

AMENDED IN ASSEMBLY APRIL 29, 2013

AMENDED IN ASSEMBLY APRIL 9, 2013

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 551**

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**Introduced by Assembly Member Ting**

February 20, 2013

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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, *under specified conditions*, 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 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 0.10 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 Act.

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 ~~my~~ may be cited, as  
8 the 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 enterprise sectors  
11 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,

1 unimproved, or otherwise blighted lands for small-scale production  
2 of agricultural crops.

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

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

10 (2) A restriction on property that is at least 0.10 acres in size.

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

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

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

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

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

28 (f) *A county shall not establish an Urban Agriculture Incentive  
29 Zone within any portion of a city or the city's spheres of influence  
30 unless that city has adopted an ordinance that authorizes an Urban  
31 Agriculture Incentive Zone within the city's boundaries or spheres  
32 of influence.*

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

35 402.1. (a) In the assessment of land, the assessor shall consider  
36 the effect upon value of any enforceable restrictions to which the  
37 use of the land may be subjected. These restrictions shall include,  
38 but are not limited to, all of the following:

39 (1) Zoning.

- 1 (2) Recorded contracts with governmental agencies other than  
2 those provided in Sections 422 and 422.5.
- 3 (3) Permit authority of, and permits issued by, governmental  
4 agencies exercising land use powers concurrently with local  
5 governments, including the California Coastal Commission and  
6 regional coastal commissions, the San Francisco Bay Conservation  
7 and Development Commission, and the Tahoe Regional Planning  
8 Agency.
- 9 (4) Development controls of a local government in accordance  
10 with any local coastal program certified pursuant to Division 20  
11 (commencing with Section 30000) of the Public Resources Code.
- 12 (5) Development controls of a local government in accordance  
13 with a local protection program, or any component thereof, certified  
14 pursuant to Division 19 (commencing with Section 29000) of the  
15 Public Resources Code.
- 16 (6) Environmental constraints applied to the use of land pursuant  
17 to provisions of statutes.
- 18 (7) Hazardous waste land use restriction pursuant to Section  
19 25240 of the Health and Safety Code.
- 20 (8) A recorded conservation, trail, or scenic easement, as  
21 described in Section 815.1 of the Civil Code, that is granted in  
22 favor of a public agency, or in favor of a nonprofit corporation  
23 organized pursuant to Section 501(c)(3) of the Internal Revenue  
24 Code that has as its primary purpose the preservation, protection,  
25 or enhancement of land in its natural, scenic, historical, agricultural,  
26 forested, or open-space condition or use.
- 27 (9) A solar-use easement pursuant to Chapter 6.9 (commencing  
28 with Section 51190) of Part 1 of Division 1 of Title 5 of the  
29 Government Code.
- 30 (10) A contract entered into pursuant to the Urban Agriculture  
31 Incentive Zones Act (Chapter 6.3 (commencing with Section  
32 51040) of Part 1 of Division 1 of Title 5 of the Government Code).
- 33 (b) There is a rebuttable presumption that restrictions will not  
34 be removed or substantially modified in the predictable future and  
35 that they will substantially equate the value of the land to the value  
36 attributable to the legally permissible use or uses.
- 37 (c) Grounds for rebutting the presumption may include, but are  
38 not necessarily limited to, the past history of like use restrictions  
39 in the jurisdiction in question and the similarity of sales prices for  
40 restricted and unrestricted land. The possible expiration of a

1 restriction at a time certain shall not be conclusive evidence of the  
2 future removal or modification of the restriction unless there is no  
3 opportunity or likelihood of the continuation or renewal of the  
4 restriction, or unless a necessary party to the restriction has  
5 indicated an intent to permit its expiration at that time.

6 (d) In assessing land with respect to which the presumption is  
7 unrebutted, the assessor shall not consider sales of otherwise  
8 comparable land not similarly restricted as to use as indicative of  
9 value of land under restriction, unless the restrictions have a  
10 demonstrably minimal effect upon value.

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

19 (f) For the purposes of this section the following definitions  
20 apply:

21 (1) “Comparable lands” are lands that are similar to the land  
22 being valued in respect to legally permissible uses and physical  
23 attributes.

24 (2) “Representative sales information” is information from sales  
25 of a sufficient number of comparable lands to give an accurate  
26 indication of the full cash value of the land being valued.

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

- 1 representative comparable sales information on land under similar
- 2 restrictions when this information is available.

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