

AMENDED IN ASSEMBLY APRIL 14, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

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 amended, 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. *The bill would make findings with regard to the development of a greenway along the Los Angeles River and its tributaries and would declare that, by developing a greenway, a city, county, or city and county, may apply for funds from various sources.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ 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 the following*
2 *with regard to the development of a greenway along the Los*
3 *Angeles River and its tributaries:*

4 *(a) The area along the Los Angeles River and its tributaries is*
5 *particularly suited for the development of a greenway. A Los*
6 *Angeles River greenway that focuses on public-private partnerships*
7 *aimed at establishing a continuous pedestrian bikeway along the*
8 *Los Angeles River and its tributaries would foster job creation,*
9 *economic development, and community revitalization.*

10 *(b) By developing a greenway that promotes sustainability and*
11 *acts as a transportation corridor, a city, county, or city and county*
12 *may apply for alternative fuels funding, greenhouse gas reduction*
13 *funds, and other land use funds, as appropriate.*

14 ~~SECTION 1.~~

15 *SEC. 2. This act shall be known, and may be cited, as the*
16 *Greenway Development and Sustainment Act.*

17 ~~SEC. 2.~~

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

19 815.3. Only the following entities or organizations may acquire
20 and hold conservation easements:

21 (i) A tax-exempt nonprofit organization qualified under Section
22 501(c)(3) of the Internal Revenue Code and qualified to do business
23 in this state that has as its primary purpose the preservation,
24 protection, or enhancement of land in its natural, scenic, historical,
25 agricultural, forested, or open-space condition or use, or the
26 development of a greenway.

27 (ii) The state or any city, county, city and county, district, or
28 other state or local governmental entity, if otherwise authorized
29 to acquire and hold title to real property and if the conservation
30 easement is voluntarily conveyed. A local governmental entity
31 shall not condition the issuance of an entitlement for use on the
32 applicant's granting of a conservation easement pursuant to this
33 chapter.

34 (iii) A federally recognized California Native American tribe or
35 a nonfederally recognized California Native American tribe that

1 is on the contact list maintained by the Native American Heritage
2 Commission to protect a California Native American prehistoric,
3 archaeological, cultural, spiritual, or ceremonial place, if the
4 conservation easement is voluntarily conveyed.

5 (d) For purposes of this section, the following terms have the
6 following meanings:

7 (1) “Adjacent” means within 400 yards from the property
8 boundary of an existing urban waterway.

9 (2) “Greenway” means a pedestrian and bicycle, nonmotorized
10 vehicle transportation, and recreational travel corridor that meets
11 the following requirements:

12 (A) Includes landscaping that improves rivers and streams,
13 provides flood protection benefits, and incorporates the significance
14 and value of natural, historical, and cultural resources, as
15 documented in the local agency’s applicable planning document,
16 including, but not limited to, a master plan, a general plan, or a
17 specific plan.

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

22 (C) Is located on public lands or private lands, or a combination
23 of public and private lands, where public access to those lands for
24 greenway purposes has been legally authorized by the fee owner
25 of the land and, if applicable, the operator of any facility or
26 improvement located on the land, through leases, easements, or
27 other agreements entered into by the fee owner and the operator
28 of any affected facility or improvement on the land.

29 (D) Reflects design standards regarding appropriate widths,
30 clearances, setbacks from obstructions, and centerlines protecting
31 directional travel, and other considerations, as appropriate, that
32 are applicable for each affected local agency, as documented in
33 the local agency’s applicable planning document, including, but
34 not limited to, a master plan, general plan, or specific plan.

35 (E) May incorporate appropriate lighting, public amenities, art,
36 and other features that are consistent with a local agency’s planning
37 document, including, but not limited to, a general plan, master
38 plan, or specific plan.

39 (3) “Urban waterway” means a creek, stream, or river that
40 crosses (A) developed residential, commercial, or industrial

1 property or (B) open space where the land use is designated as
2 residential, commercial, or industrial, as referenced in a local
3 agency's planning document, including, but not limited to, a
4 general plan, master plan, or specific general plan.

5 ~~SEC. 3.~~

6 *SEC. 4.* Section 65560 of the Government Code is amended
7 to read:

8 65560. (a) "Local open-space plan" is the open-space element
9 of a county or city general plan adopted by the board or council,
10 either as the local open-space plan or as the interim local
11 open-space plan adopted pursuant to Section 65563.

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

16 (1) Open space for the preservation of natural resources
17 including, but not limited to, areas required for the preservation
18 of plant and animal life, including habitat for fish and wildlife
19 species; areas required for ecologic and other scientific study
20 purposes; rivers, streams, bays, and estuaries; and coastal beaches,
21 lakeshores, banks of rivers and streams, greenways, as defined in
22 Section 815.3 of the Civil Code, and watershed lands.

23 (2) Open space used for the managed production of resources,
24 including, but not limited to, forest lands, rangeland, agricultural
25 lands, and areas of economic importance for the production of
26 food or fiber; areas required for recharge of groundwater basins;
27 bays, estuaries, marshes, rivers, and streams that are important for
28 the management of commercial fisheries; and areas containing
29 major mineral deposits, including those in short supply.

30 (3) Open space for outdoor recreation, including, but not limited
31 to, areas of outstanding scenic, historic, and cultural value; areas
32 particularly suited for park and recreation purposes, including
33 access to lakeshores, beaches, and rivers and streams; and areas
34 that serve as links between major recreation and open-space
35 reservations, including utility easements, banks of rivers and
36 streams, trails, greenways, and scenic highway corridors.

37 (4) Open space for public health and safety, including, but not
38 limited to, areas that require special management or regulation
39 because of hazardous or special conditions such as earthquake
40 fault zones, unstable soil areas, flood plains, watersheds, areas

1 presenting high fire risks, areas required for the protection of water
2 quality and water reservoirs, and areas required for the protection
3 and enhancement of air quality.

4 (5) Open space in support of the mission of military installations
5 that comprises areas adjacent to military installations, military
6 training routes, and underlying restricted airspace that can provide
7 additional buffer zones to military activities and complement the
8 resource values of the military lands.

9 (6) Open space for the protection of places, features, and objects
10 described in Sections 5097.9 and 5097.993 of the Public Resources
11 Code.

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