

Date of Hearing: April 23, 2024

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Diane Papan, Chair

AB 3182 (Lackey) – As Amended April 8, 2024

SUBJECT: Land conservation: California Wildlife, Coastal, and Park Land Conservation Act: County of San Bernardino

SUMMARY: Authorizes new uses of bond funds from the California Wildlife, Coastal, and Park Land Conservation Act of 1988. Specifically, **this bill:**

- 1) Expands the allow use of the lands and conservation easements acquired or dedicated for the Chino Agricultural Preserve (Preserve) to include park and recreational purposes and additional open-space conservation purposes including playgrounds, recreational venues, sporting venues, amphitheaters, and preservation of historical resources.
- 2) Includes deed restrictions in the adopted land plan.
- 3) Eliminates the ability of the County of San Bernardino (County) to propose a plan to State Parks for the expenditure of proceeds from the sale or exchange of land for the acquisition of land, easements, or capital improvements to those lands.
- 4) Allows the County to use revenues from the sale or exchange of land to be used for the improvement, operation, and maintenance of any land that the county owns, has a conservation easement in or deed restriction on, or leases from the federal government or public entity within the Preserve.
- 5) Removes State Parks authority to approve the uses of funds from the sale or exchange of land in the Preserve.

EXISTING LAW:

- 1) Establishes the California Wildlife, Coastal, and Park Land Conservation Act, approved by the voters via Proposition 70 on June 7, 1988 [Public Resources Code (PRC) § 5900 *et seq.*], which:
 - a) Recognizes that wildlife, coastal, and park land conservation is in the public interest and seeks to protect environmental and scenic values of the land (PRC § 5905);
 - b) Provides \$20 million to the Department of Parks and Recreation (State Parks) for a grant to the County for the acquisition of land primarily through the use of conservations easements within the Chino Agricultural Preserve [PRC § 5907 (b)(3)(F)];
 - c) Requires that property acquired with funds disbursed under Proposition 70 be maintained and operated in perpetuity and allows that responsibility be transferred with the approval of the granting agency [PRC § 5919 (a)(1)];
 - d) Requires that the acquired property have no other purpose other than that authorized and requires that the Legislature authorize the sale, new use, or other new disposition of the property [PRC § 5919(a)(2)]; and

- e) Requires that the amount of the grant, the fair market value of the property, or proceeds from the property be used for the original authorized purpose or reimbursed to the state if the ownership, use, or disposition of the acquired property changes [PRC § 5919 (b)].
- 2) Authorizes, pursuant to PRC § 5919 (a)(2), that the County may sell or exchange property it owns within the Preserve that was purchased with Proposition 70 grant funds, provide that the sale or exchange satisfies the original purpose of the grant between the County and State Park and all of the following are met:
 - a) The County shall preserve all lands and conservation easements in perpetuity for agriculture preservation including community gardens, agricultural heritage projects, agricultural and wildlife education or wildlife habitat, or for open-space conservation purposes;
 - b) The County shall place a deed restriction on each property it acquired with grant funds from Proposition 70 by April 1, 2011 and that the deed restriction shall be in effect until a conservation easement is recorded on the property or until the County sells or exchanges the property; and
 - c) The County satisfies the conditions to develop and implement the detailed land plan (Plan) that indicates the existing and proposed disposition of lands purchased by the County in the Preserve with funds from Proposition 70 [Chapter 321, Statutes of 2010 (a)(b)].
 - 3) Prevents the County from selling, exchanging, or otherwise acquiring replacement land or conservation easements unless the board of supervisors adopts the Plan which meets a number of conditions, including, but not limited to, identifying the disposition of each parcel, maximizing connectivity, and an environmental review; and requires the County to take designated steps to implement the Plan [Chapter 321, Statutes of 2010 (c)].
 - 4) Requires the County to provide a report to State Parks on all expenditures and revenues from all sales and exchanges of land under the Plan; on the acreages of all lands or easements sold, exchanged, and held; and on any funds from all of the sales or exchanges of land under the land plan that have not been expended. Allows the County to propose a plan to State Park for the expenditure of proceeds from the sales or exchanges of land under the Plan that would be used for the acquisition of land or easements, or capital improvements to land or easements purchased with Proposition 70 funds [Chapter 321, Statutes of 2010 (d)(1)].
 - 5) Allows the County to use all other income generated from the properties it owns within the Preserve that were purchased with Proposition 70 funds, or that were acquired by exchange or purchase as authorized, to be used for the acquisition of additional replacement land within the Preserve in accordance with the Plan or for the improvement, operation, and maintenance of existing or replacement land within the Preserve [Chapter 321, Statutes of 2010 (d)(2)].
 - 6) Requires all proposed uses of the funds from the sales or exchanges of land to be approved by State Parks and be eligible expenditures under Proposition 70 [Chapter 321, Statutes of 2010 (d)(3)].
 - 7) Sets provision for adopting the Plan [Chapter 321, Statutes of 2010 (e)].

- 8) Clarifies that the County is not exempt from California Environmental Quality Act [Chapter 321, Statutes of 2010 (e)].

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

- 1) **Purpose of this bill.** According to the author, “[This bill] clarifies that San Bernardino County can use the proceeds from Prop 70 land sales for parks, recreational facilities, cultural venues such as an amphitheater, and related infrastructure to expand access and improve amenities in the Chino Agricultural Preserve. This bill will facilitate substantial park and infrastructure improvements for Prado Regional Park and nearby communities, demonstrating the County's commitment to conserve open space and expand recreational opportunities in the Inland Empire.”
- 2) **Background.** In 1988, voters passed Proposition 70, the California Wildlife, Coastal, and Park Land Conservation Act, approving \$776 million in general obligation bonds to fund, among other purposes, “the acquisition, development, rehabilitation, protection or restoration of parklands, wildlife habitat, coastal, and natural lands in California.” Proposition 70 required any applicant for grants under Proposition 70 to agree to maintain and operate the property in perpetuity and requires legislative authorization for the sale, new use, or other new disposition of property purchased with Proposition 70 funds. Further, if the Legislature grants a change in use for a property, the grantee must reimburse the state or fund another similar project, as specified, in order to keep Proposition 70 whole. Since Proposition 70 became law, grantees have occasionally sought legislative acts to authorize additional uses of conserved properties, on a case-by-case basis. See ‘Related legislation’ for brief descriptions.

Chino Agricultural Preserve. The County was awarded \$20 million of the Proposition 70 grant funds for the acquisition of lands within the boundaries of the 14,000 acres Chino Agricultural Preserve. Throughout the 1990’s, the County used Proposition 70 funds to purchase, lease, and manage nine operating dairies consisting of approximately 366.55 acres, of which 165.3 acres are located in the City of Chino and the remaining 201.25 acres are located in the City of Ontario.

While the properties acquired with Proposition 70 funds constitute a significant amount of land, their non-contiguous nature made it difficult for the County to comply with the intent of the Proposition and maximize the benefit to regional residents and visitors. To accommodate the County’s desire to consolidate the dairy properties into one contiguous land mass, Proposition 70 was amended by SB 1124 (Negrete McLeod) in 2009. SB 1124 authorized the County to sell or exchange the originally acquired property under the condition that the county preserves all lands and conservation easements acquired in perpetuity for agricultural preservation, including community gardens, agricultural heritage projects, agricultural and wildlife education or wildlife habitat, or for open-space conservation purposes.

The County has complied with the requirements of AB 1124 including:

- Recording a deed restriction by April 1, 2011 on each property acquired with Proposition 70 funds. These deed restrictions limit the use of the Proposition 70 dairies for agricultural preservation, but can be removed when the County sells or

exchanges the property if the replacement land of equal or greater acreage and habitat value is acquired in fee or covered by a conservation easement.

- The Plan (see Existing Law) was approved by State Parks and the County Board of Supervisors in November 2012. The Plan was required before any sale, exchange, or acquisition of replacement land.

In 2014, the County exchanged 104.73 acres of dairy land in exchange for \$6,364,00 and 271.66 acres of replacement land contiguous to Prado Park in the City of Chino. The remaining 60.57 acres of dairy land in Chino were sold for \$15,335,000 in 2016. According to the County of San Bernardino has purchased a 472.91 acres of replacement land in the Chino Agricultural Preserve and still has several additional parcels it will sell.

- 3) **Policy considerations.** Proposition 70 required that property acquired with grant funds be (1) maintained and operated in perpetuity and (2) that the property have no other purpose than what was authorized unless otherwise approved by the Legislature. This bill would allow for notable departure in the original intent and proposed use of Proposition 70 funds. The sponsors, in conversation with Committee staff, note that in the process of selling and purchasing lands to consolidate the original, disparate parcels, the value of the original property has increased to such an extent that is no longer practical or possible to use those revenues to purchase or conserve land per the language of Proposition 70 [i.e., conservation easements in the Preserve; PRC § 5907 (b)(3)(F)]. The County believes that it has fulfilled its obligation under Proposition 70 and currently holds and has protected more acreage (473 acres) than it had originally purchased in the 1990's (366 acres). With the increased development in the Preserve, the County is finding it difficult to invest the accumulated revenues consistent with Proposition 70 by either purchasing or placing easements on property or investing in property purchased with Proposition 70 funds.

Therefore, the County proposes to expand the allowable use of these funds. First, it expands the purpose of lands from agricultural preservation to include park and recreation purposes such as constructing play grounds, recreational venues, sporting venues, and amphitheaters. Second, this bill proposes to allow revenues from the sale or exchange of land purchased with Proposition 70 funds and the revenues generated on those lands, to be used for the improvement, operation, and maintenance on any property that has a park, recreational, agriculture preservation, or open-space purpose, which would include the newly allowed playground, recreation and sporting venues, and amphitheater.

These appear to be good faith efforts to provide the people within and surrounding the Preserve with beneficial and extensive park and recreational opportunities. The County has indicated intentions to improve amenities in Prado Regional Park as well as invest in a new park within the Preserve. However, this bill does set a troubling precedent for other grant recipients. These funds were originally granted to the County for a specific purpose and should be considered an investment that was going to inherently grow in value over time. Whether or not the County should have anticipated such a situation, it now finds itself with windfall profits to invest in purposes and activities not originally allowed when approved by the people of California.

It remains unclear to this Committee if such a shift is advisable. Until more information becomes available, it would be prudent to retain State Parks approval of all proposed uses of

the funds to ensure the investment of the people of California is managed in accordance with this purpose.

- 4) **Proposed committee amendments.** The Committee may wish the author to retain State Parks oversight of the use of Proposition 70 by the County in section (d)(3):

(3) All proposed uses of the funds from the sales or exchanges of land shall be ***approved by the department*** ~~as authorized herein~~ and be eligible expenditures under the California Wildlife, Coastal, and Park Land Conservation Act (Division 5.8 (commencing with Section 5900) of the Public Resources Code).

- 5) **Arguments in support.** Numerous local agencies write in support of this bill saying that it will resolve a longstanding problem and “facilitate substantial park and infrastructure improvements for Prado Regional Park and nearby communities, demonstrating the County's commitment to conserve open space and expand recreational opportunities in the Inland Empire.”
- 6) **Two-third's vote requirement.** Because this bill is amending an initiative approved by the voters in a statewide primary election on June 7, 1988, it requires a two-thirds vote of the Legislature to amend.
- 7) **Related legislation.** SB 256 (Dodd), Chapter 305, Statutes of 2023, authorized the City of Davis to convey easements, leases, or licenses for habitat conservation projects and carbon sequestration projects on parcels acquired for wildlife and riparian habitat, wetlands, and potential wetlands by the City with funding from Proposition 70.

SB 178 (Wieckowski), Chapter 458, Statutes of 2017, authorized the City of Fremont to transfer parkland to the Fremont Unified School District under certain conditions, including that the transferred property only be used for a public school facility and a requirement to spend no less than \$5 million to develop a replacement neighborhood park.

AB 1098 (Hagman) of 2009 would have authorized the County to sell or exchange property, instead of just sell property, that it owns within the Chino Agricultural Preserve and allow proceeds from a sale to be extended to the improvement, operation, and maintenance of existing or replacement land within the Chino Agricultural Preserve. AB 1098 was referred to both the Assembly Local Government Committee and the Assembly Agriculture Committee and its first hearing was canceled at the request of the author. The provisions of this bill are found in SB 1124 from the same year.

SB 1124 (Negrete McLeod), Chapter 321, Statutes of 2009, revised and recast the provisions regarding the property in the Chino Agricultural Preserve including allowing the exchange of property in the Preserve, allowing proceeds from a sale to be extended to the improvement, operation, and maintenance of existing or replacement land within the Preserve, and requiring the County to provide a report to State Parks on all expenditures and revenues from the land, among other things.

AB 2063 (Negrete McLeod), Chapter 377, Statutes of 2004, authorized the County to sell property acquired with Proposition 70 funds if proceeds from the sale were used to acquire replacement land within Preserve, and the county prepares a detailed land plan approved by the Board of Supervisors, there is no net loss of acreage or habitat value as a result of the

exchange, the county holds a public hearing, and the county receives an independent appraisal of the lands to be sold and acquired and makes these appraisals available to the public.

AB 1264 (Peace), Chapter 231, Statutes of 1995, authorized floodways as a new use of property acquired with Proposition 70 bond funds by San Diego County.

REGISTERED SUPPORT / OPPOSITION:

Support

San Bernardino County (Sponsor)
Chino Valley Chamber of Commerce
City of Chino Hills
City of Ontario
County of Riverside
Greater Ontario Chamber of Commerce
Inland Empire Economic Partnership
Inland Empire Health Plan
San Bernardino County Transportation Authority
Western States Regional Council of Carpenters
Two individuals:
 District Commissioner Michael Kreeger
 Orange County Supervisor Don Wagner

Opposition

None on file

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