

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

285D0031

SENATE TAXATION COMMITTEE ENGROSSED NO. **SB10** - 1/19/00

Introduced by: Senators Vitter, Madden, and Symens and Representatives Sebert, Chicoine, Engbrecht, Lintz, Slaughter, and Sutton (Duane) at the request of the Interim Tax Assessment Committee

1 FOR AN ACT ENTITLED, An Act to create a classification for owner-operated commercial
2 business property and to establish a maximum property tax levy on owner-operated
3 commercial business property for the general fund tax levy of a school district.

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

5 Section 1. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Each owner-operated commercial business in this state is specifically classified for the
8 purpose of taxation. An owner-operated commercial business is a business owned by any person
9 who is actively operating the business as the owner's primary economic activity for which such
10 classification is requested pursuant to section 2 of this Act. Primary economic activity means that
11 at least thirty-three and one-third percent of the total family gross income of the owner is derived
12 from the operation of such business. The owner shall annually submit to the register of deeds a
13 signed copy of the owner's individual tax return or a statement by a certified public accountant
14 stating that the owner meets the income requirements provided in this section. For the purposes
15 of this section, an owner-operated commercial business is any building, structure, or land, which

1 is assessed and taxed as a separate unit, as recorded in the records of the director of equalization.
2 A person may only have one business location on a statewide basis classified as an
3 owner-operated commercial business. If the owner operates the business in less than one hundred
4 percent of the space within the building or structure, the portion of the building or structure so
5 occupied by the owner shall be classified as an owner-operated commercial business.

6 Section 2. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 To be eligible for a property tax classification pursuant to section 1 of this Act, the owner
9 of each business shall submit a certificate to the county director of equalization stating such
10 person is the owner of the property on the legal assessment date. The owner shall submit the
11 certificate by March fifteenth. If the director of equalization classifies the property as an
12 owner-operated commercial business, the property shall retain this classification until such time
13 the owner's eligibility for this classification changes. The owner shall notify the director of
14 equalization if a change in eligibility for this classification occurs. The owner shall sign the
15 certificate under penalty of perjury. The Department of Revenue shall prescribe the form of the
16 certificate.

17 Section 3. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as
18 follows:

19 Any person who receives an owner-operated commercial business classification by
20 misrepresenting the facts as to the person's ownership or eligibility for such classification shall
21 be assessed a penalty equal to ten dollars per thousand dollars of valuation on the property,
22 which assessment shall become a perpetual lien on the property pursuant to § 10-21-33. The
23 person shall be barred from receiving the owner-operated commercial business classification for
24 any property in the state for the following five years.

25 Section 4. That § 10-12-42 be amended to read as follows:

1 10-12-42. For taxes payable in 2000 and each year thereafter, the levy for the general fund
2 of a school district shall be as follows:

3 (1) The maximum tax levy shall be sixteen dollars and fifteen cents per thousand dollars
4 of taxable valuation subject to the limitations on agricultural property as provided in
5 subdivision (2) of this section, owner-occupied property as provided for in subdivision
6 (3) of this section, ~~and~~ nonagricultural acreage property as provided for in subdivision
7 (4) of this section, and owner-operated commercial business property as provided for
8 in subdivision (5) of this section;

9 (2) The maximum tax levy on agricultural property for such school district shall be four
10 dollars and seventy cents per thousand dollars of taxable valuation. If the district's
11 levies are less than the maximum levies as stated in ~~chapter 10-13~~ this section, the
12 levies shall maintain the same proportion to each other as represented in the
13 mathematical relationship at the maximum levies;

14 (3) The maximum tax levy for an owner-occupied single-family dwelling as defined in
15 § 10-13-40, for such school district may not exceed seven dollars and fifty-six cents
16 per thousand dollars of taxable valuation. If the district's levies are less than the
17 maximum levies as stated in ~~chapter 10-13~~ this section, the levies shall maintain the
18 same proportion to each other as represented in the mathematical relationship at the
19 maximum levies;

20 (4) The maximum tax levy on nonagricultural acreage property as defined in
21 § 10-6-33.14, for such school district shall be five dollars and seventy cents per
22 thousand dollars of taxable valuation. If the district's levies are less than the maximum
23 levies as stated in ~~chapter 10-13~~ this section, the levies shall maintain the same
24 proportion to each other as represented in the mathematical relationship at the
25 maximum levies; and

1 (5) The maximum tax levy for an owner-operated commercial business property as
2 defined in section 1 of this Act, for such school district shall be ten dollars per
3 thousand dollars of the property's taxable valuation of two hundred thousand dollars
4 or less and sixteen dollars and fifteen cents per thousand dollars of the property's
5 taxable valuation in excess of two hundred thousand dollars. If the district's levies are
6 less than the maximum levies as stated in this section, the levies shall maintain the
7 same proportion to each other as represented in the mathematical relationship at the
8 maximum levies.

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

15 Section 5. This Act is effective on January 1, 2001.

1 **BILL HISTORY**

2 1/11/00 First read in Senate and referred to Taxation. S.J. 15

3 1/19/00 Scheduled for Committee hearing on this date.

4 1/19/00 Taxation Do Pass Amended, Passed, AYES 7, NAYS 2.