

AMENDED IN SENATE JUNE 15, 2016

AMENDED IN ASSEMBLY APRIL 25, 2016

AMENDED IN ASSEMBLY APRIL 12, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2450**

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**Introduced by Assembly Member Achadjian**

February 19, 2016

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An act to amend ~~Section~~ *Sections 402.1 and 5091* of the Revenue and Taxation Code, relating to property tax.

LEGISLATIVE COUNSEL'S DIGEST

AB 2450, as amended, Achadjian. Property ~~taxation: property~~ ~~acquired for public use: notice: taxation.~~

*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 contracts with governmental agencies that restrict the use of the property to owner-occupied housing available at affordable housing cost to be recorded.*

The California Constitution exempts from property taxation property that is owned by the state or, with certain exceptions, by local governments. Existing property tax law establishes a procedure by which a public entity may cancel property taxes on property that it acquires. Under existing law, if a public entity proposes to acquire property for public use that will make the property exempt from taxation,

the public entity is required to give notice to the county tax collector and to other public entities whose taxes are not collected by the county tax collector, as provided.

This bill would additionally require the public entity to give notice to the county assessor.

By adding to the duties of local government ~~officials with regard to the cancellation of property taxes~~, *officials*, this bill would impose a state-mandated local program.

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.

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

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

19 (5) Development controls of a local government in accordance  
20 with a local protection program, or any component thereof, certified

1 pursuant to Division 19 (commencing with Section 29000) of the  
2 Public Resources Code.

3 (6) Environmental constraints applied to the use of land pursuant  
4 to provisions of statutes.

5 (7) Hazardous waste land use restriction pursuant to Section  
6 25226 of the Health and Safety Code.

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

14 (B) A recorded greenway easement, as described in Section  
15 816.52 of the Civil Code, that is granted in favor of a public  
16 agency, or in favor of a nonprofit corporation organized pursuant  
17 to Section 501(c)(3) of the Internal Revenue Code that has as its  
18 primary purpose the developing and preserving of greenways.

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

22 (10) A contract where the following apply:

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

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

31 (C) The contract includes a deed of trust on the property in favor  
32 of the nonprofit corporation to ensure compliance with the terms  
33 of the program, which has no value unless the owner fails to  
34 comply with the covenants and restrictions of the terms of the  
35 home sale.

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

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

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

5 (c) Grounds for rebutting the presumption may include, but are  
6 not necessarily limited to, the past history of like use restrictions  
7 in the jurisdiction in question and the similarity of sales prices for  
8 restricted and unrestricted land. The possible expiration of a  
9 restriction at a time certain shall not be conclusive evidence of the  
10 future removal or modification of the restriction unless there is no  
11 opportunity or likelihood of the continuation or renewal of the  
12 restriction, or unless a necessary party to the restriction has  
13 indicated an intent to permit its expiration at that time.

14 (d) In assessing land with respect to which the presumption is  
15 un rebutted, the assessor shall not consider sales of otherwise  
16 comparable land not similarly restricted as to use as indicative of  
17 value of land under restriction, unless the restrictions have a  
18 demonstrably minimal effect upon value.

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

27 (f) *Contracts with governmental agencies that restrict the use*  
28 *of the property to owner-occupied housing available at affordable*  
29 *housing cost, including under any locally adopted inclusionary*  
30 *housing program, shall be recorded.*

31 ~~(f)~~

32 (g) For the purposes of this section the following definitions  
33 apply:

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

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

40 ~~(g)~~

1 (h) It is hereby declared that the purpose and intent of the  
2 Legislature in enacting this section is to provide for a method of  
3 determining whether a sufficient amount of representative sales  
4 information is available for land under use restriction to ensure  
5 the accurate assessment of that land. It is also hereby declared that  
6 the further purpose and intent of the Legislature in enacting this  
7 section and Section 1630 is to avoid an assessment policy which,  
8 in the absence of special circumstances, considers uses for land  
9 that legally are not available to the owner and not contemplated  
10 by government, and that these sections are necessary to implement  
11 the public policy of encouraging and maintaining effective land  
12 use planning. This statute shall not be construed as requiring the  
13 assessment of any land at a value less than as required by Section  
14 401 or as prohibiting the use of representative comparable sales  
15 information on land under similar restrictions when this information  
16 is available.

17 ~~SECTION 1.~~

18 *SEC. 2.* Section 5091 of the Revenue and Taxation Code is  
19 amended to read:

20 5091. (a) If a public entity proposes to acquire property for a  
21 public use that will make the property exempt from taxation, the  
22 public entity shall give notice to the county assessor, the county  
23 tax collector, and to any public entities whose taxes are not  
24 collected by the county tax collector but who at the time exercise  
25 the right of assessment and taxation.

26 (b) The notice shall be given within a reasonable time following  
27 the initial budgeting of funds for the proposed acquisition, and  
28 shall state all of the following:

29 (1) The approximate extent of the proposed project.

30 (2) The estimated time of completion of all acquisitions  
31 necessary for the proposed project.

32 (c) This section creates no rights or liabilities and does not affect  
33 the validity of any property acquisitions by negotiated purchase  
34 or eminent domain.

35 ~~SEC. 2.~~

36 *SEC. 3.* If the Commission on State Mandates determines that  
37 this act contains costs mandated by the state, reimbursement to  
38 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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