

ASSEMBLY BILL

No. 2249

**Introduced by Assembly Members Cooley, Bigelow, and Gray
(Coauthors: Assembly Members Achadjian, Bloom, Brown,
Dababneh, Dodd, Eggman, Cristina Garcia, Gipson, Obernolte,
Olsen, Patterson, Salas, and Wagner)**

February 18, 2016

An act to add Section 5080.22 to the Public Resources Code, relating to state parks.

LEGISLATIVE COUNSEL'S DIGEST

AB 2249, as introduced, Cooley. State parks.

Existing law establishes the Department of Parks and Recreation and vests the department with the control of the state park system. Existing law authorizes the Director of Parks and Recreation to negotiate or renegotiate a concession contract within state parks if specified conditions exist, and generally requires that a concession contract within state parks for a period of more than 2 years be awarded to the best responsible bidder.

This bill would prohibit a concession contract from providing a contracting party with, or serving as a basis for a legal claim or assertion that the contracting party has, a trademark right or other financial or ownership interest in the name or names associated with a state park venue. The bill would prohibit a bidder who makes that legal claim or assertion from being awarded a concession contract within state parks, and would render a provision of a concession contract that provides, or serves as a basis for a legal claim or assertion that the contracting party has, a trademark right or other financial or ownership interest in the

name or names associated with a state park venue void and unenforceable.

Vote: majority. 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) National, state, and regional parks serve the public interest,
4 benefit California, and very often reflect historic significance that
5 earlier generations of Californians have attached to these sites.

6 (b) Yosemite National Park, located in California, is one of the
7 most important and majestic parks in the United States and is filled
8 with historic landmarks built several decades ago. The historic
9 nature of these landmarks as California heirloom destinations is
10 demonstrated by topographic maps of the Yosemite Valley dating
11 back to the 1950s, which include these venues.

12 (c) The Ahwahnee Hotel was built in the 1920s with a backdrop
13 of Half Dome. It was placed on the National Register of Historic
14 Places in 1977.

15 (d) Curry Village, in the Yosemite Valley, is named after a San
16 Francisco Bay area couple who established a summer camp there
17 in 1899. It was placed on the National Register of Historic Places
18 in 1979.

19 (e) The Wawona Hotel is a complex of seven buildings in the
20 southwest corner of Yosemite National Park. The first building,
21 then named “Long White,” was originally constructed in 1876.
22 The main hotel building originally opened in 1879. It was placed
23 on the National Register of Historic Places in 1975.

24 (f) California state park venues are held in public trust for the
25 people of California. A legal claim by an individual to have a
26 trademark right to a name or names associated with a venue within
27 a state park derogates the interests of California and the shared
28 history of Californians, and it is indicative of a lack of the
29 individual’s fitness to serve as a steward of the state’s cherished
30 cultural heritage and places.

31 (g) An agreement entered into by any California state agency
32 that compromises the interests of Californians is “ultra vires” and
33 therefore beyond that agency’s legal authority to enter.

1 (h) It is important that the Legislature clarify that an awarded
2 concession contract within California's state parks does not give
3 the concessionaire a trademark right to the name or names
4 associated with a state park venue. Furthermore, a concessionaire
5 who makes a legal claim to have that trademark right should be
6 disqualified from further consideration as a bidder.

7 SEC. 2. Section 5080.22 is added to the Public Resources Code,
8 to read:

9 5080.22. (a) A concession contract awarded pursuant to
10 Section 5080.05 or 5080.16 shall not provide the contracting party
11 with, or serve as a basis for any legal claim or assertion that the
12 contracting party has, a trademark or other financial or ownership
13 interest in the name or names associated with a state park venue.

14 (b) A bidder who makes a legal claim or assertion to have a
15 trademark or other financial or ownership interest described in
16 subdivision (a) shall not be awarded a contract pursuant to Section
17 5080.05 or 5080.16.

18 (c) A provision of a contract or other agreement entered into
19 pursuant to Section 5080.05 or 5080.16 that violates subdivision
20 (a) shall be void and unenforceable.