

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

555N0581

SENATE TAXATION COMMITTEE ENGROSSED NO.

SB 173 - 02/09/2007

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 revise certain provisions
3 regarding property tax levies for school districts, and to repeal the nonagricultural acreage
4 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 per year because of these sales. Any such sales shall be used in a sales
13 ratio study only as allowed in this section.



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 Section 1 of this Act and § 10-6-74 are repealed on July 1, 2013.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

1 ~~available, and pursuant to § 10-6-33.26.~~

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

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

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

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

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

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

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

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

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

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

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

1 increases on bonds and for a levy directed by the order of a court for the purpose of paying a
2 judgment against such school district. Any school district created or reorganized after January 1,
3 2007, is exempt from the limitation provided by this section for a period of two years
4 immediately following its creation.

5 For taxes payable in 2010, 2011, 2012, and 2013, the total amount of revenue payable from
6 the levy provided in this section may not increase more than the lesser of three percent or the
7 index factor, as defined in § 10-13-38, over the maximum amount of revenue that could have
8 been generated for the taxes payable in 2008 plus any unused index factor from the previous
9 years. After applying the index factor, a school district may increase the revenue payable from
10 taxes on real property above the limitations provided by this section by the percentage increase
11 of value resulting from any improvements or change in use of real property, annexation, minor
12 boundary changes, and any adjustments in taxation of real property separately classified and
13 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B,
14 except § 10-6-31.4, only if assessed the same as property of equal value. A school district may
15 increase the revenue it receives from taxes on real property above the limit provided by this
16 section for taxes levied to pay the principal, interest, and redemption charges on any bonds
17 issued after January 1, 2007, which are subject to referendum, scheduled payment increases on
18 bonds and for a levy directed by the order of a court for the purpose of paying a judgment
19 against such school district. Any school district created or reorganized after January 1, 2007, is
20 exempt from the limitation provided by this section for a period of two years immediately
21 following its creation.

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

24 Section 11. That § 10-12-31.1 be amended to read as follows:

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

Section 12. That § 10-6-31.3 be amended to read as follows:

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

- (1) At least thirty-three and one-third percent of the total family gross income of the owner is derived from the pursuit of agriculture as defined in subdivision (2) of this section or it is a state-owned public shooting area or a state-owned game production area as identified in § 41-4-8 and it is owned and managed by the Department of Game, Fish and Parks;
- (2) Its principal use is devoted to the raising and harvesting of crops or timber or fruit trees, the rearing, feeding, and management of farm livestock, poultry, fish, or 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 13. 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 14. 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 15. 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 shall be determined from sales of similar land based upon its soil survey classification, and as adjusted for the factors contained in subdivision 10-6-33.1(2). The sales used shall be sales of agricultural land that are sold for agricultural purposes.~~

Section 16. That §§ 10-6-33.1, 10-6-33.4, 10-6-33.6, 10-6-33.14, 10-6-33.15, 10-6-33.17, 10-6-33.18, 10-6-33.19, 10-6-33.20, and 10-6-33.23 be repealed.

1 Section 17. That § 13-13-72.1 be amended to read as follows:

2 13-13-72.1. Any adjustments in the levies specified in ~~subdivision 13-13-10.1(6)~~ § 10-12-42
3 made pursuant to §§ 13-13-71 and 13-13-72 shall be based on maintaining the relationship
4 between statewide local effort as a percentage of statewide local need in the fiscal year
5 succeeding the fiscal year in which the adjustment is made. In addition to the adjustments in the
6 levies provided by this section, the levies for nonagricultural property and owner-occupied
7 single-family dwellings shall also be adjusted as necessary to account for the additional increase
8 in the total assessed value for nonagricultural property and owner-occupied single-family
9 dwellings pursuant to section 1 of this Act.