

AMENDED IN SENATE MAY 4, 2009

SENATE BILL

No. 715

Introduced by Senator Wolk

(Principal coauthor: Assembly Member Yamada)

(Coauthors: Assembly Members Arambula, Chesbro, and Galgiani)

February 27, 2009

An act to amend Section 51201 of, and to add Sections 51247.5 and 66474.5 to, the Government Code, and to amend Section 426 of the Revenue and Taxation Code, relating to agricultural land.

LEGISLATIVE COUNSEL'S DIGEST

SB 715, as amended, Wolk. Agricultural land: Williamson Act.

(1) For purposes of the Williamson Act, a landowner is required to furnish the city or county with any information that the city or county requires in order to enable that city or county to determine the eligibility of land involved in a contract. The act defines "agricultural use" to mean the use of land, including, but not limited to, greenhouses, for the purpose of producing an agricultural commodity for commercial purposes, and "agricultural commodity" to mean any and all plant and animal products produced in this state for commercial purposes, including, but not limited to, plant products used for producing biofuels.

This bill would authorize the board of supervisors of a county to require the county assessor to send an annual survey to verify continuous agricultural income from one or more agricultural uses or agricultural commodities, in the form the board prescribes, to all owners of land under a contract, and would require the owner or owners to return the completed survey to the assessor within 60 days. ~~The bill would define "agricultural income" to mean continuous income derived from either an agricultural use or an agricultural commodity, or both.~~

(2) Existing law requires the legislative body of a city or county to deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it finds that either the resulting parcels following a subdivision of that land would be too small to sustain their agricultural use, or the subdivision will result in residential development not incidental to the commercial agricultural use of the land, where the land is subject to, among others, a contract entered into pursuant to the Williamson Act.

This bill would require the legislative body of a city or county to deny approval of a tentative map, or parcel map for which a tentative map is not required, for the proposed subdivision of land that is subject to a contract entered into pursuant to the Williamson Act, unless the legislative body finds, among other things, that ~~the proposed subdivision will be consistent with the purposes of that act~~, each resulting parcel of land will be consistent with the local rules relating to that act, and ~~the approval of the proposed subdivision does not compromise the long-term commercial agricultural use or open-space use~~ *each resulting parcel of land has an existing commercial agricultural use, an open-space use, or both, the agricultural improvements necessary to sustain a commercial agricultural use, an open-space use, or both, or a feasible plan exists for achieving those improvements, if necessary, as specified.* The bill would also authorize the legislative body to impose any reasonable and necessary restrictions on the residential use of any resulting parcel.

(3) Under existing law, if a city ~~or~~, county, *or nonprofit organization* serves written notice of nonrenewal of an open-space easement contract, a Williamson Act contract, or a farmland security zone contract, ~~with 6 or fewer years remaining on the contract upon the landowner~~, and the landowner ~~makes a~~ *fails to provide* written notice of protest, the board of supervisors or the assessor is required to follow specified steps in assessing the annual value of the land ~~until the contract term expires immediately.~~

This bill would instead provide that if a city ~~or~~, county, *or nonprofit organization* serves written notice of nonrenewal *for cause, as defined*, of an open-space easement contract, a Williamson Act contract, or a farmland security zone contract, *or the city or county serves notice of nonrenewal* and the landowner ~~makes a~~ *fails to provide* written notice of protest, the board of supervisors or the assessor is required to follow specified steps in assessing the annual value of the land ~~until the contract~~

~~term expires, beginning no later than one year after the date of the notice of nonrenewal immediately.~~

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 51201 of the Government Code is
2 amended to read:

3 51201. As used in this chapter, unless otherwise apparent from
4 the context, the following terms have the following meanings:

5 (a) “Agricultural commodity” means any and all plant and
6 animal products produced in this state for commercial purposes,
7 including, but not limited to, plant products used for producing
8 biofuels.

9 (b) “Agricultural use” means use of land, including, but not
10 limited to, greenhouses, for the purpose of producing an
11 agricultural commodity for commercial purposes.

12 (c) “Prime agricultural land” means any of the following:

13 (1) All land that qualifies for rating as class I or class II in the
14 Natural Resource Conservation Service land use capability
15 classifications.

16 (2) Land which qualifies for rating 80 through 100 in the Storie
17 Index Rating.

18 (3) Land which supports livestock used for the production of
19 food and fiber and which has an annual carrying capacity
20 equivalent to at least one animal unit per acre as defined by the
21 United States Department of Agriculture.

22 (4) Land planted with fruit- or nut-bearing trees, vines, bushes,
23 or crops which have a nonbearing period of less than five years
24 and which will normally return during the commercial bearing
25 period on an annual basis from the production of unprocessed
26 agricultural plant production not less than two hundred dollars
27 (\$200) per acre.

28 (5) Land which has returned from the production of unprocessed
29 agricultural plant products an annual gross value of not less than
30 two hundred dollars (\$200) per acre for three of the previous five
31 years.

32 (d) “Agricultural preserve” means an area devoted to either
33 agricultural use, as defined in subdivision (b), recreational use as

1 defined in subdivision (n), or open-space use as defined in
2 subdivision (o), or any combination of those uses and which is
3 established in accordance with the provisions of this chapter.

4 (e) “Compatible use” is any use determined by the county or
5 city administering the preserve pursuant to Section 51231, 51238,
6 or 51238.1 or by this act to be compatible with the agricultural,
7 recreational, or open-space use of land within the preserve and
8 subject to contract. “Compatible use” includes agricultural use,
9 recreational use or open-space use unless the board or council finds
10 after notice and hearing that the use is not compatible with the
11 agricultural, recreational or open-space use to which the land is
12 restricted by contract pursuant to this chapter.

13 (f) “Board” means the board of supervisors of a county which
14 establishes or proposes to establish an agricultural preserve or
15 which enters or proposes to enter into a contract on land within an
16 agricultural preserve pursuant to this chapter.

17 (g) “Council” means the city council of a city which establishes
18 or proposes to establish an agricultural preserve or which enters
19 or proposes to enter into a contract on land within an agricultural
20 preserve pursuant to this chapter.

21 (h) Except where it is otherwise apparent from the context,
22 “county” or “city” means the county or city having jurisdiction
23 over the land.

24 (i) A “scenic highway corridor” is an area adjacent to, and within
25 view of, the right-of-way of:

26 (1) An existing or proposed state scenic highway in the state
27 scenic highway system established by the Legislature pursuant to
28 Article 2.5 (commencing with Section 260) of Chapter 2 of
29 Division 1 of the Streets and Highways Code and which has been
30 officially designated by the Department of Transportation as an
31 official state scenic highway; or

32 (2) A county scenic highway established pursuant to Article 2.5
33 (commencing with Section 260) of Chapter 2 of Division 1 of the
34 Streets and Highways Code, if each of the following conditions
35 have been met:

36 (A) The scenic highway is included in an adopted general plan
37 of the county or city; and

38 (B) The scenic highway corridor is included in an adopted
39 specific plan of the county or city; and

1 (C) Specific proposals for implementing the plan, including
2 regulation of land use, have been approved by the Advisory
3 Committee on a Master Plan for Scenic Highways, and the county
4 or city highway has been officially designated by the Department
5 of Transportation as an official county scenic highway.

6 (j) A “wildlife habitat area” is a land or water area designated
7 by a board or council, after consulting with and considering the
8 recommendation of the Department of Fish and Game, as an area
9 of importance for the protection or enhancement of the wildlife
10 resources of the state.

11 (k) A “saltpond” is an area which, for at least three consecutive
12 years immediately prior to being placed within an agricultural
13 preserve pursuant to this chapter, has been used for the solar
14 evaporation of seawater in the course of salt production for
15 commercial purposes.

16 (l) A “managed wetland area” is an area, which may be an area
17 diked off from the ocean or any bay, river or stream to which water
18 is occasionally admitted, and which, for at least three consecutive
19 years immediately prior to being placed within an agricultural
20 preserve pursuant to this chapter, was used and maintained as a
21 waterfowl hunting preserve or game refuge or for agricultural
22 purposes.

23 (m) A “submerged area” is any land determined by the board
24 or council to be submerged or subject to tidal action and found by
25 the board or council to be of great value to the state as open space.

26 (n) “Recreational use” is the use of land in its agricultural or
27 natural state by the public, with or without charge, for any of the
28 following: walking, hiking, picnicking, camping, swimming,
29 boating, fishing, hunting, or other outdoor games or sports for
30 which facilities are provided for public participation. Any fee
31 charged for the recreational use of land as defined in this
32 subdivision shall be in a reasonable amount and shall not have the
33 effect of unduly limiting its use by the public. Any ancillary
34 structures necessary for a recreational use shall comply with the
35 provisions of Section 51238.1.

36 (o) “Open-space use” is the use or maintenance of land in a
37 manner that preserves its natural characteristics, beauty, or
38 openness for the benefit and enjoyment of the public, to provide
39 habitat for wildlife, or for the solar evaporation of seawater in the

1 course of salt production for commercial purposes, if the land is
2 within:

3 (1) A scenic highway corridor, as defined in subdivision (i).

4 (2) A wildlife habitat area, as defined in subdivision (j).

5 (3) A saltpond, as defined in subdivision (k).

6 (4) A managed wetland area, as defined in subdivision (l).

7 (5) A submerged area, as defined in subdivision (m).

8 (6) An area enrolled in the United States Department of
9 Agriculture Conservation Reserve Program or Conservation
10 Reserve Enhancement Program.

11 (p) "Development" means, as used in Section 51223, the
12 construction of buildings or the use of the restricted property if
13 the buildings or use are unrelated to the agricultural use, the
14 open-space use, or uses compatible with either agricultural or
15 open-space uses of the property, or substantially impair the
16 agricultural, open-space, or a combination of the agricultural and
17 open-space uses of the property. Agricultural use, open-space use,
18 uses compatible with either agricultural or open-space uses, or the
19 acquisition of land or an interest in land are not development.

20 ~~(q) "Agricultural income" means continuous income derived~~
21 ~~from an agricultural use, an agricultural commodity, or both.~~

22 SEC. 2. Section 51247.5 is added to the Government Code, to
23 read:

24 51247.5. (a) The board or council may require the county
25 assessor to send an annual survey to verify continuous agricultural
26 income, in the form the board prescribes, to all owners of land
27 under a contract within the county.

28 (b) Upon receipt of an annual survey sent pursuant to subdivision
29 (a), the owner or owners of land under a contract shall return the
30 completed survey within 60 days to the assessor.

31 SEC. 3. Section 66474.5 is added to the Government Code, to
32 read:

33 66474.5. (a) *In addition to the requirements of Section 66474.4,*
34 *in the case of the proposed subdivision of land that is subject to a*
35 *contract entered into pursuant to the California Land Conservation*
36 *Act of 1965 (Chapter 7 (commencing with Section 51200) of Part*
37 *1 of Division 1 of Title 5), the legislative body of a city or county*
38 *shall deny approval of a tentative map, or parcel map for which a*
39 *tentative map is not required, unless the legislative body finds all*
40 *of the following:*

1 ~~(1) The proposed subdivision is consistent with the purposes of~~
2 ~~that act.~~

3 ~~(2)~~

4 (1) Each resulting parcel of land is consistent with the contract
5 entered into pursuant to the act.

6 ~~(3)~~

7 (2) Each resulting parcel of land is consistent with the local
8 rules adopted pursuant to Section 51231.

9 ~~(4)~~

10 (3) Each resulting parcel of land is capable of sustaining a
11 commercial agricultural use, an open-space use, or both.

12 ~~(5)~~

13 (4) Each resulting parcel of land has *an existing commercial*
14 *agricultural use or open-space use, or both*, the ~~agricultural~~
15 improvements necessary to sustain a commercial agricultural use,
16 an open-space use, or both, *or a feasible plan exists for achieving*
17 *those improvements, if necessary.*

18 ~~(6) Each resulting parcel of land meets the productivity and~~
19 ~~other requirements for inclusion in a contract entered into pursuant~~
20 ~~to the act and the local rules adopted pursuant to Section 51231.~~

21 ~~(7) The approval of the proposed subdivision does not~~
22 ~~compromise the long-term commercial agricultural use or~~
23 ~~open-space use of any of the following:~~

24 ~~(A) The land that is the subject of the proposed subdivision.~~

25 ~~(B) Any other land within the same agricultural preserve that~~
26 ~~is subject to a contract entered into pursuant to the act.~~

27 ~~(C) Any other agricultural land or open-space land within the~~
28 ~~same agricultural preserve.~~

29 ~~(D) Any other adjacent agricultural land or open-space land.~~

30 (b) If the legislative body of a city or county makes all of the
31 findings required by subdivision (a), the legislative body may, to
32 ensure compliance with the ~~purposes of the act~~ *terms of the*
33 *contract, the local rules adopted pursuant to Section 51231, and*
34 *the provisions of this section*, include as conditions in any tentative
35 map, or parcel map for which a tentative map is not required, any
36 reasonable and necessary restrictions on ~~the new residential use~~
37 ~~of uses or buildings on~~ any resulting parcel.

38 (c) As used in this section the following terms have the
39 following meanings:

(1) “Act” means the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5).

(2) “Agricultural preserve” means an agricultural preserve as defined by Section 51210.

(3) “Commercial agricultural use” means an agricultural use as defined by Section 51201.

(4) “Open-space use” means an open-space use as defined in Section 51201.

SEC. 4. Section 426 of the Revenue and Taxation Code is amended to read:

426. (a) Notwithstanding any provision of Section 423 to the contrary, if either the county, city, or nonprofit organization or the owner of land subject to contract, agreement, scenic restriction, or open-space easement has served notice of nonrenewal as provided in Section 51091, 51245, or 51296.9 of the Government Code, and the county ~~assessors~~ assessor shall, unless the parties shall have subsequently rescinded the contract pursuant to Section 51254 or 51255 of the Government Code, value the land as provided in this section.

(b) If the owner of land serves notice of nonrenewal or the county, city, or nonprofit organization serves notice of nonrenewal *for cause, or the county or city serves notice of nonrenewal* and the owner fails to protest as provided in Section 51091, 51245, or 51296.9 of the Government Code, subdivision (c) shall apply immediately. If the county, city, or nonprofit organization serves notice of nonrenewal *for any other reason* and the owner does protest as provided in Section 51091, 51245, or 51296 of the Government Code, subdivision (c) shall apply ~~no later than one year after the date of the notice of nonrenewal. when less than six years remain until the termination of the period for which the land is enforceably restricted. As used in this subdivision, the term “for cause” means a landowner’s documented failure to comply with any provision of the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code), any local uniform rule or ordinance adopted pursuant to that act, or the terms of any contract entered into pursuant to that act.~~

(c) Where any of the conditions in subdivision (b) apply, the board or assessor in each year until the termination of the period

1 for which the land is enforceably restricted shall do all of the
2 following:

3 (1) Determine the value of the land pursuant to Section 110.1.
4 If the land is not subject to Section 110.1 when the restriction
5 expires, the value shall be determined pursuant to Section 110 as
6 if it were free of contractual restriction. If the land will be subject
7 to a use for which this code provides a special restricted
8 assessment, the value shall be determined as if it were subject to
9 the new restriction.

10 (2) Determine the value of the land by capitalization of income
11 as provided in Section 423 and without regard to the existence of
12 any of the conditions in subdivision (b).

13 (3) Subtract the value determined in paragraph (2) of subdivision
14 (c) by capitalization of income from the full value determined in
15 paragraph (1).

16 (4) Using the rate announced by the board pursuant to paragraph
17 (1) of subdivision (b) of Section 423, discount the amount obtained
18 in paragraph (3) for the number of years remaining until the
19 termination of the contract, agreement, scenic restriction, or
20 open-space easement.

21 (5) Determine the value of the land by adding the value
22 determined by capitalization of income as provided in paragraph
23 (2) and the value obtained in paragraph (4).

24 (6) Apply the ratio prescribed in Section 401 to the value of the
25 land determined in paragraph (5) to obtain its assessed value.