AB 1961 (Eggman) – Assembly Committee on Agriculture Analysis, Assembly Bill

Attachment 4

Date of Hearing: April 9, 2014

ASSEMBLY COMMITTEE ON AGRICULTURE
Susan Talamantes Eggman, Chair
AB 1961 (Eggman) – As Amended: April 3, 2014

SUBJECT: Land use: planning: sustainable farmland strategy.

SUMMARY: Requires counties to develop a sustainable farmland strategy (SFS). Specifically, this bill:

1) Makes a number of findings and declarations related to the importance of conservation of agricultural land resources.

2) Declares that certain actions by lead agencies, including those to protect natural resources and the environment, have been identified by the Governor's Office of Planning and Research (OPR) as classes of projects that do not have a significant effect on the environment, and therefore are not subject to the California Environmental Quality Act (CEQA); and, declares that the adoption of a sustainable farmland strategy would be considered to be an action to protect natural resources or the environment.

3) Requires the board of supervisors (board) of any county, other than a county with less than 4% of its land base in agriculture, as specified, to develop a SFS.

4) Requires the SFS to include all of the following:

   a) A map and inventory of all agriculturally zoned lands within the county as of February 21, 2014. Allows a county to use the county-level maps of agricultural land developed by the Farmland Mapping and Monitoring Program of the Department of Conservation, general plan (GP) maps, or other available local and state maps and resources;

   b) A description of the goals, strategies, and related policies and ordinances to retain agriculturally zoned land, where practical, and mitigate the loss of agriculturally zoned lands to nonagricultural uses or nonagricultural zones; and,

   c) A page on the county's Internet Website (website) that assembles all of the relevant documentation for the goals, strategies and related policies, and ordinances, as specified in a) and b), above, as well as reporting on the manner of compliance, as specified. Requires the board to also include, on the website, a table and map showing the location of lands enrolled in the California Land Conservation Act.

5) Requires the board of each county to consult with cities located within their boundaries, and with their local agency formation commission (LAFCO), on the development of the SFS for that county to ensure that the plans and policies of the cities and LAFCO are taken into consideration and are compatible.

6) Allows a county to comply with the requirements of this bill by relying on existing inventories and maps of agricultural lands, and existing goals, strategies, and related policies and ordinances that substantially comply with the provisions of a SFS. Requires any county

complying in this manner to summarize and incorporate by reference on the county's website, a description of how each requirement has been met.

7) Requires the board to update the SFS as determined to be necessary by the board.

8) Requires, on or before January 1, 2018, each county to affirm compliance by one of the following means:

   a) Developing and adopting a SFS, as specified;

   b) Adopting a resolution finding that the existing county goals, policies and ordinances have a functionally equivalent strategy that meets the requirements of a SFS; and,

   c) Adopting a resolution finding that the county's agricultural land resources do not meet the threshold, and therefore the county is not required to develop a SFS.

9) Requires OPR, when it adopts its next edition of GP guidelines, to include best practices that support agricultural land retention and mitigation, including, but not limited to, the following:

   a) Right to farm ordinance with real estate disclosure;

   b) Farmland mitigation ordinances;

   c) Conservation easement purchase programs;

   d) Economic incentives to promote local agriculture;

   e) Use of zoning to prevent nuisances and land use conflicts, and to promote commercial agriculture by limiting parcelization of agricultural lands;

   f) Urban growth boundaries in coordination with incorporated jurisdictions; and,

   g) Locally adopted thresholds of significance for CEQA) review for conservation of grazing lands and farmland of local importance, in addition to existing thresholds for conversion of prime farmland, unique farmland, and farmland of statewide importance.

10) Defines "agriculturally zoned land" to mean land that is determined by a county to be designated in agriculture as the primary purpose of use of the zone.

11) Provides that no reimbursement is required by the bill's provisions because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service.

EXISTING LAW:

1) Requires that each city and county in California must prepare a comprehensive, long term GP to guide its future.

2) Requires a GP to include seven mandatory elements, including land use, circulation, housing, conservation, open space, noise, and safety.

3) Allows the GP to include other elements or address any other subject which, in the judgment of the legislative body, relate to the physical development of the county or city.

4) Requires OPR to adopt and periodically revise guidelines for the preparation and content of local GPs.

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS: This bill requires most counties, by January 1, 2018, to develop a SFS to include maps of agriculturally-zoned lands and a description of county goals, policies, and ordinances for the retention and mitigation of agriculturally-zoned lands. Counties are allowed to comply by using existing inventories and maps, existing goals, strategies, policies and ordinances that are functionally equivalent. The bill also requires OPR to include, in its next update of the GP Guidelines, best practices that support farmland conservation.

According to the author, this bill ask counties to develop a SFS, which includes maps of agriculturally-zoned lands and a description of local goals, policies and ordinances for the retention and mitigation of agriculturally-zoned lands. SFS creates opportunities at the county level to discuss and plan for the long-term retention of farmland, while maintaining flexibility and local control of land use planning decisions.

Supporters point out that over the past 30 years, an average of approximately 30,000 acres of California agricultural land was permanently converted to non-agricultural uses annually, even with existing programs. Furthermore, supporters point out counties have jurisdiction over the majority of the state's agricultural land and play a vital role in regulating the use of land. As such, the counties are well suited to have SFS discussions at a local level. Supporters state that the SFS offers counties flexibility to determine their own goals and strategies for agricultural land preservation and build on existing resources.

Opponents say this bill invites restrictive zoning to be applied to significantly lesser quality lands that are not critical to the maintenance of the agricultural economy and are not necessary to the protection of the state's food supply or necessary for food security. Opponents point out that the bill contains a statement in the legislative findings that the SFS is an act to protect natural resources and the environment, and therefore is exempt from CEQA, and feel this is a usurpation of the role and responsibility traditionally left to the local lead agency to determine whether or not an action qualifies for an exemption. Two counties who oppose this bill state it will be a burden on rural counties with limited financial resources.

In order to clarify the legislative findings related to CEQA exemptions, **the committee may wish to consider the following amendment** (page 4, line 15): *The adoption of a sustainable farmland strategy ~~would~~* ***could*** *be considered to be an action to protect natural resources or the environment.*

The committee may wish to consider the following technical amendments (page 8, lines 18-25:

(2) Adopting a resolution ~~finding~~ ***determining*** *that the existing county goals, policies and ordinances have a functionally equivalent strategy that meets the requirements of subdivision (b), pursuant to subdivision (c).*
(3) Adopting a resolution ~~finding~~ ***determining*** *that the county's agricultural land resources do not meet the threshold described in subdivision (e), and that the county is not required to develop a sustainable farmland strategy.*

There have been concerns expressed that a SFS would override aspects of existing agricultural preservation programs in a county's GP. **The committee may wish to consider** clarifying that the functional equivalent in this bill may be fulfilled by existing elements within the GP, including, but not limited to, the agricultural element, open space elements, or other elements that preserve farmland.

REGISTERED SUPPORT / OPPOSITION:

Support

American Farmland Trust [CO-SPONSOR]
California Climate and Agricultural Network [CO-SPONSOR]
Community Alliance with Family Farmers [CO-SPONSOR]
Agricultural-Natural Resources Trust
California Association of Resource Conservation Districts
California Center for Rural Policy, Humboldt State University
California Farm Bureau Federation
California Farmers Union
Catholic Charities, Diocese of Stockton
Farmland Working Group
Friends Committee on Legislation of California
Humboldt County Conservation Action
Knoll Farms
LandWatch Monterey County
Marin Agricultural Land Trust
Peninsula Open Space Trust
Potrero Nuevo Farm
Real Food Challenge
Rincon-Vitova Insectaries
Rominger Brothers Farms, Inc.
Roots of Change
San Mateo County Farm Bureau
Sequoia Riverlands Trust
Sierra Nevada Alliance
Sierra Orchards
Silicon Valley Land Conservancy
Sonoma Land Trust
Supervisor Don Horsley, 3rd District, County of San Mateo
Supervisor Louis R. Calcagno, 2nd District, County of Monterey
The Land Trust of Santa Cruz County
The Nature Conservancy
Trust for Public Land

Valley Land Alliance

Opposition

American Council of Engineering Companies of California
California Association of Realtors
California Apartment Association
California Building Industry Association
California Business Properties Association
California Chamber of Commerce
County of Humboldt
County of Kern
Large Scale Solar Association
League of California Cities (unless amended)
Orange County Business Council

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AMENDED IN ASSEMBLY APRIL 3, 2014

AMENDED IN ASSEMBLY MARCH 25, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL No. 1961

Introduced by Assembly Member Eggman
(Principal coauthor: Senator Wolk)

February 19, 2014

An act to ~~amend Section 56668 of, to~~ add Section 65040.15 to, and to add Article 10 (commencing with Section 65550) to Chapter 3 of Division 1 of Title 7 of, the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 1961, as amended, Eggman. Land use: planning: sustainable farmland strategy.

(1) Existing law requires 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 with specified elements, including, among others, a land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. Existing law authorizes a local agency to charge fees for the funding of purposes that include the preparation and revision of land use plans and policies.

This bill would require each county ~~with significant agricultural land resources, as defined,~~ to also develop, on or before January 2, 2018, a sustainable farmland strategy. The bill would require the sustainable

farmland strategy to include, among other things, a map and inventory of all agriculturally zoned land within the county, a description of the goals, strategies, and related policies and ordinances, to retain agriculturally zoned land where practical and mitigate the loss of agriculturally zoned land to nonagricultural uses or zones, and a page on the county's Internet Web site with the relevant documentation for the goals, strategies, and related policies and ordinances, as specified. The bill would exempt any county with less than 4% of its land use base in agriculture, as specified. By increasing the duties of local officials, this bill would impose a state-mandated local program.

(2) Existing law establishes in the Office of the Governor the Office of Planning and Research with duties that include developing and adopting guidelines for the preparation of and content of mandatory elements required in city and county general plans.

This bill would require the Office of Planning and Research, when it adopts its next edition of general plan guidelines, to include best practices that support agricultural land retention and mitigation, as specified.

~~(3) Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, provides the authority and procedures for the initiation, conduct, and completion of changes of organization and reorganization of cities and districts. The act requires the local agency formation commission to consider various factors in a petition for a change of organization or reorganization, including, among others, the effect of the proposal on maintaining the physical and economic integrity of agricultural lands.~~

~~This bill would additionally require the local agency formation commission to consider a sustainable farmland strategy, if one has been developed. By increasing the duties of local officials, this bill would impose a state-mandated local program.~~

~~(4)~~

(3) 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 no reimbursement is required by this act for a specified reason.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) California is the nation's leader in food production and contributes significantly to our food security.

(b) California agricultural production depends on soil, water, and climate conditions found in one of only five Mediterranean growing regions on Earth.

(c) California agriculture is vulnerable to the impacts of global warming, including constrained water resources, increases in extreme weather events, and rising sea levels.

(d) California agriculture is also positioned to provide climate benefits by reducing greenhouse gas emissions. Research funded by the California Energy Commission's Public Interest Energy Research (PIER) program found that an acre of urban land emits 70 times more greenhouse gas emissions than an acre of irrigated crop land.

(e) California's growing population places additional demands on both our food supply and on the development of agricultural land for nonagricultural purposes. Over the past 30 years, an average of approximately 30,000 acres of California agricultural land is permanently converted to nonagricultural uses annually.

(f) The conservation of a maximum amount of the limited supply of California's agricultural land is necessary for the maintenance of the agricultural economy of the state, climate change mitigation, enhancement of the state's natural resources and the assurance of an adequate, healthy and nutritious food supply for the residents of this state and nation.

(g) California's statewide land use planning priorities include the goal of protecting, preserving, and enhancing the state's most valuable natural resources, including working landscapes such as farm, range, and forest lands.

(h) Counties have jurisdiction over the majority of the state's agricultural land and play a vital role in regulating the use of land, including the conservation of agricultural lands through appropriate zoning and planning activities, as well as determinations of the potential environmental impacts of proposed land use changes. When farmland is converted to nonagricultural uses, agricultural

conservation easements can constitute feasible mitigation to lessen impacts on local and regional agricultural resources.

(i) It is the intent of the Legislature to ~~assure~~ *ensure* that counties recognize that farmland is a limited and valuable resource which must be conserved wherever possible. It is also the intent of the Legislature to ~~assure~~ *ensure* that counties with significant agricultural land resources prepare and carry out a sustainable farmland strategy, which along with state and regional programs, will protect, preserve, and enhance the state's agricultural lands.

(j) Certain actions by ~~local~~ *lead* agencies, including those to protect natural resources and the environment, have been identified by the Office of Planning and Research as classes of projects that do not have a significant effect on the environment, and are therefore not subject to the California Environmental Quality Act. The adoption of a sustainable farmland strategy would be considered to be an action to protect natural resources or the environment.

~~SEC. 2. Section 56668 of the Government Code is amended to read:~~

~~56668. Factors to be considered in the review of a proposal shall include, but not be limited to, all of the following:~~

~~(a) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.~~

~~(b) The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.~~

~~"Services," as used in this subdivision, refers to governmental services whether or not the services are services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.~~

~~(c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.~~

~~(d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities in Section 56377.~~

~~(e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.~~

~~(f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.~~

~~(g) A regional transportation plan adopted pursuant to Section 65080, and its consistency with city or county general and specific plans.~~

~~(h) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.~~

~~(i) The comments of any affected local agency or other public agency.~~

~~(j) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.~~

~~(k) Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.~~

~~(*l*) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.~~

~~(m) Any information or comments from the landowner or owners, voters, or residents of the affected territory.~~

~~(n) Any information relating to existing land use designations.~~

~~(o) The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.~~

~~(p) A sustainable farmland strategy, if one has been developed pursuant to Section 65551.~~

~~SEC. 3.~~

SEC. 2. Section 65040.15 is added to the Government Code, to read:

65040.15. ~~(a)~~ The Office of Planning and Research, when it adopts its next edition of general plan guidelines pursuant to Section 65040.2, shall include best practices that support agricultural land retention and mitigation, including, but not limited to, the following:

~~(1)~~

(a) Right to farm ordinances with real estate disclosure.

~~(2)~~

(b) Farmland mitigation ordinances.

~~(3)~~

(c) Conservation easement purchase programs.

~~(4)~~

(d) Economic incentives to promote local agriculture.

~~(5)~~

(e) Use of zoning to prevent nuisances and land use conflicts, and to promote commercial agriculture by limiting parcelization of agricultural lands.

~~(6)~~

(f) Urban growth boundaries in coordination with incorporated jurisdictions.

~~(7)~~

(g) Locally adopted thresholds of significance for California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) review for conservation of grazing lands and farmland of local importance, in addition to existing thresholds for conversion of prime farmland, unique farmland, and farmland of statewide importance.

~~(b) The Office of Planning and Research shall include in their next update of the General Plan Guidelines recommendations on the role of local agency formation commissions in the preservation of agriculturally zoned lands when considering annexations of agriculturally zoned lands into cities and service extensions onto agriculturally zoned lands.~~

~~SEC. 4.~~

SEC. 3. Article 10 (commencing with Section 65550) is added to Chapter 3 of Division 1 of Title 7 of the Government Code, to read:

Article 10. Sustainable Farmland Strategy

65550. For the purposes of this article, the term "agriculturally zoned land" means land that is determined by a county to be designated in agriculture as the primary purpose or use of the zone.

65551. (a) The board of supervisors of any county other than a county described in subdivision (e), shall develop a sustainable farmland strategy.

(b) (1) The sustainable farmland strategy shall include all of the following:

(A) A map and inventory of all agriculturally zoned lands within the county as of February 21, 2014. A county may use the county-level maps of agricultural land developed by the Farmland Mapping and Monitoring Program of the Department of Conservation, general plan maps, or other available local and state maps and resources.

(B) A description of the goals, strategies, and related policies and ordinances to retain agriculturally zoned land, where practical, and mitigate the loss of agriculturally zoned lands to ~~nonagricultural uses or nonagricultural zones.~~

(C) A page on the county's Internet Web site that assembles all of the relevant documentation for the goals, strategies and related policies, and ordinances, as described in subparagraphs (A) and (B), as well as reporting on the manner of compliance with this article as required by subdivision (f). The board of supervisors shall also include, on the Internet Web site, a table and map showing the location of lands enrolled in the California Land Conservation Act of 1965, also known as the Williamson Act (Article 1 (commencing with Section 51200) of Chapter 7 of Part 1 of Division 1 of Title 5).

(2) The board of supervisors of each county shall consult with ~~cities located within their boundaries, and with their~~ *the* local agency formation ~~commission,~~ *commission and the cities within county boundaries* on the development of the sustainable farmland strategy for that county to ~~assure~~ *ensure* that the plans and policies of the cities and *the* local agency formation commission are taken into consideration and are ~~compatible to the maximum extent feasible.~~ *compatible.*

(c) A county may comply with ~~the requirements of~~ this article by relying on existing inventories and maps of agricultural lands,

and existing goals, strategies, and related policies and ordinances that substantially comply with ~~the provisions of~~ subdivision (b). Any county complying under this subdivision shall summarize and incorporate by reference on the county's Internet Web ~~site,~~ *site* a description of how each requirement of this subdivision has been met.

(d) The board of supervisors shall update the sustainable farmland strategy as determined to be necessary by the board of supervisors.

(e) Any county with less than 4 percent of its land base in agriculture, as determined by the most recent Census of Agriculture by the United States Department of Agriculture, is exempt from this article.

(f) On or before January 1, 2018, each county shall affirm compliance with this article by one of the following means:

(1) Developing and adopting a sustainable farmland strategy consistent with subdivision (b).

(2) Adopting a resolution finding that the existing county goals, policies and ordinances have a functionally equivalent strategy that meets the requirements of subdivision (b), pursuant to subdivision (c).

(3) Adopting a resolution finding that the county's agricultural land resources do not meet the threshold described in subdivision (e), and that the county is not required to develop a sustainable farmland strategy.

~~SEC. 5.~~

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

O