

State of South Dakota

EIGHTY-SECOND SESSION LEGISLATIVE ASSEMBLY, 2007

555N0581

SENATE BILL NO. 173

Introduced by: Senators Knudson, Abdallah, Dempster, Garnos, Gray, Hansen (Tom), Hanson (Gary), Lintz, McCracken, McNenny, Olson (Ed), and Smidt (Orville) and Representatives Rhoden, Brunner, DeVries, Dykstra, Halverson, Hargens, Jerke, Lucas, Noem, Pederson (Gordon), Pitts, Rave, Tidemann, Turbiville, and Vanneman

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the assessment of
2 real property, to revise certain tax levy limitations for schools, to determine the deferred
3 value and taxes of agricultural land that is changed to another classification of property, and
4 to repeal the nonagricultural acreage classification.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 Notwithstanding § 10-6-74, for the taxes payable in 2009, 2010, 2011, 2012, and 2013, the
9 sales of property on or after November 1, 2006, where the property sells for more than one
10 hundred fifty percent of its assessed value shall be used to value other real property. However,
11 for the taxes payable in 2009, 2010, 2011, 2012 and 2013, no property's valuation may increase
12 more than five percent because of these sales. Any such sales shall be used in a sales ratio study
13 only as allowed in this section.

14 Section 2. Section 1 of this Act and § 10-6-74 are repealed on July 1, 2013.



Section 3. That § 10-6-33.24 be amended to read as follows:

10-6-33.24. Notwithstanding the provisions of chapter 10-6, agricultural land ~~may~~ shall be assessed based on its agricultural income value ~~if there are less than fifteen arms-length transactions of agricultural land during the three preceding assessment years.~~ The agricultural income value of agricultural land shall be determined on the basis of the capitalized annual cash rent of the agricultural land. The capitalized annual cash rent shall be based on data collected and analyzed pursuant to § 10-6-33.25. ~~For the purposes of this section, arms-length transactions do not include any agricultural land sales subject to the provisions of § 10-6-33.14, 10-6-33.20, or 10-6-74.~~

Section 4. That § 10-6-33.25 be amended to read as follows:

10-6-33.25. For the purposes of § 10-6-33.24, the agricultural income value shall be determined using capitalized annual cash rent. The annual cash rent is the annual cash rent, excluding the average per acre tax on agricultural land, ~~determined through an analysis of arms-length rental agreements collected within the county in the three years prior to the year for which the agricultural income value is being determined~~ using cash rent information collected pursuant to § 10-6-33.16. The agricultural income value of cropland shall be based on average rents over a three-year period for cropland under natural conditions. The agricultural income value of noncropland shall be based on average rents over a three-year period for noncropland under natural conditions. ~~However, no arms-length rental agreements for irrigated land may be used to determine the annual cash rent pursuant to this section.~~ The annual cash rent shall be capitalized at ~~seven and three-fourths~~ six and seven hundredths percent.

~~—The secretary of revenue and regulation may enter into a contract for the collection of cash rent information by county. Cash rent information shall be adjusted by soil survey statistics, if available, and pursuant to § 10-6-33.26.~~

1 However, for the taxes payable in 2009, 2010, and 2011, the total value of agricultural land
2 within any county may not increase more than fifteen percent in any year.

3 Section 5. That § 10-6-33.16 be amended to read as follows:

4 10-6-33.16. The secretary of revenue and regulation shall specify the cash rent used to
5 determine the agricultural income value of agricultural land. The secretary of revenue and
6 regulation may enter into a contract for the collection of cash rent information by county. Cash
7 rent information shall be adjusted by soil survey statistics if available.

8 Section 6. That § 10-6-33.26 be amended to read as follows:

9 10-6-33.26. The director of equalization shall annually determine the assessed value of
10 agricultural land as defined by § 10-6-31.3. ~~Any~~ The assessed valued of agricultural land
11 ~~assessed based on its agricultural income value pursuant to § 10-6-33.24 and 10-6-33.25 may~~
12 ~~be value~~ adjusted by the following factors:

- 13 (1) The capacity of the land to produce agricultural products as defined in § 10-6-33.2;
14 and
15 (2) The location, size, soil survey statistics, terrain, and topographical condition of the
16 land including the climate, accessibility, and surface obstructions which can be
17 documented.

18 Section 7. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 Buildings and structures, other than normally occupied dwellings on agricultural land and
21 automobile garages or portions of buildings used as automobile garages, which are used
22 exclusively for agricultural purposes and situated on agricultural land, are hereby specifically
23 classified for tax purposes as agricultural property and shall be assessed as similar
24 nonagricultural property.

Section 8. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as follows:

The agricultural income value for agricultural land as determined § 10-6-33.24 represents one hundred percent of the market value and that value shall be adjusted to where the median level of assessment represents eighty-five percent of the market value pursuant to §§ 10-3-41, 10-12-42, and 10-13-37.

Section 9. That § 10-6-33.13 be amended to read as follows:

10-6-33.13. The secretary of revenue and regulation may promulgate rules pursuant to chapter 1-26 concerning the:

- (1) Collection and tabulation of information required to determine median appraisal or sales assessment ratio, and coefficient of dispersion;
- (2) Criteria to be included in a compliance audit of assessment practices; ~~and~~
- (3) Conditions under which a certificate of compliance may be issued to a county;
- (4) Procedures for determining the valuation of agricultural buildings and structures;
- (5) Procedures for determining the valuation of dwellings on agricultural land and automobile garages or portions of buildings used as automobile garages;
- (6) Application of cropland and noncropland income values;
- (7) Soil classification standards; and
- (8) Procedures for making adjustments to the value of agricultural land pursuant to §§ 10-6-33.26 and 10-6-33.27.

Section 10. That § 13-16-7 be amended to read as follows:

13-16-7. The school board of any school district of this state may at its discretion authorize an annual levy of a tax not to exceed three dollars per thousand dollars of taxable valuation on the taxable valuation of the district for the capital outlay fund for assets as defined by § 13-16-6

1 or for its obligations under a resolution, lease-purchase agreement, capital outlay certificate, or
2 other arrangement with the Health and Educational Facilities Authority. Taxes collected
3 pursuant to such levy may be irrevocably pledged by the school board to the payment of
4 principal of and interest on installment purchase contracts or capital outlay certificates entered
5 into or issued pursuant to § 13-16-6 or 13-16-6.2 or lease-purchase agreements or other
6 arrangement with the Health and Educational Facilities Authority and, so long as any capital
7 outlay certificates are outstanding, installment agreement payments, lease-purchase agreements,
8 or other arrangements are unpaid, the school board of any district may be compelled by
9 mandamus or other appropriate remedy to levy an annual tax sufficient to pay principal and
10 interest thereon, but not to exceed the three dollars per thousand dollars of taxable valuation in
11 any year authorized to be levied hereby.

12 For taxes payable in 2009, the total amount of revenue payable from the levy provided in
13 this section may not increase more than the lesser of three percent or the index factor, as defined
14 in § 10-13-38, over the maximum amount of revenue that could have been generated for the
15 taxes payable in 2008. After applying the index factor, a school district may increase the revenue
16 payable from taxes on real property above the limitations provided by this section by the
17 percentage increase of value resulting from any improvements or change in use of real property,
18 annexation, minor boundary changes, and any adjustments in taxation of real property separately
19 classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A,
20 and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value. A school
21 district may increase the revenue it receives from taxes on real property above the limit provided
22 by this section for taxes levied to pay the principal, interest, and redemption charges on any
23 bonds issued after January 1, 2007, which are subject to referendum, scheduled payment
24 increases on bonds and for a levy directed by the order of a court for the purpose of paying a

1 judgment against such school district. Any school district created or reorganized after January 1,
2 2007, is exempt from the limitation provided by this section for a period of two years
3 immediately following its creation.

4 For taxes payable in 2010, 2011, 2012, and 2013, the total amount of revenue payable from
5 the levy provided in this section may not increase more than the lesser of three percent or the
6 index factor, as defined in § 10-13-38, over the amount of revenue payable from taxes on real
7 property in the preceding year. After applying the index factor, a school district may increase
8 the revenue payable from taxes on real property above the limitations provided by this section
9 by the percentage increase of value resulting from any improvements or change in use of real
10 property, annexation, minor boundary changes, and any adjustments in taxation of real property
11 separately classified and subject to statutory adjustments and reductions under chapters 10-4,
12 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal
13 value. A school district may increase the revenue it receives from taxes on real property above
14 the limit provided by this section for taxes levied to pay the principal, interest, and redemption
15 charges on any bonds issued after January 1, 2007, which are subject to referendum, scheduled
16 payment increases on bonds and for a levy directed by the order of a court for the purpose of
17 paying a judgment against such school district. Any school district created or reorganized after
18 January 1, 2007, is exempt from the limitation provided by this section for a period of two years
19 immediately following its creation.

20 For taxes payable in 2009, 2010, 2011, 2012, and 2013, the levy limitation of three dollars
21 per thousand dollars of taxable valuation does not apply to any school district.

22 Section 11. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 If agricultural land is changed to another classification of property, the director of

1 equalization shall determine its deferred value for the previous three years. The deferred value
2 of the property is the difference between the market value of the property, assessed according
3 to its new use, and the assessed value of the property. The director of equalization shall provide
4 these values to the county auditor. The county auditor shall determine the deferred taxes on the
5 property by applying the total property tax levies imposed on the new classification of property
6 for each of the previous three years. The owner of the property at the time the change in property
7 classification occurs shall pay to the county treasurer the deferred taxes on the property. The
8 county auditor shall notify the property owner in writing of the deferred value and the deferred
9 taxes of the property. The owner shall pay the deferred taxes within thirty days of receiving the
10 notice required by this section or before transferring the property, whichever occurs first.

11 Section 12. That chapter 10-21 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 The county may file a lien with the register of deeds on the property for any deferred taxes
14 owed to the county pursuant to section 11 of this Act. No property on which the county has filed
15 a lien on pursuant to this section may be transferred unless the property taxes are paid in full.

16 Section 13. That chapter 10-21 be amended by adding thereto a NEW SECTION to read as
17 follows:

18 The owner of the property may appeal the deferred value assigned to the property to the
19 board of county commissioners within thirty days of receiving the notice required by section 11
20 of this Act.

21 Section 14. That chapter 10-21 be amended by adding thereto a NEW SECTION to read as
22 follows:

23 Any revenue received by the county from the payment of deferred property taxes pursuant
24 to section 11 of this Act shall be deposited in the county general fund. The county treasurer

1 shall, upon receipt of the revenue, apportion and distribute the revenue among the taxing
2 districts that levied a tax on the property for which the deferred taxes were paid, including the
3 county, based upon the taxing district's percentage of the total property taxes collected on such
4 property.

5 Section 15. That § 10-12-31.1 be amended to read as follows:

6 10-12-31.1. Notwithstanding other provision of law, when applying the levies for school
7 purposes, the county director of equalization of each county shall adjust the level of assessment
8 in that district so that the level of assessment as indicated by the most recent assessment to sales
9 ratio as provided for in § 10-11-55 and the most recent ~~assessment to full agricultural land value~~
10 ~~ratio~~ agricultural income value as provided for in ~~§ 10-11-57~~ §10-6-33.24 in that district are
11 equal to eighty-five percent of market value or agricultural income value. The Department of
12 Revenue and Regulation shall provide the director of equalization of each county all of the
13 factors of adjustment necessary for the computations required in this section.

14 Section 16. That § 10-6-31.3 be amended to read as follows:

15 10-6-31.3. For tax purposes, land is agricultural land if it meets two of the following three
16 criteria:

- 17 (1) At least thirty-three and one-third percent of the total family gross income of the
18 owner is derived from the pursuit of agriculture as defined in subdivision (2) of this
19 section or it is a state-owned public shooting area or a state-owned game production
20 area as identified in § 41-4-8 and it is owned and managed by the Department of
21 Game, Fish and Parks;
- 22 (2) Its principal use is devoted to the raising and harvesting of crops or timber or fruit
23 trees, the rearing, feeding, and management of farm livestock, poultry, fish, or
24 nursery stock, the production of bees and apiary products, or horticulture, all for

intended profit pursuant to subdivision (1) of this section. Agricultural real estate also includes woodland, wasteland, and pasture land, but only if the land is held and operated in conjunction with agricultural real estate as defined and it is under the same ownership;

- (3) It consists of not less than twenty acres of unplatted land or is a part of a contiguous ownership of not less than eighty acres of unplatted land. The same acreage specifications apply to platted land, excluding land platted as a subdivision, which is in an unincorporated area. However, the board of county commissioners may increase the minimum acre requirement up to one hundred sixty acres.

~~However, for tax purposes, land is not agricultural land if the land is classified pursuant to § 10-6-33.14 as a nonagricultural acreage.~~

Section 17. That § 10-6-33.3 be amended to read as follows:

10-6-33.3. Land or improvement on land within an operating unit which is not used incident to an agricultural pursuit shall be separately listed and assessed ~~and the income therefrom shall not be used in determining the values for the purposes of §§ 10-6-33.1 and 10-6-33.2.~~

Section 18. That § 10-6-33.5 be amended to read as follows:

10-6-33.5. The assessment, valuation, equalization, and taxation of school and endowment lands shall be at the same level and on the same basis as lands assessed, valued, and equalized according to ~~§§ 10-6-33.1 to 10-6-33.4~~ §§ 10-6-33.24 to 10-6-33.27, inclusive.

Section 19. That § 10-6-33.7 be amended to read as follows:

10-6-33.7. Agricultural land in each county shall be divided into the eight classes defined by the United States Department of Agriculture's soil conservation service as published in its soil survey for each county. The county director of equalization shall, based on the agricultural lands soil survey classification, determine a value for each soil type. ~~The value for each soil type~~

1 ~~shall be determined from sales of similar land based upon its soil survey classification, and as~~
2 ~~adjusted for the factors contained in subdivision 10-6-33.1(2). The sales used shall be sales of~~
3 ~~agricultural land that are sold for agricultural purposes.~~

4 Section 20. That § 10-6-33.21 be amended to read as follows:

5 10-6-33.21. If an application is submitted pursuant to § 10-6-33.22, the director of
6 equalization shall take into consideration and make adjustments in setting the assessed value
7 for agricultural land which has been inundated by floods and is not farmable during the past
8 three growing seasons. The director of equalization shall use the marshland soils rating
9 classification pursuant to §§ ~~10-6-33.2~~ and § 10-6-33.7 to determine the assessed value of the
10 acreage inundated and not farmable.

11 Section 21. That §§ 10-6-33.1, 10-6-33.2, 10-6-33.4, 10-6-33.6, 10-6-33.14, 10-6-33.15, 10-
12 6-33.17, 10-6-33.18, 10-6-33.19, 10-6-33.20, 10-6-33.23, and 10-11-57, be repealed.