

LAFCO MEMORANDUM

SANTA BARBARA LOCAL AGENCY FORMATION COMMISSION

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June 3, 2021 (Agenda)

TO: Each Member of the Commission

FROM: Mike Prater
Executive Officer

SUBJECT: REPORT ON SENATE BILL No. 574

This is an Informational Report. No Action is Necessary

DISCUSSION

The following is a summary of SB 574. This bill has currently been referred to Committee on Agriculture and Committee on Local Government. Held at the Desk. On 3/25/2021 the bill passed Senate Governance and Finance Committee on its third time read. Passed. (Ayes 38. Noes 0.)

Purpose of the Bill:

According to the author, "SB 574 will strengthen local control of Williamson Act implementation, reduce workload for counties, cities, and the state and improve the Department of Conservation's ability to support local planning departments and monitor statewide participation in the Williamson Act.

Summary:

Under the California Land Conservation Act of 1965, the board of supervisors or city council may grant tentative approval for a cancellation by petition of a landowner as to all or any part of land subject to a contract, as specified. Prior to any action by the board or council giving tentative approval to the cancellation of any contract, the county assessor is required to determine the current fair market value of the land as though it were free of the contractual restriction, and requires the assessor to send the fair market value to the Department of Conservation, at the same time the assessor sends the value to the landowner. Current law provides for a certificate of tentative cancellation upon tentative approval of a petition by a landowner accompanied by a proposal for a specified alternative use of the land, as provided. Current law requires the board of supervisors or city council to provide notice to the department related to cancellation of the contract as well as in other specified instances.

This bill would revise and recast these provisions to no longer require the assessor to provide notice to the department and to require the board of supervisors or city council to provide notice to the department if the certificate of tentative cancellation is withdrawn.

The bill would remove various other requirements to provide the Department of Conservation with notice, except as provided. Under existing law, if either the landowner or the city or county desires in any year not to renew the contract, that party is required serve written notice of nonrenewal of the contract upon the other party in advance of the annual renewal date of the contract under specified timelines. The city or county is required to serve notice on the department, as specified, in the case of nonrenewal by a landowner or expiration of a contract.

This bill would, similarly, remove the requirement to serve notice on the department of nonrenewal by a landowner or expiration of a contract. Existing law authorizes the department and the landowner to agree on a cancellation value of the land and requires the agreement to be transmitted to the county board of supervisors or the city council as specified. This bill would remove that provision.

Existing law requires the department to submit a report to the Legislature on or before May 1 of every other year regarding the implementation of the act, and containing specified information required to be provided to the Legislature. This bill would revise and recast that provision to require the department to, on or before May 1, post information regarding the implementation of the act on its internet website instead of providing a report to the Legislature, and would revise the specified information required.

Existing law requires each city or county in which an agricultural preserve is located to provide the department with a map of the location of all agricultural preserves. This bill would revise and recast that provision to instead require the city or county to provide the department with GIS data files, by January 30, 2022, 30 of each year, of all agricultural preserves. preserves and Williamson Act contracted land.

Existing law requires that a board of supervisors or city council provide the director of the department with a sample of a form contract when a new contract is used. This bill would remove that provision.

Existing law authorizes the department to approve cancellation of a farmland security contract, as provided. This bill would remove that provision.

Existing law authorizes enforcement of certain provisions of the act by mandamus proceedings by the local governing body or by the department. The bill would remove the reference to the department.

Existing law provides that if the landowner wishes to pay a cancellation fee when a formal review has been requested, that the landowner pay the fee required in the current certificate of cancellation

and provide security determined to be adequate by the department for 20% of the cancellation fee based on the assessor's valuation. The bill would remove the reference to the department. This bill would make other conforming changes.

CALAFCO Comments:

This bill narrows the role of Department of Conservation (DOC) in administering the Williamson Act. It does not change other provisions in the Act except for lessening reporting requirements by local governments to the DOC. The bill repeals the ability of the DOC to agree on a cancellation value for contracted land with a landowner, along with the requirement that the department provide a preliminary valuation to the applicable assessor, and repeals the requirement that the DOC approve cancellation of a farmland security contract. The bill also repeals and narrows reporting requirements by requiring the DOC to post all local government reports on Williamson Act lands/contracts on its website rather than create a report and submit to the Legislature. The bill also repeals certain reporting requirements by local governments (cities and counties) to the DOC regarding Williamson Act contracts.

CALAFCO will continue to watch this bill to ensure no detrimental changes are made to the Act through future amendments. **CALAFCO Position:** Watch

Attachments

Attachment A – SB 574 Text Amended 3/4/21

Attachment B – Senate Floor Analysis of SB 574 Amended 3/4/21

Please contact the LAFCO office if you have any questions.

AMENDED IN SENATE MARCH 4, 2021

SENATE BILL

No. 574

Introduced by Senator Laird

February 18, 2021

An act to amend Sections 51207, 51237.5, 51245, 51246, 51280.1, 51283, 51283.4, 51283.5, 51284, 51284.1, 51291, 51294, 51294.1, 51295, and 51297 of, to amend and renumber Section 51203 of, and to repeal Section 51249 of, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 574, as amended, Laird. Agricultural preserves: Williamson Act.

The California Land Conservation Act of 1965, otherwise known as the Williamson Act, authorizes a city or county to contract with a landowner to limit the use of agricultural land located in an agricultural preserve designated by the city or county, whereby the landowner agrees to continue using the property for that purpose, and the city or county agrees to value the land accordingly for purposes of property taxation, as specified. Existing law authorizes the cancellation of a Williamson Act contract under certain circumstances, as provided. Under the act, the board of supervisors or city council may grant tentative approval for a cancellation by petition of a landowner as to all or any part of land subject to a contract, as specified.

Prior to any action by the board or council giving tentative approval to the cancellation of any contract, the county assessor is required to determine the current fair market value of the land as though it were free of the contractual restriction, and requires the assessor to send the fair market value to the Department of Conservation, hereafter department, at the same time the assessor sends the value to the

landowner. Existing law provides for a certificate of tentative cancellation upon tentative approval of a petition by a landowner accompanied by a proposal for a specified alternative use of the land, as provided. Existing law requires the board of supervisors or city council to provide notice to the department related to cancellation of the contract as well as in other specified instances.

This bill would revise and recast these provisions to no longer require the assessor to provide notice to the department and to require the board of supervisors or city council to provide notice to the department if the certificate of tentative cancellation is withdrawn, as specified. The bill would remove various other requirements to provide the department with notice, except as provided.

Under existing law, if either the landowner or the city or county desires in any year not to renew the contract, that party is required serve written notice of nonrenewal of the contract upon the other party in advance of the annual renewal date of the contract under specified timelines. The city or county is required to serve notice on the department, as specified, in the case of nonrenewal by a landowner or expiration of a contract.

This bill would, similarly, remove the requirement to serve notice on the department of nonrenewal by a landowner or expiration of a contract.

Existing law authorizes the department and the landowner to agree on a cancellation value of the land and requires the agreement to be transmitted to the county board of supervisors or the city council as specified.

This bill would remove that provision.

Existing law requires the department to submit a report to the Legislature on or before May 1 of every other year regarding the implementation of the act, and containing specified information required to be provided to the Legislature.

This bill would revise and recast that provision to require the department to, on or before May 1, post information regarding the implementation of the act on its internet website instead of providing a report to the Legislature, and would revise the specified information required.

Existing law requires each city or county in which an agricultural preserve is located to provide the department with a map of the location of all agricultural preserves.

This bill would revise and recast that provision to instead require the city or county to provide the department with GIS data files, by January

~~30, 2022, 30 of each year, of all agricultural preserves. preserves and Williamson Act contracted land.~~

Existing law requires that a board of supervisors or city council provide the director of the department with a sample of a form contract when a new contract is used.

This bill would remove that provision.

Existing law authorizes the department to approve cancellation of a farmland security contract, as provided.

This bill would remove that provision.

Existing law authorizes enforcement of certain provisions of the act by mandamus proceedings by the local governing body or by the department.

The bill would remove the reference to the department.

Existing law provides that if the landowner wishes to pay a cancellation fee when a formal review has been requested, that the landowner pay the fee required in the current certificate of cancellation and provide security determined to be adequate by the department for 20% of the cancellation fee based on the assessor’s valuation.

The bill would remove the reference to the department.

This bill would make other conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 51203 of the Government Code is
- 2 amended and renumbered to read:
- 3 51283.1 (a) The assessor shall determine the current fair market
- 4 value of the land as if it were free of the contractual restriction
- 5 pursuant to Section 51283. The Department of Conservation or
- 6 the landowner, also referred to in this section as “parties,” may
- 7 provide information to assist the assessor to determine the value.
- 8 Any information provided to the assessor shall be served on the
- 9 other party, unless the information was provided at the request of
- 10 the assessor, and would be confidential under law if required of
- 11 an assessee.
- 12 (b) Within 45 days of receiving the assessor’s notice pursuant
- 13 to subdivision (a) of Section 51283 or Section 51283.4, if the
- 14 Department of Conservation or the landowner believes that the
- 15 current fair market valuation certified pursuant to subdivision (b)

1 of Section 51283 or Section 51283.4 is not accurate, the department
2 or the landowner may request formal review from the county
3 assessor in the county considering the petition to cancel the
4 contract. The department or the landowner shall submit to the
5 assessor and the other party the reasons for believing the valuation
6 is not accurate and the additional information the requesting party
7 believes may substantiate a recalculation of the property valuation.
8 The assessor may recover the assessor's reasonable costs of the
9 formal review from the party requesting the review, and may
10 provide an estimate of those costs to the requesting party. The
11 recovery of these costs from the department may be deducted by
12 the city or county from cancellation fees received pursuant to this
13 chapter before transmittal to the Controller for deposit in the Soil
14 Conservation Fund. The assessor may require a deposit from the
15 landowner to cover the contingency that payment of a cancellation
16 fee will not necessarily result from the completion of a formal
17 review. This subdivision shall not be construed as a limitation on
18 the authority provided in Section 51287 for cities or counties to
19 recover their costs in the cancellation process, except that the
20 assessor's costs of conducting a formal review shall not be borne
21 by the nonrequesting party.

22 (1) If no request is made within 45 days of receiving notice by
23 certified mail of the valuation, the assessor's valuation shall be
24 used to calculate the fee.

25 (2) Upon receiving a request for formal review, the assessor
26 shall formally review the valuation if, based on the determination
27 of the assessor, the information may have a material effect on
28 valuation of the property. The assessor shall notify the parties that
29 the formal review is being undertaken and that information to aid
30 the assessor's review shall be submitted within 30 days of the date
31 of the notice to the parties. Any information submitted to the
32 assessor shall be served on the other party who shall have 30 days
33 to respond to that information to the assessor. If the response to
34 the assessor contains new information, the party receiving that
35 response shall have 20 days to respond to the assessor as to the
36 new information. All submittals and responses to the assessor shall
37 be served on the other party by personal service or an affidavit of
38 mailing. The assessor shall avoid ex parte contacts during the
39 formal review and shall report any such contacts to the department
40 and the landowner at the same time the review is complete. The

1 assessor shall complete the review no later than 120 days of
2 receiving the request.

3 (3) At the conclusion of the formal review, the assessor shall
4 either revise the cancellation valuation or determine that the
5 original cancellation valuation is accurate. The assessor shall send
6 the revised valuation or notice of the determination that the
7 valuation is accurate to the department, the landowner, and the
8 board or council considering the petition to cancel the contract.
9 The assessor shall include a brief narrative of what consideration
10 was given to the items of information and responses directly
11 relating to the cancellation value submitted by the parties. The
12 assessor shall give no consideration to a party's information or
13 response that was not served on the other party. If the assessor
14 denies a formal review, a brief narrative shall be provided to the
15 parties indicating the basis for the denial, if requested.

16 (c) For purposes of this section, the valuation date of any revised
17 valuation pursuant to formal review or following judicial challenge
18 shall remain the date of the assessor's initial valuation, or the initial
19 recomputation pursuant to Section 51283.4. For purposes of
20 cancellation fee calculation in a tentative cancellation as provided
21 in Section 51283, or in a recomputation for final cancellation as
22 provided in Section 51283.4, a cancellation value shall be
23 considered current for one year after its determination and
24 certification by the assessor.

25 (d) This section represents the exclusive administrative
26 procedure for appealing a cancellation valuation calculated pursuant
27 to this section. The Department of Conservation shall represent
28 the interests of the state in the administrative and judicial remedies
29 for challenging the determination of a cancellation valuation or
30 cancellation fee.

31 SEC. 2. Section 51207 of the Government Code is amended
32 to read:

33 51207. (a) On or before May 1 of every other year, the
34 Department of Conservation shall post on its internet website the
35 following information:

36 (b) The information shall contain the number of acres of land
37 under contract ~~in each category~~ and the number of acres of land
38 which were removed from contract through cancellation, eminent
39 domain, or annexation.

1 (c) The information shall also contain the following specific
2 information relating to cities and counties participating in the
3 Williamson Act program:

4 (1) The number of tentative certificates of cancellation that were
5 mailed to the Director of Conservation pursuant to Section 51284
6 which were approved by boards or councils during the prior two
7 years or for which final certificates of cancellation are pending
8 approval by boards or councils.

9 (2) The amount of cancellation fees payable to the county
10 treasurer and which are required to be transmitted to the Controller
11 pursuant to subdivision (d) of Section 51283 which have not been
12 collected or which remain unpaid.

13 (3) The total number of acres covered by certificates of
14 cancellation of contracts during the previous two years.

15 SEC. 3. Section 51237.5 of the Government Code is amended
16 to read:

17 51237.5. ~~By January 30, 2022, On or before January 30 of~~
18 ~~each year~~, each city or county in which any agricultural preserve
19 is located shall provide the Department with geographical
20 information system (GIS) data files of all agricultural preserves
21 ~~and Williamson Act contracted land~~ in existence at the end of the
22 preceding ~~fiscal~~ year.

23 SEC. 4. Section 51245 of the Government Code is amended
24 to read:

25 51245. If either the landowner or the city or county desires in
26 any year not to renew the contract, that party shall serve written
27 notice of nonrenewal of the contract upon the other party in
28 advance of the annual renewal date of the contract. Unless such
29 written notice is served by the landowner at least 90 days prior to
30 the renewal date or by the city or county at least 60 days prior to
31 the renewal date, the contract shall be considered renewed as
32 provided in Section 51244 or Section 51244.5.

33 Upon receipt by the owner of a notice from the county or city
34 of nonrenewal, the owner may make a written protest of the notice
35 of nonrenewal. The county or city may, at any time prior to the
36 renewal date, withdraw the notice of nonrenewal. Upon request
37 by the owner, the board or council may authorize the owner to
38 serve a notice of nonrenewal on a portion of the land under a
39 contract.

1 No later than 20 days after a city or county receives a notice of
2 nonrenewal from a landowner, serves a notice of nonrenewal upon
3 a landowner, or withdraws a notice of nonrenewal, the clerk of the
4 board or council, as the case may be, shall record with the county
5 recorder a copy of the notice of nonrenewal or notice of withdrawal
6 of nonrenewal.

7 SEC. 5. Section 51246 of the Government Code is amended
8 to read:

9 51246. (a) If the county or city or the landowner serves notice
10 of intent in any year not to renew the contract, the existing contract
11 shall remain in effect for the balance of the period remaining since
12 the original execution or the last renewal of the contract, as the
13 case may be.

14 (b) No city or county shall enter into a new contract or shall
15 renew an existing contract on or after February 28, 1977, with
16 respect to timberland zoned as timberland production. The city or
17 county shall serve notice of its intent not to renew the contract as
18 provided in this section.

19 (c) In order to meet the minimum acreage requirement of an
20 agricultural preserve pursuant to Section 51230, land formerly
21 within the agricultural preserve which is zoned as timberland
22 production pursuant to Chapter 6.7 (commencing with Section
23 51100) may be taken into account.

24 (d) Notwithstanding any other provision of law, commencing
25 with the lien date for the 1977–78 fiscal year all timberland within
26 an existing contract which has been nonrenewed as mandated by
27 this section shall be valued according to Section 423.5 of the
28 Revenue and Taxation Code, succeeding to and including the lien
29 date for the 1981–82 fiscal year. Commencing with the lien date
30 for the 1982–83 fiscal year and on each lien date thereafter, such
31 timberland shall be valued according to Section 434.5 of the
32 Revenue and Taxation Code.

33 SEC. 6. Section 51249 of the Government Code is repealed.

34 SEC. 7. Section 51280.1 of the Government Code is amended
35 to read:

36 51280.1. As used in this chapter, the finding of a board or
37 council that “cancellation and alternative use will not result in
38 discontinuous patterns of urban development” authorizes, but does
39 not require, the board or council to cancel a contract if it finds that
40 the alternative use will be rural in character and that the alternative

1 use will result within the foreseeable future in a contiguous pattern
 2 of development within the relevant subregion. The board or council
 3 is not required to find that the alternative use will be immediately
 4 contiguous to like development. In rendering its finding, the board
 5 or council acts in its own discretion to evaluate the proposed
 6 alternative use according to existing and projected conditions
 7 within its local jurisdiction.

8 SEC. 8. Section 51283 of the Government Code is amended
 9 to read:

10 51283. (a) Prior to any action by the board or council giving
 11 tentative approval to the cancellation of any contract, the county
 12 assessor of the county in which the land is located shall determine
 13 the current fair market value of the land as though it were free of
 14 the contractual restriction. The assessor shall certify to the board
 15 or council the cancellation valuation of the land for the purpose
 16 of determining the cancellation fee. At the same time, the assessor
 17 shall send a notice to the landowner indicating the current fair
 18 market value of the land as though it were free of the contractual
 19 restriction and advise the parties, that upon their request, the
 20 assessor shall provide all information relevant to the valuation,
 21 excluding third-party information. If any information is confidential
 22 or otherwise protected from release, the department and the
 23 landowner shall hold it as confidential and return or destroy any
 24 protected information upon termination of all actions relating to
 25 valuation or cancellation of the contract on the property. The notice
 26 shall also advise the landowner and the department of the
 27 opportunity to request formal review from the assessor.

28 (b) Prior to giving tentative approval to the cancellation of any
 29 contract, the board or council shall determine and certify to the
 30 county auditor the amount of the cancellation fee that the
 31 landowner shall pay the county treasurer upon cancellation. That
 32 fee shall be an amount equal to 12½ percent of the cancellation
 33 valuation of the property.

34 (c) If it finds that it is in the public interest to do so, the board
 35 or council may waive any payment or any portion of a payment
 36 by the landowner, or may extend the time for making the payment
 37 or a portion of the payment contingent upon the future use made
 38 of the land and its economic return to the landowner for a period
 39 of time not to exceed the unexpired period of the contract, had it
 40 not been canceled, if all of the following occur:

1 (1) The cancellation is caused by an involuntary transfer or
2 change in the use which may be made of the land and the land is
3 not immediately suitable, nor will be immediately used, for a
4 purpose which produces a greater economic return to the owner.

5 (2) The board or council has determined that it is in the best
6 interests of the program to conserve agricultural land use that the
7 payment be either deferred or is not required.

8 (3) The waiver or extension of time is approved by the Secretary
9 of the Natural Resources Agency. The secretary shall approve a
10 waiver or extension of time if the secretary finds that the granting
11 of the waiver or extension of time by the board or council is
12 consistent with the policies of this chapter and that the board or
13 council complied with this article. In evaluating a request for a
14 waiver or extension of time, the secretary shall review the findings
15 of the board or council, the evidence in the record of the board or
16 council, and any other evidence the secretary may receive
17 concerning the cancellation, waiver, or extension of time.

18 (d) The first five million dollars (\$5,000,000) of revenue paid
19 to the Controller pursuant to subdivision (e) in the 2004–05 fiscal
20 year, and any other amount as approved in the final Budget Act
21 for each fiscal year thereafter, shall be deposited in the Soil
22 Conservation Fund, which is continued in existence. The money
23 in the fund is available, when appropriated by the Legislature, for
24 the support of all of the following:

25 (1) The cost of the farmlands mapping and monitoring program
26 of the Department of Conservation pursuant to Section 65570.

27 (2) The soil conservation program identified in Section 614 of
28 the Public Resources Code.

29 (3) Program support costs of this chapter as administered by
30 the Department of Conservation.

31 (4) Program support costs incurred by the Department of
32 Conservation in administering the open-space subvention program
33 (Chapter 3 (commencing with Section 16140) of Part 1 of Division
34 4 of Title 2).

35 (5) The costs to the Department of Conservation for
36 administering Section 51250.

37 (6) When available, after funding the duties of the Department
38 of Conservation pursuant to paragraphs (1) through (5), inclusive,
39 program support costs incurred by the department in carrying out

1 the duties of the department pursuant to Sections 65565 and
2 66565.1.

3 (e) When cancellation fees required by this section are collected,
4 they shall be transmitted by the county treasurer to the Controller
5 and deposited in the General Fund, except as provided in
6 subdivision (d) of this section and subdivision (b) of Section
7 51283.1. The funds collected by the county treasurer with respect
8 to each cancellation of a contract shall be transmitted to the
9 Controller within 30 days of the execution of a certificate of
10 cancellation of contract by the board or council, as specified in
11 subdivision (b) of Section 51283.4.

12 (f) It is the intent of the Legislature that fees paid to cancel a
13 contract do not constitute taxes but are payments that, when made,
14 provide a private benefit that tends to increase the value of the
15 property.

16 SEC. 9. Section 51283.4 of the Government Code is amended
17 to read:

18 51283.4. (a) Upon tentative approval of a petition accompanied
19 by a proposal for a specified alternative use of the land, the clerk
20 of the board or council shall record in the office of the county
21 recorder of the county in which is located the land as to which the
22 contract is applicable a certificate of tentative cancellation, which
23 shall set forth the name of the landowner requesting the
24 cancellation, the fact that a certificate of cancellation of contract
25 will be issued and recorded at the time that specified conditions
26 and contingencies are satisfied, a description of the conditions and
27 contingencies which must be satisfied, and a legal description of
28 the property. Conditions to be satisfied shall include payment in
29 full of the amount of the fee computed under the provisions of
30 Section 51283, together with a statement that unless the fee is paid,
31 or a certificate of cancellation of contract is issued within one year
32 from the date of the valuation certified by the assessor the fee shall
33 be recomputed as of the date of notice described in subdivision
34 (b) or the date the landowner requests a recomputation. A
35 landowner may request a recomputation when the landowner
36 believes the landowner will be able to satisfy the conditions and
37 contingencies of the certificate of cancellation within 180 days.
38 The board or council shall request the assessor to recompute the
39 cancellation valuation. The assessor shall recompute the valuation,
40 certify it to the board or council, and provide notice to the

1 Department of Conservation and landowner as provided in
2 subdivision (a) of Section 51283, and the board or council shall
3 certify the fee to the county auditor. Any provisions related to the
4 waiver of the fee or portion thereof shall be treated in the manner
5 provided for in the certificate of tentative cancellation.
6 Contingencies to be satisfied shall include a requirement that the
7 landowner obtain all permits necessary to commence the project.
8 The board or council may, at the request of the landowner, amend
9 a tentatively approved specified alternative use if it finds that the
10 amendment is consistent with the findings made pursuant to
11 subdivision (a) of Section 51282.

12 (b) The landowner shall notify the board or council when the
13 landowner has satisfied the conditions and contingencies
14 enumerated in the certificate of tentative cancellation. Within 30
15 days of receipt of the notice, and upon a determination that the
16 conditions and contingencies have been satisfied, the board or
17 council shall execute a certificate of cancellation of contract, cause
18 the certificate to be recorded, and send a copy to the Director of
19 Conservation.

20 (c) If the landowner has been unable to satisfy the conditions
21 and contingencies enumerated in the certificate of tentative
22 cancellation, the landowner shall notify the board or council of
23 the particular conditions or contingencies the landowner is unable
24 to satisfy. Within 30 days of receipt of the notice, and upon a
25 determination that the landowner is unable to satisfy the conditions
26 and contingencies listed, the board or council shall execute a
27 certificate of withdrawal of tentative approval of a cancellation of
28 contract, cause the same to be recorded, and send a copy to the
29 Director of Conservation. However, the landowner shall not be
30 entitled to the refund of any cancellation fee paid.

31 *SEC. 10. Section 51283.5 of the Government Code is amended*
32 *to read:*

33 51283.5. (a) The Legislature finds and declares that
34 cancellation fees should be calculated in a timely manner and
35 disputes over cancellation fees should be resolved before a city or
36 county approves a tentative cancellation. However, the city or
37 county may approve a tentative cancellation notwithstanding an
38 assessor's formal review or judicial challenge to the cancellation
39 value or fee.

1 (b) If the valuation changes after the approval of a tentative
2 cancellation, the certificate of tentative cancellation shall be
3 amended to reflect the correct valuation and cancellation fee.

4 (c) If the landowner wishes to pay a cancellation fee when a
5 formal review has been requested, ~~he or she~~ *the landowner* may
6 pay the fee required in the current certificate of cancellation and
7 provide security ~~determined to be adequate by the Department of~~
8 ~~Conservation~~ for 20 percent of the cancellation fee based on the
9 assessor's valuation. The board or council shall hold the security
10 and release it immediately upon full payment of the cancellation
11 fee determined pursuant to Section ~~51203~~, *51283.1*.

12 (d) The city or county may approve a final cancellation
13 notwithstanding a pending formal review or judicial challenge to
14 the cancellation valuation or fee. The certificate of final
15 cancellation shall include the following statements:

16 (1) That formal review or judicial challenge of the cancellation
17 valuation or fee is pending.

18 (2) That the fee may be adjusted, based upon the outcome of
19 the review or challenge.

20 (3) The identity of the party who will be responsible for paying
21 any additional fee or will receive any refund.

22 (4) The form and amount of security provided by the landowner
23 or other responsible ~~party and approved by the Department of~~
24 ~~Conservation~~, *party*.

25 (e) Upon resolution, the landowner or the party identified in the
26 certificate shall either pay the balance owed to the county treasurer,
27 or receive from the county treasurer or the controller any amount
28 of overpayment, and shall also be entitled to the immediate release
29 of any security.

30 (f) (1) If a party does not receive the notice required pursuant
31 to Section ~~51203~~, ~~51283~~, *51283*, *51283.1*, 51283.4, or 51284, a
32 judicial challenge to the cancellation valuation may be filed within
33 three years of the latest of the applicable following events:

34 (A) The board or council certification of the fee pursuant to
35 subdivision (b) of Section 51283, or for fees recomputed pursuant
36 to Section 51283.4, the execution of a certificate of cancellation
37 under that section.

38 (B) The date of the assessor's determination pursuant to
39 paragraph (3) of subdivision (b) of Section ~~51203~~ *51283.1*.

1 (C) The service of notice to the Director of Conservation of the
2 board or council's recorded certificate of final cancellation.

3 (2) If a party did receive the required notice pursuant to Section
4 ~~51203, 51283, 51283.1, 51283.4, or 51284~~, a judicial challenge to
5 the cancellation valuation may be filed only after the party has
6 exhausted ~~his or her~~ *the* administrative remedies through the formal
7 review process specified in Section ~~51203, 51283.1~~ and only within
8 180 days of the latest of the applicable following events:

9 (A) The board or council certification of the fee pursuant to
10 subdivision (b) of Section 51283 or for fees recomputed pursuant
11 to Section 51283.4, the execution of a certificate of cancellation
12 under that section.

13 (B) The date of the assessor's determination pursuant to
14 paragraph (3) of subdivision (b) of Section ~~51203, 51283.1~~.

15 (C) The service of notice to the Director of Conservation or the
16 board or council's recorded certificate of final cancellation.

17 ~~SEC. 10.~~

18 *SEC. 11.* Section 51284 of the Government Code is amended
19 to read:

20 51284. No contract may be canceled until after the city or
21 county has given notice of, and has held, a public hearing on the
22 matter. Notice of the hearing shall be published pursuant to Section
23 6061 and shall be mailed to every owner of land under contract,
24 any portion of which is situated within one mile of the exterior
25 boundary of the land upon which the contract is proposed to be
26 canceled. Within 30 days of the tentative cancellation of the
27 contract, the city or county shall publish a notice of its decision,
28 including the date, time, and place of the public hearing, a general
29 explanation of the decision, the findings made pursuant to Section
30 51282, and a general description, in text or by diagram, of the land
31 under contract, as a display advertisement of at least one-eighth
32 page in at least one newspaper of general circulation within the
33 city or county. In addition, within 30 days of the tentative
34 cancellation of the contract, the city or county shall deliver a copy
35 of the published notice of the decision, as described above, to the
36 Director of Conservation. The publication shall be for informational
37 purposes only, and shall create no right, standing, or duty that
38 would otherwise not exist with regard to the cancellation
39 proceedings.

1 ~~SEC. 11.~~

2 *SEC. 12.* Section 51284.1 of the Government Code is amended
3 to read:

4 51284.1. When a landowner petitions a board or council for
5 the tentative cancellation of a contract and when the board or
6 council accepts the application as complete pursuant to Section
7 65943, the board or council shall send that information to the
8 assessor that is necessary to describe the land subject to the
9 proposed cancellation. The information shall include the name and
10 address of the landowner petitioning the cancellation.

11 ~~SEC. 12.~~

12 *SEC. 13.* Section 51291 of the Government Code is amended
13 to read:

14 51291. (a) As used in this section and Sections 51292 and
15 51295, (1) “public agency” means any department or agency of
16 the United States or the state, and any county, city, school district,
17 or other local public district, agency, or entity, and (2) “person”
18 means any person authorized to acquire property by eminent
19 domain.

20 (b) Except as provided in Section 51291.5, whenever it appears
21 that land within an agricultural preserve may be required by a
22 public agency or person for a public use, the public agency or
23 person shall advise the local governing body responsible for the
24 administration of the preserve of its intention to consider the
25 location of a public improvement within the preserve. In
26 accordance with Section 51290, the notice shall include an
27 explanation of the preliminary consideration of Section 51292,
28 and give a general description, in text or by diagram, of the
29 agricultural preserve land proposed for acquisition, and a copy of
30 any applicable contract created under this chapter.

31 Within 30 days thereafter, the local governing body shall forward
32 to the appropriate public agency or person concerned their
33 comments with respect to the effect of the location of the public
34 improvement on the land within the agricultural preserve and those
35 comments shall be considered by the public agency or person. In
36 preparing those comments, shall consider issues related to
37 agricultural land use, including, but not limited to, matters related
38 to the effects of the proposal on the conversion of adjacent or
39 nearby agricultural land to nonagricultural uses shall be considered.
40 The failure by any person or public agency, other than a state

1 agency, to comply with the requirements of this section shall be
2 admissible in evidence in any litigation for the acquisition of that
3 land or involving the allocation of funds or the construction of the
4 public improvement. This subdivision does not apply to the
5 erection, construction, alteration, or maintenance of gas, electric,
6 piped subterranean water or wastewater, or communication utility
7 facilities within an agricultural preserve if that preserve was
8 established after the submission of the location of those facilities
9 to the city or county for review or approval.

10 (c) When land in an agricultural preserve is acquired by a public
11 entity, the public entity shall notify the Director of Conservation
12 within 10 working days. The notice shall include a general
13 explanation of the decision and the findings made pursuant to
14 Section 51292. The notice shall also include a general description,
15 in text or by diagram, of the agricultural preserve land acquired.

16 (d) If, after giving the notice required under subdivisions (b)
17 and (c) and before the project is completed within an agricultural
18 preserve, the public agency or person proposes any significant
19 change in the public improvement, it shall give notice of the
20 changes to the local governing body responsible for the
21 administration of the preserve. Within 30 days thereafter, the local
22 governing body may forward to the public agency or person their
23 comments with respect to the effect of the change to the public
24 improvement on the land within the preserve and the compliance
25 of the changed public improvements with this article. Those
26 comments shall be considered by the public agency or person, if
27 available within the time limits set by this subdivision.

28 (e) Any action or proceeding regarding notices or findings
29 required by this article filed by the local governing body
30 administering the agricultural preserve shall be governed by Section
31 51294.

32 ~~SEC. 13.~~

33 *SEC. 14.* Section 51294 of the Government Code is amended
34 to read:

35 51294. Section 51292 shall be enforceable only by mandamus
36 proceedings by the local governing body administering the
37 agricultural preserve. However, as applied to condemnors whose
38 determination of necessity is not conclusive by statute, evidence
39 as to the compliance of the condemnor with Section 51292 shall
40 be admissible on motion of any of the parties in any action

1 otherwise authorized to be brought by the landowner or in any
2 action against the landowner.

3 *SEC. 15. Section 51294.1 of the Government Code is amended*
4 *to read:*

5 51294.1. After 30 days have elapsed following its action,
6 pursuant to subdivision (b) of Section 51291, ~~advising the Director~~
7 ~~of Conservation~~ and the local governing body of a county or city
8 administering an agricultural preserve of its intention to consider
9 the location of a public improvement within such agricultural
10 preserve, a public agency proposing to acquire land within an
11 agricultural preserve for water transmission facilities which will
12 extend into more than one county, may file the proposed route of
13 the facilities with each county or city administering an agricultural
14 preserve into which the facilities will extend and request each
15 county or city to approve or agree to the location of the facilities
16 or the acquisition of the land therefor. Upon approval or agreement,
17 the provisions of Section 51292 shall not apply to the location of
18 the proposed water transmission facility or the acquisition of land
19 therefor in any county or city which has approved or agreed to the
20 location or acquisition.

21 ~~SEC. 14.~~

22 *SEC. 16. Section 51295 of the Government Code is amended*
23 *to read:*

24 51295. When any action in eminent domain for the
25 condemnation of the fee title of an entire parcel of land subject to
26 a contract is filed, or when that land is acquired in lieu of eminent
27 domain for a public improvement by a public agency or person,
28 or whenever there is any such action or acquisition by the federal
29 government or any person, instrumentality, or agency acting under
30 the authority or power of the federal government, the contract shall
31 be deemed null and void as to the land actually being condemned,
32 or so acquired as of the date the action is filed, and for the purposes
33 of establishing the value of the land, the contract shall be deemed
34 never to have existed.

35 Upon the termination of the proceeding, the contract shall be
36 null and void for all land actually taken or acquired.

37 When an action to condemn or acquire less than all of a parcel
38 of land subject to a contract is commenced, the contract shall be
39 deemed null and void as to the land actually condemned or acquired
40 and shall be disregarded in the valuation process only as to the

1 land actually being taken, unless the remaining land subject to
2 contract will be adversely affected by the condemnation, in which
3 case the value of that damage shall be computed without regard
4 to the contract.

5 When an action to condemn or acquire an interest that is less
6 than the fee title of an entire parcel or any portion thereof of land
7 subject to a contract is commenced, the contract shall be deemed
8 null and void as to that interest and, for the purpose of establishing
9 the value of only that interest, shall be deemed never to have
10 existed, unless the remaining interests in any of the land subject
11 to the contract will be adversely affected, in which case the value
12 of that damage shall be computed without regard to the contract.

13 The land actually taken shall be removed from the contract.
14 Under no circumstances shall land be removed that is not actually
15 taken for a public improvement, except that when only a portion
16 of the land or less than a fee interest in the land is taken or acquired,
17 the contract may be canceled with respect to the remaining portion
18 or interest upon petition of either party and pursuant to the
19 provisions of Article 5 (commencing with Section 51280).

20 For the purposes of this section, a finding by the board or council
21 that no authorized use may be made of the land if the contract is
22 continued on the remaining portion or interest in the land, may
23 satisfy the requirements of subdivision (a) of Section 51282.

24 If, after acquisition, the acquiring public agency determines that
25 it will not for any reason actually locate on that land or any part
26 thereof, the public improvement for which the land was acquired,
27 before returning the land to private ownership, the public agency
28 shall give written notice to the local governing body responsible
29 for the administration of the preserve, and the land shall be
30 reenrolled in a new contract or encumbered by an enforceable deed
31 restriction with terms at least as restrictive as those provided by
32 this chapter. The duration of the restriction shall be determined by
33 subtracting the length of time the land was held by the acquiring
34 public agency or person from the number of years that remained
35 on the original contract at the time of acquisition.

36 ~~SEC. 15.~~

37 *SEC. 17.* Section 51297 of the Government Code is amended
38 to read:

39 51297. A petition for cancellation of a farmland security zone
40 contract created under this article may be filed only by the

1 landowner with the city or county within which the contracted
2 land is located. The city or county may grant a petition only in
3 accordance with the procedures provided for in Article 5
4 (commencing with Section 51280) and only if all the following
5 requirements are met:

6 (a) The city or county shall make both of the findings specified
7 in paragraphs (1) and (2) of subdivision (a) of Section 51282, based
8 on substantial evidence in the record. Subdivisions (b) to (e),
9 inclusive, of Section 51282 shall apply to the findings made by
10 the city or county.

11 (b) Prior to issuing tentative approval of the cancellation of the
12 contract, the board or council shall determine and certify to the
13 county auditor the amount of the cancellation fee that the
14 landowner will be required to pay the county treasurer upon
15 cancellation of the contract. The cancellation fee shall be in an
16 amount that equals 25 percent of the cancellation valuation of the
17 property.

18 (c) In its resolution tentatively approving cancellation of the
19 contract, the city or county shall find all of the following:

20 (1) That no beneficial public purpose would be served by the
21 continuation of the contract.

22 (2) That the uneconomic nature of the agricultural use is
23 primarily attributable to circumstances beyond the control of the
24 landowner and the local government.

25 (3) That the landowner has paid a cancellation fee equal to 25
26 percent of the cancellation valuation calculated in accordance with
27 subdivision (b).

28 (d) A finding that no authorized use may be made of a remnant
29 contract parcel of five acres or less left by public acquisition
30 pursuant to Section 51295, may be substituted for the finding in
31 subdivision (a).

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2021-22 SESSION

**SENATE
THIRD READING PACKET**

THURSDAY, MARCH 25, 2021



JONAS AUSTIN
Director

OFFICE OF SENATE FLOOR ANALYSES
651-1520

ATTACHMENT B

SENATE THIRD READING PACKET

Attached are analyses of bills on the Daily File for Thursday, March 25, 2021.

<u>Note</u>	<u>Measure</u>	<u>Author</u>	<u>Location</u>
+	SB 24	Caballero	Senate Bills - Third Reading File
+	SB 48	Limón	Senate Bills - Third Reading File
+	SB 52	Dodd	Senate Bills - Third Reading File
+	SB 73	Wiener	Senate Bills - Third Reading File
+	SB 107	Wiener	Senate Bills - Third Reading File
+	SB 219	McGuire	Consent Calendar First Legislative Day
+	SB 226	Pan	Consent Calendar First Legislative Day
+	SB 239	Committee on Banking and Financial Institutions	Consent Calendar First Legislative Day
RA	SB 254	Borgeas	Consent Calendar Second Legislative Day
+	SB 263	Rubio	Senate Bills - Third Reading File
+	SB 269	Portantino	Senate Bills - Third Reading File
+	SB 294	Leyva	Senate Bills - Third Reading File
+	SB 298	Dodd	Senate Bills - Third Reading File
+	SB 302	Committee on Governmental Organization	Consent Calendar First Legislative Day
+	SB 308	Min	Consent Calendar First Legislative Day
+	SB 369	Pan	Consent Calendar First Legislative Day
+	SB 386	Umberg	Senate Bills - Third Reading File
+	SB 394	Hueso	Senate Bills - Third Reading File
+	SB 409	Caballero	Senate Bills - Third Reading File
+	SB 484	Archuleta	Senate Bills - Third Reading File
	SB 539	Hertzberg	Senate Bills - Third Reading File
+	SB 574	Laird	Consent Calendar First Legislative Day
	SB 721	Hueso	Senate Bills - Third Reading File
+	SCR 2	Umberg	Senate Bills - Third Reading File
	SCR 11	Rubio	Senate Bills - Third Reading File
	SCR 18	Cortese	Senate Bills - Third Reading File
	SCR 20	Ochoa Bogh	Senate Bills - Third Reading File
	SCR 22	Umberg	Senate Bills - Third Reading File
+	SCR 23	Archuleta	Senate Bills - Third Reading File
+	SJR 1	Allen	Senate Bills - Third Reading File
	SR 6	Skinner	Senate Bills - Third Reading File
	SR 16	Borgeas	Senate Bills - Third Reading File
	SR 17	Gonzalez	Senate Bills - Third Reading File
+	SR 20	Archuleta	Senate Bills - Third Reading File
+	SR 21	Pan	Senate Bills - Third Reading File
+	SR 22	Min	Senate Bills - Third Reading File
+	SR 23	Durazo	Senate Bills - Third Reading File
	AB 84	Committee on Budget	Assembly Bills - Third Reading File
	ACR 15	Luz Rivas	Special Consent Calendar No.1
	ACR 16	Luz Rivas	Special Consent Calendar No.1
	ACR 20	Medina	Special Consent Calendar No.1
+	ACR 22	Boerner Horvath	Assembly Bills - Third Reading File
	ACR 28	Calderon	Special Consent Calendar No.1
	ACR 30	Medina	Special Consent Calendar No.1
	ACR 31	Grayson	Special Consent Calendar No.1

+ ADDS

RA Revised Analysis

* Analysis pending

<u>Note</u>	<u>Measure</u>	<u>Author</u>	<u>Location</u>
+	ACR 34	Luz Rivas	Assembly Bills - Third Reading File
+	ACR 38	Blanca Rubio	Assembly Bills - Third Reading File

+ ADDS
RA Revised Analysis
* Analysis pending

CONSENT

Bill No: SB 574
Author: Laird (D)
Amended: 3/4/21
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 3/11/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Agricultural preserves: Williamson Act

SOURCE: Author

DIGEST: This bill narrows the role of the Department of Conservation (DOC) in administering the Williamson Act.

ANALYSIS:

Existing law:

- 1) Creates the Williamson Act, also known as the California Land Conservation Act of 1965, which authorizes cities and counties to enter into agricultural land preservation contracts with landowners who agree to restrict the use of their land for a minimum of 10 years in exchange for lower assessed valuations for property tax purposes.
- 2) Creates Farmland Security Zones which authorizes cities and counties to allow agricultural land preservation contracts with landowners who agree to restrict the use of their land for a minimum of 20 years in exchange for lower-assessed valuations for property tax purposes. The lowered assessed value, under Farmland Security Zones, is greater than under the Williamson Act.
- 3) Provides three options for ending a Williamson Act contract:

- a) Either the landowner or local officials gives "notice of nonrenewal," which stops the automatic annual renewals and allows the contract to run down over the next 10 years.
 - b) Local officials can cancel a contract at the request of the landowner. To do so, local officials must make findings that cancellation is in the public interest and that cancellation is consistent with the purposes of the Williamson Act. The owner must pay a cancellation fee based on the "cancellation value" of the land. If the land is under contract is covered by a Farmland Security Zone, DOC must approve the cancellation.
 - c) Local officials cancel a Williamson Act contract, but the landowner simultaneously puts an agricultural conservation easement or open space easement on other land of equal or greater value.
- 4) Requires, generally, the county assessor to determine the cancellation valuation.
 - 5) Allows DOC and the landowner to agree on a cancellation valuation separate from the local agency.

This bill:

- 1) Repeals the ability of DOC to agree on a cancellation value for contracted land with a landowner, along with the requirement that the department provide a preliminary valuation to the applicable assessor.
- 2) Repeals the requirement that DOC approve cancellation of a farmland security contract.
- 3) Revises the requirement for local agencies that participate in the Williamson Act to provide maps of agricultural preserves to DOC to instead require them to provide GIS data files and extends the date by which local agencies must provide this information to DOC.
- 4) Revises and repeals various minor noticing and reporting requirements.
- 5) Requires DOC to provide information on all participating jurisdictions on its website annually, instead of annually compiling a report on one-third of the participating jurisdictions.
- 6) Narrows the types of information that DOC must report annually pursuant to 5) by repealing the requirement to list the number of nonrenewals and withdrawals and the number of acres covered by nonrenewals that were not withdrawn.

7) Makes other technical and conforming changes.

Background

Historically, the state made subvention payments to counties to make up for a portion of the resulting losses in local property tax revenue from Williamson Act and Farmland Security Zone contracts, and other enforceable open space restriction programs. Subvention payments totaled about \$35 million to \$40 million each year from 1994 to 2008. However, the state stopped making subvention payments in fiscal year 2009-10 in response to budgetary pressures.

Because the Williamson Act is now completely funded by local governments, the author wants to update the Williamson Act to scale back the role DOC plays in administering it to streamline the Act and maximize efficiency.

Comments

Purpose of the bill. According to the author, “SB 574 will strengthen local control of Williamson Act implementation, reduce workload for counties, cities, and the state and improve the Department of Conservation’s ability to support local planning departments and monitor statewide participation in the Williamson Act. Specifically, this bill will:

- “Reduce county/city reporting requirements that do not provide meaningful benefit. This will reduce county/city planning department and state workload;
- “Reduce unnecessary state noticing requirements for local Williamson Act contracts and planning matters;
- “Reduce redundant state commenting processes that are already accomplished through the CEQA process;
- “Avoid potential conflicts of interest by removing the option for landowners to avoid the county Assessor’s appraisal and negotiate directly with the State for land valuation used in a Williamson Act contract cancellation;
- “Reduce categories for data reporting that are inconsistently provided to the state, reducing county/city staff administrative time;
- “Improve the Department’s ability to provide technical assistance to counties and cities by reducing state administrative workload;

- “Require consistent GIS data reporting on Williamson Act contracts from every county. This will allow the Department to provide a one-stop source for Williamson Act data to assist local CEQA and other land use work statewide and strengthen the Department’s ability to monitor the impacts that the Williamson Act is having to protect the state’s most important agricultural lands from development.”

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT: (Verified 3/23/21)

None received

OPPOSITION: (Verified 3/23/21)

None received

Prepared by: Anton Favorini-Csorba / GOV. & F. / (916) 651-4119
3/24/21 15:32:40

**** **END** ****