

Proposition 40 Text Initiative

SECTION 1. Chapter 1.696 (commencing with Section 5096.600) is added to Division 5 of the Public Resources Code, to read:

Chapter 1.696. The California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002

Article 1. General Provisions

5096.600. This chapter shall be known, and may be cited, as the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002.

5096.601. The Legislature finds and declares all of the following:

(a) To maintain a high quality of life for California's growing population requires a continuing investment in parks, recreation facilities, and in the protection of the state's natural and historical resources.

(b) Clean air, clean water, clean beaches, and healthy natural ecosystems that can support both human communities and the state's native fish and wildlife are all part of the legacy of California. Each generation has an obligation to be good stewards of these resources in order to pass them on to their children.

(c) California's historical legacy also requires active protection, restoration, and interpretation to preserve and pass on an understanding and appreciation of the diverse cultural influences and extraordinary human achievements that have contributed to the unique development of California.

5096.605. As used in this chapter, the following terms have the following meanings:

(a) "Acquisition" means obtaining the fee title or a lesser interest in real property, including specifically, a conservation easement or development rights.

(b) "Department" means the Department of Parks and Recreation.

(c) "Development" includes, but is not limited to, improvement, rehabilitation, restoration, enhancement, preservation, protection, and interpretation.

(d) "Director" means the Director of the Department of Parks and Recreation.

(e) "District" means any 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, any recreation and park district formed pursuant to Chapter 4 (commencing with Section 5780), or an authority formed pursuant to Division 26 (commencing with Section 35100). With respect to any community or unincorporated region that is not included within a district, and in which no city or county provides parks or recreational areas or facilities, "district" also means any other district that is authorized by statute to operate and manage parks or recreational areas or facilities, employs a full-time park and recreation director, offers year-round park and recreation services on lands and facilities owned by the district, and allocates a substantial portion of its annual operating budget to parks or recreation areas or facilities.

(f) "Fund" means the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund created pursuant to Section 5096.610.

(g) "Historical resource" includes, but is not limited to, any building, structure, site, area, place, artifact, or collection of artifacts that is historically or archaeologically significant in the cultural annals of California.

(h) "Local conservation corps" means a program operated by a public agency or nonprofit organization that is certified pursuant to Section 14406.

(i) "Nonprofit organization" means any nonprofit public benefit corporation formed pursuant to the Nonprofit Corporation Law (commencing with Section 5000 of the Corporations Code), qualified to do business in California, and qualified under Section 501(c)(3) of the Internal Revenue Code.

(j) "Preservation" means identification, evaluation, recordation, documentation, interpretation, protection, rehabilitation, restoration, stabilization, development, and reconstruction, or any combination of those activities.

(k) "Secretary" means the Secretary of the Resources Agency.

5096.606. Lands or interests in land acquired with funds allocated pursuant to this chapter shall be acquired from a willing seller.

Article 2. The California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002

5096.610. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund, which is hereby created. Except as provided in subdivision (a) of Section 5096.650, the money in the fund shall be available for appropriation by the Legislature, in the manner set forth in this chapter, for acquisition and development projects, in accordance with the following schedule:

(a) The sum of two hundred twenty-five million dollars (\$225,000,000) for acquisition and development of the state park system.

(b) The sum of eight hundred thirty-two million five hundred thousand dollars (\$832,500,000) for local assistance programs for the acquisition and development of neighborhood, community, and regional parks and recreation areas.

(c) The sum of one billion two hundred seventy-five million dollars (\$1,275,000,000) for land, air, and water conservation programs, including acquisition for those purposes.

(d) The sum of two hundred sixty-seven million five hundred thousand dollars (\$267,500,000) for the acquisition, restoration, preservation, and interpretation of California's historical and cultural resources.R

Article 3. State Parks

5096.615. The two hundred twenty-five million dollars (\$225,000,000) allocated pursuant to subdivision (a) of Section 5096.610 shall be available for appropriation by the Legislature to the department for the acquisition and development of the state park system. It is the intent of the Legislature that first priority for funding shall be for development projects to complete and expand visitor facilities and for restoration projects. Not more than 50 percent of the funds provided by this section may be used for acquisition.

Article 4. Local Assistance Programs

5096.620. The eight hundred thirty-two million five hundred thousand dollars (\$832,500,000) allocated pursuant to subdivision (b) of Section 5096.610 shall be available for appropriation by the Legislature for local assistance programs, in accordance with the following schedule:

(a) The sum of three hundred fifty million dollars (\$350,000,000) to the department for grants, in accordance with Section 5096.621, and on the basis of population, for the acquisition and development of neighborhood, community, and regional parks and recreation lands and facilities in urban and rural areas.

(b) The sum of two hundred million dollars (\$200,000,000) to the department for grants, in accordance with the Roberti-Z'berg-Harris Urban Open-Space and Recreation Program Act (Chapter 3.2 (commencing with Section 5620)).

(c) The sum of twenty-two million five hundred thousand dollars (\$22,500,000) on a per capita basis in accordance with subdivision (g) of Section 5096.621.

(d) The sum of two hundred sixty million dollars (\$260,000,000) to the department for grants for urban and special need park programs in accordance with Section 5096.625.

5096.621. (a) Sixty percent of the total funds available for grants pursuant to subdivision (a) of Section 5096.620 shall be allocated to cities and to districts other than a regional park district, regional park and open-space district, or regional open-space district. Each city's and district's allocation shall be in the same ratio as the city's or district's population is to the combined total of the state's population that is included in incorporated areas and unincorporated areas within the district, except that each city or district shall be entitled to a minimum allocation of two hundred twenty thousand dollars (\$220,000). In any instance in which the boundary of a city overlaps the boundary of such a district, the population in the area of overlapping jurisdiction shall be attributed to each jurisdiction in proportion to the extent to which each operate and manage parks and recreational areas and facilities for that population. In any instance in which the boundary of a city overlaps the boundary of such a district, and in the area of overlap the city does not operate and manage parks and recreational areas and facilities, all grant funds shall be allocated to the district.

(b) Each city and each district subject to subdivision (a) whose boundaries overlap shall develop a specific plan for allocating the grant funds in accordance with the formula specified in subdivision (a). If, by April 1, 2003, the plan has not been agreed to by the city and district and submitted to the department, the director shall determine the allocation of the grant funds among the affected jurisdictions.

(c) Forty percent of the total funds available for grants pursuant to subdivision (a) of Section 5096.620 shall be allocated to counties and regional park districts, regional park and open-space districts, or regional open-space districts formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3.

(d) Each county's allocation under subdivision (a) shall be in the same ratio as the county's population, except that each county shall be entitled to a minimum allocation of one million two hundred thousand dollars (\$1,200,000).

(e) In any county that embraces all or part of the territory of a regional park district, regional park and open-space district, or regional open-space district, whose board of directors is not the county board of supervisors, the amount allocated to the county shall be apportioned between that district and the county in proportion to the population of the county that is included within the territory of the district and the population of the county that is outside the territory of the district.

(f) For the purpose of making the calculations required by this section, population shall be determined by the department, in cooperation with the Department of Finance, on the basis of the most recent verifiable census data and other verifiable population data that the department may require to be furnished by the applicant city, county, or district.

(g) Of the funds appropriated in subdivision (c) of Section 5096.620, twelve million five hundred thousand dollars (\$12,500,000) shall be allocated to a city with an urban population greater than three million five hundred thousand in a county of the first class, and ten million dollars (\$10,000,000) shall be allocated to a county of the first class.

(h) The Legislature finds and declares that it intends all recipients of funds pursuant to subdivision (a) of Section 5096.620 to use those funds to supplement local revenues, in existence on the effective date of the act adding this chapter during the 2001-02 Regular Session, that are being used for parks or other projects eligible for funds under this chapter. To receive any allocation pursuant to subdivision (a) of Section 5096.620, the recipient may not reduce the amount of funding otherwise available to be spent on parks or other projects eligible for funds under this chapter in their jurisdiction. One-time allocations that have been expended for parks or other projects, but which are not available on an ongoing basis, may not be considered when calculating a recipient's annual expenditures. For purposes of this subdivision,

the Controller may request fiscal data from recipients for the preceding three fiscal years. Each recipient shall furnish the data to the Controller not later than 120 days after receiving the request from the Controller.

5096.624. (a) The director shall prepare and adopt criteria and procedures for evaluating applications for grants allocated pursuant to subdivisions (a) to (c), inclusive, of Section 5096.620. Individual applications for funds shall be submitted to the department for approval as to their conformity with the requirements of this chapter. The application shall be accompanied by certification that the project for which the grant is requested is consistent with the park and recreation element of the applicable city or county general plan or the district park and recreation plan, as the case may be, and will satisfy a high priority need.

(b) To utilize available grant funds as effectively as possible, overlapping or adjoining jurisdictions and applicants with similar objectives are encouraged to combine projects and submit a joint application. An applicant may allocate all or a portion of its per capita share for a regional or state project.

(c) The director shall annually forward a statement of the total amount to be appropriated in each fiscal year for projects approved for grants pursuant to this article to the Director of Finance for inclusion in the Budget Bill. A list of eligible jurisdictions and the amount of grant funds to be allocated to each shall also be made available by the department.

(d) Funds appropriated pursuant to this article shall be encumbered by the recipient within three years from the date the appropriation is effective. Regardless of the date of encumbrance of the granted funds, the recipient is expected to complete all funded projects within eight years of the effective date of the appropriation.

5096.625. The funds provided in subdivision (d) of Section 5096.620 shall be available as grants for public agencies and nonprofit organizations for the acquisition and development of new parks, botanical gardens, nature centers, and other community facilities in park poor communities. The funds may be expended pursuant to Section 5004.5, and Chapter 1.55 (commencing with Section 5095), if Senate Bill 359 of the 2001-02 Regular Session of the Legislature is enacted on or before January 1, 2003, and Chapter 3.3 (commencing with Section 5640), if Assembly Bill 1481 of the 2001-02 Regular Session of the Legislature is enacted on or before January 1, 2003, or pursuant to any other applicable statutory authorization. Not less than fifty million dollars (\$50,000,000) of the funds provided in subdivision (d) of Section 5096.620 shall be expended for competitive grants consistent with the requirements of subdivision (b) of Section 5096.348. Ten million dollars (\$10,000,000) of the funds provided in subdivision (d) of Section 5096.620 shall be available for development of Central Park in the City of Rancho Cucamonga. Five million dollars (\$5,000,000) of the funds provided in subdivision (d) of Section 5096.620 shall be available for allocation to the City of Los Angeles for park and recreation or community facilities at or adjacent to the Hansen Dam recreation area. Five million dollars (\$5,000,000) of the funds provided in subdivision (d) of Section 5096.620 shall be available for allocation to the City of Los Angeles for the Sepulveda Basin recreational parkland.

5096.629. In making grants of funds allocated pursuant to subdivision (d) of Section 5096.620, priority shall be assigned to projects that include a commitment for a matching contribution. Contributions may be in the form of money from a nonstate source; gifts of real property, equipment, and consumable supplies; volunteer services; free or reduced-cost use.

5096.633. Any grant funds appropriated pursuant to this article that have not been expended by the grant recipient prior to July 1, 2011, shall revert to the fund and be available for appropriation by the Legislature for one or more of the local assistance programs specified in Section 5096.620 that the Legislature determines to be the highest priority statewide.

Article 5. Land, Air, and Water Conservation

5096.650. The one billion two hundred seventy-five million dollars (\$1,275,000,000) allocated pursuant to subdivision (c) of Section 5096.610 shall be available for the acquisition and development of land, air, and water resources in accordance with the following schedule:

(a) Notwithstanding Section 13340 of the Government Code, the sum of three hundred million dollars (\$300,000,000) is continuously appropriated to the Wildlife Conservation Board for the acquisition, development, rehabilitation, restoration, and protection of habitat that promotes the recovery of threatened and endangered species, that provides corridors linking separate habitat areas to prevent habitat fragmentation, and that protects significant natural landscapes and ecosystems such as old growth redwoods and oak woodlands and other significant habitat areas; and for grants and related state administrative costs pursuant to the Wildlife Conservation Law of 1947 (Chapter 4 (commencing with Section 1300) of Division 2 of the Fish and Game Code). Funds scheduled in this subdivision may be used to prepare management plans for properties acquired in fee by the Wildlife Conservation Board.

(b) The sum of four hundred forty-five million dollars (\$445,000,000) to the conservancies in accordance with the particular provisions of the statute creating each conservancy for the acquisition, development, rehabilitation, restoration, and protection of land and water resources; for grants and state administrative costs; and in accordance with the following schedule:

- (1) To the State Coastal Conservancy..... \$ 200,000,000
- (2) To the California Tahoe Conservancy..... \$ 40,000,000
- (3) To the Santa Monica Mountains Conservancy..... \$ 40,000,000
- (4) To the Coachella Valley Mountains Conservancy..... \$ 20,000,000
- (5) To the San Joaquin River Conservancy..... \$ 25,000,000
- (6) To the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy..... \$ 40,000,000
- (7) To the Baldwin Hills Conservancy..... \$ 40,000,000
- (8) To the San Francisco Bay Area Conservancy Program..... \$ 40,000,000

(c) The sum of three hundred seventy-five million dollars (\$375,000,000) shall be available for grants to public agencies and nonprofit organizations for acquisition, development, restoration, and associated planning, permitting, and administrative costs for the protection and restoration of water resources in accordance with the following schedule:

(1) The sum of seventy-five million dollars (\$75,000,000) to the secretary for the acquisition and development of river parkways and for protecting urban streams. The secretary shall make funds available in accordance with Sections 7048 and 78682.2 of the Water Code, and pursuant to any other applicable statutory authorization. Not less than five million dollars (\$5,000,000) shall be available for grants for the urban streams program, pursuant to Section 7048 of the Water Code.

(2) The sum of three hundred million dollars (\$300,000,000) shall be available for the purposes of clean beaches, watershed protection, and water quality projects to protect beaches, coastal waters, rivers, lakes, and streams from contaminants, pollution, and other environmental threats.

(d) The sum of fifty million dollars (\$50,000,000) to the State Air Resources Board for grants to air districts pursuant to Chapter 9 (commencing with Section 44275) of Part 5 of Division 26 of the Health and Safety Code for projects that reduce air pollution that affects air quality in state and local park and recreation areas. Eligible projects shall meet the requirements of Section 16727 of the Government Code and shall be consistent with Section 43023.5 of the Health and Safety Code, if Assembly Bill 1390 of the 2001-02

Regular Session of the Legislature is enacted on or before January 1, 2003. Each district shall be eligible for grants of not less than two hundred thousand dollars (\$200,000). Not more than 5 percent of the funds allocated to a district may be used to cover the costs associated with implementing the grant program.

(e) The sum of twenty million dollars (\$20,000,000) to the California Conservation Corps for the acquisition, development, restoration, and rehabilitation of land and water resources, and for grants and state administrative costs in accordance with the following schedule:

(1) The sum of five million dollars (\$5,000,000) shall be available for resource conservation activities.

(2) The sum of fifteen million dollars (\$15,000,000) shall be available for grants to local conservation corps for acquisition and development of facilities to support local conservation corps programs.

(f) The sum of seventy-five million dollars (\$75,000,000) shall be available for grants for the preservation of agricultural lands and grazing lands, including oak woodlands and grasslands.

(g) The sum of ten million dollars (\$10,000,000) to the Department of Forestry and Fire Protection for grants for urban forestry programs pursuant to the California Urban Forestry Act of 1978 (Chapter 2 (commencing with Section 4799.06) of Part 2.5 of Division 1).

5096.651. In making grants pursuant to subdivisions (a) and (b) of Section 5096.650, priority shall be given to projects that include a commitment for a matching contribution. Contributions may be in the form of money, property, or services.

Article 5. Historical and Cultural Resources Preservation

5096.652. (a) The two hundred sixty-seven million five hundred thousand dollars (\$267,500,000) allocated pursuant to subdivision (d) of Section 5096.610 shall be available for appropriation by the Legislature for the acquisition, development, preservation, and interpretation of buildings, structures, sites, places, and artifacts that preserve and demonstrate culturally significant aspects of California's history and for grants for these purposes. Eligible projects include, but are not limited to, those which preserve and demonstrate the following:

(1) Culturally significant aspects of life during various periods of California history including architecture, economic activities, art, recreation, and transportation.

(2) Unique identifiable ethnic and other communities that have added significant elements to California's culture.-

(3) California industrial, commercial, and military history including the industries, technologies, and commercial activities that have characterized California's economic expansion and California's contribution to national defense.

(4) Important paleontologic, oceanographic, and geologic sites and specimens.

(b) Thirty-five million dollars (\$35,000,000) of the funds available pursuant to this section shall be allocated to a city for the development, rehabilitation, preservation, restoration, and interpretation of resources at a city park of historical and cultural significance that is over 1,000 acres and that serves an urban area with a population that is greater than 750,000 in northern California.

(c) Two million five hundred thousand dollars (\$2,500,000) of the funds available pursuant to this section shall be allocated to the County of Los Angeles for the El Pueblo Cultural and Performing Arts Center.

Article 6. Fiscal Provisions

5096.665. Bonds in the total amount of two billion six hundred million dollars (\$2,600,000,000), not including the amount of any refunding bonds issued in accordance with Section 5096.677, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes set forth in Section 5096.610 and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable. Pursuant to this section, the Treasurer shall sell the bonds authorized by the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act Finance Committee created pursuant to subdivision (a) of Section 5096.667 at any different times that are necessary to service expenditures appropriated pursuant to this chapter.

5096.666. The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter by this reference as though set forth in full in this chapter.

5096.667.

(a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this chapter, the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act Finance Committee is hereby created. For purposes of this chapter, the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Controller, the Director of Finance, and the Treasurer, or their designated representatives. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the Secretary of the Resources Agency is designated the "board."

5096.668. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter to carry out Section 5096.610 and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

5096.670. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds maturing each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

5096.671. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 5096.672, appropriated without regard to fiscal years.

5096.672. For purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds that have

been authorized to be sold for the purpose of carrying out this chapter. Any amount withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

5096.673. Pursuant to Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, the cost of bond issuance shall be paid out of the bond proceeds. These costs shall be shared proportionally by each program funded through this bond act.

5096.674. Actual costs incurred in connection with administering programs authorized under the categories specified in Section 5096.610 shall be paid from the funds authorized by this act.

5096.675. The secretary may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, including other authorized forms of interim financing that include, but are not limited to, commercial paper, in accordance with Section 16312 of the Government Code, for purposes of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this chapter. The secretary shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

5096.676. All money deposited in the fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

5096.677. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state of the issuance of the bonds described in this chapter includes the approval of the issuance of any bonds to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

5096.678. Notwithstanding any provision of this chapter or the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or to take any other action with respect to the investment and use of bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

5096.679. (a) The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

(b) Funds provided pursuant to this chapter, and any appropriation or transfer of those funds, shall not be deemed to be a transfer of funds for the purposes of Chapter 9 (commencing with Section 2780) of Division 3 of the Fish and Game Code.

5096.681. Except for funds continuously appropriated by this chapter, all appropriations of funds pursuant to Section 5096.610 for purposes of the program shall be included in the Budget Bill for the 2002-03 fiscal year, and each succeeding fiscal year, for consideration by the Legislature, and shall bear the label "California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Program Fund." The Budget Bill section shall contain separate items for each project, each class of project, or each element of the program for which an appropriation is made.

5096.683. The Secretary shall provide for an annual audit of expenditures from this chapter.