

Date of Hearing: April 23, 2025

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY

Cottie Petrie-Norris, Chair

AB 1156 (Wicks) – As Amended March 20, 2025

SUBJECT: Solar-use easements: suspension of Williamson Act contracts: terms of easement: termination

SUMMARY: Proposes several changes to the laws regulating the conversion of Williamson Act (WA) contracts into solar-use easements (SUEs). Specifically, **this bill:**

- 1) Expands the definition and scope of SUEs:
 - a) Includes the California Energy Commission (CEC) as an eligible entity to hold SUEs.
 - b) Expands permissible land uses to include solar energy storage and appurtenant clean energy facilities.
 - c) Eliminates the option for SUEs to be perpetual.
 - d) Clarifies that agricultural land conservation contracts on SUE land are suspended (not terminated) during the easement term.
- 2) Revises the eligibility and application process of SUEs:
 - a) The Department of Conservation (DOC) must consult with applicable Groundwater Sustainability Agencies (GSAs).
 - b) Eligibility determinations are triggered by landowner requests, not cities or counties.
 - c) Transitions from recission to suspension of WA contracts.
 - d) Expands the eligibility criteria to include land lacking sufficient surface/groundwater for commercially viable agriculture.
 - e) Removes ban on converting prime/important farmland unless DOC finds it unsuitable for farming.
 - f) Requires eligible land to be historically irrigated cropland with less than 10% slope and be free of conservation easements or non-agricultural conservation programs.
 - g) Landowners must provide updated terms and data on commercially viable agricultural activity, including a water availability analysis which must show inadequacy for commercially viable production.
 - h) The DOC must issue a decision within 120 days or the application is deemed approved.
 - i) All DOC eligibility determinations are exempted from California Environmental Quality Act (CEQA).
- 3) Changes SUE deed requirements and decommissioning rules:
 - a) The CEC may impose restrictions, conditions, and covenants.
 - b) Adds appurtenant facilities to allowable uses.
 - c) Eliminates public dedication language, mitigation measures beyond SUE land, and performance bond or security requirement for land restoration.
 - d) Clarifies no additional decommissioning requirements beyond existing state/local laws.
 - e) Allows salvage value to be considered in decommissioning cost estimates.
- 4) Modifies enforcement and land use provisions:
 - a) Cities, counties, and the CEC are prohibited from approving any land use inconsistent with the SUE.
 - b) Only counties or cities – not the CEC – must seek injunctions for violations.

- c) Eliminates private right of action if local governments fail to enforce, and court-awarded litigation costs and attorney's fees for prevailing plaintiffs.
- 5) Changes the termination and renewal process of SUEs to include SUEs may only be terminated by mutual consent; removes the authority for cities/counties to opt out of renewing a SUE; and ends contract nonrenewal process, SUEs remain in effect until mutual termination.
- 6) WA contracts suspended (not canceled) during the SUE term, even if a notice of nonrenewal was served. Once a SUE ends, the WA contract is fully reinstated. Clarifies this suspension process is in addition to other existing mechanisms under the WA.
- 7) Exempts both DOC's eligibility determinations, and the entry into and recordation of a SUE from CEQA review.

EXISTING LAW:

- 1) Creates the Williamson Act (WA), 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 WA. (Government Code §§ 51296-51297.4)
- 3) Provides three options for ending a WA 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 WA. The owner must pay a cancellation fee based on the "cancellation value" of the land. (Government Code § 51282)
 - c) Local officials cancel a WA 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 WA 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) Defines a “solar-use easement” as a legal agreement, held by a city or county, which restricts land use to solar photovoltaic energy generation and related incidental uses, such as open space or agriculture. The easement may be permanent, fixed-term, or self-renewing, and applies only to parcels deemed eligible by the Department of Conservation. It prohibits any commercial, industrial, or residential uses and requires a recorded covenant that limits future development to uses consistent with solar energy production. (Government Code § 51190)
- 6) 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)
- 7) 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 Renewables Portfolio Standard (RPS). (Public Utilities Code § 399.11 et seq.)
- 8) 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. (Public Utilities Code § 454.53)
- 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 Assembly Committee on Appropriations for its review.

CONSUMER COST IMPACTS: Unknown.

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

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>

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 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

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...>

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.

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 WA 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 (WA), is a program administered by DOC to conserve agricultural and open space land. WA 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. WA 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 WA contracted lands to reflect the value of their use as agriculture or open space, instead of the allowable assessment value pursuant to Proposition 13. In 1998, the Legislature created an option of establishing a Farmland Security Zone (FSZ), which offers landowners a greater property tax reduction for a minimum 20-year contract.¹² The Revenue and Taxation Code sets out valuation procedures for land under WA and FSZ contracts, as well as for other lands where the use is enforceably restricted in various ways, including scenic restrictions, open space easements, restrictions for timber cultivation, and wildlife habitat contracts.

As of 2022, about 15.1 million acres of land across 52 counties were under WA contracts. According to DOC, participation in the program has been steady, hovering at about 16 million acres enrolled under contract statewide since the early 1980s. This number represents about one third of all privately held land in California, and about one half of the state’s agricultural land. DOC estimates that individual landowners have saved anywhere from 20% to 75% in reduced property taxes each year, depending upon their circumstances. The DOC’s WA Status Report of 2020-2021, its latest report, noted, “Concerns and questions continue to arise regarding cannabis, solar fields, use compatibility, breach of contract, and most recently, the Sustainable Groundwater Management Act (SGMA)... Most of these types of questions are best addressed at the local level.”

Breaking the WA – A landowner who wants to develop land restricted by a WA contract has three options: nonrenewal, cancellation, or rescission. The normal way to end a WA 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 WA. 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 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.

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

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 WA 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 WA 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 WA 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.

Easements – An easement is a real estate ownership right (an "encumbrance on the title") granted to an individual or entity to make a limited, but typically indefinite, use of the land of another. It is not a right of occupancy as such or a right to profit from the land. It is legally considered an "incorporeal" (not physical) right. Types of easements include express easements, implied easements, and easements by necessity, each with its own criteria and implications. Express easements are formally created through a written agreement between the involved parties. This method necessitates clear documentation that explicitly outlines the parameters of the easement, including the rights granted, the involved parcels of land, and any specific conditions. Express easements are typically recorded with the county recorder's office to notify future purchasers of the property about the easement.

Solar Use Easements – SB 618 (Wolk, Chapter 596, Statutes of 2011) authorized an alternative to the then-existing avenues for exiting a WA or FSZ contract, in response to the state's renewable energy goals and a desire for alternative uses for marginally productive or physically impaired agricultural land. Under the provisions of SB 618, a property owner and a county or city may mutually agree to rescind the WA or FSZ contract on lands of limited agricultural value and enter into a SUE that restricts the use of land to photovoltaic solar facilities.

DOC, in consultation with the Department of Food and Agriculture (CDFA), determines if a parcel is eligible for rescission and placement into a SUE, based on specified criteria. Under SB 618, a parcel is eligible for this process if it is not located on lands designated as prime farmland, unique farmland, or farmland of statewide importance. The land must also consist predominantly of soils with significantly reduced agricultural productivity, or have severely adverse soil conditions that are detrimental to continued agricultural activities and production.

To assist in this determination, the landowner is required to provide DOC with a written narrative demonstrating that continued agricultural practices would be substantially limited due to the soil's reduced agricultural productivity from chemical or physical limitations; a recent soil

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.

test; an analysis of water availability and quality; and crop and yield information for the past six years. The landowner is also required to provide DOC with a proposed management plan describing how the soil will be managed during the life of the easement, how impacts to adjacent agricultural operations will be minimized, and how the land will be restored to its previous general condition. This management plan is required to be implemented, should the project be approved.

The county or city may require a SUE to contain any restrictions, conditions, or covenants as are necessary or desirable to restrict the use of the land to photovoltaic solar facilities. These restrictions may include mitigation measures on or beyond the land that is subject to the SUE. For term easements, these restrictions must include a requirement for the landowner to post a performance bond or other securities to fund the restoration of the land that is subject to the easement to the conditions that existed before the approval or acceptance of the easement by the time the easement terminates.

The SB 618 process requires the landowner to pay a rescission fee, which is 6.25% of the fair market value of the land if it was under a WA contract, and 12.5% if it was in a FSZ. These rescission fees are half that of WA contract cancellation fees.

COMMENTS:

- 1) *Author's Statement.* According to the author, "AB 1156 updates California's Solar-Use Easement statute to permit lands with water constraints to be eligible for an easement, while modernizing eligibility criteria and easement terms. The legislation maintains local discretion, incorporating Groundwater Sustainability Agencies in any review of water limitations, updates the compatibility of solar-use easements with existing permitting processes and provides that land under easement be assessed at its full value. Vitally, the bill provides a path for lands to enter back into a Williamson Act contract at the conclusion of the term of an easement."
- 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. SGMA mandates local water management agencies bring groundwater use to sustainable levels by the early 2040s. Finally, the WA, 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."¹⁴

This bill seeks to align these state policy trajectories by updating the SUE option for exiting WA contracts. Writing in support, renewable energy developers note this SGMA-

¹⁴ Pg. 23, PPIC Report, *Ibid.*

clean energy-WA nexus “helps align state policy goals and provides farmers with new economic opportunities for their land.”

- 3) *Role of the CEC.* Writing in opposition, the Farm Bureau notes concern around the new authority granted to the CEC in this measure to not only be a decider, but potential holder, of a SUE. It is the understanding of this committee that this would be the first time a state agency would be a potential holder of an SUE, which has traditionally been under the purview of counties and cities. This concern is found amongst other parties in opposition to this measure. The Rural County Representatives of California (RCRC) notes in their opposition that WA strikes a balance between the benefits to local governments in preserving important agricultural land against the loss in property tax revenue. RCRC notes “local governments have foregone tens of millions of dollars in property taxes to conserve agricultural land and protect open space.” RCRC contrasts that balance with the inclusion of the CEC in this bill to grant and hold SUEs; a role they feel inappropriate for the CEC given the impacts of WA are uniquely felt by local governments.

The sponsors of this bill, the Large Scale Solar Association, has noted the intention was to grant the CEC the new SUE authority only when those solar projects go through the Opt-in permitting process granted to the CEC under AB 205 (Committee on Budget, Chapter 61, Statutes of 2022). Under that process, the CEC is the lead CEQA agency for environmental review and permitting for any solar (and other specified clean energy) facility that elects to opt into the CEC’s jurisdiction. However this bill does not seem to be limited to the Opt-in permitting process, and rather grants the CEC broad new authority to engage in SUE statewide. Given this seems counter to the author’s intent, the committee may wish to consider the appropriateness of the CEC’s inclusion in this manner.

- 4) *Cherry Picking.* The Farm Bureau also notes in its opposition an underlying worry that the removal of the WA rescission fee – which for SUEs is 6.25% of the fair market value of the land if it was under a WA contract, and 12.5% if it was in a FSZ; these rescission fees are half that of WA contract cancellation fees – will lead to thoughtless solar development on prime agricultural space. The Bureau notes strict guardrails that currently exist before converting any WA lands under a SUE, and states this bill removes the guardrails, removes the required fee, and expands lands eligible for SUE to existing conservation easements.

While removing the WA fee, which can run into the millions of dollars, presents an attractive option for developers as they contemplate building their facilities, the developers must take into account a host of other issues when selecting a site. 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 considerations the developer must weigh in pursuing a parcel for energy development.

5) *Prior Legislation.*

AB 2528 (Arambula, 2024) would have provided an avenue for cancellation of Williamson Act contracts on agricultural land to be used for specified energy infrastructure. AB 2528 was held in the Assembly Appropriations Committee. Status: Held in the Assembly Committee on Appropriations.

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.

- 6) *Triple Referral.* This bill is triple referred. It will be heard in the Assembly Committee on Local Government prior to being heard in this committee. Upon passage in this committee, it will then be referred to the Assembly Committee on Agriculture for its review.

REGISTERED SUPPORT / OPPOSITION:

Support

AES Corporation
 American Clean Power Association
 American Clean Power- California
 Arevon
 California State Association of Electrical Workers
 California State Council of Laborers
 Candela Renewables
 Clearway Energy Group LLC
 Coalition of California Utility Employees
 Edpr Na, LLC
 Forebay Farms
 Independent Energy Producers Association

Intersect Power
Invenergy, LLC
Large-scale Solar Association
Leeward Renewable Energy
Lisa Seasholtz Elgorriaga
Longroad Energy Management, LLC
Mattera
Mattera Farming Company
New Leaf Energy
Renton &ferry Farms
Rwe
Singh Farms
Solar Energy Industry Association
Terra-gen Development Company, LLC

Support If Amended

Western Growers Association

Oppose

American Farmland Trust
California Farm Bureau Federation
County of Kern
Rural County Representatives of California (RCRC)

Analysis Prepared by: Laura Shybut / U. & E. / (916) 319-2083