

ASSEMBLY BILL No. 352

Introduced by Assembly Member Robert Rivas

January 28, 2021

An act to amend Sections 10201, 10202, 10212, 10213, 10223, 10224, 10230, 10235, 10237, 10239, 10246, 10251, 10252, 10255, and 10262 of, to amend the heading of Division 10.2 (commencing with Section 10200) of, to amend the heading of Chapter 2 (commencing with Section 10230) of Division 10.2 of, to add Sections 10213.5, 10215.3, 10215.5, 10221.5, 10223.5, and 10231.3 of, to repeal Sections 10234 and 10244 of, and to repeal Chapter 5 (commencing with Section 10270) of Division 10.2 of, the Public Resources Code, relating to agricultural land.

LEGISLATIVE COUNSEL'S DIGEST

AB 352, as introduced, Robert Rivas. Agricultural land conservation: California Farmland Conservancy Program Act.

Existing law establishes the California Farmland Conservancy Program Act, to be administered generally by the Department of Conservation, and provides that it is the intent of the act to, among other things, encourage voluntary, long-term private stewardship of agricultural lands by offering landowners financial incentives, encourage local land use planning for orderly and efficient urban growth and conservation of agricultural land, and encourage improvements to enhance long-term sustainable agricultural uses. The act establishes the California Farmland Conservancy Program Fund and requires, except as provided, moneys in the fund, upon appropriation, to be used for the purposes of the California Farmland Conservancy Program, which include, among other things, the purchase of agricultural conservation easements, fee title acquisition grants, and land improvement and planning grants. The act requires an agricultural conservation easement to be granted to any organization or entity authorized to acquire and hold conservation easements, as specified. The act provides a process for the termination of an agricultural conservation easement.

The bill would revise and recast provisions of the California Farmland Conservancy Program Act to, among other things, specify legislative intent to remove barriers to socially disadvantaged farmers and ranchers, as defined, participating in the agricultural economy and stewarding working lands under conservation. The bill would expand the use of moneys in the fund for the program to include technical assistance grants, as described, to eligible assistance entities, as defined, and acquisition assistance grants to eligible assistance entities for the sole purpose of reducing barriers to land access for socially disadvantaged farmers and ranchers, as specified. The bill would require that not less than 25% of the program funds be provided to applicants that lease or sell to socially disadvantaged farmers and ranchers. The bill would also expand the conditions that an applicant must agree to for a grant for the acquisition of fee title to agricultural land to include, among other things, a farmer-purchaser preference, as defined, in the text of the agricultural conservation easement used to encumber the acquired property.

The bill would provide that grants made for land improvements may include the financial and technical involvement of the University of California Cooperative Extension and would revise the selection criteria for an agricultural conservation easement or fee title acquisition grant to, among other things, include whether the proposal reduces barriers to land access for socially disadvantaged farmers and ranchers through

ownership or long-term leases. The bill would delete the provisions relating to the termination of an agricultural conservation easement.

The bill would also make other conforming and nonsubstantive changes to these provisions.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The heading of Division 10.2 (commencing with Section 10200) of the Public Resources Code is amended to read:

DIVISION 10.2. ~~AGRICULTURAL LAND STEWARDSHIP PROGRAM OF 1995~~ CALIFORNIA FARMLAND CONSERVANCY PROGRAM ACT

SEC. 2. Section 10201 of the Public Resources Code is amended to read:

10201. The Legislature hereby finds and declares all of the following:

(a) The agricultural lands of the state contribute substantially to the state, national, and world food supply and are a vital part of the state's economy.

(b) On average, approximately 50,000 acres of farmland and rangeland are lost per year in California.

(c) This conversion of agricultural land permanently impedes California's current and future ability to store carbon, maintain resilient regional ecosystems, and produce food.

~~(b)~~

(d) The growing population and expanding economy of the state have had a profound impact on the ability of the public and private sectors to conserve land for the production of food and fiber, especially agricultural land around urban areas.

~~(e)~~

(e) Agricultural lands near urban areas that are maintained in productive agricultural use are a significant part of California's agricultural heritage. These lands contribute to the economic betterment of local areas and the entire state and are an important source of food, fiber, and other agricultural products. Conserving these lands is necessary due to increasing development pressures and the effects of urbanization on farmlands close to cities.

~~(e)~~

(f) The long-term conservation of agricultural land is necessary to safeguard an adequate supply of

agricultural land and to balance the increasing development pressures around urban areas.

~~(e)~~

(g) A program to encourage and make possible the long-term conservation of agricultural lands is a necessary part of the state's agricultural land protection policies and programs, and it is appropriate to expend money for that purpose. A program of this nature will only be effective when used in concert with local planning and zoning strategies to conserve agricultural land.

~~(f)~~

(h) Funding is necessary to better address the needs of conserving agricultural land near urban areas.

(i) Concurrently, access to working lands for low-income farmers and ranchers and farmers and ranchers of color is prohibitively difficult, in part due to the ongoing legacies of institutionalized racism and discrimination and their effects upon access to state and federal farm loan programs.

(j) New opportunities are needed for socially disadvantaged farmers and ranchers to access land through ownership or long-term leasing of farmland and rangeland.

(k) Down payment assistance, interest rate assistance, predevelopment and appraisal costs, and one-time investments in infrastructure improvements can provide favorable terms to socially disadvantaged farmers and ranchers and support their access to and stewardship of California farmland and rangeland.

(l) Funding for fee-title acquisition and agricultural conservation easements can make land permanently more affordable and accessible to socially disadvantaged farmers or ranchers, while ensuring that it is never lost to sprawl development.

SEC. 3. Section 10202 of the Public Resources Code is amended to read:

10202. It is the intent of the Legislature, in enacting this division, to do all of the following:

(a) Encourage voluntary, long-term private stewardship of agricultural lands by offering landowners financial incentives.

(b) Protect farming and ranching operations in agricultural areas from nonfarm or nonranch land uses that may hinder and curtail farming or ranching operations.

(c) Encourage long-term conservation of productive agricultural lands in order to protect the agricultural economy of rural communities, as well as that of the state, for future generations of Californians.

(d) Encourage local land use planning for orderly and efficient urban growth and conservation of agricultural land.

(e) Encourage local land use planning decisions that are consistent with the state's policies with regard to agricultural land conservation.

(f) Encourage improvements to enhance long-term sustainable agricultural uses.

(g) Remove barriers to socially disadvantaged farmers and ranchers participating in the agricultural economy and stewarding working lands under conservation.

SEC. 4. Section 10212 of the Public Resources Code is amended to read:

10212. "Applicant" means a city, county, nonprofit organization, resource conservation district, or a regional park or open-space district ~~or~~ regional park or open-space ~~authority~~ *authority, cooperative corporation, or a California Native American tribe* that has the conservation of farmland among its stated purposes, as

prescribed by statute, or as expressed in the entity's locally adopted policies, that applies for a grant authorized pursuant to this division.

SEC. 5. Section 10213 of the Public Resources Code is amended to read:

10213. (a) "Agricultural land" means prime farmland, farmland of statewide importance, unique farmland, farmland of local importance, *farmland of local potential*, and commercial grazing land as defined in the Guidelines for the Farmland Mapping and Monitoring Program, pursuant to Section 65570 of the Government Code.

(b) In those areas of the state where lands have not been surveyed for classification pursuant to subdivision (a), land shall meet the requirements of "prime agricultural land" as set forth in subdivision (c) of Section 51201 of the Government Code.

SEC. 6. Section 10213.5 is added to the Public Resources Code, to read:

10213.5. "Agricultural use value" means the fair market value of a property that is restricted by an easement to its productive commercial agricultural use value rather than the highest potential use value for residential or other nonagricultural purposes, plus any reasonable holding and transaction costs incurred by the applicant, as determined by the department.

SEC. 7. Section 10215.3 is added to the Public Resources Code, to read:

10215.3. "Eligible assistance entity" means a nonprofit organization or cooperative with demonstrated technical expertise in agricultural financing and farm business development assistance to achieve the purposes of this division.

SEC. 8. Section 10215.5 is added to the Public Resources Code, to read:

10215.5. "Farmer-purchaser preference" or "option to purchase at agricultural value" means preemptive purchase rights or other provisions that are part of or linked to an agricultural conservation easement providing the easement holder the preferential right to purchase protected agricultural land at its agricultural use value in the event the landowner intends to sell that land to a purchaser who does not intend to maintain the land in commercial agricultural production and who does not demonstrate, in a manner acceptable to the department, a management plan and the agricultural experience to maintain the land in commercial agricultural production. The purpose of this provision is to ensure that farmer-purchasers who would maintain protected land in commercial agricultural production can afford such land that might otherwise be sold at a higher price to other purchasers.

SEC. 9. Section 10221.5 is added to the Public Resources Code, to read:

10221.5. "Productivity provision" means language in the text of an agricultural conservation easement that requires the land under easement to be managed for productive commercial agricultural uses, with reasonable allowances for when temporary fallowing is necessary or appropriate.

SEC. 10. Section 10223 of the Public Resources Code is amended to read:

10223. "Secretary" means the Secretary of the *Natural* Resources Agency.

SEC. 11. Section 10223.5 is added to the Public Resources Code, to read:

10223.5. "Socially disadvantaged farmer or rancher" has the same meaning as provided in Section 512 of the Food and Agricultural Code.

Section 10224 of the Public Resources Code is amended to read:

SEC. 12.

10224. "Resource conservation district" means a resource conservation district established pursuant to Division 9 (commencing with Section ~~9000~~: 9001).

SEC. 13. The heading of Chapter 2 (commencing with Section 10230) of Division 10.2 of the Public Resources Code is amended to read:

CHAPTER 2. ~~Agricultural Land Stewardship~~ *California Farmland Conservancy Program*

SEC. 14. Section 10230 of the Public Resources Code is amended to read:

10230. (a) (1) The California Farmland Conservancy Program Fund is hereby ~~created~~:

~~Except created.~~ *Except* as provided in paragraph (2), the moneys in the fund shall, upon appropriation by the Legislature in the annual Budget Act, be used for the purposes of the program, which include the purchase of agricultural conservation easements, fee title acquisition grants, land improvement and planning grants, *technical assistance grants*, technical assistance provided by the department, technology transfer activities of the department, and administrative costs incurred by the department in administering the program.

(2) Notwithstanding paragraph (1), moneys may be deposited into the fund from federal grants, and gifts and donations that are designated and required by the donor to be used exclusively for the purposes of the program, and notwithstanding Section 13340 of the Government Code, those moneys are hereby continuously appropriated to the department for expenditure for the purposes of this program.

(b) Not to exceed 10 percent of all grants made by the department pursuant to this division may be made for land improvement ~~purposes~~ *purposes, technical assistance purposes*, and policy planning purposes. Not less than 90 percent of funds available for grants pursuant to this division shall be expended for the acquisition of interests in land. *For purposes of this subdivision, the expenditures specified in subdivision (b) of Section 10231.3 shall be deemed expenditures for the acquisition of interests in land. Not less than 25 percent of funds shall be provided to applicants that lease or sell to socially disadvantaged farmers and ranchers.*

SEC. 15. Section 10231.3 is added to the Public Resources Code, to read:

10231.3. Moneys in the fund shall also be available for the following purposes:

(a) Technical assistance grants provided to eligible assistance entities in support of socially disadvantaged farmers and ranchers who are seeking financing for land acquisition or leasing. For purposes of this section, technical assistance includes, but is not limited to, organizing, advising, counseling, educating, planning, drafting, translating, interpreting, and consulting with socially disadvantaged farmers and ranchers for the purpose of preparing them for favorable financing for land acquisition or negotiating leasing arrangements.

(b) Acquisition assistance grants provided to eligible assistance entities for the sole purpose of reducing barriers to land access for socially disadvantaged farmers and ranchers, including, but not limited to, down payment assistance, interest rate assistance, direct costs incidental to acquisition, and infrastructure for land improvement.

SEC. 16. Section 10234 of the Public Resources Code is repealed.

~~10234. Every applicant for a grant for the acquisition of fee title or an agricultural conservation easement shall provide by a resolution from the governing body of the local government in which the proposed project is located, and shall certify both of the following:~~

~~(a) The proposal meets the eligibility criteria set forth in Section 10251.~~

~~(b) The proposal has been approved by the appropriate local governmental governing body.~~

SEC. 17. Section 10235 of the Public Resources Code is amended to read:

10235. (a) The director shall not disburse any grant funds until the applicant agrees that any agricultural conservation easement acquired shall be used by the applicant only for the purpose for which the funds were requested and that no other use, sale, or other disposition of the easement shall be permitted unless approved by the director, or where the easement may be transferred to a public agency or nonprofit organization, for management purposes.

(b) If ~~a local government or nonprofit organization~~ *an applicant* holding the easement is dissolved, it shall be transferred to an appropriate public agency or nonprofit organization, as provided in this division.

(c) The easement, or any of its terms, may only be amended with the consent of all of the necessary parties to the easement, including the landowner, the easement holder, and the director. The director shall determine that the amendment is not inconsistent with this section before it may be amended.

SEC. 18. Section 10237 of the Public Resources Code is amended to read:

10237. The director shall not disburse any grant funds for easement or fee title acquisitions unless the applicant, and in the case of an easement acquisition grant, the seller, agrees to restrict the use of the land in ~~perpetuity, subject to review after 25 years.~~ *perpetuity.*

SEC. 19. Section 10239 of the Public Resources Code is amended to read:

10239. ~~The~~ *(a) The* director shall disburse funds to an applicant for a grant for the acquisition of fee title to agricultural land only if the applicant agrees to all of the following conditions:

~~(a)~~

(1) Upon acquisition of the property, ~~the applicant treats~~ the property as encumbered by an agricultural conservation easement subject to this division and approved by the department.

(2) Upon acquisition of the property, the applicant shall do either of the following:

~~(b)~~

(A) Sell the fee title subject to an agricultural conservation easement approved by the department to a private landowner ~~at not more than agricultural use value~~ within three years of the acquisition of the fee title.

~~(c) Reimburse the fund directly from escrow within 30 days after the sale of the restricted fee title by an amount equal to the department's proportional share of the net proceeds of the sale.~~

(B) Lease the acquired property, subject to an agricultural conservation easement, including a productivity provision, at an affordable agricultural rate, and approved by the department, to a socially disadvantaged farmer or rancher within three years of the acquisition of the fee title.

(3) Include a farmer-purchaser preference in the text of the agricultural conservation easement used to encumber the acquired property.

(b) (1) If the applicant sells the fee title, as specified in subparagraph (A) of paragraph (2) of subdivision (a), the applicant shall reimburse the fund directly from escrow within 30 days after the sale of the restricted fee title by an amount equal to the department's proportional share of the net proceeds of the sale.

~~(1)~~

(2) The “net proceeds of the sale” is defined as the fair market value of the land less the value of the easement and associated transaction costs.

~~(2)~~

(3) The department’s proportional share of the net proceeds of the sale shall be calculated using a factor reflecting the department’s proportional share of the purchase price paid by the applicant in the original acquisition of fee title, taking into account contributions from all sources toward that original purchase price.

SEC. 20. Section 10244 of the Public Resources Code is repealed.

~~10244. To be eligible to receive funds pursuant to this division for the acquisition of either agricultural conservation easements or fee title interests, qualified applicants shall submit to the department documentation of the applicable local government’s adopted general plan that demonstrates a long-term commitment to agriculture and agricultural land conservation, including a summary of goals, objectives, and policies and implementation measures that support that commitment.~~

SEC. 21. Section 10246 of the Public Resources Code is amended to read:

10246. Grants may be made for land improvements. Use of these grants shall be limited to the improvement of lands protected by agricultural conservation easements under the program, or of lands protected by other qualified conservation easement programs, if the improvement will directly benefit the lands protected by agricultural conservation easements under the program. An application for a land improvement grant shall be evaluated with respect to the extent to which it satisfies one or more of the following criteria:

- (a) The improvement will enhance the agricultural value of the land protected by the easement, and promote its long-term sustainable agricultural use such as *increasing soil organic matter or soil health*, water supply ~~development~~ *development*, and revegetation of eroding streambanks.
- (b) The improvement will increase the compatibility of agricultural operations with sensitive natural areas.
- (c) The improvement will demonstrate new and innovative best management practices ~~which~~ *that* have the potential for wide application.
- (d) The proposed improvement includes the financial and technical involvement of other agencies, such as *University of California Cooperative Extension*, resource conservation districts, the Wildlife Conservation Board, the United States Farm Services Agency, and the United States Natural Resources Conservation Service.
- (e) The improvement is part of a coordinated watershed management plan or the equivalent.
- (f) The application satisfies other relevant criteria established by the department.

SEC. 22. Section 10251 of the Public Resources Code is amended to read:

10251. Applicants for an agricultural conservation easement or fee *title* acquisition grant shall ~~meet all of the following eligibility criteria:~~ *demonstrate that the parcel proposed for conservation is expected to continue to be used for commercial agricultural production if successfully conserved.*

~~(a) The parcel proposed for conservation is expected to continue 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 easement acquisition is proposed.~~

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

SEC. 23. Section 10252 of the Public Resources Code is amended to read:

10252. The director shall evaluate a proposal for a fee title or agricultural conservation easement acquisition grant based upon the overall value of the project, taking into consideration the goals and objectives for this program, and the extent to which the proposed project satisfies the following selection criteria:

(a) The quality of the agricultural land, based on land capability, farmland mapping and monitoring program definitions, productivity indices, and other soil, climate, and vegetative factors.

(b) The proposal meets multiple natural resource conservation objectives, including, but not limited to, wetland protection, wildlife habitat conservation, and scenic open-space preservation.

~~(c) The city or county demonstrates a long-term commitment to agricultural land conservation as demonstrated by the following:~~

~~(1) The general plan and related land use policies of the city or county.~~

~~(2) Policies of the local agency formation commission.~~

~~(3) California Environmental Quality Act policies and procedures.~~

~~(4) The existence of active local agricultural land conservancies or trusts.~~

~~(5) The use of an effective right-to-farm ordinance.~~

~~(6) Applied strategies for the economic support and enhancement of agricultural enterprise, including water policies, public education, marketing support, and consumer and recreational incentives.~~

~~(7) Other relevant policies and programs.~~

~~(d) If the land is in a county that participates in the Williamson Act (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code), the land proposed for protection is within a county or city designated agricultural preserve.~~

~~(e) The land proposed for conservation is within two miles outside of the exterior boundary of the sphere of influence of a city as established by the local agency formation commission.~~

(c) The proposal reduces barriers to land access for socially disadvantaged farmers and ranchers through ownership or long-term leases.

~~(f)~~

(d) The applicant demonstrates fiscal and technical capability to effectively carry out the proposal. Technical capability may be demonstrated by agricultural land conservation expertise on the governing board or staff of the applicant, or through partnership with an organization that has that expertise.

~~(g)~~

(e) The proposal demonstrates a coordinated approach among affected landowners, local governments, and

nonprofit organizations. *local stakeholders*. If other entities are *affected, directly impacted by the proposal*, there is written support from those entities ~~for the proposal and~~ *demonstrating* a willingness to cooperate. The support of neighboring landowners who are not involved in the proposal shall be considered.

~~(h)~~

(f) The conservation of the land supports long-term private stewardship and continued agricultural production in the region.

~~(i)~~

(g) The proposal demonstrates an innovative approach to agricultural land conservation with a potential for wide application in the state.

~~(j)~~

(h) The amount of matching funds and in-kind services contributed by local governments and other sources toward the acquisition of the fee title or agricultural conservation easement, or both.

~~(k)~~

(i) The price of the proposed acquisition is cost-effective in comparison to the fair market value.

~~(l)~~

(j) Other relevant considerations established by the director.

SEC. 24. Section 10255 of the Public Resources Code is amended to read:

10255. ~~Prior to~~ *Before* the disbursement of grant funds for easements or fee title acquisitions under this division, ~~at~~ *both* of the following conditions shall be met:

(a) The proposed agricultural conservation project shall be deemed by the department to be compatible with the applicable city or county general plan.

~~(b) The governing body of the applicable city or county approves the easement proposal by resolution.~~

~~(c)~~

(b) For land within a city's sphere of influence, the proposed agricultural conservation project shall be deemed by the department to be compatible with both the applicable county and city general plans. ~~In addition, both the applicable county and city shall have adopted resolutions approving the easement proposal.~~

SEC. 25. Section 10262 of the Public Resources Code is amended to read:

10262. An agricultural conservation easement shall not prevent any of the following:

~~(a) The granting of leases, assignments, or other conveyances, or the issuing of permits, licenses, or other authorization, for the exploration, development, storage, or removal of oil and gas by the owner of the subject land, or for the development of related facilities or for the conduct of incidental activities, as long as the agricultural productivity of the subject land and any multiple uses that made the acquisition a priority for selection under the program, are not thereby significantly impaired.~~

~~(b)~~

(a) The granting of rights-of-way by the owner of the subject land in and through the land for the

installation, transportation, or use of water, sewage, electric, telephone, **gas, oil, or oil products lines**, stock water development and storage, energy generation, and fencing, provided that the agricultural productivity of the land and any multiple uses that made the acquisition a priority for selection under the program, are not significantly impaired by those activities.

~~(e)~~

(b) The construction and use of structures on the subject land that are necessary for agricultural production and marketing, including, but not limited to, barns, shops, packing sheds, cooling facilities, greenhouses, roadside marketing stands, stock water development and storage, energy generation, and fencing, provided that the agricultural productivity of the land and any multiple uses that made the acquisition a priority for selection under the program, are not significantly impaired by those activities.

~~(e)~~

(c) Customary part time or off season rural enterprises or activities, including, but not limited to, hunting and fishing, wildlife habitat improvement, predator control, timber harvesting, and firewood production, provided that the agricultural productivity of the land and any multiple uses that made the acquisition a priority for selection under the program, are not significantly impaired by those activities.

SEC. 26. Chapter 5 (commencing with Section 10270) of Division 10.2 of the Public Resources Code is repealed.