

AMENDED IN SENATE AUGUST 24, 2009

AMENDED IN SENATE JULY 13, 2009

AMENDED IN ASSEMBLY MAY 29, 2009

AMENDED IN ASSEMBLY MAY 4, 2009

AMENDED IN ASSEMBLY APRIL 1, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 135

Introduced by Assembly Member Jeffries

January 20, 2009

~~An act to amend Sections 4464, 4475, 4475.5, 4799.04, and 4799.12 of the Public Resources Code, relating to public resources, and declaring the urgency thereof, to take effect immediately. An act to add Section 5080.42 to the Public Resources Code, relating to state parks, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 135, as amended, Jeffries. ~~Public resources: forest protection: urban forestry: cost sharing.~~ State parks: California Citrus State Historic Park: operating agreement.

Existing law authorizes the Department of Parks and Recreation to enter into an agreement with an agency of the United States, a city, county, district, or public agency, or any combination thereof, for the care, maintenance, administration, and control of lands of the state park system.

This bill would require the department to enter into an operating agreement with the City of Riverside for the development, improvement,

restoration, care, maintenance, administration, and control of California Citrus State Historic Park. The bill would require that the agreement contain certain provisions. The bill would also provide that, notwithstanding the existence of the operating agreement, the park shall be eligible for any grants or funding for which the park was eligible prior to the agreement.

This bill would declare that it is to take effect immediately as an urgency statute.

~~(1) Existing law, the Wildland Fire Protection Management Act of 1978, authorizes the Director of Forestry and Fire Protection to enter into contracts, with the approval of the Director of General Services, for prescribed burning or other hazardous fuel reduction with the owner or any person who has legal control of any property or any public agency with regulatory or natural resource management authority over certain lands. The act authorizes the state to assume a proportionate share of the costs of site preparation and prescribed burning or other hazardous fuel reduction.~~

~~This bill would change the term “contract” to “agreement” and would delete the requirement of approval by the Director of General Services. The bill would also authorize the director to accept grants and donations of equipment, materials, or funds from any source for the purpose of supporting or facilitating the prescribed burning or other hazardous fuels reduction work. The director would be authorized to waive the cost sharing requirements of the act where the funding source prohibits cost sharing requirements.~~

~~(2) Existing law authorizes the Department of Forestry and Fire Protection to enter into agreements and make loans to encourage private and public investment in, and improved management of, forest lands and resources within the state to ensure adequate future high-quality timber supplies, related employment and other economic benefits, and the protection, maintenance, and enhancement of a productive and stable forest resource system for the benefit of present and future generations. The Director of Forestry and Fire Protection is authorized to enter into agreements for forest resource improvement work with eligible landowners that require cost sharing on the part of the landowner and is required to deposit into the Forest Resource Improvement Fund funds from any source for forest resource improvement purposes.~~

~~This bill would allow the department to waive the cost sharing requirement when the funding source for the authorized forest resource improvement work prohibits cost sharing requirements. The bill would~~

exempt funds received pursuant to the federal American Recovery and Reinvestment Act of 2009 from a requirement that those funds be deposited into the Forest Resources Improvement Fund.

~~(3) Existing law, the California Urban Forestry Act of 1978, authorizes the Department of Forestry and Fire Protection to implement a program in urban forestry to, among other things, encourage better management and planting of trees in urban areas and assist cities in innovative solutions to problems, including greenhouse gas emissions, urban heat island effect, stormwater management, lack of green space, and vandalism. The director, with advice from other appropriate state agencies and interested parties, is authorized to make grants to provide assistance of 25 to 90% of costs for projects meeting guidelines established by the State Board of Forestry and Fire Protection, upon recommendation by the director.~~

~~This bill would allow the director to waive the cost sharing requirement when the funding source for a grant prohibits cost sharing requirements.~~

~~(4) This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$. 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) California Citrus State Historic Park located in the City of*
- 4 *Riverside opened to the public in 1993 and its visitor's center*
- 5 *opened to the public in 2003.*
- 6 *(b) The City of Riverside worked in conjunction with the*
- 7 *Department of Parks and Recreation, with the city as lead, in*
- 8 *administering the design and construction of Phase I and Phase*
- 9 *II of the visitor's center.*
- 10 *(c) With the pending state budget reduction for the 2009—10*
- 11 *fiscal year, the Department of Parks and Recreation will be*
- 12 *shuttering parks across the state and California Citrus State*
- 13 *Historic Park is anticipated to be on the closure list.*
- 14 *(d) The City of Riverside is prepared to prevent even a*
- 15 *short-term closure of California Citrus State Historic Park by*

1 *assuming full responsibility for the maintenance and operation of*
2 *this significant regional asset.*

3 *(e) The City of Riverside is willing to memorialize its long-term*
4 *commitment to operating and investing in the long-term*
5 *enhancement of California Citrus State Historic Park by entering*
6 *into a 40-year operating agreement to assume all responsibilities*
7 *for the park.*

8 *(f) The City of Riverside will ensure consistency with the state's*
9 *mission statement for the ongoing operation of California Citrus*
10 *State Historic Park. The city is uniquely suited to enhance the*
11 *visitor experience at California Citrus State Historic Park by*
12 *expanding highly successful programming to that location to*
13 *include summer concerts, special events, walking groups, and*
14 *expansion of education programs in conjunction with the city's*
15 *museum department.*

16 *(g) The city is confident that California Citrus State Historic*
17 *Park will become an even more significant regional attraction*
18 *under the city's stewardship. The city's commitment to assist the*
19 *State of California in achieving the full potential for California*
20 *Citrus State Historic Park will complement the state's overall*
21 *success in providing park experiences of nationwide renown.*

22 *SEC. 2. Section 5080.42 is added to the Public Resources Code,*
23 *to read:*

24 *5080.42. (a) Notwithstanding any provision of this article, the*
25 *department shall enter into an operating agreement with the City*
26 *of Riverside for the development, improvement, restoration, care,*
27 *maintenance, administration, and control of California Citrus*
28 *State Historic Park. The agreement shall include, but is not limited*
29 *to, the following:*

30 *(1) Execution of a lease of the park to the city for one dollar*
31 *(\$1) per year for a term of not less than 40 years with renewal*
32 *options in 20-year increments. The terms of renewal shall take*
33 *into consideration the state's ability to assume operations and*
34 *maintenance at the levels achieved under the city's stewardship*
35 *at the time of the lease termination.*

36 *(2) Imposition of full and complete responsibility on the city for*
37 *all costs of maintenance of the park, including existing and future*
38 *facilities, fixtures, grounds, and amenities, throughout the lease*
39 *term and periods of extension.*

1 (3) A grant of full and complete control to the city over all
2 programming at the park, for example, recreational activities,
3 educational programs, facility rentals, and special events, provided
4 the programming is consistent with the California Citrus State
5 Historic Park Master Plan and provisions in the city's general
6 plan.

7 (4) A requirement that any capital improvements or changes to
8 the physical space of the park that are not consistent with the
9 California Citrus State Historic Park Master Plan be approved
10 by the department.

11 (5) A requirement for appropriate reciprocal indemnifications.

12 (6) A requirement that the park continue to be designated and
13 promoted as a unit within the state park system.

14 (7) A requirement that the city will not impose a charge for
15 general admission to the park.

16 (b) Notwithstanding the existence of the operating agreement,
17 the park shall be eligible for any grants or funding for which the
18 park was eligible prior to the agreement.

19 SEC. 3. This act is an urgency statute necessary for the
20 immediate preservation of the public peace, health, or safety within
21 the meaning of Article IV of the Constitution and shall go into
22 immediate effect. The facts constituting the necessity are:

23 In order to prevent the closing of a historic state park and to
24 avoid the devastating effects this closure would have on the local
25 economy, it is necessary that this act take effect immediately.

26 SECTION 1. ~~Section 4464 of the Public Resources Code is~~
27 ~~amended to read:~~

28 ~~4464. Unless the context clearly requires otherwise, the~~
29 ~~following definitions govern the construction of this chapter:~~

30 ~~(a) "Hazardous fuel reduction" means the application of~~
31 ~~practices to wild lands, the primary impact of which to the~~
32 ~~vegetation is generally limited to the reduction of surface and~~
33 ~~ladder wild land fuels. These practices include, but are not limited~~
34 ~~to, prescribed fire, piling by machine or by hand in preparation for~~
35 ~~burning, thinning, pruning, or grazing. Treatments that reduce~~
36 ~~crown densities shall be prescribed only for the purpose of~~
37 ~~impacting fire behavior, and where it can be reasonably concluded,~~
38 ~~based on the proposed treatment, that the likelihood for the~~
39 ~~formation of crown fires is reduced.~~

1 (b) “Nonprofit organization” means any California corporation
2 organized under Section 501(c)(3) or 501(c)(4) of the federal
3 Internal Revenue Code.

4 (c) “Person” means any natural person, firm, association,
5 partnership, business trust, corporation, limited liability company,
6 company, nonprofit organization, or a combination of those, or
7 any public agency other than an agency of the federal government.

8 (d) “Prescribed burn crew” means personnel and firefighting
9 equipment of the department that are prepared to contain fire set
10 in a prescribed burning operation and to suppress any fire that
11 escapes during a prescribed burning operation.

12 (e) “Prescribed burning” or “prescribed burning operation”
13 means the planned application and confinement of fire to wild land
14 fuels on lands selected in advance of that application to achieve
15 any of the following objectives:

16 (1) Prevention of high-intensity wild land fires through reduction
17 of the volume and continuity of wild land fuels.

18 (2) Watershed management.

19 (3) Range improvement.

20 (4) Vegetation management.

21 (5) Forest improvement.

22 (6) Wildlife habitat improvement.

23 (7) Air quality maintenance.

24 (f) “Wild land” means any land that is classified as a state
25 responsibility area pursuant to Article 3 (commencing with Section
26 4125) of Chapter 1 and includes any land having a flammable plant
27 cover. “Wild land” also means any land not classified as a state
28 responsibility area where the geographic location of these lands
29 and accumulation of wild land fuel is such that a wild land fire
30 occurring on these lands would pose a threat to a state
31 responsibility area.

32 (g) “Wild land fire” means any uncontrolled fire burning on
33 wild land.

34 (h) “Wild land fuel” means any timber, brush, grass, or other
35 flammable vegetation, living or dead, standing or down.

36 SEC. 2. Section 4475 of the Public Resources Code is amended
37 to read:

38 4475. The director may enter into an agreement, including a
39 grant agreement, for prescribed burning or other hazardous fuel
40 reduction that is consistent with this chapter and the regulations

1 of the board with (1) the owner or any other person who has legal
2 control of any property or (2) any public agency with regulatory
3 or natural resource management authority over any property that
4 is included within any wild land for any of the following purposes,
5 or any combination of those purposes:

6 (a) ~~Prevention of high-intensity wild land fires through reduction~~
7 ~~of the volume and continuity of wild land fuels.~~

8 (b) ~~Watershed management.~~

9 (c) ~~Range improvement.~~

10 (d) ~~Vegetation management.~~

11 (e) ~~Forest improvement.~~

12 (f) ~~Wildlife habitat improvement.~~

13 (g) ~~Air quality maintenance.~~

14 No agreement may be entered into pursuant to this section unless
15 the director determines that the public benefits estimated to be
16 derived from the prescribed burning or other hazardous fuel
17 reduction pursuant to the agreement will be equal to or greater
18 than the foreseeable damage that could result from the prescribed
19 burning or other hazardous fuel reduction.

20 SEC. 3. ~~Section 4475.5 of the Public Resources Code is~~
21 ~~amended to read:~~

22 4475.5. (a) The state may assume a proportionate share of the
23 costs of site preparation and prescribed burning or other hazardous
24 fuel reduction conducted pursuant to this article on wild lands
25 other than wild lands under the jurisdiction of the federal
26 government. The state's share of those costs shall bear the same
27 ratio to the total costs of the operation as the public benefits bear
28 to all public and private benefits to be derived from the prescribed
29 burning operation or other hazardous fuel reduction, as estimated
30 and determined by the director. The state's share of the costs may
31 exceed 90 percent of the total costs of the operation only if the
32 director determines that no direct private economic benefits will
33 accrue or will be utilized by a person that owns or controls any
34 property under contract pursuant to Section 4475.

35 (b) The board shall adopt regulations establishing standards to
36 be used by the director in determining the state's share of these
37 costs and in determining whether, pursuant to Section 4475, the
38 public benefits of a prescribed burning operation or other hazardous
39 fuel reduction will equal or exceed the foreseeable damage
40 therefrom.

1 ~~(e) The determination of public and private benefits pursuant~~
2 ~~to this section shall reflect any substantial benefit to be derived~~
3 ~~from accomplishing any of the purposes specified in Section 4475~~
4 ~~and the prevention of degradation of air quality.~~

5 ~~(d) All or part of these costs to be borne by the person~~
6 ~~contracting with the department may be met by the value of~~
7 ~~materials, services, or equipment furnished by that person directly;~~
8 ~~or furnished by that person pursuant to an agreement with a private~~
9 ~~consultant or contractor, or furnished by a combination of both~~
10 ~~means, that are determined by the department to be suitable for~~
11 ~~the preparation for, and the conduct of, the prescribed burning~~
12 ~~operation or other hazardous fuel reduction.~~

13 ~~(e) The director may accept grants and donations of equipment,~~
14 ~~materials, or funds from any source for the purpose of supporting~~
15 ~~or facilitating the prescribed burning or other hazardous fuels~~
16 ~~reduction work undertaken pursuant to this chapter. The director~~
17 ~~may waive the cost sharing requirements of this chapter when the~~
18 ~~funding source prohibits cost sharing requirements.~~

19 ~~SEC. 4. Section 4799.04 of the Public Resources Code is~~
20 ~~amended to read:~~

21 ~~4799.04. To effectuate the purposes of this chapter, the~~
22 ~~department is authorized to:~~

23 ~~(a) Collect or contract for adequate supplies of high-quality seed~~
24 ~~and take whatever steps are necessary to ensure to the maximum~~
25 ~~degree feasible that seeds or seedlings planted as part of forest~~
26 ~~resource improvement projects undertaken pursuant to this chapter~~
27 ~~are adapted to the planting site and measures are taken to assure~~
28 ~~appropriate diversity of forest species.~~

29 ~~(b) Contract for seedling production and, in cooperation with~~
30 ~~other state, local, and federal agencies, encourage the production~~
31 ~~of seedlings needed to accomplish reforestation in the state by~~
32 ~~small business entities in or near areas where planting will be~~
33 ~~carried out.~~

34 ~~(c) Provide technical assistance to private seedling nurseries~~
35 ~~and conduct a program for certification of the quality and~~
36 ~~adaptability of seeds and tree seedlings supplied for forest resource~~
37 ~~improvement projects undertaken pursuant to this chapter.~~

38 ~~(d) Increase availability of genetically improved seed and~~
39 ~~planting stock by expansion of seed orchards or other recognized~~
40 ~~tree improvement techniques.~~

1 ~~(e) In cooperation with other public and private entities or~~
2 ~~persons:~~

3 ~~(1) Conduct necessary research and take other appropriate~~
4 ~~measures to protect the genetic integrity and diversity of forest~~
5 ~~tree species, including, but not limited to, a seed depository.~~

6 ~~(2) Conduct research and make grants or enter into contracts or~~
7 ~~cooperative agreements with public and private entities or persons~~
8 ~~concerning measures to increase the contribution of trees to~~
9 ~~improve the natural environment and economy of the state and~~
10 ~~measures to otherwise accomplish the purposes of this chapter.~~

11 ~~(f) Purchase necessary equipment or materials and, in~~
12 ~~accordance with the State Civil Service Act (commencing with~~
13 ~~Section 18570 of the Government Code), appoint such deputies,~~
14 ~~officers, and other employees as may be necessary.~~

15 ~~(g) In cooperation with other public and private entities and~~
16 ~~persons, establish such training and educational programs as may~~
17 ~~be appropriate to increase the number of workers with necessary~~
18 ~~skills to carry out seed collection, seedling production, and forest~~
19 ~~resource improvement projects.~~

20 ~~(h) To accept grants and donations of equipment, seedlings,~~
21 ~~materials, or funds from any source for the purpose of supporting~~
22 ~~or facilitating forest resource improvement work undertaken~~
23 ~~pursuant to the provisions of this chapter. Any funds received,~~
24 ~~except funds received pursuant to the federal American Recovery~~
25 ~~and Reinvestment Act of 2009 (Public Law 111-5), shall be~~
26 ~~deposited by the director in the Forest Resource Improvement~~
27 ~~Fund established pursuant to Chapter 3 (commencing with Section~~
28 ~~4799.13) of this part.~~

29 ~~(i) Waive the landowner cost sharing requirements of this~~
30 ~~chapter when the funding source for the authorized forest resource~~
31 ~~improvement work prohibits cost sharing requirements.~~

32 ~~SEC. 5. Section 4799.12 of the Public Resources Code is~~
33 ~~amended to read:~~

34 ~~4799.12. The director, with advice from other appropriate state~~
35 ~~agencies and interested parties, may make grants to provide~~
36 ~~assistance of 25 to 90 percent of costs for projects meeting~~
37 ~~guidelines established by the board upon recommendation by the~~
38 ~~director. The director may waive the cost sharing requirement for~~
39 ~~projects that are in disadvantaged and severely disadvantaged~~
40 ~~communities. The director may also waive the cost sharing~~

1 requirement when the funding source for a grant prohibits cost
2 sharing requirements. Grants may be made to cities, counties,
3 districts, and nonprofit organizations. Contributions required as a
4 condition of grants made pursuant to this section may be made in
5 the form of material, services, or equipment, or funds. Authorized
6 assistance may include, but is not limited to, any of the following
7 needs:

8 (a) ~~Funding for development of urban tree plans that include~~
9 ~~coordination of local agency efforts and citizen involvement.~~

10 (b) ~~Funding for development of urban tree plans that include~~
11 ~~coordination of multiple jurisdictions, multiple agency efforts, and~~
12 ~~citizen involvement.~~

13 (c) ~~Funding for development of urban forest master plans or~~
14 ~~similar plans designed to provide comprehensive protection,~~
15 ~~maintenance, and management of the urban forest.~~

16 (d) ~~Provision of seedling and tree stock.~~

17 (e) ~~Tree planting projects.~~

18 (f) ~~Funding and other assistance to local agencies and nonprofit~~
19 ~~organizations for partnerships as follows:~~

20 (1) ~~Energy saving urban forest programs similar to the Los~~
21 ~~Angeles Department of Water and Power's Trees for Green LA~~
22 ~~program and the Sacramento Municipal Utility District's~~
23 ~~Sacramento Shade Tree program.~~

24 (2) ~~Developing projects or programs that use urban forests for~~
25 ~~water conservation, improving water quality, or stormwater capture.~~

26 (3) ~~Developing projects or programs that use urban forests for~~
27 ~~air quality improvement, reduction in greenhouse gas emissions,~~
28 ~~or reduction of urban heat island effect.~~

29 (4) ~~Developing community education and engagement programs~~
30 ~~on the benefits and proper care of trees.~~

31 (g) ~~Funding for the development of training and educational~~
32 ~~materials on the benefits of the urban forest.~~

33 (h) ~~Funding for the development of training and educational~~
34 ~~materials on proper care and maintenance of trees and the urban~~
35 ~~forest, including young and mature tree care.~~

36 (i) ~~Funding and other assistance, based on criteria developed~~
37 ~~by the department, for management of urban forests to ensure their~~
38 ~~survival and ability to optimize the benefits that urban forests~~
39 ~~provide the community and the environment.~~

1 (j) ~~Funding and other assistance for demonstration projects in~~
2 ~~urban forestry with special attention given to projects or programs~~
3 ~~assisting the state in meeting the requirements of the Global~~
4 ~~Warming Solutions Act of 2006 (Division 25.5 (commencing with~~
5 ~~Section 38500) of the Health and Safety Code), improving energy~~
6 ~~and water conservation, capturing and filtering urban stormwater,~~
7 ~~improving water quality, reducing the urban heat island effect,~~
8 ~~improving air quality, and wood and fiber utilization projects;~~
9 ~~including, but not limited to, biofuel and bioenergy.~~

10 (k) ~~Other categories of projects recommended by the director~~
11 ~~and approved by the board.~~

12 ~~SEC. 6. This act is an urgency statute necessary for the~~
13 ~~immediate preservation of the public peace, health, or safety within~~
14 ~~the meaning of Article IV of the Constitution and shall go into~~
15 ~~immediate effect. The facts constituting the necessity are:~~

16 ~~In order to receive and expend needed funds recently made~~
17 ~~available by Congress as part of the federal American Recovery~~
18 ~~and Reinvestment Act of 2009 as soon as possible, it is necessary~~
19 ~~that this act take effect immediately.~~