

Senate Bill No. 527

CHAPTER 273

An act to amend Sections 51201 and 51231 of the Government Code, relating to local government.

[Approved by Governor September 6, 2019. Filed with Secretary of State September 6, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 527, Caballero. Local government: Williamson Act: cultivation of cannabis and hemp.

The California Land Conservation Act of 1965, otherwise known as the Williamson Act, authorizes a city or county to contract with a landowner to limit the use of agricultural land located in an agricultural preserve designated by the city or county. Existing law requires the board of supervisors or city council, as applicable, to adopt rules governing the administration of agricultural preserves, including rules related to compatible uses consistent with specified principles of compatibility. Existing law defines "agricultural preserve" for these purposes to include an area devoted to agricultural use, which is further defined as a use of land for the purpose of producing an agricultural commodity for commercial purposes.

This bill would provide that industrial hemp, cultivated in accordance with specified law, is an agricultural commodity for these purposes.

This bill would authorize these rules to provide that commercial cultivation of cannabis pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act may constitute a compatible use on contracted or noncontracted lands within an agricultural preserve. The bill would state these provisions are declaratory of existing law.

The people of the State of California do enact as follows:

SECTION 1. Section 51201 of the Government Code is amended to read:

51201. As used in this chapter, unless otherwise apparent from the context, the following terms have the following meanings:

(a) "Agricultural commodity" means any and all plant and animal products produced in this state for commercial purposes, including, but not limited to, plant products used for producing biofuels, and industrial hemp cultivated in accordance with Division 24 (commencing with Section 81000) of the Food and Agricultural Code.

(b) “Agricultural use” means use of land, including but not limited to greenhouses, for the purpose of producing an agricultural commodity for commercial purposes.

(c) “Prime agricultural land” means any of the following:

(1) All land that qualifies for rating as class I or class II in the Natural Resource Conservation Service land use capability classifications.

(2) Land which qualifies for rating 80 through 100 in the Storie Index Rating.

(3) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.

(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 two hundred dollars (\$200) per acre.

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

(d) “Agricultural preserve” means an area devoted to either agricultural use, as defined in subdivision (b), recreational use as defined in subdivision (n), or open-space use as defined in subdivision (o), or any combination of those uses and which is established in accordance with the provisions of this chapter.

(e) “Compatible use” is any use determined by the county or city administering the preserve pursuant to Section 51231, 51238, or 51238.1 or by this act to be compatible with the agricultural, recreational, or open-space use of land within the preserve and subject to contract. “Compatible use” includes agricultural use, recreational use or open-space use unless the board or council finds after notice and hearing that the use is not compatible with the agricultural, recreational or open-space use to which the land is restricted by contract pursuant to this chapter.

(f) “Board” means the board of supervisors of a county which establishes or proposes to establish an agricultural preserve or which enters or proposes to enter into a contract on land within an agricultural preserve pursuant to this chapter.

(g) “Council” means the city council of a city which establishes or proposes to establish an agricultural preserve or which enters or proposes to enter into a contract on land within an agricultural preserve pursuant to this chapter.

(h) Except where it is otherwise apparent from the context, “county” or “city” means the county or city having jurisdiction over the land.

(i) A “scenic highway corridor” is an area adjacent to, and within view of, the right-of-way of:

(1) An existing or proposed state scenic highway in the state scenic highway system established by the Legislature pursuant to Article 2.5

(commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code and which has been officially designated by the Department of Transportation as an official state scenic highway; or

(2) A county scenic highway established pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code, if each of the following conditions have been met:

(A) The scenic highway is included in an adopted general plan of the county or city; and

(B) The scenic highway corridor is included in an adopted specific plan of the county or city; and

(C) Specific proposals for implementing the plan, including regulation of land use, have been approved by the Advisory Committee on a Master Plan for Scenic Highways, and the county or city highway has been officially designated by the Department of Transportation as an official county scenic highway.

(j) A “wildlife habitat area” is a land or water area designated by a board or council, after consulting with and considering the recommendation of the Department of Fish and Game, as an area of importance for the protection or enhancement of the wildlife resources of the state.

(k) A “saltpond” is an area which, for at least three consecutive years immediately prior to being placed within an agricultural preserve pursuant to this chapter, has been used for the solar evaporation of seawater in the course of salt production for commercial purposes.

(l) A “managed wetland area” is an area, which may be an area diked off from the ocean or any bay, river or stream to which water is occasionally admitted, and which, for at least three consecutive years immediately prior to being placed within an agricultural preserve pursuant to this chapter, was used and maintained as a waterfowl hunting preserve or game refuge or for agricultural purposes.

(m) A “submerged area” is any land determined by the board or council to be submerged or subject to tidal action and found by the board or council to be of great value to the state as open space.

(n) “Recreational use” is the use of land in its agricultural or natural state by the public, with or without charge, for any of the following: walking, hiking, picnicking, camping, swimming, boating, fishing, hunting, or other outdoor games or sports for which facilities are provided for public participation. Any fee charged for the recreational use of land as defined in this subdivision shall be in a reasonable amount and shall not have the effect of unduly limiting its use by the public. Any ancillary structures necessary for a recreational use shall comply with the provisions of Section 51238.1.

(o) “Open-space use” is the use or maintenance of land in a manner that preserves its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide habitat for wildlife, or for the solar evaporation of seawater in the course of salt production for commercial purposes, if the land is within:

(1) A scenic highway corridor, as defined in subdivision (i).

(2) A wildlife habitat area, as defined in subdivision (j).

- (3) A saltpond, as defined in subdivision (k).
- (4) A managed wetland area, as defined in subdivision (l).
- (5) A submerged area, as defined in subdivision (m).
- (6) An area enrolled in the United States Department of Agriculture Conservation Reserve Program or Conservation Reserve Enhancement Program.

(p) “Development” means, as used in Section 51223, the construction of buildings or the use of the restricted property if the buildings or use are unrelated to the agricultural use, the open-space use, or uses compatible with either agricultural or open-space uses of the property, or substantially impair the agricultural, open-space, or a combination of the agricultural and open-space uses of the property. Agricultural use, open-space use, uses compatible with either agricultural or open-space uses, or the acquisition of land or an interest in land are not development.

SEC. 2. Section 51231 of the Government Code is amended to read:

51231. (a) For the purposes of this chapter, the board or council, by resolution, shall adopt rules governing the administration of agricultural preserves, including procedures for initiating, filing, and processing requests to establish agricultural preserves. Rules related to compatible uses shall be consistent with the provisions of Section 51238.1. Those rules shall be applied uniformly throughout the preserve. The board or council may require the payment of a reasonable application fee. The same procedure that is required to establish an agricultural preserve shall be used to disestablish or to enlarge or diminish the size of an agricultural preserve. In adopting rules related to compatible uses, the board or council may enumerate those uses, including agricultural laborer housing, that are to be considered to be compatible uses on contracted lands separately from those uses that are to be considered to be compatible uses on lands not under contract within the agricultural preserve.

(b) The rules adopted pursuant to this section may provide that commercial cultivation of cannabis in accordance with Division 10 (commencing with Section 26000) of the Business and Professions Code may constitute a compatible use on contracted or noncontracted lands.

SEC. 3. The addition of subdivision (b) to Section 51231 of the Government Code by this act does not constitute a change in, but is declaratory of, existing law.