

AMENDED IN ASSEMBLY JUNE 21, 2010

AMENDED IN SENATE MAY 10, 2010

AMENDED IN SENATE APRIL 6, 2010

**SENATE BILL**

**No. 1124**

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**Introduced by Senator Negrete McLeod**

February 18, 2010

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An act to ~~amend Section 5919 of the Public Resources Code, repeal Chapter 377 of the Statutes of 2004,~~ relating to land conservation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1124, as amended, Negrete McLeod. Land conservation: California Wildlife, Coastal, and Park Land Conservation Act: *County of San Bernardino*.

The California Wildlife, Coastal, and Park Land Conservation Act, an initiative measure approved by the voters in the June 7, 1988, statewide primary election, provided bond funds for wildlife, coastal, and parkland conservation. The initiative measure may be amended by a  $\frac{2}{3}$  vote of the Legislature if the amendment is consistent with the purposes of the act. Existing law requires an applicant receiving state funds under the act to maintain any property acquired in perpetuity, as specified, and use the property only for the purposes stated in the act *and to make no other use, sale, or other disposition of the property except as authorized by a specific act of the Legislature. Existing law requires the County of San Bernardino to sell property it owns within the Chino Agricultural Preserve that was purchased with the bond funds if the county meets certain conditions.*

~~This bill would require a grantee, or its successors in interest, if the grantee or its successor in interest agree to place a conservation,~~

~~agricultural, or open space easement on property acquired, developed, rehabilitated, or restored with funds allocated pursuant to the act for a grant to the County of San Bernardino for requisition of land, as specified, to record the easement on or before July 1, 2011, and would require the granting agency to approve the easement. The bill would require the easement to provide that the property is to be maintained and operated in perpetuity, only for the purposes set forth in the act, and no other use, sale, or other disposition of the property shall be made except as authorized by specific act of the Legislature.~~

*This bill would revise and recast that law to authorize the County of San Bernardino to sell property it owns within the Chino Agricultural Preserve that was purchased with grant funds from the act if the county, among other things, uses the proceeds from each sale only for the acquisition of replacement land or conservation easements within the preserve. The bill would prohibit the county from selling or acquiring land or conservation easements unless and until the Board of Supervisors for the County of San Bernardino adopts a detailed land plan by December 31, 2011. The bill would require the land plan to meet certain conditions including that it identify each parcel of property acquired with grant funds and show which parcel will be sold, exchanged, purchased, or retained. This bill would also require the county to take certain steps to implement an adopted land plan, including recording a conservation easement for the purpose of agricultural preservation and open-space conservation on each property identified for retention by April 1, 2012.*

The bill would declare that ~~this requirement is~~ *these requirements are* an amendment of the act within the meaning of Section 6 of the act and is consistent with the act.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1     SECTION 1. (a) *The Legislature authorizes, pursuant to*  
2     *paragraph (2) of subdivision (a) of Section 5919 of the Public*  
3     *Resources Code, the County of San Bernardino to sell property it*  
4     *owns within the Chino Agricultural Preserve that was purchased*  
5     *with grant funds from the California Wildlife, Coastal, and Park*  
6     *Land Conservation Act (Division 5.8 (commencing with Section*  
7     *5900) of the Public Resources Code), provided that the sale meets*

1 *the conditions of subdivision (b) of Section 5919 of the Public*  
2 *Resources Code and all of the following conditions:*

3 *(1) The County of San Bernardino shall use all the proceeds*  
4 *from each sale only for the acquisition of replacement land or*  
5 *conservation easements within the Chino Agricultural Preserve.*  
6 *An exception to this may only be granted by the California*  
7 *Department of Parks and Recreation.*

8 *(2) The County of San Bernardino shall preserve all lands and*  
9 *conservation easements acquired or dedicated as authorized by*  
10 *this subdivision in perpetuity for agricultural preservation and*  
11 *open-space conservation purposes.*

12 *(3) By April 1, 2011, the County of San Bernardino shall place*  
13 *a deed restriction on each property it acquired with grant funds*  
14 *from the California Wildlife, Coastal, and Park Land Conservation*  
15 *Act. The deed restriction shall be written for the purposes of*  
16 *agricultural preservation and open-space conservation. Each deed*  
17 *restriction shall be recorded with the County assessor. Each deed*  
18 *restriction shall be in effect until either a conservation easement*  
19 *is recorded on the property, pursuant to subparagraph (A) of*  
20 *paragraph (2) of subdivision (c), or until the County of San*  
21 *Bernardino sells or exchanges the property.*

22 *(4) The County of San Bernardino satisfies all conditions in*  
23 *paragraph (1) of subdivision (c), and those conditions in paragraph*  
24 *(1) of subdivision (c) that are necessary to implement the adopted*  
25 *plan.*

26 *(b) For purposes of this subdivision, the following definitions*  
27 *apply:*

28 *(1) "County" means the County of San Bernardino.*

29 *(2) "Board" means the Board of Supervisors for the County of*  
30 *San Bernardino.*

31 *(3) "Department" means the California Department of Parks*  
32 *and Recreation.*

33 *(4) "Plan" means the detailed land plan that is prepared to*  
34 *show the existing and proposed disposition of lands purchased by*  
35 *the County of San Bernardino in the Chino Agricultural Preserve*  
36 *with funds from the California Wildlife, Coastal, and Park Land*  
37 *Conservation Act (Division 5.8 (commencing with Section 5900)*  
38 *of the Public Resources Code).*

39 *(5) "Grant funds" means the grant that was made to the County*  
40 *of San Bernardino from the California Department of Parks and*

1 *Recreation from the California Wildlife, Coastal, and Park Land*  
2 *Conservation Act (Division 5.8 (commencing with Section 5900)*  
3 *of the Public Resources Code).*

4 (6) “Preserve” means the Chino Agricultural Preserve as  
5 defined by the boundaries of the 14,000-acre Chino Agricultural  
6 Preserve as it existed on June 8, 1988 and includes property  
7 surrounding the Chino airport.

8 (c) (1) The county shall not sell or acquire land or conservation  
9 easements pursuant to this section unless and until the board  
10 adopts a detailed land plan by December 31, 2011. The adopted  
11 plan shall meet all of the following conditions:

12 (A) It identifies each parcel of property acquired with grant  
13 funds and shows which specific parcels will be sold, exchanged,  
14 purchased, or retained.

15 (B) For each parcel to be sold, exchanged, purchased and  
16 retained, it identifies whether the parcel will be acquired or  
17 retained in fee title or as a conservation easement.

18 (C) To the extent feasible and practical, the plan will maximize  
19 the connectivity of lands for agricultural preservation and  
20 open-space conservation purposes.

21 (D) If the plan results in any net loss in acreage or agricultural  
22 and open-space value of protected land in comparison to what  
23 was purchased with grant funds, the plan shall identify additional  
24 land within the preserve to compensate for that loss.

25 (E) An environmental review accompanies the land plan.

26 (F) The land plan was provided to the department for its review  
27 and approval no less than 90 days prior to the county’s adoption.  
28 The land plan must be approved by the department before it can  
29 be approved by the board. If the department does not approve the  
30 plan it shall provide the reasons to the county.

31 (G) The county holds a public hearing before the board for the  
32 purpose of reviewing the land plan and taking public comment.  
33 The hearing shall be scheduled for a specific time during a  
34 regularly scheduled meeting of the board, and shall be separately  
35 noticed and publicized.

36 (H) The land plan and environmental review demonstrate that  
37 there is no net loss in acreage or agricultural and open-space  
38 value as a result of implementation of the plan.

39 (2) To implement the adopted land plan, the county must take  
40 the following steps, which are required to fulfill the adopted land

1 *plan as well as any other actions that may be necessitated by the*  
2 *land plan:*

3 *(A) By April 1, 2012, the county shall record a conservation*  
4 *easement for the purposes of agricultural preservation and*  
5 *open-space conservation on each property identified for retention*  
6 *in the adopted plan.*

7 *(B) Within 90 days of the acquisition of any property in fee title,*  
8 *the county shall record a conservation easement on the property*  
9 *for the purposes of agricultural preservation and open space*  
10 *conservation.*

11 *(C) If the plan identified a net loss in acreage or agricultural*  
12 *or open-space value of protected lands, the county shall acquire*  
13 *or dedicate additional land or conservation easements within the*  
14 *preserve to compensate for that loss no later than one year*  
15 *following the sale of the last property to be disposed. Any*  
16 *conservation easement shall be for the purposes of agricultural*  
17 *preservation and open-space conservation.*

18 *(D) If the county acquires a conservation easement through*  
19 *purchase or exchange in furtherance of the plan, the conservation*  
20 *easement shall be for the purposes of agricultural preservation*  
21 *and open-space conservation.*

22 *(E) Prior to closing any real property transactions with respect*  
23 *to the land plan, the county shall submit independent appraisals*  
24 *of the land to be sold and the land to be acquired to the department*  
25 *for concurrence with state appraisal standards. The county shall*  
26 *make these appraisals available to the public.*

27 *(F) Before recordation, each conservation easement shall be*  
28 *approved by the department. Each conservation easement shall*  
29 *be in perpetuity.*

30 *(d) If the county fails to adopt a detailed land plan by December*  
31 *31, 2011 that meets the criteria outlined in this section it may apply*  
32 *to the department for an amendment of the time requirement*  
33 *specified in subdivision (c). No elements or requirements of the*  
34 *land plan may be eliminated or substantively modified as part of*  
35 *the amendment. If the county does not apply for an amendment or*  
36 *the department does not approve an amendment, the county shall*  
37 *record a conservation easement on all lands purchased within the*  
38 *preserve with grant funds no later than April 1, 2012. Before*  
39 *recordation, each conservation easement shall be approved by the*  
40 *department. Each conservation easement shall be for the purposes*

1 of agricultural preservation and open-space conservation, and  
2 each shall be in perpetuity.

3 (e) This section shall not be construed to exempt the county  
4 from the requirements of the California Environmental Quality  
5 Act (Division 13 (commencing with Section 21000) of the Public  
6 Resources Code).

7 SEC. 2. Section 1 of this act is an amendment to the California  
8 Wildlife, Coastal, and Park Land Conservation Act (Division 5.8  
9 (commencing with Section 5900) of the Public Resources Code)  
10 within the meaning of Section 6 of that act, and is consistent with  
11 the purpose of that act.

12 SEC. 3. Chapter 377 of the Statutes of 2004 is repealed.

13 SECTION 1. ~~Section 5919 of the Public Resources Code is~~  
14 ~~amended to read:~~

15 ~~5919. (a) (1) State funds authorized under Section 5907 shall~~  
16 ~~not be disbursed unless the applicant agrees to all of the following:~~

17 ~~(A) To maintain and operate the property acquired, developed,~~  
18 ~~rehabilitated, or restored with the funds in perpetuity. With the~~  
19 ~~approval of the granting agency, the applicant or its successors in~~  
20 ~~interest in the property may transfer the responsibility to maintain~~  
21 ~~and operate the property in accordance with this section.~~

22 ~~(B) To use the property only for the purposes of this division~~  
23 ~~and to make no other use, sale, or other disposition of the property~~  
24 ~~except as authorized by specific act of the Legislature.~~

25 ~~(2) An applicant for a grant pursuant to paragraph (3) of~~  
26 ~~subdivision (b), and subdivisions (c), (d), and (e), of Section 5907~~  
27 ~~shall submit an application to the administering agency for grant~~  
28 ~~approval. Each application shall include in writing the agreements~~  
29 ~~specified in paragraph (1).~~

30 ~~(3) The agreements specified in paragraph (1) shall not prevent~~  
31 ~~the transfer of property acquired, developed, rehabilitated, or~~  
32 ~~restored with funds authorized pursuant to Section 5907 from the~~  
33 ~~applicant to a public agency, provided the successor public agency~~  
34 ~~assumes the obligations imposed by those agreements.~~

35 ~~(b) (1) If the use of the property acquired through grants~~  
36 ~~pursuant to this division is changed to one other than permitted~~  
37 ~~under the category from which the funds were appropriated, or the~~  
38 ~~property is sold or otherwise disposed of, an amount equal to the~~  
39 ~~(A) amount of the grant, (B) the fair market value of the real~~  
40 ~~property, or (C) the proceeds from the portion thereof, acquired,~~

1 developed, rehabilitated, or restored with the grant shall be used  
2 by the grantee, subject to subdivision (a), for a purpose authorized  
3 in that category or shall be reimbursed to the fund and be available  
4 for appropriation only for a use authorized in that category.

5 (2) If the property sold or otherwise disposed of is less than the  
6 entire interest in the property originally acquired, developed,  
7 rehabilitated, or restored with the grant, an amount equal to the  
8 proceeds or the fair market value of the property interest sold or  
9 otherwise disposed of, whichever is greater, shall be used by the  
10 grantee, subject to subdivision (a) of this section, for a purpose  
11 authorized in that category or shall be reimbursed to the fund and  
12 be available for appropriation only for a use authorized in that  
13 category.

14 (e) If, in furtherance of the intent of, and any agreements made  
15 pursuant to paragraph (1) of subdivision (a), the grantee or its  
16 successors in interest committed through resolution, contract, or  
17 other instrument to place a conservation, agricultural, or open  
18 space easement on the property acquired, developed, rehabilitated,  
19 or restored with state funds authorized under subparagraph (F) of  
20 paragraph (3) of subdivision (b) of Section 5907, the easement  
21 shall be approved by the granting agency and shall be recorded in  
22 accordance with Section 815.5 of the Civil Code, on or before July  
23 1, 2011. The conservation easement shall provide that the real  
24 property will be maintained and operated in perpetuity consistent  
25 with the requirements of Chapter 4 (commencing with Section  
26 815) of Division 2 of Part 2 of Title 2 of the Civil Code, only for  
27 the purposes set forth in this division, and no other use, sale, or  
28 other disposition of the real property shall be made except as  
29 authorized by specific act of the Legislature.

30 SEC. 2.— Section 1 of this act is an amendment to the California  
31 Wildlife, Coastal, and Park Land Conservation Act (Division 5.8  
32 (commencing with Section 5900) of the Public Resources Code)  
33 within the meaning of Section 6 of that act, and is consistent with  
34 the purpose of that act.