

**COUNTY OF SACRAMENTO
CALIFORNIA**

For the Agenda of:
December 15, 2010
9:45 a.m.

To: Board of Supervisors

From: County Executive

Subject: Introduce SB 863 And The Options Available To Establish New Williamson Act Contracts Including Reduction Of Property Tax Benefits And A Related Reduction Of The Term Of The Contracts To Eighteen Or Nine Years

Supervisory
Districts: All

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Overview

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 sets forth procedures for reimbursing cities and counties for property tax revenues not received as a result of these contracts.

Historically, the State budget included sufficient funding to reimburse counties, but in Fiscal Year 2009-10 the State reduced funding from \$37 million statewide to \$1,000. Many counties responded by considering filling notices of non-renewals and delaying entering into new Williamson Act contracts.

The Governor signed SB 863 into law on October 19, 2010 creating a program that counties can use when State Williamson Act Subvention funding falls to less than half of the county's "actual foregone general fund property tax revenue". In such a case, SB 863 enables a county to shorten its 20-year and 10-year Williamson Act contracts to 18 years and 9 years, respectively. Landowners can "opt out" of this approach by non-renewing their Williamson Act contract instead of accepting the shorter contract. For landowners who accept the shorter term, the Assessor would be required to determine the Assessment benefit, which is statutorily mandated (under SB 863) to be 10% of the difference between the full unrestricted assessed value, which is the lesser of the property value under Proposition 13 or the current market value (Prop 8), and the restricted value of the property under the Williamson Act. The Department of Finance, Auditor-Controller would then levy the reduction of Williamson Act benefits on the property tax bills.

Recommendation

At today's Board meeting, staff is bringing SB 863 to the Board of Supervisors' attention, outlining the issues and seeking direction.

Staff requests direction to proceed with outreach and return to the Board with a workshop in March 2011 for consideration to implement for Fiscal Year 2012-13.

Fiscal Impact

If implemented, SB 863 would generate an annual increase in the County's General Fund resources of \$540,000, or \$400,000 depending on the magnitude of Prop 13/Prop 8 assessment reviews and appeals. The costs associated with this program are estimated at \$90,000, for a net of approximately \$310,000.

BACKGROUND

AB 2530, signed by the Governor on September 25, 2010, and subsequently replaced by SB 863, signed on October 19, 2010, provides an opportunity for counties to offset a portion of the loss of Williamson Act Subvention funds by establishing new contracts as of January 1, 2011. The new contracts would reduce a landowner's property tax benefits, reduce the term of the Williamson Act contract, and allow increased revenues to be transferred directly into the County's General Fund (See Attachment 1 – SB 863). It is a temporary solution which sunsets on January 1, 2015. Additionally, if a landowner does not want to participate in the shorter contract with its reduced level of benefit, the landowner has the option to non-renew the contract.

According to the California Farm Bureau Federation, these bills will allow counties to voluntarily implement new contracts that are 10 percent shorter in return for a 10 percent reduction in the landowner's property tax relief. The adoption of the new, shorter contracts requires a majority vote of the Board of Supervisors and would only be allowed in years when counties receive replacement of less than one-half of their foregone general fund property tax revenue from the program. The Farm Bureau sponsored AB 2530 to help counties recoup lost state funding and to encourage counties to maintain a program that benefits family farmers and ranchers. In a recent article in the Farm Bureau's AgAlert, John Gamper, California Farm Bureau Taxation and Land Use Director, stated:

“The Farm Bureau sponsored this bill in order to save a very successful land conservation program that not only provides farmers with significant property tax relief, but also the certainty that they can continue to farm without incompatible, non-farm uses coming in next to them...”

The Legislative Analyst's summary for SB 863 states:

(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 sets forth procedures for reimbursing cities and counties for property tax revenues not received as a result of these contracts.

This bill would, beginning January 1, 2011, and until January 1, 2015, authorize a county, in any fiscal year in which payments authorized for reimbursement to a county for lost revenue are less than 1/2 of the participating county's actual foregone general

Introduce SB 863 And The Options Available To Establish New Williamson Act Contracts Including Reduction Of Property Tax Benefits And A Related Reduction Of The Term Of The Contracts To Eighteen Or Nine Years

Page 3

fund property tax revenue, to revise the term for newly renewed and new contracts and require the assessor to value the property, as specified, based on the revised contract term. The bill would provide that a landowner may choose nonrenewal and begin the cancellation process. The bill would also provide that any increased revenues generated by properties under a new contract shall be paid to the county. This bill would appropriate \$10,000,000 from the General Fund to the Controller for the 2010-11 Fiscal Year to make subvention payments to counties, as specified.

Historically, the State budget has included over \$37 million in Williamson Act subvention funding, but in the Fiscal Year 2009-10 State budget, the Governor removed all but \$1,000 of Williamson Act subvention funding statewide from the budget. This action compounded the fiscal crisis confronting California's counties. Sacramento County claimed \$517,432.94 in subvention funds in Fiscal Year 2009-10 but received only \$14.75. Subvention funds are paid directly to the county general fund, and the loss of this revenue last year from the State added to county general fund deficits state-wide, including here in Sacramento County.

Many counties responded by seeking legislative relief, considering local revenue options, considering filing notices of non-renewals and delaying entering into any new Williamson Act contracts. Sacramento County held a workshop at the Board of Supervisors in December 2009, to discuss the options related to the Williamson Act program at the State level. The Board decided that applications for new contracts should be highly discouraged but that the Board would not take any action at that time to consider non-renewal of all existing contracts pending potential legislative relief opportunities.

State's Partial Solution to Williamson Act Shortfalls: AB 2530 and SB 863

In mid-August, the approach originally reflected in AB 2530, and now reflected in SB 863 emerged as a viable alternative. This approach was developed rapidly with input from the California Farm Bureau Federation, the Resource Landowners Group, California State Association of Counties and Regional Council of Rural Counties. In addition, a "clean-up" bill, SB 863 was passed by both houses and signed by the Governor on October 19, 2010. SB 863 included provisions to statutorily direct a uniform increase in valuations upon implementation of the shorter contract terms, and allocated \$10 million to be paid to counties as partial subvention funding this year.

SB 863 creates a program that a county can use when State subvention funding falls to less than half of the county's "actual foregone general fund property tax revenue". In such a case, SB 863 enables a county to shorten the 20-year and 10-year Williamson Act contracts to 18 years and 9 years, respectively. Landowners can "opt out" of this approach by non-renewing their Williamson Act contract instead of accepting the shorter contract. For landowners who accept the shorter term, the Assessor is required to determine the Assessment benefit, which is statutorily mandated (under SB 863) to be 10% of the difference between the full unrestricted assessed value, which is the lesser of the property value under Proposition 13 or the current market value (Prop 8), and the restricted value of the property under the Williamson Act. This means that for every dollar in property taxes that a contracted landowner currently avoids by having their land under contract, SB 863 requires that ten cents be paid annually to the County. None of the additional revenues generated by SB 863 are to be shared with the State or other government entities, and landowners retain 90% of their tax benefits of the Williamson Act.

Introduce SB 863 And The Options Available To Establish New Williamson Act Contracts Including Reduction Of Property Tax Benefits And A Related Reduction Of The Term Of The Contracts To Eighteen Or Nine Years

Page 4

The revenue generated by the 10% contract modification for Sacramento County is estimated to be as much as \$540,000, or \$400,000 depending on the outcome of assessment reviews and appeals in Fiscal Year 2011-12. Sacramento County's foregone revenues (assuming all Williamson Act properties were assessed at their Proposition 13 values) would be approximately 16.38% of the estimated 1% property tax revenues of \$5,402,675.

SB 863 has a sunset date of January 1, 2015. Those closely involved with SB 863, including the California Farm Bureau Federation and CSAC, expect it to serve as only a temporary partial solution to the loss of subvention funding. They intend to pursue other means of providing an adequate revenue stream for participating counties over the next four years if subvention funding is not restored. Staff will continue to participate in related discussions. SB 863 should be viewed as a first step toward a more comprehensive and lasting solution.

State Fiscal Year 2010-11 Subvention Allocation

For Fiscal Year 2010-11, the adopted State budget once again did not include funding for counties for the Williamson Act Subvention and for the second year in a row. However, on October 19, 2010, Governor Schwarzenegger signed SB 863 into law which included \$10 million in Williamson Act subvention funding. Should this funding survive the State's Mid-Year Budget, Sacramento County's share of that funding is approximately \$140,000.

DISCUSSION

At today's Board meeting, staff is bringing SB 863 to the Board of Supervisors attention, outlining the issues and seeking direction. To implement SB 863 for this next tax year requires the Board to take action today. Unfortunately, due to the adoption of this bill only six weeks ago, there has not been an opportunity for local outreach on this program.

Implementation of SB 863 by each individual County is voluntary. Sacramento County is not mandated to implement SB 863 now or in the future. The bill preserves the opportunity to take no action, to take action now or in future years (through the sunset date of January 1, 2015), or to non-renew all or some of the contracts under our jurisdiction. An alternative for the County would be to postpone any decision to "opt" into this program until next year, giving staff the time needed to do the local outreach.

Implementation of SB 863 would result in increased expenses for landowners currently enjoying the significant property tax benefit of the Williamson Act, increasing the County's General Fund revenues annually by \$540,000, or \$400,000, depending on the magnitude of appeals and reviews. The Board of Supervisors will have to make an annual determination as to whether the SB 863 provisions should be implemented in each of the coming fiscal years.

Should the Board implement today for the Fiscal Year 2011-12, the Board must take the following action:

1. Find that the County received less than one-half of the foregone property tax revenue pursuant to Government Code Section 16142.1 (d)(1) for the Fiscal Year 2009-10;
2. Implement subdivision (b) of Government Code Section 51244 and Section 51244.3 and reduce contracts from 20 or 10 years to 18 or 9 years, respectively;

3. Approve a one-time modification of Sacramento County's non-renewal procedures to allow landowners to file notices of non-renewal up to March 15, 2011, to be effective in calendar year 2011; and
4. Direct staff to notify all contracted landowners of the following:
 - a. The final decision of the Board after the conclusion of the December 15, 2010, public hearing; and
 - b. The landowner's right to prevent the reduction in the term of his or her contract by serving notice of non-renewal as specified by Government Code Section 51245.

Following this public hearing, should the Board decide to implement SB 863, staff will mail out notifications as required, to inform landowners of the final decision and their right to file a notice of nonrenewal. Landowners will have 90 days, or until March 15, 2011, to file a notice of nonrenewal.

Recommendation

Since implementation today for Fiscal Year 2011-12 provided very little time for Outreach, the Board may choose to delay implementation, as provided in the Bill, and direct staff to continue to outreach to the contracted landowners and return to the Board with a workshop in March 2011 for consideration of implementation for the Fiscal Year 2012-13.

Landowner's Options

Should the County choose to implement SB 863, the landowners' options are:

1. Accept the new decreased 18-year or 9-year term and associated 10% decrease in benefits; or,
2. File a Notice of Non-renewal, and accept the property tax consequences of a rapidly escalating assessed valuation.

Note that for most, if not all, landowners accepting the 18-year or 9-year term and associated decrease in benefits would be significantly less of a financial burden than filing a notice of non-renewal. Landowners retain 90% of their benefit by accepting the new term and maintain the additional benefits of keeping the Williamson Act viable until the State and local fiscal climates improve.

The individual impact to each property owner will vary. This fee is 10% of the tax benefit that the owner receives from being in the program. This benefit is based on the value difference between their restricted value and their Prop 13 value, multiplied by the tax rate for the parcel. Prop 13 values are based on acquisition values and can vary greatly for land of similar size and utility depending on when they were acquired. Restricted values are based on size and use and are the same for parcels of similar size and utility. It is expected that approximately 1,300 parcels and 600 owners will receive these levies. Consistent with the impacts of Prop 13, similar sized parcels will have vastly different fees depending on when they were acquired. In some cases, the fee that a parcel will be charged will be much larger than the property taxes they have been paying on the parcel.

Outreach to Date

- As outlined in SB 863, if a County opts to implement for the Fiscal Year 2011-12, the County has to find that the County received less than one-half of the foregone property tax revenue pursuant to Government Code Section 16142.1 (d)(1) for the Fiscal Year 2009-10 prior to the end of the 2010 Calendar Year, which means at this December 15th meeting.
- To facilitate this option, Notices were sent to all contracted landowners of the hearing today and the potential authorization to implement SB 863 and also inform them of their right to file for a non-renewal of the contract should they choose to "opt-out" of the shorter contract term.
- There are approximately 1,300 separate Assessor's Parcels in Sacramento County under the Williamson Act program. Approximately 600 notices for today's hearing were sent out since only a single notice was sent to property owners who own multiple parcels.
- Staff in Planning has spoken to the Sacramento County Farm Bureau. They indicated that the local Farm Bureau is supportive of the County considering availing ourselves of the provisions of SB 863 and are willing to assist with public outreach to their members. Staff will follow up on this prior to the meeting on December 15th. Additionally, staff will be notifying the County Agricultural Commissioner regarding this upcoming public meeting.

MEASURES/EVALUATION

Implementation of this program will result in additional General Fund revenues for the County of Sacramento.

FINANCIAL ANALYSIS

If implemented SB 863 would generate an annual increase in the County's General Fund resources of \$540,000, or \$400,000 depending on the magnitude of Prop 13/Prop 8 Assessment Appeals. The costs associated with this program are estimated at \$90,000, for a net of approximately \$310,000.

Respectfully submitted,

STEVEN C. SZALAY
Interim County Executive

Attachment: SB 863
Notice of Hearing