

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

636P0033

HOUSE EDUCATION ENGROSSED NO. **HB 1257** - 2/12/2008

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Wick, Dennert, Faehn, Hackl, Koistinen, Miles, Noem, Novstrup (Al), Peters, Steele, Van Etten, Weems, and Willadsen and Senators Maher, Duenwald, Greenfield, and McNenny

1 FOR AN ACT ENTITLED, An Act to revise certain procedures regarding real property
2 assessment and taxation and to repeal the nonagricultural acreage classification and certain
3 provisions regarding the assessment of property.

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

5 Section 1. That chapter 10-12 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 If the portion of the total taxable valuation for taxes payable in 2010, 2011, 2012, 2013,
8 2014, and 2015 of the state attributed to agricultural property increases by a greater percentage
9 than the other classifications of property on a statewide aggregate basis, the median level of
10 assessment as defined in §§ 10-12-31.1 and 10-13-37 shall be adjusted proportionally to
11 maintain the taxable valuation for taxes payable in 2009 base between agricultural property and
12 all other property. The taxable valuation base for all other classification of property shall be
13 adjusted by the percentage increase of value resulting from any improvements or change in use



1 of real property. Any adjustments in the median level of assessments made pursuant to §§ 10-
2 12-31.1 and 10-13-37 shall be based on maintaining the relationship between the total statewide
3 taxable valuation of agricultural property and the other classifications of property as adjusted
4 for improvements and change in use.

5 Section 2. 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 for taxes payable in 2010 and each year thereafter, the county director of equalization
8 of each county shall adjust the level of assessment in that district so that the level of assessment
9 as indicated by the most recent assessment to sales ratio as provided for in § 10-11-55 in that
10 district are equal to eighty-five percent of market value and the most recent assessment to full
11 agricultural land value ratio as provided for in § 10-11-57 in that district are equal to ~~eighty-five~~
12 eighty-four percent of market value. The Department of Revenue and Regulation shall provide
13 the director of equalization of each county all of the factors of adjustment necessary for the
14 computations required in this section.

15 Section 3. That § 10-13-37 be amended to read as follows:

16 10-13-37. ~~Property~~ For taxes payable in 2010 and each year thereafter, property taxes shall
17 be levied on valuations where the median level of assessment represents eighty-five percent of
18 the market value as determined by the Department of Revenue and Regulation. However, for
19 any property classified as agricultural property, the director of equalization shall make the
20 necessary adjustments, so that the median level of assessment represents eighty-four percent of
21 the market value as determined by the Department of Revenue and Regulation.

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

24 Notwithstanding the provisions of § 10-6-74, if any nonagricultural or owner-occupied

1 property sells for more than one hundred fifty percent of its assessed value after November 1,
2 2007, the sale of such property shall be used to value other real property if the sale is an arms-
3 length transaction. However, for the taxable valuation for taxes payable in 2010, 2011, 2012,
4 2013, and 2014, no nonagricultural or owner-occupied property's valuation may increase more
5 than five percent per year because of the sales provided by this section. The sales of
6 nonagricultural and owner-occupied property may only be used in a sales ratio study as allowed
7 by this section.

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

10 Notwithstanding the provisions of § 10-6-74, if any agricultural property sells for more than
11 one hundred fifty percent of its assessed value after November 1, 2007, the sale of such property
12 shall be used to value other real property if the sale is an arms-length transaction. However, for
13 the taxable valuation for taxes payable in 2010, 2011, 2012, 2013, and 2014, no agricultural
14 property's valuation may increase more than ten percent per year because of the sales provided
15 by this section. The sales of agricultural property may only be used in a sales ratio study as
16 allowed by this section.

17 Section 6. That §§ 10-6-33.14 to 10-6-33.18, inclusive, be repealed.

18 Section 7. That § 10-6-31.3 be amended to read as follows:

19 10-6-31.3. For tax purposes, land is agricultural land if it meets two of the following three
20 criteria:

- 21 (1) At least thirty-three and one-third percent of the total family gross income of the
22 owner is derived from the pursuit of agriculture as defined in subdivision (2) of this
23 section or it is a state-owned public shooting area or a state-owned game production
24 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 8. That § 13-11-10 be amended to read as follows:

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

(1) The levy per thousand dollars of taxable valuation for agricultural property for each receiving school district shall be multiplied by the number of children from the sending school district to whom the receiving school district is providing educational services;

1 (2) Add together the products from subdivision (1) for each receiving school district;

2 (3) Divide the sum from subdivision (2) by the total number of students that the
3 contracting school district is sending to the receiving school districts pursuant to
4 § 13-15-1.3. The quotient is the weighted average tax levy per one thousand dollars
5 of taxable valuation for agricultural property;

6 (4) The weighted average tax levy per thousand dollars of taxable valuation for
7 ~~nonagricultural acreage~~, owner-occupied single-family dwellings, and nonagricultural
8 property shall be obtained by repeating the procedure outlined in subdivisions (1) to
9 (3), inclusive, for each class of property; and

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

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

14 Section 9. That § 10-12-42 be amended to read as follows:

15 10-12-42. For taxes payable in ~~2008~~ 2009 and each year thereafter, the levy for the general
16 fund of a school district shall be as follows:

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

22 (2) The maximum tax levy on agricultural property for such school district shall be two
23 dollars and seventy-one cents per thousand dollars of taxable valuation. If the
24 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~~ the percent of market value as determined by the Department of Revenue and Regulation pursuant to §§ 10-12-31.1 and 10-13-37. 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 10. That § 10-6-33.24 be amended to read as follows:

10-6-33.24. Notwithstanding the provisions of chapter 10-6, the board of county commissioners may, by ordinance or resolution, require that any property classified as

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

8 Section 11. That § 10-6-33.25 be amended to read as follows:

9 10-6-33.25. For the purposes of § 10-6-33.24, the agricultural income value shall be
10 determined using capitalized annual cash rent. The annual cash rent is the annual cash rent,
11 excluding the per acre tax on agricultural land, determined through an analysis of arms-length
12 rental agreements collected within the county in the three years prior to the year for which the
13 agricultural income value is being determined. The agricultural income value of cropland shall
14 be based on average rents over a three-year period for cropland under natural conditions. The
15 agricultural income value of noncropland shall be based on average rents over a three-year
16 period for noncropland under natural conditions. However, no arms-length rental agreements
17 for irrigated land may be used to determine the annual cash rent pursuant to this section. The
18 annual cash rent shall be capitalized at ~~seven and three-fourths~~ four percent.

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

22 Section 12. Any agricultural land, as defined in § 10-6-31.3, that is sold and the assessor
23 determines such agricultural land will have a change in use and will be transferred to another
24 classification of property, may not be used for the purpose of valuing agricultural land. The sale

1 of any agricultural land that is not used for purpose of valuing agricultural property pursuant to
2 this section may not be used in any sales ratio study.

3 Section 13. That § 13-37-16 be amended to read as follows:

4 13-37-16. For taxes payable in 1997, and each year thereafter, the school board shall levy
5 no more than one dollar and forty cents per thousand dollars of taxable valuation, as a special
6 levy in addition to all other levies authorized by law for the amount so determined to be
7 necessary, and such levy shall be spread against all of the taxable property of the district. The
8 proceeds derived from such levy shall constitute a school district special education fund of the
9 district for the payment of costs for the special education of all children in need of special
10 education or special education and related services who reside within the district pursuant to the
11 provisions of §§ 13-37-8.2 to 13-37-8.10, inclusive. ~~The levy in this section shall be based on~~
12 ~~valuations such that the median level of assessment represents 85% of market value as~~
13 ~~determined by the Department of Revenue and Regulation.~~ The total amount of taxes that would
14 be generated at the levy pursuant to this section shall be considered local effort. Money in the
15 special education fund may be expended for the purchase or lease of any assistive technology
16 that is directly related to special education and specified in a student's individualized education
17 plan. This section does not apply to real property improvements.

18 Section 14. That § 10-6-74 be repealed on July 1, 2013.

19 Section 15. The provisions of sections 1, 4, and 5 of this Act are repealed on July 1, 2015.