



California
**Department of
Conservation**
Division of Land
Resource Protection

Williamson Act

Land Conservation Act of 1965

SB 1489 (2022) Solar Use Easements Overview

February 2023

Division of Land Resource Protection

Williamson Act / CEQA

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Williamson Act (Land Conservation Act of 1965)

Local governments enter contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use. In return, landowners receive property tax assessments which are much lower than normal because they are based upon farming and open space uses as opposed to full market value.





Solar Use Easements



Solar Use Easement Background

- Original SUE (SB 618, 2011)
- SUE expired in 2020
- Revived by omnibus bill (SB 1489, 2022)



Senate Bill 1489 Local Government Omnibus Act of 2022

- What is an omnibus bill? This Act ...” combines several minor, noncontroversial statutory changes relating to the common theme, purpose, and subject of local government into a single measure.”
- In Sec. 11, added Section 51255.1 to Government Code (GC)
- Revived the Solar Use Easement (SUE) GC that expired/sunseted in 2020 with changes
- County/city planners and assessor’s office staff will need to determine their workflow
- State’s workflow based on California Code of Regulations

SB 1489 – Solar Use Easements



SEC. 11. *Section 51255.1 is added to the Government Code, to read:*

51255.1. *(a) Notwithstanding any other provision of this chapter, the parties may, upon their mutual agreement, rescind a contract for a parcel or parcels of land that, upon review and approval, are determined by the Department of Conservation to be eligible to be placed into a solar-use easement pursuant to Section 51191 in order to simultaneously enter into a solar-use easement pursuant to Chapter 6.9 (commencing with Section 51190). This action may be taken notwithstanding the prior serving of a notice of nonrenewal.*

(b) Nothing in this section limits the ability of the parties to a contract to seek nonrenewal or to petition for cancellation or termination of a contract pursuant to this chapter. This section is provided in addition to, not in replacement of, other methods for contract termination, Williamson Act compliance, or a county finding that a solar facility is a compatible use pursuant to this chapter.

(c) (1) Prior to the board or council agreeing to mutually rescind a contract pursuant to this section, the county assessor of the county in which the land is located shall determine the current fair market value of the land as though it were free of the contractual restriction. The assessor shall certify to the board or council the fair market valuation of the land for the purpose of determining the rescission fee. At the same time, the assessor shall send a notice to the landowner and the Department of Conservation indicating the current fair market value of the land as though it were free of the contractual restriction and advise the parties that, upon their request, the assessor shall provide all information relevant to the valuation, excluding third-party information. If any information is confidential or otherwise protected from release, the department and the landowner shall hold it as confidential and return or destroy any protected information upon termination of all actions relating to valuation or rescission of the contract on the property. The notice shall also advise the landowner and the department of the opportunity to request formal review from the assessor.

(2) Prior to agreeing to mutually rescind a contract pursuant to this section, the board or council shall determine and certify to the county auditor the amount of the rescission fee that the landowner shall pay the county treasurer upon rescission. That fee shall be an amount equal to 6 ¹/₄ percent of the fair market valuation of the property if the land was held under a contract pursuant to Section 51240, and 12 ¹/₂ percent if the land was held in a contract designating the property as a farmland security zone.

(3) When rescission fees required by this subdivision are collected, they shall be transmitted by the county treasurer to the Controller and deposited in the General Fund, except as provided in subdivision (d) of Section 51283. The funds collected by the county treasurer with respect to each rescission of a contract shall be transmitted to the Controller within 30 days of the execution of the mutual rescission of the contract by the parties.

(4) It is the intent of the Legislature that fees paid to rescind a contract do not constitute taxes, but are payments that, when made, provide a private benefit that tends to increase the value of the property.



Solar Use Easement– Local Government’s Role

- Local government and landowners should review statutes at GC sections 51191-51191.8 and 51255.1
- DOC adopted regulations in 2014 that explain criteria and requirements. See CCR title 14, Div 2, Chap 6, Article 2
 - Provides detailed info needed to support DOC approval of a SUE
 - “Substantial evidence”



Solar Use Easement - CCR

- California Code of Regulations
- Find at Thomson Reuters Westlaw
 - Title 14, Natural Resources > Division 2 Department of Conservation > Chapter 6 Division of Land Resource Protection > Article 2 Solar-Use Easements
- Detailed items to be addressed to submit to DOC for review and approval
- DOC won't provide opinions on eligibility until local government provides DOC a formal request and complete application with supporting evidence and analysis per CCRs
- DOC will direct all initial eligibility inquiries from landowners and solar developers to local governments

Article 2. Solar-Use Easements

[§ 3100. Solar-Use Easement Consultation Fee.](#)

[§ 3101. Definitions.](#)

[§ 3102. Application for, and Documents Regarding, a Solar-Use Easement.](#)

[§ 3103. Written Narrative Regarding Eligibility Based on Soil, Chemical, or Physical Properties.](#)

[§ 3104. Soil Test Report.](#)

[§ 3105. Water Availability Analysis.](#)

[§ 3106. Water Quality Analysis.](#)

[§ 3107. Crop and Yield Information.](#)

[§ 3108. Soil Management and Site Restoration.](#)

[§ 3109. Additional Requirements.](#)

[§ 3110. Site Inspections.](#)

[§ 3111. Restoration Security Amount.](#)

[§ 3112. Restoration Security Instruments.](#)

[§ 3113. Reduction or Release of Restoration Security.](#)

[§ 3114. Amendment Fee.](#)

[§ 3115. Forfeiture of Restoration Security.](#)

[§ 3116. Criteria for Determining Financial Capability.](#)

[§ 3117. Procedure for Forfeiture of Restoration Security - Public Hearing.](#)





Solar Use Easement - Fees

- Recission Fee = 6.25% for standard Williamson Act contracts; 12.5% for Farmland Security Zone contracts.
 - The fee is a reduction of the amount from the prior standard SUE fee and an increase for FSZ (prior was 10% for both)
- Counties used to receive half of the recission fee of 10% (therefore 5%) under the prior SUE language; with SB 1489, the county/city does not receive anything
- Fees are submitted just as cancellation fees are submitted; within 30 days by the county treasurer to the state Controller.



Solar Use Easement – DOC's Role



California
Department of Conservation

- Unknown demand; only three SUEs pursued in the nine years prior
- Time for DOC to process recission applications is unknown given resource constraints
- Review period will depend on quality and thoroughness of applications
- Encourages early notification of anticipated applications for SUEs
- DOC's role will follow the California Code of Regulations – review of required elements and 1) approval; or 2) request for more substantial evidence



Discretionary Local Government Tools & Potential Options for Consideration

- ✓ WA contract termination: non-renewal or cancellation; public acquisition
- ✓ Solar Use Easements
- ✓ WA Compatible Use findings / local rules
- ✓ Land Use & Zoning
- ✓ General Plan policies to guide solar projects toward electrical corridors to tie into the grid; away from prime ag lands
 - ✓ Mitigation for loss of farmland
 - ✓ Incentives or land use/zoning for locating solar projects in lower quality farmland areas or in solar priority areas
 - ✓ Flexibility in critical groundwater shortage areas (SGMA) for multi-benefit land repurposing
 - ✓ Incentives for agrivoltaics (combo of solar panels and crops or animals)
 - ✓ Require reclamation plans



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TL; DR

Solar Use Easements

SB 1489 provides a Solar Use Easement option on Williamson Act contract lands:

- Discretionary opt-in by local government
- Changed fees from 10% to 6.25% on standard WA contract; increased to 12.5% for FSZ; no part of fee to local government
- Local government needs to create process for SUE
- Local government will need to submit detailed report and fees to DOC (see California Code of Regulations)
- DOC will implement according to California Code of Regulations
- DOC will refer all eligibility questions to county/city as each jurisdiction has their own specific local rules for options
- DOC will need to be provided with substantial evidence and review and approval will depend on thoroughness of information provided

DOC can provide technical assistance regarding interpretation of the Williamson Act.

DOC cannot provide legal advice. Consult your own legal counsel.





Links



- [SB 1489 Omnibus Act of 2022](#)

(Solar Use Easements bill, revived 2023 effective)

- [Senate Bill 618, Statutes of 2011, Chapter 596](#)

(Original Solar Use Easements bill)

- [Gov. Code, § 51191-51191.8](#)

(Solar Use Easements Government Code)

- [Gov. Code, § 51255.1](#)

(Recission and simultaneously enter SUE; Government Code)

- [Cal. Code Regs., tit. 14, §§ 3100-3117](#)

(Detailed regulations for implementation of SUE)

- [DOC Solar Use Easements webpage](#)



THANK YOU

Questions?

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