

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

519P0019

HOUSE BILL NO. 1005

Introduced by: Representatives Rhoden, Boomgarden, Dennert, Juhnke, Noem, Sigdestad, and Vanneman and Senators Knudson, Hansen (Tom), Lintz, and Peterson (Jim) at the request of the Interim Property Tax Assessment Study Committee

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the assessment of
2 real property, to assess agricultural land based on its agricultural income value, to create an
3 implementation and oversight advisory task force, to repeal certain provisions regarding the
4 assessment of property, and 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 the provisions of § 10-6-74, if any nonagricultural or owner-occupied
9 property sells for more than one hundred fifty percent of its assessed value after November 1,
10 2007, the sale of such property shall be used to value other real property if the sale is an arms-
11 length transaction. However, for the taxes payable in 2010, 2011, 2012, 2013, and 2014, no
12 nonagricultural or owner-occupied property's valuation may increase more than five percent per
13 year because of such sales. The sales of nonagricultural and owner-occupied property may only
14 be used in a sales ratio study as allowed by this section.



Section 2. That section 1 of this Act and § 10-6-74 be repealed on November 1, 2012.

Section 3. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as follows:

Notwithstanding the provisions of § 10-6-33, agricultural land shall be assessed based on its agricultural income value. The agricultural income value of agricultural land shall be determined on the basis of productivity and the annual earnings capacity of the agricultural land, if the land is used for agricultural purposes. The productivity of agricultural land and its annual earning capacity shall be based on data collected and analyzed pursuant to sections 4 to 7, inclusive, of this Act.

However, for the taxes payable in 2010, 2011, and 2012, the total value of agricultural land within any county may not increase more than fifteen percent in any year.

Section 4. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as follows:

Agricultural income value is defined as the capitalized average annual earning capacity. The capacity of cropland to produce agricultural products shall be based on average yields for crops or plants under natural conditions. The capacity of noncropland to produce agricultural products shall be based on average acres per animal unit under natural conditions. For the purpose of this section, annual earning capacity for:

- (1) Cropland is twenty-five percent of the annual gross income produced; and
- (2) Noncropland is twenty-five percent of the annual gross income capacity of the land based upon the animal-carrying capacity of the land.

The economics department of South Dakota State University shall annually compute the average annual earning capacity of cropland and noncropland for each county using the database defined in section 6 of this Act. Any agricultural land receiving income from the conservation

1 reserve program or other government program that makes annual payments shall be treated as
2 cropland income unless it is clearly identified as a noncropland payment, until the contract
3 payment has ended. After the contract payment ends, the land shall be assessed and taxed based
4 on its use. The average annual earning capacity shall be capitalized at a rate of six percent to
5 determine the capitalized average annual earning capacity. The economics department shall
6 annually provide to the secretary of revenue and regulation an agricultural income value for
7 cropland, noncropland, and a composite agricultural income value for each county by June first
8 each year.

9 Section 5. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 Before July first each year, the secretary of revenue and regulation shall annually provide
12 each director of equalization the agricultural income value for each county as computed
13 pursuant to section 4 of this Act. The director of equalization shall annually determine the
14 assessed value of agricultural land. The assessed value of agricultural land may be adjusted by
15 the following factors:

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

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

23 The secretary of revenue and regulation shall enter into contracts with South Dakota State
24 University and, if necessary, the South Dakota Agricultural Statistics Service for the purpose

1 of creating a database to determine the agricultural income value of agricultural land by county.
2 A database for an identifiable region within a county may be created if the director of
3 equalization shows a need for establishing identifiable regions within a county. The secretary
4 shall have such data collected for 2000, which will serve as the first year of the database, and
5 each year thereafter. The database shall consist of the most recent eight years of data that have
6 been collected and the two years representing the highest, and the lowest agricultural income
7 value shall be discarded from the database. The database for the 2009 assessment shall consist
8 of data from 2000 to 2007, inclusive, and the database for each assessment year thereafter shall
9 be adjusted accordingly.

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

12 Agricultural land shall be divided by the director of equalization into categories, including
13 cropland and noncropland, so that the categories reflect actual use of the agricultural land. Each
14 category shall be divided into classes based on soil classification standards developed by the
15 United States Department of Agriculture Natural Resources Conservation Service.

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

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

23 Section 9. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
24 follows:

1 The agricultural income value for agricultural land as determined by sections 3 to 8,
2 inclusive, of this Act represents the market value of agricultural land, and the Department of
3 Revenue and Regulation shall provide the director of equalization of each county the factor of
4 adjustment necessary for the computation required pursuant to §§ 10-3-41, 10-12-31.1,
5 10-12-42, and 10-13-37.

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

7 10-6-33.13. The secretary of revenue and regulation may promulgate rules pursuant to
8 chapter 1-26 concerning the:

- 9 (1) Collection and tabulation of information required to determine median appraisal or
10 sales assessment ratio, and coefficient of dispersion;
- 11 (2) Criteria to be included in a compliance audit of assessment practices; ~~and~~
- 12 (3) Conditions under which a certificate of compliance may be issued to a county;
- 13 (4) Procedures for determining the valuation of agricultural buildings and structures;
- 14 (5) Procedures for determining the valuation of dwellings on agricultural land and
15 automobile garages or portions of buildings used as automobile garages;
- 16 (6) Application of cropland and noncropland income values;
- 17 (7) Soil classification standards; and
- 18 (8) Procedures for making adjustments to the value of agricultural land pursuant to
19 sections 3 to 9, inclusive, of this Act.

20 Before the secretary promulgates any rules pursuant to subdivisions (4) to (8), inclusive, the
21 secretary shall present the proposed rules to the Agricultural Land Assessment Implementation
22 and Oversight Advisory Task Force established pursuant to section 19 of this Act.

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

24 10-12-31.1. Notwithstanding other provision of law, when applying the levies for school

1 purposes, the county director of equalization of each county shall adjust the level of assessment
2 in that district so that the level of assessment as indicated by the most recent assessment to sales
3 ratio as provided for in § 10-11-55 and the most recent ~~assessment to full agricultural land value~~
4 ~~ratio agricultural income value~~ as provided for in ~~§ 10-11-57~~ sections 3 to 9, inclusive, of this
5 Act in that district are equal to eighty-five percent of market value or agricultural income value.

6 The Department of Revenue and Regulation shall provide the director of equalization of each
7 county all of the factors of adjustment necessary for the computations required in this section.

8 Section 12. That § 10-6-33.3 be amended to read as follows:

9 10-6-33.3. Land or improvement on land within an operating unit which is not used incident
10 to an agricultural pursuit shall be separately listed and assessed ~~and the income therefrom shall~~
11 ~~not be used in determining the values for the purposes of §§ 10-6-33.1 and 10-6-33.2.~~

12 Section 13. That § 10-6-33.5 be amended to read as follows:

13 10-6-33.5. The assessment, valuation, equalization, and taxation of school and endowment
14 lands shall be at the same level and on the same basis as lands assessed, valued, and equalized
15 according to ~~§§ 10-6-33.1 to 10-6-33.4, inclusive~~ sections 3 to 9, inclusive, of this Act.

16 Section 14. That § 10-6-33.7 be amended to read as follows:

17 10-6-33.7. Agricultural land in each county shall be divided into the eight classes defined
18 by the United States Department of Agriculture's soil conservation service as published in its
19 soil survey for each county. The county director of equalization shall, based on the agricultural
20 lands soil survey classification, determine a value for each soil type. ~~The value for each soil type~~
21 ~~shall be determined from sales of similar land based upon its soil survey classification, and as~~
22 ~~adjusted for the factors contained in subdivision 10-6-33.1(2). The sales used shall be sales of~~
23 ~~agricultural land that are sold for agricultural purposes.~~

24 Section 15. 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 16. That § 10-13-37.1 be amended to read as follows:

10-13-37.1. For purposes of ~~§ 10-6-33.24~~ and §§ 10-3-41, 10-12-31.1, and 10-13-37, the secretary of revenue and regulation shall calculate a factor for each county for the agricultural

1 and nonagricultural valuations. The factor shall be calculated by using the sales of arms-length
2 transactions and the assessments from the preceding assessment year. The secretary shall take
3 into consideration any reappraisals completed by the director of equalization. If there are less
4 than fifteen sales of either class, the secretary shall use the preceding year's sales of that class
5 with current assessments. In the case of agricultural land, sales may also be bridged in from
6 adjoining counties if there are less than fifteen sales.

7 Section 17. That § 13-11-10 be amended to read as follows:

8 13-11-10. In implementing the terms of § 13-11-9, a separate weighted average tax levy of
9 the receiving districts shall be calculated for agricultural property, ~~nonagricultural acreage~~
10 ~~property~~, owner-occupied single-family dwelling property, and for nonagricultural property for
11 each sending school district as follows:

- 12 (1) The levy per thousand dollars of taxable valuation for agricultural property for each
13 receiving school district shall be multiplied by the number of children from the
14 sending school district to whom the receiving school district is providing educational
15 services;
- 16 (2) Add together the products from subdivision (1) for each receiving school district;
- 17 (3) Divide the sum from subdivision (2) by the total number of students that the
18 contracting school district is sending to the receiving school districts pursuant to
19 § 13-15-1.3. The quotient is the weighted average tax levy per one thousand dollars
20 of taxable valuation for agricultural property;
- 21 (4) The weighted average tax levy per thousand dollars of taxable valuation for
22 ~~nonagricultural acreage~~, owner-occupied single-family dwellings, and nonagricultural
23 property shall be obtained by repeating the procedure outlined in subdivisions (1) to
24 (3), inclusive, for each class of property; and

(5) The sum of the levies assessed for all funds in the sending district shall be equal to or greater than the sum of all levies for all funds in the receiving district.

The above calculations do not include students receiving educational services from an out-of-state school district nor the tax levy of any out-of-state school district.

Section 18. That § 10-12-42 be amended to read as follows:

10-12-42. For taxes payable in ~~2008~~ 2010 and each year thereafter, the levy for the general fund of a school district shall be as follows:

(1) The maximum tax levy shall be nine dollars and eleven cents per thousand dollars of taxable valuation subject to the limitations on agricultural property as provided in subdivision (2) of this section, and owner-occupied property as provided for in subdivision (3) of this section, ~~and nonagricultural acreage property as provided for in subdivision (4) of this section;~~

(2) The maximum tax levy on agricultural property for such school district shall be two dollars and seventy-one cents per thousand dollars of taxable valuation. If the district's levies are less than the maximum levies as stated in this section, the levies shall maintain the same proportion to each other as represented in the mathematical relationship at the maximum levies; and

(3) The maximum tax levy for an owner-occupied single-family dwelling as defined in § 10-13-40, for such school district may not exceed four dollars and twenty-six cents per thousand dollars of taxable valuation. If the district's levies are less than the maximum levies as stated in this section, the levies shall maintain the same proportion to each other as represented in the mathematical relationship at the maximum levies; ~~and~~

~~(4) The maximum tax levy on nonagricultural acreage property as defined in § 10-6-~~

~~33.14, for such school district shall be three dollars and seventy-one cents per thousand dollars of taxable valuation. If the district's levies are less than the maximum levies as stated in this section, the levies shall maintain the same proportion to each other as represented in the mathematical relationship at the maximum levies.~~

All levies in this section shall be imposed on valuations where the median level of assessment represents eighty-five percent of market value as determined by the Department of Revenue and Regulation. These valuations shall be used for all school funding purposes. If the district has imposed an excess levy pursuant to § 10-12-43, the levies shall maintain the same proportion to each other as represented in the mathematical relationship at the maximum levies in this section. The school district may elect to tax at less than the maximum amounts set forth in this section.

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

There is hereby established the Agricultural Land Assessment Implementation and Oversight Advisory Task Force. The task force shall consist of the following twelve members:

- (1) The speaker of the House of Representatives shall appoint four members of the House of Representatives, no more than two of whom may be from one political party;
- (2) The speaker of the House of Representatives shall appoint two members of the general public;
- (3) The president pro tempore of the Senate shall appoint four members of the Senate, no more than two of whom may be from one political party; and
- (4) The president pro tempore of the Senate shall appoint two members of the general

1 public.

2 The task force shall advise the department regarding the rules promulgated by the
3 department to administer the provisions of sections 3 to 9, inclusive, of this Act and shall review
4 the implementation of the provisions of sections 3 to 9, inclusive, of this Act by the Department
5 of Revenue and Regulation.

6 Section 20. That §§ 10-6-33.1, 10-6-33.4, 10-6-33.6, §§ 10-6-33.14 to 10-6-33.20, inclusive,
7 and §§ 10-6-33.23 to 10-6-33.27, inclusive, be repealed.