

AMENDED IN ASSEMBLY APRIL 9, 2013
AMENDED IN ASSEMBLY MARCH 19, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 551

Introduced by Assembly Member Ting

February 20, 2013

An act to add Chapter 6.3 (commencing with Section 51040) to Part 1 of Division 1 of Title 5 of the Government Code, and to amend Section 402.1 of the Revenue and Taxation Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 551, as amended, Ting. Local government: urban agriculture incentive zones.

(1) Existing law, the Williamson Act, authorizes a city or county to enter into 10-year contracts with owners of land devoted to agricultural use, whereby the owners agree to continue using the property for that purpose, and the city or county agrees to value the land accordingly for purposes of property taxation. Existing law authorizes the parties to a Williamson Act contract to mutually agree to rescind a contract under the act in order to simultaneously enter into an open-space easement for a certain period of years.

This bill would enact the Urban Agriculture Incentive Zones Act and would authorize a county and a landowner to enter into a contract to enforceably restrict the use of vacant, unimproved, or otherwise blighted lands for small-scale ~~commercial~~ production of agricultural crops. The bill would require a contract entered into pursuant to these provisions to, among other things, be for a term of no less than 10 years and to enforceably restrict property that is at least ~~0.25~~ 0.10 acres in size.

(2) Existing law requires the county assessor to consider, when valuing real property for property taxation purposes, the effect of any enforceable restrictions to which the use of the land may be subjected. Under existing law these restrictions include, but are not limited to, zoning, recorded contracts with governmental agencies, and various other restrictions imposed by governments.

This bill would also require the county assessor to consider, when valuing real property for property taxation purposes, property that is enforceably restricted by a contract entered into pursuant to the Urban Agriculture Incentive Zones.

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

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

1 SECTION 1. Chapter 6.3 (commencing with Section 51040)
2 is added to Part 1 of Division 1 of Title 5 of the Government Code,
3 to read:

4
5 CHAPTER 6.3. URBAN AGRICULTURE INCENTIVE ZONES
6

7 51040. This chapter shall be known, and may be cited, as the
8 Urban Agriculture Incentive Zones Act.

9 51040.1. The Legislature finds and declares that it is in the
10 public interest to promote sustainable urban farm enterprises as a
11 new small business sector enterprise sectors in urban centers.

12 The Legislature further finds and declares the small-scale, active
13 production of marketable crops, including, but not limited to, foods,
14 flowers, and seedlings, in urban centers is consistent with, and
15 furthers, the purposes of this act.

16 51040.3. For purposes of this chapter, the term “Urban
17 Agriculture Incentive Zone” means an area within a county that
18 is comprised of individual properties designated as agriculture
19 preserves by the county for farming purposes.

20 51042. (a) A county may, after a public hearing, establish by
21 ordinance an Urban Agriculture Incentive Zone within its
22 boundaries for the purpose of entering into enforceable contracts
23 with landowners, on a voluntary basis, for the use of vacant,
24 unimproved, or otherwise blighted lands for small-scale
25 commercial production of agricultural crops.

1 (b) Following the adoption of the ordinance as required by
2 subdivision (a), a county may enter into a contract with a landowner
3 to enforceably restrict the use of the land subject to the contract
4 to uses consistent with urban agriculture. Any contract entered
5 into pursuant to this chapter shall include, but is not limited to, all
6 of the following provisions:

7 (1) An initial term of not less than 10 years.

8 (2) A restriction on property that is at least ~~0.25~~ 0.10 acres in
9 size.

10 (3) A requirement that the entire property subject to the contract
11 shall be dedicated toward agricultural use.

12 (4) A prohibition against commercial uses, except as those uses
13 comply with the terms of the contract, on the property subject to
14 the contract.

15 (c) A contract entered into pursuant to this chapter shall not
16 prohibit the use of structures that support agricultural activity,
17 including, but not limited to toolsheds, greenhouses, produce
18 stands, and instructional space, are permitted.

19 (d) A contract entered into pursuant to this chapter that includes
20 a prohibition on the use of pesticide or fertilizers on properties
21 under contract shall permit those pesticides or fertilizers allowed
22 by the United States Department of Agriculture's National Organic
23 Program.

24 (e) Property subject to a contract entered into pursuant to this
25 chapter shall be assessed pursuant to Section 402.1 of the Revenue
26 and Taxation Code during the term of the contract.

27 SEC. 2. Section 402.1 of the Revenue and Taxation Code is
28 amended to read:

29 402.1. (a) In the assessment of land, the assessor shall consider
30 the effect upon value of any enforceable restrictions to which the
31 use of the land may be subjected. These restrictions shall include,
32 but are not limited to, all of the following:

33 (1) Zoning.

34 (2) Recorded contracts with governmental agencies other than
35 those provided in Sections 422 and 422.5.

36 (3) Permit authority of, and permits issued by, governmental
37 agencies exercising land use powers concurrently with local
38 governments, including the California Coastal Commission and
39 regional coastal commissions, the San Francisco Bay Conservation

1 and Development Commission, and the Tahoe Regional Planning
2 Agency.

3 (4) Development controls of a local government in accordance
4 with any local coastal program certified pursuant to Division 20
5 (commencing with Section 30000) of the Public Resources Code.

6 (5) Development controls of a local government in accordance
7 with a local protection program, or any component thereof, certified
8 pursuant to Division 19 (commencing with Section 29000) of the
9 Public Resources Code.

10 (6) Environmental constraints applied to the use of land pursuant
11 to provisions of statutes.

12 (7) Hazardous waste land use restriction pursuant to Section
13 25240 of the Health and Safety Code.

14 (8) A recorded conservation, trail, or scenic easement, as
15 described in Section 815.1 of the Civil Code, that is granted in
16 favor of a public agency, or in favor of a nonprofit corporation
17 organized pursuant to Section 501(c)(3) of the Internal Revenue
18 Code that has as its primary purpose the preservation, protection,
19 or enhancement of land in its natural, scenic, historical, agricultural,
20 forested, or open-space condition or use.

21 (9) A solar-use easement pursuant to Chapter 6.9 (commencing
22 with Section 51190) of Part 1 of Division 1 of Title 5 of the
23 Government Code.

24 (10) A contract entered into pursuant to the Urban Agriculture
25 Incentive Zones Act (Chapter 6.3 (commencing with Section
26 51040) of Part 1 of Division 1 of Title 5 of the Government Code).

27 (b) There is a rebuttable presumption that restrictions will not
28 be removed or substantially modified in the predictable future and
29 that they will substantially equate the value of the land to the value
30 attributable to the legally permissible use or uses.

31 (c) Grounds for rebutting the presumption may include, but are
32 not necessarily limited to, the past history of like use restrictions
33 in the jurisdiction in question and the similarity of sales prices for
34 restricted and unrestricted land. The possible expiration of a
35 restriction at a time certain shall not be conclusive evidence of the
36 future removal or modification of the restriction unless there is no
37 opportunity or likelihood of the continuation or renewal of the
38 restriction, or unless a necessary party to the restriction has
39 indicated an intent to permit its expiration at that time.

1 (d) In assessing land with respect to which the presumption is
2 un rebutted, the assessor shall not consider sales of otherwise
3 comparable land not similarly restricted as to use as indicative of
4 value of land under restriction, unless the restrictions have a
5 demonstrably minimal effect upon value.

6 (e) In assessing land under an enforceable use restriction wherein
7 the presumption of no predictable removal or substantial
8 modification of the restriction has been rebutted, but where the
9 restriction nevertheless retains some future life and has some effect
10 on present value, the assessor may consider, in addition to all other
11 legally permissible information, representative sales of comparable
12 lands that are not under restriction but upon which natural
13 limitations have substantially the same effect as restrictions.

14 (f) For the purposes of this section the following definitions
15 apply:

16 (1) "Comparable lands" are lands that are similar to the land
17 being valued in respect to legally permissible uses and physical
18 attributes.

19 (2) "Representative sales information" is information from sales
20 of a sufficient number of comparable lands to give an accurate
21 indication of the full cash value of the land being valued.

22 (g) It is hereby declared that the purpose and intent of the
23 Legislature in enacting this section is to provide for a method of
24 determining whether a sufficient amount of representative sales
25 information is available for land under use restriction in order to
26 ensure the accurate assessment of that land. It is also hereby
27 declared that the further purpose and intent of the Legislature in
28 enacting this section and Section 1630 is to avoid an assessment
29 policy which, in the absence of special circumstances, considers
30 uses for land that legally are not available to the owner and not
31 contemplated by government, and that these sections are necessary
32 to implement the public policy of encouraging and maintaining
33 effective land use planning. Nothing in this statute shall be
34 construed as requiring the assessment of any land at a value less
35 than as required by Section 401 or as prohibiting the use of
36 representative comparable sales information on land under similar
37 restrictions when this information is available.

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