

Assembly Bill No. 31

CHAPTER 623

An act to amend Sections 5640, 5641, 5642, 5643, 5644, 5645, 5646, 5647, 5648, 5649, 5650, and 5653 of, to amend the heading of Chapter 3.3 (commencing with Section 5640) of Division 5 of, to add Sections 5643.6 and 5652.5 to, and to repeal Section 5651 of, the Public Resources Code, relating to parks and recreation.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 31, De Leon. Statewide Park Development and Community Revitalization Act of 2008.

(1) The Urban Park Act of 2006 (act) requires the Department of Parks and Recreation (department) to establish a local assistance program to offer grants, on a competitive basis, to various local entities and nonprofit organizations, as defined, for the acquisition or development, or both, of urban parks and recreational areas and facilities. Heavily urbanized counties are authorized to apply for these grants. The department is required to submit an annual report to the Legislature on the status of each grant made pursuant to the act.

This bill would change the name of the act to the Statewide Park Development and Community Revitalization Act of 2008. A city, regional park district, district, joint powers authority, or county, in addition to specified nonprofit organizations, would be authorized to apply for local assistance program grants. The department would be required to encourage joint partnerships between agencies to enhance investment of public resources. The term "critically underserved community" would replace the term "heavily urbanized county" for purposes of the act and would be defined to include a community with less than 3 acres of usable parkland per 1,000 residents or a disadvantaged community, as defined, that can demonstrate to the Department of Parks and Recreation that the community has insufficient or no park space and recreation facilities. The bill would revise the criteria for awarding grants and revise and create new limitations on grantee allocation of funds, including repealing a grantee's existing authority to use grant funds to pay costs associated with remediating toxic materials or hazardous substances. The bill would require the department, on or before April 1, 2009, to adopt guidelines to amplify or clarify the grant criteria or develop a procedural guide for the administration of the act and the guidance of applicants. The department would be required to offer technical assistance to all applicants and potential applicants for grant preparation to encourage full participation in the grant program.

The bill would delete the requirement for an annual report and would instead require the department to make certain information available on the department's Internet Web site 5 business days after awarding a grant.

The bill would make clarifying and conforming changes to other provisions of the act.

(2) The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative statute adopted by the voters at the November 7, 2006, statewide general election, among other things, makes \$400,000,000 in bond funds available to the Department of Parks and Recreation for competitive grants for local and regional parks, and authorizes those funds to be allocated pursuant to implementing legislation, subject to certain considerations, including requiring preference to be given to the acquisition and development of new parks and expansion of overused parks that provide park and recreational access to underserved communities.

This bill would state that it is the intent of the Legislature to make those funds available to the department, upon appropriation, to award competitive grants pursuant to the Statewide Park Development and Community Revitalization Act of 2008.

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

SECTION 1. It is the intent of the Legislature to make available to the Department of Parks and Recreation, upon appropriation, four hundred million dollars (\$400,000,000) provided by subdivision (b) of Section 75065 of the Public Resources Code that shall be used to award competitive grants to critically underserved communities pursuant to the Statewide Park Development and Community Revitalization Act of 2008 (Chapter 3.3 (commencing with Section 5640) of Division 5 of the Public Resources Code).

SEC. 2. The heading of Chapter 3.3 (commencing with Section 5640) of Division 5 of the Public Resources Code is amended to read:

CHAPTER 3.3. THE STATEWIDE PARK DEVELOPMENT AND COMMUNITY
REVITALIZATION ACT OF 2008

SEC. 3. Section 5640 of the Public Resources Code is amended to read: 5640. This chapter shall be known, and may be cited, as the Statewide Park Development and Community Revitalization Act of 2008.

SEC. 4. Section 5641 of the Public Resources Code is amended to read: 5641. The Legislature hereby finds and declares as follows:

(a) The program created by this chapter will finance the acquisition and development of parks and recreation areas and facilities in the communities that are currently least served by park and recreation facilities by emphasizing the creation of park space and recreational opportunities and the expansion of park accessibility to underserved communities. These

underserved communities are often the same areas that suffer most from high unemployment and destructive or unlawful conduct by youth.

(b) The program established by this chapter will encourage community participation in, and a greater sense of responsibility toward, new parks and recreation areas and facilities, which will help keep them clean and safe and which will enhance community pride and sustain neighborhood vitality.

(c) New parks and facilities will provide safe recreational opportunities for children, positive outlets, and secure sites for youth, while also meeting the special recreational and social needs of senior citizens and other population groups.

(d) California suffers from an acute shortage of parks throughout the state, particularly in poor communities.

(e) It is therefore the intent of the Legislature that the funds made available through the Statewide Park Development and Community Revitalization Act of 2008 be used to award competitive grants statewide to advance certain goals and policies, including, but not limited to, assisting in the acquisition of park space or the development of park and recreation opportunities to critically underserved communities. It is further the intent of the Legislature that this be accomplished by delivering project funds to neighborhood and regional park projects in areas of highest need, while offering technical assistance to all applicants and potential applicants for grant preparation to encourage full participation in the grant program.

SEC. 5. Section 5642 of the Public Resources Code is amended to read: 5642. As used in this chapter, the following terms shall have the following meanings:

(a) “City” means a city or the City and County of San Francisco.

(b) “Critically underserved community” means a community that meets either of the following:

(1) Has less than three acres of usable parkland per 1,000 residents.

(2) Is a disadvantaged community, as defined by subdivision (g) of Section 75005, and can demonstrate to the department that the community has insufficient or no park space and recreation facilities.

(c) “District” means one of the following:

(1) A recreation and park district formed under Chapter 4 (commencing with Section 5780).

(2) A public utility district formed under Division 7 (commencing with Section 15501) of the Public Utilities Code in a nonurbanized area that employs a full-time park and recreation director and offers year-round park and recreation services on lands and facilities owned by that district.

(3) A memorial district formed under Chapter 1 (commencing with Section 1170) of Division 6 of the Military and Veterans Code that employs a full-time park and recreation director and offers year-round park and recreation services on lands and facilities owned by that district.

(4) The Malaga County Water District exercising powers authorized under Section 31133 of the Water Code.

(5) A community service district formed under Division 3 (commencing with Section 61000) of Title 6 of the Government Code in a nonurbanized

area that is authorized to provide public recreation as specified in subdivision (e) of Section 61100 of the Government Code.

(6) A county service area or zone in the county service area, within the County of San Bernardino that is empowered to provide public park and recreation services pursuant to Chapter 2.2 (commencing with Section 25210.1) of Part 2 of Division 2 of Title 3 of the Government Code, that is actually providing public park and recreation services that was reorganized prior to January 1, 1987, from a park and recreation district to a county service area or zone.

(7) A regional park district formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3.

(d) “Facilities” includes, but is not limited to, places for organized team sports, outdoor recreation, and informal turf play; nonmotorized recreational trails; permanent play structures; landscaping; community gardens; places for passive recreation, enjoyment of scenic open space, nature appreciation and study, and outdoor education; multipurpose structures designed to meet the special recreational, educational, vocational, and social needs of youth, senior citizens, and other population groups; recreation areas created by the redesign and retrofit of urban freeways; community swimcenters; regional recreational trails; and infrastructure and other improvements that support these facilities.

(e) Notwithstanding subdivision (k) of Section 75005, “nonprofit organization” means any nonprofit entity qualified to do business in California, qualified under Section 501(c)(3) of Title 26 of the United States Code, and that has among its primary purposes the preservation, protection, or enhancement of land or water resources in their natural, scenic, historical, agricultural, forested, or open-space condition or use, or the provision of conservation and environmental education and other recreational, vocational, and educational services to youth.

SEC. 6. Section 5643 of the Public Resources Code is amended to read:

5643. (a) The Department of Parks and Recreation shall establish a local assistance program to distribute grants to the most critically underserved communities across the state, on a competitive basis, to eligible cities, counties, joint powers authorities, districts, and nonprofit organizations for the acquisition or development, or both, of property for parks and recreation areas and facilities.

(b) The Department of Parks and Recreation shall encourage joint partnership projects, if available, between two or more agencies, including, but not limited to, school districts, nonprofit organizations, and local governmental agencies in order to enhance investment of public resources.

SEC. 7. Section 5643.6 is added to the Public Resources Code, to read:

5643.6. It is the intent of the Legislature that the local assistance program created by this chapter fund both neighborhood parks and regional parks and trails.

SEC. 8. Section 5644 of the Public Resources Code is amended to read:

5644. Eligible applicants for grants pursuant to this chapter are cities, counties, regional park districts, districts, joint powers authorities, and nonprofit organizations.

SEC. 9. Section 5645 of the Public Resources Code is amended to read:

5645. The department may award a grant pursuant to this chapter only for a project that meets all of the following criteria:

(a) The proposed project will create a new park where one currently does not exist, a new recreational facility, or new recreational opportunity.

(b) The applicant demonstrates to the satisfaction of the department that the project is located in a critically underserved community, or in the case of a regional park or trail, the project is within close proximity to one or more critically underserved communities.

(c) The proposed project is designed to provide efficient use of water and other natural resources, which may include, but is not limited to, projects that use climate-appropriate vegetation, reduce stormwater runoff, capture and store stormwater, minimize the use of pesticides and fertilizers, incorporate pervious surfaces into project design, or use construction methods that use recycled materials and minimize construction waste.

(d) The amount of the grant applied for, together with any matching contribution, will meet all the costs of acquiring or developing, or both, the new park or facilities, or new recreational opportunities, and when construction of the project is completed, the new park or facility will be fully usable by the residents of the critically underserved community.

(e) The project applicant or partnering entities will provide for public safety and recreational opportunities following project completion.

(f) Following project completion, the project's weekday and weekend operating hours will accommodate the needs of the community residents. Entrance or membership fees shall not significantly deter use by community residents. Pursuant to receiving these funds, fees cannot be limited to nonresidents of the community in which the park space or recreational opportunity is located.

SEC. 10. Section 5646 of the Public Resources Code is amended to read:

5646. In evaluating applications for grants that meet the requirements of Section 5645, the department shall assign higher priority to applications, for each of the following criteria satisfied:

(a) The project will acquire new parks, develop new parks, expand overused parks, or create a new recreational opportunity in a community that has demonstrated insufficient or no park space and recreation facilities. In evaluating the deficiency level of park and recreation facilities in a critically underserved community, the department shall consider the number of acres of usable parkland per 1,000 residents.

(b) The critically underserved community has a significant percent of persons living at or below the poverty level.

(c) The project will enhance workforce development and employment opportunities, utilize members of the California Conservation Corps or certified local conservation corps, if available, or accommodate outdoor learning opportunities for school pupils or at-risk youth in the service area.

(d) The project applicant has actively involved the public and community-based groups in the selection and planning of the project.

SEC. 11. Section 5647 of the Public Resources Code is amended to read:

5647. (a) The department shall adopt guidelines to amplify or clarify the criteria specified in this chapter, and may adopt additional criteria, to supplement those criteria, but the scope of the additional criteria shall be limited to providing additional guidance in selecting projects in areas that have the greatest deficiencies in parks and facilities.

(b) The department shall develop a procedural guide for the administration of this chapter and the guidance of applicants.

(c) The department shall solicit written comments and hold public hearings at convenient locations throughout the state on any guideline or procedural guide that is proposed to be adopted or developed pursuant to this section.

(d) The department shall offer technical assistance to all applicants and potential applicants for grant preparation in order to encourage full participation in the grant program.

(e) The department shall allow grantees to spend no more than 25 percent of the grant amount for project planning, design, compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000)), and other incidental, but directly related, construction or acquisition costs.

(f) The department shall adopt the guidelines or develop the procedural guide on or before April 1, 2009.

(g) Any regulation or procedural guide adopted or developed pursuant to this section shall not be subject to the review or approval of the Office of Administrative Law or to any other requirement of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

SEC. 12. Section 5648 of the Public Resources Code is amended to read:

5648. (a) The local assistance program created by this chapter is intended to include grants for the acquisition or development, or both, of parcels of property of any size that will serve residents of a critically underserved community and otherwise meet the requirements of this chapter. The department shall not assign an application a lower priority on the basis that the application proposes the acquisition of a city lot or other small parcel.

(b) A grant may be expended to acquire the fee title, a leasehold, or other interest in real property. If an application proposes to acquire less than fee title, the applicant shall demonstrate in the application, to the satisfaction of the department, that the proposed project will provide public benefits that are commensurate with the type and duration of the interest in real property to be acquired.

SEC. 13. Section 5649 of the Public Resources Code is amended to read:

5649. (a) An eligible nonprofit organization may apply for a grant on its own behalf or on behalf of an eligible city, county, or district pursuant to a contract with that city, county, or district to acquire and develop the park or recreation area. The application may include a copy of the contract

and the resolution or other authorization for the contract. The contract shall specify arrangements for the long-term management and operation of the park or recreation area.

(b) An eligible applicant may apply for a grant to develop state-owned parklands if the applicant manages those lands under a contract with the state without state reimbursement for management costs.

SEC. 14. Section 5650 of the Public Resources Code is amended to read:

5650. (a) Every applicant for a grant pursuant to this chapter and the entity that will operate and maintain the property, if that entity is different than the applicant, shall agree to comply with all of the following requirements:

(1) To operate and maintain the property developed pursuant to this chapter so that it is usable by residents of the targeted critically underserved community. With the approval of the department, the grant recipient, or its successor in interest in the property, may transfer its property interest and the responsibility to operate and maintain the property, in accordance with the terms of the grant and any applicable law, to a public agency or nonprofit organization that is able to operate and maintain the property in perpetuity. Any attempt to make a transfer in violation of this subdivision is void.

(2) To use the property only for the purposes for which the grant was made and to make no other use or sale or other disposition of the property, except as authorized by specific act of the Legislature. If the use of the property is changed to a use that is not permitted by the terms of the grant, or if the property is sold or otherwise disposed of, the grant recipient shall reimburse the state an amount equal to the amount of the grant, the fair market value of the land and any improvements constructed with the grant, or the proceeds from the sale or other disposition, whichever amount is greatest. If the property that is sold or otherwise disposed of is less than the entire interest in the property funded with the grant, the grant recipient shall reimburse the state an amount equal to either the proceeds from the sale or other disposition of the interest or the fair market value of the interest sold or otherwise disposed of, whichever amount is greater.

(b) In lieu of seeking reimbursement pursuant to paragraph (2) of subdivision (a), the department may impose restrictions on the use of public park property identical to the requirements for the preservation of public parks set forth in the Public Park Preservation Act of 1971 (Chapter 2.5 (commencing with Section 5400)) with respect to any property used, sold, or otherwise disposed of in a manner not permitted by the terms of the grant.

SEC. 15. Section 5651 of the Public Resources Code is repealed.

SEC. 16. Section 5652.5 is added to the Public Resources Code, to read:

5652.5. A grant recipient shall encumber grant moneys within three years of the date of the approval of the grant and grant moneys shall be liquidated within eight years from the date of appropriation.

SEC. 17. Section 5653 of the Public Resources Code is amended to read:

5653. Five business days after awarding a grant pursuant to this chapter, the department shall make information available on the department's Internet Web site regarding the status of the grant and other relevant information,

including, but not limited to, a geographic breakdown of awarded grants and the overall amount applied for by all grant applicants, the total amount applied for by awarded grant applicants, each award amount, and a brief description of the funded projects.