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THE WILLIAMSON ACT

In 1965, the Legislature recognized that California agricultural land was being taxed on the basis of its potential worth for other uses and was, in fact, disappearing. The Legislature approved and the Governor signed the California Land Conservation Act, more commonly known as the Williamson Act.

Its purpose was clear: Preserve prime agricultural land by giving local government the opportunity to halt the heavy pressure on development of productive farm lands.

The Williamson Act provides local government the authority to create 100-acre minimum agricultural preserves, or smaller units if they conform to city or county planning requirements. Those landowners electing to contract with local government under the Williamson Act must restrict the eligible land to its current agricultural or other undeveloped use.

In return for tax advantages (a differential in tax assessment between the "highest and best use" and "capitalization on stream of income") the landowner signs a ten-year contract. Each year it is automatically renewed for another ten years unless either of the contracting parties gives notice of non-renewal. At the end of the contracting period the landowner is free to develop the land for other use.

The state subvents money to local government to make up for lost revenue on the following basis:

\$3.00 per acre on prime agricultural land within a specified distance of a city

\$1.50 per acre for "all other" prime agricultural land

\$.50 per acre for all other open space land

(The Williamson Act has been amended to include other forms of open space lands, including salt ponds, managed wetlands, public recreation areas, and wildlife habitats.)

During the 1974-75 fiscal year slightly less than \$15 million was budgeted for subventions under the Williamson Act.

PROBLEMS OF THE WILLIAMSON ACT

There are currently 13.7 million acres in Williamson Act contracts, but the vast majority are located far away from the threat of urban-like intrusion. A majority are located in Fresno, Kings, Kern and Tulare counties where there is no appreciable threat from urbanization. Legislative Analyst A. Alan Post, in the 1976-77 Budget Analysis, states: "For the past two years we have recommended termination of the open-space subventions because most of the lands under contract are located in remote areas...efforts should be made to produce legislation that will produce better results."

Additionally, the Williamson Act has been criticized on the grounds that it offers a tax shelter to the giant agri-business

firms in California. A Ralph Nader study concluded that 10 corporations own 20% of the land preserved under the Act and receive what amounts to \$4 million in annual tax relief. Were this land located on the fringe of urban spread perhaps an argument might be made for what amounts to public support. But, it is not.

Other arguments for change in the Act:

- Because the 10-year contracts are voluntary for both landowner and local government most cities, and 11 of the 58 counties, do not participate in the Williamson Act.
- Only 4.2 million acres of the 13.7 million acres under contract, or 30.6%, are designated prime agricultural land.
- Only 875,348 acres of the 4.2 million "prime" acres are in urban fringe areas subject to immediate threat or urbanization. Thus, only 6.4% of the total Williamson Act contracted land is both prime agricultural and in urban-fringe areas.
- The minimal tax advantage on productive prime agricultural land under the Williamson Act cannot offset its value to those who would sell for commercial value.

DISAPPEARING CALIFORNIA FARM LANDS

The California Office of Planning and Research (OPR) estimated in a 1974 report that, at that time, there were 12.5 million acres of prime agricultural land, 620,000 of which (or 4-1/2%) would be encroached upon by cities by 1985. It is estimated that between 15,000 and 20,000 acres of prime lands are lost each year to urban sprawl. Thus, in ten years California could lose prime agricultural lands equivalent to a state the size of Rhode Island.

To those who argue that technology can replace lost prime land through wider use of irrigation, drainage and fertilizer, the counter argument is made that these techniques cost money and/or energy. They drive upward the cost of government and delivered food.

FOOD PRODUCTION PROSPECTS

California

This state supplies 25% of all table food and 40% of all fresh vegetables and fruits consumed in the United States. California's agricultural products account for 10% of the nation's farm exports and the figure is increasing.

The Nation

The scope of America's importance in the international food market can be seen from the fact that 1.2 million persons

in the country are employed in full-time jobs in connection with agricultural exports. The nation is the major farm exporter in the world, and its role enables the United States to compete effectively in international monetary circles.

The sale and shipment of American wheat to Russia, and the movement of California rice to the Far East are telling indicators of the vast ability of Americans to grow and market farm products abroad. In an age when America has had to rely on the importation of fossil fuels the high cost has been offset by the exportation of farm products. California's unique ability to produce certain crops has made the state an integral factor in American export policies and procedures.

WORLD POPULATION

Increases in world population are at sharply varying rates. While it is less than 1% per year in the United States, population figures in some under-developed countries grow at 3-4% annually. In general forecasts it is estimated that today's overall figure of some 4-billion persons could nearly double to almost 8-billion persons by the turn of the century. The United Nations median forecast, assuming a substantial decline in fertility in the next few years, is at 6.4 billion persons by the year 2000.

WORLD FOOD SUPPLIES

If population grows as projected there are serious questions about the availability of food. A recent UN Food and Agricultural Organization study estimates that 20-25% of the people in most Asian and African nations now suffer from serious under-nutrition. Food supply shortages, as they occur, force prices upward in affluent nations and result in hunger and starvation in the poorer nations of the world.

The Central Intelligence Agency, in "Potential Implications of Trends in World Population, Food Production and Climate", concludes that the disparity between rich and poor nations will continue to grow and that the world's dependence on North American agricultural exports will continue to increase.

In summary, the American role in marketing agricultural products to other nations of the world will continue to expand and, in fact, offers profound consequences for our nation's continued preeminence in the community of nations.

UNITED NATIONS WORLD FOOD CONFERENCE

This somewhat inconclusive conference, held in Rome in November, 1974, left its delegates with an air of pessimism. Authorities expressed a need for establishing a cushion of international grain reserves and a proposed \$1.2 billion International Fund for Agricultural Development. Attainment of

these goals is as questionable as is the certainty that the disparity between population and food supplies will continue to grow. Among those in attendance at Rome was Assemblyman Charles Warren and it was he who drew together, in 1975, AB 15 which, among others, proposes major alterations of the Williamson Act.

AB 15 (WARREN)

This legislation would create within the Governor's office an Agricultural Resources Council which could appoint advisory boards and contract for technical assistance. It would be composed of 1) the Secretary of the Resources Agency, 2) the Director of the Office of Planning and Research, 3) the Director of Food and Agriculture, 4) the Director of the Water Resources Department, and, 5) the Secretary of the Agriculture and Services Agency.

Within 60 days of formation the council would adopt detailed regulations prescribing permitted land use for prime agricultural lands. Such use would be limited to agricultural or other compatible use. Cities or counties with fewer than 1,600 acres in agricultural use (not necessarily prime lands) and lands zoned for agricultural use would be exempt from provisions of AB 15.

Cities and counties would be required to submit to the council for review and certification maps of prime agricultural

lands within 120 days of the bill's effective date. They could request that the council, at state cost, accomplish such mapping processes. Certification could come by mid-1977.

Assemblyman Warren says he will offer amendments in the Senate that leave matters of policy judgement in the bill in the hands of local government. (This contrasts with earlier versions of the legislation which stipulated that only by a four-fifths vote could the governing local body add or delete lands incorrectly designated or omitted from original maps.)

Very important in continuing consideration of the Warren measure is the minimum size of parcels which would be mapped and considered as prime agricultural land. As amended January 8, 1976, only parcels or contiguous parcels of 20 acres or more in size could be mapped and designated as prime agricultural land.

In addition, once mapped and certified as prime agricultural lands no subdivision creating a parcel of less than 80 acres would be allowed. (Assemblyman Warren says this will be reduced to 40 acres.) Procedures are listed in AB 15 for construction of a single-family dwelling on prime agricultural lands and for the removal of such lands from the prime agricultural classification.

Assessment of agricultural land

AB 15 states that there is a conclusive presumption that prime agricultural land will be maintained as such for the

"predictable future", and that such restrictions will substantially equate the value of the land to the legally permissible use thereof.

This means that assessors shall compare values of prime agricultural lands only with other similar prime agricultural lands, or lacking that information, use a system of "capitalization of income" for assessment purposes.

The Warren bill provides no state reimbursement or subventions for the revenue loss to cities and counties from lowered assessments arising from its passage and new assessment procedures. However, those who own non-prime agricultural lands or lands not covered under the size provisions of AB 15 may share in higher taxes. But those who own or live in such areas may also receive higher prices for the sale of their lands to developers of such land.

Important Terms and Definitions of AB 15

Agricultural use -- The use of land for the purpose of raising, harvesting and selling plant and animal products; the use of land for the preparation and storage of such products or the use of land as a site for buildings, including housing, usually and customarily provided in connection with or in support of accepted farming practices.

City -- Any city, whether general law or charter, including a city and county.

Compatible use -- Use of land, other than an agricultural use thereof, which will not adversely affect the agricultural use of such land and for which there is no reasonable alternative location. Compatible use of land includes:

1. The erection, construction or maintenance of facilities for the transmission of gas, electricity, water or communication;
2. The use of land in such a manner as to mitigate adverse environmental effects of agricultural production, provided that such use shall not reduce existing levels of agricultural production;
3. The use of land for a facility which is necessary for the public health or the public safety, such as a facility needed for fire or police protection;
4. Use of land during a national or state emergency for a facility or activity which is necessary for public health, safety, or welfare in accordance with the provisions of Chapter 7 (commencing with Section 8550) of Title 2, Division 1;
5. Use of lands for roads, drainage facilities, canals and other facilities which are necessary to agricultural use of such land;

6. Use of land as a site for landmarks of historical significance;
7. Use of land for facilities which will protect wildlife or unique or fragile ecological or natural systems;
8. Use of land for recreation purposes and the facilities necessary thereto, provided that such recreational use shall be conducted in conjunction with agricultural use of such land.

Assemblyman Warren has indicated that one more compatible use of land will be included in a future version of the bill:

9. Use of land for exploration, extraction and transportation of oil, gas and other associated hydrocarbons and for the injections of gases and fluids into the subsurface for temporary storage or for secondary or tertiary oil recovery, together with related machinery, apparatus, equipment and appurtenances incident thereto, provided that all drilling, installations and operations shall conform to all other applicable laws and regulations.

Council -- Refers to the Agricultural Resources Council, as designated by Chapter 3 (commencing with Section 67725).

County -- Any charter or general law county, excluding a city and county.

Local agency -- any city, county, or special district.

Prime agricultural land -- An area of land, whether a single parcel or contiguous parcels, which: (i) is over 20 acres in size; (ii) on the date on which AB 15 is chaptered, has not been developed for a use other than an agricultural use; and (iii) meets any of the following qualifications:

1. Land which qualifies for rating as Class I or Class II in the Soil Conservation land use capability classification;
2. Land which qualifies for rating 80 through 100 Storie Index Rating;
3. Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent of at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July 1967, developed pursuant to Public Law 46, December 1935;
4. Land planted with fruit or nut-bearing trees, vines, bushes, or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than \$200 per acre;

5. Land which has returned from the production of unprocessed agricultural products an annual gross value of not less than \$200 per acre for three of the previous five years.

Major Arguments Against AB 15

- Assembly Bill 15 represents yet another instance of the intrusion of state government into local governmental matters. AB 15 would establish indiscriminate regulations, thus restricting zoning rights historically under the jurisdiction of cities and counties. (Legislative Council when asked: Does AB 15 constitute a taking of property without compensation in violation of the constitution, said "No.")
- City and County representation is needed on the Agricultural Resources Council, which is currently composed of state agencies only. Also, an acknowledgement should be made to the effect that the state should not create two permanent councils, one to regulate agricultural land and another to regulate coastal resources. (With regard to membership in the Council, Assemblyman Warren indicates he is "entirely open", and further, suggests that at least 50% of the members represent the public and local government from areas having a significant agricultural industry.)

- The mapping time deadline given for cities and counties -- 120 days -- poses a near-impossible task for many cities and counties. The time deadline for the state agency to issue regulations is also extremely short. These times need to be extended to encourage the completion of a good job -- rather than a hasty and possibly haphazard job.
- All costs incurred by cities in complying with provisions of the bill should be paid for by the state in accordance with SB 90.
- The definition being used for prime agricultural land has several technical faults -- the availability of water being foremost among them. It is possible that land found to be prime under subsection (1) and (2) of section 67720 may be incapable of agricultural production because of unavailability of water. (Assemblyman Warren indicates language will be added allowing the owner of such land to have it declassified upon a showing to local government that water is not now available and will not be available.)
- Policy sections of the bill may be used to challenge the discretionary judgement of local government. (Warren again indicates an amendment leaving judgmental matters in policy sections as sole and exclusive decisions of local government.)

- The bill should make some allowance for land needed to complete partially built neighborhoods, and land which is needed for growth in the near future, and should be logically developed because of previous planning and commitments.
- Some persons have criticized AB 15 for the potential omission of prime agricultural lands in urban areas. Those of substantial size but not large enough entities unto themselves, could be left out of the mapping and certification process. In addition, small and medium acreage prime agricultural parcels, in the same area, but not contiguous, could be omitted from the process.

OTHER MAJOR AGRICULTURAL LANDS LEGISLATION

SB 1710 (Zenovich)

This legislation differs markedly from the Warren bill in that it places in the hands of a local government legislative body the authority for mapping what is identified as commercial agricultural land, and submitting it to the local planning commission by January 1, 1978.

By January, 1979 -- after comment and review by the State Office of Planning and Research and the Director of Food and Agriculture -- the city or county would amend its general plan to include a designation of commercial agricultural lands.

SB 1710 would require, unlike the Williamson Act, cities and counties to offer to owners of commercial agricultural land the opportunity to enter into the Williamson Act contract.

Cancellation of such a Williamson Act contract could come after a finding that no other land is reasonably available to meet the community's economic or social needs.

AB 3205 (Perino)

This legislation would require the inclusion of a prime agricultural land-use plan in every city and county, except for those jurisdictions with less than an unspecified number of acres of agricultural land. Agricultural preserves would be established and contracts would be available to owners.

Local technical advisory committees would map and present to planning commissions and cities or counties such maps for final approval. These would supersede any regulations or policies of the California Coastal Commission.

Before declassifying prime agricultural land, local government would have to make special findings regarding alternate land being available.

S
AB 1736 (Smith)

This bill is designed to promote orderly urban growth and to preserve agricultural lands by guiding development away from such lands.

Local Agency Formation Commissions would be empowered to establish "spheres of influence" for each city within a county by July 1, 1979. Such spheres establish boundaries for local government agencies providing sewers and sewage treatment, supply and distribution of water for nonfarm purposes, construction of roads, and public transportation facilities.

After adoption of these spheres no governmental entity could expand such sewer, water, or road systems outside a city's sphere of influence--except for emergencies or to serve existing uses. In addition, lands outside the sphere could not be divided into parcels of fewer than 10 acres.

There are provisions for periodic review by each LAFCO of spheres of influence.

SUMMARY OF PROPOSED CHANGES IN THE WILLIAMSON ACT

There seems little doubt that California's best agricultural land is under heavy pressure and disappearing to development at a rate harmful to the state.

There seems no disagreement that California agriculture plays a vitally important role in food production for both national and international markets.

There seems no disagreement whatsoever that the need for food production, both domestically and in foreign nations, will continue to grow. There is, in addition, strong evidence, that

over the near and intermediate term the disparity between wealthy nations and poor nations will continue to grow.

It seems clear that the Williamson Act has only dealt in a tangential manner with very real problems confronting California agriculture. When urban sprawl comes -- or even appears headed in the direction of rich agricultural lands -- county assessors have little real choice. They tax land on the basis of its fair market value. In the fast developing areas of California the long-term commitment of the Williamson Act isn't economically feasible. In more remote areas where there is little pressure for development the Williamson Act benefits are a bonus.

The concepts of the Warren measure contrast with those of the Zenovich bill. AB 15 states that the preservation of prime agricultural land is of critical importance and are a finite resource to be conserved. The quarrel comes in the manner in which to judge what is prime land and what (and who) is to be excepted and for what reasons.

If one reason that the principal fault in the failure to adequately preserve prime lands now lost is that of local government, then one might expect that the state ought to be given every opportunity to operate the machinery in a manner that better preserves this valuable state resource.

If, on the other hand, one holds the view that a local government is best equipped to judge present and future land

use (including agricultural lands), then the Zenovich approach is the better vehicle.

If, thirdly, one believes that each landowner ought to be the ultimate judge of deciding what is the best use of his or her land, and ought to be able to exercise that discretion without governmental controls, then perhaps no change is in order.

There are those holders of large parcels of prime agricultural lands who can be expected to move quickly as soon as a major bill is signed by the Governor, to take advantage of the generous provisions in the bills which allows virtually any movement toward development before mapping and certification as a grounds for exclusion. The bills have significant time deadline differences.

Under any version of any bill there are parcels of prime agriculture lands in urban areas where there will be no certification because of size requirements. Those who support the general concept of these bills can expect to see smaller, non-certified parcels disappear completely where they are logical for development. The pressure to develop smaller parcels is certain to obliterate those kinds of holdings as developers seek what is available.

The questions boil down to ideology. Is the preservation of agricultural land of such importance that it requires direction from the state? Is the production of food and fiber of

such domestic and national importance that it requires the attention of a state-operated Council to oversee? Is California's continued agricultural preeminence of such importance nationally and internationally that it overrides the desire of the prime agricultural landholder's quickest and best profit?

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