

AMENDED IN SENATE MAY 28, 2009

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~~ 51247 of, and to add Sections 51247.5 and Section 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) Existing law, for purposes of a contract pursuant to the Williamson Act, requires the landowner to furnish the city or county with information that the city or county requires to determine the eligibility of the land involved in the contract.

This bill would, on either an initial or ongoing basis, instead require the landowner to furnish the city or county with information that is directly related to the landowner's compliance with the act that the city or county requires to determine the eligibility of the land involved in the contract.

~~(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.~~

(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 each resulting parcel of land will be consistent with the local rules relating to that act, and 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, 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, and the landowner 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 immediately.

This bill would instead provide that if a city, 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 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 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 51247 of the Government Code is
2 amended to read:

3 51247. ~~The~~ On either an initial or ongoing basis, the landowner
4 shall furnish the city or county with such information as, directly
5 relating to the landowner's compliance with this chapter, that the
6 city or county shall require in order to enable it to determine the
7 eligibility of the land involved.

8 SECTION 1. ~~Section 51201 of the Government Code is~~
9 amended to read:

10 51201. As used in this chapter, unless otherwise apparent from
11 the context, the following terms have the following meanings:

12 (a) "Agricultural commodity" means any and all plant and
13 animal products produced in this state for commercial purposes,
14 including, but not limited to, plant products used for producing
15 biofuels.

16 (b) "Agricultural use" means use of land, including, but not
17 limited to, greenhouses, for the purpose of producing an
18 agricultural commodity for commercial purposes.

19 (c) "Prime agricultural land" means any of the following:

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

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

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

29 (4) Land planted with fruit or nut-bearing trees, vines, bushes,
30 or crops which have a nonbearing period of less than five years
31 and which will normally return during the commercial bearing
32 period on an annual basis from the production of unprocessed

1 agricultural plant production not less than two hundred dollars
2 (\$200) per acre.

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

7 (d) “Agricultural preserve” means an area devoted to either
8 agricultural use, as defined in subdivision (b), recreational use as
9 defined in subdivision (n), or open-space use as defined in
10 subdivision (o), or any combination of those uses and which is
11 established in accordance with the provisions of this chapter.

12 (e) “Compatible use” is any use determined by the county or
13 city administering the preserve pursuant to Section 51231, 51238,
14 or 51238.1 or by this act to be compatible with the agricultural,
15 recreational, or open-space use of land within the preserve and
16 subject to contract. “Compatible use” includes agricultural use,
17 recreational use or open-space use unless the board or council finds
18 after notice and hearing that the use is not compatible with the
19 agricultural, recreational or open-space use to which the land is
20 restricted by contract pursuant to this chapter.

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

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

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

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

34 (1) An existing or proposed state scenic highway in the state
35 scenic highway system established by the Legislature pursuant to
36 Article 2.5 (commencing with Section 260) of Chapter 2 of
37 Division 1 of the Streets and Highways Code and which has been
38 officially designated by the Department of Transportation as an
39 official state scenic highway; or

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

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

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

9 ~~(C) Specific proposals for implementing the plan, including~~
10 ~~regulation of land use, have been approved by the Advisory~~
11 ~~Committee on a Master Plan for Scenic Highways, and the county~~
12 ~~or city highway has been officially designated by the Department~~
13 ~~of Transportation as an official county scenic highway.~~

14 ~~(j) A “wildlife habitat area” is a land or water area designated~~
15 ~~by a board or council, after consulting with and considering the~~
16 ~~recommendation of the Department of Fish and Game, as an area~~
17 ~~of importance for the protection or enhancement of the wildlife~~
18 ~~resources of the state.~~

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

24 ~~(l) A “managed wetland area” is an area, which may be an area~~
25 ~~diked off from the ocean or any bay, river or stream to which water~~
26 ~~is occasionally admitted, and which, for at least three consecutive~~
27 ~~years immediately prior to being placed within an agricultural~~
28 ~~preserve pursuant to this chapter, was used and maintained as a~~
29 ~~waterfowl hunting preserve or game refuge or for agricultural~~
30 ~~purposes.~~

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

34 ~~(n) “Recreational use” is the use of land in its agricultural or~~
35 ~~natural state by the public, with or without charge, for any of the~~
36 ~~following: walking, hiking, picnicking, camping, swimming,~~
37 ~~boating, fishing, hunting, or other outdoor games or sports for~~
38 ~~which facilities are provided for public participation. Any fee~~
39 ~~charged for the recreational use of land as defined in this~~
40 ~~subdivision shall be in a reasonable amount and shall not have the~~

1 effect of unduly limiting its use by the public. Any ancillary
2 structures necessary for a recreational use shall comply with the
3 provisions of Section 51238.1.

4 (o) “Open-space use” is the use or maintenance of land in a
5 manner that preserves its natural characteristics, beauty, or
6 openness for the benefit and enjoyment of the public, to provide
7 habitat for wildlife, or for the solar evaporation of seawater in the
8 course of salt production for commercial purposes, if the land is
9 within:

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

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

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

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

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

15 (6) An area enrolled in the United States Department of
16 Agriculture Conservation Reserve Program or Conservation
17 Reserve Enhancement Program.

18 (p) “Development” means, as used in Section 51223, the
19 construction of buildings or the use of the restricted property if
20 the buildings or use are unrelated to the agricultural use, the
21 open-space use, or uses compatible with either agricultural or
22 open-space uses of the property, or substantially impair the
23 agricultural, open-space, or a combination of the agricultural and
24 open-space uses of the property. Agricultural use, open-space use,
25 uses compatible with either agricultural or open-space uses, or the
26 acquisition of land or an interest in land are not development.

27 SEC. 2. Section 51247.5 is added to the Government Code, to
28 read:

29 51247.5. (a) The board or council may require the county
30 assessor to send an annual survey to verify continuous agricultural
31 income, in the form the board prescribes, to all owners of land
32 under a contract within the county.

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

36 SEC. 3.

37 SEC. 2. Section 66474.5 is added to the Government Code, to
38 read:

39 66474.5. (a) In addition to the requirements of Section 66474.4,
40 in the case of the proposed subdivision of land that is subject to a

1 contract entered into pursuant to the California Land Conservation
2 Act of 1965 (Chapter 7 (commencing with Section 51200) of Part
3 1 of Division 1 of Title 5), the legislative body of a city or county
4 shall deny approval of a tentative map, or parcel map for which a
5 tentative map is not required, unless the legislative body finds all
6 of the following:

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

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

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

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

18 (b) If the legislative body of a city or county makes all of the
19 findings required by subdivision (a), the legislative body may, to
20 ensure compliance with the terms of the contract, the local rules
21 adopted pursuant to Section 51231, and the provisions of this
22 section, include as conditions in any tentative map, or parcel map
23 for which a tentative map is not required, any reasonable and
24 necessary restrictions on new residential uses or buildings on any
25 resulting parcel.

26 (c) As used in this section the following terms have the
27 following meanings:

28 (1) "Act" means the California Land Conservation Act of 1965
29 (Chapter 7 (commencing with Section 51200) of Part 1 of Division
30 1 of Title 5).

31 (2) "Agricultural preserve" means an agricultural preserve as
32 defined by Section 51210.

33 (3) "Commercial agricultural use" means an agricultural use as
34 defined by Section 51201.

35 (4) "Open-space use" means an open-space use as defined in
36 Section 51201.

37 ~~SEC. 4.~~

38 *SEC. 3.* Section 426 of the Revenue and Taxation Code is
39 amended to read:

1 426. (a) Notwithstanding any provision of Section 423 to the
2 contrary, if either the county, city, or nonprofit organization or the
3 owner of land subject to contract, agreement, scenic restriction,
4 or open-space easement has served notice of nonrenewal as
5 provided in Section 51091, 51245, or 51296.9 of the Government
6 Code, and the county assessor shall, unless the parties shall have
7 subsequently rescinded the contract pursuant to Section 51254 or
8 51255 of the Government Code, value the land as provided in this
9 section.

10 (b) If the owner of land serves notice of nonrenewal or the
11 county, city, or nonprofit organization serves notice of nonrenewal
12 for cause, or the county or city serves notice of nonrenewal and
13 the owner fails to protest as provided in Section 51091, 51245, or
14 51296.9 of the Government Code, subdivision (c) shall apply
15 immediately. If the county, city, or nonprofit organization serves
16 notice of nonrenewal for any other reason and the owner does
17 protest as provided in Section 51091, 51245, or 51296 of the
18 Government Code, subdivision (c) shall apply when less than six
19 years remain until the termination of the period for which the land
20 is enforceably restricted. As used in this subdivision, the term “for
21 cause” means a landowner’s documented failure to comply with
22 any provision of the California Land Conservation Act of 1965
23 (Chapter 7 (commencing with Section 51200) of Part 1 of Division
24 1 of Title 5 of the Government Code), any local uniform rule or
25 ordinance adopted pursuant to that act, or the terms of any contract
26 entered into pursuant to that act.

27 (c) Where any of the conditions in subdivision (b) apply, the
28 board or assessor in each year until the termination of the period
29 for which the land is enforceably restricted shall do all of the
30 following:

31 (1) Determine the value of the land pursuant to Section 110.1.
32 If the land is not subject to Section 110.1 when the restriction
33 expires, the value shall be determined pursuant to Section 110 as
34 if it were free of contractual restriction. If the land will be subject
35 to a use for which this code provides a special restricted
36 assessment, the value shall be determined as if it were subject to
37 the new restriction.

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

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

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

9 (5) Determine the value of the land by adding the value
10 determined by capitalization of income as provided in paragraph
11 (2) and the value obtained in paragraph (4).

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

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