

AMENDED IN SENATE JUNE 25, 2013  
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**

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

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 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 *following terms have the following meanings:*

1 (a) “Urban” means an area within the boundaries of an  
2 urbanized area, as that term is used by the United States Census  
3 Bureau, that includes at least 50,000 people.

4 (b) “Urban Agriculture Incentive Zone” means an area within  
5 a county or a city and county that is comprised of individual  
6 properties designated as urban agriculture preserves by the county  
7 or a the city and county for farming purposes.

8 51042. (a) (1) A county or a city and county may, after a  
9 public hearing, establish by ordinance an Urban Agriculture  
10 Incentive Zone within its boundaries for the purpose of entering  
11 into enforceable contracts with landowners, on a voluntary basis,  
12 for the use of vacant, unimproved, or blighted lands for small-scale  
13 production of agricultural crops.

14 (2) A county or a city and county that has established an Urban  
15 Agriculture Incentive Zone within its boundaries may adopt rules  
16 and regulations for the implementation and administration of the  
17 Urban Agriculture Incentive Zone and of contracts related to that  
18 Urban Agriculture Incentive Zone. The county or city and county  
19 may impose a fee upon contracting landowners for the reasonable  
20 costs of implementing and administering contracts and the  
21 incentive zone.

22 (b) Following the adoption of the ordinance as required by  
23 subdivision (a), a county or a city and county may enter into a  
24 contract with a landowner to enforceably restrict the use of the  
25 land subject to the contract to uses consistent with urban  
26 agriculture. Any contract entered into pursuant to this chapter shall  
27 include, but is not limited to, all of the following provisions:

28 (1) An initial term of not less than five years.

29 (2) Either of the following provisions:

30 ~~(2)~~

31 (A) A restriction on property that is at least 0.10 acres and no  
32 more than 3.0 acres in size.

33 (B) A restriction on property that is larger than 3.0 acres in  
34 size if, prior to entering into the contract, the board of supervisors  
35 makes a determination that the agricultural development of the  
36 property would result in a net increase in revenue to the county,  
37 or city and county, resulting from an increase in property value  
38 of one or more adjacent properties.

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

1 (4) A prohibition against commercial uses, except as those uses  
2 comply with the terms of the contract, on the property subject to  
3 the contract.

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

8 (d) A contract entered into pursuant to this chapter that includes  
9 a prohibition on the use of pesticide or fertilizers on properties  
10 under contract shall permit those pesticides or fertilizers allowed  
11 by the United States Department of Agriculture’s National Organic  
12 Program.

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

16 (f) A county shall not establish an Urban Agriculture Incentive  
17 Zone within any portion of a city or the city’s spheres of influence  
18 unless that city has adopted an ordinance that authorizes an Urban  
19 Agriculture Incentive Zone within the city’s boundaries or spheres  
20 of influence.

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

23 402.1. (a) In the assessment of land, the assessor shall consider  
24 the effect upon value of any enforceable restrictions to which the  
25 use of the land may be subjected. These restrictions shall include,  
26 but are not limited to, all of the following:

- 27 (1) Zoning.
- 28 (2) Recorded contracts with governmental agencies other than  
29 those provided in Sections 422 and 422.5.
- 30 (3) Permit authority of, and permits issued by, governmental  
31 agencies exercising land use powers concurrently with local  
32 governments, including the California Coastal Commission and  
33 regional coastal commissions, the San Francisco Bay Conservation  
34 and Development Commission, and the Tahoe Regional Planning  
35 Agency.
- 36 (4) Development controls of a local government in accordance  
37 with any local coastal program certified pursuant to Division 20  
38 (commencing with Section 30000) of the Public Resources Code.
- 39 (5) Development controls of a local government in accordance  
40 with a local protection program, or any component thereof, certified

1 pursuant to Division 19 (commencing with Section 29000) of the  
2 Public Resources Code.

3 (6) Environmental constraints applied to the use of land pursuant  
4 to provisions of statutes.

5 (7) Hazardous waste land use restriction pursuant to Section  
6 25240 of the Health and Safety Code.

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

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

17 (10) A contract entered into pursuant to the Urban Agriculture  
18 Incentive Zones Act (Chapter 6.3 (commencing with Section  
19 51040) of Part 1 of Division 1 of Title 5 of the Government Code).

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

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

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

38 (e) In assessing land under an enforceable use restriction wherein  
39 the presumption of no predictable removal or substantial  
40 modification of the restriction has been rebutted, but where the

1 restriction nevertheless retains some future life and has some effect  
2 on present value, the assessor may consider, in addition to all other  
3 legally permissible information, representative sales of comparable  
4 lands that are not under restriction but upon which natural  
5 limitations have substantially the same effect as restrictions.

6 (f) For the purposes of this section the following definitions  
7 apply:

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

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

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