

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Chief Executive Office

BOARD AGENDA # B-9

Urgent

Routine

CEO Concurs with Recommendation YES NO

(Information Attached)

AGENDA DATE September 29, 2009

4/5 Vote Required YES NO

SUBJECT:

Request to Appoint an Ad Hoc Committee to Develop Recommendations Regarding Williamson Act Administration and Direct the Chief Executive Officer to Notify the Appropriate State Officials of the County's Intent to Determine the Long Term Viability of the Williamson Act Program if Subvention Funding is Not Restored in Fiscal Year 2010-2011

STAFF RECOMMENDATIONS:

1. Direct the Chief Executive Officer to notify the appropriate State officials of the County's intent to determine the long-term viability of the Williamson Act Program if subvention funding is not restored in Fiscal Year 2010-2011.
2. Appoint a Board of Supervisors Ad Hoc Committee to review various options regarding the Williamson Act Program and return to the Board with recommendations regarding future program policies should subvention funding not be restored in Fiscal Year 2010-2011.

FISCAL IMPACT:

The withholding of subvention funding from the State of California will result in the loss of approximately \$1.4 million in General Fund discretionary revenue in Fiscal Year 2009-2010. Should the State choose to withhold subvention funds in future years, the fiscal impact to Stanislaus County could be the same or greater each year.

BOARD ACTION AS FOLLOWS:

No. 2009-663

THIS ITEM WAS REMOVED FROM THE AGENDA.
NO ACTION WAS TAKEN.

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Page 2

DISCUSSION

Stanislaus County, as well other counties participating in the Williamson Act Program, have received an annual subvention from the State to offset property tax losses and administration costs associated with the Williamson Act Program. This subvention funding, which has been in place since the early 1970's, has been under repeated review during State Budget negotiations for several years, and for all practical purposes was eliminated as part of the 2009-2010 Adopted State Budget, with a token \$1,000 appropriated as a placeholder.

Should the State Legislature and Governor decide to continue to withhold subvention funds as part of the 2010-2011 State Budget, on a permanent or long-term basis, the Board of Supervisors may wish to consider overall policy issues related to Williamson Act administration. Possible options include:

1. Do Nothing - The Board could consider continuing to participate in the Williamson Act Program and accept the loss of subvention funds.
2. Accept No New Contracts – The Board could adopt a policy to not accept any new parcels into the Williamson Act Program. Several challenges would need to be addressed as part of this option. The Government Code requires that all landowners within the adopted Agricultural Preserve be given the same opportunity to enroll in Williamson Act contracts. The Code goes on to prevent a County from denying a qualified landowner the opportunity to participate if their land is within the Agricultural Preserve. Currently, Stanislaus County's defined Agricultural Preserve includes the entirety of the A-2 zone, and as such all landowners within the A-2 zone must be given equal opportunity to participate. In order to accommodate this option, the Board would need to consider the establishment of several defined Agricultural Preserves. At this time, there are four applications for new Williamson Act contracts covering a total of approximately 310 acres. This option will require the Board to take a separate action re-defining the boundaries of the Agricultural Preserve.
3. Audit "Non-Prime" Williamson Act Contracts and File Notices of Non-Renewal on all Non-Complying Parcels – The Board of Supervisors is currently considering filing notices of non-renewal on all parcels less than 10 acres in size because they do not meet the minimum size criteria for "prime farmlands" as adopted by the State and the County. This action does not take into account the potential of "non-prime" farmlands that may be less than 40 acres in size. Under this option, an audit would be conducted of "non-prime" farmlands to determine, which, if any of those parcels do not meet the size eligibility. Notices of non-renewal would be filed on those parcels failing to meet the size criteria. This option would require a significant amount of staff time to evaluate approximately 1,320 separate Assessor's Parcels.

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Page 3

4. Audit all Williamson Act Parcels for Marginal Uses and File Notices of Non-Renewal on all Non-Complying Parcels – As allowed by Government Code, Stanislaus County has adopted Uniform Rules to clearly identify the contract terms for every landowner of agricultural land within the agricultural preserve. When contracts are originally entered into, the County ensures that contract terms and compatible uses are met. However, on-going monitoring of all contracts has been sporadic. Under this option, an audit would be conducted of all parcels to determine whether existing uses on the site continue to be compatible with the Williamson Act. Notices of non-renewal and/or immediate cancellation and financial penalties would be filed or imposed on those parcels failing to meet current contract terms.

Counties are given the authority to determine locally compatible uses and Stanislaus County has adopted principles of compatibility in the adopted Uniform Rules. However, the State has the ultimate authority to determine whether there is a “material breach” of the contract. Effective January 1, 2004, AB 1492 amended the Government Code as it relates to material breaches of contracts. AB 1492 includes very specific and costly penalties to the landowners and the threat of financial penalty to the County should any breach of the contract be discovered and not eliminated. If a material breach is determined to exist by the County, the landowner may be subject to: 1) removal of the conditions that resulted in the material breach within 60 days of determination or 2) payment of a monetary penalty in the amount of 25% of the unrestricted fair market value of the land rendered incompatible by the breach, plus 25% of the value of the incompatible building and any related improvements on the contracted land. All penalties are payable directly to the State and the County does not receive any portion of the penalty.

This option would require extensive staff time to evaluate compatibility on approximately 8,324 separate Assessor's Parcels (approximately 700,000 acres) and could lead to significant penalties imposed on landowners determined to be in material breach.

5. Blanket Non-Renewal of all Williamson Act Parcels – Some counties are considering discontinuing participation in the Williamson Act Program altogether. For example, in July 2009, the Fresno County Board of Supervisors considered discontinuing participation in the Williamson Act and recommended that staff prepare a letter to participating landowners to that effect. It should be noted that this option would require a modification to policies and implementation measures contained in Stanislaus County's General Plan that strongly encourage participation and identify the Williamson Act as an important tool to help preserve valuable agricultural lands and soils. This option would affect over 8,324 separate parcels (approximately 700,000 acres) and could result in significant

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Page 4

additional tax burdens to landowners. This action may also trigger environmental review under the California Environmental Quality Act (CEQA).

6. Legislative Remedy or Relief – In the absence of State financial support for the Williamson Act Program, counties could lobby to make the Williamson Act Program a locally controlled, implemented and administered program, removing onerous State Department of Conservation oversight from the Program. Contracts could be directly between the property owner and the County. Contract cancellation penalties should be returned directly to the County.

It is requested that the Board of Supervisors appoint an Ad Hoc Committee to consider the various options regarding the administration of the Williamson Act Program and return to the Board with recommendations regarding future program policies should subvention funding not be restored as part of the Fiscal Year 2010-2011 State Budget. It is further recommended that the Chief Executive Officer be directed to notify State representatives of various options under consideration should the Williamson Act Program no longer be supported by the State of California through adequate funding.

POLICY ISSUES

Participation in the Williamson Act Program has been a key component of the Board of Supervisors goals and priorities as defined in the Agricultural Element of the General Plan and supports the Board of Supervisors' adopted Priority Goals and Proposed Outcomes under a Strong Agricultural Economy/Heritage.

STAFFING ISSUES

Existing staff from the Chief Executive Office, Department of Planning and Community Development, Assessor and County Counsel will provide support to the Board Ad Hoc Committee in the development of recommendations.