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SB-442 State parks: resource exploitation exceptions: commercialization of investigation results. (2019-2020)

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Senate Bill No. 442

CHAPTER 477

An act to amend Section 5001.65 of, and to add Section 5001.67 to, the Public Resources Code, relating to state parks.

[Approved by Governor October 02, 2019. Filed with Secretary of State October 02, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 442, Dodd. State parks: resource exploitation exceptions: commercialization of investigation results.

Under existing law, the Department of Parks and Recreation has control of the state park system. Existing law prohibits commercial exploitation of resources in state park system units, but provides certain exceptions for commercial drilling for oil or gas and commercial fishing, as specified. Upon receiving prior approval from the Director of Parks and Recreation, existing law encourages qualified institutions and individuals to conduct nondestructive forms of scientific investigation within state park system units. Existing law establishes the State Parks and Recreation Fund into which are deposited fees, rents, and other returns for use of the state parks, and moneys in the fund are available for expenditure for state park planning, acquisition, and development projects, operation of the state park system, and resource and property management and protection, when appropriated by the Legislature.

This bill would provide an exception to the prohibition on commercial exploitation of resources in state park system units for the commercialization of "investigation results," which the bill would define as the results of scientific research, scientific investigations, or the progeny of biological samples collected pursuant to director-approved scientific investigation within state park system units. The bill would authorize an applicant to commercialize particular investigation results only if the applicant has completed certain actions, including entered into a benefits sharing agreement with the director, as specified. The bill would require any person or entity that commercializes or seeks to commercialize investigation results obtained within the state park system without a director-approved benefits sharing agreement to pay 75% of gross revenue from the commercialization of the investigation results to the department. The bill would authorize the department to set and collect application fees for certain permits and applications in amounts not to exceed the reasonable costs of the department. The bill would require the department to deposit those fees, the proceeds collected from a benefits sharing agreement, and moneys paid for commercialization without a benefits sharing agreement, into the State Parks and Recreation Fund, to be available to the department, upon appropriation by the Legislature, for the management and restoration of natural resources of the state park system and administration of these provisions. The bill would require the department to post, and update annually, certain information regarding approved commercialization applications on its internet website.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 5001.65 of the Public Resources Code is amended to read:

5001.65. (a) Commercial exploitation of resources in units of the state park system is prohibited, except all of the following is permissible:

(1) Slant or directional drilling for oil or gas with the intent of extracting deposits underlying the Tule Elk State Reserve in Kern County in accordance with Section 6854.

(2) Commercial fishing, unless otherwise restricted, in state marine conservation areas, state marine cultural preservation areas, and state marine recreational management areas.

(3) (A) The commercialization of investigation results, provided that commercialization is consistent with the requirements of Section 5001.67.

(B) For purposes of this paragraph, "investigation results" means the results of scientific research, scientific investigation, or the progeny of biological samples collected pursuant to subdivision (a) of Section 5001.67.

(b) The taking of mineral specimens for recreational purposes from state beaches, state recreation areas, or state vehicular recreation areas is permitted upon receiving prior approval of the director.

SEC. 2. Section 5001.67 is added to the Public Resources Code, to read:

5001.67. (a) Qualified institutions and individuals shall be encouraged to conduct nondestructive forms of scientific investigation within state park system units, upon receiving prior approval from the director.

(b) An applicant may commercialize particular investigation results only if the applicant has completed both of the following:

(1) Published or otherwise placed into the public domain the investigation results.

(2) (A) Entered into a benefits sharing agreement issued pursuant to this paragraph.

(B) A benefits sharing agreement shall be limited to the particular investigation results and the specific commercial application identified in paragraph (1) of subdivision (c).

(C) A benefits sharing agreement shall describe the department's equitable compensable interest in the commercial application of the particular investigation results. Among other considerations, this may include monetary and nonmonetary benefits provided to the department resulting from the commercial application identified in paragraph (1) of subdivision (c).

(D) A benefits sharing agreement shall not be approved solely for its revenue-producing potential.

(c) The director, in the director's discretion, may enter into a benefits sharing agreement with an applicant for purposes of subdivision (b) if the applicant has taken the following actions:

(1) Identified the commercial application and the particular investigation results to be used in the commercial application.

(2) Described how the commercial application identified pursuant to paragraph (1) will provide a compelling public benefit to the state, particularly benefits that advance resource protection and management.

(3) Demonstrated that no further collection of specimens or disturbance of state park system resources will be required for the commercial application identified pursuant to paragraph (1).

(4) Agreed to any other required terms and conditions of the department and paid any required application and administrative fees to the department.

(d) The department may set and collect application fees for permits and applications pursuant to this section and Section 5001.65 in amounts not to exceed the reasonable costs of the department.

(e) The department shall deposit fees collected pursuant to subdivision (d), the proceeds collected from a benefits sharing agreement entered into pursuant to this section, and moneys paid pursuant to subdivision (h), into the State Parks and Recreation Fund, to be available to the department, upon appropriation by the Legislature, for the management and restoration of natural resources of the state park system and administration of this section. It is the intent of the Legislature that any moneys deposited in the State Parks and Recreation Fund pursuant to this section are in addition to and do not supplant or replace any existing state funding for the operation and maintenance of the state park system.

(f) The department shall post, and update annually, information regarding approved commercialization applications, including the applicant's name, the park unit affected, a brief description of the project permitted, and a summary of the benefits sharing agreement, on its internet website.

(g) Nothing in this section relieves any applicant from compliance with state and federal laws and regulations, including permit requirements.

(h) In addition to all other remedies in law or equity that the department may have, any person or entity that commercializes or seeks to commercialize investigation results obtained within the state park system without a director-approved benefits sharing agreement shall be required to pay 75 percent of gross revenue from the commercialization of the investigation results to the department.

(i) For purposes of this section, "investigation results" means the results of scientific research, scientific investigation, or the progeny of biological samples collected pursuant to subdivision (a).