needs to establish
13 a new strategic partnership with a nonprofit park support
14 organization that would complement and support the work of the
15 department *and other park partners* by bringing new resources,
16 expertise, and flexibility to assist the department in accomplishing
17 its mission.

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

20

21 Article 1.5. Park Support Organization

22

23 520. For purposes of this article, the following terms shall have
24 the following meanings:

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

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

29 (2) Is established for the principal purposes of increasing park
30 access and visitation in ways that serve all Californians and visitors
31 to the state, promoting healthy lifestyles and community
32 engagement, and supporting the protection and stewardship of
33 California’s natural, cultural, and historical lands, sites, and
34 resources.

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

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

8 521. (a) The department may enter into a statewide agreement
9 with a park support organization to facilitate the implementation
10 of reforms recommended by the Parks Forward Commission and
11 to develop and secure expertise, services, resources, and projects
12 that are not readily available to the state park system, for all of the
13 following purposes:

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

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

20 (3) To support projects and programs that facilitate park access
21 and visitation and enhance educational opportunities, particularly
22 among younger and more diverse audiences.

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

24 (5) To establish or improve, ~~and aid in~~ *support* the completion
25 of projects that establish or improve, state park visitor amenities
26 and facilities.

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

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

31 (b) If the department enters into an agreement with a park
32 support organization, the park support organization, in consultation
33 with the department, shall do all of the following:

34 (1) Communicate and coordinate with park agencies, partners,
35 friends, and volunteers to ensure that activities undertaken pursuant
36 to the agreement complement, ~~and do not supplant,~~ *support,*
37 *facilitate, and amplify* ongoing partnerships, programs, and projects
38 in support of the state park system.

39 (2) Engage with public agencies and organizations that manage,
40 operate, and support other parks and protected lands in the state.

1 522. ~~The director, or the director's designee, director and the~~
2 *Director of Finance, or their respective designees,* may serve as
3 ~~an ex officio, nonvoting member~~ *ex officio, nonvoting members*
4 of the park support organization's board of directors in order to
5 provide for effective communication and coordination of efforts
6 between the ~~department~~ *departments* and the park support
7 organization.

8 522.5. *The park support organization is not a state agency or*
9 *state body.*

10 523. (a) If the department enters into an agreement with a park
11 support organization pursuant to ~~this article, Section 521,~~ the
12 department and the park support organization shall collaborate to
13 develop an annual list of strategic initiatives and projects that are
14 statewide priorities for the state park system and for the park
15 support organization and that the park support organization will
16 undertake in partnership with the department.

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

20 (2) For the first three years of ~~the an~~ agreement entered into
21 pursuant to subdivision (a) of Section ~~524,~~ 521, the park support
22 organization and the department shall prioritize a limited subset
23 of focus areas and projects from the list of purposes specified in
24 subdivision (a) of Section 521, consistent with paragraph (2) of
25 subdivision (b) of Section 521.

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

30 (d) The department shall post a copy of the priority list on its
31 Internet Web site, and shall provide copies of the list to the
32 chairpersons of the Senate Committee on Budget and Fiscal
33 Review, the Assembly Committee on Budget, the Senate
34 Committee on Natural Resources and Water, and the Assembly
35 Committee on Water, Parks, and Wildlife.

36 524. (a) In order to advance the purposes described in
37 subdivision (a) of Section 521, an agreement between the
38 department and the park support organization pursuant to Section
39 521 shall, at a minimum, include and specify all of the following:

40 (1) Clear goals and objectives.

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

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

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

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

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

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

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

39 ~~(d) Subject to the availability of funds appropriated for that~~
40 ~~purpose and pursuant to an agreement established under subdivision~~

1 ~~(b), the department may provide funds to the park support~~
2 ~~organization for purposes of identifying, planning, developing, or~~
3 ~~implementing strategic initiatives and projects on the priority list.~~

4 ~~(1) Notwithstanding Part 2 (commencing with Section 10100)~~
5 ~~of Division 2 of the Public Contract Code, any agreement to~~
6 ~~transfer funds established pursuant to this subdivision shall be~~
7 ~~under the control of the department and shall not be subject to any~~
8 ~~advertising or competitive bidding requirements.~~

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

15 ~~(e)~~

16 ~~(d) The Director of Finance shall have 60 days to review and~~
17 ~~approve or disapprove any agreement or any substantial amendment~~
18 ~~to such an agreement, proposed under subdivision (a). Upon~~
19 ~~approval of the agreement, or substantial amendment, the director~~
20 ~~may accept donations and enter into *supplementary* agreements~~
21 ~~as authorized under 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, if the park support organization consults~~
26 ~~with the department. Moreover, nothing in this article shall be~~
27 ~~interpreted as a limitation on the ability of the department to apply~~
28 ~~for, receive, or administer grants, loans, or other funds for park~~
29 ~~purposes from other entities: *department. The park support*~~
30 ~~*organization shall consult with the department if the department*~~
31 ~~*may also be applying for those funds.*~~

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

34 5003.17. (a) The department may lease, for any use, all or any
35 portion of any parcel of real property acquired for state park system
36 purposes, if the director finds that the use would be compatible
37 with the use of the real property as a unit or part of a unit and with
38 the sound management and conservation of resources within the
39 unit.

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

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

6 (d) No lease shall be entered into that extends beyond the
7 10-year period unless both of the following conditions are met:

8 (1) At least 30 days’ prior written notice of the proposed lease,
9 including a copy of the proposed lease, has been provided by the
10 director to the Joint Legislative Budget Committee.

11 (2) The director has included with the proposed lease sufficient
12 documentation to enable the Joint Legislative Budget Committee
13 to determine whether the lease conforms to the requirements of
14 this article and to evaluate fully all terms upon which the lease is
15 proposed to be let, including the amount of the rent and other
16 revenues that may be generated under the lease.

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

19 5080.40. (a) No operating lease or agreement shall be entered
20 into, or amended, pursuant to this article unless at least 30 days’
21 written notice and a copy of the proposed operating lease or
22 agreement, or amendment, has been provided by the director to
23 the Joint Legislative Budget Committee.

24 (b) The director shall include with the proposed lease or
25 agreement or amendment sufficient documentation to enable the
26 Joint Legislative Budget Committee to evaluate fully the estimated
27 operating costs and revenues and all terms upon which the lease
28 or agreement or amendment is proposed to be entered into.
29 Specifically, the documentation shall identify both of the following:

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

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

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

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

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

1 (3) The lease's or agreement's impact to the unit, including
2 concessions revenue, will not exceed one million dollars
3 (\$1,000,000) 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 one
13 million dollars (\$1,000,000) in annual gross revenue generated on
14 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. *The department may only enter into an operating*
30 *agreement that involves the operation of the entirety of a park unit*
31 *for no more than 20 park units.* An operating agreement with a
32 qualified nonprofit organization shall include, but shall not be
33 limited to, the following conditions:

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

37 (2) The nonprofit organization shall annually submit a written
38 report to the department regarding its operating activities during
39 the prior year and shall make copies of the report available to the
40 public upon request. The report shall be available on the Internet

1 Web sites of both the department and the nonprofit organization.
2 The report shall include a full accounting of all revenues and
3 expenditures for each unit of the state park system that the
4 nonprofit organization operates pursuant to an operating agreement.

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

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

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

36 (5) *Jobs maintained under a memorandum of understanding*
37 *between the state and the represented bargaining units shall not*
38 *be eliminated pursuant to the agreement and shall continue to be*
39 *state employment.*

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

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

15 (d) This section does not supersede the requirements of Section
16 5019.53 regarding the protection of natural, scenic, cultural, and
17 ecological values.

18 (e) The nonprofit organization and the district superintendent
19 for the department shall, following submittal of the annual report
20 pursuant to subdivision (a), hold a joint public meeting for
21 discussion of the report.

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

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

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

37 (2) An organization that has as its principal purpose and activity
38 to provide visitor services in state parks, facilitate public access
39 to park resources, improve park facilities, provide interpretive and

1 educational services, or provide direct protection or stewardship
2 of natural, cultural, or historical lands, or resources.

3 (3) An organization that is in compliance with the Supervision
4 of Trustees and Fundraisers for Charitable Purposes Act (Article
5 7 (commencing with Section 12580) of Chapter 6 of Part 2 of
6 Division 3 of Title 2 of the Government Code).

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

17 (2) A report submitted pursuant to paragraph (1) shall be
18 submitted in compliance with Section 9795 of the Government
19 Code.

20 (i) *This section shall remain in effect until January 1, 2025, and*
21 *as of that date is repealed, unless a later enacted statute, that is*
22 *enacted before January 1, 2025, deletes or extends that date.*