
THIRD READING

Bill No: AB 1476
Author: Gray (D)
Amended: 9/3/21 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 7/8/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Skinner

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/22/21 (Consent) - See last page for vote

SUBJECT: Park property: City of Modesto: Beard Brook Park

SOURCE: City of Modesto

DIGEST: This bill allows the City of Modesto to dispose of a park, provided that the City acquires a property of equal or greater recreational value.

Senate Floor Amendments of 9/3/21 require the City of Modesto to submit additional information to the Department of Parks and Recreation before it can approve a city park disposal and add a sunset date.

ANALYSIS:

Existing law:

- 1) Provides, pursuant to the Roberti-Z'berg-Harris Urban Open-Space and Recreation Program Act (RZH Program Act), annual grants to cities, counties, and districts for recreational purposes, open-space purposes, or both, on the basis of population and need.
- 2) Requires recipients of grants received under the RZH Program Act to agree to use park property only for the purposes for which the grant money was requested, unless amended by an act of the Legislature.

- 3) Prohibits, pursuant to the Public Park Preservation Act of 1971, public entities from using park property for any nonpark purpose, unless sufficient compensation or land is acquired to replace the park land and its facilities.

This bill:

- 1) Allows the City of Modesto to dispose of all, or a portion, of the current Beard Brook Park property provided that the City acquires a property of equal or greater value, as approved by the Department of Parks and Recreation (Department), to be used for park purposes in perpetuity, and at no cost to the state, if the following requirements are met:
 - a) The City obtains an independent appraisal of Beard Brook Park, and submits the appraisal to the Department no later than January 7, 2022, for approval;
 - b) The City obtains an independent appraisal of the proposed replacement park property, and submits the appraisal to the Department, no later than January 7, 2022, for approval;
 - c) The fair market value of the proposed replacement park property is equal to or greater than the highest of: (i) the original state grant amount the City received for Beard Brook Park, (ii) the fair market value of Beard Brook Park, or (iii) the actual sales price of Beard Brook Park;
 - d) The recreational utility to the public of the proposed replacement park property is equal to or greater than Beard Brook Park;
 - e) No later than January 7, 2022, the City provides the Department with all of the following:
 - i) Preliminary title reports for both properties;
 - ii) A written environmental site assessment on the replacement park property;
 - iii) A written attestation from the City regarding any specified environmental issues at the replacement park property;
 - iv) A written feasibility study that evaluates recreational suitability of the replacement park property;
 - v) Complete list of “permitted exceptions” listed in the preliminary title reports that the City and current owner of the replacement park property have agreed on; and

- vi) Complete list of all specified obligations that remain against both properties.
 - f) No later than June 25, 2023, and before the City disposes of Beard Brook Park, the City provides the Department with final title reports as specified.
 - g) No later than June 25, 2023, and before the City acquires the replacement park property:
 - i) The current owner of the replacement park property corrects any environmental issues that have been identified as specified; and
 - ii) The City provides the Department with a list of environmental issues that have, and have not, been corrected as specified.
 - h) After satisfying the above requirements and before disposing of Beard Brook Park, the City enters into a written agreement with the Department to transfer the City's responsibilities and obligations under the grant contracts to the replacement park property in perpetuity.
- 2) Requires the replacement park property to be used for Beard Tuolumne River Park purposes, and subjects replacement park property to all applicable requirements of the Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Bond Act of 2000 (Proposition 12), as specified.
 - 3) Requires the City to acquire replacement park property before or simultaneous with the Beard Brook Park disposal as specified.
 - 4) Provides that the disposition of Beard Brook Park and the acquisition of replacement property be for the sole purpose of increasing recreational opportunities in the City of Modesto.
 - 5) Sunsets the City's authority to dispose of Beard Brook Park on June 30, 2023.

Background

Park funding programs. The Legislature has adopted, and the voters have approved, a number of measures to assist local agencies in funding parks and recreational services throughout California, including:

- The RZH Program Act (SB 174, Roberti, Chapter 160, Statutes of 1976) annually grants to cities, counties, and districts for recreational purposes, open-space purposes, or both, on the basis of population and need. Property acquired

or developed with grant money from the RZH Program Act must be used by the grant recipient only for the purpose the grant moneys were requested.

- The Park and Recreational Facilities Act (AB 2099, Farr, Chapter 5, Statutes of 1984) placed Proposition 18 on the statewide ballot, where voters approved the issuance of \$370 million in bonds to provide funds to counties, cities, and districts for the acquisition, development, rehabilitation, or restoration of real property for park, beach, recreational, or historical resource preservation purposes.
- The Community Parklands Act (SB 806, Presley, Chapter 5, Statutes of 1986) placed Proposition 43 on the statewide ballot where the voters approved the issuance of \$100 million in bonds to finance grants to counties, cities, and districts on the basis of their populations for neighborhood, community, and regional parks, among other things. This Act requires the applicant to agree that the property acquired or developed with these funds will be used only for the purposes for which the funds were requested and that no other use of the property will be allowed, unless permitted by a specific act of the Legislature.
- The California Wildlife, Coastal, and Park Land Conservation Act of 1988 placed Proposition 70 on the statewide ballot. This Act authorized a \$776 million general obligation bond to provide funds for the acquisition, development, rehabilitation, protection, or restoration of park, wildlife, coastal, and natural lands in California, including lands supporting unique or endangered plants or animals. The Act requires any applicant for grants to maintain and operate the property acquired, developed, rehabilitated, or restored with the bond dollars in perpetuity.
- The Villaraigosa-Keeley Act (AB 18, Villaraigosa, Chapter 471, Statutes of 1999) placed Proposition 12 on the statewide ballot where, the voters approved the issuance of \$2.1 billion in bonds to finance a program for the acquisition, development, improvement, rehabilitation, restoration, enhancement, and protection of park, recreational, cultural, historical, fish and wildlife, lake, riparian, reservoir, river, and coastal resources. The Villaraigosa-Keeley Act prohibits the use of the grant funds unless the applicant has agreed to certain conditions, including using the property only for the purposes for which the grant was made and making no other use or sale or other disposition of the property.
- The California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018 (SB 5, De León, Chapter 852, Statutes of

2017) placed Proposition 68 on the statewide ballot. This Act authorized the issuance of bonds in an amount of \$4 billion pursuant to the State General Obligation Bond Law to finance a drought, water, parks, climate, coastal protection, and outdoor access for all program.

Beard Brook Park. According to the City of Modesto Parks, Recreation and Neighborhoods Department, “Beard Brook Park (the ‘Park’) was dedicated to the City of Modesto in 1919. There have been numerous improvements to the park over the years, but since the 1990’s the Park’s usage by the general public has significantly declined, for a variety of reasons. Along with decreased use by the general public, the park has also experienced an increase in undesirable usage, such as transient encampments, illegal waste dumping, drug use and other criminal activity...” Despite these issues, the City recently opened a dog park at Beard Brook Park. The City would like to transfer ownership of Beard Brook Park to a private entity, E & J Gallo Winery, in exchange for land less than half a mile away along the Tuolumne River to help complete the Riverwalk Trail. According to the City, “The new segment of the Riverwalk Trail will be located less than one-half mile from Beard Brook Park and will serve as a vibrant recreational resource in a lower income neighborhood, significantly increasing the public use and enjoyment of the open space and recreation resources of the Tuolumne River.” In 2021, the City had both Beard Brook Park and the proposed replacement property appraised. The appraisals estimated the fair market value of Beard Brook Park at \$240,000 and the replacement property at \$243,000. The City of Modesto has received more than \$11 million in state grants from various bond programs administered by the department since 1965. According to the City, this includes \$38,902 from the Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Bond Act of 2000 (Proposition 12) to renovate the playground at Beard Brook Park; receipt of state grant funding restricts the ability to transfer the land.

Comments

- 1) *Purpose of the bill.* According to the author, “AB 1476 will transfer ownership of an underutilized and often-dangerous public park in the City of Modesto to a private entity, in exchange for land of equal value owned by the receiving entity. The exchange will allow the City of Modesto to build a continuous bike trail for the public along the Tuolumne River, thereby increasing access to public, outdoor recreational opportunities. When completed, the project will connect three low-income neighborhood areas to downtown Modesto job centers and transportation hubs, and it will create safe, dependable options for non-motorized commuting in a region which consistently ranks among the most polluted areas for ozone and soot in California.”

- 2) *Fair trade?* AB 1476 requires Modesto to acquire a replacement property before, or simultaneous with, the disposal of Beard Brook Park. According to the City, it intends to replace Beard Brook Park, which has two parking lots, restrooms, a baseball field, a playground, and a dog park with a replacement property to help complete its Riverwalk Trail. While the two properties were recently appraised at similar fair market values, the bill requires the Department to assess whether the replacement property has equal or greater *recreational* value than the park it would replace before the disposal can occur. According to the City, “Should the legislation becomes effective and State Parks approves the transfer, the City will close the park and exchange it for the river front replacement property. This is anticipated to occur in early 2022. The City would then prepare a minimally improved dirt trail on the river front property in the Spring of 2022 so that the public may use the new property as soon as possible. Concurrently, the City will begin the design and permitting of a fully improved trail and apply for grant funding. If funding is obtained, construction of the improved trail would begin in spring/summer 2024.” Until the City receives funding and improves the trail, residents will be limited to the recreational value the dirt trail provides. However, this bill does not specify that the Department can incorporate potential future improvements in their assessment of whether the proposed property swap ensures an equal or greater recreational value to Modesto residents. If the Department determines that this potential lack of funding could prevent the park from realizing equal or greater recreational value, there is no guarantee that it will approve the transfer.

Related/Prior Legislation

AB 3172 (Gray, 2020) would have allowed the City of Modesto to dispose of the same Beard Brook Park property, subject to nearly identical provisions as AB 1476. AB 3172 was held in the Senate Governance and Finance Committee.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT: (Verified 9/3/21)

City of Modesto (source)

OPPOSITION: (Verified 9/3/21)

None received

ASSEMBLY FLOOR: 77-0, 4/22/21

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Holden, Reyes

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119

9/7/21 16:56:10

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