

ASSEMBLY BILL

No. 2450

Introduced by Assembly Member Achadjian

February 19, 2016

An act to amend Section 402.1 of the Revenue and Taxation Code relating to property tax.

LEGISLATIVE COUNSEL'S DIGEST

AB 2450, as introduced, Achadjian. Property tax.

Existing property tax 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 government agencies to provide copies of the recorded contracts to the assessor as soon as possible after the date of recordation.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 402.1 of the Revenue and Taxation Code
2 is amended to read:

3 402.1. (a) In the assessment of land, the assessor shall consider
4 the effect upon value of any enforceable restrictions to which the
5 use of the land may be subjected. These restrictions shall include,
6 but are not limited to, all of the following:

7 (1) Zoning.

8 (2) Recorded contracts with governmental agencies other than
9 those provided in Sections 422, 422.5, and 422.7. *Governmental*
10 *agencies shall provide the recorded contracts to the assessor as*
11 *soon as possible after the date of recordation.*

12 (3) Permit authority of, and permits issued by, governmental
13 agencies exercising land use powers concurrently with local
14 governments, including the California Coastal Commission and
15 regional coastal commissions, the San Francisco Bay Conservation
16 and Development Commission, and the Tahoe Regional Planning
17 Agency.

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

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

25 (6) Environmental constraints applied to the use of land pursuant
26 to provisions of statutes.

27 (7) Hazardous waste land use restriction pursuant to Section
28 25226 of the Health and Safety Code.

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

36 (B) A recorded greenway easement, as described in Section
37 816.52 of the Civil Code, that is granted in favor of a public
38 agency, or in favor of a nonprofit corporation organized pursuant

1 to Section 501(c)(3) of the Internal Revenue Code that has as its
2 primary purpose the developing and preserving of greenways.

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

6 (10) A contract where the following apply:

7 (A) The contract is with a nonprofit corporation organized
8 pursuant to Section 501(c)(3) of the Internal Revenue Code that
9 has received a welfare exemption under Section 214.15 for
10 properties intended to be sold to low-income families who
11 participate in a special no-interest loan program.

12 (B) The contract restricts the use of the land for at least 30 years
13 to owner-occupied housing available at affordable housing cost in
14 accordance with Section 50052.5 of the Health and Safety Code.

15 (C) The contract includes a deed of trust on the property in favor
16 of the nonprofit corporation to ensure compliance with the terms
17 of the program, which has no value unless the owner fails to
18 comply with the covenants and restrictions of the terms of the
19 home sale.

20 (D) The local housing authority or an equivalent agency, or, if
21 none exists, the city attorney or county counsel, has made a finding
22 that the long-term deed restrictions in the contract serve a public
23 purpose.

24 (E) The contract is recorded and provided to the assessor.

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

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

38 (d) In assessing land with respect to which the presumption is
39 un rebutted, the assessor shall not consider sales of otherwise
40 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 to ensure
23 the accurate assessment of that land. It is also hereby declared that
24 the further purpose and intent of the Legislature in enacting this
25 section and Section 1630 is to avoid an assessment policy which,
26 in the absence of special circumstances, considers uses for land
27 that legally are not available to the owner and not contemplated
28 by government, and that these sections are necessary to implement
29 the public policy of encouraging and maintaining effective land
30 use planning. This statute shall not be construed as requiring the
31 assessment of any land at a value less than as required by Section
32 401 or as prohibiting the use of representative comparable sales
33 information on land under similar restrictions when this information
34 is available.

35 SEC. 2. If the Commission on State Mandates determines that
36 this act contains costs mandated by the state, reimbursement to
37 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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