

AMENDED IN SENATE JUNE 12, 2008

AMENDED IN ASSEMBLY APRIL 23, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2921

Introduced by Assembly Member Laird

February 22, 2008

An act to amend Sections 51250, 51256, ~~and 51283~~ of 51256.1, 51257, 51282, 51283, and 51297 of, and to add Sections 51223 and 51257.5 to, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2921, as amended, Laird. Local government: agricultural land.

(1) Existing law, the Williamson Act, authorizes a city or county to contract with a landowner to limit the use of agricultural land located in an agricultural preserve designated by the city or county. Under this act, the Department of Conservation is required to notify the city or county if it discovers a possible material breach, as defined, of the contract, and the city or county is required to take certain actions ~~against~~ *to resolve the landowner for the breach, with within designated timeframes. The act provides for reimbursement, as specified, provided under the act* for the costs incurred by the city or county in taking those actions. ~~The Williamson Act also authorizes a landowner to rescind a contract made under its provisions in order to simultaneously place other land under an agricultural conservation easement, subject to specified conditions and authorizes the department to discharge the responsibilities of a city or county that fails to take specified actions to resolve the breach. The act exempts, subject to certain exceptions, a~~

contract that has been terminated or canceled from a material breach proceeding under these provisions.

This bill would additionally authorize the Department of Conservation to discharge certain actions if the finding of no material breach by a city or county was not supported by the evidence, as specified, or was not made on the record at a public hearing. The bill would authorize the department and the city or county to agree to extend any deadline within these provisions, and would provide a process by which a landowner may request a meeting between the landowner, the department, and the city or county. The bill would also authorize a court, in a civil suit brought pursuant to these provisions, to award the Department of Conservation department reasonable attorney's fees and costs where the department is the prevailing party and would delete the exemption provided for a canceled contract. The

(2) The Williamson Act authorizes a landowner to rescind a contract made under its provisions to simultaneously place other land under an agricultural conservation easement, subject to specified conditions.

This bill would revise the conditions under which a landowner may cancel a Williamson Act contract to place other land under an agricultural conservation preserve. The bill would, beginning January 1, 2011, authorize the rescision of a contract for the purpose of restricting the same land by an open-space contract or an open-space easement agreement under specified circumstances.

(2)

(3) Existing law authorizes the board or council to grant tentative approval for a cancellation by petition of a landowner as to all or any part of land subject to a contract, if the board or council makes specified findings.

This bill would prohibit a board or council from accepting or approving a petition for cancellation if the subject land is currently being investigated for a material breach of the contract.

(4) The Williamson Act authorizes a landowner to enter into a farmland security zone contract and also to petition the city or county where the land subject to the contract is located, for cancellation of the contract. Under the act, the city or county is required to take certain actions in determining whether to approve the petition.

This bill would additionally require the city or county to determine the amount of the cancellation fee required of the landowner and to report that amount to the county auditor before tentatively approving the cancellation petition.

(5) *The Williamson Act, until January 1, 2009, authorizes parties to a contract subject to the act's provisions to rescind the contract and simultaneously enter into a new contract in order to facilitate a lot line adjustment, if certain findings are made by the governing body of the city or county where the land is located.*

This bill would delete the repeal date and, instead, would revise the required findings the governing body must make and would require the parties to enter into a new contract reflecting the adjustment. The bill would allow only one adjustment during a 10-year period. The bill would also provide a similar procedure for lot line adjustments that would result in the removal of land subject to the contract to be replaced with adjacent land not yet subject to the contract.

(6) Existing law establishes the Soil Conservation Fund to support, among other things, the cost of the farmlands mapping and monitoring program of the Department of Conservation, and program support costs incurred by the Department of Conservation in administering the open-space subvention program.

This bill would also authorize the use of funds in the Soil Conservation Fund to cover the costs to the department in administering the provisions of the Williamson Act regarding discovering material breaches of a Williamson Act contract.

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

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

1 SECTION 1. Section 51223 is added to the Government Code,
2 to read:
3 51223. (a) *The Legislature further declares that it is in the*
4 *public interest for cities, counties, and landowners to retain*
5 *open-space lands that are subject to contracts or easements entered*
6 *into pursuant to this chapter in parcels large enough to retain the*
7 *land's open-space use, and preserve the natural characteristics,*
8 *beauty, and openness for the benefit and enjoyment of the public,*
9 *as provided for in, and defined by, subdivision (o) of Section 51201.*
10 (b) *If a contract is rescinded for the purpose of restricting the*
11 *same land by an open-space contract pursuant to section 51254,*
12 *or an open-space easement agreement pursuant to section 51255,*
13 *either of the following shall apply:*

1 (1) *The resulting open-space contract shall not permit new*
2 *development during the life of the contract, except that uses*
3 *compatible with or related to the open-space uses would be*
4 *permitted.*

5 (2) *The resulting open-space easement shall not permit new*
6 *development during the time equal to the remaining on the contract*
7 *at the time of its rescission, except that uses compatible with or*
8 *related to the open-space uses would be permitted.*

9 (c) *The provisions of subdivision (b) shall become operative on*
10 *or after January 1, 2011.*

11 **SECTION 1.**

12 **SEC. 2.** Section 51250 of the Government Code is amended
13 to read:

14 51250. (a) The purpose of this section is to identify certain
15 structures that constitute material breaches of contract under this
16 chapter and to provide an alternate remedy to a contract
17 cancellation petition by the landowner. Accordingly, this remedy
18 is in addition to any other available remedies for breach of contract.
19 Except as expressly provided in this section, this section is not
20 intended to change the existing land use decisionmaking and
21 enforcement authority of cities and counties including the authority
22 conferred upon them by this chapter to administer agricultural
23 preserves and contracts.

24 (b) For purposes of this section, a breach is material if, on a
25 parcel under contract, both of the following conditions are met:

26 (1) A commercial, industrial, or residential building is
27 constructed that is not allowed by this chapter or the contract, local
28 uniform rules or ordinances consistent with the provisions of this
29 chapter, and that is not related to an agricultural use or compatible
30 use.

31 (2) The total area of all of the building or buildings likely
32 causing the breach exceeds 2,500 square feet for either of the
33 following:

34 (A) All property subject to any contract or all contiguous
35 property subject to a contract or contracts owned by the same
36 landowner or landowners on January 1, 2004.

37 (B) All property subject to a contract entered into after January
38 1, 2004, covering property not subject to a contract on January 1,
39 2004.

1 For purposes of this subdivision any additional parcels not
2 specified in the legal description that accompanied the contract,
3 as it existed prior to January 1, 2003, including any parcel created
4 or recognized within an existing contract by subdivision, deed,
5 partition, or, pursuant to Section 66499.35, by certificate of
6 compliance, shall not increase the limitation of this subdivision.

7 (c) The department shall notify the city or county if the
8 department discovers a possible breach.

9 (d) The city or county shall, upon notification by the department
10 or upon discovery by the city or county of a possible material
11 breach, determine if there is a valid contract and if it is likely that
12 the breach is material. In its investigation, the city or county shall
13 endeavor to contact the landowner or his or her representative to
14 learn the landowner's explanation of the facts and circumstances
15 related to the possible material breach.

16 (e) Within 10 days of determining ~~that~~ *whether* it is likely that
17 a material breach exists, the city or county shall notify the
18 landowner and the department by certified mail, return receipt
19 requested. This notice shall include the reasons for the
20 determination and a copy of the contract. *If either the landowner
21 or the department objects to the preliminary determination of the
22 city or county, the board or council shall schedule a public hearing
23 as provided in subdivision (g).*

24 (f) Within 60 days of receiving ~~the notice,~~ *notice that it is likely*
25 *a material breach,* the landowner or his or her representative may
26 notify the city or the county that the landowner intends to eliminate
27 the conditions that resulted in the material breach within 60 days.
28 If the landowner eliminates the conditions that resulted in the
29 material breach within 60 days, the city or county shall take no
30 further action under this section with respect to the building at
31 issue. If the landowner notifies the city or county of the intention
32 to eliminate the conditions but fails to do so, the city or county
33 shall proceed with the hearing required in subdivision (g).

34 (g) The city or county shall schedule a hearing no more than
35 120 days after the notice is provided to the landowner *and the*
36 *department,* as required in subdivision (e). The city or county shall
37 give notice of the public hearing by certified mail, return receipt
38 requested to the landowner and the department at least 30 days
39 prior to the hearing. The city or county shall give notice of the
40 public hearing by first-class mail to every owner of land under

1 contract, any portion of which is situated within one mile of the
2 exterior boundary of the contracted parcel on which the likely
3 material breach exists. The city or county shall also give published
4 notice pursuant to Section 6061. The notice shall include the date,
5 time, and place of the public hearing. Not less than five days before
6 the hearing, the department may request that the city or county
7 provide the department, at the department's expense, a recorded
8 transcript of the hearing not more than 30 days after the hearing.

9 (h) At the public hearing, the city or county shall consider any
10 oral or written testimony and then determine *if whether* a material
11 breach exists. *The city or county shall support its determination*
12 *with findings, made on the record and based on substantial*
13 *evidence, that the property does or does not meet the conditions*
14 *specific in subdivision (b).*

15 (i) If the city or county determines that a material breach exists,
16 the city or county shall do one of the following:

17 (1) Order the landowner to eliminate the conditions that resulted
18 in the material breach within 60 days.

19 (2) Assess the monetary penalty pursuant to subdivision (j) and
20 terminate the contract on that portion of the contracted parcel that
21 has been made incompatible by the material breach.

22 If the landowner disagrees with the determination, he or she may
23 pursue any other legal remedy that is available.

24 (j) The monetary penalty shall be 25 percent of the unrestricted
25 fair market value of the land rendered incompatible by the breach,
26 plus 25 percent of the value of the incompatible building and any
27 related improvements on the contracted land. The basis for the
28 valuation of the penalty shall be an independent appraisal of the
29 current unrestricted fair market value of the property that is subject
30 to the contract and affected by the incompatible use or uses, and
31 a valuation of any buildings and any related improvements within
32 the area affected by the incompatible use or uses. If the city or
33 county determines that equity would permit a lesser penalty, the
34 city or county, the landowner, and the department may negotiate
35 a reduction in the penalty based on the factors specified in
36 subdivision (k), but a reduction in the penalty may not exceed
37 one-half of the penalty. If negotiations are to be held, the city or
38 county shall provide the department 15 days' notice before the
39 first negotiation. If the department chooses not to be a negotiator

1 or fails to send a negotiator, the city or county and the landowner
2 may negotiate the penalty.

3 (k) In determining the amount of a lesser penalty, the negotiators
4 shall consider:

5 (1) The nature, circumstances, extent, and gravity of the material
6 breach.

7 (2) Whether the landowner's actions were willful, knowing, or
8 negligent with respect to the material breach.

9 (3) The landowner's culpability in contributing to the material
10 breach and whether the actions of prior landowners subject to the
11 contract contributed to the material breach.

12 (4) Whether the actions of the city or county contributed to the
13 material breach.

14 (5) Whether the landowner notified the city or county that the
15 landowner would eliminate the conditions that resulted in the
16 material breach within 30 days, but failed to do so.

17 (6) The willingness of the landowner to rapidly resolve the issue
18 of the material breach.

19 (7) Any other mitigating or aggravating factors that justice may
20 require.

21 (l) If the landowner is ordered to eliminate the conditions that
22 resulted in the material breach pursuant to paragraph (1) of
23 subdivision (i) but the landowner fails to do so within the time
24 specified by the city or county, the city or county may abate the
25 material breach as a public nuisance pursuant to any applicable
26 provisions of law.

27 (m) If the city or county terminates the contract pursuant to
28 paragraph (2) of subdivision (i), the city or county shall record a
29 notice of termination following the procedures of Section 51283.4.

30 (n) The assessment of a monetary penalty pursuant to
31 subdivision (i) shall be secured by a lien payable to the county
32 treasurer of the county within which the property is located, in the
33 amount assessed pursuant to subdivision (j) or (k). Once properly
34 recorded and indexed, the lien shall have the force, effect, and
35 priority of a judgment lien. The lien document shall provide both
36 of the following:

37 (1) The name of the real property owner of record and shall
38 contain either the legal description or the assessor's parcel number
39 of the real property to which the lien attaches.

1 (2) A direct telephone number and address that interested parties
2 may contact to determine the final amount of any applicable
3 assessments and penalties owing on the lien pursuant to this
4 section.

5 (o) If the lien is not paid within 60 days of recording, simple
6 interest shall accrue on the unpaid penalty at the rate of 10 percent
7 per year, and shall continue to accrue until the penalty is paid,
8 prior to all other claims except those with superior status under
9 federal or state law.

10 (p) Upon payment of the lien, the city or county shall record a
11 release of lien and a certificate of contract termination by breach
12 with the county recorder for the land rendered incompatible by the
13 breach.

14 (q) The city or county may deduct from any funds received
15 pursuant to this chapter the amount of the actual costs of
16 administering this section and shall transmit the balance of the
17 funds by the county treasurer to the Controller for deposit in the
18 Soil Conservation Fund. In a civil action brought pursuant to this
19 section, where the department is the prevailing party, a court may
20 award the department reasonable attorney’s fees and costs.

21 (r) (1) The department may carry out the responsibilities of a
22 city or county under this section if ~~either~~ *any* of the following
23 occurs:

24 (A) The city or county fails to determine whether there is a
25 material breach within 210 days of the discovery of the breach.

26 (B) The city or county fails to complete the requirements of this
27 section within 180 days of the determination that a material breach
28 exists.

29 (2) The city or county may request in writing to the department,
30 the department’s approval for an extension of time for the city or
31 county to act and the reasons for the extension. Approval may not
32 be unreasonably withheld by the department.

33 (3) The department shall notify the city or county 30 days prior
34 to its exercise of any responsibility under this subdivision.

35 (4) This section shall not be construed to limit the authority of
36 the Secretary of the Resources Agency under Section 16146 or
37 16147.

38 (s) (1) This section does not apply to any of the following:

1 (A) A building constructed prior to January 1, 2004, or a
2 building for which a permit was issued by a city or county prior
3 to January 1, 2004.

4 (B) A building that was not a material breach at the time of
5 construction but became a material breach because of a change in
6 law or ordinance.

7 (C) A building owned by the state.

8 (2) Subject to paragraphs (4) and (5), this section does not apply
9 when a board or council cancels a contract pursuant to Article 5
10 (commencing with Section ~~51280~~ or 51280), *prior to receiving*
11 *notice of a possible material breach or discovering a possible*
12 *material breach, or a city terminates a contract pursuant to Section*
13 ~~51243.5~~ 51243.5, or when a public agency, as defined by
14 subdivision (a) of Section 51291, acquires land subject to contract
15 by, or in lieu of, eminent domain pursuant to Article 6
16 (commencing with Section 51290) unless either of the following
17 occurs:

18 (A) The action ~~cancelling or terminating~~ the contract is rescinded.

19 (B) A court determines that the cancellation or termination was
20 not properly executed pursuant to this chapter, or that the land
21 continues to be subject to the contract.

22 (3) On the motion of any party with standing to bring an action
23 for breach, any court hearing an action challenging the termination
24 of a contract entered into under this chapter shall consolidate any
25 action for breach, including the remedies for material breach
26 available pursuant to this section.

27 (4) Paragraph (2) shall not be applicable for a cancellation or
28 termination occurring after January 1, 2004, unless the affected
29 landowner provides to the administering board or council and to
30 the department, within 30 days after the cancellation or termination,
31 a notarized statement, in a form acceptable to the department,
32 signed under penalty of perjury and filed with the county recorder,
33 acknowledging that the breach provisions of this section may apply
34 if any of the following conditions are met:

35 (A) The action by the local government is rescinded.

36 (B) A court permanently enjoins, voids, or rescinds the
37 cancellation or termination.

38 (C) For any other reason, the land continues to be subject to the
39 contract.

1 (5) Paragraph (2) does not apply for a cancellation or termination
 2 occurring before January 1, 2004, unless the landowner provides
 3 the statement required in paragraph (4) prior to the approval of a
 4 building permit necessary for the construction of a commercial,
 5 industrial, or residential building.

6 (t) It is the intent of the Legislature to encourage cities and
 7 counties, in consultation with contracting landowners and the
 8 department, to review existing Williamson Act enforcement
 9 programs and consider any additions or improvements that would
 10 make local enforcement more effective, equitable, or widely
 11 acceptable to the affected landowners. Cities and counties are also
 12 encouraged to include enforcement provisions within the terms of
 13 the contracts, with the consent of contracting landowners.

14 (u) *The department and the city or county may agree to extend*
 15 *any deadline to act under this section, upon the request of the city*
 16 *and county, and the written approval of the director of the*
 17 *department.*

18 (v) *In order to promote the reasonable and equitable resolution*
 19 *of a potential material breach, if a potential material breach*
 20 *involves extenuating circumstances, the city or county and the*
 21 *landowner may agree to request that the department meet and*
 22 *confer with them for the purpose of developing a resolution of the*
 23 *potential material breach. If the department agrees to meet and*
 24 *confer with the landowner and city or county, the time requirements*
 25 *specified in this section shall be tolled. The resolution may include*
 26 *remedies authorized by law or not prohibited by law that are*
 27 *agreed to by the landowner, city or county, and department. If the*
 28 *resolution resolves all outstanding issues under this section, the*
 29 *city or county shall terminate all proceedings pursuant to this*
 30 *section upon execution by the landowner, city or county, and*
 31 *department. The agreement executing the resolution shall be*
 32 *recorded in the county in which the affected parcel is located.*

33 ~~SEC. 2.~~

34 SEC. 3. Section 51256 of the Government Code is amended
 35 to read:

36 51256. Notwithstanding any other provision of this chapter, a
 37 city or county, upon petition by a landowner, may enter into an
 38 agreement with the landowner to rescind a contract in accordance
 39 with the contract cancellation provisions of Section 51282 in order
 40 to simultaneously place other land within that city, the county, or

1 the county where the contract is rescinded under an agricultural
2 conservation easement, *and except as provided in Section 51256.1,*
3 *is* consistent with the purposes and requirements of the Agricultural
4 Land Stewardship Program pursuant to Division 10.2 (commencing
5 with Section 10200) of the Public Resources Code, ~~other than~~
6 ~~Section 10238,~~ *if provided that* the board or council makes all of
7 the following findings:

8 (a) The proposed agricultural conservation easement is
9 consistent with the criteria set forth in Section 10251 of the Public
10 Resources Code.

11 (b) The proposed agricultural conservation easement is evaluated
12 pursuant to the selection criteria in Section 10252 of the Public
13 Resources Code, and particularly subdivisions (a), (c), (e), (f), and
14 (h), and the board or council makes a finding that the proposed
15 easement will make a beneficial contribution to the conservation
16 of agricultural land in its area.

17 (c) The land proposed to be placed under an agricultural
18 conservation easement is of equal size or larger than the land
19 subject to the contract to be rescinded, and is equally or more
20 suitable for agricultural use than the land subject to the contract
21 to be rescinded. In determining the suitability of the land for
22 agricultural use, the city or county shall consider the soil quality
23 and water availability of the land, adjacent land uses, and any
24 agricultural support infrastructure.

25 (d) The value of the proposed agricultural conservation
26 easement, as determined pursuant to Section 10260 of the Public
27 Resources Code, is equal to or greater than ~~12.5~~ *either of the*
28 *following:*

29 (1) *Twelve and one-half* percent of the cancellation valuation
30 of the land subject to the contract to be rescinded, pursuant to
31 subdivision (a) of Section 51283. ~~The easement value and the~~
32 ~~cancellation valuation shall be determined within 30 days before~~
33 ~~the approval of the city or county of an agreement pursuant to this~~
34 ~~section.~~

35 (2) *Twenty-five percent of the cancellation valuation of the land*
36 *subject to the contract to be rescinded pursuant to paragraph (3)*
37 *of subdivision (b) of Section 51297, if the contract was entered*
38 *into pursuant to Article 7 (commencing with Section 51296).*

1 (e) *The easement value and the cancellation valuation shall be*
2 *determined within 90 days before the approval of the city or county*
3 *of an agreement pursuant to this section.*

4 SEC. 4. *Section 51256.1 of the Government Code, as added*
5 *by Section 6 of Chapter 1018 of the Statutes of 1999, is amended*
6 *to read:*

7 51256.1. (a) *No agreement entered into pursuant to Section*
8 *51256 shall take effect until it is approved by the Secretary of*
9 *Resources. The secretary may approve the agreement if he or she*
10 *finds that the findings of the board or council, as required by*
11 *Sections 51256 and 51282, are supported by substantial evidence,*
12 *and that the proposed agricultural conservation easement is*
13 *consistent with the eligibility criteria set forth in Section 10251 of*
14 *the Public Resources Code and will make a beneficial contribution*
15 *to the conservation of agricultural land in its area. The secretary*
16 *shall not approve the agreement if an agricultural conservation*
17 *easement has been purchased with funds from the Agricultural*
18 *Land Stewardship Program Fund, established pursuant to Section*
19 *10230 of the Public Resources Code, on the same land proposed*
20 *to be placed under an agricultural conservation easement pursuant*
21 *to this section.*

22 (b) *The secretary may approve an agricultural conservation*
23 *easement pursuant to Section 51256 that limits husbandry practices*
24 *if the secretary determines that the resulting easement meets the*
25 *purposes of this chapter, and that all of the following conditions*
26 *exist:*

27 (1) *The primary purpose of the easement is continuing the*
28 *agricultural use of the easement property.*

29 (2) *The easement does not, and will not, substantially prevent*
30 *agricultural uses on the easement property.*

31 (3) *Any restriction on the current or reasonably foreseeable*
32 *agricultural use of the easement property would only be imposed*
33 *to restrict those areas of the easement property that are not in*
34 *cultivation.*

35 (4) *The easement property will continue to be used for the*
36 *commercial production of agricultural commodities.*

37 (5) *The terms of the agricultural conservation easement require*
38 *that a subsequent easement or deed restriction placed on the*
39 *easement property will be subordinate to the agricultural*

1 *conservation easement and require approval of the secretary of*
2 *the Department of Conservation.*

3 *SEC. 5. Section 51257 of the Government Code is amended to*
4 *read:*

5 51257. (a) ~~To facilitate a lot line adjustment, Lot lines of one~~
6 ~~or more parcels under contract may be adjusted pursuant to~~
7 ~~subdivision (d) of Section 66412, and notwithstanding any other~~
8 ~~provision of this chapter, the parties may mutually agree to rescind~~
9 ~~the contract or contracts and simultaneously enter into a new~~
10 ~~contract or contracts pursuant to this chapter, provided that the~~
11 ~~board or council finds all of the following:~~

12 (1) ~~Not more than four parcels are involved in the lot line~~
13 ~~adjustment.~~

14 (2) ~~All of the land subject to contract before the adjustment will~~
15 ~~be under contract after the adjustment.~~

16 (1) ~~The new contract or contracts would enforceably restrict the~~
17 ~~adjusted boundaries of the parcel for an initial term for at least as~~
18 ~~long as the unexpired term of the rescinded contract or contracts,~~
19 ~~but for not less than 10 years.~~

20 (2) ~~There is no net decrease in the amount of the acreage~~
21 ~~restricted. In cases where two parcels involved in a lot line~~
22 ~~adjustment are both subject to contracts rescinded pursuant to this~~
23 ~~section, this finding will be satisfied if the aggregate acreage of~~
24 ~~the land restricted by the new contracts is at least as great as the~~
25 ~~aggregate acreage restricted by the rescinded contracts.~~

26 (3) ~~At least 90 percent of the land under the former contract or~~
27 ~~contracts remains under the new contract or contracts.~~

28 (4)

29 (3) ~~After the lot line adjustment, the parcels of land subject to~~
30 ~~contract will be large enough to sustain their agricultural use, as~~
31 ~~defined in Section 51222, or in the case of an open space or~~
32 ~~recreational use contract pursuant to Section 51205, the city or~~
33 ~~county has determined that the parcels are large enough to sustain~~
34 ~~their open space or recreational uses.~~

35 (5)

36 (4) ~~The lot line adjustment would not compromise the long-term~~
37 ~~agricultural productivity of the parcel or other agricultural lands~~
38 ~~subject to a contract or contracts.~~

39 (6)

1 (5) The lot line adjustment is not likely to result in the removal
 2 of adjacent land from agricultural use.

3 ~~(7)~~

4 (6) The lot line adjustment does not result in a greater number
 5 of developable parcels than existed prior to the adjustment, or an
 6 adjusted lot that is inconsistent with the general plan.

7 ~~(b) Nothing in this section shall limit the authority of the board
 8 or council to enact additional conditions or restrictions on lot line
 9 adjustments. If the board or council makes the findings required
 10 by subdivision (a), in order to ensure the accuracy of record title
 11 and fair notice to owners and buyers of contracted land, the board
 12 or council and the owner or the owner's agent shall agree to
 13 rescind the existing contract and simultaneously enter into and
 14 record a new contract for each parcel, or the existing contract
 15 shall be recorded for each new parcel.~~

16 ~~(e) Only one new contract may be entered into pursuant to this
 17 section with respect to a given parcel, prior to January 1, 2004.~~

18 ~~(d) In the year 2008, the department's Williamson Act Status
 19 Report, prepared pursuant to Section 51207, shall include a review
 20 of the performance of this section.~~

21 ~~(e) This section shall remain in effect only until January 1, 2009,
 22 and as of that date is repealed, unless a later enacted statute, that
 23 is enacted on or before January 1, 2009, deletes or extends that
 24 date.~~

25 *SEC. 6. Section 51257.5 is added to the Government Code, to
 26 read:*

27 *51257.5. (a) Lot lines of one or more parcels under contract
 28 may be adjusted pursuant to subdivision (d) of Section 66412
 29 provided that the board or council finds all of the following:*

30 *(1) Not more than four parcels are involved in the lot line
 31 adjustment.*

32 *(2) As a result of the lot line adjustment, some land will be
 33 removed from contract, and other adjacent land will become
 34 subject to contract.*

35 *(3) There is no net decrease in the amount of the acreage
 36 restricted.*

37 *(4) At least 90 percent of the land under the former contract or
 38 contracts remains under the new contract or contracts.*

39 *(5) After the lot line adjustment, the parcels of land subject to
 40 contract will be large enough to sustain their agricultural use, as*

1 *defined in Section 51222, or in the case of an open space or*
2 *recreation use contracts created pursuant to the provisions of*
3 *Section 51205, the board or council has determined that the parcels*
4 *are large enough to sustain their open space or recreational uses.*

5 *(6) The lot line adjustment would not compromise the long-term*
6 *agricultural productivity of the parcel or other agricultural lands*
7 *subject to a contract or contracts.*

8 *(7) The lot line adjustment is not likely to result in the removal*
9 *of adjacent land from agricultural use.*

10 *(8) The lot line adjustment does not result in a greater number*
11 *of developable parcels than existed prior to the adjustment, or an*
12 *adjusted lot that is inconsistent with the general plan.*

13 *(b) In order to assure that parties of interest are aware of the*
14 *contract in a title search, the city or the county and the owner or*
15 *the owner's agent shall agree to rescind the existing contract and*
16 *simultaneously enter into a new contract that describes each parcel*
17 *and shall record the new contract.*

18 *(c) The provisions of this section shall not be used more than*
19 *once in any 10-year period. This restriction shall not be construed*
20 *to limit the use of Section 51257.*

21 *(d) Nothing in this section shall limit the authority of the board*
22 *or council to enact additional conditions or restrictions on lot line*
23 *adjustments affecting land subject to contract.*

24 *SEC. 7. Section 51282 of the Government Code is amended to*
25 *read:*

26 *51282. (a) The landowner may petition the board or council*
27 *for cancellation of any contract as to all or any part of the subject*
28 *land. The board or council may grant tentative approval for*
29 *cancellation of a contract only if it makes one of the following*
30 *findings:*

31 *(1) That the cancellation is consistent with the purposes of this*
32 *chapter; or.*

33 *(2) That cancellation is in the public interest.*

34 *(b) For purposes of paragraph (1) of subdivision (a) cancellation*
35 *of a contract shall be consistent with the purposes of this chapter*
36 *only if the board or council makes all of the following findings:*

37 *(1) That the cancellation is for land on which a notice of*
38 *nonrenewal has been served pursuant to Section 51245.*

39 *(2) That cancellation is not likely to result in the removal of*
40 *adjacent lands from agricultural use.*

1 (3) That cancellation is for an alternative use which is consistent
2 with the applicable provisions of the city or county general plan.

3 (4) That cancellation will not result in discontinuous patterns
4 of urban development.

5 (5) That there is no proximate noncontracted land which is both
6 available and suitable for the use to which it is proposed the
7 contracted land be put, or, that development of the contracted land
8 would provide more contiguous patterns of urban development
9 than development of proximate noncontracted land.

10 As used in this subdivision “proximate, noncontracted land”
11 means land not restricted by contract pursuant to this chapter,
12 which is sufficiently close to land which is so restricted that it can
13 serve as a practical alternative for the use which is proposed for
14 the restricted land.

15 As used in this subdivision “suitable” for the proposed use means
16 that the salient features of the proposed use can be served by land
17 not restricted by contract pursuant to this chapter. Such
18 nonrestricted land may be a single parcel or may be a combination
19 of contiguous or discontinuous parcels.

20 (c) For purposes of paragraph (2) of subdivision (a) cancellation
21 of a contract shall be in the public interest only if the council or
22 board makes the following findings: (1) that other public concerns
23 substantially outweigh the objectives of this chapter ; and (2) that
24 there is no proximate noncontracted land which is both available
25 and suitable for the use to which it is proposed the contracted land
26 be put, or, that development of the contracted land would provide
27 more contiguous patterns of urban development than development
28 of proximate noncontracted land.

29 As used in this subdivision “proximate, noncontracted land”
30 means land not restricted by contract pursuant to this chapter,
31 which is sufficiently close to land which is so restricted that it can
32 serve as a practical alternative for the use which is proposed for
33 the restricted land.

34 As used in this subdivision “suitable” for the proposed use means
35 that the salient features of the proposed use can be served by land
36 not restricted by contract pursuant to this chapter. Such
37 nonrestricted land may be a single parcel or may be a combination
38 of contiguous or discontinuous parcels.

39 (d) For purposes of subdivision (a), the uneconomic character
40 of an existing agricultural use shall not by itself be sufficient reason

1 for cancellation of the contract. The uneconomic character of the
2 existing use may be considered only if there is no other reasonable
3 or comparable agricultural use to which the land may be put.

4 (e) The landowner's petition shall be accompanied by a proposal
5 for a specified alternative use of the land. The proposal for the
6 alternative use shall list those governmental agencies known by
7 the landowner to have permit authority related to the proposed
8 alternative use, and the provisions and requirements of Section
9 51283.4 shall be fully applicable thereto. The level of specificity
10 required in a proposal for a specified alternate use shall be
11 determined by the board or council as that necessary to permit
12 them to make the findings required.

13 (f) In approving a cancellation pursuant to this section, the board
14 or council shall not be required to make any findings other than
15 or in addition to those ~~expressly~~ expressly set forth in this section,
16 and, where applicable, in Section 21081 of the Public Resources
17 Code.

18 (g) *A board or council shall not accept or approve a petition*
19 *for cancellation if the land for which the cancellation is sought is*
20 *currently subject to the process specified in Section 51250, unless*
21 *the cancellation is a part of the process specified in Section 51250.*

22 ~~SEC. 3.~~

23 SEC. 8. Section 51283 of the Government Code is amended
24 to read:

25 51283. (a) Prior to any action by the board or council giving
26 tentative approval to the cancellation of any contract, the county
27 assessor of the county in which the land is located shall determine
28 the current fair market value of the land as though it were free of
29 the contractual restriction. The assessor shall certify to the board
30 or council the cancellation valuation of the land for the purpose
31 of determining the cancellation fee. At the same time, the assessor
32 shall send a notice to the landowner and the Department of
33 Conservation indicating the current fair market value of the land
34 as though it were free of the contractual restriction and advise the
35 parties, that upon their request, the assessor shall provide all
36 information relevant to the valuation, excluding third-party
37 information. If any information is confidential or otherwise
38 protected from release, the department and the landowner shall
39 hold it as confidential and return or destroy any protected
40 information upon termination of all actions relating to valuation

1 or cancellation of the contract on the property. The notice shall
2 also advise the landowner and the department of the opportunity
3 to request formal review from the assessor.

4 (b) Prior to giving tentative approval to the cancellation of any
5 contract, the board or council shall determine and certify to the
6 county auditor the amount of the cancellation fee that the
7 landowner shall pay the county treasurer upon cancellation. That
8 fee shall be an amount equal to 12½ percent of the cancellation
9 valuation of the property.

10 (c) If it finds that it is in the public interest to do so, the board
11 or council may waive any payment or any portion of a payment
12 by the landowner, or may extend the time for making the payment
13 or a portion of the payment contingent upon the future use made
14 of the land and its economic return to the landowner for a period
15 of time not to exceed the unexpired period of the contract, had it
16 not been canceled, if all of the following occur:

17 (1) The cancellation is caused by an involuntary transfer or
18 change in the use which may be made of the land and the land is
19 not immediately suitable, nor will be immediately used, for a
20 purpose which produces a greater economic return to the owner.

21 (2) The board or council has determined that it is in the best
22 interests of the program to conserve agricultural land use that the
23 payment be either deferred or is not required.

24 (3) The waiver or extension of time is approved by the Secretary
25 of the Resources Agency. The secretary shall approve a waiver or
26 extension of time if the secretary finds that the granting of the
27 waiver or extension of time by the board or council is consistent
28 with the policies of this chapter and that the board or council
29 complied with this article. In evaluating a request for a waiver or
30 extension of time, the secretary shall review the findings of the
31 board or council, the evidence in the record of the board or council,
32 and any other evidence the secretary may receive concerning the
33 cancellation, waiver, or extension of time.

34 (d) The first two million five hundred thirty-six thousand dollars
35 (\$2,536,000) of revenue paid to the Controller pursuant to
36 subdivision (e) in the 2004–05 fiscal year, and any other amount
37 as approved in the final Budget Act for each fiscal year thereafter,
38 shall be deposited in the Soil Conservation Fund, which is
39 continued in existence. The money in the fund is available, when

1 appropriated by the Legislature, for the support of all of the
2 following:

3 (1) The cost of the farmlands mapping and monitoring program
4 of the Department of Conservation pursuant to Section 65570.

5 (2) The soil conservation program identified in Section 614 of
6 the Public Resources Code.

7 (3) Program support costs of this chapter as administered by
8 the Department of Conservation.

9 (4) Program support costs incurred by the Department of
10 Conservation in administering the open-space subvention program
11 (Chapter 3 (commencing with Section 16140) of Part 1 of Division
12 4 of Title 2).

13 (5) The costs to the Department of Conservation for
14 administering Section 51250.

15 (e) When cancellation fees required by this section are collected,
16 they shall be transmitted by the county treasurer to the Controller
17 and deposited in the General Fund, except as provided in
18 subdivision (d) of this section and subdivision (b) of Section 51203.
19 The funds collected by the county treasurer with respect to each
20 cancellation of a contract shall be transmitted to the Controller
21 within 30 days of the execution of a certificate of cancellation of
22 contract by the board or council, as specified in subdivision (b) of
23 Section 51283.4.

24 (f) It is the intent of the Legislature that fees paid to cancel a
25 contract do not constitute taxes but are payments that, when made,
26 provide a private benefit that tends to increase the value of the
27 property.

28 *SEC. 9. Section 51297 of the Government Code is amended to*
29 *read:*

30 51297. A petition for cancellation of a farmland security zone
31 contract created under this article may be filed only by the
32 landowner with the city or county within which the contracted
33 land is located. The city or county may grant a petition only in
34 accordance with the procedures provided for in Article 5
35 (commencing with Section 51280) and only if all the following
36 requirements are met:

37 (a) The city or county shall make both of the findings specified
38 in paragraphs (1) and (2) of subdivision (a) of Section 51282, based
39 on substantial evidence in the record. Subdivisions (b) to (e),

1 inclusive, of Section 51282 shall apply to the findings made by
2 the city or county.

3 *(b) Prior to issuing tentative approval of the cancellation of the*
4 *contract, the board or council shall determine and certify to the*
5 *county auditor the amount of the cancellation fee that the*
6 *landowner will be required to pay the county treasurer upon*
7 *cancellation of the contract. The cancellation fee shall be in an*
8 *amount that equals 25 percent of the cancellation valuation of the*
9 *property.*

10 ~~(b)~~

11 (c) In its resolution tentatively approving cancellation of the
12 contract, the city or county shall find all of the following:

13 (1) That no beneficial public purpose would be served by the
14 continuation of the contract.

15 (2) That the uneconomic nature of the agricultural use is
16 primarily attributable to circumstances beyond the control of the
17 landowner and the local government.

18 (3) That the landowner has paid a cancellation fee equal to 25
19 percent of the cancellation valuation calculated in accordance with
20 subdivision (b) of Section 51283.

21 ~~(c)~~

22 (d) The Director of Conservation approves the cancellation. The
23 director may approve the cancellation after reviewing the record
24 of the tentative cancellation provided by the city or county, only
25 if he or she finds both of the following:

26 (1) That there is substantial evidence in the record supporting
27 the decision.

28 (2) That no beneficial public purpose would be served by the
29 continuation of the contract.

30 ~~(d)~~

31 (e) A finding that no authorized use may be made of a remnant
32 contract parcel of five acres or less left by public acquisition
33 pursuant to Section 51295, may be substituted for the finding in
34 subdivision (a).