

2022 South Dakota Legislature

Senate Bill 162**AMENDMENT 162D FOR THE SENATE ENGROSSED BILL**

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 district.

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

21 Any structure that is partially constructed on the assessment date may be valued
22 for tax purposes, pursuant to this section, and the ~~valuation value~~ may not be less than
23 the assessed ~~valuation value~~ of the property in the year preceding the beginning of
24 construction. The period that the property is valued for tax purposes under this section
25 may include the years when the property is partially constructed.

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

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

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

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

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

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

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

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

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

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

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

17 Any real property receiving the benefit of a discretionary formula prior to July 1,
18 2022, must continue to be assessed and taxed in the manner provided for in any county
19 or municipal resolution adopted pursuant to this chapter and in effect prior to July 1, 2022,
20 and must continue to be subject to the provisions of §§ 10-12-44, 11-9-20, and 13-13-
21 20.4.

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

23 **10-6-138.** If the board of county commissioners of a county has not adopted a
24 formula pursuant to § 10-6-137 or section 2 of this Act, the governing board of a
25 municipality where-in which the structures defined in § 10-6-137 or property are located,
26 or within three miles of the corporate limits of the municipality, may in the governing
27 board's discretion adopt all or any part of the a formula for assessed value pursuant to
28 § 10-6-137 or section 2 of this Act.

29 In the case of residential structures described in § 10-6-137(5), (6), and (7), the
30 governing board of a municipality may adopt a formula that differs from any formula
31 adopted by the board of county commissioners, provided the formula complies with
32 section 2 of this Act.

33 **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~~ constitutes the tax increment base of
 31 the district. The application ~~shall~~ must be accompanied by a detailed parcel list of the
 32 included legal descriptions, property ownership, and ~~valuation value~~, as provided by the
 33 director of equalization office, of the affected corresponding county. Except as provided

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

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

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

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

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

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

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

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

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