

AMENDED IN SENATE JULY 9, 2013
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

**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 add Section 422.7 to, 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.

1 51040.3. For purposes of this chapter, the following terms have
2 the following meanings:

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

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

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

16 (2) A county or a city and county that has established an Urban
17 Agriculture Incentive Zone within its boundaries may adopt rules
18 and regulations for the implementation and administration of the
19 Urban Agriculture Incentive Zone and of contracts related to that
20 Urban Agriculture Incentive Zone. ~~The~~

21 (A) *The county or city and county may impose a fee upon*
22 *contracting landowners for the reasonable costs of implementing*
23 *and administering contracts* ~~and the incentive zone.~~

24 (B) *The county or city and county may impose a fee upon*
25 *landowners for cancellation of any contract as to all or any part*
26 *of the subject land.*

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

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

34 ~~(2) Either of the following provisions:~~

35 ~~(A)~~

36 ~~(2) A restriction on property that is at least 0.10 acres and no~~
37 ~~more than 3.0 acres in size.~~

38 ~~(B) A restriction on property that is larger than 3.0 acres in size~~
39 ~~if, prior to entering into the contract, the board of supervisors~~
40 ~~makes a determination that the agricultural development of the~~

1 ~~property would result in a net increase in revenue to the county,~~
2 ~~or city and county, resulting from an increase in property value of~~
3 ~~one or more adjacent properties.~~

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

6 (4) A prohibition against commercial uses, except as those uses
7 comply with the terms of the contract, on the property subject to
8 the contract.

9 (5) *A notification that if a landowner cancels a contract, a*
10 *county or city and county may assess a cancellation fee, pursuant*
11 *to subparagraph (B) of paragraph (2) of subdivision (a).*

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

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

21 (e) Property subject to a contract entered into pursuant to this
22 chapter shall be assessed pursuant to Section ~~402.1~~ 423 of the
23 Revenue and Taxation Code during the term of the contract.

24 (f) A county shall not establish an Urban Agriculture Incentive
25 Zone within any portion of a city or the city’s spheres of influence
26 unless that city has adopted an ordinance that authorizes an Urban
27 Agriculture Incentive Zone within the city’s boundaries or spheres
28 of influence.

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

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

- 35 (1) Zoning.
- 36 (2) Recorded contracts with governmental agencies other than
37 those provided in Sections 422 ~~and~~, 422.5, *and* 422.7.
- 38 (3) Permit authority of, and permits issued by, governmental
39 agencies exercising land use powers concurrently with local
40 governments, including the California Coastal Commission and

1 regional coastal commissions, the San Francisco Bay Conservation
2 and Development Commission, and the Tahoe Regional Planning
3 Agency.

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

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

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

13 (7) Hazardous waste land use restriction pursuant to Section
14 25240 of the Health and Safety Code.

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

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

25 ~~(10) A contract entered into pursuant to the Urban Agriculture
26 Incentive Zones Act (Chapter 6.3 (commencing with Section
27 51040) of Part 1 of Division 1 of Title 5 of the Government Code).~~

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

32 (c) Grounds for rebutting the presumption may include, but are
33 not necessarily limited to, the past history of like use restrictions
34 in the jurisdiction in question and the similarity of sales prices for
35 restricted and unrestricted land. The possible expiration of a
36 restriction at a time certain shall not be conclusive evidence of the
37 future removal or modification of the restriction unless there is no
38 opportunity or likelihood of the continuation or renewal of the
39 restriction, or unless a necessary party to the restriction has
40 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.

38 *SEC. 3. Section 422.7 is added to the Revenue and Taxation*
39 *Code, to read:*

1 422.7. For purposes of this article, the term “open-space land”
 2 includes land subject to contract for an urban agricultural
 3 incentive zone, as defined in subdivision (b) of Section 51040.3 of
 4 the Government Code. For purposes of this article, open-space
 5 land is enforceably restricted within the meaning of Section 8 of
 6 Article XIII of the California Constitution if it is subject to an
 7 urban agriculture incentive zone contract.

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10 **CORRECTIONS:**
 11 **Title—Lines 2 and 3.**

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