

CONSENT CALENDAR July 2, 2013

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Support of Assembly Bill 551, Urban Agriculture Incentive Zones (UAIZ)

RECOMMENDATION:

Adopt a Resolution supporting Assembly Bill (AB) 551, authored by Assemblymember Phil Ting, which would allow a county or a city to establish by ordinance an Urban Agriculture Incentive Zone for the purpose of supporting urban agriculture. Copies of the resolution to be sent to Senator Pro Tem Darrell Steinberg, Senator Loni Hancock, Assembly Speaker John A. Pérez, and Assemblymembers Nancy Skinner and Phil Ting.

BACKGROUND:

Urban Agriculture Incentive Zones (UAIZ) are land comprised of separate properties dedicated to agricultural farming. AB 551 grants the city or county to enact voluntary enforceable agreements with landowners to create spaces for small scale commercial agriculture.

AB 551 targets unused and vacant land in urban areas while creating initiatives to encourage owners of these properties to enter in to a 10 year agreement to transform their land into green spaces for farming. The impacts of UAIZ would make healthy food accessible to more communities. Transforming unused urban spaces can revitalize the economic and social health of various communities.

To encourage landowners to turn unused land into urban agriculture spaces, reduced property tax would incentivize landowners to lease their land.

FINANCIAL IMPLICATIONS:

None.

CONTACT PERSONS:

Jesse Arreguín, Councilmember, District 4 981-7140

Attachments:

- 1. Resolution
- 2. Assembly Bill 551

RESOLUTION NO.

SUPPORT OF ASSEMBLY BILL 551, ALLOWING A COUNTY OR A CITY TO ESTABLISH URBAN AGRICULTURE INCENTIVES ZONES (UAIZ) FOR THE PURPOSE OF SUPPORTING URBAN AGRICULTURE

WHEREAS, in urban spaces, unused land and vacant properties can be transformed to small scale farms and green spaces; and

WHEREAS, the implementation of UAIZs will generate more green spaces in our cities and create environmentally sustainable farms that co-exists with local eco-systems; and

WHEREAS, as one-fifth of the country's overall petroleum use is used for agriculture¹, consuming and purchasing locally grown food is shown to decrease the use and dependence on petroleum; and

WHEREAS, UAIZs are a direct solution to food deserts—districts with little or no access to fresh and affordable food. In California alone, nearly one million people live in food deserts and a startling 13.5 million Americans reside in food deserts²; and

WHEREAS, the lack of affordable fresh and healthy food (due to distance and/or financial capacity) is associated with high risks of obesity and malnutrition that targets mainly low-income and working class families³;and

WHEREAS, access to health is a human right, and lack of open green space and fresh food is detrimental to our communities and our youth; and

WHEREAS, Assembly Bill (AB) 551, authored by Assemblymember Phil Ting, would allow a county or a city to establish by ordinance an Urban Agriculture Incentive Zone for the purpose of supporting urban agriculture.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council hereby supports the Assembly Bill 551, Urban Agriculture Incentive Zones, so that vacant urban spaces can be utilized to create urban farms.

BE IT FURTHER RESOLVED that copies of this resolution shall be sent to Senator Pro Tem Darrell Steinberg, Senator Loni Hancock, Assembly Speaker John A. Pérez, and Assemblymembers Nancy Skinner and Phil Ting.

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¹ "California Watch. "Nearly 1 million Californians Living in 'food deserts'"http://livinggreen.ifas.ufl.edu/food/local.html#csa

² University of Florida, "Locally Grown Food." http://livinggreen.ifas.ufl.edu/food/local.html

³ ibid.

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 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

AB 551 — 2 —

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—10 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:

SECTION 1. Chapter 6.3 (commencing with Section 51040) is added to Part 1 of Division 1 of Title 5 of the Government Code, 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, 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 term "Urban Agriculture Incentive Zone" means an area within a county or a city and county that is comprised of individual properties designated as agriculture preserves by the county or a city and county for farming purposes.

-3- AB 551

51042. (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 otherwise blighted lands for small-scale production of agricultural crops.

- (b) Following the adoption of the ordinance as required by subdivision (a), a county or a city and county may enter into a contract with a landowner to enforceably restrict the use of the land subject to the contract to uses consistent with urban agriculture. Any contract entered into pursuant to this chapter shall include, but is not limited to, all of the following provisions:
 - (1) An initial term of not less than-10 five years.

- (2) A restriction on property that is at least 0.10 acres and no more than 3.0 acres in size.
- (3) A requirement that the entire property subject to the contract shall be dedicated toward agricultural use.
- (4) A prohibition against commercial uses, except as those uses comply with the terms of the contract, on the property subject to the contract.
- (c) A contract entered into pursuant to this chapter shall not prohibit the use of structures that support agricultural activity, including, but not limited to, toolsheds, greenhouses, produce stands, and instructional space.
- (d) A contract entered into pursuant to this chapter that includes a prohibition on the use of pesticide or fertilizers on properties under contract shall permit those pesticides or fertilizers allowed by the United States Department of Agriculture's National Organic Program.
- (e) Property subject to a contract entered into pursuant to this chapter shall be assessed pursuant to Section 402.1 of the Revenue and Taxation Code during the term of the contract.
- (f) A county shall not establish an Urban Agriculture Incentive Zone within any portion of a city or the city's spheres of influence unless that city has adopted an ordinance that authorizes an Urban Agriculture Incentive Zone within the city's boundaries or spheres of influence.
- 38 SEC. 2. Section 402.1 of the Revenue and Taxation Code is 39 amended to read:

AB 551 — 4 —

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

(1) Zoning.

- (2) Recorded contracts with governmental agencies other than those provided in Sections 422 and 422.5.
- (3) Permit authority of, and permits issued by, governmental agencies exercising land use powers concurrently with local governments, including the California Coastal Commission and regional coastal commissions, the San Francisco Bay Conservation and Development Commission, and the Tahoe Regional Planning Agency.
- (4) Development controls of a local government in accordance with any local coastal program certified pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code.
- (5) Development controls of a local government in accordance with a local protection program, or any component thereof, certified pursuant to Division 19 (commencing with Section 29000) of the Public Resources Code.
- (6) Environmental constraints applied to the use of land pursuant to provisions of statutes.
- (7) Hazardous waste land use restriction pursuant to Section 25240 of the Health and Safety Code.
- (8) A recorded conservation, trail, or scenic easement, as described in Section 815.1 of the Civil Code, that is granted in favor of a public agency, or in favor of a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has as its primary purpose the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, or open-space condition or use.
- (9) A solar-use easement pursuant to Chapter 6.9 (commencing with Section 51190) of Part 1 of Division 1 of Title 5 of the Government Code.
- (10) A contract entered into pursuant to the Urban Agriculture Incentive Zones Act (Chapter 6.3 (commencing with Section 51040) of Part 1 of Division 1 of Title 5 of the Government Code).
- (b) There is a rebuttable presumption that restrictions will not be removed or substantially modified in the predictable future and

5 AB 551

that they will substantially equate the value of the land to the value attributable to the legally permissible use or uses.

- (c) Grounds for rebutting the presumption may include, but are not necessarily limited to, the past history of like use restrictions in the jurisdiction in question and the similarity of sales prices for restricted and unrestricted land. The possible expiration of a restriction at a time certain shall not be conclusive evidence of the future removal or modification of the restriction unless there is no opportunity or likelihood of the continuation or renewal of the restriction, or unless a necessary party to the restriction has indicated an intent to permit its expiration at that time.
- (d) In assessing land with respect to which the presumption is unrebutted, the assessor shall not consider sales of otherwise comparable land not similarly restricted as to use as indicative of value of land under restriction, unless the restrictions have a demonstrably minimal effect upon value.
- (e) In assessing land under an enforceable use restriction wherein the presumption of no predictable removal or substantial modification of the restriction has been rebutted, but where the restriction nevertheless retains some future life and has some effect on present value, the assessor may consider, in addition to all other legally permissible information, representative sales of comparable lands that are not under restriction but upon which natural limitations have substantially the same effect as restrictions.
- (f) For the purposes of this section the following definitions apply:
- (1) "Comparable lands" are lands that are similar to the land being valued in respect to legally permissible uses and physical attributes.
- (2) "Representative sales information" is information from sales of a sufficient number of comparable lands to give an accurate indication of the full cash value of the land being valued.
- (g) It is hereby declared that the purpose and intent of the Legislature in enacting this section is to provide for a method of determining whether a sufficient amount of representative sales information is available for land under use restriction in order to ensure the accurate assessment of that land. It is also hereby declared that the further purpose and intent of the Legislature in enacting this section and Section 1630 is to avoid an assessment policy which, in the absence of special circumstances, considers

AB 551 — 6 —

1 uses for land that legally are not available to the owner and not

- 2 contemplated by government, and that these sections are necessary
- 3 to implement the public policy of encouraging and maintaining
- 4 effective land use planning. Nothing in this statute shall be
- 5 construed as requiring the assessment of any land at a value less 6 than as required by Section 401 or as prohibiting the use of
- Than as required by Section 401 of as promotting the use of
- 7 representative comparable sales information on land under similar
- 8 restrictions when this information is available.