

AMENDED IN ASSEMBLY APRIL 22, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2860

Introduced by Assembly Member Mendoza

February 22, 2008

An act to ~~amend Section 51295 of~~ *add Section 51282.15* to the Government Code, relating to agricultural lands.

LEGISLATIVE COUNSEL'S DIGEST

AB 2860, as amended, Mendoza. Agricultural lands: cancellation of Williamson Act contracts.

~~Existing law, the Williamson Act, authorizes a city or county to contract with a landowner to limit the use of agricultural land located within an area designated as an agricultural preserve by the city or county. Under existing law, such a contract is deemed null and void upon acquisition of the land subject to the contract in an eminent domain action or other acquisition proceeding by the federal government.~~

~~This bill would specify that a contract is also deemed null and void when the land subject to the contract is acquired, as specified, by the federal government to hold in trust on behalf of a federally recognized Indian tribe.~~

Existing law authorizes a landowner to petition a county board or supervisors or a city council for cancellation of any Williamson Act contract for all or part of the subject land. The board or council is authorized to grant tentative approval for cancellation of a contract if it finds that cancellation is in the public interest. For these purposes, the board or council is required to find that other public concerns substantially outweigh the objectives of the Williamson Act and that either there is no proximate noncontracted land that is both available

and suitable for the use to which it is proposed the contracted land be put, or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land.

This bill would establish a rebuttable presumption that where a Native American tribe or tribal group has petitioned for a contract cancellation that tribal cultural centers, infrastructure, and housing are alterative uses that are public concerns that substantially outweigh the objectives of the act and that for tribal cultural centers, infrastructure, and housing, land contiguous to existing tribal land would provide more contiguous patterns of urban development than development of proximate noncontracted land.

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

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

1 SECTION 1. Section 51282.15 is added to the Government
2 Code, to read:

3 51282.15. Where a Native American tribe or tribal group has
4 petitioned for a contract cancellation pursuant to this article, a
5 rebuttable presumption exists that tribal cultural centers,
6 infrastructure, and housing are alterative uses that are public
7 concerns that substantially outweigh the objectives of this chapter
8 for the finding required pursuant to paragraph (1) of subdivision
9 (c) of Section 51282, and that for tribal cultural centers,
10 infrastructure, and housing, land contiguous to existing tribal land
11 would provide more contiguous patterns of urban development
12 than development of proximate noncontracted land for the finding
13 required pursuant to paragraph (2) of subdivision (c) of Section
14 51282. This section shall not be interpreted to narrow the
15 circumstances under which a board or council may approve a
16 petition pursuant to Section 51282 where one or both of the
17 presumptions do not apply or have been rebutted.

18 ~~SECTION 1. Section 51295 of the Government Code is~~
19 ~~amended to read:~~

20 ~~51295. When any action in eminent domain for the~~
21 ~~condemnation of the fee title of an entire parcel of land subject to~~
22 ~~a contract is filed, or when that land is acquired in lieu of eminent~~
23 ~~domain for a public improvement by a public agency or person,~~

1 or whenever there is any such action or acquisition by the federal
2 government or any person, instrumentality, or agency acting under
3 the authority or power of the federal government, including
4 acquisition of land by the federal government to hold the land in
5 trust on behalf of a federally recognized Indian tribe, the contract
6 shall be deemed null and void as to the land actually being
7 condemned, or so acquired as of the date the action is filed, and
8 for the purposes of establishing the value of the land, the contract
9 shall be deemed never to have existed.

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

12 When an action to condemn or acquire less than all of a parcel
13 of land subject to a contract is commenced, the contract shall be
14 deemed null and void as to the land actually condemned or acquired
15 and shall be disregarded in the valuation process only as to the
16 land actually being taken, unless the remaining land subject to
17 contract will be adversely affected by the condemnation, in which
18 case the value of that damage shall be computed without regard
19 to the contract.

20 When an action to condemn or acquire an interest that is less
21 than the fee title of an entire parcel or any portion thereof of land
22 subject to a contract is commenced, the contract shall be deemed
23 null and void as to that interest and, for the purpose of establishing
24 the value of only that interest, shall be deemed never to have
25 existed, unless the remaining interests in any of the land subject
26 to the contract will be adversely affected, in which case the value
27 of that damage shall be computed without regard to the contract.

28 The land actually taken shall be removed from the contract.
29 Under no circumstances shall land be removed that is not actually
30 taken for a public improvement, except that when only a portion
31 of the land or less than a fee interest in the land is taken or acquired,
32 the contract may be canceled with respect to the remaining portion
33 or interest upon petition of either party and pursuant to the
34 provisions of Article 5 (commencing with Section 51280).

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

39 If, after acquisition, the acquiring public agency determines that
40 it will not for any reason actually locate on that land or any part

1 thereof, the public improvement for which the land was acquired,
2 before returning the land to private ownership, the public agency
3 shall give written notice to the Director of Conservation and the
4 local governing body responsible for the administration of the
5 preserve, and the land shall be reenrolled in a new contract or
6 enumbered by an enforceable deed restriction with terms at least
7 as restrictive as those provided by this chapter. The duration of
8 the restriction shall be determined by subtracting the length of time
9 the land was held by the acquiring public agency or person from
10 the number of years that remained on the original contract at the
11 time of acquisition.