

Date of Hearing: July 12, 2017

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Cecilia Aguiar-Curry, Chair
SB 732 (Stern) – As Amended July 3, 2017

SENATE VOTE: 28-11

SUBJECT: General plan: open-space element: agricultural land.

SUMMARY: Authorizes a city or county to develop an agricultural land component of their open-space element (ALC), as defined, or a separate agricultural land element (ALE), and requires the Department of Conservation (DOC) to give priority consideration for grants, bond proceeds, and other local assistance funding provided by DOC to a city or county that meets specified requirements. Specifically, **this bill:**

- 1) Authorizes a city or county to develop an ALC or an ALE.
- 2) Requires a city or county that chooses to develop an ALC or an ALE to do the following:
 - a) Identify and map, utilizing the design in the Farmland Monitoring and Mapping Program or the National Resources Inventory of the United States Department of Agriculture, agricultural lands within the city's or county's jurisdiction, including:
 - i) All parcels subject to contract executed pursuant to the Williamson Act;
 - ii) All parcels subject to conservation easement;
 - iii) All agricultural preserves established, pursuant to existing law;
 - iv) All parcels subject to a farmland security zone contract;
 - v) All parcels being used for agricultural purposes within a sphere of influence or municipal service boundary and not subject to a permanent easement;
 - vi) The total acreage of land classified as a category of agricultural land and a breakdown of agricultural land by Farmland Monitoring and Mapping Program classification;
 - vii) The total acreage of agricultural land that is located within two miles of land zoned for housing, as specified;
 - viii) All public agencies with responsibility for preservation of agricultural land within the jurisdiction, including resource conservation districts;
 - ix) The total acreage and Farmland Monitoring and Mapping Program classification of former agricultural land that has been developed since 1984, as specified;
 - x) The total acreage of land that qualifies as a category of agricultural land that is likely to be developed in the next eight years; and,
 - xi) Identify and designate priority land for conservation.

- b) Establish a comprehensive set of goals, policies, and objectives based on the information identified above to support long-term protection of agricultural land that may include, but is not limited to:
 - i) Evaluating and amending as necessary the action plan developed pursuant to the provisions in the Government Code, which requires every local open space plan to contain an action program, as specified;
 - ii) Avoiding or minimizing, when feasible, new development that is located on priority land;
 - iii) Locating, when feasible, new essential public facilities no less than one mile from priority land;
 - iv) Adopting land use and zoning policies to discourage leapfrog development;
 - v) Creating procedures for cooperating with other public agencies and agricultural associations to protect priority land;
 - vi) Developing strategies to promote the development of multicounty and city-county agreements for the protection of priority land;
 - vii) Identifying the total acreage of agricultural land to be preserved within the jurisdiction; and,
 - viii) Prioritizing that development of housing, including affordable housing, and commercial development within existing areas zoned for housing and commercial development, when feasible.
- c) Identify and establish a set of feasible implementation measures designed to carry out and promote the goals, policies, and objective established above. Implementation measures may include, but are not limited to:
 - i) Establishing, or entering into an agreement with a resource conservation district, as specified;
 - ii) Establishing public-private partnerships for the long-term protection and stewardship of agricultural lands;
 - iii) Establishing streamlined procedures for the development of housing within areas identified as adequate housing sites in the housing element developed, as specified;
 - iv) Promoting the development of housing and utilizing the reforms and incentives to facilitate and expedite the construction of affordable housing, as specified;
 - v) Repealing ordinances that limit development in existing or planned urban areas, as specified; and,
 - vi) Identifying all urban parcels suitable for infill development.

- 3) Authorizes DOC to award grants to cities or counties to implement the requirements, as specified above.
- 4) Requires a city or county to submit one copy of a draft of the ALC or amendment, or the ALE or amendment, and any maps used in creating them, to DOC at least 45 days before adopting or amending them.
- 5) Authorizes DOC to review submitted drafts to determine whether they incorporate all known agricultural land and reasonable measures for the long-term protection of agricultural land, and report its recommendations to the city or county within 30 days of receipt.
- 6) Requires the legislative body of a city or county to consider DOC's recommendations before the final adoption, unless DOC's recommendations are not available within 30 days or DOC has indicated to the city or county that they will not review the drafts submitted.
- 7) Allows a city or county to take DOC's recommendations, if they are not available within 30 days, when it considers future amendments.
- 8) Specifies that all recommendations made by DOC shall be advisory to the planning agency and legislative body of the city or county.
- 9) Requires DOC to give priority consideration for any grants, bond proceeds, and other local assistance funding provided by DOC to a city or county that completes the ALC or ALE, that does all of the following:
 - a) Completes the ALC or ALE, as required above;
 - b) Provides DOC with any geographical information system data corresponding with the information, as specified; and,
 - c) Continues to review, and revise if necessary, the ALC or the ALE upon each revision of the housing element to identify new information that was not available during the previous revision of the open-space element, which contains the ALC, or ALE.
- 10) Allows DOC to promulgate regulations that are necessary to carry out its duties under this chapter.
- 11) Authorizes DOC to develop nonbinding guidance for local governments on agricultural land conservation planning and policy, in consultation with the Office of Planning and Research and the Department of Housing and Community Development.
- 12) Defines the following terms:
 - a) "Amount of land converted from agricultural use" to mean those lands that were permanently converted or committed to urban or other nonagricultural uses and were shown as agricultural land on Important Farmland Series maps maintained by the department and in the most recent biennial report;
 - b) "Important Farmland Series maps" to mean those maps that are compiled by the United States Soil Conservation Service and updated and modified by the Department of Conservation's Farmland Mapping and Monitoring Program, as defined; and,

- c) "Priority lands" to mean agricultural or open space lands, identified by a local government in that local government's agricultural land component of its open-space element or agricultural land element of the general plan, that are prioritized for conservation.

13) Finds and declares the following:

- a) California is the most productive and diverse agricultural state in the nation;
- b) California's agricultural sector employs almost 350,000 people and contributes more than \$70 billion to the state's economy; and,
- c) California is currently losing thousands of acres of agricultural lands every year to urban development; and that California is at risk of losing over one million more acres over the next several decades.

14) Makes other technical changes.

EXISTING LAW:

- 1) Requires each planning agency to prepare and the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city.
- 2) Requires general plans to consist of a statement of development policies, and include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals, including land use, circulation, housing, conservation, open space, noise, and safety.
- 3) Requires cities and counties to prepare, adopt, and submit to the Secretary of the Resources Agency a local open-space plan for the comprehensive and long-range preservation and conservation of open-space land within its jurisdiction on or before December 31, 1973.
- 4) Specifies that the local open-space plan shall contain, but is not limited to:
 - a) The officially adopted goals and policies which will guide the preparation and implementation of the open-space plan; and,
 - b) A program for the orderly completion and adoption of the open-space plan, by a specified date, including a description of the methods by which open-space resources will be inventoried and conservation measures determined.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- DOC costs of approximately \$150,000 annually, beginning in 2017-18, to develop and administer a grant program that is consistent with the existing Agricultural Protection Planning Grant Program. (Soil Conservation Fund)
- Grant allocations of approximately \$2 million annually, beginning in 2017-18 (Soil Conservation Fund, General Fund cost pressures beginning in year 3 of program).

See staff comments on Appropriations Committee analysis from May 22, 2017.

- Unknown, likely minor costs for the Governor's Office of Planning and Research to update general plan guidelines. (General Fund)

COMMENTS:

- 1) **Bill Summary.** This bill authorizes a city or county to develop an ALC or an ALE. It requires ALCs or ALEs to identify and map agricultural lands, establish a comprehensive set of goals, policies, and objectives to support long-term protection of agricultural land, and establish a set of feasible implementation measures designed to carry out and promote the established goals, policies, and objectives. This bill also requires cities and counties who develop an ALC or an ALE to submit it to the DOC at least 45 days before adoption or amendment to allow for advisory recommendations and review. If met, cities or counties that develop an ALC or an ALE and include specified requirements in the bill will qualify for priority consideration for any grants, bond proceeds, and other local assistance funding provided by DOC.
- 2) **Author's Statement.** According to the author, "Agricultural lands throughout California are at risk of being converted to non-agricultural uses. Smart growth efforts must balance the need for development to support a growing population with all the economic and environmental benefits of prime agricultural land. This bill creates a voluntary framework that cities and counties can use to specifically incorporate agricultural land preservation in the development of their General Plans. The framework includes identifying and mapping various categories of agricultural lands such as unique farmland, farmland of statewide importance, prime farmland, and grazing land. The bill also requires the local government to establish a set of goals and feasible implementation measures to promote agricultural preservation and smart growth efforts. Local governments that have enacted such plans will receive priority consideration for grants issued by the Department of Conservation."
- 3) **General Plans.** Existing law requires a planning agency to prepare a comprehensive, long-term general plan, subject to the approval of its governing body. The general plan must contain seven elements which consider current and future development, including land use, circulation, housing, conservation, open space, noise, and safety. In addition to the seven elements defined in statute, cities and counties may adopt additional components to their seven general elements, such as an agricultural land component within the open-space element, or separate elements, such as an agricultural element, as they deem necessary. In order to address their own unique community needs, numerous California jurisdictions have adopted a component or element that considers the use of agricultural land. According to the 2013-14 Office of Planning and Research Planning Survey, at least 23 counties and nine cities in California already had an optional Agriculture Element included as a part of their general plan.
- 4) **Funding Agricultural Land Conservation.** The Division of Land Resource Protection (DLRP) within DOC administers agricultural and open-space programs, including four grant programs which encourage agricultural conservation and sustainable communities. DLRP will receive \$2 million in funding in the Fiscal Year 2017-18 state budget. According to the DLRP, this money will go to fund these grants and support staff for the grant programs.

In addition, DOC advises and provides guidance to local governments and landowners on the administration of the Williamson Act, which conserves agricultural and open space land by allowing private property owners to sign voluntary contracts with counties and cities for 10 years, in exchange for a reduction in property taxes. Approximately 16.6 million acres are under Williamson Act contracts. Williamson Act contracts generally run for 10 years, but the duration is 20 years under more restrictive Farmland Security Zones. The contracts automatically renew each year, unless an action is taken to non-renew or cancel the contract, as specified.

Historically, the state provided subvention payments from the General Fund to counties to reimburse them for county General Fund money lost from the property tax reductions. However, this funding was suspended by the state in 2009, eliminating a portion of state agricultural land conservation funding.

Due to the elimination of subvention payments, some local jurisdictions passed ordinances that impose an additional cancellation penalty fee. If a property owner wants to cancel a Williamson Act contract before the ten-year period, the landowner must petition the local board or council to terminate a contract. The board/council may grant cancellation if certain statutory findings are met. If the local government approves the cancellation, the landowner is required to pay to the state a cancellation fee equal to 12.5% of the cancellation valuation of the property, and an additional fee to the local jurisdiction.

- 5) **Farmland Mapping and Monitoring Program.** In addition to their grant programs, DOC also oversees the Farmland Mapping and Monitoring Program (FMMP), which produces maps and statistical data about agricultural land use. According to DOC, FMMP is funded through the state's Soil Conservation Fund, which receives revenues from Williamson Act contract cancellation fees.

The maps and reports produced by FMMP include information about soil and irrigation ratings, such as identification of Prime Farmland. FMMP maps are updated biennially and can be utilized to compare the progression and growth patterns of agricultural land over time. The first Farmland Conversion Report was released in 1984. According to DOC, FMMP coverage currently includes 49.1 million acres, 98% of the state's private lands.

- 6) **Policy Considerations.** The Committee may wish to consider the following:
- a) **Permissive?** The bill *allows* a city or county to develop an ALC or an ALE, meaning that this is not a requirement for each of the 482 cities and 58 counties. However, should a city or county choose to develop an ALC or an ALE, the bill's provisions specify the requirements of what needs to be in the ALC or ALE. The Committee may wish to consider this approach and the implications for local control.
 - b) **Existing ALEs and ALCs.** According to the 2013-14 Governor's Office of Planning and Research Annual Planning Survey, at least 23 counties and nine cities in California already have an optional ALE or ALC included as a part of their general plan. The Committee may wish to consider adding in language to the bill to ensure that the provisions of the bill, which incentivize jurisdictions without such elements to incorporate planning for agricultural lands in their general plan, do not unnecessarily harm the good work that some cities and counties have previously undertaken.

- c) **Eligibility for Funding.** This bill requires DOC to give priority consideration for grants, bond proceeds, and other local assistance to cities and counties that meet the identification and mapping requirements of an ALC or ALE, pursuant to the provisions specified in the bill. The bill does not contemplate whether a county or city, with a previously adopted ALC or ALE, is eligible for such funding. The Committee may wish to consider adding in language allowing a city or county with an existing ALE and ALC to submit to DOC for priority consideration for funding.
- 7) **Committee Amendments.** To address 6b), and 6c), above, the Committee may wish to consider the following amendments:
- a) Specify that nothing in the bill's provisions shall require a city or county with an existing ALC or ALE, in place prior to January 1, 2018, to update that element to meet the requirements in the bill;
 - b) Allow a city or county with an existing ALC or an ALE that substantially complies with Section 65565 of the bill to submit to DOC for prior consideration of grant funding by doing all of the following:
 - i) Submitting a copy of the ALC or ALE to DOC. The department shall determine whether the component substantially complies with Section 65565;
 - ii) Submitting any other supporting background documentation that corresponds with the information identified in paragraph (1) of subdivision (a) of Section 65565; and,
 - iii) Continuing to review, and revise if necessary, the ALC or the ALE upon each revision of the housing element to identify new information that was not available during the previous revision of the ALC or ALE;
 - c) Add in minor clarifying language suggested by the California Building Industry Association and DOC; and,
 - d) Other minor, structural amendments needed for consistency throughout the bill's provisions.
- 8) **Arguments in Support.** A coalition of agricultural and conservation organizations, in support, writes that "SB 732 presents an important opportunity to provide needed incentives for local government to take up the issue of farmland conservation as part of an in-fill development strategy. The bill creates a voluntary framework for local governments that want improve farmland mapping and policy development as part of their General Plan."
- 9) **Arguments in Opposition.** None on file.
- 10) **Double-Referral.** This bill was heard by the Agriculture Committee on June 28, 2017, where it passed with a 7-1 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

American Farmland Trust
California Climate & Agriculture Network
Central Valley Farmland Trust
Community Alliance with Family Farmers
Midpeninsula Regional Open Space
Open Space Authority
SAGE
Save Mount Diablo
Solano Land Trust
The Trust for Public Land

Opposition

None on file

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