

AMENDED IN ASSEMBLY SEPTEMBER 8, 2011

AMENDED IN ASSEMBLY SEPTEMBER 2, 2011

AMENDED IN ASSEMBLY AUGUST 30, 2011

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AMENDED IN ASSEMBLY JUNE 23, 2011

AMENDED IN SENATE MAY 11, 2011

AMENDED IN SENATE MAY 3, 2011

AMENDED IN SENATE APRIL 25, 2011

**SENATE BILL**

**No. 618**

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**Introduced by Senator Wolk**

(Principal coauthor: Assembly Member V. Manuel Pérez)

(Coauthors: Assembly Members Alejo and Galgiani)

February 18, 2011

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An act to amend Sections 2805, 2835, 3511, 4700, 5050, and 5515 of the Fish and Game Code, to add Section 51255.1 to, and to add Chapter 6.9 (commencing with Section 51190) to Part 1 of Division 1 of Title 5 of, the Government Code, ~~to add and repeal Section 21080.43 of the Public Resources Code,~~ and to amend Section 402.1 of the Revenue and Taxation Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 618, as amended, Wolk. Local government: solar-use easement.

(1) Existing law, the Williamson Act, authorizes a city or county to enter into 10-year contracts with owners of land devoted to agricultural use, whereby the owners agree to continue using the property for that

purpose, and the city or county agrees to value the land accordingly for purposes of property taxation. Existing law authorizes the parties to a Williamson Act contract to mutually agree to rescind a contract under the act in order to simultaneously enter into an open-space easement for a certain period of years.

This bill would authorize the parties to a Williamson Act contract, after approval by the Department of Conservation, in consultation with the Department of Food and Agriculture, to mutually agree to rescind the contract in order to simultaneously enter into a solar-use easement that would require that the land be used for solar photovoltaic facilities for a term no less than 20 years, except as specified. The bill would require the city or county to charge the property owner a rescission fee based upon the fair market value of the property at the time of the rescission, as specified. This bill would require a city or county to include certain, and authorizes a city or county to include other, restrictions, conditions, or covenants in the deed or instrument granting a solar-use easement. This bill would provide that a solar-use easement would be automatically renewed annually, unless either party filed a notice of nonrenewal. This bill would provide that a solar-use easement may only be extinguished on all or a portion of the parcel by nonrenewal, termination, or by returning the land to its previous contract under the Williamson Act. This bill would require that if the landowner extinguishes the contract either by filing a notice of nonrenewal or by terminating the solar-use easement, the landowner shall restore the property to the conditions that existed before the easement by the time the easement terminates. This bill would authorize a landowner to terminate a solar-use easement by complying with certain procedures, and paying a termination fee based upon the termination value of the property, as determined by the county assessor. This bill would provide that specified parties may bring an action to enforce the easement if it is violated.

(2) Existing law requires the county assessor to consider, when valuing real property for property taxation purposes, the effect of any enforceable restrictions to which the use of the land may be subjected. Under existing law these restrictions include, but are not limited to, zoning, recorded contracts with governmental agencies, and various other restrictions imposed by governments.

This bill would also require the county assessor to consider, when valuing real property for property taxation purposes, solar-use easements. By changing the manner in which county assessors assess

property for property taxation purposes, this bill would impose a state-mandated local program.

~~(3) Existing law applies the California Environmental Quality Act to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps unless the project is specifically exempt from the act.~~

~~This bill would, until January 1, 2018, exempt from the act the development of photovoltaic solar energy systems on specified lands, including, specified abandoned surface mining operations, lands with active, idle, abandoned, or closed oil wells, solid waste landfills, sites listed on the National Priorities List, as specified, Hazardous substance release sites identified by the Department of Toxic Substances Control, specified rights-of-way owned by the Department of Transportation, land designated as an airspace hazard, as specified, Land with a zoning designation for industrial use that has been mechanically disturbed at least 5 years prior to the project application, as specified, and agricultural lands that the Department of Conservation determines are exempt based upon specified characteristics of the land.~~

~~(4)~~

~~(3) The Natural Community Conservation Planning Act defines “covered species” for purposes of the act to mean those species, both listed and nonlisted pursuant to the California Endangered Species Act conserved and managed under an approved natural community conservation plan and that may be authorized for take. The act further authorizes the department to, prior to approval of a conservation plan, authorize by permit the taking of any covered species whose conservation and management is provided for in a natural community conservation plan approved by the department.~~

~~This bill would revise the definition of “covered species” to include fully protected species, as specified, and would make conforming changes. The bill would also include specified fully protected species in the species authorized to be taken prior to the approval of a conservation plan.~~

~~(5)~~

~~(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

- 1 SECTION 1. The Legislature hereby finds and declares all of  
 2 the following:
- 3 (a) The California Land Conservation Act of 1965 that has  
 4 become known nationwide as the Williamson Act is critical to the  
 5 welfare of the people of our state and nation.
- 6 (b) The Williamson Act provides a statutory framework for  
 7 local implementation of California’s most effective farm and ranch  
 8 land preservation program, protecting over 16.5 million acres or  
 9 nearly one-third of all privately owned land in California.
- 10 (c) The long-term conservation of agricultural and open-space  
 11 land ensures that a steady supply of high-quality, low-cost fresh  
 12 foods is available to urban residents, provides open-space uses  
 13 that benefit the public seeking escape from the closeness of urban  
 14 society, protects watersheds and vast areas of wildlife habitat, and  
 15 conserves world-class agricultural soils.
- 16 (d) On April 12, 2011, Governor Brown signed legislation that  
 17 requires one-third of the state’s electricity to come from renewable  
 18 sources by December 31, 2020.
- 19 (e) In establishing the 33 percent California Renewables  
 20 Portfolio Standard Program (RPS program), there will be many  
 21 important benefits to California, including new investment in green  
 22 technologies in the state, job creation, improvements in local air  
 23 quality, energy independence, and a reduction in greenhouse gas  
 24 emissions.
- 25 (f) Utility scale photovoltaic electrical energy production is  
 26 crucial to achieving and hopefully exceeding California’s RPS  
 27 program goals.
- 28 (g) Encouraging utility scale photovoltaic energy facilities on  
 29 marginally productive or physically impaired land by providing  
 30 expedited termination of Williamson Act contracts, without  
 31 penalty, will protect the many statewide benefits of the program

1 while providing significant economic incentives for new solar  
2 power development.

3 (h) In enacting Section 9 of this act, it is the intent of the  
4 Legislature to provide an additional method for terminating a  
5 Williamson Act contract, in addition to those methods already  
6 authorized by statute, for the purpose of encouraging the  
7 development of utility scale solar photovoltaic facilities on  
8 marginally productive or physically impaired farmland. It is not  
9 intended to be the exclusive method of contract termination, nor  
10 of Williamson Act compliance for solar facilities, but merely  
11 another option that is consistent with the constitutional limitations  
12 of Section 8 of Article XIII of the California Constitution.

13 ~~(i) In enacting Section 10 of this act, it is the intent of the  
14 Legislature to simplify and expedite the development of  
15 photovoltaic solar energy systems on lands that have marginal  
16 economic, agricultural and biological habitat value in a manner  
17 that ensures the protection of biological habitat and agricultural  
18 uses.~~

19 SEC. 2. Section 2805 of the Fish and Game Code is amended  
20 to read:

21 2805. The definitions in this section govern the construction  
22 of this chapter:

23 (a) “Adaptive management” means to use the results of new  
24 information gathered through the monitoring program of the plan  
25 and from other sources to adjust management strategies and  
26 practices to assist in providing for the conservation of covered  
27 species.

28 (b) “Candidate species” has the same meaning as defined in  
29 Section 2068.

30 (c) “Changed circumstances” are reasonably foreseeable  
31 circumstances that could affect a covered species or geographic  
32 area covered by the plan.

33 (d) “Conserve,” “conserving,” and “conservation” mean to use,  
34 and the use of, methods and procedures within the plan area that  
35 are necessary to bring any covered species to the point at which  
36 the measures provided pursuant to Chapter 1.5 (commencing with  
37 Section 2050) are not necessary, and for covered species that are  
38 not listed pursuant to Chapter 1.5 (commencing with Section 2050),  
39 to maintain or enhance the condition of a species so that listing

1 pursuant to Chapter 1.5 (commencing with Section 2050) will not  
2 become necessary.

3 (e) “Covered species” means those species, both listed pursuant  
4 to Chapter 1.5 (commencing with Section 2050) and nonlisted,  
5 conserved and managed under an approved natural community  
6 conservation plan and that may be authorized for take.  
7 Notwithstanding Sections 3511, 4700, 5050, or 5515, fully  
8 protected species may be covered species pursuant to this  
9 subdivision, and taking of fully protected species may be authorized  
10 pursuant to Section 2835 for any fully protected species conserved  
11 and managed as a covered species under an approved natural  
12 community conservation plan.

13 (f) “Department assurance” means the department’s commitment  
14 pursuant to subdivision (f) of Section 2820.

15 (g) “Monitoring program” means a program within an approved  
16 natural community conservation plan that provides periodic  
17 evaluations of monitoring results to assess the adequacy of the  
18 mitigation and conservation strategies or activities and to provide  
19 information to direct the adaptive management program. The  
20 monitoring program shall, to the extent practicable, also be used  
21 to meet the monitoring requirements of Section 21081.6 of the  
22 Public Resources Code. A monitoring program includes all of the  
23 following:

24 (1) Surveys to determine the status of biological resources  
25 addressed by the plan, including covered species.

26 (2) Periodic accountings and assessment of authorized take.

27 (3) Progress reports on all of the following matters:

28 (A) Establishment of habitat reserves or other measures that  
29 provide equivalent conservation of covered species and providing  
30 funding where applicable.

31 (B) Compliance with the plan and the implementation agreement  
32 by the wildlife agencies, local governments, and landowners who  
33 have responsibilities under the plan.

34 (C) Measurements to determine if mitigation and conservation  
35 measures are being implemented roughly proportional in time and  
36 extent to the impact on habitat or covered species authorized under  
37 the plan.

38 (D) Evaluation of the effectiveness of the plan in meeting the  
39 conservation objectives of the plan.

1 (E) Maps of land use changes in the plan area that may affect  
2 habitat values or covered species.

3 (4) A schedule for conducting monitoring activities.

4 (h) “Natural community conservation plan” or “plan” means  
5 the plan prepared pursuant to a planning agreement entered into  
6 in accordance with Section 2810. The plan shall identify and  
7 provide for those measures necessary to conserve and manage  
8 natural biological diversity within the plan area while allowing  
9 compatible and appropriate economic development, growth, and  
10 other human uses.

11 (i) “Person” has the same meaning as defined in Section 711.2.

12 (j) (1) “Plan participant,” prior to approval of a natural  
13 community conservation plan and execution of an implementation  
14 agreement, means a signatory to the planning agreement.

15 (2) Upon approval of a natural community conservation plan  
16 and execution of an implementation agreement, “plan participant”  
17 means the permittees and any local agency that is a signatory to  
18 the implementing agreement.

19 (k) “Unforeseen circumstances” means changes affecting one  
20 or more species, habitat, natural community, or the geographic  
21 area covered by a conservation plan that could not reasonably have  
22 been anticipated at the time of plan development, and that result  
23 in a substantial adverse change in the status of one or more covered  
24 species.

25 (l) “Wildlife” has the same meaning as defined in Section 711.2.

26 (m) “Wildlife agencies” means the department and one or both  
27 of the following:

28 (1) United States Fish and Wildlife Service.

29 (2) National Marine Fisheries Service.

30 SEC. 3. Section 2835 of the Fish and Game Code is amended  
31 to read:

32 2835. At the time of plan approval, the department may  
33 authorize by permit the taking of any covered species, including  
34 species designated as fully protected species pursuant to Sections  
35 3511, 4700, 5050, or 5515, whose conservation and management  
36 is provided for in a natural community conservation plan approved  
37 by the department.

38 SEC. 4. Section 3511 of the Fish and Game Code is amended  
39 to read:

1 3511. (a) (1) Except as provided in Section 2081.7 or 2835,  
2 fully protected birds or parts thereof may not be taken or possessed  
3 at any time. No provision of this code or any other law shall be  
4 construed to authorize the issuance of permits or licenses to take  
5 any fully protected bird, and no permits or licenses heretofore  
6 issued shall have any force or effect for that purpose. However,  
7 the department may authorize the taking of those species for  
8 necessary scientific research, including efforts to recover fully  
9 protected, threatened, or endangered species, and may authorize  
10 the live capture and relocation of those species pursuant to a permit  
11 for the protection of livestock. Prior to authorizing the take of any  
12 of those species, the department shall make an effort to notify all  
13 affected and interested parties to solicit information and comments  
14 on the proposed authorization. The notification shall be published  
15 in the California Regulatory Notice Register and be made available  
16 to each person who has notified the department, in writing, of his  
17 or her interest in fully protected species and who has provided an  
18 e-mail address, if available, or postal address to the department.  
19 Affected and interested parties shall have 30 days after notification  
20 is published in the California Regulatory Notice Register to provide  
21 any relevant information and comments on the proposed  
22 authorization.

23 (2) As used in this subdivision, “scientific research” does not  
24 include any actions taken as part of specified mitigation for a  
25 project, as defined in Section 21065 of the Public Resources Code.

26 (3) Legally imported fully protected birds or parts thereof may  
27 be possessed under a permit issued by the department.

28 (b) The following are fully protected birds:

- 29 (1) American peregrine falcon (*Falco peregrinus anatum*).
- 30 (2) Brown pelican.
- 31 (3) California black rail (*Laterallus jamaicensis coturniculus*).
- 32 (4) California clapper rail (*Rallus longirostris obsoletus*).
- 33 (5) California condor (*Gymnogyps californianus*).
- 34 (6) California least tern (*Sterna albifrons browni*).
- 35 (7) Golden eagle.
- 36 (8) Greater sandhill crane (*Grus canadensis tabida*).
- 37 (9) Light-footed clapper rail (*Rallus longirostris levipes*).
- 38 (10) Southern bald eagle (*Haliaeetus leucocephalus*  
39 *leucocephalus*).
- 40 (11) Trumpeter swan (*Cygnus buccinator*).



1 (12) White-tailed kite (*Elanus leucurus*).

2 (13) Yuma clapper rail (*Rallus longirostris yumanensis*).

3 SEC. 5. Section 4700 of the Fish and Game Code is amended  
4 to read:

5 4700. (a) (1) Except as provided in Section 2081.7 or 2835,  
6 fully protected mammals or parts thereof may not be taken or  
7 possessed at any time. No provision of this code or any other law  
8 shall be construed to authorize the issuance of permits or licenses  
9 to take any fully protected mammal, and no permits or licenses  
10 heretofore issued shall have any force or effect for that purpose.  
11 However, the department may authorize the taking of those species  
12 for necessary scientific research, including efforts to recover fully  
13 protected, threatened, or endangered species. Prior to authorizing  
14 the take of any of those species, the department shall make an  
15 effort to notify all affected and interested parties to solicit  
16 information and comments on the proposed authorization. The  
17 notification shall be published in the California Regulatory Notice  
18 Register and be made available to each person who has notified  
19 the department, in writing, of his or her interest in fully protected  
20 species and who has provided an e-mail address, if available, or  
21 postal address to the department. Affected and interested parties  
22 shall have 30 days after notification is published in the California  
23 Regulatory Notice Register to provide any relevant information  
24 and comments on the proposed authorization.

25 (2) As used in this subdivision, “scientific research” does not  
26 include any actions taken as part of specified mitigation for a  
27 project, as defined in Section 21065 of the Public Resources Code.

28 (3) Legally imported fully protected mammals or parts thereof  
29 may be possessed under a permit issued by the department.

30 (b) The following are fully protected mammals:

31 (1) Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*).

32 (2) Bighorn sheep (*Ovis canadensis*), except Nelson bighorn  
33 sheep (subspecies *Ovis canadensis nelsoni*) as provided by  
34 subdivision (b) of Section 4902.

35 (3) Northern elephant seal (*Mirounga angustirostris*).

36 (4) Guadalupe fur seal (*Arctocephalus townsendi*).

37 (5) Ring-tailed cat (genus *Bassariscus*).

38 (6) Pacific right whale (*Eubalaena sieboldi*).

39 (7) Salt-marsh harvest mouse (*Reithrodontomys raviventris*).

40 (8) Southern sea otter (*Enhydra lutris nereis*).

1 (9) Wolverine (*Gulo luscus*).

2 SEC. 6. Section 5050 of the Fish and Game Code is amended  
3 to read:

4 5050. (a) (1) Except as provided in Section 2081.7 or 2835,  
5 fully protected reptiles and amphibians or parts thereof may not  
6 be taken or possessed at any time. No provision of this code or  
7 any other law shall be construed to authorize the issuance of  
8 permits or licenses to take any fully protected reptile or amphibian,  
9 and no permits or licenses heretofore issued shall have any force  
10 or effect for that purpose. However, the department may authorize  
11 the taking of those species for necessary scientific research,  
12 including efforts to recover fully protected, threatened, or  
13 endangered species. Prior to authorizing the take of any of those  
14 species, the department shall make an effort to notify all affected  
15 and interested parties to solicit information and comments on the  
16 proposed authorization. The notification shall be published in the  
17 California Regulatory Notice Register and be made available to  
18 each person who has notified the department, in writing, of his or  
19 her interest in fully protected species and who has provided an  
20 e-mail address, if available, or postal address to the department.  
21 Affected and interested parties shall have 30 days after notification  
22 is published in the California Regulatory Notice Register to provide  
23 any relevant information and comments on the proposed  
24 authorization.

25 (2) As used in this subdivision, “scientific research” does not  
26 include any actions taken as part of specified mitigation for a  
27 project, as defined in Section 21065 of the Public Resources Code.

28 (3) Legally imported fully protected reptiles or amphibians or  
29 parts thereof may be possessed under a permit issued by the  
30 department.

31 (b) The following are fully protected reptiles and amphibians:

32 (1) Blunt-nosed leopard lizard (*Crotaphytus wislizenii silus*).

33 (2) San Francisco garter snake (*Thamnophis sirtalis tetrataenia*).

34 (3) Santa Cruz long-toed salamander (*Ambystoma*  
35 *macrodactylum croceum*).

36 (4) Limestone salamander (*Hydromantes brunus*).

37 (5) Black toad (*Bufo boreas exsul*).

38 SEC. 7. Section 5515 of the Fish and Game Code is amended  
39 to read:

1 5515. (a) (1) Except as provided in Section 2081.7 or 2835,  
2 fully protected fish or parts thereof may not be taken or possessed  
3 at any time. No provision of this code or any other law shall be  
4 construed to authorize the issuance of permits or licenses to take  
5 any fully protected fish, and no permits or licenses heretofore  
6 issued shall have any force or effect for that purpose. However,  
7 the department may authorize the taking of those species for  
8 necessary scientific research, including efforts to recover fully  
9 protected, threatened, or endangered species. Prior to authorizing  
10 the take of any of those species, the department shall make an  
11 effort to notify all affected and interested parties to solicit  
12 information and comments on the proposed authorization. The  
13 notification shall be published in the California Regulatory Notice  
14 Register and be made available to each person who has notified  
15 the department, in writing, of his or her interest in fully protected  
16 species and who has provided an e-mail address, if available, or  
17 postal address to the department. Affected and interested parties  
18 shall have 30 days after notification is published in the California  
19 Regulatory Notice Register to provide any relevant information  
20 and comments on the proposed authorization.

21 (2) As used in this subdivision, “scientific research” does not  
22 include any actions taken as part of specified mitigation for a  
23 project, as defined in Section 21065 of the Public Resources Code.

24 (3) Legally imported fully protected fish or parts thereof may  
25 be possessed under a permit issued by the department.

26 (b) The following are fully protected fish:

- 27 (1) Colorado River squawfish (*Ptychocheilus lucius*).
- 28 (2) Thicktail chub (*Gila crassicauda*).
- 29 (3) Mohave chub (*Gila mohavensis*).
- 30 (4) Lost River sucker (*Catostomus luxatus*).
- 31 (5) Modoc sucker (*Catostomus microps*).
- 32 (6) Shortnose sucker (*Chasmistes brevirostris*).
- 33 (7) Humpback sucker (*Xyrauchen texanus*).
- 34 (8) Owens River pupfish (*Cyprinoden radiosus*).
- 35 (9) Unarmored threespine stickleback (*Gasterosteus aculeatus*  
36 *williamsoni*).
- 37 (10) Rough sculpin (*Cottus asperrimus*).

38 SEC. 8. Chapter 6.9 (commencing with Section 51190) is added  
39 to Part 1 of Division 1 of Title 5 of the Government Code, to read:

CHAPTER 6.9. SOLAR-USE EASEMENT

Article 1. Definitions

51190. As used in this chapter, the following terms have the following meanings:

(a) "City" means any city or city and county.

(b) "Landowner" includes a lessee or trustee, if the expiration of the lease or trust occurs at a time later than the expiration of the restriction of the use of the land to photovoltaic solar facilities or any extension of the restriction.

(c) "Solar-use easement" means 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.

Article 2. General Provisions

51191. (a) For purposes of this chapter, and for purposes of Chapter 7 (commencing with Section 51200), the Department of Conservation, in consultation with the Department of Food and Agriculture, upon a request from a city or county, may determine, based on substantial evidence, that a parcel or parcels is eligible

1 for ~~recession~~ *rescission* under Section 51255.1 for placement into  
2 a solar use easement if the following criteria are met:

3 (1) The land meets either of the following:

4 (A) The land consists predominately of soils with significantly  
5 reduced agricultural productivity for agricultural activities due to  
6 chemical or physical limitations, topography, drainage, flooding,  
7 adverse soil conditions, or other physical reasons.

8 (B) The land has severely adverse soil conditions that are  
9 detrimental to continued agricultural activities and production.  
10 Severely adverse soil conditions may include, but are not limited  
11 to, contamination by salts or selenium, or other naturally occurring  
12 contaminants.

13 (2) The parcel or parcels are not located on lands designated as  
14 prime farmland, unique farmland, or farmland of statewide  
15 importance, as shown on the maps prepared pursuant to the  
16 Farmland Mapping and Monitoring Program of the California  
17 Natural Resources Agency, unless the Department of Conservation,  
18 in consultation with the Department of Food and Agriculture,  
19 determines that a parcel or parcels are eligible to be placed in a  
20 solar use easement based on the information provided in  
21 subdivision (b) that demonstrates that circumstances exist that  
22 limit the use of the parcel for agricultural activities. For purposes  
23 of this section, the important farmland designations shall not be  
24 changed solely due to irrigation status ~~unless the land has not been~~  
25 ~~irrigated in the previous six years.~~

26 (b) To assist in the determination described in this section, the  
27 city or county shall require the landowner to provide to the  
28 Department of Conservation the following information to the extent  
29 applicable:

30 (1) A written narrative demonstrating that even under the best  
31 currently available management practices, continued agricultural  
32 practices would be substantially limited due to the soil's reduced  
33 agricultural productivity from chemical or physical limitations,

34 (2) A recent soil test demonstrating that the characteristics of  
35 the soil significantly reduce its agricultural productivity.

36 (3) An analysis of water availability demonstrating the  
37 insufficiency of water supplies for continued agricultural  
38 production.

1 (4) An analysis of water quality demonstrating that continued  
2 agricultural production would, under the best currently available  
3 management practices, be significantly reduced.

4 (5) Crop and yield information for the past six years.

5 (c) The landowner shall provide the Department of Conservation  
6 with a proposed management plan describing how the soil will be  
7 managed during the life of the easement, how impacts to adjacent  
8 agricultural operations will be minimized, how the land will be  
9 restored to its previous general condition, as it existed at the time  
10 of project approval, upon the termination of the easement. If the  
11 Department of Conservation determines, in consultation with the  
12 Department of Food and Agriculture, pursuant to subdivision (a),  
13 that lands are subject to this section, the city or county shall require  
14 implementation of the management plan, which shall include any  
15 recommendations provided by the Department of Conservation,  
16 as part of any project approval.

17 (d) A determination by the Department of Conservation pursuant  
18 to this section related to a project described in Section 21080.43  
19 of the Public Resources Code shall not be subject to Division 13  
20 of the Public Resources Code.

21 (e) The Department of Conservation may establish a fee to be  
22 paid by the landowner to recover the estimated costs incurred by  
23 *the* department in participating in the consultation described in  
24 this section.

25 51191.1. Any county or city may enter into an agreement with  
26 a landowner pursuant to Section 51255.1 to use lands determined  
27 to be eligible pursuant to Section 51191 in a solar-use easement  
28 in the manner provided in this chapter.

29 51191.2. The execution and acceptance of a deed or other  
30 instrument described in subdivision (c) of Section 51190 shall  
31 constitute a dedication to the public of the use of lands for solar  
32 photovoltaic use. Any term easement and covenant shall run for  
33 a term of not less than 20 years unless a shorter term is requested  
34 by the landowner, in which case the term may be not less than 10  
35 years. A solar-use easement for a term of years may provide that  
36 on the anniversary date of the acceptance of the solar-use easement,  
37 or on any other annual date as specified by the deed or other  
38 instrument described in subdivision (c) of Section 51190, a year  
39 shall be added automatically to the initial term unless a notice of  
40 nonrenewal is given as provided in Section 51192.

1 51191.3. (a) A county or city may require a deed or other  
2 instrument described in subdivision (c) of Section 51190 to contain  
3 any restrictions, conditions, or covenants as are necessary or  
4 desirable to restrict the use of the land to photovoltaic solar  
5 facilities.

6 (b) The restrictions, conditions, or covenants may include, but  
7 are not limited to, the following:

8 (1) Mitigation measures on the land that is subject to the  
9 solar-use easement.

10 (2) Mitigation measures beyond the land that is subject to the  
11 solar-use easement.

12 (3) If deemed necessary by the city or county to ensure that  
13 decommissioning requirements are met, the provision for financial  
14 assurances, such as performance bonds, letters of credit, a corporate  
15 guarantee, or other securities to fund, upon the cessation of the  
16 solar photovoltaic use, the restoration of the land that is subject to  
17 the easement to the conditions that existed before the approval or  
18 acceptance of that easement by the time that the easement  
19 terminates.

20 (4) Provision for necessary amendments by the parties provided  
21 that the amendments are consistent with the provisions of this  
22 chapter.

23 (c) For term easements or self-renewing easements, the  
24 restrictions, conditions, or covenants shall include a requirement  
25 for the landowner to post a performance bond or other securities  
26 to fund the restoration of the land that is subject to the easement  
27 to the conditions that existed before the approval or acceptance of  
28 the easement by the time the easement terminates. The Department  
29 of Conservation may adopt regulations pursuant to the  
30 Administrative Procedure Act (Chapter 3.5 (commencing with  
31 Section 11340) of Division 3 of Title 2) to implement this  
32 subdivision.

33 51191.4. No deed or other instrument described in subdivision  
34 (c) of Section 51190 shall be effective until it has been accepted  
35 or approved by resolution of the governing body of the county or  
36 city and its acceptance endorsed thereon.

37 51191.5. (a) During the term of the solar-use easement, the  
38 county or city shall not approve any land use on land covered by  
39 a solar easement that is inconsistent with the easement, and no  
40 building permit may be issued for any structure that would violate

1 the easement. The county or city shall seek, by appropriate  
2 proceedings, an injunction against any threatened construction or  
3 other development or activity on the land that would violate the  
4 easement and shall seek a mandatory injunction requiring the  
5 removal of any structure erected in violation of the easement.

6 If the county or city fails to seek an injunction against any  
7 threatened construction or other development or activity on the  
8 land that would violate the easement or to seek a mandatory  
9 injunction requiring the removal of any structure erected in  
10 violation of the easement, or if the county or city should construct  
11 any structure or development or conduct or permit any activity in  
12 violation of the easement, a person or entity may, by appropriate  
13 proceedings, seek an injunction.

14 (b) The court may award to a plaintiff who prevails in an action  
15 authorized by this section his or her cost of litigation, including  
16 reasonable attorney’s fees.

17 (c) Nothing in this chapter shall limit the power of the state or  
18 any county, city, school district, or any other local public district,  
19 agency, or entity, or any other person authorized by law, to acquire  
20 land subject to a solar-use easement by eminent domain.

21 51191.6. Upon the acceptance or approval of any instrument  
22 creating a solar-use easement, the clerk of the governing body  
23 shall record the instrument in the office of the county recorder and  
24 file a copy with the county assessor. After the easement is recorded,  
25 it shall impart notice to all persons under the recording laws of  
26 this state.

27 51191.7. The parcel or parcels subject to a solar-use easement  
28 shall be assessed pursuant to Section 402.1 of the Revenue and  
29 Taxation Code during the term of the easement.

30 51191.8. The Department of Conservation may adopt  
31 regulations pursuant to the Administrative Procedure Act (Chapter  
32 3.5 (commencing with Section 11340) of Division 3 of Title 2)  
33 for the implementation of this chapter.

34

35 Article 3. Extinguishment of a Solar-Use Easement

36

37 51192. (a) A solar-use easement may be extinguished on all  
38 or a portion of the parcel only by nonrenewal, termination, or by  
39 returning the land to its previous contract pursuant to Article 3  
40 (commencing with Section 51240) of Chapter 7.



1 (b) (1) If either the landowner or the county or city desires in  
2 any year not to renew the solar-use easement on all or a portion  
3 of the parcel, that party shall serve written notice of nonrenewal  
4 of the easement upon the other party at least 90 days in advance  
5 of the annual renewal date of the solar-use easement. Unless written  
6 notice is served at least 90 days in advance of the renewal date,  
7 the solar-use easement shall be considered renewed as provided  
8 in Section 51191.2.

9 (2) Upon receipt by the owner of a notice from the county or  
10 city of nonrenewal, the owner may make a written protest of the  
11 notice of nonrenewal. The county or city may, at any time prior  
12 to the renewal date, withdraw the notice of nonrenewal.

13 (c) If the county, city, or the landowner serves notice of intent  
14 in any year not to renew the solar-use easement, the existing  
15 solar-use easement shall remain in effect for the balance of the  
16 period remaining since the original execution or the last renewal  
17 of the solar-use easement, as the case may be.

18 51192.1. In the case of a solar-use easement that is extinguished  
19 because of a notice of nonrenewal by the landowner or due to  
20 termination, the landowner shall restore the land that is subject to  
21 the easement to the conditions that existed before the approval of  
22 the easement by the time the easement terminates.

23 51192.2. (a) If all or a portion of the parcel held in a solar-use  
24 easement will no longer be used for the purposes outlined in the  
25 easement the landowner may petition the county or city to approve  
26 termination of the easement.

27 (b) Prior to any action by the county or city giving tentative  
28 approval to the termination of any easement, the county assessor  
29 of the county in which the land is located shall determine the  
30 current fair market value of the parcel or parcels to be terminated  
31 as though the parcel or parcels were free of the easement restriction.  
32 The assessor shall certify to the county or city the termination  
33 valuation of the parcel or parcels for the purpose of determining  
34 the termination fee. At the same time, the assessor shall send a  
35 notice to the landowner and the Department of Conservation  
36 indicating the current fair market value of the parcel or parcels as  
37 though the parcel or parcels were free of the easement restriction  
38 and advise the parties, that upon their request, the assessor shall  
39 provide all information relevant to the valuation, excluding  
40 third-party information. If any information is confidential or

1 otherwise protected from release, the department and the landowner  
2 shall hold it as confidential and return or destroy any protected  
3 information upon completion of all actions relating to valuation  
4 or termination of the easement on the property. The notice shall  
5 also advise the landowner and the department of the opportunity  
6 to request formal review from the assessor.

7 (c) Prior to giving tentative approval to the termination of any  
8 easement, the county or city shall determine and certify to the  
9 county auditor the amount of the termination fee that the landowner  
10 shall pay the county treasurer upon termination. That fee shall be  
11 an amount equal to 12½ percent of the termination valuation of  
12 the property.

13 (d) If it finds that it is in the public interest to do so, the county  
14 or city may waive any payment or any portion of a payment by  
15 the landowner, or may extend the time for making the payment or  
16 a portion of the payment contingent upon the future use made of  
17 the parcel or parcels and the parcel or parcels economic return to  
18 the landowner for a period of time not to exceed the unexpired  
19 period of the easement, had it not been terminated, if both of the  
20 following occur:

21 (1) The termination is caused by an involuntary transfer or  
22 change in the use which may be made of the land and the land is  
23 not immediately suitable, nor will be immediately used, for a  
24 purpose which produces a greater economic return to the owner.

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

35 (e) When termination fees required by this section are collected,  
36 they shall be transmitted by the county treasurer to the Controller  
37 and deposited in the General Fund, *except as provided in*  
38 *subdivision (b) of Section 51203 or subdivision (d) of Section*  
39 *51283.*

1 (f) It is the intent of the Legislature that fees paid to terminate  
2 a contract do not constitute taxes but are payments that, when  
3 made, provide a private benefit that tends to increase the value of  
4 the property.

5 SEC. 9. Section 51255.1 is added to the Government Code, to  
6 read:

7 51255.1. (a) Notwithstanding any other provision of this  
8 chapter, the parties may upon their mutual agreement rescind a  
9 contract for a parcel or parcels of land that, upon review and  
10 approval, are determined by the Department of Conservation to  
11 be eligible to be placed into a solar-use easement pursuant to  
12 Section 51191, in order to simultaneously enter into a solar-use  
13 easement pursuant to Chapter 6.9 (commencing with Section  
14 51190). This action may be taken notwithstanding the prior serving  
15 of a notice of nonrenewal.

16 (b) Nothing in this section limits the ability of the parties to a  
17 contract to seek nonrenewal, or petition for cancellation or  
18 termination of a contract pursuant to this chapter. This section is  
19 provided in addition to, not in replacement of, other methods for  
20 contract termination, Williamson Act compliance, or a county  
21 finding that a solar facility is a compatible use pursuant to this  
22 chapter.

23 (c) (1) Prior to the board or council agreeing to mutually rescind  
24 a contract pursuant to this section, the county assessor of the county  
25 in which the land is located shall determine the current fair market  
26 value of the land as though it were free of the contractual  
27 restriction. The assessor shall certify to the board or council the  
28 fair market valuation of the land for the purpose of determining  
29 the rescission fee. At the same time, the assessor shall send a notice  
30 to the landowner and the Department of Conservation indicating  
31 the current fair market value of the land as though it were free of  
32 the contractual restriction and advise the parties, that upon their  
33 request, the assessor shall provide all information relevant to the  
34 valuation, excluding third-party information. If any information  
35 is confidential or otherwise protected from release, the department  
36 and the landowner shall hold it as confidential and return or destroy  
37 any protected information upon termination of all actions relating  
38 to valuation or rescission of the contract on the property. The notice  
39 shall also advise the landowner and the department of the  
40 opportunity to request formal review from the assessor.

1 (2) Prior to agreeing to mutually rescind a contract pursuant to  
 2 this section, the board or council shall determine and certify to the  
 3 county auditor the amount of the rescission fee that the landowner  
 4 shall pay the county treasurer upon ~~recession~~ *rescission*. That fee  
 5 shall be an amount equal to 6  $\frac{1}{4}$  percent of the fair market valuation  
 6 of the property if the land was held under a contract pursuant to  
 7 Section 51240, and 12  $\frac{1}{2}$  percent if the land was held in a contract  
 8 designating the property as a farmland security zone.

9 (3) When rescission fees required by this subdivision are  
 10 collected, they shall be transmitted by the county treasurer to the  
 11 Controller and deposited in the General Fund, except as provided  
 12 ~~in subdivision (d) of Section 51283 and subdivision (b) of Section~~  
 13 ~~51203 in subdivision (b) of Section 51203 or subdivision (d) of~~  
 14 ~~Section 51283.~~ The funds collected by the county treasurer with  
 15 respect to each rescission of a contract shall be transmitted to the  
 16 Controller within 30 days of the execution of the mutual rescission  
 17 of the contract by the parties.

18 (4) It is the intent of the Legislature that fees paid to rescind a  
 19 contract do not constitute taxes but are payments that, when made,  
 20 provide a private benefit that tends to increase the value of the  
 21 property.

22 ~~SEC. 10. Section 21080.43 is added to the Public Resources~~  
 23 ~~Code, to read:~~

24 ~~21080.43. (a) This division shall not apply to the development~~  
 25 ~~of photovoltaic solar energy systems on the following lands:~~

26 ~~(1) Surface mining operations that are abandoned pursuant to~~  
 27 ~~paragraph (6) of subdivision (h) of Section 2770 of the Public~~  
 28 ~~Resources Code, or that are implementing an approved reclamation~~  
 29 ~~plan.~~

30 ~~(2) Lands with active, idle, abandoned, or closed oil wells as~~  
 31 ~~defined in Section 3008 of the Public Resources Code.~~

32 ~~(3) Solid waste landfills as defined in Section 40195.1 of the~~  
 33 ~~Public Resources Code that are closed, or closed cells of a solid~~  
 34 ~~waste landfill, and any associated buffer zones identified in the~~  
 35 ~~facility's permit, closure, or post-closure plan.~~

36 ~~(4) Sites listed on the National Priorities List that was required~~  
 37 ~~by subparagraph (B) of paragraph (8) of subdivision (a) of Section~~  
 38 ~~105 of the Comprehensive Environmental Response, Compensation~~  
 39 ~~and Liability Act (42 USC Section 9605(a)(8)(B)) or sites that~~  
 40 ~~were remediated and removed from the National Priorities List,~~

1 or sites where corrective action under the Solid Waste Disposal  
2 Act, 42 U.S.C. Sections 6924(u) or 6928(h), has been ordered, is  
3 underway, or is complete.

4 (5) Hazardous substance release sites identified by the  
5 Department of Toxic Substances Control pursuant to Section 25356  
6 of the Health and Safety Code, sites where remediation is occurring  
7 or has occurred pursuant to an agreement under Section 25355.5  
8 of the Health and Safety Code, or hazardous waste facilities that  
9 are or were subject to corrective action pursuant to Section 25187.5  
10 of the Health and Safety Code.

11 (6) Rights of way owned by the Department of Transportation  
12 along existing highways, other than designated state scenic  
13 highways.

14 (7) Land designated as an airspace hazard zone in an airport  
15 land use compatibility plan required by Section 21675 of the Public  
16 Utilities Code.

17 (8) Land with a zoning designation for industrial use that has  
18 been mechanically disturbed at least 5 years prior to the project  
19 application, including land that has been converted from native  
20 vegetation through plowing, bulldozing, or other mechanical means  
21 in support of activities that change the land cover.

22 (9) Certain agricultural lands that the Department of  
23 Conservation determines to be subject to this section pursuant to  
24 subdivision (e).

25 (b) For the purposes of this section, a “photovoltaic solar energy  
26 system” includes all parts and materials that enable the generation  
27 and use of solar electricity, any monitoring and control, safety,  
28 conversion, and emergency responder equipment, any connection  
29 to the electrical service where the electricity will be used, and any  
30 equipment necessary to connect to the electric grid.

31 (e) This section does not alter the authority or responsibility of  
32 the regulatory agency with jurisdiction over the operation,  
33 reclamation, closure, remediation, or corrective action for lands  
34 identified in paragraphs (1) to (5) of subdivision (a). Any  
35 reclamation, closure, remediation, or corrective action required in  
36 previous permits, mitigation plans, or as a condition of a previous  
37 project approval related to this project site, shall be carried out and  
38 determined to be complete by the responsible agency prior to  
39 implementation of a project approved pursuant to this section.

1 ~~(d) This section shall only apply if the lead agency finds that~~  
2 ~~the project is located exclusively on land that, based upon generally~~  
3 ~~accepted biological survey or assessment methods, has been~~  
4 ~~determined in a report to have no significant value as habitat for~~  
5 ~~endangered, threatened, candidate, and other sensitive species, and~~  
6 ~~that provides no significant habitat or wildlife corridors. The report~~  
7 ~~prepared pursuant to this subdivision shall be prepared by a~~  
8 ~~qualified biologist approved by the Department of Fish and Game~~  
9 ~~and shall include complete biological resource surveys of the~~  
10 ~~project site during the appropriate seasons consistent with any~~  
11 ~~applicable survey protocols recommended by the Department of~~  
12 ~~Fish and Game. This section does not apply if the project would~~  
13 ~~otherwise require one of the following:~~

14 ~~(1) A new individual federal permit pursuant to Section 401 or~~  
15 ~~404 of the federal Clean Water Act (33 U.S.C. Sec. 1341 or 1344)~~  
16 ~~or new individual waste discharge requirements pursuant to the~~  
17 ~~Porter-Cologne Water Quality Control Act (Division 7~~  
18 ~~(commencing with Section 13000) of the Water Code).~~

19 ~~(2) A new individual take permit for species protected under~~  
20 ~~the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531~~  
21 ~~et seq.) or the California Endangered Species Act (Chapter 1.5~~  
22 ~~(commencing with Section 2050) of Division 3 of the Fish and~~  
23 ~~Game Code).~~

24 ~~(3) A streambed alteration permit pursuant to Chapter 6~~  
25 ~~(commencing with Section 1600) of Division 2 of the Fish and~~  
26 ~~Game Code.~~

27 ~~(e) (1) The Department of Conservation, in consultation with~~  
28 ~~the Department of Food and Agriculture, may determine, a parcel~~  
29 ~~or parcels is subject to this section if the following criteria are met:~~

30 ~~(A) The parcel or parcels consist predominately of soils with~~  
31 ~~significantly reduced agricultural productivity for agricultural~~  
32 ~~activities due to chemical or physical limitations, topography,~~  
33 ~~drainage, flooding, adverse soil conditions, or other physical~~  
34 ~~reasons.~~

35 ~~(B) The proposed project site was mechanically disturbed prior~~  
36 ~~to August 1, 2011, including land that has been converted from~~  
37 ~~native vegetation through plowing, bulldozing, or other mechanical~~  
38 ~~means in support of activities that change the land cover.~~

39 ~~(C) The parcel or parcels are not zoned for agricultural use,~~  
40 ~~subject to a contract under the Williamson Act (Chapter 7~~

1 (commencing with Section 51200) of Division 1 of Title 5 of the  
2 Government Code), or are not located on lands designated as prime  
3 farmland, unique farmland, or farmland of statewide importance,  
4 as shown on the maps prepared pursuant to the Farmland Mapping  
5 and Monitoring Program of the California Natural Resources  
6 Agency, unless the Department of Conservation, in consultation  
7 with the Department of Food and Agriculture, determines that a  
8 parcel or parcels are subject to this section based on the information  
9 provided in paragraph (3) that demonstrate that circumstances exist  
10 that limit the use of the parcel for agricultural activities. For the  
11 purposes of this section, the important farmland designations shall  
12 not be changed solely due to irrigation status unless the land has  
13 not been irrigated in the previous six years.

14 (2) To assist in the determination pursuant to paragraph (1), the  
15 lead agency shall require the applicant to provide to the Department  
16 of Conservation the following information to the extent applicable:

17 (A) A written narrative demonstrating that even under the best  
18 currently available management practices, continued agricultural  
19 practices would be substantially limited due to the soil's reduced  
20 agricultural productivity from chemical or physical limitations.

21 (B) A recent soil test demonstrating that the characteristics of  
22 the soil significantly reduce its agricultural productivity.

23 (C) An analysis of water availability demonstrating the  
24 insufficiency of water supplies for continued agricultural  
25 production.

26 (D) An analysis of water quality demonstrating that continued  
27 agricultural production would, under the best currently available  
28 management practices, be significantly reduced.

29 (E) Crop and yield information for the past six years.

30 (f) Where a project is proposed on a site described in subdivision  
31 (e), the applicant shall provide the Department of Conservation  
32 with a proposed management plan describing how the soil will be  
33 managed during the life of the project, how impacts to adjacent  
34 agricultural operations will be minimized, how the land will be  
35 restored to its previous general condition, as it existed at the time  
36 of project approval, upon the decommissioning of the project. If  
37 the Department of Conservation determines, in consultation with  
38 the Department of Food and Agriculture, pursuant to subdivision  
39 (e), that lands are subject to this section, the lead agency shall  
40 require implementation of the management plan, which shall

1 ~~include any recommendations provided by the Department of~~  
2 ~~Conservation, as part of any project approval.~~

3 ~~(g) The Department of Conservation may establish a fee to be~~  
4 ~~paid by the project applicant to recover the estimated costs incurred~~  
5 ~~by Department in participating in the consultation described in~~  
6 ~~this section.~~

7 ~~(h) The Secretary of the Natural Resources Agency may further~~  
8 ~~refine and limit the categories of lands provided in subdivision (e)~~  
9 ~~in the guidelines authorized in Section 21083, consistent with the~~  
10 ~~intent of this legislation.~~

11 ~~(i) For the purposes of this section, the project shall not exceed~~  
12 ~~320 acres. This section shall not apply to successive applications~~  
13 ~~for proposed photovoltaic solar energy systems on adjacent parcels~~  
14 ~~subject to common ownership and control.~~

15 ~~(j) This section does not relieve any landowner or potentially~~  
16 ~~responsible party of any obligations imposed under existing laws.~~

17 ~~(k) This section shall remain in effect only until January 1, 2018,~~  
18 ~~and as of that date is repealed, unless a later enacted statute, that~~  
19 ~~is enacted before January 1, 2018, deletes or extends that date.~~

20 ~~SEC. 11.~~

21 *SEC. 10.* Section 402.1 of the Revenue and Taxation Code is  
22 amended to read:

23 402.1. (a) In the assessment of land, the assessor shall consider  
24 the effect upon value of any enforceable restrictions to which the  
25 use of the land may be subjected. These restrictions shall include,  
26 but are not limited to, all of the following:

27 (1) Zoning.

28 (2) Recorded contracts with governmental agencies other than  
29 those provided in Sections 422 and 422.5.

30 (3) Permit authority of, and permits issued by, governmental  
31 agencies exercising land use powers concurrently with local  
32 governments, including the California Coastal Commission and  
33 regional coastal commissions, the San Francisco Bay Conservation  
34 and Development Commission, and the Tahoe Regional Planning  
35 Agency.

36 (4) Development controls of a local government in accordance  
37 with any local coastal program certified pursuant to Division 20  
38 (commencing with Section 30000) of the Public Resources Code.

39 (5) Development controls of a local government in accordance  
40 with a local protection program, or any component thereof, certified



1 pursuant to Division 19 (commencing with Section 29000) of the  
2 Public Resources Code.

3 (6) Environmental constraints applied to the use of land pursuant  
4 to provisions of statutes.

5 (7) Hazardous waste land use restriction pursuant to Section  
6 25240 of the Health and Safety Code.

7 (8) A recorded conservation, trail, or scenic easement, as  
8 described in Section 815.1 of the Civil Code, that is granted in  
9 favor of a public agency, or in favor of a nonprofit corporation  
10 organized pursuant to Section 501(c)(3) of the Internal Revenue  
11 Code that has as its primary purpose the preservation, protection,  
12 or enhancement of land in its natural, scenic, historical, agricultural,  
13 forested, or open-space condition or use.

14 (9) A solar-use easement pursuant to Chapter 6.9 (commencing  
15 with Section 51190) of Part 1 of Division 1 of Title 5 of the  
16 Government Code.

17 (b) There is a rebuttable presumption that restrictions will not  
18 be removed or substantially modified in the predictable future and  
19 that they will substantially equate the value of the land to the value  
20 attributable to the legally permissible use or uses.

21 (c) Grounds for rebutting the presumption may include, but are  
22 not necessarily limited to, the past history of like use restrictions  
23 in the jurisdiction in question and the similarity of sales prices for  
24 restricted and unrestricted land. The possible expiration of a  
25 restriction at a time certain shall not be conclusive evidence of the  
26 future removal or modification of the restriction unless there is no  
27 opportunity or likelihood of the continuation or renewal of the  
28 restriction, or unless a necessary party to the restriction has  
29 indicated an intent to permit its expiration at that time.

30 (d) In assessing land with respect to which the presumption is  
31 un rebutted, the assessor shall not consider sales of otherwise  
32 comparable land not similarly restricted as to use as indicative of  
33 value of land under restriction, unless the restrictions have a  
34 demonstrably minimal effect upon value.

35 (e) In assessing land under an enforceable use restriction wherein  
36 the presumption of no predictable removal or substantial  
37 modification of the restriction has been rebutted, but where the  
38 restriction nevertheless retains some future life and has some effect  
39 on present value, the assessor may consider, in addition to all other  
40 legally permissible information, representative sales of comparable

1 lands that are not under restriction but upon which natural  
2 limitations have substantially the same effect as restrictions.

3 (f) For the purposes of this section the following definitions  
4 apply:

5 (1) “Comparable lands” are lands that are similar to the land  
6 being valued in respect to legally permissible uses and physical  
7 attributes.

8 (2) “Representative sales information” is information from sales  
9 of a sufficient number of comparable lands to give an accurate  
10 indication of the full cash value of the land being valued.

11 (g) It is hereby declared that the purpose and intent of the  
12 Legislature in enacting this section is to provide for a method of  
13 determining whether a sufficient amount of representative sales  
14 information is available for land under use restriction in order to  
15 ensure the accurate assessment of that land. It is also hereby  
16 declared that the further purpose and intent of the Legislature in  
17 enacting this section and Section 1630 is to avoid an assessment  
18 policy which, in the absence of special circumstances, considers  
19 uses for land that legally are not available to the owner and not  
20 contemplated by government, and that these sections are necessary  
21 to implement the public policy of encouraging and maintaining  
22 effective land use planning. Nothing in this statute shall be  
23 construed as requiring the assessment of any land at a value less  
24 than as required by Section 401 or as prohibiting the use of  
25 representative comparable sales information on land under similar  
26 restrictions when this information is available.

27 ~~SEC. 12.~~

28 *SEC. 11.* If the Commission on State Mandates determines that  
29 this act contains costs mandated by the state, reimbursement to  
30 local agencies and school districts for those costs shall be made  
31 pursuant to Part 7 (commencing with Section 17500) of Division  
32 4 of Title 2 of the Government Code.