

AMENDED IN SENATE MARCH 29, 2016

SENATE BILL

No. 1020

Introduced by Senator Wieckowski

February 11, 2016

~~An act to amend Section 50280 of the Government Code, relating to historical property.~~ *An act to amend Section 65967 of the Government Code, relating to land use.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1020, as amended, Wieckowski. ~~Historical property.~~ *Land use: mitigation lands.*

The Planning and Zoning Law authorizes a state or local agency, where that agency requires a project proponent to transfer property to mitigate adverse project impacts upon natural resources, to in turn authorize a government entity, special district, or any of certain types of parties to hold title to, and manage, the transferred property. Existing law allows a state or local agency that has required such a transfer of property for mitigation purposes to identify the funding needs for the long-term stewardship of the property, and establishes various requirements with respect to the amount and management of any endowment conveyed or secured for purposes of funding the protection of the property.

Existing law authorizes a state or local agency that, in the development of its own project is required to protect property in order to mitigate an adverse impact upon natural resources, to take any action that the agency deems necessary to meet its mitigation obligations, including, but not limited to, transferring the interest to specified entities, providing funds to specified entities to acquire land or easements or to implement a restoration or enhancement project, or

holding an endowment in an account administered by an elected official, as provided.

This bill would authorize a district that meets specified criteria to meet the mitigation obligation by possessing budget reserves in excess of funds required to meet the mitigation obligation and retaining permanent stewardship and maintenance staff to manage the resource.

This bill would make legislative findings and declarations, including findings and declarations demonstrating the necessity of a special statute with respect to a particular district.

~~Existing law authorizes a city, county, or city and county to contract with the owner of a qualified historical property, as defined, to restrict the use of the property for a minimum period of 10 years, and establishes methods for the property tax valuation of any property so restricted during the contract period on a basis that is consistent with its restrictions and uses.~~

~~This bill would make nonsubstantive changes to this provision.~~

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. The Legislature finds and declares all of the
2 following:

3 (a) The Department of Fish and Wildlife construes Sections
4 65966 and 65967 of the Government Code to require all entities,
5 including public entities and private businesses and nonprofit
6 corporations, to set aside restricted endowments to guarantee the
7 stewardship of lands where conservation easements have been
8 required.

9 (b) In the case of the East Bay Regional Park District (EBRPD),
10 which is a nonenterprise, independent special district with its own
11 taxing authority and elected board of directors whose sole purpose
12 is to acquire and manage land for open space, public recreation,
13 and natural resource protection, endowment requirements need
14 additional consideration. For the reasons set forth below, a special
15 statute is necessary with respect to the EBRPD.

16 (c) Requiring entities established pursuant to Section 5500 of
17 the Public Resources Code, such as the EBRPD, which employs
18 permanent police, rangers, and stewardship staff, to fund
19 endowments effectively doubles the cost burden on local taxpayers

1 *for managing specified habitat enhancements or conservation*
2 *lands.*

3 *(d) Requiring this agency to mitigate for its own public projects*
4 *and permanently put local tax dollars in restricted endowment*
5 *accounts increases the costs and taxpayer obligations by millions*
6 *of dollars.*

7 *(e) The EBRPD is specifically required to manage public*
8 *parklands consistent with its master plan, as well as state and*
9 *federal regulatory requirements.*

10 *(f) Furthermore, the EBRPD's ability to manage land for the*
11 *benefit of protected species and habitat has been recognized by*
12 *the Department of Fish and Wildlife, which has authorized the*
13 *EBRPD to hold and manage mitigation lands for third parties and*
14 *the state.*

15 *(g) Permanently obligating local taxpayer funding toward*
16 *endowment accounts will significantly reduce the funds available*
17 *to invest in stewardship staff and the appropriate management of*
18 *habitat sensitive public lands.*

19 *(h) Consistent with existing law, the Legislature affirms the*
20 *authority of the Department of Fish and Wildlife to require local*
21 *agencies to establish endowments for the ongoing care and*
22 *maintenance of lands and projects resulting from mitigation*
23 *practices.*

24 *(i) It is the intent of the Legislature that the Department of Fish*
25 *and Wildlife, as part of mitigation and resulting endowment*
26 *practices, administer Section 65967 of the Government Code so*
27 *as not to unnecessarily obligate public resources for activities*
28 *otherwise performed as part of an agency's ongoing*
29 *responsibilities and operations.*

30 *SEC. 2. Section 65967 of the Government Code is amended to*
31 *read:*

32 *65967. (a) If a state or local agency requires a project*
33 *proponent to transfer property to mitigate any adverse impact upon*
34 *natural resources caused by permitting the development of a project*
35 *or facility, the agency may authorize a governmental entity, special*
36 *district, a nonprofit organization, a for-profit entity, a person, or*
37 *another entity to hold title to and manage that property.*

38 *(b) If a state or local agency, in the development of its own*
39 *project, is required to protect property to mitigate an adverse impact*
40 *upon natural resources, the agency may take any action that the*

1 agency deems necessary in order to meet its mitigation obligations,
2 including, but not limited to, the following:

3 (1) Transfer the interest, or obligation to restore and enhance
4 property, to a governmental entity, special district, or nonprofit
5 organization that meets the requirements set forth in subdivision
6 (c).

7 (2) Provide funds to a governmental entity, nonprofit
8 organization, a special district, a for-profit entity, a person, or other
9 entity to acquire land or easements, or to implement a restoration
10 or enhancement project, that satisfies the agency's mitigation
11 obligations.

12 (3) Hold an endowment in an account administered by an elected
13 official provided that the state or local agency is protecting,
14 restoring, or enhancing its own property.

15 (4) *Possess budget reserves in excess of the funds required to*
16 *meet the mitigation obligation and retain permanent stewardship*
17 *and maintenance staff to manage the resource, provided that the*
18 *agency does both of the following:*

19 (A) *Acts as an agent for the state to acquire, plan, and develop*
20 *units of the state park system pursuant to Section 5003.03 of the*
21 *Public Resources Code.*

22 (B) *Works in collaboration with the state and other local entities*
23 *to implement a project pursuant to the Natural Community*
24 *Conservation Planning Act (Chapter 10 (commencing with Section*
25 *2800) of Division 3 of the Fish and Game Code).*

26 (c) A state or local agency shall exercise due diligence in
27 reviewing the qualifications of a governmental entity, special
28 district, or nonprofit organization to effectively manage and
29 steward land, water, or natural resources. The local agency may
30 adopt guidelines to assist it in that review process, which may
31 include, but are not limited to, the use of or reliance upon
32 guidelines, standards, or accreditation established by a qualified
33 entity that are in widespread state or national use.

34 (d) The state or local agency may require the governmental
35 entity, special district, or nonprofit organization to submit a report
36 not more than once every 12 months and for the number of years
37 specified in the mitigation agreement that details the stewardship
38 and condition of the property and any other requirements pursuant
39 to the mitigation agreement for the property.

1 (e) The recorded instrument that places the fee title or partial
2 interest in real property with a governmental entity, special district,
3 nonprofit organization, or for-profit entity, pursuant to subdivision
4 (a) or (b) shall include a provision that if the state or local agency
5 or its successor agency reasonably determines that the property
6 conveyed to meet the mitigation requirement is not being held,
7 monitored, or stewarded for conservation purposes in the manner
8 specified in that instrument or in the mitigation agreement, the
9 property shall revert to the state or local agency, or to another
10 public agency, governmental entity, special district, or nonprofit
11 organization pursuant to subdivision (c) and subject to approval
12 by the state or local agency. If a state or local agency determines
13 that a property must revert, it shall work with the parties to the
14 mitigation agreement, or other affected entities, to ensure that any
15 contracts, permits, funding, or other obligations and responsibilities
16 are met.

17 ~~SECTION 1. Section 50280 of the Government Code is~~
18 ~~amended to read:~~

19 ~~50280. Upon the application of an owner or the agent of an~~
20 ~~owner of a qualified historical property, as defined in Section~~
21 ~~50280.1, the legislative body of a city, county, or city and county~~
22 ~~may contract with the owner or agent to restrict the use of the~~
23 ~~property in a manner that the legislative body deems reasonable~~
24 ~~to carry out the purposes of this article and of Article 1.9~~
25 ~~(commencing with Section 439) of Chapter 3 of Part 2 of Division~~
26 ~~1 of the Revenue and Taxation Code. The contract shall meet the~~
27 ~~requirements of Sections 50281 and 50282.~~