

Date of Hearing: May 12, 2020

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 3172 (Gray) – As Amended May 4, 2020

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

SUMMARY: Allows the City of Modesto to dispose of specified park property, subject to certain conditions. Specifically, **this bill:**

- 1) Allows the City of Modesto to dispose of all or a portion of current Beard Brook Park property acquired or developed with grant moneys from the California Park and Recreational Facilities Act of 1984, the Community Parklands Act of 1986, and the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000, as approved by the Department of Parks and Recreation, and at no cost to the state.
- 2) Requires property acquired pursuant to this bill to be used for the Beard Tuolumne River Park and to be subject to all applicable requirements of the California Park and Recreational Facilities Act of 1984, the Community Parklands Act of 1986, and the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000.
- 3) Requires property acquired pursuant to this bill to be acquired before or simultaneous to the disposing of the Beard Brook Park property.
- 4) States the intent of the Legislature that the disposition of park property and the acquisition of replacement property of equal or greater recreational value authorized under this bill is for the sole purpose of increasing recreational opportunities in the City of Modesto.

EXISTING LAW:

- 1) The California Park and Recreational Facilities Act (AB 2099, Farr, 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.
- 2) The Community Parklands Act (SB 806, Presley, 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.
- 3) The Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Bond Act of 2000 (AB 18, Villaraigosa, 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, sale, or other disposition of the property.

FISCAL EFFECT: None

COMMENTS:

- 1) **Author's Statement.** According to the author, "AB 3172 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, dependent options for non-motorized commuting in a region which consistently ranks among the most polluted areas for ozone and soot in California."
- 2) **Background.** 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's communities, including:
 - a) The California Park and Recreational Facilities Act of 1984 (Proposition 18), which authorized \$370 million in bond funding to support acquisition, development, rehabilitation, or restoration of state and local parks, coastal resources, and wildlife management areas.
 - b) The Community Parklands Act placed Proposition 43 on the statewide ballot. 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; and,
 - c) The Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Act of 2000 (Proposition 12), authorized \$2.1 billion in bond funding to support acquisition, development, improvement, rehabilitation, restoration, enhancement, and protection of park, recreational, cultural, historical, fish and wildlife, lake, riparian, reservoir, river, and coastal resources.

The California Department of Parks and Recreation is responsible for developing and administering state and federal grant programs to support the creation, restoration, and expansion of local parks throughout the state. The Department provides technical assistance to all grant applicants and is responsible for ensuring grant recipients adhere to the program requirements from which they received funding. Over the past 50 years, the Department has administered approximately \$3.4 billion in local assistance grants, which equates to roughly 20,000 projects statewide.

- 3) **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...”

The City is proposing to transfer ownership of Beard Brook Park to a private entity in exchange for land of equal value less than half a mile away along the Tuolumne River. According to the California Department of Parks and Recreation, the City of Modesto has received more than \$11 million in state grants from various bond programs administered by the department since 1965. The City of Modesto received state grants for improvements at Beard Brook Park; receipt of state grant funding restricts the ability to transfer the land.

- 4) **Transferring Park Lands.** State law generally restricts the use of property acquired and developed with state grant funds to the purpose for which the grant funds were originally requested, unless specified prerequisites for a transfer are met and the Legislature grants specific authorization for the transfer. AB 3172 provides legislative authorization for the City of Modesto to make such a transfer, provided that the land acquired in the transfer is subject to all of the requirements of the state grant programs that applied to the original park property and that the transfer is approved by the California Department of Parks and Recreation.

The City of Modesto is in communication with the California Department of Parks and Recreation regarding the proposed transfer and intends to continue working with the Department to finalize the transfer upon adoption of this bill.

- 5) **Previous Legislation.** AB 1330 (Reyes), Chapter 476, Statutes of 2018, allowed the Bloomington Recreation and Park District to dispose of property used for park purposes at Ayala Park, subject to certain conditions.

SB 178 (Weickowski), Chapter 458, Statutes of 2017, authorized the City of Fremont to transfer 4.6 acres of park property to the Fremont Unified School District, provided the City adhered to specific program guidelines, as defined.

SB 1027 (Nielsen), Chapter 232, Statutes of 2016, authorized the County of Tehama to transfer Evergreen Union School District specified park land, subject to the requirements of the grant program utilized to purchase and maintain the park.

AB 1864 (Matthews), Chapter 558, Statutes of 2006, authorized the City of Merced to transfer Merced City School District up to three acres of specified park land to construct a new elementary school, subject to the Public Preservation Act of 1971, and provided that the City followed specific requirements.

AB 1457 (Baca), Chapter 852, Statutes of 2006, authorized the City of San Bernardino to transfer up to 12.5 acres of specified park property to the Redevelopment Agency of the City of San Bernardino for sale to private development, provided that the City followed the requirements of the Public Park Preservation Act of 1971.

- 6) **Arguments in Support.** The City of Modesto writes, “The proposed legislation will allow the City of Modesto to transfer ownership of the Park to an adjacent property owner in exchange for that entity providing the City with property located along the Tuolumne River. The property the City intends to receive is a critical missing segment of our Tuolumne River Regional Park –Riverwalk Trail.

“Beard Brook Park is surrounded by large industrial uses, and the general public’s use of the Park has significantly declined over the last thirty years for a variety of reasons. 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.”

- 7) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

City of Modesto

Opposition

None on file

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