Southern California Golf Association
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March 30, 2022

Assembly Local Government Committee
Assembly Member Cecilia Aguiar-Curry, Chair
1020 N Street, Room 157
Sacramento, California 95814

Re: **Opposition to Assembly Bill 1910 [Conversion of Publicly Owned Golf Courses to Affordable Housing].**

Dear Chairperson Aguiar-Curry and Members of the Committee:

On behalf of the 1,400 golf clubs and 187,000 individual members of the Southern California Golf Association (SCGA), I write to express the organization's **opposition** to AB 1910.

Singling out California's publicly owned golf courses among the state's multiplicity of park/recreation/green functions for subsidized development raises serious questions about settled California law (Surplus Land Act and Public Park Preservation Act), depletes green space in precisely those communities already deemed "park poor," creates the slipperiest of slopes for other longstanding members of the California active recreational community, excommunicates golf from the park/recreation family of which it has been a part in California for more than 100 years, promises scant housing at very high cost, and does all of this per premises about public golf in California that are demonstrably false.

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Support for AB 1910 is premised upon six (6) assertions, four of which are just plain factually incorrect, one of which is incorrect in terms of the clear intent and spirit of settled California law, and one of which is very much settled and acknowledged California law but problematic in terms of how it would practically apply to AB 1910:

1. That the California golf industry is in decline;
2. That California's publicly owned (municipal) golf courses are underutilized;
3. That California's municipal golf courses are "subsidized";
4. That California's municipal golf courses are not "parks" under California law;
5. That the California Public Park Preservation Act of 1971 (California Public Resources Code 5400 et. seq.) is not applicable to the repurposing of parks for non-park, recreation, or open space purposes; and
6. That the Surplus Land Act (Health and Safety Code Sections 50400 – 50466), which Assembly Housing and Community Development Committee has established as 100% applicable to AB 1910, would not pose insurmountable practical problems for AB 1910 and incent litigation.

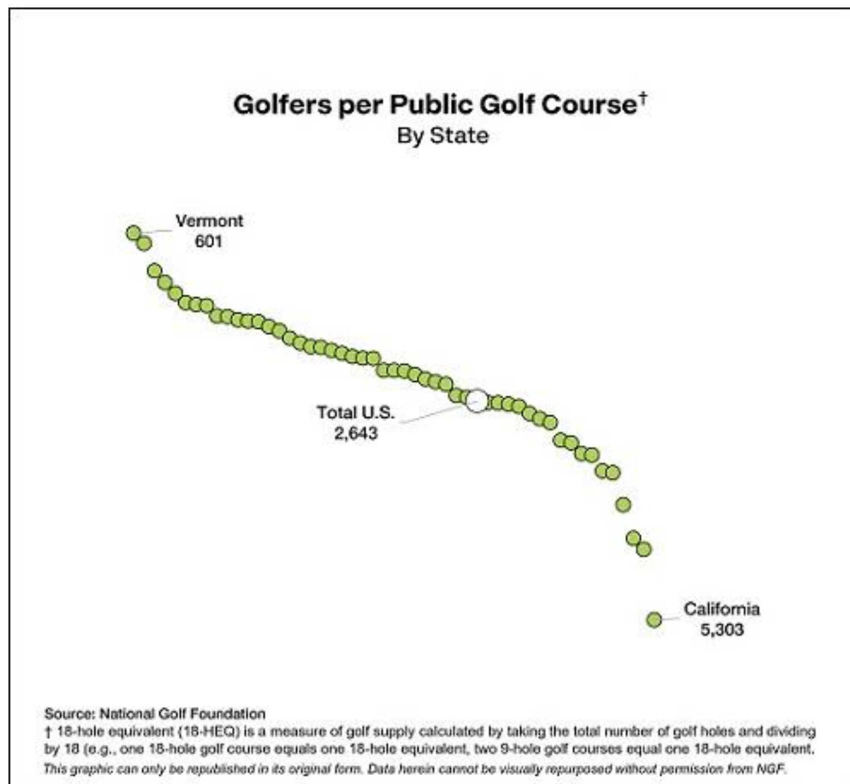
**California Golf Has Never Been Stronger**

The National Golf Foundation (NGF), which has filed a separate letter in opposition to AB 1910, reports that more rounds of golf were played in 2021 than any other year in American history – a particularly impressive statistic given that there were fewer golf courses in 2021 than in 2000. Nationwide, the strongest growth since 2019 was

seen among youth (+22%), African Americans (+18%), women (+11%) and Latinos (+9%). In California, which also reported more rounds of golf in 2021 than in any previous year, the increases in youth and African American participation were roughly the same, while the number of women and Latinos significantly higher.

3.2 million people took up the sport for the first time in 2020 and 2021, the most ever over a 2-year period, 37% of them female and 31% persons of color. Seventy percent (70%) of California's golf courses are public, 22.3% of them owned by government agencies (parkland golf courses). More than one-third of those who play golf in California have median incomes below the fiftieth percentile; that number rises significantly when one factors out those who belong to private clubs. Those who play California's municipal golf courses reflect California's diversity – gender, ethnic, racial, lifestyle, and religious diversity, in addition to economic and class diversity. They are open spaces for the working and middle classes, not playgrounds for the privileged. They offer recreation for all ages, from the youngest of children to the oldest of seniors, and well-known health benefits as well.

Despite the large number of courses in California, the state is woefully undersupplied when taking into consideration the state's huge population, ranking at the bottom in per capita public golf supply. (See NGF Graphic.) The state would need 533 more public golf courses for it to pull even with the national golfers-per-public-golf-course average. California would need to add a public golf course a day for the next year and a half just to reach the U.S. 'average' level of public golf supply.




The notion that there are "underutilized" golf courses in California flies in the face of reality – namely, that it is very difficult to secure a tee time at a public golf course nearly anywhere in the state.

The notion that California's municipal golf courses are routinely "subsidized" is also contradicted by any reasonable understanding of the facts. In 2021 the municipal program often cited by proponents of AB 1910, the County of Los Angeles, reported net revenues of $14 million that its Department of Parks & Recreation used to provide funding for non-golf programming that would have otherwise been funded by that county's taxpayers or cancelled. The City of Los Angeles reported $5 million in net golf revenues. The City of Long Beach reported $6 million. The

City of San Diego reported just under $10 million. It is true that in some years there are non-regulation golf facilities and developmental facilities (e.g., junior golf academies) that operate at deficits; however, they are integral to the larger ecosystems that make it possible for the state's major municipal systems, almost entirely located within those areas considered most "park poor" in California, to deliver those net revenues that help fund the vast majority of park/recreation programs entirely reliant upon public subsidy to exist.

**Municipal Golf Courses Are Parks**

Municipal golf courses have been integral parts of the California parks community for 106 years – from 1916 when the City of Los Angeles opened its Wilson Golf Course in that city's Griffith Park until today. They are part of the same public park systems that provide soccer, baseball/softball, swimming, picnicking, biking, pickleball, tennis, walking/riding trails, equestrian activities, and myriad other recreational amenities that but for their provision by government would NOT be part of life in a California city, suburb, or exurb for the vast majority of the population unable to afford private club memberships. The one difference is that golf tends to have higher participation rates than most if not all of the other "active" recreational offerings of public park systems. The one thing that all active recreational activities have in common is that they are all restricted to their particular use; they are not "passive" parks. Again, the one difference between golf and the others is a greater percentage of the population tends to avail itself of golf's particular use and does so while appealing to a much broader age distribution.

Municipal golf courses are parks; so say California's Courts. The leading case regarding whether a municipal golf course is a park under the terms of the 1971 Public Park Preservation Act is a 2001 case brought by a community group in Orange County challenging the construction of a municipal golf course within the confines of the County of Orange's Mile Square Regional Park. The community group maintained that converting a multiplicity of extant park uses to a golf course amounted to conversion of park space to a non-park purpose. In *Save Mile Square Park Com. v. County of Orange* (2001) 92 Cal. App. 4th 1142, 1148 the Court ruled that transformation of open-space or multi-use park space to a public golf course was as a legitimate park purpose that did not violate the Public Park Preservation Act because golf was a recreational activity, and the park would remain open to the public.

Golf courses preserve open space, sequester carbon, provide habitat, promote biodiversity, and allow rainwater to get into groundwater basins. And in times of global warming and record high temperatures, golf courses reduce temperatures in their surrounding areas. Publicly owned golf courses provide these benefits almost entirely in densely packed urban environments where they are most needed, and in communities disproportionately identified as "park poor." Converting them to hardscape exacerbates both problems. Public golf courses and other green spaces provide lasting capital; once gone, they are gone forever.

**California's Public Park Preservation Act**

The Public Park Preservation Act of 1971 (PPPA) (Public Resources Code 5400 et seq., as amended by Stats. 1975) restricts public agencies, including cities, counties, and state agencies, from using park land for "nonpark" purposes. (Pub. Res. Code, § 5401, sub. (a).) To use designated park land for a nonpark purpose, a public agency must pay the cost to acquire and develop a new park in the same area to be utilized generally by the same persons who used the existing park. (*Id.* §§ 5401, 5405, 5407.1.2.) Section 5401(a) reads in full:

> No city, city and county, county, public district, or agency of the state, including any division, department or agency of the state government, or public utility, shall acquire (by purchase, exchange, condemnation, or otherwise) any real property, which property is in use as a public park at the time of such acquisition, *for the purpose of utilizing such property for any nonpark purpose*, unless the acquiring entity pays or transfers to the legislative body of the entity operating the park sufficient compensation or land, or both, as required by the provisions of this chapter to enable the operating entity to replace the park land and the facilities thereon.

The PPPA requires equivalent replacement land or, if no suitable land is available, funds to provide for replacement park facilities. (*Id.* §§ 5401, 5400.) The "substitute" park land must be "of comparable characteristics and of substantially equal size located in an area which would allow for use of the substitute park land and facilities by generally the same persons who used the existing park land and facilities." (*Id.* § 5405.) All proceeds from the conversion of park land must go toward acquisition and development of substitute park land. (*Id.* § 5407.) To accept an offer from an acquiring entity, a city must notice and hold a public hearing. (*Id.* § 5406.) The hearing must address whether park land should be used for a nonpark purpose, and, if so, whether there is replacement land that is comparable in terms of characteristics and size. (*Id.* § 5407.2.) The replacement park must also meet the needs of the people who used the previous park. (*Id.*)

The bill that would become the PPPA, AB 1981, was introduced by Assemblymember Alan Sieroty (D-Beverly Hills) in April 1971. It was subsequently amended three times in the Senate. While the first amendment was technical, the next two times the Senate amended the bill it made important substantive changes to the legislation. In each instance, the Legislature made it more difficult to convert public park lands to other non-park uses.

AB 1910's provision for appropriated funds to facilitate conversion of golf courses is itself a recognition that those lands would be converted to nonpark uses and that the requirements of the PPPA apply. However, AB 1910 would provide funding that could be used by local agencies in their lawful disposition of existing park land and purchase of suitable substitute land, as required by the PPPA. AB 1910 funding would thus subsidize local agencies pursuing park substitution, assuming that such "suitable substitute land" that serves the community in which the conversion takes place is available.

Even where such suitable substitute land is available, there is no provision within AB 1910 that specifies just how large the grant program would need to be in order to provide the funding required to purchase 100 or more acres of suitable substitute land in the communities envisaged for conversion in AB 1910. And there is no mention of whether those grants would or could be used to then repurpose the lands thus acquired as some form of community park/recreation amenity, an additional and very high cost that has to be incorporated into any analysis of the utility of AB 1910. The only reference to cost in AB 1910 is an appropriation to be named later.

In practice, replacing parkland pursuant to the PPPA's requirements is likely to be extremely costly. In urban and suburban environments, most property around existing city parks is developed, and correspondingly expensive. As a result, moving or replacing an existing park necessarily entails buying up expensive, developed property, often at a large scale, in order to create a proportionate substitute park nearby. Thus, buying replacement parkland, as the PPPA requires, is both difficult and costly in most urban and suburban settings, and may require the expenditure of tens or hundreds of thousands of dollars to replace each acre of parkland in certain urban environments. However, AB 1910 is silent as to how the State will pay to replace golf course parkland in compliance with the PPPA. It is likely that significant appropriations would be required.

By providing AB 1910 funding in such circumstances, the Department of Housing may well violate the PPPA by being responsible for the change in the public golf course to a non-park use. A court would eventually settle that question. What is clear is that AB 1910 plainly violates the purpose and intent of the PPPA. As its legislative history makes clear, the PPPA was enacted to prevent the cannibalization of public parkland for other public uses, regardless of the importance of the proposed new use. Assemblymember Sieroty recognized when he drafted the PPPA that parkland is uniquely susceptible to conversion for other public projects if appraised using a fair market value approach, because parkland can simply be sold as undeveloped land that is significantly cheaper than neighboring, often highly developed urban parcels. In other words, Sieroty specifically drafted the PPPA to prevent the very goal AB 1910 pursues. In passing the PPPA unanimously, the Legislature intended park conversion to be disfavored and onerous.

By enacting AB 1910, the Legislature would reverse the 50-year trend of park preservation not just for publicly owned golf courses, but for ALL of the park and open space purposes. Passing AB 1910 would offer the slipperiest of slopes toward development of the few remaining green and open spaces in California's cities and suburbs for commercial purposes. Setbacks are not "open spaces" nor are they "parks."

**California's Surplus Land Act**

Excerpted verbatim from the Assembly Housing & Community Development staff analysis of AB 1910 establishing 100% applicability of the Surplus Land Act to AB 1910:

> "Existing Law:
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> 1) Establishes HCD and specifies its organization, general powers, and policy activities (Health and Safety Code Sections 50400 – 50466).
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> 2) Establishes programs administered by HCD addressing such topics as the construction, preservation, and rehabilitation of affordable housing, homelessness, homeownership, infrastructure, and planning (Health and Safety Code Sections 50470 – 50899.7).
>
> 3) Establishes the Surplus Lands Act (SLA) (Government Code Sections 54220-54234), which:
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>> a) Defines "surplus land" as land owned by any local agency that is determined to be no longer necessary for the agency's use.
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>> b) Requires each local agency, on or before December 31 of each year, to make an inventory of all surplus lands held, owned, or controlled by it or any of its departments, agencies, or authorities. Requires a description of each parcel found to be in surplus to be made a matter of public record and requires the agency to report this information to HCD no later than April 1 beginning in 2021.
>>
>> c) Establishes a **priority system** for the use of the surplus land, as follows:
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>>> i. **If the land being offered is already being used for a park or recreational use, then priority is given to applicants that would continue to use the land for park or recreational purposes;**
>>>
>>> ii. Next priority must be given to an applicant that will provide housing where at least 25 percent of the units are affordable to lower income households. If there are multiple applicants that meet this criterion, priority must be given to the applicant that provides the most number of affordable units; and
>>>
>>> iii. If there are no applicants that meet the criteria above and are successful in meeting price and terms with the jurisdiction, then the land can sell to another applicant. However, if that applicant builds more than 10 residential units, at least 15 percent of those units must be made affordable to lower income households.
>
> **Under existing law, if a local government sells a golf course, it would need to dispose of the property pursuant to the state's Surplus Lands Act (SLA).** The SLA was created in 1968 in an effort to facilitate the creation of affordable housing and other public benefits on this surplus land controlled by public agencies. Before state and local officials can dispose of surplus land, they must send a written offer to sell or lease surplus land to various public agencies and nonprofit groups. If another entity wants to buy or lease the surplus land for one of these purposes, it must tell the disposing agency within 60 days.

> **Per the SLA, in the instance where the existing use is a park or recreational use (as is the case for golf courses), the local government must prioritize applicants that agree to use the site for park or recreational uses – although not necessarily as a golf course.** If no such applicant emerges, the local government must prioritize an applicant that agrees to build housing where at least 25 percent of the units are affordable to lower income households. If there are multiple applicants, priority goes to the development with the highest number of affordable units. Finally, if no such applicant emerges that meet these criteria, the local government can sell to another applicant. However, if that applicant builds more than 10 residential units, at least 15 percent of those units must be made affordable to lower income households."

We agree with the conclusion the Public Trust for Land (TPL) posited in its March 16, 2022, letter to the Assembly Housing and Community Development Committee, a conclusion based upon TPL's 4 years of litigation with the City of Garden Grove regarding that city's efforts to repurpose a municipal golf course:

> ***"We think this bill would just empower more cities to ignore the Surplus Land Act, and monetize the property as much as possible, even if that's not what the community wants."***

A bill that purports to do nothing more than enable communities to determine their wants/needs in fact undercuts the letter and spirit of the Surplus Land Act by creating two sets of powerful incentives to obviate those wants and needs, leaving those communities with litigation as their only recourse. AB 1910 is hardly de facto "permissive." It is hardly about giving communities choices they don't currently have. It's about replacing green space with hardscape, whether communities want it or not.

**Conclusion**

Singling out California's publicly owned golf courses among the state's multiplicity of park/recreation/green functions for subsidized development raises serious questions about settled California law (Surplus Land Act and Public Park Preservation Act), depletes green space in precisely those communities already deemed "park poor," creates the slipperiest of slopes for other longstanding members of the California active recreational community, excommunicates golf from the park/recreation family of which it has been a part in California for more than 100 years, promises scant housing at very high cost, and does all of this per premises about public golf in California that are demonstrably false.

Respectfully Submitted,

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