

Date of Hearing: April 27, 2022

ASSEMBLY COMMITTEE ON AGRICULTURE

Robert Rivas, Chair

AB 2964 (Committee on Agriculture) – As Introduced March 14, 2022

SUBJECT: Agricultural land conservation: California Farmland Conservancy Program Act

SUMMARY: This bill would revise and recast provisions of the California Farmland Conservancy Program Act (CFCPA) to abolish the California Farmland Conservancy Program Fund, authorize the California Farmland Conservancy Program (CFCP) and to offer financial assistance for projects and activities on agricultural lands that support agricultural conservation and sustainable land management, as specified. Specifically, *this bill*:

- 1) Adds “conservation easement” to the current definition of agricultural conservation easement or easement for the purpose of the CFCPA.
- 2) Replaces current definition of “Applicant” with entities listed in Civic Code (CIV) 815.3 that defines who is eligible to acquire and hold conservation easements.
- 3) Strikes the definition of “fund” to mean the CFCP Fund.
- 4) Defines “restriction” when used in a statute that incorporates this section by reference, means a limitation on, or provision affecting, the use of real property in a deed, declaration, or other instrument, whether in the form of a covenant, equitable servitude, condition subsequent, negative easement, or other form of restriction. (CIV 784)
- 5) Redefines “nonprofit” to mean the same as CIV 81503 (a), a tax-exempt nonprofit organization qualified under Section 501(c)(3) of the Internal Revenue Code and qualified to do business in this state; which has as its primary purpose the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, or open-space condition or use.
- 6) Deletes the CFCP fund.
 - a. Deletes numerous provisions related to grants under the CFCP fund (Public Resource Code (PRC) 10230.5, 10231, 11233, 10234, 10242, 10243, 10244, 10252.5, 10254).
- 7) Establishes CFCP within the Department of Conservation (DOC).
 - a. Allows CFCP to offer financial assistance, including grants or contracts, for projects and activities on agricultural lands that support agricultural conservation and sustainable land management, including, but not limited to, any of the following:

- i. Acquisition of agricultural conservation easements or fee title to protect the land's agricultural use or capacity that meets the following requirements:
 1. The primary purpose for which the easement or fee title is being sought is consistent with continuing agricultural use of the property.
 2. The easement or fee title does not, and will not, substantially prevent agricultural uses on the property.
 3. Any nonagricultural qualities that will be protected by the easement or fee title, if applicable, are inherent to the property.
 - ii. Improvements to land protected by a conservation easement, deed restriction, or similar long-term agreement as determined by the director.
 - iii. Plans to protect and conserve agricultural lands and plans to protect, conserve, restore, or enhance resources or values located on, or adjacent to, agricultural lands or that were historically present on agricultural lands. These may include, but are not limited to, either of the following:
 1. An agricultural land component or element of a general plan developed pursuant to Section 65565 of the Government Code.
 2. Land conservation strategies and plans to identify and develop potential projects.
 - iv. Technical assistance to develop projects, prepare applications, and implement projects.
 - v. Capacity building.
 - vi. Technology transfers.
 - vii. Administrative costs incurred by the department to administer the program.
 - viii. Any other purposes approved by the Legislature in a funding appropriation for the program.
- 8) Allows DOC to accept funds to the Soil Conservation Fund, as specified.
- 9) Allows DOC to require matching funds for any projects or activity under CFCP.
- 10) Requires the following uses and activities to be deemed consistent and compatible with any agricultural conservation easement funded under this division and not be considered to restrict husbandry practices:

- a. Those uses and activities specified in Sections 10246 and 10262.
 - b. The production, processing, and marketing of agricultural crops, agricultural products, and livestock.
 - c. The restoration, enhancement, maintenance, protection, and conservation of natural resources, as specified.
 - d. Activities to reduce the agricultural operation's emissions of greenhouse gases, and to improve, promote, or enhance the land's adaptation and resilience to climate change, as specified.
 - e. Activities to support water conservation and protection, improved air quality, and fuels reduction and management, as specified.
 - f. The construction, reconstruction, and use of secondary dwelling units and farm worker housing, subject to reasonable limitations on size and location, if the long-term agricultural use of the conserved land is not thereby significantly impaired. The limitations on secondary dwelling units and farm worker housing shall not be more restrictive than state or local permit requirements.
 - g. The construction, reconstruction, or use of renewable energy facilities to generate energy for the agricultural and residential needs, as specified.
- 11) Requires, before applying for funding to acquire an agricultural conservation easement or fee title, the applicant notify in writing the planning directors of the relevant county or counties and every city within two miles of the property about the application. The notice shall include all of the following:
- a. The applicant's intent to apply for a grant to acquire an agricultural conservation easement or fee title from the program.
 - b. The application deadline.
 - c. A statement that the conservation easement may result in reduced property tax revenue. As specified.
 - d. The jurisdiction's right to submit comment to DOC on the project within 30 days of the application deadline.
- 12) Requires the relevant county or counties and every city within two miles of the property to have 30 days from the application deadline to submit written comments on the project to DOC, including on the compatibility of the project with the general plan.
- 13) Requires DOC to consider any comments submitted by the county or cities, as specified.
- 14) Makes numerous technical, clarifying or conforming changes.

EXISTING LAW:

- 1) Establishes CFCPA, administered by DOC, to encourage voluntary, long-term private stewardship of agricultural lands by offering 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.

- 2) Creates the CFCP Fund and requires moneys in the fund be used for the purposes of the California Farmland Conservancy Program, which include, as specified.
- 3) Requires an agricultural conservation easement to be granted to any organization or entity authorized to acquire and hold conservation easements, as specified.
- 4) Allows DOC department to accept donations, if DOC is the designated beneficiary of the donation and agrees to use the moneys for purposes of CFCP in a county specified by the donor

FISCAL EFFECT: Unknown.

COMMENTS: CFCP is a statewide grant program that supports local efforts to establish agricultural conservation easements and land improvement projects for the purpose of preserving important agricultural land resources and enhancing sustainable agricultural uses. Since its inception, CFCP has completed more than 184 agricultural conservation easements on 59,498 acres of strategically important farmland.

CFCP may award grants to local governments and private nonprofit organizations that have the conservation of agricultural lands among their defined purposes. Eligible governmental organizations include cities, counties, resource conservation districts, and regional parks or open-space districts or regional parks or open-space authorities that have the conservation of farmland among their stated purposes. Agricultural conservation easement projects are considered eligible for grant funding if they meet the following criteria:

- 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.
- 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.
- Without conservation, the land proposed for protection is likely to be converted to non-agricultural use in the near future.

This bill would modernize CFCP's statutory language and remove barriers to access for farmers and ranchers. It seeks to improve efficiencies, cost-effectiveness, and streamlining. Firstly, this bill eliminates the CFCP Fund and the Account because they have proven unnecessary and create challenges for CFCP. Only once since CFCP creation was the Fund appropriated money; every other allocation has been directly to CFCP.

Supporters state that this bill would streamline local engagement and notice requirements and local government comment processes for proposed conservation easement and fee title acquisitions. This would improve CFCP's capacity to meet state agricultural conservation goals

by removing applicant and jurisdictional burdens. Existing law would still require the proposal to be consistent with the city or county's general plan, which is a better benchmark by which to assess a project than requiring a local resolution. General plans must meet high standards and support thoughtful, planned development. This change is also consistent with the States' planning priorities and DOC's other conservation easement programs. It also supports a landowner's right to recover the equity in their property and make decisions regarding the property.

This bill also addresses other barriers that potentially limit the Program's pool of applicants including:

- Easement termination provisions that do not align with other conservation easement programs and may make applicants wary that easements will not be in perpetuity.
- Complex match fund requirements that may deter applicants.
- Unnecessary legislative provisions relating to oil and gas that may not align with federal charitable tax law and may be confusing to applicants.

REGISTERED SUPPORT / OPPOSITION:**Support**

American Farmland Trust (Sponsor)

Opposition

None on file.

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