

AMENDED IN SENATE AUGUST 13, 2013
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 amend Section 402.1 of*, 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 *city*, 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 *and animal husbandry*. 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,~~ *value* property that is enforceably restricted by a contract entered into pursuant to the Urban Agriculture Incentive Zones Act *at the rate based on the average per acre value of irrigated cropland in California, adjusted proportionally to reflect the acreage of the property under contract, as most recently published by the National Agricultural Statistics Service of the United States Department of Agriculture. The bill would also require the State Board of Equalization to post the per acre land value as published by the National Agricultural Statistics Service of the United States Department of Agriculture on its Internet Web site within 30 days of publication, and to provide the rate to county assessors no later than January 1 of each assessment year.*

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:

CHAPTER 6.3. URBAN AGRICULTURE INCENTIVE ZONES

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

51040.1. The Legislature finds and declares that it is in the public interest to promote sustainable urban farm enterprise sectors in urban centers.

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

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

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

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

(c) “Agricultural use” means farming in all its branches including, but not limited to, the cultivation and tillage of the soil, the production, cultivation, growing, and harvesting of any agricultural or horticultural products, the raising of livestock, bees, fur-bearing animals, dairy-producing animals, and poultry, agricultural education, the sale of produce through field retail stands or farms stands as defined by Article 5 (commencing with Section 47030) of Chapter 10.5 of Division 17 of the Food and Agricultural Code, and any practices performed by a farmer or on a farm as an incident to or in conjunction with farming operations. For purposes of this chapter, the term “agricultural use” does not include timber production.

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

(B) A city may, after a public hearing and approval from the board of supervisors of the county in which the city is located,

1 *establish by ordinance an Urban Agriculture Incentive Zone within*
2 *its boundaries for the purpose of entering into enforceable*
3 *contracts with landowners, on a voluntary basis, for the use of*
4 *vacant, unimproved, or blighted lands for small-scale agricultural*
5 *use.*

6 (2) ~~A~~ *Following the adoption of the ordinance pursuant to*
7 *paragraph (1), a city, county, or a city and county that has*
8 *established an Urban Agriculture Incentive Zone within its*
9 *boundaries may adopt rules and regulations consistent with the*
10 *city, county, or city and county's zoning and other ordinances, for*
11 *the implementation and administration of the Urban Agriculture*
12 *Incentive Zone and of contracts related to that Urban Agriculture*
13 *Incentive Zone.*

14 (A) *The city, county, or city and county may impose a fee upon*
15 *contracting landowners for the reasonable costs of implementing*
16 *and administering contracts.*

17 (B) *The city, county, or city and county may shall impose a fee*
18 *equal to the cumulative value of the tax benefit received during*
19 *the duration of the contract upon landowners for cancellation of*
20 *any contract as to all or any part of the subject land prior to the*
21 *expiration of the contract, unless the city, county, or city and county*
22 *makes a determination that the cancellation was caused by*
23 *extenuating circumstances despite the good faith effort by the*
24 *landowner.*

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

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

32 (2) *A restriction on property that is at least 0.10 acres.*

33 (3) *A requirement that the entire property subject to the contract*
34 *shall be dedicated toward commercial or noncommercial*
35 *agricultural use.*

36 (4) ~~A prohibition against commercial uses, except as those uses~~
37 ~~comply with the terms of the contract, any dwellings on the~~
38 ~~property subject to the while under contract.~~

39 (5) *A notification that if a landowner cancels a contract, a city,*
40 *county, or city and county may is required to assess a cancellation*

1 fee, pursuant to subparagraph (B) of paragraph (2) of subdivision
2 (a).

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

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

12 (e) Property subject to a contract entered into pursuant to this
13 chapter shall be assessed pursuant to Section ~~423~~ 422.7 of the
14 Revenue and Taxation Code during the term of the contract.

15 (f) A county *or a city and county* shall not establish an Urban
16 Agriculture Incentive Zone within any portion of a city ~~or the city's~~
17 ~~spheres~~ *the spheres* of influence of a city unless ~~that the legislative~~
18 ~~body of the city has adopted an ordinance that authorizes an~~
19 ~~consented to the establishment of the~~ Urban Agriculture Incentive
20 ~~Zone within the city's boundaries or spheres of influence.~~ *Zone.*

21 (g) *A city, county, or city and county shall not establish an*
22 *Urban Agriculture Incentive Zone in any area that is currently*
23 *subject to, or has been subject to within the previous three years,*
24 *a contract pursuant to the Williamson Act (Article 1 (commencing*
25 *with Section 51200) of Chapter 7 of Part 1 of Division 1 of Title*
26 *5).*

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, 422.5, and 422.7.

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

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

37 (d) In assessing land with respect to which the presumption is
38 un rebutted, the assessor shall not consider sales of otherwise
39 comparable land not similarly restricted as to use as indicative of

1 value of land under restriction, unless the restrictions have a
2 demonstrably minimal effect upon value.

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

11 (f) For the purposes of this section the following definitions
12 apply:

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

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

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

35 SEC. 3. Section 422.7 is added to the Revenue and Taxation
36 Code, to read:

37 422.7. (a) For purposes of this ~~article~~ section, the term
38 “open-space land” includes land subject to contract for an urban
39 agricultural incentive zone, as defined in subdivision (b) of Section
40 51040.3 of the Government Code. For purposes of this ~~article~~

1 *section*, open-space land is enforceably restricted within the
2 meaning of Section 8 of Article XIII of the California Constitution
3 if it is subject to an urban agriculture incentive zone contract.

4 *(b) (1) Open-space land subject to contract for an urban*
5 *agricultural incentive zone pursuant to Section 52010.3 shall be*
6 *valued for assessment at the rate based on the average per acre*
7 *value of irrigated cropland in California, adjusted proportionally*
8 *to reflect the acreage of the property under contract, as most*
9 *recently published by the National Agricultural Statistics Service*
10 *of the United States Department of Agriculture.*

11 *(2) Notwithstanding the published rate, the valuation resulting*
12 *from the section shall not exceed the lesser of either the valuation*
13 *that would have resulted by a calculation under Section 110, or*
14 *the valuation that would have resulted by a valuation under Section*
15 *110.1, as though the property was not subject to an enforceable*
16 *restriction in the base year.*

17 *(c) The State Board of Equalization shall post the per acre land*
18 *value as published by the National Agricultural Statistics Service*
19 *of the United States Department of Agriculture on its Internet Web*
20 *site within 30 days of publication, and shall provide the rate to*
21 *county assessors no later than January 1 of each assessment year.*