

AMENDED IN SENATE JUNE 29, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2964**

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**Introduced by Committee on Agriculture (Assembly Members Robert Rivas (Chair), Mathis (Vice Chair), Aguiar-Curry, Cunningham, Flora, Gray, Irwin, Jones-Sawyer, Levine, Villapudua, and Wood)**

March 14, 2022

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An act to amend Sections 10211, 10212, 10213, 10221, 10223, 10224, 10231, 10231.5, 10235, 10236, 10237, 10238, 10242, 10246, 10250, 10251, 10252, 10262, 10263, and 10264 of, to amend the headings of Chapter 2 (commencing with Section 10230) and Chapter 4 (commencing with Section 10260) of Division 10.2 of, to amend the heading of Division 10.2 (commencing with Section 10200) of, to repeal Sections 10230.5, 10234, 10244, 10252.5, 10255, and 10262.1 of, to repeal Chapter 5 (commencing with Section 10270) of Division 10.2 of, and to repeal and add Sections 10216, 10230, ~~10233~~, 10243, 10254, and 10260.5 of, the Public Resources Code, relating to agricultural land, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2964, as amended, Committee on Agriculture. Agricultural land conservation: California Farmland Conservancy Program Act.

Existing law establishes the California Farmland Conservancy Program Act, to be administered generally by the Department of Conservation, and provides that it is the intent of the act to, among other things, encourage voluntary, long-term private stewardship of agricultural lands by offering landowners financial incentives, encourage local land use planning for orderly and efficient urban growth and

conservation of agricultural land, and encourage improvements to enhance long-term sustainable agricultural uses. The act creates the California Farmland Conservancy Program Fund and requires, except as provided, moneys in the fund, upon appropriation, to be used for the purposes of the California Farmland Conservancy Program, which include, among other things, the purchase of agricultural conservation easements, fee title acquisition grants, and land improvement and planning grants. The act requires an agricultural conservation easement to be granted to any organization or entity authorized to acquire and hold conservation easements, as specified.

This bill would revise and recast provisions of the California Farmland Conservancy Program Act to, among other things, abolish the California Farmland Conservancy Program Fund, authorize the California Farmland Conservancy Program to offer financial assistance, including grants or contracts, for projects and activities on agricultural lands that support agricultural conservation and sustainable land management, expand the authorization of the department to pay direct costs associated with the acquisition of an easement or fee title, ~~repeal matching requirements for funding under the program~~, and revise requirements on the department to be fulfilled before disbursing funding under the program, as specified.

Existing law authorizes the department to accept donations if the department is the designated beneficiary of the donation and agrees to use the moneys for purposes of the California Farmland Conservancy Program in a county specified by the donor.

This bill would revise that authorization and continuously appropriate those moneys to the department for purposes of the program.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
 State-mandated local program: no.

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

1 SECTION 1. The heading of Division 10.2 (commencing with  
 2 Section 10200) of the Public Resources Code is amended to read:

3  
 4  
 5  
 6

DIVISION 10.2. CALIFORNIA FARMLAND  
 CONSERVANCY PROGRAM ACT

7 SEC. 2. Section 10211 of the Public Resources Code is  
 8 amended to read:

1 10211. “Agricultural conservation easement,” “conservation  
2 easement,” or “easement” means an interest in land, less than fee  
3 simple, that represents the right to prevent the development or  
4 improvement of the land, as specified in Section 815.1 of the Civil  
5 Code, for any primary purpose other than agricultural production.  
6 The easement shall be granted for the California Farmland  
7 Conservancy Program by the owner of a fee simple interest in land  
8 to any of the organizations or entities specified in Section 815.3  
9 of the Civil Code. It shall be granted in perpetuity as the equivalent  
10 of covenants running with the land.

11 SEC. 3. Section 10212 of the Public Resources Code is  
12 amended to read:

13 10212. “Applicant” means an entity listed in Section 815.3 of  
14 the Civil Code that applies for a grant authorized pursuant to this  
15 division.

16 SEC. 4. Section 10213 of the Public Resources Code is  
17 amended to read:

18 10213. (a) “Agricultural land” means prime farmland, farmland  
19 of statewide importance, unique farmland, farmland of local  
20 importance, and grazing land as defined in the Guidelines for the  
21 Farmland Mapping and Monitoring Program, pursuant to Section  
22 65570 of the Government Code.

23 (b) In those areas of the state where lands have not been  
24 surveyed for classification pursuant to subdivision (a), land shall  
25 meet the requirements of “prime agricultural land” as set forth in  
26 subdivision (c) of Section 51201 of the Government Code.

27 SEC. 5. Section 10216 of the Public Resources Code is  
28 repealed.

29 SEC. 6. Section 10216 is added to the Public Resources Code,  
30 to read:

31 10216. “Restriction” has the same meaning as that term is  
32 defined in Section 784 of the Civil Code.

33 SEC. 7. Section 10221 of the Public Resources Code is  
34 amended to read:

35 10221. “Nonprofit organization” means an organization  
36 described in subdivision (a) of Section 815.3 of the Civil Code.

37 SEC. 8. Section 10223 of the Public Resources Code is  
38 amended to read:

39 10223. “Secretary” means the Secretary of the Natural  
40 Resources Agency.

1 SEC. 9. Section 10224 of the Public Resources Code is  
2 amended to read:

3 10224. “Resource conservation district” means a resource  
4 conservation district established pursuant to Division 9  
5 (commencing with Section 9001).

6 SEC. 10. The heading of Chapter 2 (commencing with Section  
7 10230) of Division 10.2 of the Public Resources Code is amended  
8 to read:

9  
10 CHAPTER 2. CALIFORNIA FARMLAND CONSERVANCY PROGRAM  
11

12 SEC. 11. Section 10230 of the Public Resources Code is  
13 repealed.

14 SEC. 12. Section 10230 is added to the Public Resources Code,  
15 to read:

16 10230. (a) The California Farmland Conservancy Program is  
17 hereby established in the department.

18 (b) The program may offer financial assistance, including grants  
19 or contracts, for projects and activities on agricultural lands that  
20 support agricultural conservation and sustainable land management,  
21 including, but not limited to, any of the following:

22 (1) Acquisition of agricultural conservation easements or fee  
23 title to protect the land’s agricultural use or capacity that meets  
24 the following requirements:

25 (A) The primary purpose for which the easement or fee title is  
26 being sought is consistent with continuing agricultural use of the  
27 property.

28 (B) The easement or fee title does not, and will not, substantially  
29 prevent agricultural uses on the property.

30 (C) Any nonagricultural qualities that will be protected by the  
31 easement or fee title, if applicable, are inherent to the property.

32 (2) Improvements to land protected by a conservation easement,  
33 deed restriction, or similar long-term agreement as determined by  
34 the director.

35 (3) Plans to protect and conserve agricultural lands and plans  
36 to protect, conserve, restore, or enhance resources or values located  
37 on, or adjacent to, agricultural lands or that were historically  
38 present on agricultural lands. These may include, but are not limited  
39 to, either of the following:

1 (A) An agricultural land component or element of a general  
2 plan developed pursuant to Section 65565 of the Government  
3 Code.

4 (B) Land conservation strategies and plans to identify and  
5 develop potential projects.

6 (4) Technical assistance to develop projects, prepare  
7 applications, and implement projects.

8 ~~(5) Capacity building.~~

9 ~~(6) Technology transfers.~~

10 ~~(7)~~

11 (5) Administrative costs incurred by the department to  
12 administer the program.

13 ~~(8)~~

14 (6) Any other purposes approved by the Legislature in a funding  
15 appropriation for the program.

16 SEC. 13. Section 10230.5 of the Public Resources Code is  
17 repealed.

18 SEC. 14. Section 10231 of the Public Resources Code is  
19 amended to read:

20 10231. (a) Funding shall be used in accordance with the  
21 expenditures and distribution authorized, required, or otherwise  
22 provided in the program for grants for the acquisition of agricultural  
23 conservation easements or fee title.

24 (b) The department may pay direct costs associated with the  
25 acquisition, as determined by the department, for costs incurred  
26 during the grant term.

27 SEC. 15. Section 10231.5 of the Public Resources Code is  
28 amended to read:

29 10231.5. The department may accept donations of funds to the  
30 Soil Conservation Fund, established pursuant to Section 51283 of  
31 the Government Code, for the purposes of the program if the  
32 department is the designated beneficiary of the donation and agrees  
33 to use the funds for purposes of the program in a county specified  
34 by the donor. Any donation made to the department pursuant to  
35 this section is subject to the requirements of Sections 11005 and  
36 16302 of the Government Code. Notwithstanding Section 13340  
37 of the Government Code, funds donated pursuant to this section  
38 are hereby continuously appropriated to the department for  
39 purposes of the program.

1 ~~SEC. 16.~~ Section 10233 of the Public Resources Code is  
2 repealed.

3 ~~SEC. 17.~~ Section 10233 is added to the Public Resources Code,  
4 to read:

5 10233. The department may require matching funds for any  
6 project or activity funded under the program.

7 ~~SEC. 18.~~

8 ~~SEC. 16.~~ Section 10234 of the Public Resources Code is  
9 repealed.

10 ~~SEC. 19.~~

11 ~~SEC. 17.~~ Section 10235 of the Public Resources Code is  
12 amended to read:

13 10235. (a) The director shall not disburse any grant funds  
14 unless the applicant agrees that the grant funds shall be used by  
15 the applicant only for the purpose for which the funds were  
16 requested and awarded. For a grant for an agricultural conservation  
17 easement, the director shall not disburse any grant funds unless  
18 the applicant agrees that no other use, sale, or other disposition of  
19 the easement shall be permitted unless approved by the director,  
20 or where the easement may be transferred to a public agency or  
21 nonprofit organization, for management purposes.

22 (b) If a local government or nonprofit organization holding the  
23 easement is dissolved, it shall be transferred to an appropriate  
24 public agency or nonprofit organization, as provided in this  
25 division.

26 (c) The easement, or any of its terms, may only be amended  
27 with the consent of all of the necessary parties to the easement,  
28 including the landowner, the easement holder, and the director.  
29 The director shall determine that the amendment is not inconsistent  
30 with this division before it may be amended.

31 ~~SEC. 20.~~

32 ~~SEC. 18.~~ Section 10236 of the Public Resources Code is  
33 amended to read:

34 10236. If the funds are used for the acquisition of an  
35 agricultural conservation easement or fee title pursuant to a local  
36 transfer of development rights program, upon the sale of the  
37 easement or fee title and its attendant development rights, the entity  
38 that holds the easement shall reimburse the fund by an amount  
39 equal to the fair market value of the easement, as determined by  
40 an appraisal approved by the department.

1 ~~SEC. 21.~~

2 *SEC. 19.* Section 10237 of the Public Resources Code is  
3 amended to read:

4 10237. The director shall not disburse any grant funds for  
5 easement or fee title acquisitions unless the applicant, and in the  
6 case of an easement acquisition grant, the seller, agrees to restrict  
7 the use of the land in perpetuity.

8 ~~SEC. 22.~~

9 *SEC. 20.* Section 10238 of the Public Resources Code is  
10 amended to read:

11 10238. (a) The director shall not disburse any grant funds to  
12 acquire agricultural conservation easements that restrict husbandry  
13 practices.

14 (b) The following uses and activities shall be deemed consistent  
15 and compatible with any agricultural conservation easement funded  
16 under this division and shall not be considered to restrict husbandry  
17 practices:

18 (1) Those uses and activities specified in Sections 10246 and  
19 10262.

20 (2) The production, processing, and marketing of agricultural  
21 crops, agricultural products, and livestock.

22 (3) The restoration, enhancement, maintenance, protection, and  
23 conservation of natural resources if those activities are carried out  
24 in accordance with generally accepted best management practices  
25 and that the long-term agricultural use of the conserved land is not  
26 thereby significantly impaired.

27 (4) Activities to reduce the agricultural operation's emissions  
28 of greenhouse gases, and to improve, promote, or enhance the  
29 land's adaptation and resilience to climate change, if the long-term  
30 agricultural use of the conserved land is not thereby significantly  
31 impaired.

32 (5) Activities to support water conservation and protection,  
33 improved air quality, and fuels reduction and management,  
34 including to protect the conserved land and neighboring properties  
35 from catastrophic wildfire, if the long-term agricultural use of the  
36 conserved land is not thereby significantly impaired.

37 (6) The construction, reconstruction, and use of secondary  
38 dwelling units and farm worker housing, subject to reasonable  
39 limitations on size and location, if the long-term agricultural use  
40 of the conserved land is not thereby significantly impaired. The

1 limitations on secondary dwelling units and farm worker housing  
2 shall not be more restrictive than Section 65852.2 of the  
3 Government Code or Section 17021.6 of the Health and Safety  
4 Code, respectively, or local building permit requirements.

5 (7) The construction, reconstruction, or use of renewable energy  
6 facilities to generate energy for the agricultural and residential  
7 needs of the conserved land if the long-term agricultural use of  
8 the conserved land is not thereby significantly impaired.

9 ~~SEC. 23.~~

10 *SEC. 21.* Section 10242 of the Public Resources Code is  
11 amended to read:

12 10242. The director shall review, and approve or disapprove,  
13 all requests for funding under this division.

14 ~~SEC. 24.~~

15 *SEC. 22.* Section 10243 of the Public Resources Code is  
16 repealed.

17 ~~SEC. 25.~~

18 *SEC. 23.* Section 10243 is added to the Public Resources Code,  
19 to read:

20 10243. A local governmental entity shall not condition the  
21 issuance of an entitlement for use on the applicant’s granting of a  
22 conservation easement pursuant to this division.

23 ~~SEC. 26.~~

24 *SEC. 24.* Section 10244 of the Public Resources Code is  
25 repealed.

26 ~~SEC. 27.~~

27 *SEC. 25.* Section 10246 of the Public Resources Code is  
28 amended to read:

29 10246. Grants may be made for land improvements. Use of  
30 these grants shall be limited to the improvement of land protected  
31 by a conservation easement or a similar long-term conservation  
32 agreement as determined by the director if the improvement will  
33 directly benefit the protected land. An application for a land  
34 improvement grant shall be evaluated with respect to the extent to  
35 which it satisfies one or more of the following criteria:

36 (a) The improvement will enhance the agricultural value of the  
37 land protected by the easement, and promote its long-term  
38 sustainable agricultural use such as water supply development and  
39 revegetation of eroding streambanks.

1 (b) The improvement will increase the compatibility of  
2 agricultural operations with sensitive natural areas.

3 (c) The improvement will demonstrate new and innovative best  
4 management practices that have the potential for wide application.

5 (d) The proposed improvement includes the financial and  
6 technical involvement of other agencies, such as resource  
7 conservation districts, the Wildlife Conservation Board, the  
8 University of California Cooperative Extension, the United States  
9 Farm Services Agency, and the United States Natural Resources  
10 Conservation Service.

11 (e) The improvement is part of a coordinated watershed  
12 management plan or the equivalent.

13 (f) The improvement will restore or enhance resources on the  
14 land.

15 (g) The application satisfies other relevant criteria established  
16 by the department.

17 ~~SEC. 28.~~

18 *SEC. 26.* Section 10250 of the Public Resources Code is  
19 amended to read:

20 10250. (a) This chapter shall only apply to acquisitions of  
21 agricultural conservation easements.

22 (b) In reviewing applications for agricultural conservation  
23 easements, the department shall determine whether the proposed  
24 project meets the applicable requirements set forth in this division  
25 and conforms with any rules or regulations adopted by the  
26 department pursuant to this division.

27 ~~SEC. 29.~~

28 *SEC. 27.* Section 10251 of the Public Resources Code is  
29 amended to read:

30 10251. Applicants for an agricultural conservation easement  
31 or fee acquisition grant shall meet all of the following eligibility  
32 criteria:

33 (a) The parcel proposed for conservation is expected to be used  
34 for, and is large enough to sustain, commercial agricultural  
35 production. The land is also in an area that possesses the necessary  
36 market, infrastructure, and agricultural support services, and the  
37 surrounding parcel sizes and land uses will support long-term  
38 commercial agricultural production.

39 (b) The applicable city or county has a general plan that  
40 demonstrates a long-term commitment to agricultural land

1 conservation. This commitment shall be reflected in the goals,  
2 objectives, policies, and implementation measures of the plan, as  
3 they relate to the area of the county or city where the acquisition  
4 is proposed.

5 (c) Without conservation, the land proposed for protection is  
6 likely to be converted to nonagricultural use in the foreseeable  
7 future.

8 ~~SEC. 30.~~

9 *SEC. 28.* Section 10252 of the Public Resources Code is  
10 amended to read:

11 10252. The director shall evaluate a proposal for a fee title or  
12 agricultural conservation easement acquisition grant based upon  
13 the overall value of the project, taking into consideration the goals  
14 and objectives for the program, and the extent to which the  
15 proposed project satisfies the following selection criteria:

16 (a) The quality of the agricultural land, based on land capability,  
17 farmland mapping and monitoring program definitions,  
18 productivity indices, and other soil, climate, and vegetative factors.

19 (b) The proposal meets multiple natural resource conservation  
20 objectives, including, but not limited to, wetland protection,  
21 wildlife habitat conservation, and scenic open-space preservation.

22 (c) The city or county demonstrates a long-term commitment  
23 to agricultural land conservation as demonstrated by the following:

24 (1) The general plan and related land use policies of the city or  
25 county.

26 (2) Policies of the local agency formation commission.

27 (3) California Environmental Quality Act policies and  
28 procedures.

29 (4) The use of a right-to-farm ordinance.

30 (5) Applied strategies for the economic support and enhancement  
31 of agricultural enterprise, including water policies, public  
32 education, marketing support, and consumer and recreational  
33 incentives.

34 (6) Other relevant policies and programs.

35 (d) If the land is in a county that participates in the Williamson  
36 Act (Chapter 7 (commencing with Section 51200) of Part 1 of  
37 Division 1 of Title 5 of the Government Code), the land proposed  
38 for protection is within a county or city designated agricultural  
39 preserve.

1 (e) The land proposed for conservation is within two miles  
2 outside of the exterior boundary of the sphere of influence of a  
3 city as established by the local agency formation commission.

4 (f) The applicant demonstrates fiscal and technical capability  
5 to effectively carry out the proposal. Technical capability may be  
6 demonstrated by agricultural land conservation expertise on the  
7 governing board or staff of the applicant, or through partnership  
8 with an organization that has that expertise.

9 (g) The proposal demonstrates a coordinated approach among  
10 affected landowners, local governments, and nonprofit  
11 organizations. If other entities are affected, there is written support  
12 from those entities for the proposal and a willingness to cooperate.  
13 The support of neighboring landowners who are not involved in  
14 the proposal shall be considered.

15 (h) The conservation of the land supports long-term private  
16 stewardship and continued agricultural production in the region.

17 (i) *The amount of matching funds and in-kind services*  
18 *contributed by local governments and other sources toward the*  
19 *acquisition of the fee title or agricultural conservation easement,*  
20 *or both.*

21 (j) *The price of the proposed acquisition is cost-effective in*  
22 *comparison to the fair market value.*

23 (i)

24 (k) Other relevant considerations established by the director or  
25 in the funding source.

26 ~~SEC. 31.~~

27 ~~SEC. 29.~~ Section 10252.5 of the Public Resources Code is  
28 repealed.

29 ~~SEC. 32.~~

30 ~~SEC. 30.~~ Section 10254 of the Public Resources Code is  
31 repealed.

32 ~~SEC. 33.~~

33 ~~SEC. 31.~~ Section 10254 is added to the Public Resources Code,  
34 to read:

35 10254. (a) Before applying for funding to acquire an  
36 agricultural conservation easement or fee title, the applicant shall  
37 notify in writing the planning directors of the relevant county or  
38 counties and every city within two miles of the property about the  
39 application. The notice shall include all of the following:

1 (1) The applicant’s intent to apply for a grant to acquire an  
2 agricultural conservation easement or fee title from the program.

3 (2) The application deadline.

4 (3) A statement that the conservation easement may result in  
5 reduced property tax revenue pursuant to Article 1.5 (commencing  
6 with Section 421) of Chapter 3 of Part 2 of Division 1 of the  
7 Revenue and Taxation Code.

8 (4) The jurisdiction’s right to submit comment to the department  
9 on the project within 30 days of the application deadline.

10 (b) The relevant county or counties and every city within two  
11 miles of the property shall have 30 days from the application  
12 deadline to submit written comments on the project to the  
13 department, including on the compatibility of the project with the  
14 general plan.

15 (c) The department shall consider any comments submitted by  
16 the county or cities pursuant to subdivision (b) on the project.

17 ~~SEC. 34.~~

18 *SEC. 32.* Section 10255 of the Public Resources Code is  
19 repealed.

20 ~~SEC. 35.~~

21 *SEC. 33.* The heading of Chapter 4 (commencing with Section  
22 10260) of Division 10.2 of the Public Resources Code is amended  
23 to read:

24  
25 CHAPTER 4. AGRICULTURAL CONSERVATION EASEMENTS AND  
26 FEE TITLE  
27

28 ~~SEC. 36.~~

29 *SEC. 34.* Section 10260.5 of the Public Resources Code is  
30 repealed.

31 ~~SEC. 37.~~

32 *SEC. 35.* Section 10260.5 is added to the Public Resources  
33 Code, to read:

34 10260.5. For purposes of this division, any instrument creating,  
35 assigning, or otherwise transferring a conservation easement, fee  
36 title, and any associate deed restrictions shall be recorded in the  
37 office of the county recorder of the county where the land is  
38 situated, in whole or in part, and those instruments shall be subject  
39 in all respects to the recording laws. Any amendment to any of  
40 these instruments shall be recorded in the office of the county

1 recorder of the county where the land is situated, in whole or in  
2 part, and shall be subject in all respects to the recording laws.

3 ~~SEC. 38.~~

4 *SEC. 36.* Section 10262 of the Public Resources Code is  
5 amended to read:

6 10262. An agricultural conservation easement shall not prevent  
7 any of the following:

8 (a) The granting of rights-of-way by the owner of the subject  
9 land in and through the land for the installation, transportation, or  
10 use of water, sewage, electric, telephone, gas, oil, or oil-products  
11 *product* lines, stock water development and storage, energy  
12 generation, and fencing if the agricultural productivity of the land  
13 and any multiple uses that made the acquisition a priority for  
14 selection under the program are not significantly impaired by those  
15 activities.

16 (b) The construction and use of structures on the subject land  
17 that are necessary for agricultural production and marketing,  
18 including, but not limited to, barns, shops, packing sheds, cooling  
19 facilities, greenhouses, roadside marketing stands, stock water  
20 development and storage, energy generation, and fencing, if the  
21 agricultural productivity of the land and any multiple uses that  
22 made the acquisition a priority for selection under the program are  
23 not significantly impaired by those activities.

24 (c) Customary part time or off season rural enterprises or  
25 activities, including, but not limited to, hunting and fishing, wildlife  
26 habitat improvement, predator control, timber harvesting, and  
27 firewood production, if the agricultural productivity of the land  
28 and any multiple uses that made the acquisition a priority for  
29 selection under the program are not significantly impaired by those  
30 activities.

31 ~~SEC. 39.~~

32 *SEC. 37.* Section 10262.1 of the Public Resources Code is  
33 repealed.

34 ~~SEC. 40.~~

35 *SEC. 38.* Section 10263 of the Public Resources Code is  
36 amended to read:

37 10263. (a) The department shall act on an application for a  
38 grant within 180 days after the department determines that it is  
39 complete.

1 (b) The department shall notify the applicant of the department’s  
2 decision in writing. For any decision to disapprove an application,  
3 the written notice shall state the reason for the disapproval.

4 ~~SEC. 41.~~

5 *SEC. 39.* Section 10264 of the Public Resources Code is  
6 amended to read:

7 10264. The director shall disapprove the application for a grant  
8 for the acquisition of an agricultural conservation easement or fee  
9 title in any of the following circumstances:

10 (a) The application does not satisfy the eligibility criteria set  
11 forth in Section 10251.

12 (b) The department has determined that clear title to the  
13 agricultural conservation easement cannot be conveyed.

14 (c) There is insufficient money in the fund to carry out the  
15 acquisition.

16 (d) Other acquisitions have a higher priority.

17 (e) The application does not satisfy other relevant requirements  
18 provided by the fund source or in the guidelines, solicitation,  
19 application, or other relevant control documents, as determined  
20 by the department.

21 ~~SEC. 42.~~

22 *SEC. 40.* Chapter 5 (commencing with Section 10270) of  
23 Division 10.2 of the Public Resources Code is repealed.