

ASSEMBLY BILL

No. 2553

Introduced by Assembly Member Strickland

February 21, 2002

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2553, as introduced, Strickland. Property taxation.

The California Constitution provides that, unless otherwise provided in the Constitution or by federal law, all property in the state is taxable and is assessed at its fair market value. Existing property tax law requires a county assessor, in the valuation of real property, to consider the effect upon value of any enforceable restriction, as provided, to which the use of that land may be subject.

This bill would make technical, nonsubstantive changes to the provisions regarding enforceable restrictions.

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

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

- 1 SECTION 1. Section 402.1 of the Revenue and Taxation
2 Code is amended to read:
3 402.1. (a) In the assessment of land, the assessor shall
4 consider the effect upon value of any enforceable restrictions to
5 which the use of the land may be subjected. These restrictions ~~shall~~
6 include, but are not limited to, all of the following:
7 (1) Zoning.

- 1 (2) Recorded contracts with governmental agencies other than
2 those provided in Section 422.
- 3 (3) Permit authority of, and permits issued by, governmental
4 agencies exercising land use powers concurrently with local
5 governments, including the California Coastal Commission and
6 regional coastal commissions, the San Francisco Bay
7 Conservation and Development Commission, and the Tahoe
8 Regional Planning Agency.
- 9 (4) Development controls of a local government in accordance
10 with any local coastal program certified pursuant to Division 20
11 (commencing with Section 30000) of the Public Resources Code.
- 12 (5) Development controls of a local government in accordance
13 with a local protection program, or any component thereof,
14 certified pursuant to Division 19 (commencing with Section
15 29000) of the Public Resources Code.
- 16 (6) Environmental constraints applied to the use of land
17 pursuant to provisions of statutes.
- 18 (7) Hazardous waste land use restriction pursuant to Section
19 25240 of the Health and Safety Code.
- 20 (8) A recorded conservation, trail, or scenic easement, as
21 described in Section 815.1 of the Civil Code, that is granted in
22 favor of a public agency, or in favor of a nonprofit corporation
23 organized pursuant to Section 501(c)(3) of the Internal Revenue
24 Code that has as its primary purpose the preservation, protection,
25 or enhancement of land in its natural, scenic, historical,
26 agricultural, forested, or open-space condition or use.
- 27 (b) There is a rebuttable presumption that restrictions will not
28 be removed or substantially modified in the predictable future and
29 that they will substantially equate the value of the land to the value
30 attributable to the legally permissible use or uses.
- 31 (c) Grounds for rebutting the presumption may include, but are
32 not necessarily limited to, the past history of like use restrictions
33 in the jurisdiction in question and the similarity of sales prices for
34 restricted and unrestricted land. The possible expiration of a
35 restriction at a time certain shall not be conclusive evidence of the
36 future removal or modification of the restriction unless there is no
37 opportunity or likelihood of the continuation or renewal of the
38 restriction, or unless a necessary party to the restriction has
39 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
7 wherein 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
10 effect on present value, the assessor may consider, in addition to
11 all other legally permissible information, representative sales of
12 comparable lands that are not under restriction but upon which
13 natural limitations have substantially the same effect as
14 restrictions.

15 (f) For the purposes of this section the following definitions
16 apply:

17 (1) "Comparable lands" are lands that are similar to the land
18 being valued in respect to legally permissible uses and physical
19 attributes.

20 (2) "Representative sales information" is information from
21 sales of a sufficient number of comparable lands to give an
22 accurate indication of the full cash value of the land being valued.

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

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