

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

870H0010

HOUSE BILL NO. 1229

Introduced by: Representatives Lintz, Duenwald, Fryslie, Hansen (Tom), Jensen, Klautt, Pederson (Gordon), Rhoden, and Sigdestad and Senators Diedrich (Larry), Dennert, Drake, Koskan, and Vitter

1 FOR AN ACT ENTITLED, An Act to revise the procedure for assessing agricultural property
2 and to repeal the nonagricultural acreage classification.

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

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

6 Notwithstanding the provisions of § 10-6-33, agricultural land shall be assessed based on its
7 agricultural income value. The agricultural income value of agricultural land shall be determined
8 on the basis of productivity and the annual earnings capacity of the agricultural land, if the land
9 is used for agricultural purposes. The productivity of land and its annual earning capacity shall
10 be based on data collected and analyzed pursuant to sections 2 to 5, inclusive, of this Act.

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

13 Agricultural income value is defined as the capitalized average annual earning capacity. The
14 capacity of the cropland to produce agricultural products shall be based on average yields for



1 crops or plants under natural conditions. The capacity of noncropland to produce agricultural
2 products shall be based on average acres per animal unit under natural conditions. For the
3 purpose of this section, annual earning capacity for:

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

7 The economics department of South Dakota State University shall annually compute the
8 average annual earning capacity of cropland and noncropland for each county using the database
9 defined in section 4 of this Act. Any agricultural land receiving income from the conservation
10 reserve program or other government program that makes annual payments shall be treated as
11 cropland income unless it is clearly identified as a noncropland payment. The average annual
12 earning capacity shall be capitalized at a rate of eight and one-half percent to determine the
13 capitalized average annual earning capacity. The economics department shall annually provide
14 the secretary of revenue an agricultural income value for cropland, noncropland, and a composite
15 agricultural income value for each county by June first.

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

18 Before July first, the secretary of revenue shall annually provide each director of equalization
19 the agricultural income value for each county as computed pursuant to section 2 of this Act. The
20 director of equalization shall annually determine the assessed value of agricultural land.
21 Agricultural land shall be assessed based on its agricultural income value and adjusted by the
22 following factors:

- 23 (1) The capacity of the land to produce agricultural products as specified in section 2 of
24 this Act; and

1 (2) The location, size, soil survey statistics, terrain, and topographical condition of the
2 land including the climate, accessibility, and surface obstructions which can be
3 documented.

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

6 The secretary of revenue shall enter into contracts with South Dakota State University and,
7 if necessary, the South Dakota Agricultural Statistics Service for the purpose of creating a
8 database to determine the agricultural income value of agricultural land by county. A database
9 for an identifiable region within a county may be created if the director of equalization shows a
10 need for establishing identifiable regions within a county. The secretary shall collect such data
11 for 1995, which will serve as the first year of the database, and each year thereafter. The
12 database shall consist of the most recent eight years of data that have been collected and the
13 years representing the highest and lowest agricultural income value shall be discarded from the
14 database. The database for the 2004 assessment shall consist of data from 1995 to 2002,
15 inclusive, and the database for each assessment year thereafter shall be adjusted accordingly.

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

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

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

24 Buildings and structures, other than normally occupied dwellings on agricultural land and

1 automobile garages or portions of buildings used for that purpose, which are used exclusively
2 for agricultural purposes and situated on agricultural land, are hereby specifically classified for
3 tax purposes as agricultural property and shall be assessed by using the cost approach less
4 depreciation as prescribed by the Department of Revenue.

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

7 The secretary of revenue may promulgate rules pursuant to chapter 1-26 to provide for:

- 8 (1) Criteria for determining the cost approach and depreciation procedure for agricultural
9 buildings and structures;
- 10 (2) Criteria for determining the assessed value of dwellings on agricultural land and
11 automobile garages or portions of buildings used for that purpose;
- 12 (3) Application of cropland and noncropland income values; and
- 13 (4) Soil classification standards.

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

16 The agricultural income value for agricultural land as determined pursuant to section 1 of this
17 Act represents eighty-five percent of the fair market value.

18 Section 9. That § 10-6-1 be amended to read as follows:

19 10-6-1. Terms used in this chapter mean:

- 20 (1) "Credit," every claim and demand for money or other valuable thing and every annuity
21 or sum of money receivable at stated periods, due or to become due, and all claims
22 and demands secured by deeds or mortgages due or to become due, except for
23 contracts for deed and mortgages, in which case the term means only the payment
24 received each year under the contract or mortgage;

- 1 (2) "District," township, municipality, or ward, as the case may be;
- 2 (3) "Full agricultural land value," the value of agricultural land as determined by the
- 3 application of this chapter;
- 4 (4) "Money," gold and silver coin, treasury notes, bank notes, and every deposit which
- 5 any person owning the same or holding in trust and residing in this state is entitled to
- 6 withdraw in money on demand;
- 7 (5) "Tract," "lot," "piece," or "parcel" of real property, or "piece or parcel of land," any
- 8 contiguous quantity of land in the possession of, owned by, or recorded as, the
- 9 property of the same claimant, person, or company;
- 10 (6) "True and full value," for all real property, except agricultural land, the usual cash
- 11 selling price at the place where the property to which the term is applied shall be at
- 12 the time of the assessment.

13 Section 10. That § 10-6-33.1 be repealed.

14 ~~10-6-33.1. The true and full value in money of agricultural land, as defined by § 10-6-31,~~

15 ~~which has been in primarily agricultural use for at least five successive years immediately~~

16 ~~preceding the tax year for which assessment is to be made shall be the market value as~~

17 ~~determined for each county through the use of all comparable sales of agricultural land based on~~

18 ~~consideration of the following factors:~~

19 ~~(1) The capacity of the land to produce agricultural products as defined in § 10-6-33.2;~~

20 ~~and~~

21 ~~(2) The soil, terrain, and topographical condition of the property including but not limited~~

22 ~~to capability, the land's use, climate, accessibility, and surface obstructions which can~~

23 ~~be documented through an analysis of land selling prices.~~

24 ~~The comparable sales that are used shall be evidenced by an instrument recorded with the~~

1 register of deeds of the county in which the land is located, if the date of such instrument and the
2 recording date is not more than two years prior to the assessment year.

3 Section 11. That § 10-6-33.2 be repealed.

4 ~~10-6-33.2. Capacity of land in agricultural use to produce agricultural products shall be based~~
5 ~~on average yields under natural conditions, in the case of land producing crops or plants, and on~~
6 ~~the average "acres per animal unit," in the case of grazing land; said average shall affect each~~
7 ~~operating unit and shall be based on the ten-year period immediately preceding the tax year in~~
8 ~~issue. In determining such capacity to produce, the county director of equalization and/or the~~
9 ~~county board of equalization must take into consideration yields, and/or carrying capacity, as~~
10 ~~determined by the soil conservation service, the agricultural stabilization and conservation~~
11 ~~service, the extension service, federal land bank, and private lending agencies dealing with land~~
12 ~~production capacities.~~

13 Section 12. That § 10-6-33.3 be repealed.

14 ~~10-6-33.3. Land or improvement on land within an operating unit which is not used incident~~
15 ~~to an agricultural pursuit shall be separately listed and assessed and the income therefrom shall~~
16 ~~not be used in determining the values for the purposes of §§ 10-6-33.1 and 10-6-33.2.~~

17 Section 13. That § 10-6-33.4 be repealed.

18 ~~10-6-33.4. If agricultural land has been classified pursuant to chapter 10-10, land within these~~
19 ~~classifications and the classifications shall conform to the provisions of §§ 10-6-33.1 to~~
20 ~~10-6-33.3, inclusive.~~

21 Section 14. That § 10-6-33.5 be amended to read as follows:

22 10-6-33.5. The assessment, valuation, equalization, and taxation of school and endowment
23 lands shall be at the same level and on the same basis as lands assessed, valued, and equalized
24 according to ~~§§ 10-6-33.1 to 10-6-33.4, inclusive~~ sections 1 to 5, inclusive, of this Act.

1 Section 15. That § 10-6-33.6 be repealed.

2 ~~—10-6-33.6. If the median market value per acre in an identifiable region within a county~~
3 ~~deviates by more than ten percent from the county median market value per acre, the county~~
4 ~~director of equalization may establish a separate market value per acre for the land defined by~~
5 ~~the director of equalization within that identifiable region.~~

6 Section 16. That § 10-6-33.7 be repealed.

7 ~~—10-6-33.7. Agricultural land in each county shall be divided into the eight classes defined by~~
8 ~~the United States Department of Agriculture's soil conservation service as published in its soil~~
9 ~~survey for each county. The county director of equalization shall, based on the agricultural lands~~
10 ~~soil survey classification, determine a value for each soil type. The value for each soil type shall~~
11 ~~be determined from sales of similar land based upon its soil survey classification, and as adjusted~~
12 ~~for the factors contained in subdivision 10-6-33.1(2). The sales used shall be sales of agricultural~~
13 ~~land that are sold for agricultural purposes.~~

14 Section 17. That § 10-6-33.12 be repealed.

15 ~~—10-6-33.12. For the purposes of §§ 10-6-33.8 and 10-6-33.9, there shall be a separate~~
16 ~~median sales to assessment ratio and coefficient of dispersion for agricultural and nonagricultural~~
17 ~~real property.~~

18 Section 18. That § 10-6-33.20 be repealed.

19 ~~—10-6-33.20. Any agricultural land, as defined in § 10-6-31.3, which is sold in an increment~~
20 ~~of seventy acres or less, may not be used for the purpose of valuing agricultural land. The sale~~
21 ~~of any agricultural land, which is not used for purpose of valuing agricultural property pursuant~~
22 ~~to this section, may not be used in any sales ratio study.~~

23 Section 19. That § 10-11-57 be repealed.

24 ~~—10-11-57. In order to determine the ratio for agricultural land assessed pursuant to~~

1 ~~§ 10-6-33.1, the secretary of revenue shall compare the assessed valuations on properties used~~
2 ~~for tax purposes in the year sold with the agricultural values of those properties as determined~~
3 ~~under §§ 10-6-33.1 and 10-6-33.2.~~

4 Section 20. That § 10-12-31.1 be amended to read as follows:

5 10-12-31.1. Notwithstanding other provision of law, when applying the levies for school
6 purposes, the county director of equalization of each county shall adjust the level of assessment
7 in that district so that the level of assessment as indicated by the most recent assessment to sales
8 ratio as provided for in § 10-11-55 and the most recent ~~assessment to full agricultural land value~~
9 ~~ratio~~ agricultural income value as provided for in ~~§ 10-11-57~~ section 1 of this Act in that district
10 are equal to eighty-five percent of market or agricultural income value. The Department of
11 Revenue shall provide the director of equalization of each county all of the factors of adjustment
12 necessary for the computations required in this section.

13 Section 21. That § 10-6-33.14 be repealed.

14 ~~— 10-6-33.14. Any agricultural land, as defined in § 10-6-31.3, which sells for more than one~~
15 ~~hundred fifty percent of its agricultural income value is hereby classified for purposes of ad~~
16 ~~valorem taxation as a nonagricultural acreage. The agricultural income value shall be determined~~
17 ~~pursuant to § 10-6-33.15.~~

18 Section 22. That § 10-6-33.15 be repealed.

19 ~~— 10-6-33.15. For the purposes of § 10-6-33.14, the agricultural income value shall be~~
20 ~~determined using capitalized actual annual cash rent. The actual annual cash rent is the actual~~
21 ~~annual cash rent, excluding the actual per acre tax on agricultural land, determined through an~~
22 ~~analysis of actual arm's length rental agreements collected within the county in the year prior to~~
23 ~~the year for which the income value is being determined. The annual cash rent shall be capitalized~~
24 ~~at eight percent.~~

1 Section 23. That § 10-6-33.16 be repealed.

2 ~~10-6-33.16. The secretary of revenue may enter into a contract for the collection of cash rent~~
3 ~~information by county. Cash rent information shall be adjusted by soil survey statistics if~~
4 ~~available.~~

5 Section 24. That § 10-6-33.17 be repealed.

6 ~~10-6-33.17. Any land which is classified pursuant to §§ 10-6-33.14 to 10-6-33.19, inclusive,~~
7 ~~shall remain so classified for a minimum of five years. Five years after the land is so classified,~~
8 ~~the land may be reclassified as agricultural land if the land remains in agricultural use during the~~
9 ~~five year period and if the owner of the land submits an annual application to the director of~~
10 ~~equalization. The application shall include verified documentation that the land has been in~~
11 ~~agricultural use during past year. If the land meets the criteria set forth in § 10-6-31.3, has been~~
12 ~~in agricultural use for five years, and the application requirement in this section is complied with,~~
13 ~~the director of equalization may reclassify the nonagricultural acreage as agricultural land.~~

14 Section 25. That § 10-6-33.18 be repealed.

15 ~~10-6-33.18. Land classified pursuant to §§ 10-6-33.14 to 10-6-33.19, inclusive, shall be~~
16 ~~valued for ad valorem tax purposes at the price for which such land sold multiplied times the~~
17 ~~level of assessment for nonagricultural property within the county. The value of such land shall~~
18 ~~be increased or decreased each year by the same percentage that the value of nonagricultural~~
19 ~~property increases or decreases.~~

20 Section 26. Sections 1 to 20, inclusive, of this Act are not effective to repeal any existing
21 law, nor implement any new law, but are effective on July 1, 2002, to the extent necessary for
22 the purpose of determining the agricultural income value of agricultural land in each county.

23 Section 27. Sections 1 to 20, inclusive, of this Act are effective on January 1, 2004, to be
24 implemented for the purpose of the 2005 assessment year and taxes payable in 2006.

1 Section 28. Sections 21 to 25, inclusive, of this Act are effective on January 1, 2004.