Date of Hearing: April 17, 2024

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY
Cottie Petrie-Norris, Chair
AB 2528 (Arambula) – As Amended March 18, 2024

SUBJECT: Williamson Act contracts: cancellation: energy projects

SUMMARY: Provides an avenue for cancellation of Williamson Act contracts on agricultural land to be used for specified energy infrastructure. Specifically, **this bill**:

1) Allows a landowner to petition the applicable local government for cancellation of a Williamson Act or farmland security contract so long as the land is:

    a. Located either in a basin designated as high or medium priority and subject to various groundwater management plans; has no groundwater rights sufficient to support viable irrigated agricultural use; or does not have permanent access to sufficient water.

    b. Used for either a solar photovoltaic (PV) or wind generation resources, an energy storage system, or an electric transmission line connecting the solar PV, wind, or batteries to the grid.

2) The local government may approve a cancellation only if it finds the land does not have permanent access to sufficient water, and the energy infrastructure project would use less water than the agricultural use on the land.

3) Removes any contract cancellation fees for eligible land undergoing the process in the bill.

EXISTING LAW:

1) Creates the Williamson Act, also known as the California Land Conservation Act of 1965, which authorizes cities and counties to enter into agricultural land preservation contracts with landowners who agree to restrict the use of their land for a minimum of 10 years in exchange for lower assessed valuations for property tax purposes. (Government Code §§ 51200, et seq.)

2) Creates Farmland Security Zones which authorizes cities and counties to allow agricultural land preservation contracts with landowners who agree to restrict the use of their land for a minimum of 20 years in exchange for lower-assessed valuations for property tax purposes. The lowered assessed value, under Farmland Security Zones, is greater than under the Williamson Act. (Government Code §§ 51296-51297.4)

3) Provides three options for ending a Williamson Act contract:

    a) Either the landowner or local officials give "notice of nonrenewal," which stops the automatic annual renewals and allows the contract to run down over the next 10 years. (Government Code § 51245)

b) Local officials can cancel a contract at the request of the landowner. To do so, local officials must make findings that cancellation is in the public interest and that cancellation is consistent with the purposes of the Williamson Act. The owner must pay a cancellation fee based on the "cancellation value" of the land. (Government Code § 51282)

c) Local officials cancel a Williamson Act contract, but the landowner simultaneously puts an agricultural conservation easement or open space easement on other land of equal or greater value. This action is called rescission. (Government Code § 51256)

4) Authorizes a city or county and a landowner to simultaneously rescind a Williamson Act contract on marginally productive or physically impaired lands and enter into a solar-use easement that restricts the use of land to photovoltaic solar facilities, as specified. (Government Code §§ 51191-51192.2)

5) Establishes the Sustainable Groundwater Management Act (SGMA), as a statewide framework to protect groundwater resources by requiring local agencies to form groundwater sustainability agencies (GSAs) for the designated high and medium priority water basins. GSAs must develop and implement groundwater sustainability plans to avoid undesirable results and mitigate water overdraft within 20 years. (Water Code §§ 10720-10738)

6) Requires retail sellers and publicly owned utilities to increase purchases of renewable energy such that at least 60% of retail sales are procured from eligible renewable energy resources by December 31, 2030. This is known as the RPS. (Public Utilities Code § 399.11 et seq.)

7) Establishes the policy that all of the state's retail electricity be supplied with a mix of RPS-eligible and zero-carbon resources by December 31, 2045, and 100% of electricity procured to serve all state agencies by December 31, 2035, for a total of 100% clean energy. Requires the California Public Utilities Commission (CPUC), in consultation with the California Energy Commission (CEC), California Air Resources Board (CARB), and all California balancing authorities, to issue a joint report to the Legislature by January 1, 2021, reviewing and evaluating the 100% clean energy policy. (Public Utilities Code § 454.53)

8) Requires the CPUC to adopt a process for each load-serving entity (LSE) to file an integrated resource plan (IRP) and a schedule for a periodic updates to the plan. Requires that the IRP of each LSE contribute to a diverse and balanced portfolio of resources needed to ensure a reliable electricity supply that provides optimal integration of renewable energy resources in a cost-effective manner, meets the emissions reduction targets for greenhouse gases (GHG) established by CARB for the electricity sector, and prevents cost shifting among LSEs. (Public Utilities Code §§ 454.52-454.54)

9) Defines energy storage systems as systems that use mechanical, chemical, or thermal processes to store energy that was generated at one time for use at a later time, or that stores thermal energy for direct use for heating or cooling later. (Public Utilities Code § 2835)

FISCAL EFFECT: Unknown. This bill is keyed fiscal and will be referred to the Committee on Appropriations for its review.

BACKGROUND:

A Place in the Sun – AB 1279 (Muratsuchi, Chapter 337, Statutes of 2022) codified into law the state's goals to achieve net zero greenhouse gas (GHG) emissions and a reduction of statewide anthropogenic GHGs to at least 85% below 1990 levels by 2045. This parallels the state's goals for 100% new zero-emission vehicle sales by 2035 and 100% clean electricity by 2045, as established by Governor Newsom's Executive Order N-79-20 and SB 100 (De León, Chapter 312, Statutes of 2018), respectively. Actualizing these goals will require a significant buildout of clean energy infrastructure. In February 2024, the CPUC adopted its preferred portfolio of generation resources needed to meet our decarbonization goals in 2035.[1] The decision adopted over 56 gigawatts (GW) of new resources.[2] For context, in 2018 California's total electric system generation capacity was ~80 GW.[3]

On a longer horizon, the Joint Agency SB 100 Report looks at planning 20+ years out to determine how best to implement the 100% clean electricity by 2045 policy.[4] The first SB 100 report was finalized in March 2021, and included analyses of many pathways to achieve the state's 2045 clean energy goal.[5] While showing that achievement of our 100% clean electricity policy is technically achievable, many barriers and expenses must be overcome. For example, to meet our goals, the SB 100 report showed California will need to roughly triple its current electricity power capacity by 2045. This equates to roughly 6 GW of new solar, wind, and battery storage resources are needed to be built annually for the next two decades; an unprecedented acceleration and scale.[6]

The SB 100 Report will be updated every four years, with future work focused on critical topics, such as land use. [7] This focus recognizes the growing concern that given the unprecedented scale of new resources needing to come online in the next decades to meet our clean energy goals, more conflicts are likely to arise over available land. As part of this effort, the CEC and CPUC have been working on geospatial land-use screens to inform estimates of technical renewable resource potential.[8]

Academic research has also explored land-use issues around renewable development. The Nature Conservancy (TNC) issued their study, *The Power of Place*, in 2019, focused on California with

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[1] D. 24-02-047; CPUC; *Decision Adopting 2023 Preferred System Plan and Related Matters, and Addressing Two Petitions for Modification;* R. 20-05-003; February 20, 2024.
https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M525/K918/525918033.PDF
[2] Table 4, pg. 68; D. 24-02-047, *Ibid.*
[3] CEC 2018 Total System Electric Generation website: 277,764 GWh/8760h=32GW
[4] CEC, CPUC, & CARB; *2021 SB 100 Joint Agency Report: Achieving 100 Percent Clean Electricity in California: An Initial Assessment*;" March 2021.
[5] Pg. 12, *2021 SB 100 Report.*
[6] Pg. 11, *2021 SB 100 Joint Agency Report Summary, "*Achieving 100% Clean Electricity in California"
[7] Pg. 1, *2021 SB 100 Report.*
[8] California Energy Commission. 2023. California Energy Commission. CEC 2023 Land-Use Screens for Electric System Planning. Data last updated July 18, 2023.
From https://experience.arcgis.com/experience/de6ab11146bf47068ff294d87780ce…

subsequent updates broadened regionally and nationally.[9] The TNC study found that "California can decarbonize the electricity sector, but the balance between wind, solar PV, and storage capacity and resultant costs are sensitive to land protections and whether California has access to west-wide renewable energy. Land protections are highly effective in avoiding environmental impacts while achieving GHG targets, but can increase costs, primarily by reducing wind availability."[10] The study recommended better modeling to incorporate conservation data and siting constraints into clean energy planning.

In a more recent study from October 2022, the Public Policy Institute of California (PPIC) examined specific land-use issues around solar energy development in the San Joaquin Valley for SGMA-impacted land removed from agricultural production.[11] The PPIC report concluded that "utility-scale solar development—already an attractive option for landowners owning property with or without water rights—could offer an opportunity to keep lands that exit irrigated production economically productive." Similar to *Power of Place*, the PPIC report noted integration between energy system planning and local land use decisions was needed. It also identified the Williamson Act as a barrier to solar development, given the complexities involved with the current cancellation process.

Williamson Act – The California Land Conservation Act of 1965, also known as the Williamson Act, is a program administered by the Department of Conservation (DOC) to conserve agricultural and open space land. The Williamson Act allows private property owners within "an agricultural preserve" to sign voluntary contracts with counties and cities that restrict their land to agriculture, open space, and compatible uses for the next 10 years. These agricultural preserves are areas where a county, or less often a city, wants to protect and promote agricultural uses. To establish an agricultural preserve, the board of supervisors or city council must adopt a resolution that describes the area covered by the preserve.

Williamson Act contracts automatically renew each year, so that the term is always 10 years in the future. In return for these voluntary contracts, county assessors lower the value of Williamson Act contracted lands to reflect the value of their use as agriculture or open space. In 1998, the Legislature created an option of establishing a Farmland Security Zone, which offers landowners a greater property tax reduction for a minimum 20-year contract.[12]

A landowner who wants to develop land restricted by a Williamson Act contract has three options: nonrenewal, cancellation, or rescission. The normal way to end a Williamson Act contract is for either the landowner or local officials to give "notice of nonrenewal," which stops the automatic annual renewals and allows the contract to run down over the next 10 years.

Alternatively, local officials can cancel a contract at the request of the landowner. To do so, local officials must make findings that cancellation is in the public interest and that cancellation is consistent with the purposes of the Williamson Act. In addition, the landowner must pay a cancellation fee that is equal to 12.5% of the "cancellation valuation" of the property, or 25% in

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[9] Latest update: *Power of Place – West*; TNC; August 2022; https://www.nature.org/content/dam/tnc/nature/en/documents/TNC_Power-of-Place-WEST-Executive_Summary_WEB-9.2.22.pdf

[10] Pg. 2, Wu, G.C.; Leslie, E.; Allen, D.; Sawyerr, O.; Cameron, D.; Brand, E.; Cohen, B.; Ochoa, M.; Olson, A. *Power of Place: Land Conservation and Clean Energy Pathways for California*, 2019.

[11] Ayres, et al., *Solar Energy and Groundwater in the San Joaquin Valley*; October 2022.

[12] SB 1182, Costa, Chapter 353, Statutes of 1998

the case of a farmland security contract. The board or city council first issues a notice of tentative cancellation, which becomes final after the landowner meets any conditions or contingencies of the cancellation and any fees are paid.

Typically, the county assessor determines the cancellation valuation, which is set at the property's unrestricted market value. However, a landowner and DOC can separately agree on a cancellation valuation for the land, which takes the place of the value identified by the county assessor. Local officials may approve or deny a cancellation once the cancellation value is determined. Revenues from this cancellation fee are remitted to the state. However, the Williamson Act also allows local jurisdictions to levy their own cancellation fees in addition to the state cancellation fee. The local government retains revenues from the local cancellation fee.

The third option is rescission. Rescission occurs when the county supervisors cancel a Williamson Act contract, but the landowner simultaneously puts an agricultural conservation easement or open space easement on other land of equal or greater value. The landowner must pay a rescission fee of 6.25% of the property's value, or 12.5% in the case of a farmland security contract. In 2011, the Legislature created an option of establishing solar-use easements which rescinds specified land from the Williamson Act in order to develop photovoltaic solar facilities.[13] The new easement requires that the land be used for solar photovoltaic facilities for a term of 20 years, or if the landowner requests, for a term of not less than 10 years; a rescission fee of 6.25% must be paid.

COMMENTS:

1) *Author's Statement.* According to the author, "California has set an ambitious path to achieve a zero net carbon economy by 2045. California has similar ambitious goals to protect and sustainably manage groundwater resources in the state. This confluence of water sustainability needs and clean energy demand creates an opportunity to craft an approach that addresses multiple economic and environmental goals. The California Land Conservation Act of 1965 (Williamson Act) enables cities and counties to contract with landowners who agree to limit their land to agricultural use. However, the Williamson Act has remained largely unchanged since its inception. This bill provides a streamlined Williamson Act cancellation option to facilitate faster siting of energy infrastructure on formerly productive agricultural parcels and provide relief to landowners and local communities. Simplifying Williamson Act cancellations on water-constrained lands addresses water challenges and renewable energy land constraints while providing farmers with alternative economic opportunities for their land and local governments with a broader tax base."

2) *Land Use Policy Alignment.* As noted above, California will need tens to hundreds of gigawatts of new energy generation over the next two decades to meet our clean energy goals. Where to site and locate all of that electricity generation, and its associated transmission and distribution infrastructure, is an outstanding issue, and one likely to grow more challenging as development ramps up. Occurring simultaneously to the state's clean energy development needing available land for construction, is the state's water management policies retiring or reducing land usage to promote water sustainability.

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[13] SB 618, Wolk, Chapter 596, Statutes of 2011; sunset statutorily in 2020, but SB 1489, Committee on Gov. and Finance, Chapter 427, Statutes of 2022 added it back to statute.

SGMA mandates local water management agencies bring groundwater use to sustainable levels by the early 2040s. As noted by the Farm Bureau, "estimates of the amount of land that may be retired from agricultural production [as a result of SGMA] in the San Joaquin Valley alone range from about 500,000 acres (PPIC) to more than 900,000 acres (Water Blueprint for the San Joaquin Valley), largely driven by water supply reductions as basins achieve sustainability."[14] Finally, the Williamson Act, which was created to protect agriculture and wild spaces from urban sprawl, has provided protection to agricultural land for decades. However, the Act may need updating to capture the reality of land management in the future due to SGMA. The PPIC report even recommends "counties should also consider waiving [Williamson Act] cancellation fees when a parcel loses water access."[15]

This bill seeks to align these state policy trajectories by updating the Williamson Act to waive cancellation fees for land impacted by SGMA, or other water reduction measures, and poised to host energy development. Writing in support, the Western Growers Association notes this SGMA-clean energy-Williamson Act nexus is a "win-win for farmers, local communities, and the state."

3) *Who's the Boss?* Writing in opposition, the Farm Bureau notes concern around the low oversight for which lands would be eligible for Williamson Act fee cancellation under this bill. The bill requires a landowner to petition the local government, who then must make findings to support the requested land's eligibility. However, Farm Bureau notes groundwater sustainability agencies (GSAs) are the appropriate entities for setting water allocations, and their absence from any consultation in this measure undercuts SGMA. It is unclear to committee why the GSAs play no role in the mechanism put forward by this bill. However, upon passage, this bill will be referred to the Committee on Agriculture for its consideration of these issues.

4) *Cherry Picking.* The Farm Bureau also notes in its opposition an underlying worry that the removal of the Williamson Act cancellation fee will lead to thoughtless solar development on prime agricultural space. The Bureau favors a "market-based approach," presumably meaning current practice. Moreover, they note a 2017 Joint-University of California study that determined the Central Valley could site enough needed solar "without building on any agricultural lands."[16] However, simply noting the volume of open land is no more an indicator of suitability of that land for solar development as it is an indicator for agriculture. Energy development often takes many years, sometimes at financial risk for the developer. Developers must consider not only the desire of the landowner to site energy generation on their property, but the disposition of local governments, some of which are less inclined for solar production given state tax law; the quality of the sun or wind; the soil compactness and land topography; the location to transmission infrastructure; and the congestion of the grid node the facility would be interconnecting into, among other considerations. The presence of Williamson Act cancellation fees, which can run into the millions of dollars for developers, is another barrier. However the removal of these fees does not remove the other numerous

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[14] Farm Bureau letter in opposition to AB 2528, Arambula. April 9, 2024.
[15] Pg. 23, PPIC Report, *Ibid.*
[16] Hoffacker, Allen, and Hernández; "Land-sparring Opportunities for Solar Energy Development in Agricultural Landscapes: A Case Study of the Great Central Valley, CA*." Environ. Sci. Technol.* 2017, 51, 24, 14472–14482.

considerations the developer must weigh in pursuing a parcel for energy development. It is unclear to committee how the removal of the fee will lead to a rush on prime agricultural land, especially when this bill requires only land with limited water availability eligible for the fee waiver.

5) *Related Legislation.*

SB 973 (Grove) would permit the cancellation of Williamson Act contracts for land where the landowner commits to limiting the water rights, where permanent water for agriculture use is insufficient, and where a solar energy project is being permitted that will use less water, among other considerations. Status: Referred to the Senate Committees on Local Government and Environmental Quality. Currently not set for hearing.

6) *Prior Legislation.*

AB 580 (Bennett, 2023) directed the CPUC to consult relevant state agencies about challenges to developing zero-emission energy infrastructure using grant funding from the DOC's Multibenefit Land Repurposing Program. Status: Held – Assembly Committee on Appropriations.

SB 688 (Padilla, 2023) required the CEC to award grants for agrivoltaic system projects to support research and development in agrivoltaic systems, conduct an evaluation of the grant program, as specified, and publish the evaluation on the CEC website, contingent upon an appropriation from the Legislature. Status: Held – Assembly Committee on Appropriations.

SB 574 (Laird) narrowed the role of the DOC in administering the Williamson Act. Status: Chapter 644, Statutes of 2021.

SB 618 (Wolk) authorizes a city or county and a landowner to simultaneously rescind a Williamson Act contract on marginally productive or physically impaired lands and enter into a solar-use easement that restricts the use of land to photovoltaic solar facilities, as specified. Status: Chapter 596, Statutes of 2011.

7) *Double referral.* This bill is double-referred; upon passage in this Committee, this bill will be referred to the Assembly Committee on Agriculture.

REGISTERED SUPPORT / OPPOSITION:

Support

Agricultural Council of California
Alliance Ag Services
Alliance Appraisal
Almond Alliance
American Clean Power Association
California Association of Winegrape Growers
California Solar Energy Industries Association
California State Association of Electrical Workers

California State Council of Laborers
Clearway Energy Group LLC
Coalition of California Utility Employees
Forefront Power, LLC
IBEW Local Union 477
Independent Energy Producers Association
Intersect Power
Large Scale Solar Association
Longroad Energy Management, LLC
Portwood Farms
Regenerate California Innovation, INC
Rwe
Tjaarda Ranch LLC
Tule Fog Farm Land LLC
Western Growers Association

Oppose

California Farm Bureau Federation

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