

Assembly Bill No. 1716

CHAPTER 375

An act to add Chapter 10.5 (commencing with Section 5845) to Division 5 of the Public Resources Code, relating to the Lower American River, and making an appropriation therefor.

[Approved by Governor September 16, 2016. Filed with
Secretary of State September 16, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1716, McCarty. Lower American River Conservancy Program.

The Urban American River Parkway Preservation Act adopts the American River Parkway Plan to provide coordination among governmental agencies in the protection and management of the natural land, water, native wildlife, and vegetation of the American River Parkway and requires actions of state and local agencies with regard to land use decisions be consistent with the plan, as provided. Existing law establishes the Wildlife Conservation Board within the Department of Fish and Wildlife and requires the board to investigate, study, and determine areas in the state that are most suitable for certain wildlife-related purposes.

This bill would require the board to implement and administer the Lower American River Conservancy Program to receive and expend moneys for the benefit of the Lower American River and related lands by, among other things, providing grants to local public agencies and nonprofit organizations for projects benefiting the Lower American River. The bill would require the board to establish an advisory committee, as specified. The bill would establish the Lower American River Conservancy Program Fund in the State Treasury and would make moneys in the fund available, upon appropriation by the Legislature, for purposes of the program. The bill would authorize the board to accept moneys, grants, goods or services contributed to it by public agencies, or private entities or persons and would require those moneys be deposited in the Donation Account, which the bill would establish in the fund. The bill would continuously appropriate the moneys in the account to the board for purposes of the program, thereby making an appropriation. The bill would authorize the board to use goods and services contributed by public agencies or private entities or persons.

Appropriation: yes.

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

SECTION 1. Chapter 10.5 (commencing with Section 5845) is added to Division 5 of the Public Resources Code, to read:

CHAPTER 10.5. LOWER AMERICAN RIVER CONSERVANCY PROGRAM

5845. This chapter shall be known, and may be cited, as the Lower American River Conservancy Program Act.

5845.1. (a) The Legislature finds and declares all of the following:

(1) The Lower American River is one of California's most important natural environments, providing recreational, environmental, and educational opportunities to more than 8,000,000 visitors each year. It also serves as a unique urban greenbelt composed of more than 5,000 acres and lying immediately next to and within two incorporated cities and the unincorporated County of Sacramento.

(2) The American River Parkway includes natural and recreational resources of statewide interest and is often referred to as "the jewel" of the Sacramento region, and it is managed as such with an intent to fulfill the vision set forth through past collaborative efforts involving advocates and stakeholders, the County of Sacramento, state agencies, and the Legislature.

(3) The American River Parkway was established by the County of Sacramento, with financial support from the state and other public and private entities.

(4) Since establishing the American River Parkway in 1959, the County of Sacramento has and will continue to update, maintain, and determine consistency with the American River Parkway Plan and to serve as the Parkway Manager to own, manage, operate, and patrol the lands and resources within the American River Parkway.

(5) The American River Parkway provides additional benefits to the state and the Sacramento region including flood control, water supply, water quality, habitat for anadromous fisheries, including salmon and steelhead, habitat for migratory waterfowl, habitat for sensitive species, including Swainson's hawks, peregrine falcons, northern harriers, white-tailed kites, and western pond turtles, and habitat for other wildlife, including river otters.

(6) The Legislature recognized the statewide importance of the American River Parkway in enacting the Urban American River Parkway Preservation Act (Chapter 10 (commencing with Section 5840)), which culminated with the adoption of the American River Parkway Plan and the Bushy Lake Preservation Act (Chapter 9 (commencing with Section 5830)).

(7) The statewide and national importance of the Lower American River Parkway was further recognized when it was designated as part of the California Wild and Scenic Rivers System and the National Wild and Scenic Rivers System. The American River Parkway Plan acts as the management plan for the lower American River under the California Wild and Scenic Rivers Act (Chapter 1.4 (commencing with Section 5093.50)), providing management guidance and direction for state departments and agencies, as well as local governments, in carrying out their responsibilities under that act.

(8) The state has an interest in working with local agencies to expand, enhance, and restore the natural, recreational, cultural, and educational resources in and adjacent to the American River Parkway.

(9) The establishment of the Lower American River Conservancy Program will provide a state partner to work cooperatively with local agencies, particularly the County of Sacramento in its role as the Parkway Manager, and nonprofit organizations to help fund projects and provide grants to restore, enhance, interpret, protect, and improve public access to the American River Parkway’s natural, recreational, educational, and cultural resources.

(b) It is the intent of the Legislature that the Lower American River Conservancy Program be a continuation of the state’s historic role in providing funding to advance the protection and restoration of the natural resources of the Lower American River while continuing the County of Sacramento’s historic role in managing the lands and public uses of the American River Parkway.

5845.2. For purposes of this chapter, the following definitions apply:

(a) “Adjacent to” means downstream of the Nimbus Dam and next to or in the immediate vicinity of the American River Parkway.

(b) “Advisory committee” means the advisory committee established pursuant to Section 5845.4.

(c) “American River Parkway” means those portions of the area described in the American River Parkway Plan between the Nimbus Dam and the confluence of the American River with the Sacramento River.

(d) “American River Parkway Plan” has the same meaning as in subdivision (a) of Section 5841.

(e) “Board” means the Wildlife Conservation Board established pursuant to Section 1320 of the Fish and Game Code.

(f) “Fund” means the Lower American River Conservancy Fund established pursuant to Section 5845.9.

(g) “Nonprofit organization” means a private, nonprofit organization, with nonprofit status acknowledged by the United States Internal Revenue Service, that qualifies under Section 501(c)(3) of the Internal Revenue Code, as amended, and that has among its principal charitable purposes the preservation, restoration, or interpretation of land for scientific, historic, educational, recreational, scenic, or open-space purposes, the protection of the natural environment or biological resources, or both, or the preservation or enhancement of wildlife, or both.

(h) “Parkway Manager” means the Sacramento County Board of Supervisors or its designee.

(i) “Program” means the Lower American River Conservancy Program established pursuant to Section 5845.3.

5845.3. (a) The board shall implement and administer the Lower American River Conservancy Program, which is hereby created to receive and expend proceeds from bonds or other appropriations made in the annual Budget Act or other statutes for the benefit of the American River Parkway and related lands.

(b) In administering the program, the board shall prioritize expending moneys to develop and implement a natural resource management plan and

to improve access to, and protection and restoration of, the American River Parkway.

5845.4. (a) The board shall establish an advisory committee consisting of the following members:

(1) Three members of the Board of Supervisors of the County of Sacramento, selected by a majority vote of the board of supervisors, or their designees.

(2) Two representatives of the City of Sacramento, which may include the Mayor and one member of the City Council of the City of Sacramento, or two members of the city council, selected by a majority vote of the city council, or their designees.

(3) The Mayor or a member of the City Council of the City of Rancho Cordova, selected by a majority vote of the city council, or his or her designee.

(4) Representatives from the Natural Resources Agency, the Department of Finance, and the State Lands Commission.

(5) Three members from the public at large who have a demonstrated knowledge of and expertise in the American River Parkway and the American River Parkway Plan. One member shall be appointed by the Governor, one member shall be appointed by the Senate Committee on Rules, and one member shall be appointed by the Speaker of the Assembly.

(b) A person shall not continue as a member of the advisory committee if that person ceases to hold the office that qualifies that person for membership. In that event, the person's membership on the advisory committee shall automatically terminate.

(c) Members of the advisory committee shall serve without compensation.

(d) The advisory committee shall meet at least twice each calendar year at one or more locations in the County of Sacramento.

(e) Meetings of the advisory committee shall be open to the public and subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

5845.5. In implementing the program, the board shall do all of the following:

(a) Coordinate its activities with the County of Sacramento, each city that includes a portion of the American River Parkway, appropriate local and regional flood control districts, and relevant state agencies.

(b) Prior to approving funding for any project, do both of the following:

(1) Consult with the County of Sacramento as to whether the board's proposed actions pursuant to this chapter are consistent with the American River Parkway Plan.

(2) Draft a staff report that includes all findings, written comments, and reports submitted by the County of Sacramento and the Parkway Manager as to whether the board's actions are consistent with the American River Parkway Plan.

(c) Administer any moneys appropriated to the board for the program or any revenues generated by the board pursuant to the program.

(d) Provide funding and assistance to the County of Sacramento for the development, update, adoption, and implementation of a natural resource management plan for the American River Parkway, and grants to other local agencies and nonprofit organizations whose projects are approved by the County of Sacramento for implementation of that plan.

(e) Prior to providing funding for any acquisition project within the American River Parkway, require and ensure that title to the lands to be acquired shall be held by the County of Sacramento or another local public entity willing to hold title to those lands.

5845.6. Consistent with the American River Parkway Plan, the board, in administering the program, may do any of the following:

(a) Provide grants to local public agencies and nonprofit organizations to be used for one or more of the following purposes:

(1) The acquisition, restoration, enhancement, and maintenance of fish and wildlife habitat and other natural resources, including resources impacted by wildfire, within and adjacent to the American River Parkway. Any land acquisition funded pursuant to this paragraph shall be subject to subdivision (e) of Section 5845.5.

(2) The improvement and expansion of public access, recreational areas, and recreational facilities, including trails.

(3) The enhancement of interpretive and educational facilities related to the American River Parkway and its natural, cultural, and historic resources.

(4) The control and removal of invasive species and the propagation of native species.

(b) Improve and enhance lands within and adjacent to the American River Parkway. Projects funded on adjacent lands shall contribute to the advancement of American River Parkway values.

(c) Design, implement, and provide grants to local agencies and nonprofit organizations for stormwater capture and treatment projects to improve the quality of water that flows within and into the American River Parkway and to increase habitat for fish and wildlife. Stormwater projects may include lands within and adjacent to the American River Parkway and its tributaries downstream of the Nimbus Dam and within Sacramento County.

(d) Solicit grants, donations of in-kind services, and other contributions from federal, state, and private sources for the purposes of this chapter.

5845.7. In administering the program, the board shall not do any of the following:

(a) Fund or implement projects on lands without the written consent of the landowner.

(b) Manage, regulate, or control the use of any land owned or leased by another public agency or private party, except as provided pursuant to a written agreement between that public agency or private party.

(c) Levy any tax or special assessment.

(d) Provide grants or take other actions that are inconsistent with the American River Parkway Plan, the Bushy Lake Preservation Act (Chapter 9 (commencing with Section 5830) of Division 5), or the Urban American

River Parkway Preservation Act (Chapter 10 (commencing with Section 5840) of Division 5).

(e) Own or acquire land.

5845.8. To the extent feasible, in administering the program, the board shall give preference to projects that utilize the services of the California Conservation Corps or Community Conservation Corps, as defined in Section 14507.5.

5845.9. (a) The Lower American River Conservancy Program Fund is hereby created in the State Treasury. Moneys in the fund shall be available, upon appropriation, for the purposes of this chapter. Moneys received by the board pursuant to this chapter shall be deposited in the fund, unless otherwise provided by the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code). The board shall administer the moneys appropriated to it for the program and may expend those moneys for capital improvements, land acquisition, support for the program’s operations, and other purposes consistent with this chapter.

(b) (1) The board may accept money, grants, goods, or services contributed to it by a public agency or a private entity or person. Moneys received pursuant to this paragraph shall be deposited in the Donation Account, which is hereby established in the fund.

(2) Notwithstanding Section 13340 of the Government Code, moneys in the account are hereby continuously appropriated, without regard to fiscal year, to the board for the purposes of this chapter.

(3) Upon receipt of goods and services pursuant to paragraph (1), the board may use those goods and services for the purposes of this chapter.

5845.10. This chapter does not supersede or diminish the existing authority of any of the following:

(a) The County of Sacramento or any other entity responsible for the management, operation, maintenance, or protection of lands and resources within the American River Parkway.

(b) The Sacramento County Board of Supervisors acting as the Parkway Manager pursuant to its authority to interpret and implement the American River Parkway Plan.

(c) The board pursuant to other law.