

AMENDED IN ASSEMBLY MAY 24, 2013

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

Introduced by Assembly Member Ting
(Coauthor: Assembly Member Alejo)

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, under specified conditions, a county *or a city and 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 5 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 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 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 *or a*
18 *city and county* that is comprised of individual properties
19 designated as agriculture preserves by the county *or a city and*
20 *county* for farming purposes.

1 51042. (a) A county *or a city and county* may, after a public
2 hearing, establish by ordinance an Urban Agriculture Incentive
3 Zone within its boundaries for the purpose of entering into
4 enforceable contracts with landowners, on a voluntary basis, for
5 the use of vacant, unimproved, or ~~otherwise~~ blighted lands for
6 small-scale production of agricultural crops.

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

13 (1) An initial term of not less than ~~10~~ *five* years.

14 (2) A restriction on property that is at least 0.10 acres *and no*
15 *more than 3.0 acres* in size.

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

18 (4) A prohibition against commercial uses, except as those uses
19 comply with the terms of the contract, on the property subject to
20 the contract.

21 (c) A contract entered into pursuant to this chapter shall not
22 prohibit the use of structures that support agricultural activity,
23 including, but not limited to, toolsheds, greenhouses, produce
24 stands, and instructional space.

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

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

33 (f) A county shall not establish an Urban Agriculture Incentive
34 Zone within any portion of a city or the city's spheres of influence
35 unless that city has adopted an ordinance that authorizes an Urban
36 Agriculture Incentive Zone within the city's boundaries or spheres
37 of influence.

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

1 402.1. (a) In the assessment of land, the assessor shall consider
2 the effect upon value of any enforceable restrictions to which the
3 use of the land may be subjected. These restrictions shall include,
4 but are not limited to, all of the following:
5 (1) Zoning.
6 (2) Recorded contracts with governmental agencies other than
7 those provided in Sections 422 and 422.5.
8 (3) Permit authority of, and permits issued by, governmental
9 agencies exercising land use powers concurrently with local
10 governments, including the California Coastal Commission and
11 regional coastal commissions, the San Francisco Bay Conservation
12 and Development Commission, and the Tahoe Regional Planning
13 Agency.
14 (4) Development controls of a local government in accordance
15 with any local coastal program certified pursuant to Division 20
16 (commencing with Section 30000) of the Public Resources Code.
17 (5) Development controls of a local government in accordance
18 with a local protection program, or any component thereof, certified
19 pursuant to Division 19 (commencing with Section 29000) of the
20 Public Resources Code.
21 (6) Environmental constraints applied to the use of land pursuant
22 to provisions of statutes.
23 (7) Hazardous waste land use restriction pursuant to Section
24 25240 of the Health and Safety Code.
25 (8) A recorded conservation, trail, or scenic easement, as
26 described in Section 815.1 of the Civil Code, that is granted in
27 favor of a public agency, or in favor of a nonprofit corporation
28 organized pursuant to Section 501(c)(3) of the Internal Revenue
29 Code that has as its primary purpose the preservation, protection,
30 or enhancement of land in its natural, scenic, historical, agricultural,
31 forested, or open-space condition or use.
32 (9) A solar-use easement pursuant to Chapter 6.9 (commencing
33 with Section 51190) of Part 1 of Division 1 of Title 5 of the
34 Government Code.
35 (10) A contract entered into pursuant to the Urban Agriculture
36 Incentive Zones Act (Chapter 6.3 (commencing with Section
37 51040) of Part 1 of Division 1 of Title 5 of the Government Code).
38 (b) There is a rebuttable presumption that restrictions will not
39 be removed or substantially modified in the predictable future and

1 that they will substantially equate the value of the land to the value
2 attributable to the legally permissible use or uses.

3 (c) Grounds for rebutting the presumption may include, but are
4 not necessarily limited to, the past history of like use restrictions
5 in the jurisdiction in question and the similarity of sales prices for
6 restricted and unrestricted land. The possible expiration of a
7 restriction at a time certain shall not be conclusive evidence of the
8 future removal or modification of the restriction unless there is no
9 opportunity or likelihood of the continuation or renewal of the
10 restriction, or unless a necessary party to the restriction has
11 indicated an intent to permit its expiration at that time.

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

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

25 (f) For the purposes of this section the following definitions
26 apply:

27 (1) "Comparable lands" are lands that are similar to the land
28 being valued in respect to legally permissible uses and physical
29 attributes.

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

33 (g) It is hereby declared that the purpose and intent of the
34 Legislature in enacting this section is to provide for a method of
35 determining whether a sufficient amount of representative sales
36 information is available for land under use restriction in order to
37 ensure the accurate assessment of that land. It is also hereby
38 declared that the further purpose and intent of the Legislature in
39 enacting this section and Section 1630 is to avoid an assessment
40 policy which, in the absence of special circumstances, considers

1 uses for land that legally are not available to the owner and not
2 contemplated by government, and that these sections are necessary
3 to implement the public policy of encouraging and maintaining
4 effective land use planning. Nothing in this statute shall be
5 construed as requiring the assessment of any land at a value less
6 than as required by Section 401 or as prohibiting the use of
7 representative comparable sales information on land under similar
8 restrictions when this information is available.

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