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Legitimate Protection or Tactful Abandonment: Can Recent California Legislation Sustain the San Francisco Bay Area's Public Lands?

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LEGITIMATE PROTECTION OR TACTFUL ABANDONMENT: CAN RECENT CALIFORNIA LEGISLATION SUSTAIN THE SAN FRANCISCO BAY AREA’S PUBLIC LANDS?1

CODY NESPERS

“How will California espouse preservation to the next generation, as they watch us underfund the oldest, most extensive and diverse visions of state preservation in the world? How do we learn the importance of conservation when we can no longer visit places that help us understand what must be conserved?”2

I. INTRODUCTION: A STATE SPREAD THIN—VAST NATURAL RESOURCES, INSUFFICIENT FUNDING, AND INCOMPLETE SOLUTIONS

California is known worldwide as a naturally diverse and strikingly beautiful state of immense proportions and truly unique magnificence. The state boasts extensive mountain ranges and vast valleys, rainforests and deserts, mighty rivers, serene lakes, and hundreds of miles of coastline. California is home to the highest and lowest points in the forty-eight contiguous United States; it supports the tallest, largest, and oldest

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1 This article covers developments through March 2012.
trees in the world; and it is the most populous state in the country.5

Reflecting California’s extraordinary natural wealth, and the needs of its nearly thirty-seven million people, California’s state parks contain “1.4 million acres, with over 280 miles of coastline; 625 miles of lake and river frontage; nearly 15,000 campsites; and 3,000 miles of hiking, biking, and equestrian trails.”4 California’s unparalleled system of state parks is an essential piece of the state’s heritage.

A system of parks as vast and multifaceted as California’s is extremely costly to operate and maintain, and it is especially difficult to adequately support in the face of chronic state budget deficits. For several years, California’s state parks have been threatened with closure in proposed California budgets due to annual shortfalls, and many parks have been steadily decreasing services in an effort to conserve monetary resources.5 Governor Edmund G. “Jerry” Brown’s 2012-13 State Budget is a clear reflection of the financial threat to California’s state parks: it cuts tens of millions of dollars from the Department of Parks and Recreation’s (DPR) budget, resulting in the planned closure of roughly seventy parks.6

The decline in state support coupled with the threat of widespread closures led California Assembly Member Jared Huffman to introduce Assembly Bill 42 (AB 42), which provides blanket authorization to allow eligible nonprofits to enter into operating agreements with DPR to take responsibility for portions of or for entire state park units.7 The goal of this legislation is to provide an option to keep the parks open while still decreasing the strain on the state budget. California’s problem of underfunded parks is merely one example of a nationwide problem of underfunded parks,8 and AB 42 is an example of the many emergency

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7 CAL. PUB.RES. CODE § 5080.42 (Westlaw 2012).

measures taken by states with threatened state parks.

While AB 42 is a positive contribution toward keeping California’s threatened state parks open and accessible to the public, some of the law’s provisions create the potential for inequitable results.9 Some of the most detrimental provisions, such as the withdrawal of State General Funds and limits on nonprofit operation, creates the potential for unequal distribution of adequately managed parks.10 In short, parks with the support of affluent communities will be in a much better position to benefit from AB 42 compared to parks situated in communities with less social and economic capital. Those communities with fewer resources cannot as easily organize or afford to contribute toward nonprofit organizations. Certain improvements to AB 42 would dramatically improve the equity and effectiveness of the law’s applications.

AB 42 applies to all of California’s state parks, and the San Francisco Bay Area (SF Bay Area) provides unique insight into the law’s potential impacts. The SF Bay Area is a densely populated, racially and economically diverse area that contains a large number of threatened state parks.11 The state parks in the SF Bay Area demonstrate a wide spectrum of park types and funding options and therefore offer, in a relatively compact area, an informative case study of the potential issues that might arise in the application of AB 42 throughout California.

This Comment posits that parks that serve urban communities, such as the SF Bay Area state parks, are of particular importance due to the implications of open spaces for the health and well-being city dwellers. The consequences of legislation like AB 42 in urban environments are different from those in rural areas, and an awareness of these differences is necessary to draft effective legislation. For instance, parks serving urban areas frequently give rise to environmental justice concerns of wealth and poverty as reflected by extensive, well-appointed parks in more affluent communities compared to neighboring communities with less social and economic capital.12 Moreover, for those who live in urban centers or surrounding metropolitan areas, access to open space and nature is more restricted compared to those living in rural areas; parks, therefore, take on greater significance in urban contexts. For these reasons, this Comment will be focused on a discussion of parks in and around the SF Bay Area and how AB 42 might affect these parks.

9 CAL. PUB. RES. CODE § 5080.42(a)(4) (Westlaw 2012).
10 Id § 5080.42.
11 See Planned State Park Closures, supra note 6.
Part II provides an overview of the practical and theoretical context that led to AB 42 and the landscape into which the new law enters. This Part presents a brief survey of current thinking surrounding public land and its management, explores the particulars of AB 42, and provides a survey of SF Bay Area state park units and nonprofits that are likely to be affected by AB 42.

Part III explores some of the possible pitfalls of AB 42. Part IV suggests ways in which the law might be improved and contends that partnerships with private nonprofits, on their own, will never be sufficient to sustain California’s state parks. Part V looks beyond AB 42 toward other solutions for California’s state park funding. Finally, the Conclusion urges the reader to closely monitor the successes and failures of AB 42 to better inform decisions to renew, repeal, or amend the law, and to reaffirm California’s commitment to an outstanding state parks system.

II. DESPERATE TIMES AND DESPERATE MEASURES

If drastic steps are not taken to cultivate greater support for California’s state parks, California’s public lands will become increasingly neglected, vulnerable to abuse, and become less accessible to the public. California has one of the greatest state park systems in the nation.13 There are over 270 California state parks holdings, accounting for over 1.4 million acres of land that are home to “the best of California’s natural and cultural history.”14 Unfortunately, ongoing state budget crises have resulted in fiscal problems for California’s state parks.15 These shortfalls necessitate the expansion of imaginative strategies for funding and collaborative efforts in management and operational responsibilities related to state park units.

California’s state parks receive support from a number of sources, both public and private.16 The bulk of the private support for California’s

13 See Cal. Dep’t of Parks & Recreation, supra note 4 (“California State Parks contains the largest and most diverse natural and cultural heritage holdings of any state agency in the nation.”).
14 Id.
16 CAL. STATE PARKS, QUICK FACTS: DOLLARS AND CENTS (2011), available at
state parks comes from groups called cooperating associations or “friends-of-parks groups”, private nonprofit organizations that provide supplementary assistance to state parks, especially in educational and interpretive aspects of a given state park’s operations.\(^{17}\) Although a cooperating association usually takes responsibility for only part of a given park unit, DPR has also entered into operating agreements with nonprofit organizations for the operation of five entire state park units, each time pursuant to specific statutory authority.\(^ {18}\)

Responding to serious threats to California’s state parks, the California Legislature passed AB 42, one of several attempts to keep our state parks open.\(^ {19}\) As an extension of the collaborative strategies already in place, AB 42 authorizes and expedites increased collaboration with nonprofits and, for up to twenty entire park units, allows complete devolution of management and operational responsibilities.\(^ {20}\)

While AB 42 will apply to state parks throughout the state, this Comment will focus on AB 42’s probable effects on California state park holdings that are in or adjacent to the SF Bay Area. This limitation in scope will allow for more in-depth consideration of this legislation’s effects on a variety of specific park units that serve an economically, ethnically, racially, and politically diverse population in an urban setting. Furthermore, the SF Bay Area is home to California’s 6th District, represented by the bill’s author, Assembly Member Huffman. This district features eight state parks\(^ {21}\) and is home to numerous affluent communities, including Belvedere, Sausalito, and Mill Valley, which can presumably afford to fund their local state parks.\(^ {22}\)

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\(^{19}\) See CAL. PUB. RES. CODE § 5080.42 (Westlaw 2012).

\(^{20}\) Id.

\(^{21}\) Angel Island State Park, Mount Tamalpais State Park, China Camp State Park, Samuel P. Taylor State Park, Tomales Bay State Park, Marconi Conference Center State Historic Park, Olompali State Park, and Jack London State Historic Park.

\(^{22}\) See California State Democratic Caucus, 6th District Map, ASSEMBLY MEMBER JARED HUFFMAN, asmdc.org/members/a06/6th-district-map/6th-district-map (last visited Jan. 22, 2012) (providing an interactive map of California’s 6th district).
A. MORE THAN ONE QUARTER OF CALIFORNIA’S STATE PARKS ARE SCHEDULED FOR CLOSURE UNDER CALIFORNIA’S 2012 BUDGET

California’s state parks have consistently been threatened with closure in proposed state budgets over the past several years due to annual shortfalls. Additionally, many parks have been steadily decreasing services by limiting days and hours of operation, cutting back on trail and facilities maintenance, and restricting access to certain areas. This year, DPR has had its funding severely cut; as a result, seventy state parks were scheduled to be closed in 2012. In March 2011, the legislature approved cutting the DPR budget by $11 million in 2012 and $22 million the following year. Several of the threatened state parks are in the densely populated SF Bay Area. Many others are nearby and provide invaluable natural retreats from the SF Bay Area’s urban landscape.

Although closure for most of California’s more nature-based parks would not entirely restrict access, for other parks, such as historic sites with features that require more active maintenance, closure would result in locking doors and enforcing strict restrictions on access. Parks with important historical features, such as the Benicia Capitol State Historic Park, will be forced to deny access in order to protect buildings and artifacts. Even with protective measures, the closing of these parks puts...
buildings and artifacts at risk, and vandalism and theft at closed California state parks is already costly. The educational and recreational efficacy of these more historical parks would be severely impaired by closures.

Closures in more nature-based parks, which constitute the majority of California’s state parks, would generally not mean total restriction of use, but these closures would result in more limited access, cessation of maintenance, and increased susceptibility to abuse. The potential for disrepair and abuse is particularly dire in urban parks, which are exposed to more passersby and more intensive usage.

For all of the parks that are closed, services such as trail maintenance, trash pickup, restroom facility maintenance, and convenient parking would be cut. These diminished services and restricted access are likely to decrease attendance and compound the problem of lackluster support for parks. In addition to these logistical concerns, the closure of California’s state parks advances a fallacy that our parks are an expendable and unimportant state service.

B. ASSEMBLY BILL 42 IS ONE SOLUTION TO CHRONIC UNDERFUNDING AND UNDERSTAFFING OF STATE PARKS

One potential solution to these pending California state park closures is the recently passed AB 42. This law seeks to address the severe underfunding of our state parks by allowing nonprofit organizations to take over some of the responsibilities involved in operating and maintaining park units. While parks were free to enter into operating agreements with nonprofits before the enactment of AB 42, each agreement had to be specifically approved by the California Legislature, a procedural hurdle that takes a substantial amount of time and resources.

AB 42 was introduced by Assembly Member Huffman on

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31 Louis Sahagun, Shuttered California State Parks May Be Vulnerable to Vandalism, L.A. TIMES, Feb. 25, 2012, available at articles.latimes.com/2012/feb/25/local/la-me-state-park-vandals-20120225 (reporting on estimated $100,000 worth of vandalism and theft at Mitchell Caverns, part of Providence Mountains State Recreation Area, which had been closed because of insufficient budget).

32 See Stienstra, supra note 29.

33 See id. (quoting Brian Barton, public safety specialist for State Parks: “Anything that costs money is off when the park is closed. No garbage service, no sewer (restrooms), no water, no camping.”).

34 CAL. PUB.RES. CODE § 5080.42 (Westlaw 2012).

35 Id.

36 Telephone Interview with Traci Verardo-Torres, Vice President, Government Affairs, Cal. State Parks Found. (Nov. 18, 2011).
December 6, 2010. In proposing this bill, Huffman recognized that it was not a complete solution to the chronic underfunding of California’s state parks. Before the bill was enacted, Huffman reminded his constituents that AB 42 is not “a ‘silver bullet’ to save the parks but will simplify the process of creating an operating agreement between parks and nonprofits.” Despite being a partial and temporary solution—a band-aid of sorts—to the massive problems facing California’s state parks, the drafters and backers of AB 42 believed in the urgency of the need for assistance and saw the potential for this new law to help stop the bleeding. After months of committees and votes, the California Legislature, and eventually Governor Brown, agreed.

AB 42 allows DPR to “enter into an operating agreement with a qualified nonprofit organization for the development, improvement, restoration, care, maintenance, administration, or operation of a unit or units, or portion of a unit, of the state park system.” AB 42 requires DPR to “notify the Member of the Legislature in whose district the unit is located, the Chair of the Senate Committee on Natural Resources and Water, the Chair of the Assembly Committee on Water, Parks, and Wildlife, and the chairs of the Assembly and Senate budget committees” of any intention to enter into an operating agreement with a nonprofit pursuant to AB 42; however, there is no requirement of legislative approval of the operating agreements.

AB 42 lays out the qualifications a nonprofit must meet to be eligible to enter into an operating agreement under the law. A nonprofit organization (1) must meet Internal Revenue Code Section 501(c)(3) nonprofit status, and (2) must have a principal purpose to “provide visitor services in the state park, facilitate public access to park resources, improve park facilities, provide interpretive and educational services, or provide direct protection or stewardship of natural, cultural, or historical lands, or resources.” There is no explicit requirement that the organization be capable of performing these tasks or be economically

39 Id.
40 Telephone Interview with Traci Verardo-Torres, supra note 36.
42 CAL. PUB.RES. CODE § 5080.42(a) (Westlaw 2012).
43 Id. § 5080.42(f).
44 Id. § 5080.42(g).
A nonprofit that enters into an operating agreement authorized by AB 42 must "submit a written report to the department regarding its operating activities during the prior year and shall make copies of the report available to the public upon request." Pursuant to AB 42, this report will be the subject of an annual joint public meeting. The particulars of this joint public meeting beyond a discussion of the annual report are ambiguous in the text of the law. In addition to these annual public meetings, AB 42 also requires DPR to "provide a report to the Legislature, on a biennial basis, of the status of any operating agreements" entered into under the bill. Much like the requirement that notice be given before entering into operating agreements, this provision appears to require only notification, rather than any substantive oversight.

AB 42 faced little opposition in the State Assembly and Senate, but it was nonetheless subjected to a number of amendments, many of which will possibly limit the efficacy of AB 42 in protecting parks from closure. For example, the bill was amended to limit the number of park units to twenty that the department may enter into an agreement for operation of an entire park unit. Additionally, the Senate Appropriations Committee staff recommended that the bill be amended to provide that “[n]o General Fund Moneys shall be provided to a nonprofit organization to subsidize the operation or maintenance of a park unit.” This provision only applies to units that will have entire-unit operating agreements.

AB 42’s intent to ensure that California state park closures are kept to a minimum and a sufficient level of maintenance is sustained is admirable, and this new law will likely have a great deal of success. The bill expressly keeps in effect Section 5019.53 of the California Public Resources Code, which concerns the protection of natural, scenic,
cultural, and ecological values. However, because of the implications of certain AB 42 provisions, particularly the twenty-park entire-unit limit and the prohibition on General Fund spending, comprehensive effective legal protection necessary for California’s state parks has yet to be enacted by the California State Legislature. Despite these shortcomings, AB 42 is an important piece of legislation that is likely to result in maintaining public access to many of California’s threatened state parks, many of which are located in the SF Bay Area.

C. ASSEMBLY BILL 42 REFLECTS CURRENT SOCIETAL VALUES AND POLICY TRENDS SURROUNDING PUBLIC OPEN SPACE

AB 42’s attempt to save public lands through devolved operational responsibility is an example of current environmentalist principles blended with prevalent collaborative and federalist management practices. Our society is increasingly recognizing environmental values, and this shift is frequently reflected in legislation. Public perception of the parks’ value is no exception. There is a growing awareness of the importance of public open space, especially for urban populations. Coupled with this burgeoning environmentalism, current policy trends favoring federalism analogues and devolved collaboration have led to a complex network of small, localized groups that are increasingly instrumental in providing public open space.

Public parks provide an important service for communities. Parks allow people to be more physically active, allow for greater psychological well-being, create social benefits, and produce various economic and environmental benefits. Additionally, parks provide important access to nature. Children in particular suffer from a lack of exposure to nature, which has led one theorist to coin the term “Nature-Deficit Disorder.” In summary, it is becoming increasingly evident that parks are an important part of a healthy society.

These values are particularly important in an urban context where

54 CAL. PUB. RES. CODE § 5080.42(d) (Westlaw 2012).
57 See, e.g., SHERER, supra note 55, at 6.
58 Id. at 6-7.
populations are concentrated and open space is in short supply. Urban parks and parks near cities that are enjoyed by city dwellers provide invaluable access to nature, akin to an essential service. Urban parks also provide important ecological services, including vital wildlife habitat. These concerns heighten the importance of parks in urban settings.

D. DEVARRED COLLABORATION AND ITS APPLICATION TO CALIFORNIA’S STATE PARKS

In addition to increased appreciation of the value of public parks, trends in land-management theory have also informed the formulation of AB 42. One of the more prevalent trends in public land management is devolved collaboration, which has been defined as “the push to expand the influence of local collaborative groups.” In its authorization of nonprofit organizations (which presumably will be park-specific and locally based) to take on operational responsibilities in California’s state parks, AB 42 is an excellent example of devolved collaboration.

Devolved collaboration has a number of potential effects in the context of state parks. This new movement has tremendous potential for more direct and democratic representation of community members and to improve land-management outcomes using targeted efforts and localized knowledge. When decision making and management practices are the responsibility of those most affected by these activities, choices will be made that reflect greater local investment and more specialized knowledge.

The potential negative effects of devolved collaboration must not be overlooked. With respect to devolved collaboration in an environmental justice context, there is the troubling potential for more diffuse and localized management practices raising problems with legitimate representation of all viewpoints in a community; certainly, those with less social and financial capital are frequently pushed out of the process. This is not to say that devolution and devolved collaboration are inherently bad, but rather that there are legitimate concerns about potential unfairness that must be vigilantly protected against.

It is useful to bear this theoretical and sociological framework in

60 SHERER, supra note 55, at 10.
61 See id. at 6-7.
62 Foster, supra note 56, at 460.
63 Id. at 480.
64 Id. at 481-82.
65 Id. at 485-86 (“Devolution, then, can be the tool used by a local group to exclude legitimate interests and to produce a disingenuous consensus.”).
E. VARIOUS NONPROFITS OFFER SUPPORT TO THREATENED STATE PARKS AND STRATEGIES TO KEEP PARKS OPEN

Many “friends-of-parks” groups provide support for California state parks, both with fundraising and in various aspects of educational and interpretive operations. A good place to look for the specific organizations that will likely assume responsibilities under AB 42 is in the existing pool of cooperating associations and information compiled by the California League of Park Associations. A cooperating association is a nonprofit charitable organization “dedicated to enhancing the educational and interpretive programs in California state parks.” These groups are funded entirely by their 27,000 members and contribute more than ten million dollars in support to DPR annually. Currently, there are eighty-five cooperating associations operating both independently and as part of a larger network to provide support to California’s state parks.

Reflecting the local popular support and economic means to support public lands, one of the most prominent cooperating associations in the SF Bay Area is the Marin State Park Association, located in Marin, which is Assembly Member Huffman’s (the author of the bill) district. The Marin State Park Association is comprised of a number of smaller, park-specific organizations, including Friends of China Camp State Park.

66 See Cal. Dep’t of Parks & Recreation, supra note 17 (providing compilation of cooperating associations in California).
67 Id.
69 Cal. Dep’t of Parks & Recreation, Cooperating Associations Program, CAL. STATE PARKS, www.parks.ca.gov/default.asp?page_id=976 (last visited Jan 22, 2012) (“Cooperating associations are related to, but independent of the state parks they serve and are recognized by the Internal Revenue Service as charitable nonprofit organizations (IRS 501 (c) 3).”)
70 See id.
71 Id.
All four of these parks were threatened under Governor Brown’s 2012 state budget, but Samuel P. Taylor and Tomales Bay State Parks will remain open, at least for the immediate future, under a recent agreement with the National Parks Service. The futures of China Camp State Park and Olompali State Park are less clear, and the Marin State Park Association might play an important role in keeping these parks open.

Another cooperating association that is likely to play an important role in keeping SF Bay Area state parks open under AB 42 is the Benicia State Park Association. This nonprofit has been actively working to keep the Benicia Capitol State Historic Park and Benicia State Recreation Area open and will continue to do so under AB 42. The group’s “Protect the Benicia State Parks” campaign is working to protect access to these state parks.

Working in a number of parks to the south of the SF Bay Area is Friends of Santa Cruz State Parks. Similar to the Marin State Park Association, Friends of Santa Cruz State Parks is composed of a number of smaller, park-specific groups. Two parks in the Friends of Santa

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73 See Cal. Dep’t of Parks & Recreation, China Camp SP State Park, supra note 24. Friends of China Camp is the nonprofit supporter of China Camp State Park. Friends of China Camp provides financial support for education and interpretation in the park.


75 See 1 STATE PARK AND RECREATION COMMISSION, TOMALES BAY SP GEN’L PLAN & EIR 43 (2004), available at www.parks.ca.gov/pages/21299/files/00tomaslesbaygpffeb05.pdf (“There is currently cooperating association exclusive to Tomales Bay State Park. Tomales Bay State Park is supported by the Friends of Tomales Bay State Park and a cooperating association, the Marin State Park Association. These organizations provide funding and outreach to help support the park’s interpretive efforts.”).

76 Planned 2011 State Park Closures, supra note 25.


79 See Sumner-Moore, supra note 78.

80 See Donna Beth Weilenman, Group President: Parks Backers Make Gain, BENICIA HERALD, Oct. 12, 2011, beniciaherald.wordpress.com/2011/10/12/group-president-parks-backers-make-gains/.


82 See id. (“Friends of Santa Cruz State Parks supports the preservation, knowledge, and
Cruz State Parks territory, Portola Redwoods State Park and Castle Rock State Park, are close enough to communities in the southern SF Bay Area to provide valuable nature access.\footnote{See Cal. Dep’t of Parks & Recreation, Portola Redwoods State Park, CAL. STATE PARKS, www.parks.ca.gov/?page_id=539 (last visited Jan. 22, 2012) (providing directions and an estimated travel time of one and one half to two hours from most Bay Area locations); Cal. Dep’t of Parks & Recreation, Castle Rock State Park, CAL. STATE PARKS, www.parks.ca.gov/?page_id=538 (last visited Jan. 22, 2012) (providing location of the park).} These two parks have their own smaller cooperating association, the Portola and Castle Rock Foundation, which is part of the Friends of Santa Cruz State Parks.\footnote{Cal. Dep’t of Parks & Recreation, Portola and Castle Rock Foundation, CAL. STATE PARKS, www.parks.ca.gov/default.asp?page_id=22075 (last visited Jan. 22, 2012) (“The Portola and Castle Rock Foundation supports interpretive projects at Portola Redwoods and Castle Rock State Parks, two unique parks located in the Santa Cruz Mountains.”).} This nonprofit might step in under AB 42 to extend and expand its vital support.

These cooperating associations provide valuable assistance to DPR in making California’s state parks accessible and enjoyable for the general public and will continue to do so as long as parks remain open. When parks close, it becomes less clear what level of support cooperating associations can provide. AB 42 expands what nonprofits, like these cooperating associations, are authorized to do with respect to park operations and maintenance.\footnote{See CAL. PUB. RES. CODE § 5080.42(a) (Westlaw 2012).} The problem arises because these greater responsibilities come without additional support or funding.\footnote{See id. § 5080.42(a)(4).} It is important to note that none of these cooperating associations were established with operational responsibilities in mind; instead, their primary function has traditionally been providing interpretive programs and publications for visitors.\footnote{Telephone Interview with Carolyn Schoff, President, California League of Park Associations (Nov. 8, 2011).} However, under the framework of closures and AB 42 authorizations, cooperating associations will be pressured to use private contributions that were typically intended as “icing on the cake” for programs such as guided interpretive walks and educational pamphlets, and to divert these contributions to fund more basic operations, like garbage pickup and trail maintenance.\footnote{Id.} Even considering ambitious nonprofits that have already taken the reins of certain parks, such as the Coe Park Preservation Fund, parks are continually forced to seek support from a variety of other sources.

**F. MANY THREATENED PARKS IN THE SAN FRANCISCO BAY AREA HAVE STRATEGIES TO STAY OPEN INDEPENDENTLY FROM**
AB 42 is only one of several recent efforts to keep California State Parks afloat. Other strategies are often completely independent from a park’s dealings with its cooperating association and depend upon the particular characteristics of the park. For some parks, AB 42 might not be the best option.

For example, Samuel P. Taylor and Tomales Bay State Parks, both in Assembly Member Huffman’s district and in the Marin State Parks Association’s area, have had recent success signing a temporary agreement with the National Parks Service (NPS). Under this agreement, NPS will provide the necessary financial and operational support to sustain the two parks. Although this agreement is a victory for these two parks, it does not provide complete or permanent support. During the duration of the agreement, the parks will be open fewer than seven days a week, and no capital improvements or infrastructure repairs will be completed. Moreover, the agreement ends after the state fiscal year of 2012-13, subject to optional extension. What will happen to these parks when the agreement expires is uncertain.

Just south of the SF Bay Area lies Northern California’s largest state park, Henry W. Coe State Park. As one of the seventy state parks threatened with closure, Henry W. Coe State Park has received an outpouring of private support, spearheaded by the Coe Park Preservation Fund (CPPF). The CPPF, a nonprofit organization dedicated to supporting the park, has been working tirelessly to keep the park open by

89 Cal. Dep’t of Parks & Recreation, Tomales Bay State Park, CAL. STATE PARKS, parks.ca.gov/?page_id=470 (last visited Jan. 22, 2012) (“Tomales Bay State Park will be kept open through an agreement signed by the National Park Service (NPS) and California State Parks.”); Press Release, Nat’l Park Serv. & Cal. State Parks Dep’t, Park Service and California State Parks Sign Agreements to Keep State Parks Within National Park Boundaries in Marin County Open (2011), available at parks.ca.gov/pages/712/files/2011marin_co_nps_and_state_parks_collaboration_press_release_%201006%20final.pdf (“Beginning July 1, 2012, Point Reyes National Seashore will assume visitor and resource protection and routine maintenance operations at Tomales Bay State Park. Through this agreement, the NPS will preserve the existing State Park maintenance position and will provide additional maintenance support with existing NPS staff. The NPS will collect the regular State Park visitor use fees for the park on behalf of the State; the State will provide those funds back to the NPS to help offset the cost of operating the state park on a reduced schedule.”).
90 See Press Release, Nat’l Park Serv. & Cal. State Parks Dep’t, supra note 89.
91 Id.
92 Id.
seeking contributions from Bay Area corporations, foundations and individuals. On December 12, 2011, the California DPR and the CPPF announced that they would sign an agreement to avert the closure of Henry W. Coe State Park, then scheduled for July 1, 2012, as part of Governor Brown’s 2012-13 budget. This agreement was signed independently from AB 42.

The threatened park with the greatest implications for city as Habitat, urban parks, and environmental justice issues in the SF Bay Area is Candlestick Point State Recreation Area. Candlestick Point State Recreation Area, located within the city limits of San Francisco, was the first urban California State Park holding and remains one of the few urban state parks. Because of an impending large-scale redevelopment plan and related legislation that authorizes the reconfiguration of the park in connection with the project, the Candlestick Point State Recreation Area is an unusual case. While this park is technically threatened with closure under the State Budget, the redevelopment project will undoubtedly have far-reaching and complex effects on Candlestick Point State Recreation Area. Due to the unique influences at work in the case of Candlestick Point State Recreation Area, such as economic and racial tensions, concerns about gentrification, and the politics surrounding Candlestick Park, this important urban state park is beyond the scope of this Comment.

The various strategies employed by desperate parks to stay afloat reflect a dire need for a solution. As the next Part of this Comment will discuss, although AB 42 will certainly have a positive influence on underfunded parks, the law is an incomplete solution to the problem of

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96 Henry W. Coe State Park Will Remain Open Through 2015!, supra note 94 (“Under the terms of the contract, the CPPF will provide the DPR with funds to cover park’s current staff salaries while the DPR will ensure the revenue generated at Coe State Park is returned to the park for its operation and maintenance. This agreement will be in place for three years, or until the State of California resumes normal funding for the park. Under the agreement, the CPPF will have no administrative responsibility for the operation of Henry W. Coe State Park.”).
99 See Planned State Park Closures, supra note 6.
persistent underfunding. California’s state parks will continue to be underfunded, and additional strategies to increase support will be needed.

III. AB 42 WILL BE A USEFUL TOOL TO KEEP STATE PARKS OPEN, BUT SOME OF ITS PROVISIONS UNDERMINE THE LAW’S EFFECTIVENESS

At a time when California’s state parks are in desperate need of funding and operational support, AB 42 is a much-needed measure that will undoubtedly save many parks. However, AB 42 cannot save all of the threatened California State Parks, nor does it solve the systemic problem of chronic underfunding. Despite these inherent limitations, AB 42 is an exciting piece of legislation that will protect many parks. While AB 42 is a positive step toward keeping threatened California State Parks open and accessible to the public, some of its provisions create the potential for inequitable negative results; however, the law could be strengthened in a number of ways.

A. AB 42’S LACK OF AN EXPRESS VIABILITY REQUIREMENT FOR NONPROFITS COULD LEAD TO DPR ABDICATING OPERATIONAL RESPONSIBILITY TO AN INADEQUATELY EQUIPPED NONPROFIT

AB 42 includes no express requirement of viability of the nonprofit organization seeking to enter into an operating agreement with DPR.\(^{101}\) Beyond requiring that an organization meet 501(c)(3) nonprofit status requirements,\(^ {102}\) there is no requirement that an organization have a steady revenue source or showing of operational support.\(^ {103}\) While the law calls for some oversight, in the form of annual reports, public meetings, and other provisions, there is no express provision that ensures viability, nor is there one that allows for nullification of operating agreements that are ineffective.\(^ {104}\) While operating agreements will likely include assurances that nonprofits that enter into operating agreements with DPR will perform to certain minimal standards, nonprofit viability should be required legislatively.\(^ {105}\) Allowing DPR to enter into agreements that grant authority to nonviable nonprofits should not be left open as a possibility; if authority is transferred to uncertain


\(^{102}\) 26 I.R.C. § 501(c) (Westlaw 2012).


\(^{105}\) See Draft Template with Standardized Language for Operating Agreements Between DPR and Cooperating Associations, Cal. State Parks 4 (Sept. 30, 2011) (on file with author) (including provisions that if the nonprofit fails to meet certain requirements, the agreement will be terminated).
hands, there should be some sort of safety net to protect against effectively abandoning a significant percentage of California’s state parks.

Despite the risk of inadequate nonprofit support, it is important to emphasize that authorizing widespread nonprofit collaboration is better than the existing scheme of individualized approval by the legislature.106 This Comment contends not that AB 42 is a step in the wrong direction, but rather that the California Legislature should watch carefully where it plants its feet. California must be careful not to set a precedent where expanding private support opportunities diminishes state support for public services. Further, it is important to recognize that, while an admirable effort, AB 42 is a merely one small step in a long journey to state park sustainability.

B. THE PROHIBITION ON GENERAL FUND ASSISTANCE TO NONPROFITS OPERATING STATE PARKS UNDER ASSEMBLY BILL 42 WILL REINFORCE INEFFECTIVE OPERATIONS

One dangerous provision of AB 42 is its preclusion of General Fund assistance to cooperating associations that take on additional responsibilities under AB 42. AB 42 specifically provides that “[n]o General Fund moneys shall be provided to a nonprofit organization to subsidize the operation or maintenance of a park unit” for parks that would be entirely operated by nonprofits.107 Even recognizing the budgetary purpose of this bill, the legislature should ensure that our state parks are not turned over to private nonprofits and subsequently abandoned for the duration of this new law.

To deny General Funds assistance to nonprofit-operated parks until AB 42 sunsets in 2019, subjects needy parks to a risk of continued underfunding. Although there are other sources of state park funding, such as the State Parks and Recreation Fund, boating and waterways money, cigarette tax money, and environmental vanity plates fees, the express prohibition of state financial assistance to nonprofits acting under this bill is unnecessarily inflexible and threatens California’s state parks. Furthermore, the preclusion of General Fund assistance, combined with insufficient assurances of nonprofit viability, could very well result

106 See, e.g., CAL. PUB. RES. CODE § 5080.36 (Westlaw 2012) (authorizing an operating agreement between a qualified nonprofit and DPR to “for the development, improvement, restoration, care, maintenance, administration, and control” the El Presidio de Santa Barbara State Historic Park).


108 Telephone Interview with Traci Verardo-Torres, supra note 36.
in parks with severely underfunded, understaffed, and ineffective operations. Conceivably, an ambitious nonprofit might agree to take on a threatened unit, only to find itself insufficiently funded and staffed to complete its responsibilities under the agreement. Even if California had a General Fund surplus, the state could offer no support to the nonprofit during the course of the operating agreement. Moreover, nonprofits with the backing of affluent and philanthropic communities will be better equipped to weather limitation in state funding. This imprudently absolute provision could result in the abandonment of parks in poorer areas.

Cooperating associations already “contribute more than [$]10 million annually to fund critical staff positions, exhibits, visitor center developments, junior ranger and nature walk programs, living history demonstrations, special events and many other exciting projects.”109 While there is no way to definitively discern the limits of the potential for contributions to state parks from private donors through nonprofits, considering the already significant contributions of cooperating associations, it would be unwise to rely too heavily on this source of funding.

The General Fund restriction provision of AB 42 favors those parks with existing community support, especially parks enjoyed by more affluent communities, raising environmental justice and equity concerns. Even if this issue does not materialize, the mere perception of inequity undermines the legitimacy of this new legislation. While the justification for this provision that no General Fund moneys be made available to nonprofits is presumably the need to control costs, such a definitive limitation is unnecessary and imprudently heavy-handed.

C. THE TWENTY-PARK LIMIT ON OPERATING AGREEMENTS APPLYING TO ENTIRE UNITS IS UNWARRANTED AND RISKS INEQUITABLE RESULTS

AB 42 is, in effect, a blanket authorization for operating agreements between DPR and nonprofits, but the blanket is not large enough to cover all of the jeopardized units.110 AB 42 authorizes only twenty parks to be entirely operated by nonprofits, despite seventy parks slated for closure.111 The law should allow for the protection of all of the parks threatened with closure that develop the support of viable nonprofits.

109 Cal. Dep’t of Parks & Recreation, supra note 69.
110 See CAL. PUB. RES. CODE § 5080.42(a) (Westlaw 2012).
This arbitrary limit could possibly preclude park operation by willing and capable nonprofits. Additionally, the twenty-park limit could conceivably crowd out potential partnerships in parks where nonprofits are not yet developed because areas with existing nonprofit “friends-of-parks” groups will avail themselves to this bill’s provisions first. Some parks, likely those in less affluent communities, will potentially be left out. Conceptually, those parks that might develop sufficient nonprofit support to maintain a park unit after the twenty-park limit is reached will be restricted from fully benefiting from AB 42.\footnote{See CAL. PUB. RES. CODE § 5080.42(a) (Westlaw 2012).}

Although it seems the motivation behind adding the twenty-park limit was to protect California state park workers’ jobs, at this time the twenty-park limit will protect no more jobs than would a seventy-park limit.\footnote{Telephone Interview with Carolyn Schoff, supra note 87 (“Most resistance to allowing nonprofit operation of state parks was from parks employees unions.”).} There will be no loss of state jobs incurred by allowing nonprofits to operate parks that would be closed without nonprofit intervention. The only parks that may be entirely operated by nonprofits under AB 42 are those threatened with closure and that, therefore, provide no job opportunities for state employees.\footnote{See CAL. PUB. RES. CODE § 5080.42(a) (Westlaw 2012).} A more appropriate way to protect state parks jobs while still authorizing nonprofit partnerships would be to explicitly provide in the bill that nonprofit operations will be allowed only where they would not take away from state jobs, such as for parks that are slated to close.

The parks that will benefit most from AB 42 are those with associated well-funded nonprofits and existing community support. Interestingly, those parks situated in Marin, Assembly Member Huffman’s district, already have extensive community support.\footnote{See, e.g., Cal. Dep’t of Parks & Recreation, supra note 72 (describing extent to which Marin State Parks Association supports state parks in its area).} Moreover, two of the threatened state parks in Huffman’s district will be temporarily protected by the National Parks Service, allowing the Marin State Park Association to focus its efforts on the other parks that are threatened with closure.\footnote{Press Release, Nat’l Park Serv. & Cal. State Parks Dep’t, supra note 89.} Taking into account the twenty-park limit, the ability of Marin State Park Association to quickly take advantage of the authorization granted by AB 42 will ensure that it secures an operating agreement before the twenty-park cap is met. AB 42’s arbitrary twenty-park limit could preclude some parks from fully benefiting from this new law both in the SF Bay Area and statewide. Although many parks in the SF Bay Area appear to have enthusiastic local nonprofit support, other
California State Parks might not be so fortunate.

Putting the funding and operational responsibilities of state parks on community groups while expressly limiting General Funds assistance favors communities with financial and political support for their parks. Further, the twenty-park limit puts into place a framework that could reduce incentives to complete development of community support in areas with currently underdeveloped community support systems. The California Legislature should seek solutions that will equitably protect the state’s diverse state park resources, and AB 42 does not achieve this obligation.

IV. ASSEMBLY BILL 42 SHOULD BE STRENGTHENED TO PROTECT THE GREATEST NUMBER OF CALIFORNIA STATE PARKS

In light of the state government’s chronic inability or unwillingness to adequately fund California’s state parks, and recent indications that the general electorate is not willing to provide greater tax revenues for state parks, nonprofits will undoubtedly play a vital role going forward.\(^\text{117}\) Therefore, streamlining legislative authorization for private/public partnerships, as AB 42 achieves, is a constructive step toward this operational schema. While AB 42 does reflect progress toward this important goal of collaboration and broader, yet more localized, support for parks, the law could be strengthened to further these important goals by addressing the issues raised above.

First, the legislation should be amended to support the development of viable nonprofits that can alleviate the pressure on the State to sustain California’s vast network of state parks. Instead of imposing a limit on the number of parks the law permits nonprofits to operate in their entirety, AB 42 should facilitate the development of new nonprofits and the expansion of existing nonprofits to encourage nonprofit involvement in as many units as possible.

AB 42 should include a viability requirement to ensure against the state abdicating operations responsibility to an organization that is not up to the task. It should be mentioned that DPR is unlikely to enter into imprudent agreements, and, in fact, the draft language for the form contract for operating agreements pursuant to AB 42 provides that in the event of a nonprofit’s nonperformance of its duties, the park unit “shall

\(^{117}\) See, e.g., Peter Fimrite, Vehicle License Fee to Fund Park System Fails, S.F. CHRON., Nov. 3, 2010, available at www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2010/11/02/MNI11G1O7U.DTL (reporting on the failure of 2010 California Proposition 21, which would have increased vehicle licensing fees, with the proceeds funding California’s state parks).
revert back to State Parks, at State option."118 Despite the likelihood that the California State Parks will not enter into operating agreements without safeguards against incompetent nonprofit management, this protection against imprudent binding agreements concerning the future of public lands should be explicit in the legislation.

Additionally, AB 42 should provide for the possibility of state financial and operational support for nonprofits that enter operating agreements under AB 42.119 The General Fund is a sort of catchall funding source that accounts for “all revenues and activities financed therefrom which are not required by law to be accounted by any other fund.”120 Currently, General Fund moneys account for about fourteen percent of DPR funding.121 Even recognizing the budgetary purpose of this bill, the legislature should ensure that our state parks are not turned over to private nonprofits that cannot provide adequate support. To deny state General Fund assistance to nonprofit-operated parks guarantees continued underfunding of parks with historically meager community support until this law sunsets in 2019.122 In effect, once a park enters into an operating agreement covering the entire unit, that park would receive no General Fund money for the duration of the agreement, even if General Funds become available in the interim.123

Collaborative funding of operations between the DPR and the nonprofit operator should be not only permitted, but encouraged where economically feasible. AB 42 should allow for the possibility of General Fund reallocation. If well-funded nonprofits can share the burden of operating popular parks that require intensive management, the savings from decreased management responsibility in those parks should be shifted toward parks with less private support and more public need. For example, if the Marin State Park Association124 can take on responsibility for a number of parks, even some parks not on the closure list, the savings to the DPR could be shifted toward parks with less community support. If well-funded nonprofits can share the burden of

119 See CAL. PUB. RES. CODE § 5080.42(a)(4) (Westlaw 2012).
123 See id.
124 E.g., Cal. Dep’t of Parks & Recreation, supra note 72.
operating popular parks that require intensive management yet have extensive community support, the savings from decreased management responsibility in those parks should be shifted toward parks with less private support and greater public need. If the DPR can manage to spend less through greater collaboration and reallocate resources sometime between now and when AB 42 sunsets in 2019, it should be permitted to subsidize less endowed nonprofits at other parks as it sees fit. California’s laws should encourage creative problem solving, not restrict it.

Another amendment to AB 42 that would provide for a greater chance of adequate nonprofit support would be a provision that offsets a portion of the budget cuts to DPR with grants to start new friends-of-parks organizations and to rejuvenate existing groups. This formulation would have the dual benefits of providing assistance to parks during the turbulent period of transition from state to private operations and creating a larger network of viable cooperating associations. These, in turn, would result in increases in private funding of state parks, allowing for state funding reductions and reallocations.

Currently, the main source of support for cooperating associations and friends-of-parks groups in California comes from the California State Parks Foundation and the California League of Park Associations, which coordinate fundraising and volunteer activities among the various cooperating associations in California. With the increasing need for nonprofit support and the growth of nonprofits’ responsibilities for public lands, these two support groups simply cannot provide sufficient assistance to the already expansive and growing network of cooperating associations. With sufficient foundational support for private nonprofits, and the legal authority for private/public partnerships, as provided by AB 42, operating agreements limiting the responsibilities of the State have the potential to be a significant contribution to the continued viability of California’s expansive state parks system. It is important to realize, however, that with these significantly heightened demands and responsibilities placed on friends-of-parks groups, these nonprofits will no longer be able to rely solely on the charitable donations and volunteer efforts provided by a dedicated core community.

Finally, AB 42 is a positive opportunity that should be extended to all threatened parks equally. AB 42 should allow for the protection of all threatened parks that have viable nonprofits ready to take the reins.

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125 See Cal. Dep’t of Parks & Recreation, supra note 4 (explaining the foundation’s role in supporting California’s state parks); Cal. League of Park Ass’ns, Mission Statement, www.calparksleague.org/about.html (last visited Jan. 23, 2012) (explaining the support the league provides to California’s state parks).
Potential partnerships in parks where nonprofits are not yet developed are precluded by this arbitrary limit, because areas with existing nonprofits will avail themselves of this bill’s provisions first. Although in practice it is unlikely that this twenty-park limit will be reached due to limitations of existing nonprofits, the limit unnecessarily impedes the beneficial potential of this new law and could conceivably act as a disincentive for nonprofits to operate to their full potential.

The goal of AB 42 should be to protect the greatest number of threatened parks as possible. The twenty-park limit should be expanded to reflect the number of parks threatened with closure. AB 42 should institute an adjustable limit that reflects the number of threatened parks in any given budget term. For example, in the 2012 budget, seventy parks are slated for closure; therefore, the limit for nonprofit operations on entire units should be set at seventy. Allowing nonprofits to take over parks that would otherwise be closed poses no threat to state jobs. A more reasonable alternative strategy to protect state jobs would be mandating a provision in the operating agreement whereby State employees would be guaranteed positions if state funding somehow was restored. The present arbitrary limit is a political compromise that does not serve the public and is unnecessary to protect state jobs. It is unjust to punish the general public by reserving jobs for public workers the state cannot afford to employ.

Even if AB 42 were optimized to achieve the full potential of nonprofit support for our state parks, nonprofits alone simply cannot support the vast network of California state parks, and Californians must continue to seek other legislative protections for our state parks. Nonprofits have been diligently seeking funds and were not established with the purpose of operational responsibility for park units. While these organizations are continuously seeking new revenue sources and creative solutions for funding, they are limited by what the public is willing to contribute. Recognizing this inherent limitation of nonprofit support, AB 42 should not be seen as anything more than one tool for supporting our parks—other tactics will have to be employed if our parks are to survive these trying economic times.

V. BEYOND ASSEMBLY BILL 42: OTHER FUNDING MUST BE

126 See BROWN, supra note 6; Planned State Park Closures, supra note 6.
127 See supra Part III.C.
128 Telephone Interview with Carolyn Schoff, supra note 87.
129 Id.
130 Id.
Despite the fact that AB 42 will not save all of California’s threatened parks, it may be among the best available solutions. The primary threat to state parks is the lack of financial support. What sources of monetary support are there to keep our state parks open while remaining loyal to the public interest?

The need to find creative solutions to keep our public lands open, accessible, and protected is increasingly apparent, but any effort to diversify funding sources for public lands must be achieved carefully and thoughtfully. Some possibilities are less problematic than others, but all should be thoroughly analyzed with a skeptical eye before making any drastic decisions.

A. PARTNERSHIPS WITH CITIES AND COUNTIES ARE AN OPTION FOR PARK OPERATIONS, BUT LOCAL GOVERNMENTS FACE CHRONIC UNDERFUNDING

Local governments will likely play an invaluable role in the continued operations and maintenance of California’s state parks. But like nonprofits and the state government, local governments cannot support state parks on their own. Cities and counties are exploring the possibility of providing funding for state park staff or some sort of joint authority to run parks. Partnership that are formed between DPR and local governments will play an important role in the growingly collaborative operational framework of California’s state parks.

Reflecting the increasing interest in collaborative park management with local governments, another bill introduced in 2011 to address the threats to state parks, Senate Bill 356 (SB 356), sought to increase collaboration with local governments. Despite its laudable goal, SB 356 was vetoed by Governor Brown as “unnecessary” and “duplicative.” While it is true that local governments already have

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131 After the passage of AB 42, Assembly Member Huffman has introduced another bill, A.B. 1589, which begins to address many issues surrounding A.B. 42 raised in this Comment. See A.B. 1589, 2011-2012 Reg. Sess. (Cal. 2012), available at leginfo.ca.gov/pub/11-12/bill/asm/ab_1551-1600/ab_1589_bill_20120301_amended_asm_v98.pdf. An analysis of A.B. 1589 is beyond the scope of this Comment.

132 See, e.g., Alison Hawkes, Benicia Wants to Run State Park on California’s Dime, BAY NATURE (Jan. 17, 2012), baynature.org/articles/web-only-articles/benicia-wants-to-run-state-park-on-californias-dime/?searchterm=benicia%20state%20recreation%20area (discussing Benicia’s plan to seek state funds to operate local state parks more cheaply and efficiently than the state).

133 Telephone Interview with Carolyn Schoff, supra note 87.


135 Notice of Veto of S.B. 356 (Oct. 4, 2011), available at www.leginfo.ca.gov/pub/11-
authority to assist state parks, this bill would have ensured that local governments were given notice of impending closures in their jurisdictions and were reminded of their legal “opportunity to provide for the operation and maintenance” for threatened parks.\textsuperscript{136} Despite adding no substantive legal rights for local governments, SB 356 is a good example of legislation that should be enacted as a potentially effective reminder for local governments to enter into partnerships with DPR, thereby reducing the financial burden on the state government with little change to existing state law and at a relatively low cost.

\section*{B. For-Profit Entities Should Be Precluded from Partnerships with DPR, and Private Control of Public Lands Should Be Limited}

With persistent public funding shortfalls, partnerships with private for-profit entities are increasingly being considered as a funding source for California State Parks.\textsuperscript{137} Partnerships with private, for-profit companies would fundamentally challenge the public nature of our state parks and are contrary to the ideals of common ownership, community, and universal access, all embodied by the concept of public land. Notwithstanding these philosophical qualms of private influence over public lands, private/public partnerships may be a vital tool to maintaining expansive, and expensive, public services. The dangers inherent in privatization should raise special concerns when the private entity in question has a profit motive that might be adverse to the public interest.

Because of the potential pitfalls of private power over public lands, public/private partnerships, even with nonprofits, must be entered into warily and monitored closely. Allowing a private entity to control funding for public resources has the potential to result in decisions reflecting the special interests of the entity at issue, often to the detriment of the public interests. This danger is compounded by the revenue motives of for-profit companies, rather than conservation or preservation motives, and, for this reason, partnerships between for-profit organizations and DPR should be strictly avoided.

While corporate partnerships with parks might provide much-needed financial support, these funds often come with strings attached.

\textsuperscript{12} See legislation哔b/sen/sb_0351-0400/sb_356_vt_20111004.html.


The potential for conflicts of interest to arise when private entities gain influence in the sphere of public goods and services is not unique to for-profit companies, but can also arise with nonprofits and should be carefully protected against in the implementation of AB 42. Perhaps this is why AB 42 includes the requirement that nonprofits entering into operating agreements under the law’s authority have the “principal purpose and activity to provide visitor services in state parks, facilitate public access to park resources, improve park facilities, provide interpretive and educational services, or provide direct protection or stewardship of natural, cultural, or historical lands, or resources.”\footnote{CAL. PUB. RES. CODE § 5080.42(g)(2) (Westlaw 2012).} By limiting authorization for operating agreement to nonprofits with a targeted purpose and scope, the California Legislature sought to limit the influence of ulterior motives in the operational decisions made with respect to California’s state parks.

C. MORE COMPREHENSIVE LEGISLATIVE PROTECTIONS ARE NEEDED TO ENSURE THE PROSPERITY OF CALIFORNIA’S PUBLIC LANDS

Piecemeal legislation that addresses isolated issues concerning state parks, like AB 42, while necessary and important, will never be sufficient to protect public lands in the long term. Without a broader system of legislative protection and support, states will be doomed to continually renegotiate partial solutions.

One example of additional legislative protections that could be enacted to protect California’s state parks is Senate Bill 580 (SB 580), which would establish a policy of no net loss in DPR lands, requiring any sale or inconsistent use of DPR land to be mitigated by acquiring new land of comparable acreage and character to compensate for the lost...
VI. CONCLUSION: CRISIS AS OPPORTUNITY—REASSESSMENT AND RENEWED COMMITMENT

The need to find creative solutions to keep our state parks open, accessible, and protected during trying economic times is a valid and widely held concern. Challenges like the current budget threat to California’s state parks provide an opportunity to reassess and contemplate how California can maintain a viable system. AB 42 is a legitimate attempt to achieve this goal. However, potential pitfalls and weaknesses in this new law threaten to reduce its positive effects. Furthermore, the nonprofit collaborative framework upon which AB 42 relies is unlikely to ever support the numerous state parks persistently threatened with closure. Other legislative solutions will be needed to sustain California’s state parks.

Now that AB 42 is in effect, perhaps the greatest service that both the California Legislature and concerned citizens can contribute to the

142 Telephone Interview with Traci Verardo-Torres, supra note 36.
law’s success is vigilance. The key to a meaningful assessment of AB 42 is thoughtfully gathered observations concerning its impacts. Californians must stay informed about the successes and failures of this new law, and the legislature must be prepared to amend AB 42 or seek alternative solutions to the problem of providing sufficient support for California’s state parks.

When this bill sunsets in 2019 and is up for repeal, renewal, or amendment,\textsuperscript{143} the California Legislature will undoubtedly have a better understanding of what was successful and what was not with respect to AB 42 in practice. However, some issues, such as those raised in this Comment, will appear sooner, and amendments before the 2019 sunset will be necessary to adequately protect California’s state parks.

In a weak economy, our priorities as a society come to the forefront of our legislative and regulatory policies, and we must decide what is worthy of our limited state funding. Californians and the Legislature must be thoughtful in deciding how to spend public funds. We must decide whether we want to be remembered for rising to the challenge of persistent budget shortfalls by reaffirming our commitment and values to protect California’s state parks. Or whether we want to be remembered as the generation that abandoned one of the state’s most precious treasures.

\textsuperscript{143} CAL. PUB. RES. CODE § 5080.42(h)(2)(i) (Westlaw 2012).