

**SENATE LOCAL GOVERNMENT COMMITTEE TESTIMONY**  
**PAUL WENGER, PRESIDENT**  
**CALIFORNIA FARM BUREAU FEDERATION**

**MARCH 3, 2010**

Mr. Chairman and Members,

My name is Paul Wenger and I'm president of the California Farm Bureau Federation. I appreciate the opportunity to be with you this morning to represent landowners in this discussion of the California Land Conservation Act of 1965, popularly known as the Williamson Act.

By any measure the Williamson Act is California's most important agricultural land conservation program. It provides long-term protection for over half of the state's privately owned cropland. That is 16.5 million acres of our most precious soil resources that when combined with Mediterranean Climate and a once plentiful water supply generates over \$30 billion in food and fiber annually and helps to provide food security to our nation.

From our perspective, it is truly a sad day that we are actually here discussing the continued relevance of what many consider to be California's most important environmental protection law be it past, present or future.

Any assumption that the Act may have outlived its usefulness gives little recognition to John Williamson's nightmare vision of California: an imminently threatened food producing landscape that deserved protection from real estate speculators/developers and a property tax system that forced farmers and ranchers to abandon their land and their source of livelihood.

Imagine what California would look like today without Assemblyman Williamson's Land Conservation Act. We would be living with far more urban sprawl and air pollution, more leapfrog suburban development and low-density ranchette subdivisions. All at the expense of our state's most precious resource and those that produce much of our food.

The idea that the state no longer needs the Williamson Act is a little like saying that we don't need the three strikes law anymore because it has worked so well. The laws that provide public safety, like food security, are far too important to simply cast aside because they've been so effective over time.

Farm Bureau has been a strong supporter of the Williamson Act since its inception. We have also worked tirelessly to protect the program's integrity for both participating landowners and California's taxpayers. We've sponsored numerous changes in law to clarify and protect how the Williamson Act was intended to work. For example, we helped write the principles of compatibility in the Act so counties could better protect the agricultural preserves from incompatible non-farming uses. Thanks to Farm Bureau's perseverance from 1989 to 1994 compatible uses cannot compromise, displace or impair current or reasonably foreseeable agricultural use of the restricted parcels. Nor can they lead to the removal of adjacent land from agricultural production. Today, one of the biggest threats to our prime farmland is large-scale solar projects that will likely convert hundreds of thousands of acres of prime farmland to an industrial use.

Farm Bureau also was proud to sponsor SB 985 by Senator Pat Johnston in 1998 that closed numerous loopholes in the program. Although not considered a significant milestone in your briefing paper, farmers

and ranchers considered it a major victory to ban water ski lakes, golf courses, driving ranges, and ball fields from agricultural preserves. The bill also codified the opinions of three attorneys general relative to the subdivision of Williamson Act land, and tightened the Subdivision Map Act provisions relative to the division of contracted land into residential home sites. Unfortunately, the Act today is still threatened by the continued abuse of the Subdivision Map Act through the creation of scattered low-density residential home sites where the agriculture is incidental to the residential use instead of the other way around. That loophole needs to be closed, as well.

As you've heard today the biggest threat to the program is the state's lack of commitment to fund the Open Space Subvention program. For nearly 40 years the state has helped to backfill counties' foregone property tax revenue in order to encourage participation in the program. In 1993, we helped negotiate the current subvention formula in SB 683 that was approved 65 to 10 in the Assembly and 33 to 5 in this body because it was a vital part of the overall budget agreement that included the creation of the Educational Revenue Augmentation Fund in the state's General Fund and shifted \$2.6 billions annually in local property tax revenue to the state. Due to the fact that rural counties lacked the sales tax base to raise enough revenue from the half-cent shift from the state's portion of the sales and use tax earmarked to protect public safety funding, the Legislature and Governor Wilson agreed to increase the Open Space subvention funding from \$15M to \$36M.

Today, because rural counties, by definition, have much lower total assessed value on the property tax rolls than more urban counties, the state's subventions have become a crucial component of these counties' financing. If the state continues to walk away from its commitment to rural counties, while still taking their property tax revenue for ERAF, some of our most important agricultural counties will have no choice but to issue blanket nonrenewal notices on all of their landowners' Williamson Act contracts. This would result in the de-facto repeal of the California Land Conservation Act.

Imperial County took this unprecedented move just last week and, make no mistake; Farm Bureau rues that day but we hope it might serve as a wake-up call and lead to a recommitment on the part of the state to help fund this most successful farm and ranch land protection program in our state's history.

I would like to address some of the issues raised in the committee's briefing paper:

- The LAO's "general skepticism of the Williamson Act's benefits" is not well thought-out and clearly misses the mark. Virtually all land in California is threatened by parcelization, and scattered low-density subdivision in our state's watersheds has been highlighted, ironically by the LAO, as one of the reasons for increased fire risk in the State Responsibility Areas.
- The second paragraph of the LAO's 2004 statement on page 10 of the Briefing Paper further alleged that Williamson Act contracts "simply delay for a relatively short period of time the development of open space and agricultural land." Yet it is clear from the previous page that as much as 14.4 million acres of land have been under contract for at least 35 years, and much of that land continues to be conserved today.
- We clearly believe that the five statewide benefits of promoting food security, encouraging agricultural support industries and their jobs, curbing sprawl, avoiding the need for costly public facilities and services, and promoting environmental quality, resource values, and quality of life remain very incredibly important and worth continued protection.
- We view inappropriate cancellations of Williamson Act contracts as a violation of those contracts and would support stronger requirements consistent with the California Supreme Court's rulings on this matter.

- We fear that earmarking cancellation penalty fees as a partial source of funding for county subventions would provide an inappropriate incentive to county boards of supervisors to immediately cancel contracts. This would be contrary to the California Supreme Court holding that nonrenewal is the proper way to exit a contract. The court reasoned that because the California Constitution requires land to be “enforceably restricted” in order to receive preferential property tax treatment, immediate cancellation should be reserved for extraordinary circumstances and not just because the land is ripe for development.
- On the other hand, we would strongly support earmarking material breach penalty fee revenue as a partial source of funding for county subventions.
- We would strongly oppose any weakening of the Williamson Act’s compatible use principles in order to extract a fee from those that want to significantly compromise, displace or impair agricultural production in our agricultural preserves. Sacrificing hundred of thousands of acres of contracted farm and ranch land for the sake of a few dollars of subvention funds will certain result in the death of the program by a thousand cuts.

Finally, I would simply like to remind you all that the state has an important and very significant investment in the California Land Conservation Program. It is a program that may not be perfect but it is elegant by design and proven effective for nearly half a century. Allowing the counties to assume the lead role without continued state oversight and enforcement capability would simply put the proverbial fox in the hen house. The Department of Conservation’s audit program has been effective and should continue in order to protect the state’s large investment in farmland conservation. The notion that state should toss out this venerable state law in favor of a “Williamson Act 2.0” is very troubling. We fear the 2.0 version will full of viruses that will crash the program and California’s food producing heritage will be lost.

Thank you and I look forward to answering any questions you might have.