



2022 South Dakota Legislature

Senate Bill 162

SENATE COMMERCE AND ENERGY ENGROSSED

Introduced by: **Senator Crabtree**

1 **An Act to revise the discretionary formula for reduced taxation of new structures**
 2 **and residential property.**

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

4 **Section 1. That § 10-6-137 be AMENDED:**

5 **10-6-137.** Any structure classified pursuant to this section, ~~shall~~must, following
 6 construction, be valued for taxation purposes in the usual manner. ~~However, the~~The board
 7 of county commissioners of the county ~~where-in which~~ the structure is located, may adopt
 8 ~~any a~~ formula for assessed value to be used for tax purposes. ~~The~~Except as otherwise
 9 provided in section 2 of this Act, the formula may include, for any or all of the five tax
 10 years following construction, all, any portion, or none of the assessed ~~valuation~~value for
 11 tax purposes. Any formula adopted ~~shall~~must be equally applied to specifically classified
 12 ~~structures~~properties within a ~~tax-increment finance~~taxing district. For purposes of this
 13 chapter, each political subdivision is considered to be a separate taxing district and the
 14 board of county commissioners may apply the formula differently to each of the political
 15 subdivisions located within the county.

16 The board of county commissioners of the county ~~where-in which~~ the structure is
 17 located may, if requested by the owner of the structure, ~~not apply the discretionary~~
 18 ~~formula and the full assessment shall be made~~fully assess the structure without application
 19 of the formula. In waiving the formula for the structure of one owner, the board of county
 20 commissioners is not prohibited from applying the formula for subsequent new structures.
 21 The assessed ~~valuation~~value during any of the five years may not be less than the
 22 assessed ~~valuation~~value of the property in the year preceding the first year of the tax
 23 years following construction.

24 Any structure that is partially constructed on the assessment date may be valued
 25 for tax purposes, pursuant to this section, and the ~~valuation~~value may not be less than
 26 the assessed ~~valuation~~value of the property in the year preceding the beginning of

1 construction. The period that the property is valued for tax purposes under this section
2 may include the years when the property is partially constructed.

3 Following the five-year period under this section, the property ~~shall~~must be
4 assessed at the same percentage as ~~is~~ all other property for tax purposes, except as
5 otherwise provided in section 2 of this Act.

6 Any of the following types of real property may be specifically classified for the
7 purpose of taxation pursuant to this section:

- 8 (1) Any new industrial or commercial structure, or any addition, renovation, or
9 reconstruction to an existing structure, located within a designated urban renewal
10 area as defined in § 11-8-4, if the new structure, addition, renovation, or
11 reconstruction has a full and true value of thirty thousand dollars or more;
- 12 (2) Any new industrial structure, including a power generation facility, or an addition
13 to an existing structure, if the new structure or addition has a full and true value
14 of thirty thousand dollars or more;
- 15 (3) Any new nonresidential agricultural structure, or any addition to an existing
16 structure, if the new structure or addition has a full and true value of ten thousand
17 dollars or more;
- 18 (4) Any new commercial structure, or any addition to an existing structure, except a
19 commercial residential structure as described in subdivision (5), if the new
20 structure or addition has a full and true value of thirty thousand dollars or more;
- 21 (5) Any new commercial residential structure, or addition to an existing structure,
22 containing four or more units, if the new structure or addition has a full and true
23 value of thirty thousand dollars or more;
- 24 (6) Any new affordable housing structure containing four or more units, with a monthly
25 rental rate of the units at or below the annually calculated rent for the state's sixty
26 percent area median income being used by the South Dakota Housing Development
27 Authority, for a minimum of ten years following the date of first occupancy, if the
28 structure has a full and true value of thirty thousand dollars or more;
- 29 (7) Any new residential structure, or addition to or renovation of an existing structure,
30 located within a redevelopment neighborhood established pursuant to § 10-6-141,
31 if the new structure, addition, or renovation has a full and true value of five
32 thousand dollars or more. The structure ~~shall~~must be located in an area defined
33 and designated as a redevelopment neighborhood based on conditions provided in
34 § 11-7-2 or 11-7-3~~;~~ or

- 1 (8) Any commercial, industrial, or nonresidential agricultural property ~~which~~that
 2 increases more than ten thousand dollars in full and true value, as a result of
 3 reconstruction or renovation of the structure.

4 **Section 2. That a NEW SECTION be added:**

5 For any real property specifically classified under subdivisions 10-6-137(5), (6),
 6 and (7), the formula adopted by the board of county commissioners may include:

7 (1) No more than twenty-five percent of the increased assessed value in the first or
 8 second year following the completion of construction;

9 (2) No more than fifty percent of the increased assessed value in the third or fourth
 10 year following the completion of construction;

11 (3) No more than seventy-five percent of the increased assessed value in the fifth or
 12 sixth year following the completion of construction; and

13 (4) One hundred percent of the increased assessed value in the seventh year following
 14 the completion of construction and each year thereafter.

15 During construction, the assessed value of the property may not exceed the
 16 assessed value of the property in the year preceding the beginning of construction.

17 The percentages stated in this section are limited to that portion of the assessed
 18 value that exceeds the property's assessed value in the year preceding the start of
 19 construction.

20 **Section 3. That § 10-6-138 be AMENDED:**

21 **10-6-138.** If the board of county commissioners ~~of a county~~ has not adopted a
 22 formula pursuant to § 10-6-137 ~~or section 2 of this Act~~, the governing board of a
 23 municipality ~~where-in which~~ the structures defined in ~~§ 10-6-137~~ or property are located,
 24 or within three miles of the corporate limits of the municipality, may ~~in the governing~~
 25 ~~board's discretion~~ ~~adopt all or any part of the~~ a formula for assessed value pursuant to
 26 § 10-6-137 ~~or section 2 of this Act~~.

27 In the case of residential structures described in § 10-6-137, the governing board
 28 of a municipality may adopt all or any part of a formula that was:

29 (1) Not adopted by the board of county commissioners; or

30 (2) Not fully adopted by the board of county commissioners.

31 **Section 4. That § 10-6-141 be AMENDED:**

1 **10-6-141.** The board of county commissioners or the municipal governing body
 2 that approves the adoption of a reduced ~~valuation value,~~ pursuant to ~~subdivision 10-6-~~
 3 ~~137(7)~~ section 2 of this Act, for any residential structure within a redevelopment
 4 neighborhood, shall, by ordinance, identify the ~~exact~~ boundaries of the redevelopment
 5 neighborhood ~~where-in which~~ the reduced ~~valuation value~~ will be available.

6 The boundaries of the redevelopment neighborhood need not be contiguous.

7 **Section 5. That § 10-12-44 be AMENDED:**

8 **10-12-44.** The county auditor ~~in each~~ having jurisdiction over a school district shall
 9 raise additional revenue, for the general fund and special education fund, from real
 10 property taxes, to compensate for a tax abatement, a tax increment financing district, or
 11 a discretionary formula ~~as follows~~ in accordance with the following:

- 12 (1) For tax increment financing districts created pursuant to chapter 11-9, the county
 13 auditor shall impose an additional tax levy, for an amount not to exceed an amount
 14 equal to the sum of the levies in §§ 10-12-42 and 13-37-16 ~~times multiplied by~~
 15 the tax increment ~~valuation value,~~ as defined in § 11-9-1;
- 16 (2) For property subject to § 10-6-137, section 2 of this Act, or § 10-6-144, the county
 17 auditor shall impose an additional tax levy, for an amount not to exceed the amount
 18 of taxes that were not collected, due to the reduction in ~~valuation value~~ based on
 19 the maximum levies, pursuant to §§ 10-12-42 and 13-37-16; and
- 20 (3) For abated taxes, the county auditor shall impose an additional tax levy, for an
 21 amount not to exceed the amount of the school district's portion of the taxes that
 22 were abated, pursuant to chapter 10-18, during the previous tax year.

23 The levies in this section are not subject to the referendum provision of § 10-12-
 24 43 and these levies ~~shall~~ must maintain the same proportion to each other, as represented
 25 in the mathematical relationship at the maximum levies pursuant to § 10-12-42.

26 **Section 6. That § 11-9-20 be AMENDED:**

27 **11-9-20.** On application in writing by the municipal finance officer, on a form
 28 prescribed by the department, the department shall determine the aggregate assessed
 29 value of the taxable property in the district, ~~which aggregate assessed value, on~~
 30 ~~certification to the finance officer, shall constitute~~ and certify that value to the finance
 31 officer as the tax increment base of the district. The application ~~shall~~ must be accompanied
 32 by a detailed parcel list of the included legal descriptions, property ownership, and
 33 ~~valuation value,~~ as provided by the director of equalization office, of the affected

1 corresponding county. Except as provided ~~for~~ in § 11-9-20.1, the department shall use
2 the values, as last previously certified by the department, adjusted for the value to the
3 date the district was created, for any buildings or additions, completed or removed, and
4 without regard to any reduction pursuant to §§ 1-19A-20, 10-6-137, and 10-6-144, and
5 section 2 of this Act.

6 **Section 7. That § 13-13-20.4 be AMENDED:**

7 **13-13-20.4.** For any ~~property-structure~~ given a reduced ~~valuation-value~~ pursuant
8 to § 10-6-137 ~~or 10-6-144~~, the portion of actual assessed ~~valuation-value~~ of the property
9 used when calculating state aid to education ~~shall~~ must be twenty percent in the first year,
10 forty percent in the second year, sixty percent in the third year, eighty percent in the
11 fourth year, and one hundred percent each year thereafter.

12 For any structure or property given a reduced value pursuant to section 2 of this
13 Act or § 10-6-144, the portion of actual assessed value of the property used when
14 calculating state aid to education must be:

15 (1) Twenty-five percent in the first or second year;

16 (2) Fifty percent in the third or fourth year;

17 (3) Seventy-five percent in the fifth or sixth year; and

18 (4) One hundred percent in the seventh year and each year thereafter.

19 ~~In addition, the~~ The actual assessed ~~valuation-value~~ of any property given exempt
20 status, pursuant to § 10-4-39 ~~shall~~, must be used when calculating state aid to education.