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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, 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 *and until January 1, 2019*, a city, county, or 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 require the county assessor to 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~~ *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~~ *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:

1 CHAPTER 6.3. URBAN AGRICULTURE INCENTIVE ZONES

2
3 51040. This chapter shall be known, and may be cited, as the
4 Urban Agriculture Incentive Zones Act.

5 51040.1. The Legislature finds and declares that it is in the
6 public interest to promote sustainable urban farm enterprise sectors
7 in urban centers.

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

12 51040.3. For purposes of this chapter, the following terms have
13 the following meanings:

14 (a) “Urban” means an area within the boundaries of an urbanized
15 area, as that term is used by the United States Census Bureau, that
16 includes at least ~~50,000~~ 250,000 people.

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

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

33 51042. (a) (1) (A) A county or city and county may, after a
34 public hearing, establish by ordinance an Urban Agriculture
35 Incentive Zone within its boundaries for the purpose of entering
36 into enforceable contracts with landowners, on a voluntary basis,
37 for the use of vacant, unimproved, or blighted lands for small-scale
38 agricultural use.

39 (B) A city may, after a public hearing and approval from the
40 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 contracts
 3 with landowners, on a voluntary basis, for the use of vacant,
 4 unimproved, or blighted lands for small-scale agricultural use.

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

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

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

22 (b) Following the adoption of the ordinance as required by
 23 subdivision (a), a city, county, or a city and county may enter into
 24 a 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) A restriction on property that is at least 0.10 acres, *and not*
 30 *more than three acres*.

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

34 (4) A prohibition against any dwellings on the property while
 35 under contract.

36 (5) A notification that if a landowner cancels a contract, a city,
 37 county, or city and county is required to assess a cancellation fee,
 38 pursuant to subparagraph (B) of paragraph (2) of subdivision (a).

39 (c) A contract entered into pursuant to this chapter shall not
 40 prohibit the use of structures that support agricultural activity,

1 including, but not limited to, toolsheds, greenhouses, produce
2 stands, and instructional space.

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

8 (e) *A city, county, or city and county shall not enter into a new*
9 *contract, or renew an existing contract pursuant to this chapter*
10 *after January 1, 2019. Any contract entered into pursuant to this*
11 *chapter on or before January 1, 2019, shall be valid and*
12 *enforceable for the duration of the contract.*

13 ~~(e)~~

14 (f) Property subject to a contract entered into pursuant to this
15 chapter shall be assessed pursuant to Section 422.7 of the Revenue
16 and Taxation Code during the term of the contract.

17 ~~(f)~~

18 (g) A county or a city and county shall not establish an Urban
19 Agriculture Incentive Zone within any portion of the spheres of
20 influence of a city unless the legislative body of the city has
21 consented to the establishment of the Urban Agriculture Incentive
22 Zone.

23 ~~(g)~~

24 (h) A city, county, or city and county shall not establish an
25 Urban Agriculture Incentive Zone in any area that is currently
26 subject to, or has been subject to within the previous three years,
27 a contract pursuant to the Williamson Act (Article 1 (commencing
28 with Section 51200) of Chapter 7 of Part 1 of Division 1 of Title
29 5).

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

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

36 (1) Zoning.

37 (2) Recorded contracts with governmental agencies other than
38 those provided in Sections 422, 422.5, and 422.7.

39 (3) Permit authority of, and permits issued by, governmental
40 agencies exercising land use powers concurrently with local

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

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

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

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

14 (7) Hazardous waste land use restriction pursuant to Section
15 25240 of the Health and Safety Code.

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

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

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

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

39 (d) In assessing land with respect to which the presumption is
40 un rebutted, the assessor shall not consider sales of otherwise

1 comparable land not similarly restricted as to use as indicative of
2 value of land under restriction, unless the restrictions have a
3 demonstrably minimal effect upon value.

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

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

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

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

20 (g) It is hereby declared that the purpose and intent of the
21 Legislature in enacting this section is to provide for a method of
22 determining whether a sufficient amount of representative sales
23 information is available for land under use restriction in order to
24 ensure the accurate assessment of that land. It is also hereby
25 declared that the further purpose and intent of the Legislature in
26 enacting this section and Section 1630 is to avoid an assessment
27 policy which, in the absence of special circumstances, considers
28 uses for land that legally are not available to the owner and not
29 contemplated by government, and that these sections are necessary
30 to implement the public policy of encouraging and maintaining
31 effective land use planning. This statute shall not be construed as
32 requiring the assessment of any land at a value less than as required
33 by Section 401 or as prohibiting the use of representative
34 comparable sales information on land under similar restrictions
35 when this information is available.

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

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

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

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

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

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