

AMENDED IN ASSEMBLY JUNE 24, 1996

AMENDED IN SENATE MAY 28, 1996

AMENDED IN SENATE MAY 1, 1996

AMENDED IN SENATE APRIL 9, 1996

SENATE BILL

No. 1804

Introduced by Senator Monteith
(Coauthors: Senators Costa and Haynes)
(Coauthors: Assembly Members Battin, Granlund, Harvey,
House, Margett, and Richter)

February 22, 1996

An act to amend Sections 421 and 423 of, and to add Section 423.8 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1804, as amended, Monteith. Property taxation: agricultural land: valuation: wildlife and endangered species restrictions.

Existing property tax law generally requires, pursuant to the authorization of the California Constitution, that open-space land that is enforceably restricted, as defined, be valued for purposes of taxation in a manner consistent with those restrictions in accordance with a specified procedure. Existing law also establishes criteria for the valuation of enforceably restricted land generally.

This bill would, as provided, require open-space land that has been restricted under state or federal law as wildlife or

endangered species habitat, upon the request of the owner of the land, to be enrolled in a wildlife habitat contract with the restricting governmental entity in the case of a state-imposed habitat restriction, or with the county or city in the case of a federally imposed habitat restriction. This bill would, as provided, also require any already enforceably restricted open-space land that becomes subject to a wildlife habitat contract pursuant to this requirement to be valued for taxation in accordance with either (1) the criteria for the valuation of enforceably restricted land generally *or* (2) ~~or~~ the general valuation procedure for enforceably restricted open-space land. ~~This bill would, for purposes of its requirements, also expand the definition of the term “wildlife” to include a reptile, amphibian, insect, or plant.~~ By imposing additional contract and valuation duties on local officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would take immediate effect as a tax levy, but its provisions would become operative commencing with those taxes levied with respect to the first property tax lien date following the effective date of this bill.

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

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

- 1 SECTION 1. Section 421 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 421. For the purposes of this article:



1 (a) “Agricultural preserve” means an agricultural
2 preserve created pursuant to the California Land
3 Conservation Act of 1965 (Williamson Act) (Chapter 7
4 (commencing with Section 51200) of Part 1 of Division 1
5 of Title 5 of the Government Code).

6 (b) “Contract” means a contract executed pursuant to
7 the California Land Conservation Act.

8 (c) “Agreement” means an agreement executed
9 pursuant to the California Land Conservation Act prior
10 to the 61st day following the final adjournment of the 1969
11 Regular Session of the Legislature and that, taken as a
12 whole, provides restrictions, terms and conditions that
13 are substantially similar or more restrictive than those
14 required by statute for a contract.

15 (d) “Scenic restriction” means any interest or right in
16 real property acquired by a city or county pursuant to
17 Chapter 12 (commencing with Section 6950) of Division
18 7 of Title 1 of the Government Code, where the deed or
19 other instrument granting such right or interest imposes
20 restrictions that, through limitation of their future use,
21 will effectively preserve for public use and enjoyment,
22 the character of open spaces and areas as defined in
23 Section 6954 of the Government Code.

24 A scenic restriction shall be for an initial term of 10
25 years or more, and shall provide for either of the
26 following:

27 (1) A method whereby the term may be extended by
28 mutual agreement of the parties.

29 (2) That the initial term shall be subject to annual
30 automatic one-year extensions as provided for contracts
31 in Sections 51244, 51244.5, and 51246 of the Government
32 Code, unless notice of nonrenewal is given as provided in
33 Section 51245 of the Government Code.

34 A scenic restriction may not be terminated prior to the
35 expiration of the initial term, and any extension thereof,
36 except as provided for cancellation of contracts in
37 Sections 51281, 51282, 51283 and 51283.3 of the
38 Government Code, and subject to the provisions therein
39 for payment of the cancellation fee.



1 (e) “Open-space easement” means an open-space
2 easement granted to a county or city pursuant to Chapter
3 6.5 (commencing with Section 51050) of Part 1 of Division
4 1 of Title 5 of the Government Code if the easement is
5 acquired prior to January 1, 1975, or an open-space
6 easement granted to a county, city, or nonprofit
7 organization pursuant to Chapter 6.6 (commencing with
8 Section 51070) of Part 1 of Division 1 of Title 5 of the
9 Government Code if the easement is acquired after
10 January 1, 1975, or an open-space easement granted to a
11 regional park district, regional park and open-space
12 district, or regional open-space district under Article 3
13 (commencing with Section 5500) of Chapter 3 of Division
14 5 of the Public Resources Code.

15 (f) “Wildlife habitat contract” means any contract or
16 amended contract or covenant involving, except as
17 provided in Section 423.8, 150 acres or more of land
18 entered into by a landowner with any agency or political
19 subdivision of the federal or state government limiting
20 the use of lands for a period of 10 or more years by the
21 landowner to habitat for native or migratory wildlife and
22 native pasture. These lands shall, by contract, be eligible
23 to receive water for waterfowl or waterfowl management
24 purposes from the federal government.

25 (g) “Open-space land” means any of the following:

26 (1) Land within an agricultural preserve and subject
27 to a contract or an agreement.

28 (2) Land subject to a scenic restriction.

29 (3) Land subject to an open-space easement.

30 (4) Land that has been restricted by a political
31 subdivision or an entity of the state or federal
32 government as a wildlife habitat or endangered species
33 habitat.

34 (h) “Typical rotation period” means a period of years
35 during which different crops are grown as part of a plant
36 cultural program. Typical rotation period does not mean
37 the rotation period of timber.

38 (i) “Wildlife” means waterfowl of every kind and any
39 other undomesticated mammal, fish, or bird, ~~or any~~
40 ~~reptile, amphibian, insect, or plant.~~



1 (j) “Endangered species” means any species of
2 wildlife that has been classified as endangered by any
3 entity of the state or federal government.

4 SEC. 2. Section 423 of the Revenue and Taxation
5 Code is amended to read:

6 423. Except as provided in Sections 423.7 and 423.8,
7 when valuing enforceably restricted open-space land,
8 other than land used for the production of timber for
9 commercial purposes, the county assessor shall not
10 consider sales data on lands, whether or not enforceably
11 restricted, but shall value these lands by the capitalization
12 of income method in the following manner:

13 (a) The annual income to be capitalized shall be
14 determined as follows:

15 (1) Where sufficient rental information is available the
16 income shall be the fair rent which can be imputed to the
17 land being valued based upon rent actually received for
18 the land by the owner and upon typical rentals received
19 in the area for similar land in similar use, where the owner
20 pays the property tax. Any cash rent or its equivalent
21 considered in determining the fair rent of the land shall
22 be the amount for which comparable lands have been
23 rented, determined by average rents paid to owners as
24 evidenced by typical land leases in the area, giving
25 recognition to the terms and conditions of the leases and
26 the uses permitted within the leases and within the
27 enforceable restrictions imposed.

28 (2) Where sufficient rental information is not
29 available, the income shall be that which the land being
30 valued reasonably can be expected to yield under
31 prudent management and subject to applicable
32 provisions under which the land is enforceably restricted.
33 There shall be a rebuttable presumption that “prudent
34 management” does not include use of the land for a
35 recreational use, as defined in subdivision (n) of Section
36 51201 of the Government Code, unless the land is actually
37 devoted to that use.

38 (3) Notwithstanding any other provision herein, if the
39 parties to an instrument which enforceably restricts the
40 land stipulate therein an amount which constitutes the



1 minimum annual income per acre to be capitalized, then
2 the income to be capitalized shall not be less than the
3 amount so stipulated.

4 For the purposes of this section, income shall be
5 determined in accordance with rules and regulations
6 issued by the board and with this section and shall be the
7 difference between revenue and expenditures. Revenue
8 shall be the amount of money or money's worth,
9 including any cash rent or its equivalent, which the land
10 can be expected to yield to an owner-operator annually
11 on the average from any use of the land permitted under
12 the terms by which the land is enforceably restricted,
13 including, but not limited to, that from the production of
14 salt and from typical crops grown in the area during a
15 typical rotation period, as evidenced by historic cropping
16 patterns and agricultural commodities grown. When the
17 land is planted to fruit-bearing or nut-bearing trees, vines,
18 bushes, or perennial plants, the revenue shall not be less
19 than the land would be expected to yield to an
20 owner-operator from other typical crops grown in the
21 area during a typical rotation period, as evidenced by
22 historic cropping patterns and agricultural commodities
23 grown. Proceeds from the sale of the land being valued
24 shall not be included in the revenue from the land.

25 Expenditures shall be any outlay or average annual
26 allocation of money or money's worth that has been
27 charged against the revenue received during the period
28 used in computing that revenue. Those expenditures to
29 be charged against revenue shall be only those which are
30 ordinary and necessary in the production and
31 maintenance of the revenue for that period.
32 Expenditures shall not include depletion charges, debt
33 retirement, interest on funds invested in the land,
34 interest on funds invested in trees and vines valued as
35 land as provided by Section 429, property taxes,
36 corporation income taxes, or corporation franchise taxes
37 based on income. When the income used is from
38 operating the land being valued or from operating
39 comparable land, amounts shall be excluded from the
40 income to provide a fair return on capital investment in



1 operating assets other than the land, to amortize
2 depreciable property, and to fairly compensate the
3 owner-operator for his operating and managing services.

4 (b) The capitalization rate to be used in valuing land
5 pursuant to this article shall not be derived from sales data
6 and shall be the sum of the following components:

7 (1) An interest component, to be determined by the
8 board and announced no later than September 1 of the
9 year preceding the assessment year, which is the
10 arithmetic mean, rounded to the nearest $\frac{1}{4}$ percent, of
11 the yield rate for long-term United States government
12 bonds, as most recently published by the Federal Reserve
13 Board, and the corresponding yield rates for those bonds,
14 as most recently published by the Federal Reserve Board
15 as of each September 1 immediately prior to each of the
16 four immediately preceding assessment years. The
17 interest component defined by this paragraph shall be
18 implemented in phases and shall be:

19 (A) For the 1993–94 assessment year, the yield rate for
20 long-term United States government bonds, as most
21 recently published by the Federal Reserve Board,
22 rounded to the nearest $\frac{1}{4}$ percent.

23 (B) For the 1994–95 assessment year, the arithmetic
24 mean, rounded to the nearest $\frac{1}{4}$ percent, of the yield rate
25 for long-term United States government bonds, as most
26 recently published by the Federal Reserve Board, and the
27 corresponding yield rate for those bonds, as most recently
28 published by the Federal Reserve Board as of the
29 September 1 immediately prior to the 1993–94 assessment
30 year.

31 (C) For the 1995–96 assessment year, the arithmetic
32 mean, rounded to the nearest $\frac{1}{4}$ percent, of the yield rate
33 for long-term United States government bonds, as most
34 recently published by the Federal Reserve Board, and the
35 corresponding yield rates for those bonds, as most
36 recently published by the Federal Reserve Board as of
37 each September 1 immediately prior to the 1993–94 and
38 1994–95 assessment years.

39 (D) For the 1996–97 assessment year, the arithmetic
40 mean, rounded to the nearest $\frac{1}{4}$ percent, of the yield rate



1 for long-term United States government bonds, as most
2 recently published by the Federal Reserve Board, and the
3 corresponding yield rates for those bonds, as most
4 recently published by the Federal Reserve Board as of
5 each September 1 immediately prior to the 1993–94,
6 1994–95, and 1995–96 assessment years.

7 (E) For the 1997–98 assessment year, and each fiscal
8 year thereafter, the arithmetic mean, rounded to the
9 nearest $\frac{1}{4}$ percent, of the yield rate for long-term United
10 States government bonds, as most recently published by
11 the Federal Reserve Board, and the corresponding yield
12 rates for those bonds, as most recently published by the
13 Federal Reserve Board as of each September 1
14 immediately prior to the four immediately preceding
15 assessment years.

16 (2) A risk component which shall be a percentage
17 determined on the basis of the location and
18 characteristics of the land, the crops to be grown thereon
19 and the provisions of any lease or rental agreement to
20 which the land is subject.

21 (3) A component for property taxes which shall be a
22 percentage equal to the estimated total tax rate
23 applicable to the land for the assessment year times the
24 assessment ratio. The estimated total tax rate shall be the
25 cumulative rates used to compute the state's
26 reimbursement of local governments for revenues lost on
27 account of homeowners' property tax exemptions in the
28 tax rate area in which the enforceably restricted land is
29 situated.

30 (4) A component for amortization of any investment
31 in perennials over their estimated economic life when the
32 total income from land and perennials other than timber
33 exceeds the yield from other typical crops grown in the
34 area.

35 (c) The value of the land shall be the quotient for the
36 income determined as provided in subdivision (a)
37 divided by the capitalization rate determined as provided
38 in subdivision (b).

39 (d) Unless a party to an instrument which creates an
40 enforceable restriction expressly prohibits such a



1 valuation, the valuation resulting from the capitalization
2 of income method described in this section shall not
3 exceed the lesser of either the valuation that would have
4 resulted by calculation under Section 110, or the
5 valuation that would have resulted by calculation under
6 Section 110.1, as though the property was not subject to
7 an enforceable restriction in the base year.

8 In determining the 1975 base year value under Article
9 XIII A of the California Constitution for any parcel for
10 comparison, the county may charge a contractholder a
11 fee limited to the reasonable costs of such determination
12 not to exceed twenty dollars (\$20) per parcel.

13 (e) If the parties to an instrument which creates an
14 enforceable restriction expressly so provide therein, the
15 assessor shall assess those improvements which
16 contribute to the income of land in the manner provided
17 herein. As used in this subdivision “improvements which
18 contribute to the income of the land” shall include, but
19 are not limited to, wells, pumps, pipelines, fences, and
20 structures which are necessary or convenient to the use
21 of the land within the enforceable restrictions imposed.

22 SEC. 3. Section 423.8 is added to the Revenue and
23 Taxation Code, to read:

24 423.8. (a) Notwithstanding the acreage requirement
25 specified in subdivision (f) of Section 421, both of the
26 following apply with respect to enrollment in a wildlife
27 habitat contract:

28 (1) Any open-space land that has been restricted as
29 wildlife or endangered species habitat by a political
30 subdivision of the state or entity of state government
31 shall, upon the request of the owner of that land, be
32 enrolled in a wildlife habitat contract with the political
33 subdivision of the state or entity of state government that
34 has so restricted the subject open-space land.

35 (2) Any open-space land that has been restricted as
36 wildlife or endangered species habitat by an agency of the
37 federal government shall, upon the request of the
38 landowner, be enrolled in a wildlife habitat contract with
39 the city or county having jurisdiction over the restricted
40 open-space land.



1 For any open-space land eligible for valuation under
 2 Section 423, that has also been enrolled in a wildlife
 3 habitat contract pursuant to this section, the controlling
 4 value of the land shall, except as otherwise provided in
 5 the following sentence, be the lower of the values
 6 determined for that land pursuant to Sections 402.1 and
 7 423. In the absence of a contract executed pursuant to the
 8 California Land Conservation Act, lands enrolled in a
 9 wildlife habitat contract pursuant to this section shall be
 10 assessed at the value determined as provided in Section
 11 402.1.

12 (b) In no event shall this section be construed to
 13 authorize a political subdivision or any entity of the state
 14 or federal government to restrict the otherwise lawful use
 15 of private property by designating all or part of that
 16 property as wildlife habitat or endangered species habitat
 17 without the consent of the owner of that property.

18 SEC. 4. Notwithstanding Section 17610 of the
 19 Government Code, if the Commission on State Mandates
 20 determines that this act contains costs mandated by the
 21 state, reimbursement to local agencies and school
 22 districts for those costs shall be made pursuant to Part 7
 23 (commencing with Section 17500) of Division 4 of Title
 24 2 of the Government Code. If the statewide cost of the
 25 claim for reimbursement does not exceed one million
 26 dollars (\$1,000,000), reimbursement shall be made from
 27 the State Mandates Claims Fund.

28 Notwithstanding Section 17580 of the Government
 29 Code, unless otherwise specified, the provisions of this act
 30 shall become operative on the same date that the act
 31 takes effect pursuant to the California Constitution.

32 SEC. 5. This act provides for a tax levy within the
 33 meaning of Article IV of the Constitution and shall go into
 34 immediate effect. However, this act shall become
 35 operative commencing with those property taxes levied
 36 for the first lien date following the effective date of this
 37 act.

O

