Date of Hearing: April 23, 2025

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Juan Carrillo, Chair
AB 1156 (Wicks) – As Amended March 20, 2025

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

SUMMARY: Makes a number of changes to law governing the conversion of a Williamson Act (WA) contract into a solar-use easement (SUE). Specifically, **this bill**:

1) Changes the definition of a SUE to:

    a) Include a right or interest acquired by the CEC.

    b) Expand the land-use restriction in SUE's to include the storage of solar energy and appurtenant renewable or clean energy facilities.

    c) Remove language allowing a SUE to exist in perpetuity.

    d) Specify that, during the term of a SUE, any agricultural land conservation contract binding all or a portion of the land under the SUE and meeting the criteria specified in this bill and existing law for a SUE would be suspended, as specified.

2) Alters the process by which the Department of Conservation (DOC) determines if a parcel that is under a WA contract is eligible for rescission and simultaneous placement into a SUE, as follows:

    a) Requires DOC to consult with any applicable groundwater sustainability agency (GSA) or services.

    b) Makes this process contingent on a request from a landowner, instead of a county or city.

    c) Changes this process from a rescission of a WA contract to a suspension of the WA contract.

    d) Adds to the list of criteria under which this process may occur to include land where there are or will be insufficient surface water or groundwater rights associated with the land to support commercially viable irrigated agricultural use.

    e) Removes a provision that prohibits a parcel or parcels from being located on lands designated as prime farmland, unique farmland, or farmland of statewide importance, unless DOC makes a determination that circumstances exist that limit the use of the parcel for agricultural activities, as specified. For purposes of this provision, existing law specifies that the important farmland designations shall not be changed solely due to irrigation status.

    f) Requires the land to meet both of the additional following criteria:

i) The parcel or parcels have an average grade of less than 10% and have been historically used primarily as irrigated cropland rather than having been historically used primarily as unirrigated grazing land.

ii) The parcel or parcels are not encumbered by a conservation easement or enrolled in a land conservation program, the primary purpose of which is the protection of resources other than agriculture, such as recreation, grazing, open space, or biological resources.

g) Specifies that, in order to assist DOC in making the determination of eligibility referenced in 2), the CEC (in addition to a city or county) must require the landowner to provide specified information to DOC and makes the following changes to that information:

i) Changes references to "agricultural practices" to "commercially viable agricultural practices" and "agricultural productivity" to "commercial agricultural activity."

ii) Changes an existing requirement to provide an analysis of water availability demonstrating the insufficiency of water supplies for continued agricultural production to specify "commercially viable" agricultural production, and to include insufficiency based on planned consolidation of water resources on more productive parcels.

h) Alters an existing exemption from the California Environmental Quality Act (CEQA) for this determination of eligibility by DOC by removing language limiting this exemption to a determination related to a project described in specified CEQA law that outlines projects that are exempt from CEQA, and instead exempts all DOC determinations of eligibility from CEQA.

i) Requires DOC to issue its determination within 120 days following submission of a completed application package. Any application not rejected within this 120-day period shall be deemed approved.

3) Allows the CEC, in addition to a county or city, to enter into a SUE upon request of a landowner and a determination of eligibility by DOC, as specified above.

4) Removes language providing that the execution and acceptance of a deed or other instrument granting a SUE shall constitute a dedication to the public of the use of lands for solar photovoltaic use.

5) Changes provisions of law that allow a county or city to require a deed or other instrument granting a SUE to contain any restrictions, conditions, or covenants necessary or desirable to restrict the use of the land to photovoltaic solar facilities as follows:

a) Allows the CEC to require such a deed or instrument.

b) Adds "appurtenant" facilities to the allowable use of the land.

c) Removes language allowing the restrictions, conditions, or covenants to include mitigation measures on the land and beyond the land that is subject to the SUE.

d) Qualify existing decommissioning requirements by stating that any decommissioning requirement shall not be in addition to other state or local requirements that ensure decommissioning of the facility, and that salvage value shall not be precluded from the calculation of the cost of decommissioning.

6) Removes language requiring the restrictions, conditions, or covenants in a deed or other instrument granting a SUE to 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 SUE to the conditions that existed before the approval or acceptance of the SUE by the time the SUE is extinguished.

7) Specifies that a county, city, or the CEC shall not approve any land use on land covered by a SUE that is inconsistent with the SUE, and no building permit or construction notice to proceed may be issued for any structure that would violate the SUE. Existing law requires the county or city to seek, by appropriate proceedings, an injunction against any threatened construction or other development or activity on the land that would violate the SUE and seek a mandatory injunction requiring the removal of any structure erected in violation of the SUE. This bill does not extend this requirement to the CEC.

8) Removes language that allows a person or entity to seek an injunction if the county or city fails to seek an injunction as detailed in 7), above, or if the county or city should construct any structure or development or conduct or permit any activity in violation of the SUE, and language allowing a court to award to a plaintiff who prevails in such an action his or her cost of litigation, including reasonable attorney's fees.

9) Requires termination of a SUE to be by mutual consent.

10) Removes the authority of a county or city to not renew a SUE.

11) Removes language that requires an existing SUE to remain in effect for the balance of the period remaining since the original execution or the last renewal of the SUE, if the county, city, or the landowner serves notice of intent in any year not to renew the SUE.

12) Specifies that, when a SUE is extinguished, the suspension of the WA contract shall terminate and once again be in full force and effect.

13) Repeals provisions of law that allow for, and govern, the termination of a SUE.

14) Repeals provisions of law that allow for, and govern, the rescission of a WA contract for simultaneous placement of the land into a SUE.

15) Requires any agricultural land conservation contract effecting a parcel or parcels of land that, upon review, are determined by DOC to be eligible to be placed in a SUE and for which a SUE has been entered into by either the CEC or local government to be suspended for the term of the SUE. This suspension shall occur notwithstanding the prior serving of a notice of nonrenewal. Provides that nothing in this provision limits the ability of the parties to a

contract to seek nonrenewal, or petition for cancellation or termination of a contract pursuant to the WA. Provides that this provision is provided in addition to, not in replacement of, other methods for contract suspension, termination, WA compliance, or a county or city finding that a solar facility is a compatible use pursuant to the WA.

16) Provides that CEQA does not apply to the entry into or recordation of a SUE pursuant to the provisions of this bill and existing law governing the conversion of a WA contract into a SUE.

EXISTING LAW:

1) Creates the California Land Conservation Act of 1965, also known as the Williamson Act, 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. The Division of Land Resource Protection in DOC administers the Act. (Government Code §§ 51200, et seq.)

2) Creates Farmland Security Zones and 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) Defines a “solar-use easement” as “any right or interest acquired by a county, or city in perpetuity, for a term of years, or annually self-renewing as provided in Section 51191.2, in a parcel or parcels determined by the Department of Conservation pursuant to Section 51191 to be eligible, where the deed or other instrument granting the right or interest imposes restrictions that, through limitation of future use, will effectively restrict the use of the land to

photovoltaic solar facilities for the purpose of providing for the collection and distribution of solar energy for the generation of electricity, and any other incidental or subordinate agricultural, open-space uses, or other alternative renewable energy facilities. A solar-use easement shall not permit any land located in the easement to be used for any other use allowed in commercial, industrial, or residential zones. A solar-use easement shall contain a covenant with the county, or city running with the land, either in perpetuity or for a term of years, that the landowner shall not construct or permit the construction of improvements except those for which the right is expressly reserved in the instrument provided that those reservations would not be inconsistent with the purposes of this chapter and which would not be incompatible with the sole use of the property for solar photovoltaic facilities." (Government Code § 51190)

6) Requires that applicants for an agricultural conservation easement or fee acquisition grant meet all of the following eligibility criteria: (Public Resources Code § 10251)

   a) The parcel proposed for conservation is expected to be used for, and is large enough to sustain, commercial agricultural production. The land is also in an area that possesses the necessary market, infrastructure, and agricultural support services, and the surrounding parcel sizes and land uses will support long-term commercial agricultural production.

   b) The applicable city or county has a general plan that demonstrates a long-term commitment to agricultural land conservation. This commitment shall be reflected in the goals, objectives, policies, and implementation measures of the plan, as they relate to the area of the county or city where the acquisition is proposed.

   c) Without conservation, the land proposed for protection is likely to be converted to nonagricultural use in the foreseeable future.

7) 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)

8) 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 Renewable Portfolio Standard (RPS). (Public Utilities Code § 399.11 et seq.)

9) 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)

FISCAL EFFECT: This bill is keyed fiscal.

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.

   "To achieve California's goal of a net-zero economy by 2045, we must add at least 127 gigawatts of new zero-emitting resources to the grid by 2045, more than 48% of which will need to be utility-scale solar. A primary challenge to achieving this goal is land availability due to specific development criteria: projects must be relatively close to transmission infrastructure, have largely contiguous lands, and avoid sensitive environmental habitat.

   "Parallel to California's clean energy goals is the Sustainable Groundwater Management Act (SGMA), which mandates that local water management agencies bring groundwater use to sustainable levels by the early 2040s – a timeline aligned with state climate and energy targets. This unavoidably means that thousands of acres of existing farmland will have to transition to other beneficial uses.

   "In addition to the state's energy and groundwater goals, the California Land Conservation Act of 1965, known as the Williamson Act, helps protect farmland, enabling local governments to enter contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use in exchange for a tax benefit.

   "In 2011, recognizing the opportunity for solar development on constrained agricultural land, the legislature passed a Solar-Use Easement statute (Chapter 596) to provide a path for solar development. The legislature authorized local governments and landowners to transition existing Williamson Act and Farmland Security Zone contracts while simultaneously entering solar-use easements. Though this authority sunset in 2020, it was revived by an omnibus bill passed in 2022 (Senate Bill 1489). According to the Department of Conservation, solar-use easements were not widely pursued during the nine years before the authority lapsed in 2020, and it is unclear if any easements have been granted since the law has been reauthorized.

   "AB 1156 responsibly updates California's Solar-Use Easement law to consider water constrained farmland, providing a unique prospect to accomplish myriad state policy goals while providing farmers with an additional, voluntary economic opportunity."

2) **California's Clean Energy Goals**. 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.

3) **Williamson Act**. The Williamson Act (WA), administered by the California Department of Conservation (DOC), helps conserve agricultural and open space land by allowing private property owners to enter into voluntary contracts with counties and cities. These contracts enforceably restrict the land to agriculture, open space, and compatible uses.

   In return for these voluntary contracts, county assessors reduce 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. WA contracts have a 10-year term and automatically renew each year, so that the term is always 10 years in the future.

   In 1998, the Legislature created an option of establishing a FSZ, which offers landowners a greater property tax reduction for a minimum 20-year contract. 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 Williamson Act 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."

4) **Getting out of a WA Contract**. A landowner who wants to develop land restricted by a WA contract has three options: nonrenewal, cancellation, and rescission.

   a) **Non-renewal**. Under this process, 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 (20 years for FSZs).

   b) **Cancellation**. 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 (25% in the case of FSZs).

      Typically, the county assessor determines the cancellation valuation. 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.

   c) **Rescission.** A city or county, upon petition by a landowner, may enter into an agreement with a landowner to rescind a WA contract in order to simultaneously place other land under an agricultural conservation easement, provided that the Board of Supervisors or City Council makes certain findings, including that the proposed easement will make a

beneficial contribution to the conservation of agricultural land in its area. The land proposed to be placed under an agricultural conservation easement must be of equal size or larger than the land under the WA that will be rescinded, and must be equally or more suitable for agricultural use than the land under the WA that will be rescinded.

In determining the suitability of the land for agricultural use, the city or county must consider the soil quality and water availability of the land, adjacent land uses, and any agricultural support infrastructure. The Secretary of Resources must approve the agreement and, in order to do so, must find that the parcel proposed for the new contract is expected to be used for, and is large enough and in an area to sustain, commercial agricultural production, among other things.

5) **Subvention Payments**. Historically, the state made subvention payments to counties in order to make up for a portion of the resulting losses in local property tax revenue from WA and FSZ contracts, and other enforceable open space restriction programs. Specifically, state law requires the Secretary of Natural Resources to direct the Controller to pay eligible cities and counties, out of continuously appropriated funds, at the following annual rates for enforceably restricted land:

   a) Five dollars per acre for prime agricultural land that is subject to open space easement, WA or FSZ contract, or timber production easement.

   b) One dollar per acre for other land devoted to open-space uses of statewide significance.

   c) Eight dollars per acre for land under a FSZ contract that is within three miles of the boundaries of the sphere of influence of an incorporated city.

   According to the Legislative Analyst's Office (LAO), the state annually appropriated around $35 million to $40 million each year from 1994 to 2008 for subvention payments to local governments. However, funding for subventions was suspended in Fiscal Year 2009-10 in response to budgetary pressures. A one-time appropriation of $10 million was made for Fiscal Year 2010-11, but no appropriations for subvention payments have been made since then. In the intervening years, only one county, Imperial, has exited the WA program.

6) **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.

7) **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 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.

8) **CEC AB 205 Process.** AB 205 (Committee on Budget), Chapter 61, Statutes of 2022, granted authority to the CEC to oversee the permitting of clean and renewable energy facilities, including solar photovoltaic, onshore wind, and energy storage systems, and facilities that produce or assemble clean energy technologies or their components. Known as the Opt-In Certification Program, this permitting process offers developers an optional pathway to submit project applications. Under AB 205, the CEC is the lead CEQA agency for environmental review and permitting for any facility that elects to opt into the CEC's jurisdiction.

   The Opt-In program requires the CEC to:

   a) Complete in 270 days an environmental impact report (EIR) under CEQA.

   b) Certify compliance with requirements for community benefits agreement, project labor agreements, and economic benefits.

c) Ensure consistency with all laws, ordinances, regulations, and standards (LORS) under the Warren-Alquist Act.

The following types of facilities are eligible to apply to the Opt-In Certification Program:

a) Solar photovoltaic or terrestrial wind electrical generating power plants generating 50 megawatts (MW) or greater.

b) Energy storage systems capable of storing 200 megawatt-hours (MWh) or more

c) Stationary power plants 50 MW or greater using any source of thermal energy, excluding fossil or nuclear fuels.

d) Transmission lines associated with these generating and storage facilities.

e) Specified facilities that manufacture or assemble clean energy or storage technologies or related components.

f) Hydrogen production facility (not derived from fossil fuel feedstock) and associated onsite storage and processing facilities.

Public input occurs at several steps along the process. Within five days of each project application being deemed complete, the CEC sends an invitation to request consultations with California Native American tribes. Within 30 days, the CEC holds a public scoping and informational meeting. By day 150, the CEC posts a draft Environmental Impact Report (EIR), and within 30-60 days of posting the draft EIR, the CEC holds a public meeting on the draft EIR and provides 60 days for public comment. On or before the 270th day, the proposed project and final EIR will be brought to a CEC business meeting for license consideration.

For a site to be certified by the CEC through the AB 205 process, the application must include a community benefits agreement. The applicant must have entered into one or more legally binding and enforceable agreements with, or that benefit, a coalition of one or more community-based organizations, such as workforce development and training organizations, labor unions, social justice advocates, local governmental entities, California Native American tribes, or other organizations that represent community interests, where there is mutual benefit to the parties to the agreement.

The topics and specific terms in the community benefits agreements may vary and may include workforce development, job quality, and job access provisions. The topics and specific terms in the community benefits agreement may also include funding for or providing specific community improvements or amenities such as park and playground equipment, urban greening, enhanced safety crossings, paving roads and bike paths, and annual contributions to a nonprofit or community-based organization that awards grants to organizations delivering community-based services and amenities.

9) **Sustainable Groundwater Management Act (SGMA)**. Groundwater is water found beneath the land surface in pores and fractures in materials such as rock, gravel, or sand.

Underground areas where groundwater flows naturally out of rock materials or where groundwater can be removed by pumping are referred to as aquifers. According to the Department of Water Resources (DWR), groundwater provides nearly 40% of California's water supply in an average year and 60% in drought years. For much of California's history, there was no statewide mandate for the management of groundwater. This led to significant over-pumping (or "overdraft") of groundwater in many regions of the state that resulted in land subsidence (or sinking) that compromised infrastructure, dewatered rivers and streams, led to seawater intrusion in coastal areas, and dried out domestic and agricultural groundwater wells, among other adverse impacts.

In the midst of the 2012-16 drought, California's most severe on record, the Legislature passed SGMA to reverse the adverse impacts caused by groundwater overdraft and to protect this important resource for future use by California's economy, communities, and ecosystems. Passed in 2014, SGMA is composed of a three-bill legislative package, including AB 1749 (Dickinson), SB 1168 (Pavley), and SB 1319 (Pavley), and subsequent statewide regulations.

SB 1168 (Pavley) required DWR to categorize each basin as "high", "medium", "low", or "very low" priority based on specified criteria including population, rate of population growth, and number of wells (see Water Code Section 10933 for full list). Out of the 515 groundwater basins identified by DWR (https://data.cnra.ca.gov/dataset/calgw_update2020), 94 basins were classified as "high" (46 basins) or "medium" (48 basins) priority. These basins must comply with SGMA. DWR also identified 21 basins as "critically overdrafted", noting that "continuing current water management practices would likely result in significant adverse environmental, social, or economic impacts".

10) **Local Governments and SGMA**. SGMA requires local agencies in groundwater basins designated as "high" or "medium" priority by DWR to form a Groundwater Sustainability Agency (GSA) and develop a Groundwater Sustainability Plan (GSP) to achieve sustainable groundwater management within a 20-year time frame. GSPs achieve "sustainable management" by avoiding six "undesirable results:" 1) chronic lowering of groundwater levels; 2) reduction of groundwater storage; 3) seawater intrusion; 4) degraded water quality; 5) land subsidence (sinking of the Earth's surface); and 6) depletion of interconnected surface waters. "Undesirable results" must also be "significant and unreasonable" in order to violate the standard of sustainable management.

    An overarching principle of SGMA is local control. The stated legislative intent is to "manage groundwater basins through the actions of local government agencies to the greatest extent feasible, while minimizing state intervention to only when necessary to ensure that local agencies manage groundwater in a sustainable manner" [Water Code Section 10720(i)]. DWR supports local SGMA implementation by providing regulatory oversight through the evaluation and assessment of GSPs and by providing planning, technical, and financial assistance.

11) **Agricultural Lands and SGMA**. Compliance with SGMA necessitates that some agricultural land come out of production to achieve groundwater sustainability. In a 2023 policy brief entitled "The Future of Agriculture in the San Joaquin Valley," the Public Policy Institute of California (PPIC) estimated that "by 2040, the combined impacts of SGMA, climate change, and environmental regulations could cause a 20 percent reduction in water

availability for valley agriculture, or around 3.2 million acre feet (maf). Water constraints will lead to a reduction in irrigated lands, and in overdrafted basins, areas with less access to surface supplies will face a much higher risk of fallowing. In the worst-case scenario, without developing new supplies or engaging in water trading activities, the transition to sustainability under climate change and increased environmental flows will require the fallowing of nearly 900,000 acres with respect to current conditions. In some areas, more than 50 percent of lands may need to be fallowed."

12) **Recent Legislative Efforts**. AB 2528 (Arambula) of 2024 would have authorized a landowner to petition a county board of supervisors or a city council to cancel a WA contract or a FSZ contract if the land met specified criteria. The criteria included, among other things, not having permanent access to sufficient water to support commercially viable irrigated agricultural use on the land. Under the bill, the landowner would have been subject to a land use entitlement for specified energy projects, including: a solar photovoltaic or wind electrical generating power plant; an energy storage system; or, an electric transmission line carrying power for these energy projects.

    These energy projects would have been required to provide a community benefits package, including local employment, water services, and electricity discounts. The bill would have established cancellation fees equal to 6.25% of the fair market value of the property for cancellation of a WA contract and 12.5% for cancellation of a FSZ contract. AB 2528 was restricted to land located in the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare.

    AB 2528 was held in the Assembly Appropriations Committee.

13) **2024 Permitting Reform Hearings**. According a report released by the Assembly Select Committee on Permitting Reform in March of this year, one of the recommendations that was made throughout that committee's hearings in 2024 was to facilitate the conversion of fallowed agricultural land to clean energy purposes. The report states, "Identifying land for clean energy projects is an ongoing challenge, as much as the state's land is already being utilized for productive use or is environmentally sensitive. One opportunity to increase land available for clean energy is in the southern San Joaquin Valley. In this area, it is anticipated that a substantial amount of farmland will be fallowed in coming years as a result of SGMA.

    "Stakeholders in the solar industry have identified this area as particularly promising for clean energy generation, because of the amount of sun received and its proximity to viable transmission corridors. However, they have identified that conversion of this agricultural land can be complicated by factors such as Williamson Act contracts between farmers and local governments to keep the land in agricultural production. Particularly, stakeholders noted that local governments have been resistant to cancel these contracts even as the land becomes unviable for farming, and that cancellation rules are complex."

14) **Bill Summary**. This bill makes a number of changes to law governing the conversion of a WA contract into a SUE. Among its many provisions are the following major components:

    a) **Authorizations**. This bill changes the authorization for which government agencies may hold a SUE. Under current law, only counties and cities may hold a SUE. This bill allows the CEC to also hold a SUE.

b) **Process**. This bill makes several changes to the process of the conversion of a WA contract into a SUE.

   i) Under current law, a WA contract is rescinded and the land is simultaneously placed into a SUE. This bill changes that process so that, instead of rescission, the WA contract is suspended for the term of the SUE, and bounces back into effect after completion of the SUE.

   ii) Under current law, DOC determines whether a parcel is eligible for rescission of a WA contract upon request from a county or city. This bill authorizes a landowner, but not a city or county, to make that request.

   iii) Under current law, the landowner or the county or city may choose to not renew the SUE. This bill removes the ability of the county or city to non-renew.

   iv) Under current law, DOC must consult with CDFA to determine eligibility for conversion of a WA contract to a SUE. This bill requires additional consultation with the applicable GSA or services.

c) **Criteria**. This bill changes the eligibility criteria for a parcel that may be converted from a WA contract into a SUE.

   i) Under current law, the land must not be located on prime farmland, unique farmland, or farmland of statewide importance. This bill removes this requirement.

   ii) Under current law, the land must have adverse soil conditions. This bill adds insufficient surface water or groundwater rights to support commercially viable irrigated agricultural use as an allowable eligibility criterion.

   iii) This bill requires the land to have an average grade of less than 10 percent and have been used historically as irrigated cropland, rather than unirrigated grazing land.

d) **Land Use.** Under current law, land under a SUE is restricted to photovoltaic solar facilities for the purpose of providing for the collection and distribution of solar energy. This bill adds storage and appurtenant renewable energy facilities as allowable uses for land under a SUE.

e) **Mitigation and Land Restoration**. Under current law, a county or city may require a deed containing mitigation measures on and beyond the land that is subject to the SUE. This bill removes that authority. Current law also requires the restrictions, conditions, or covenants in a deed or other instrument granting a SUE to 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 SUE to the conditions that existed before the approval or acceptance of the SUE by the time the SUE is extinguished. This bill removes this requirement.

f) **Fees**. Under current law, rescission of a WA contract to enter into a SUE requires the landowner to pay a fee, which is deposited into the General Fund: 6.25% of the fair market value of the land, and 12.5% if the land was designated as a FSZ. This bill

replaces the contract rescission with contract suspension, which does not require associated fees.

This bill is sponsored by the Large-scale Solar Association.

15) **Policy Considerations**. The Committee may wish to consider the following:

a) **Role of Local Agencies and the CEC**. Historically, WA contracts and SUEs have been under the purview of counties and cities only. This bill introduces, for the first time, a state agency as a potential holder of a SUE. The Committee may wish to consider if the CEC (or any other agency that is not a county or city) is an appropriate agency to enter into a SUE under a process that has, until now, been reserved for local agencies.

b) **Community Benefits**. Last year, AB 2528 was amended to require projects built pursuant to its provisions to provide a community benefits package, including, but not limited to, local employment, water services, and electricity discounts. This bill contains no such requirement. The Committee may wish to consider if this bill should be amended to add a similar community benefits requirement.

c) **Mitigation and Land Restoration.** This bill alters the existing mitigation requirements for land that is put into a SUE, removing the ability of a county or city to require a deed containing mitigation measures on and beyond the land that is subject to the SUE. This bill also removes a requirement that restrictions, conditions, or covenants in a deed or other instrument granting a SUE include a requirement for the landowner to post financial securities to fund the restoration of land in the SUE to conditions that existed before the approval of the SUE, by the time the SUE is extinguished. The Committee may wish to consider if this bill would benefit from more specific mitigation and land restoration requirements.

d) **Ability to Non-renew**. Existing law grants the authority to non-renew a SUE to both the land-owner and the county or city. This bill removes the ability of counties and cities to elect to non-renew a SUE. The Committee may wish to consider if this power should be restored.

e) **Fees**. AB 2528 was amended to decrease cancellation fees, rather than eliminate them altogether. The bill proposed to set fees at 6.25% of the fair market value of the property, effectively halving the fee that would otherwise apply pursuant to the WA. AB 2528 proposed to allocate cancellation fees, in undetermined percentages, to DOC and for community benefits packages within the county. The Committee may wish to consider if a similar arrangement should be incorporated into this bill.

f) **Geographic Limitations**? As noted above, the Assembly Select Committee on Permitting Reform reported this year that stakeholders in the solar industry identified the southern San Joaquin Valley as an especially promising for converting WA contracts to solar use, because of its ample sun and proximity to transmission corridors. AB 2528 was eventually narrowed to apply only to the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare. The Committee may wish to consider if a similar compromise should be struck with this bill.

16) **Previous Legislation**. AB 2528 (Arambula) 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.

AB 1279 (Muratsuchi), Chapter 337, Statutes of 2022, declared it the policy of the state to achieve net-zero GHG emissions as soon as possible, but no later than 2045, to achieve that goal with at least an 85% reduction in GHG emissions, and to achieve and maintain net negative GHG emissions thereafter.

SB 1020 (Laird), Chapter 361, Statutes of 2022, made it the policy of the state that eligible renewable energy resources and zero-carbon resources supply 90% of all retail sales of electricity by December 31, 2035, 95% of all retail sales by December 31, 2040, 100% of all retail sales by December 31, 2045, and 100% of electricity procured to serve all state agencies by December 31, 2035.

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

SB 100 (De Leon), Chapter 312, Statutes of 2018, mandated that 100% of the state's electricity retail sales and electricity procured to serve state agencies be supplied by renewable and zero-carbon resources by 2045.

SB 1168 (Pavley), Chapter 346, Statutes of 2014, required adoption of a sustainable GSP by January 31, 2020, for all high or medium priority basins that were subject to critical conditions of overdraft and by January 31, 2022, for all other high and medium priority basins unless the basin was legally adjudicated or the local agency established it is otherwise being sustainably managed.

AB 1739 (Dickinson), Chapter 347, Statutes of 2014, provided specific authority to a GSA to impose certain fees, and authorized the Department of Water Resources (DWR) or a GSA to provide technical assistance to entities that extract or use groundwater to promote water conservation and protect groundwater resources.

SB 1319 (Pavley), Chapter 348, Statutes of 2014, authorized the State Water Resources Control Board (SWRCB) to designate a groundwater basin subject to sustainable groundwater management requirements as a probationary basin under specified circumstances, and authorized SWRCB to develop an interim management plan in consultation with DWR under specified conditions.

SB 618 (Wolk), Chapter 596, Statutes of 2011, authorized a city or county and a landowner to rescind a WA contract on agricultural lands of limited agriculture value and enter into a SUE that restricts the use of land to photovoltaic solar facilities.

17) **Arguments in Support**. The Large-scale Solar Association, sponsor of this measure, writes, "California has an ambitious plan to achieve a net-zero carbon economy by 2045… To meet this goal, California must add at least 127 GW of new zero-emitting resources to the grid by 2045, more than 48% of which is utility-scale solar. Constructing this scale of clean energy infrastructure within such a short timeframe requires leveraging every available tool to advance projects efficiently.

“One of the primary challenges to achieving this goal is land availability. Projects must be located relatively close to transmission infrastructure, have largely contiguous lands, and avoid sensitive habitat areas – factors that, in addition to federal lands rules – exclude the majority of California’s desert landscape. The California Energy Commission’s 2023 land use screens report highlights that the lowest-impact approach to our clean energy transition is found in repurposing agricultural lands losing water access for at least some of the state’s needed solar energy. This will not only minimize biodiversity impacts but also supports the economic stability of these communities.

“Parallel to California’s clean energy goals is the Sustainable Groundwater Management Act (SGMA), which mandates local water management agencies to bring groundwater use to sustainable levels by the early 2040s – a timeline that aligns closely with state climate and energy targets. Water managers and Groundwater Sustainability Agencies (GSA) have been working since SGMA’s passage in 2014 to develop plans to come into compliance, with the expectation that nearly a million acres could come out of agricultural production as a result.

“In addition to the state’s energy and groundwater goals, the California Land Conservation Act of 1965, or Williamson Act, helps protect farmland, enabling local governments to enter contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use in exchange for a tax benefit. In 2011, recognizing the opportunity for solar development on marginal agricultural land, the legislature passed the Solar-Use Easement law (Statutes of 2011, Chapter 596) to provide a path for solar development on lands that are less suited for agricultural production…

“According to the Department of Conservation, solar use easements were not widely pursued during the nine years before the authority lapsed in 2020, and it is unclear if any easements have been granted since the law was reauthorized. While well-intentioned, the current Solar Use Easement law includes onerous requirements on local governments to develop costly ordinances and restrictions related to soil degradation as opposed to other impairments, such as water constraints. The current law also allows for easements to be unilaterally terminated by local governments and does not allow county tax assessors to assess properties at their full value under the law during the term of the easement.

“AB 1156 proposes to update the Solar Use Easement law by allowing lands with water constraints to be eligible for an easement and modernizes the eligibility criteria and easement terms. Specifically, AB 1156 would maintain local discretion, require the review of water limitations by the Groundwater Sustainability Agency (GSA), update the compatibility of solar use easements with existing permitting processes (Chapters 61, 2021) and provide that land under an easement be assessed at its full value under the law. This bill also provides a path for lands to enter back into a Williamson Act contract at the conclusion of the term of the easement.

“The new reality is that the need to conserve vital water resources will unavoidably place many agricultural landowners at risk of losing the ability to farm their land, with no viable economic alternative. This nexus between clean energy goals, water sustainability, and land scarcity presents a rare opportunity to craft a policy that achieves multiple statewide goals. This effort will require strategic planning, creativity, and compromise. AB 1156 bill strikes

this balance and will help fulfill the promise of a carbon free future with well-paying jobs, and mitigation of the worst impacts of climate change on our communities and economy..."

18) **Arguments in Opposition**. The Rural County of Representatives (RCRC) states, "RCRC shares your desire to update the Williamson Act's Solar Use Easement to better put land to productive use; however, we oppose Assembly Bill 1156 because it usurps local permitting authority and eliminates the ability to impose important mitigation measures that protect both the project site and surrounding community…

"The Williamson Act is predicated on a contractual agreement between a landowner and local government in which the local government agrees to forego a portion of property tax revenues in exchange for the landowner's commitment to preserve the land's use for agricultural or compatible purposes. While the state formerly offset lost local property tax revenue, it suspended those reimbursements fifteen years ago. Since then, local governments have foregone tens of millions of dollars in property taxes to conserve agricultural land and protect open space.

"AB 1156 undermines those local sacrifices by allowing the California Energy Commission to usurp those local roles and responsibilities and unilaterally determine whether to grant a solar-use easement. AB 1156 continues a dangerous and deeply unsettling trend allowing energy developers to bypass local land use authority to have projects considered by the Energy Commission.

"Local governments are charged with balancing competing land uses and are best suited to understand and be responsive to the needs and concerns of local stakeholders and communities. In contrast, the California Energy Commission is comprised of unelected appointees, is narrowly focused on energy issues, and lacks the local grounding that is necessary to carefully evaluate what may be major energy development projects. These concerns are heightened by the reality that solar projects should be combined with storage facilities to ensure that power is available when consumers need it the most. Unfortunately, California has recently experienced several significant energy storage facility fires that have caused severe and significant local disruptions and created concerns about contamination being deposited onto nearby properties. These important local safety considerations should and MUST be considered by local elected decision makers who are invested with the authority to impose mitigation measures to protect the public and their communities. AB 1156 seeks to eliminate that mitigation authority too.

"Under existing law, local agencies may impose mitigation measures on land subject to a solar use easement. AB 1156 completely rescinds that authority to the detriment of public safety, neighboring landowners, and the project itself. Local agencies must retain authority to impose mitigation measures. Typical project mitigation measures include fire safety/protection systems, vegetation control to reduce fire risk, security fencing to exclude livestock and trespassers, construction mitigation measures, emergency response protocols (even more important considering that solar projects should include integrated energy storage systems that present unique emergency response challenges), and measures to reduce the risk of the project becoming an attractive nuisance to children. It is not just local mitigation authority at stake – AB 1156 also denies the Energy Commission the authority to impose mitigation requirements…

"Under existing law, the landowner or local government may decide to non-renew a solar use agreement on all or a portion of a parcel. We understand and are sensitive to developers' concern that a local government may try to non-renew an easement before the end of the project's useful life. At the same time, there are situations in which a developer abandons or scales back a planned energy development project, in which case local governments should retain the authority to non-renew a solar use easement. Rather than repeal local authority to non-renew, we instead suggest amendments that would provide longer-term periods during which a local government could not non-renew a solar use easement on which a solar project has been completed and is operating as planned…"

19) **Triple-Referral**. This bill is triple-referred to the Assembly Utilities and Energy Committee and the Assembly Agriculture Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Large-scale Solar Association [SPONSOR]
AES Corporation
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 North America
Forebay Farms
Independent Energy Producers Association
Intersect Power
Invenergy, LLC
Leeward Renewable Energy
Lisa Seasholtz Elgorriaga
Longroad Energy Management, LLC
Materra Farming Company
New Leaf Energy
Renton and Terry Farms
RWE
Singh Farms
Solar Energy Industry Association
Terra-Gen Development Company, LLC

Support If Amended

Western Growers Association

Opposition

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

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