

Assembly Bill No. 1481

CHAPTER 876

An act to add Chapter 3.3 (commencing with Section 5640) to Division 5 of the Public Resources Code, relating to parks and recreation.

[Approved by Governor October 13, 2001. Filed
with Secretary of State October 14, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1481, Frommer. Urban Park Act of 2001.

The existing Roberti-Z'berg-Harris Urban Open-Space and Recreation Program Act provides for annual grants to cities, counties, and districts, as defined, for recreational and open-space purposes and for block grants for the rehabilitation of historic structures within a park or recreational area.

This bill would enact the Urban Park Act of 2001, which would require the Department of Parks and Recreation to establish a local assistance program under which the department would offer grants, on a competitive basis, to various local entities and nonprofit organizations, as defined, for the acquisition or development, or both, of urban parks and recreational areas and facilities.

The bill would require the department, in evaluating applications for grants, to assign priority to applications for projects that meet specified criteria. The bill would authorize the department to adopt guidelines to amplify or clarify the criteria, and to propose additional criteria to provide guidance in selecting projects in areas that have the greatest deficiencies in parks and recreation facilities.

The bill would allow a grant recipient to use grant funds to pay for any portion of the cost of cleaning up, removing, or remediating any toxic materials or hazardous substances, if the amount used for cleanup, removal, or remediation does not exceed a specified amount. The bill would require the department, by April 30, 2003, and on or before April 30 annually thereafter, to submit a report to the Legislature on the status of each grant made pursuant to the act. The bill would provide that provisions of the act shall only be implemented during those fiscal years for which funding is appropriated for that purpose in the annual Budget Act.

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

SECTION 1. Chapter 3.3 (commencing with Section 5640) is added to Division 5 of the Public Resources Code, to read:

CHAPTER 3.3. THE URBAN PARK ACT OF 2001

5640. This chapter shall be known, and may be cited, as the Urban Park Act of 2001 or the Urban Parks Initiative.

5641. The Legislature hereby finds and declares as follows:

(a) The program created by this chapter will finance the acquisition and development of parks and recreation areas and facilities in the neighborhoods that are currently least served by park and recreation providers. These neighborhoods are often the same areas that suffer most from high unemployment and destructive or unlawful conduct by youth.

(b) The program established by the chapter will encourage community participation in, and a greater sense of responsibility toward, new parks and recreation areas and facilities, which will help keep them clean and safe and which will enhance community pride and sustain neighborhood vitality.

(c) New parks and facilities will provide safe recreational opportunities for children and positive outlets for youth, and will meet the special recreational and social needs of senior citizens and other urban population groups.

5642. As used in this article, the following terms shall have the following meanings:

(a) “City” means a city or a city and county.

(b) “District” means a regional park district, regional park and open-space district, or regional open-space district formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3, or a recreation and park district formed pursuant to Chapter 4 (commencing with Section 5780).

(c) “Facilities” includes, but is not limited to, places for organized team sports, outdoor recreation, and informal turf play; nonmotorized recreational trails; permanent play structures; landscaping; places for passive recreation, enjoyment of scenic open space, nature appreciation and study, and outdoor education; multipurpose structures designed to meet the special recreational, educational, vocational, and social needs of youth, senior citizens, and other urban population groups; and infrastructure and other improvements that support these facilities.

(d) “Heavily urbanized county” means a county with a population of 500,000 or more, and a density of at least 1,100 persons per square mile, based on the most recent verifiable census data.



(e) “Nonprofit organization” means any nonprofit public benefit corporation formed pursuant to the Nonprofit Corporation Law (Division 2 (commencing with Section 5000) of the Corporations Code), qualified to do business in California, qualified under Section 501(c)(3) of Title 26 of the United States Code, and that has among its primary purposes the preservation, protection, or enhancement of land or water resources in their natural, scenic, historical, agricultural, forested, or open space condition or use, or the provision of conservation and environmental education and other recreational, vocational, and educational services to urban youth.

5643. The Department of Parks and Recreation shall establish a local assistance program to offer grants, on a competitive basis, to eligible cities, counties, joint powers authorities, any district except a school district authorized to provide park, recreational, or open-space services, or a combination of those services, and nonprofit organizations for the acquisition or development, or both, of property for urban parks and recreation areas and facilities.

5644. The following entities are eligible to apply for grants pursuant to this chapter:

- (a) A heavily urbanized county.
- (b) Any city or district, or joint powers authority that includes a city or district, irrespective of population, in a heavily urbanized county.
- (c) Any city with a population of 100,000 or more, based on the most recent verifiable census data, which is not in a heavily urbanized county.
- (d) A nonprofit organization that is applying for a grant for a project located within the jurisdiction of an entity that meets the requirements of subdivision (a), (b), or (c).

5645. The department may award a grant pursuant to this chapter only for a project that meets all of the following requirements:

- (a) The proposed project is within the jurisdiction of an eligible applicant, as specified in Section 5644.
- (b) The project will result in the creation of a new urban park or new recreational or multipurpose facility.

5646. In evaluating applications for grants that meet the requirements of Section 5645, the department shall assign higher priority to applications, for each of the following criteria satisfied:

- (a) The amount of the grant applied for, together with any matching contribution, will meet all the costs of acquiring or developing, or both, the new urban park or facilities, and when construction of the project is completed, the new urban park or facility will be fully usable by the residents of the project’s service area.
- (b) The project’s service area has significant deficiencies in parks and facilities relative to other areas of the applicant’s jurisdiction.



(c) The project will enhance employment opportunities for residents, including at-risk youth, of the project's service area, or of members of the California Conservation Corps or certified local conservation corps.

(d) The project will accommodate outdoor learning opportunities for school pupils or at-risk youth from the project's service area, or of members of the California Conservation Corps or certified conservation corps.

(e) The project will be usable by pupils from one or more public schools in the project's service area.

(f) The application includes a commitment for a matching contribution. The matching contributions may be in the form of money from any source, including funds from other state local assistance programs; gifts of real property, equipment, and consumable supplies; volunteer services; free or reduced-cost use of land, facilities, or equipment; and bequests and income from wills, estates, and trusts. The department shall evaluate the amount of the matching contribution in terms of its proportionality in relation to the economic resources of the applicant.

(g) The project will wholly or partly replace an area of blight, or will contribute significantly to the economic revitalization of the area in the project's service area.

(h) The development phase of the project was planned with public input from the affected community.

(i) The project is a joint-use project between two or more agencies that share responsibility for ownership, development, and maintenance of the project.

5647. (a) The department may adopt guidelines to amplify or clarify the criteria specified in Section 5646, and may adopt additional criteria, to supplement those criteria, but the scope of the additional criteria shall be limited to providing additional guidance in selecting projects in areas that have the greatest deficiencies in parks and facilities.

(b) The department may develop a procedural guide for the administration of this chapter and the guidance of applicants.

(c) The department shall solicit written comments and hold public hearings at convenient locations throughout the state on any guideline or procedural guide that is proposed to be adopted or developed pursuant to this section.

(d) If the department determines to adopt guidelines or to develop a procedural guide pursuant to this section, the department shall adopt the guidelines or develop the procedural guide on or before April 1, 2002.

(e) Any regulation or procedural guide adopted or developed pursuant to this section shall not be subject to the review or approval of the Office of Administrative Law or to any other requirement of Chapter



3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

(f) The department may not expend more than 5 percent of the amount annually appropriated for the purposes of this chapter for administrative costs.

5648. (a) The local assistance program created by this chapter is intended to include grants for the acquisition or development, or both, of parcels of property of any size that will serve urban residents and otherwise meet the requirements of this chapter. The department shall not assign an application a lower priority on the basis that the application proposes the acquisition of a city lot or other small parcel.

(b) A grant may be expended to acquire the fee title, a leasehold, or other interest in real property. If an application proposes to acquire less than fee title, the applicant shall demonstrate in the application, to the satisfaction of the department, that the proposed project will provide public benefits that are commensurate with the type and duration of the interest in real property to be acquired.

5649. Any eligible nonprofit organization may apply for a grant on its own behalf or on behalf of an eligible city, county, or district pursuant to a contract with that city, county, or district to acquire and develop the urban park or recreation area. The application shall include a copy of the contract and the resolution or other authorization for the contract. The contract shall specify arrangements for the long-term management and operation of the urban park or recreation area.

5650. (a) Every applicant for a grant pursuant to this chapter and the entity that will operate and maintain the property, if that entity is different than the applicant, shall agree to comply with all of the following requirements:

(1) To operate and maintain the property developed pursuant to this chapter so that it is usable by residents of the project's service area. With the approval of the department, the grant recipient, or its successor in interest in the property, may transfer its property interest and the responsibility to operate and maintain the property, in accordance with the terms of the grant and any applicable law, to a public agency or nonprofit organization that is able to operate and maintain the property in perpetuity. Any attempt to make a transfer in violation of this subdivision is void.

(2) To use the property only for the purposes for which the grant was made and to make no other use or sale or other disposition of the property, except as authorized by specific act of the Legislature. If the use of the property is changed to a use that is not permitted by the terms of the grant, or if the property is sold or otherwise disposed of, the grant recipient shall reimburse the state an amount equal to the amount of the



grant, the fair market value of the land and any improvements constructed with the grant, or the proceeds from the sale or other disposition, whichever amount is greatest. If the property that is sold or otherwise disposed of is less than the entire interest in the property funded with the grant, the grant recipient shall reimburse the state an amount equal to either the proceeds from the sale or other disposition of the interest or the fair market value of the interest sold or otherwise disposed of, whichever amount is greater.

(b) In lieu of seeking reimbursement pursuant to paragraph (2) of subdivision (a), the department may impose restrictions on the use of public park property identical to the requirements for the preservation of public parks set forth in the Public Park Preservation Act of 1971 (Chapter 2.5 (commencing with Section 5400)) with respect to any property used, sold, or otherwise disposed of in a manner not permitted by the terms of the grant.

5651. The recipient of a grant pursuant to this chapter may use the grant funds to pay for any portion of the cost of cleaning up, removing, or remediating any toxic materials or hazardous substances, if the amount used for cleanup, removal, or remediation does not exceed the lesser of 20 percent of the grant allocated to the project or one hundred thousand dollars (\$100,000).

5652. A grant recipient shall encumber grant moneys within three years of the date of the approval of the grant.

5653. On or before April 30, 2003, and on or before April 30 annually thereafter, the department shall submit a report to the Legislature on the status of each grant made pursuant to this chapter.

5654. The provisions of this chapter shall be implemented only in a fiscal year for which funding is provided for that purpose in the annual Budget Act.

