

Date of Hearing: June 20, 2023

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Rebecca Bauer-Kahan, Chair

SB 256 (Dodd) – As Amended June 13, 2023

SENATE VOTE: 37-0

SUBJECT: Parklands: City of Davis

SUMMARY: Authorizes the City of Davis (the City) to convey easements, leases, or licenses for habitat conservation projects and carbon sequestration projects on or under eight parcels acquired for wildlife and riparian habitat, wetlands, and potential wetlands by the City with funding from Proposition 70. Specifically, **this bill:**

- 1) Allows the City to convey easements, leases, or licenses for the following purposes:
 - a) Habitat conservation projects consistent with the Yolo Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) on all listed parcels;
 - b) Carbon dioxide sequestration in the pore spaces below three of the eight parcels as well as the necessary equipment to monitor carbon dioxide storage. Requires moneys generated on these plots be used for a purpose authorized by Proposition 70 or returned to the state; and
 - c) Agriculture activities consistent with the Yolo HCP/NCCP.
- 2) Requires that revenue from easements, leases, or licenses allowed on the parcels be used by the City for purposes consistent with Proposition 70.
- 3) Requires the City maintain the scenic, recreational, and wildlife values of the property.
- 4) Clarifies that this bill does not exempt the City or any party from any law that governs the conveyance of conservation easements, leases, or licenses.

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;
 - b) Provides \$2 million to the Department of Parks and Recreation (State Parks) for a grant to the City for the acquisition of wildlife and riparian habitat, wetlands, and potential wetlands within the 1987 Davis General Plan Study [PRC § 5907 (b)(3)(S)];
 - c) Requires that property acquired with funds disbursed under Proposition 70 be maintained and operated perpetuity and allows that responsibility be transferred with the approval of the granting agency (PRC § 5919);

- d) Requires 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); 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).

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

- 1) **Purpose of this bill.** This bill allows the City to convey easements, leases, and licenses over eight properties that were purchased by the City with funding from State Parks authorized by Proposition 70. According to the author, the City would now like the ability to convey easements, leases, and licenses over the properties for additional uses.
- 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.

State Parks' Proposition 70 grant to the City of Davis. Proposition 70 allocated \$2 million to the City, via a grant from State Parks, to acquire wildlife and riparian habitat, wetlands, and potential wetlands within the 1987 Davis General Plan Study Area. In June 1988, State Parks entered into four grant agreements with the City to fund Davis' acquisition of 491.5 acres across eight parcels and four properties for the purpose of preservation and enhancement of riparian habitat, as follows:

- \$67,000 to acquire the Wilbur Property, an 18-acre parcel.
- \$30,000 to acquire the Asmundson Property, a 6.5-acre parcel.
- \$900,000 to acquire the Dow Property, 168 acres across three parcels.
- \$795,152 to acquire the Los Rios Farms Property, 299 acres across three parcels.

The grants included a requirement, consistent with Proposition 70's terms, that the grantee (City of Davis) agree to (1) maintain and operate the property acquired, developed, rehabilitated, or restored in perpetuity and (2) use the property only for the purpose for which the grant funds were requested and authorized unless another use was permitted by the Legislature. 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.

This bill proposes new uses of the property acquired with Proposition 70 funds: to convey easements, leases, and licenses on the land to allow the Yolo Habitat Conservancy to place easements on all eight parcels and allow carbon dioxide storage under three of the eight parcels. According to a December 28, 2020, letter from State Parks, the City does need legislative approval to convey easements, leases, and licenses for this property. In particular, State Parks interprets the requirement in PRC §5919(a)(2) that the applicant "use the property only for the purposes of [Proposition 70] and to make no other use, sale, or *other*

disposition of the property except as authorized by specific act of the Legislature” (emphasis added).

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.

Yolo HCP/NCCP. The Yolo Habitat Conservancy, which consists of Yolo County and the cities of Davis, West Sacramento, Winters, and Woodland, developed the Yolo HCP/NCCP. The plan provides for the conservation of 12 sensitive species and the natural communities and agricultural land on which they depend, as well as a streamlined permitting process to address the effects of a range of future anticipated activities on these 12 species. The 12 species are palmate-bracted bird’s beak, valley elderberry longhorn beetle, California tiger salamander, western pond turtle, giant garter snake, Swainson’s hawk, white-tailed kite, western yellow-billed cuckoo, western burrowing owl, Least Bell’s vireo, bank swallow, and tricolored blackbird.

Although Proposition 70 requires the City to maintain or operate the acquired wildlife and riparian habitat, wetlands, and potential wetlands in perpetuity, allowing further conservation easements according to the Yolo HCP/NCCP is a new disposition that this bill would authorize for all eight of the listed parcels. Additionally, agriculture like row crops provide valuable foraging habitat for some of the species listed above and enriches the riparian habitat. This bill protects habitat-friendly agricultural practices on these parcels.

Geologic carbon sequestration. In the process of storing carbon dioxide deep underground in geological formation, first, the captured carbon dioxide, generally from an industrial source, is pressurized until it becomes liquid and is then injected into porous rocks where it will remain isolated for a long period of time. Locations suitable for geological carbon sequestration have deep porous geological formations that are overlain by another layer of impermeable caprock to seal in the injected carbon dioxide. Risks associated with geologic carbon dioxide storage include leakage, pressure buildup that could fracture the caprock, and water contamination. To prevent these risks, carbon dioxide pressure, water quality, and seismic activity are monitored. Well-regulated storage may store over 98% carbon dioxide for over 10,000 years.¹

This bill would allow carbon dioxide to be stored in pore spaces deep underground the three identified parcels acquired by the City with Proposition 70 funds. Further, the project may, as required by certain laws and regulations, include monitoring wells and other related equipment and facilities located on the surface of these three parcels to monitor the carbon dioxide under the ground over time and ensure it stays put.

- 3) **Arguments in support.** The City of Davis, Yolo Conservancy, and DTE Vantage write in support. The City states that these parcels are “required to establish a habitat reserve of contiguous properties in Yolo County to provide critical habitat for 12 sensitive species. [This bill] also allows the City to consider participating in a regional carbon capture project,

¹ Alcalde, J., Flude, S., and Wilkinson, M. *et al.* Estimated geological CO₂ storage security to deliver on climate mitigation. *Nature Communications*, 9, 2201 (2018) <https://doi.org/10.1038/s41467-018-04423-1/>

supported by the State of California, which would store carbon from renewable biomass energy activities, deep underground, for climate mitigation.”

- 4) **Related legislation.** SB 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.

AB 2063 (Negrete McLeod), Chapter 377, Statutes of 2004, authorized the County of San Bernardino to sell property that was purchased with Proposition 70 bond funds, established requirements for the sale of those properties, and established requirements for the use of the moneys generated from the sale of those properties.

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.

REGISTERED SUPPORT / OPPOSITION:

Support

City of Davis
DTE Vantage
Yolo Habitat Conservancy

Opposition

None on file

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