

ASSEMBLY BILL

No. 1251

Introduced by Assembly Member Gomez

February 27, 2015

An act to amend Section 815.3 of the Civil Code, and to amend Section 65560 of the Government Code, relating to open-space lands.

LEGISLATIVE COUNSEL'S DIGEST

AB 1251, as introduced, Gomez. Greenway Development and Sustainment Act.

Existing law establishes various plans and programs intended to preserve, protect, and rehabilitate lands adjacent to rivers in the state. Existing law authorizes certain entities and organizations to acquire and hold conservation easements, including a tax exempt nonprofit organization qualified to do business in this state that has as its primary purpose the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, or open-space condition or use.

This bill would enact the Greenway Development and Sustainment Act and would authorize those tax-exempt nonprofit organizations to acquire and hold a conservation easement if the organizations have as their primary purpose the development of a greenway, as defined. The bill would also include greenways in the definition of "open-space land" for local planning purposes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. This act shall be known, and may be cited, as the
2 Greenway Development and Sustainment Act.

3 SEC. 2. Section 815.3 of the Civil Code is amended to read:

4 815.3. Only the following entities or organizations may acquire
5 and hold conservation easements:

6 (a) A tax-exempt nonprofit organization qualified under Section
7 501(c)(3) of the Internal Revenue Code and qualified to do business
8 in this state ~~which~~ *that* has as its primary purpose the preservation,
9 protection, or enhancement of land in its natural, scenic, historical,
10 agricultural, forested, or open-space condition or ~~use~~ *use, or the*
11 *development of a greenway.*

12 (b) The state or any city, county, city and county, district, or
13 other state or local governmental entity, if otherwise authorized
14 to acquire and hold title to real property and if the conservation
15 easement is voluntarily conveyed. ~~No~~ A local governmental entity
16 ~~may~~ *shall not* condition the issuance of an entitlement for use on
17 the applicant's granting of a conservation easement pursuant to
18 this chapter.

19 (c) A federally recognized California Native American tribe or
20 a nonfederally recognized California Native American tribe that
21 is on the contact list maintained by the Native American Heritage
22 Commission to protect a California Native American prehistoric,
23 archaeological, cultural, spiritual, or ceremonial place, if the
24 conservation easement is voluntarily conveyed.

25 (d) *For purposes of this section, the following terms have the*
26 *following meanings:*

27 (1) *"Adjacent" means within 400 yards from the property*
28 *boundary of an existing urban waterway.*

29 (2) *"Greenway" means a pedestrian and bicycle, nonmotorized*
30 *vehicle transportation, and recreational travel corridor that meets*
31 *the following requirements:*

32 (A) *Includes landscaping that improves rivers and streams,*
33 *provides flood protection benefits, and incorporates the*
34 *significance and value of natural, historical, and cultural*
35 *resources, as documented in the local agency's applicable planning*
36 *document, including, but not limited to, a master plan, a general*
37 *plan, or a specific plan.*

1 (B) Is separated and protected from shared roadways, is
2 adjacent to an urban waterway, and incorporates both ease of
3 access to nearby communities and an array of amenities and
4 services for the users of the corridor and nearby communities.

5 (C) Is located on public lands or private lands, or a combination
6 of public and private lands, where public access to those lands for
7 greenway purposes has been legally authorized by the fee owner
8 of the land and, if applicable, the operator of any facility or
9 improvement located on the land, through leases, easements, or
10 other agreements entered into by the fee owner and the operator
11 of any affected facility or improvement on the land.

12 (D) Reflects design standards regarding appropriate widths,
13 clearances, setbacks from obstructions, and centerlines protecting
14 directional travel, and other considerations, as appropriate, that
15 are applicable for each affected local agency, as documented in
16 the local agency's applicable planning document, including, but
17 not limited to, a master plan, general plan, or specific plan.

18 (E) May incorporate appropriate lighting, public amenities,
19 art, and other features that are consistent with a local agency's
20 planning document, including, but not limited to, a general plan,
21 master plan, or specific plan.

22 (3) "Urban waterway" means a creek, stream, or river that
23 crosses (A) developed residential, commercial, or industrial
24 property or (B) open space where the land use is designated as
25 residential, commercial, or industrial, as referenced in a local
26 agency's planning document, including, but not limited to, a
27 general plan, master plan, or specific general plan.

28 SEC. 3. Section 65560 of the Government Code is amended
29 to read:

30 65560. (a) "Local open-space plan" is the open-space element
31 of a county or city general plan adopted by the board or council,
32 either as the local open-space plan or as the interim local
33 open-space plan adopted pursuant to Section 65563.

34 (b) "Open-space land" is any parcel or area of land or water that
35 is essentially unimproved and devoted to an open-space use as
36 defined in this section, and that is designated on a local, ~~regional~~
37 regional, or state open-space plan as any of the following:

38 (1) Open space for the preservation of natural resources
39 including, but not limited to, areas required for the preservation
40 of plant and animal life, including habitat for fish and wildlife

1 species; areas required for ecologic and other scientific study
2 purposes; rivers, streams, ~~bays~~ *bays*, and estuaries; and coastal
3 beaches, lakeshores, banks of rivers and streams, *greenways*, as
4 *defined in Section 815.3 of the Civil Code*, and watershed lands.

5 (2) Open space used for the managed production of resources,
6 ~~including~~ *including*, but not limited to, forest lands, rangeland,
7 agricultural ~~lands~~ *lands*, and areas of economic importance for the
8 production of food or fiber; areas required for recharge of
9 groundwater basins; bays, estuaries, marshes, ~~rivers~~ *rivers*, and
10 streams—~~which~~ *that* are important for the management of
11 commercial fisheries; and areas containing major mineral deposits,
12 including those in short supply.

13 (3) Open space for outdoor recreation, ~~including~~ *including*, but
14 not limited to, areas of outstanding scenic, ~~historic~~ *historic*, and
15 cultural value; areas particularly suited for park and recreation
16 purposes, including access to lakeshores, beaches, and rivers and
17 streams; and areas—~~which~~ *that* serve as links between major
18 recreation and open-space reservations, including utility easements,
19 banks of rivers and streams, trails, *greenways*, and scenic highway
20 corridors.

21 (4) Open space for public health and safety, including, but not
22 limited to, areas—~~which~~ *that* require special management or
23 regulation because of hazardous or special conditions such as
24 earthquake fault zones, unstable soil areas, flood plains, watersheds,
25 areas presenting high fire risks, areas required for the protection
26 of water quality and water ~~reservoirs~~ *reservoirs*, and areas required
27 for the protection and enhancement of air quality.

28 (5) Open space in support of the mission of military installations
29 that comprises areas adjacent to military installations, military
30 training routes, and underlying restricted airspace that can provide
31 additional buffer zones to military activities and complement the
32 resource values of the military lands.

33 (6) Open space for the protection of places, features, and objects
34 described in Sections 5097.9 and 5097.993 of the Public Resources
35 Code.