

Assembly Bill No. 1589

CHAPTER 533

An act to amend Section 5080.42 of, and to add Article 1.8 (commencing with Section 5019.90) to Chapter 1 of Division 5 of, the Public Resources Code, and to add Section 201.7 to, and to add and repeal Article 21 (commencing with Section 18900.1) of Chapter 3 of Part 10.2 of Division 2 of, the Revenue and Taxation Code, relating to state parks.

[Approved by Governor September 25, 2012. Filed with
Secretary of State September 25, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1589, Huffman. State parks: sustainability and protection.

(1) Existing law vests with the Department of Parks and Recreation control of the state park system. Existing law requires the department to achieve any required budget reductions, as defined, by closing, partially closing, and reducing services at selected units of the state park system, based on specified factors.

This bill would enact the California State Park Stewardship Act of 2012, which would require the department to develop a prioritized action plan to increase revenues and the collection of user fees at state parks. The bill would require the department to report to the Legislature and the Governor on the prioritized action plan by July 1, 2013.

(2) Existing law 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 identified by the Director of Parks and Recreation, as provided.

Existing property tax law requires that all property subject to tax be assessed at its full value, and includes certain possessory interests among those property interests subject to tax. The California Constitution exempts certain property from property taxation, including property owned by the state.

This bill would provide that a qualified nonprofit corporation that has entered into an agreement with the Department of Parks and Recreation is deemed to be an agent of the state for purposes of property taxation, and that any state-owned property, including possessory interests in that property, used or possessed by the 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 would be exempt from taxation under the exemption for property owned by the state.

(3) Provisions relating to the administration of personal income taxes allow individual taxpayers to contribute amounts in excess of their tax liability for the support of specified funds to be used for specified purposes.

This bill would, for each taxable year beginning on or after January 1, 2012, require the Franchise Tax Board to revise the individual taxpayer return form, as specified, to allow a taxpayer to designate an otherwise refundable amount in excess of tax liability to be deposited to the State Parks Protection Fund, which the bill would create. This bill would entitle a taxpayer making a contribution to receive a single state parks day use annual pass from the Department of Parks and Recreation if the price of the pass, as determined by the department, is less than or equal to the amount of the taxpayer's contribution. This bill would require moneys transferred to the State Parks Protection Fund, upon appropriation by the Legislature, to be allocated to the Franchise Tax Board and Controller, as provided, and to the Department of Parks and Recreation to cover the costs of the issuance of the passes to taxpayers, and for purposes related to the protection and preservation of state parks. This bill would also allow a deduction under the Personal Income Tax Law for any contribution amount in excess of the price of the pass received, if any.

This bill would repeal these voluntary contribution provisions if contributions made on returns would be less than a specified amount, as provided.

(4) Existing law provides that it is a misdemeanor for any officer or employee of the state to disclose certain tax information.

This bill would require the Franchise Tax Board to provide necessary information, as provided, to the Department of Parks and Recreation so that individuals who deposited amounts equal to or in excess of the price of a state parks day use annual pass can be contacted.

By changing the scope of an existing crime, this bill would impose a state-mandated local program.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. Article 1.8 (commencing with Section 5019.90) is added to Chapter 1 of Division 5 of the Public Resources Code, to read:

Article 1.8. California State Park Stewardship Act of 2012

5019.90. This article shall be known, and may be cited, as the California State Park Stewardship Act of 2012.

5019.91. The Legislature finds and declares all of the following:

(a) California's state parks are an essential part of California's unique heritage, and protect important natural, cultural, and historical resources of great value to all Californians.

(b) The mission of the California State Park system is to provide for the health, inspiration, and education of the people of California by helping to preserve the state's extraordinary biological diversity, protecting its most valued natural and cultural resources, and creating opportunities for high-quality outdoor recreation. State parks are set aside to protect their natural, historical, cultural, and recreational values in perpetuity for the people of the state.

(c) California state parks are vital to the quality of life in California and are a major draw for tourism in the state, generating billions of dollars in annual economic activity in communities near state parks and in park-related expenditures. The economic activity generated by state parks helps sustain small businesses and jobs in local communities near state parks and generates significant tax revenue for the state.

(d) The budget for state parks has not kept pace with population growth and growing demand. The annual budget for state parks has been significantly below the amount necessary to maintain state parks in their current condition. State General Fund revenue for state parks declined by over 37 percent between fiscal years 2007–08 and 2012–13, inclusive. The ongoing shortfall has resulted in a deferred maintenance backlog of over one billion three hundred million dollars (\$1,300,000,000) by 2010, inadequate staff to protect park resources and maintain public access and safety, and partial closures of many state parks. The state park system cannot sustain further cuts in funding and remain viable.

(e) After additional budget cuts were proposed by the Governor and approved by the Legislature in the 2011–12 fiscal year, the Governor's administration announced its intent to close up to 70 state parks by July 2012.

(f) It is imperative that the state commit to a long-term goal of adequately and sustainably funding and maintaining California's state park system to protect these irreplaceable resources and to preserve California's legacy for the benefit of all Californians. To this end, it is necessary that the state identify new revenue strategies that will move the state toward that goal, and affirm a state policy that park closures are to occur only as a last resort, and only after all reasonable alternatives have been pursued.

(g) To fully realize the potential of nonprofit, philanthropic, and other public and nongovernmental partnerships that can help sustain a world class state park system in California, it is imperative that the Legislature and the Governor ensure an adequate level of state funding for state parks is maintained in the future and that new revenues received from private sector donors are used to supplement, and not to supplant, existing state funding.

(h) It is therefore the policy of the Legislature that a master plan for state parks be formed that will do all of the following:

(1) Ensure long-term adequate funding and maintenance of California's state park system by, among other things, ensuring accurate and transparent

accounting and disclosure of all state special funds available for support of state parks, identifying new revenues and fundraising strategies to sustain state parks, and ensuring that those new sources are not used to supplant existing state support for state parks or to justify further reductions in General Fund support that would leave the park system unsustainable.

(2) Ensure that any new revenues received from private donors for the support of state parks are used to supplement, and not to supplant, existing state funding for state parks and are used only for the purposes for which they are given.

(3) Ensure greater efficiency in the management of state parks, including enhancing the collection of existing fees and other revenue generating potential at state parks, while maintaining public access for all Californians.

(4) Minimize the number of parks subject to closure in future years and encourage creative partnerships to assist the state with park operations and management.

(i) It is further the policy of the Legislature to promote formation of a multidisciplinary advisory council, including, but not limited to, members of the public, persons with park management expertise, representatives of nonprofit park organizations, and representatives of the private philanthropic community, to conduct an independent assessment and make recommendations to the Legislature and the Governor on future management, planning, and funding proposals that will ensure the long-term sustainability of the state park system.

5019.92. (a) The department shall develop a prioritized action plan to increase revenues and collection of user fees at state parks. The plan shall include strategies for generating new revenues and fee collection methodologies at state parks and may include, but is not necessarily limited to, all of the following:

(1) Installation of modern fee collection technologies and equipment at state parks such as kiosks that accept credit cards and automatic entrance gates, where appropriate.

(2) Implementation of peak demand pricing at popular campgrounds and other high-demand park facilities.

(3) Assessment of appropriate fees at all state park units.

(4) Offering of additional mission-appropriate fee-for-service amenities with revenue generating potential at select parks where consistent with park unit general plans. Those amenities may include, but are not limited to, installation of additional recreational vehicle spaces to expand campground capacity at heavily used parks where natural resource needs and space availability allow, installation of upgraded overnight options such as cabins, where feasible, and rental of park facilities for special events.

(5) Promotion and marketing of an “adopt a park” or systemwide state park sponsorship program to encourage private donations in support of state parks, with appropriate recognition to be given to donors consistent with state park policies and mission.

(6) Design, promotion, and marketing of a new state park annual access pass system with incentives to encourage increased voluntary purchases of

state park access passes, including, but not necessarily limited to, all of the following:

(A) Offering of different regional and seasonal options for annual passes.

(B) Providing multiple opportunities for the purchase of annual passes, including at state park entrances and through partnerships with retail outlets, and on state tax returns.

(C) Offering of incentives such as free midweek off-peak season camping passes with the purchase of an annual pass if purchased during the first three months of the year.

(D) Offering of opportunities for purchasers to make a voluntary additional contribution that would be dedicated to support of a particular category of state parks, such as the state's iconic redwood parks and historical parks that require funding over and above that generated by user fees to sustain the parks in good condition.

(b) The department shall report to the Legislature and the Governor on the prioritized action plan required to be developed pursuant to subdivision (a) by July 1, 2013.

SEC. 2. Section 5080.42 of the Public Resources Code is amended to read:

5080.42. (a) Notwithstanding any other provision of this article, the department may 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 identified by the director. If the department enters into an operating agreement that involves the operation of the entirety of a park unit, that agreement may be entered into pursuant to this section only to the extent that the agreement would enable the department to avoid closure of a unit or units of the state park system that may otherwise be subject to closure. The department may only enter into an operating agreement that involves the operation of the entirety of a park unit for no more than 20 park units. An operating agreement with a qualified nonprofit organization shall include, but shall not be limited to, the following conditions:

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

(2) The nonprofit organization shall annually submit a written report to the department regarding its operating activities during the prior year and shall make copies of the report available to the public upon request. The report shall be available on the Internet Web sites of both the department and the nonprofit organization. The report shall include a full accounting of all revenues and expenditures for each unit of the state park system that the 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) No General Fund moneys shall 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 delineated. Scientific, architectural, and engineering functions that require special expertise or professional training shall only be conducted by or under the supervision of qualified persons with applicable expertise or training and subject to oversight by the department.

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

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

(f) If the department intends to enter into an operating agreement for the development, improvement, restoration, care, maintenance, administration, or operation of a unit or units, or a portion of a unit, the department shall notify the Member of the Legislature in whose district the unit is located, the Chair of the Senate Committee on Natural Resources and Water, the Chair of the Assembly Committee on Water, Parks and Wildlife, and the chairs of the Assembly and Senate budget committees of that intention. The notification shall include estimated operating costs and revenues and core

duties and responsibilities that are likely to be assigned to the nonprofit organization and the department.

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

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

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

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

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

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

(i) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 3. Section 201.7 is added to the Revenue and Taxation Code, to read:

201.7. A qualified nonprofit corporation that has entered into an agreement with the Department of Parks and Recreation pursuant to subdivision (a) of Section 5080.42 of the Public Resources Code 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 shall be deemed to be an agent of the state for purposes of this division and for no other purpose, and any state-owned property, including possessory interests in that property, used or possessed by the 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 shall be exempt from taxation under subdivision (a) of Section 3 of Article XIII of the California Constitution.

SEC. 4. Article 21 (commencing with Section 18900.1) is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 21. State Parks Protection Fund

18900.1. (a) For taxable years beginning on or after January 1, 2012, the Franchise Tax Board shall revise the individual taxpayer return form to allow an individual to designate a contribution in excess of tax liability, if any, be made to the State Parks Protection Fund established by Section 18900.2.

(b) A contribution shall be in a full dollar amount and may be made individually by each signatory on a joint return.

(c) A designation made under subdivision (a) shall be made for any taxable year on the original return for that taxable year, and once made shall be irrevocable. In the event that payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the taxpayer's tax liability, if any, the return shall be treated as though no designation had been made. In the event that no designee is specified, the contribution shall, after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and administration of funds under the article, be transferred to the General Fund.

(d) If an individual designates a contribution to more than one account or fund listed on the tax return, and the amount available is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designated accounts on a pro rata basis.

(e) A taxpayer making a designation under subdivision (a) shall be entitled to receive a single state parks day use annual pass from the Department of Parks and Recreation if the price of a single state parks day use annual pass, as determined by the Department of Parks and Recreation, is less than or equal to the amount of the taxpayer's contribution.

(f) The state parks day use annual pass that an individual is entitled to receive pursuant to this section shall provide the passholder with unlimited day use access to the California state parks that are accessible with a vehicle day use annual pass, as those parks are listed on the Department of Parks and Recreation's Internet Web site, and shall be valid for one year beginning on the date of issuance.

(g) The Franchise Tax Board shall revise the form of the return to include a space labeled the "State Parks Protection Fund/Parks Pass Purchase" to allow for the designation permitted under subdivision (a). The form shall also include in the instructions information that the contribution may be in the amount of one dollar (\$1) or more and that if the contribution amount is equal to or exceeds the price of a single state parks day use annual pass, as determined by the Department of Parks and Recreation, the taxpayer will be entitled to a single state parks day use annual pass from the Department of Parks and Recreation. The instructions shall also include information indicating that the contribution shall be used by the Department of Parks and Recreation to cover the costs of the issuance of state parks day use annual passes to individual taxpayers who made a designation for that purpose pursuant to this section, and for purposes related to the protection and preservation of state parks.

(h) Notwithstanding the provisions of Article 2 (commencing with Section 19542) of Chapter 7, the Franchise Tax Board shall provide necessary information, including the names and addresses of individual taxpayers who contributed to the State Parks Protection Fund, to the Department of Parks and Recreation so that the department may contact the individuals entitled to a state parks day use annual pass under this section and implement a procedure for the distribution of a state parks day use annual pass to those individuals.

(i) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 for any contribution made pursuant to subdivision (a), but only with respect to the amount contributed in excess of the price of the state parks day use annual pass received, if any, pursuant to this section.

18900.2. There is hereby established in the State Treasury the State Parks Protection Fund to receive contributions made pursuant to Section 18900.1. The Franchise Tax Board shall notify the Controller of both the amount of money paid by taxpayers in excess of their tax liability and the amount of refund money that taxpayers have designated pursuant to Section 18900.1 to be transferred to the State Parks Protection Fund. The Controller shall transfer from the Personal Income Tax Fund to the State Parks Protection Fund an amount not in excess of the sum of the amounts designated by individuals pursuant to Section 18900.1 for payment into that fund.

18900.3. All moneys transferred to the State Parks Protection Fund, upon appropriation by the Legislature, shall be allocated as follows:

(a) To the Franchise Tax Board and the Controller only for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(b) To the Department of Parks and Recreation to cover the costs of the issuance of state parks day use annual passes to individual taxpayers who made a designation for that purpose pursuant to Section 18900.1, and for purposes related to the protection and preservation of state parks.

18900.4. (a) (1) By September 1 of the second calendar year and each subsequent calendar year that the State Parks Protection Fund appears on the tax return, the Franchise Tax Board shall do all of the following:

(A) Determine the minimum contribution amount required to be received during the next calendar year for the fund to appear on the tax return for the taxable year that includes that next calendar year.

(B) Determine whether the amount of contributions estimated to be received during the calendar year will equal or exceed the minimum contribution amount determined by the Franchise Tax Board for the calendar year pursuant to subparagraph (A). The Franchise Tax Board shall estimate the amount of contributions to be received by using the actual amounts received and an estimate of the contributions that will be received by the end of that calendar year.

(2) If the Franchise Tax Board determines that the amount of the contributions estimated to be received during a calendar year will not at

least equal the minimum contribution amount for the calendar year, this article is repealed with respect to taxable years beginning on or after January 1 of that calendar year.

(3) For purposes of this section, the minimum contribution amount for a calendar year means two hundred fifty thousand dollars (\$250,000) for the second calendar year after the first appearance of the State Parks Protection Fund on the personal income tax return or the minimum contribution amount as adjusted pursuant to subdivision (b).

(b) For each calendar year, beginning with the third calendar year after the first appearance of the State Parks Protection Fund on the personal income tax return, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum contribution amount specified in subdivision (a) as follows:

(1) The minimum contribution amount for the calendar year shall be an amount equal to the product of the minimum contribution amount for the prior calendar year multiplied by the inflation factor adjustment as specified in subparagraph (A) of paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index for all items received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(c) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.