State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

465N0730

HOUSE TAXATION COMMITTEE ENGROSSED NO. HB 1308 - 02/15/2007

Introduced by: Representative Novstrup (Al) and Senators Turbak and Peterson (Jim)

FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the valuation of real property by allowing the director of equalization to use more sales during the assessment process and to revise certain provisions regarding taxes payable for special education and the capital outlay fund of school districts.

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

Section 1. That § 10-6-74 be amended to read as follows:

10-6-74. Any real property which sells for more than one hundred ~~fifty~~ seventy-five percent of its assessed value, may not be used for the purpose of valuing other real property. The sale of any real property which is not used for the purpose of valuing other real property pursuant to this section may not be used in any sales ratio study.

Section 2. That § 10-6-33.14 be amended to read as follows:

10-6-33.14. Any agricultural land, as defined in § 10-6-31.3, which sells for more than one hundred ~~fifty~~ seventy-five percent of its agricultural income value, is hereby classified for purposes of ad valorem taxation as a nonagricultural acreage. However, any agricultural land that is converted to use other than agricultural before the next legal assessment date shall be

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Insertions into existing statutes are indicated by underscores.
Deletions from existing statutes are indicated by ~~overstrikes~~.

classified according to its actual use. The agricultural income value shall be determined pursuant to § 10-6-33.15.

Section 3. That § 10-6-33.15 be amended to read as follows:

10-6-33.15. For the purposes of § 10-6-33.14, the agricultural income value shall be determined using capitalized actual annual cash rent. The actual annual cash rent is the actual annual cash rent, excluding the actual per acre tax on agricultural land, determined through an analysis of actual arm's length rental agreements collected within the county in the year prior to the year for which the income value is being determined. The annual cash rent shall be capitalized at ~~seven and three-fourths~~ six and seven hundredths percent.

Section 4. That § 10-6-74 be amended to read as follows:

10-6-74. Any real property which sells for more than ~~one hundred fifty~~ two hundred percent of its assessed value, may not be used for the purpose of valuing other real property. The sale of any real property which is not used for the purpose of valuing other real property pursuant to this section may not be used in any sales ratio study.

Section 5. That § 10-6-33.14 be amended to read as follows:

10-6-33.14. Any agricultural land, as defined in § 10-6-31.3, which sells for more than ~~one hundred fifty~~ two hundred percent of its agricultural income value, is hereby classified for purposes of ad valorem taxation as a nonagricultural acreage. However, any agricultural land that is converted to use other than agricultural before the next legal assessment date shall be classified according to its actual use. The agricultural income value shall be determined pursuant to § 10-6-33.15.

Section 6. Sections 4 and 5 are effective on July 1, 2008.

Section 7. That § 10-6-74 be amended to read as follows:

10-6-74. Any real property which sells for more than ~~one hundred fifty~~ two hundred twenty-

five percent of its assessed value, may not be used for the purpose of valuing other real property. The sale of any real property which is not used for the purpose of valuing other real property pursuant to this section may not be used in any sales ratio study.

Section 8. That § 10-6-33.14 be amended to read as follows:

10-6-33.14. Any agricultural land, as defined in § 10-6-31.3, which sells for more than ~~one hundred fifty~~ two hundred twenty-five percent of its agricultural income value, is hereby classified for purposes of ad valorem taxation as a nonagricultural acreage. However, any agricultural land that is converted to use other than agricultural before the next legal assessment date shall be classified according to its actual use. The agricultural income value shall be determined pursuant to § 10-6-33.15.

Section 9. Sections 7 and 8 are effective on July 1, 2009.

Section 10. Section 10-6-74 and §§ 10-6-33.14 to 10-6-33.18, inclusive, are repealed on July 1, 2010.

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

Notwithstanding the provisions § 10-6-74 and §§ 10-6-33.14 to 10-6-33.18, inclusive, for the taxes payable in 2009, 2010, 2011, 2012, and 2013, no property's valuation may increase more than fifteen percent per year. However, if the property was changed to another classification of property or any improvement or addition was made to the property, this section does not apply.

Section 12. That § 13-16-7 be amended to read as follows:

13-16-7. The school board of any school district of this state may at its discretion authorize an annual levy of a tax not to exceed three dollars per thousand dollars of taxable valuation on the taxable valuation of the district for the capital outlay fund for assets as defined by § 13-16-6

or for its obligations under a resolution, lease-purchase agreement, capital outlay certificate, or other arrangement with the Health and Educational Facilities Authority. Taxes collected pursuant to such levy may be irrevocably pledged by the school board to the payment of principal of and interest on installment purchase contracts or capital outlay certificates entered into or issued pursuant to § 13-16-6 or 13-16-6.2 or lease-purchase agreements or other arrangement with the Health and Educational Facilities Authority and, so long as any capital outlay certificates are outstanding, installment agreement payments, lease-purchase agreements, or other arrangements are unpaid, the school board of any district may be compelled by mandamus or other appropriate remedy to levy an annual tax sufficient to pay principal and interest thereon, but not to exceed the three dollars per thousand dollars of taxable valuation in any year authorized to be levied hereby.

For taxes payable in 2009, the total amount of revenue payable from the levy provided in this section may not increase more than the lesser of three percent or the index factor, as defined in § 10-13-38, over the maximum amount of revenue that could have been generated for the taxes payable in 2008. After applying the index factor, a school district may increase the revenue payable from taxes on real property above the limitations provided by this section by the percentage increase of value resulting from any improvements or change in use of real property, annexation, minor boundary changes, and any adjustments in taxation of real property separately classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value. A school district may increase the revenue it receives from taxes on real property above the limit provided by this section for taxes levied to pay the principal, interest, and redemption charges on any bonds issued after January 1, 2007, which are subject to referendum, scheduled payment increases on bonds and for a levy directed by the order of a court for the purpose of paying a

judgment against such school district. Any school district created or reorganized after January 1, 2007, is exempt from the limitation provided by this section for a period of two years immediately following its creation.

For taxes payable in 2010, 2011, 2012, and 2013, the total amount of revenue payable from the levy provided in this section may not increase more than the lesser of three percent or the index factor, as defined in § 10-13-38, over the amount of revenue payable from taxes on real property in the preceding year. After applying the index factor, a school district may increase the revenue payable from taxes on real property above the limitations provided by this section by the percentage increase of value resulting from any improvements or change in use of real property, annexation, minor boundary changes, and any adjustments in taxation of real property separately classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value. A school district may increase the revenue it receives from taxes on real property above the limit provided by this section for taxes levied to pay the principal, interest, and redemption charges on any bonds issued after January 1, 2007, which are subject to referendum, scheduled payment increases on bonds and for a levy directed by the order of a court for the purpose of paying a judgment against such school district. Any school district created or reorganized after January 1, 2007, is exempt from the limitation provided by this section for a period of two years immediately following its creation.

For taxes payable in 2009, 2010, 2011, 2012, and 2013, the levy limitation of three dollars per thousand dollars of taxable valuation does not apply to any school district.

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

13-37-16. For taxes payable in 1997, and each year thereafter, the school board shall levy no more than one dollar and forty cents per thousand dollars of taxable valuation, as a special

levy in addition to all other levies authorized by law for the amount so determined to be necessary, and such levy shall be spread against all of the taxable property of the district. The proceeds derived from such levy shall constitute a school district special education fund of the district for the payment of costs for the special education of all children in need of special education or special education and related services who reside within the district pursuant to the provisions of §§ 13-37-8.2 to 13-37-8.10, inclusive. The levy in this section shall be based on valuations such that the median level of assessment represents 85% of market value as determined by the Department of Revenue and Regulation. The total amount of taxes that would be generated at the levy pursuant to this section shall be considered local effort. Money in the special education fund may be expended for the purchase or lease of any assistive technology that is directly related to special education and specified in a student's individualized education plan. This section does not apply to real property improvements.

For taxes payable in 2009, the total amount of revenue payable from the levy provided in this section may not increase more than the lesser of three percent or the index factor, as defined in § 10-13-38, over the maximum amount of revenue that could have been generated for the taxes payable in 2008. After applying the index factor, a school district may increase the revenue payable from taxes on real property above the limitations provided by this section by the percentage increase of value resulting from any improvements or change in use of real property, annexation, minor boundary changes, and any adjustments in taxation of real property separately classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value.

Any school district created or reorganized after January 1, 2007, is exempt from the limitation provided by this section for a period of two years immediately following its creation.

For taxes payable in 2010, 2011, 2012, and 2013, the total amount of revenue payable from

the levy provided in this section may not increase more than the lesser of three percent or the index factor, as defined in § 10-13-38, over the maximum amount of revenue that could have been generated for the taxes payable in 2008 plus any unused index factor from the previous years. After applying the index factor, a school district may increase the revenue payable from taxes on real property above the limitations provided by this section by the percentage increase of value resulting from any improvements or change in use of real property, annexation, minor boundary changes, and any adjustments in taxation of real property separately classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value.

For taxes payable in 2009, 2010, 2011, 2012, and 2013, the levy limitation of one dollar and forty cents per thousand dollars of taxable valuation does not apply to any school district.

Section 14. That § 13-37-35.1 be amended to read as follows:

13-37-35.1. Terms used in chapter 13-37 mean:

(1) "Level one disability," a mild disability;

(2) "Level two disability," a mental retardation or emotional disorder;

(3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-blindness, orthopedic impairment, or traumatic brain injury;

(4) "Level four disability," autism;

(5) "Level five disability," multiple disabilities;

(5A) "Level six disability," prolonged assistance;

(6) "Index factor," is the annual percentage change in the consumer price index for urban wage earners and clerical workers as computed by the Bureau of Labor Statistics of the United States Department of Labor for the year before the year immediately preceding the year of adjustment or three percent, whichever is less;

(7) "Local effort," shall be calculated for taxes payable in ~~2006 and thereafter using a special education levy of one dollar and twenty cents per one thousand dollars of valuation~~ 2009, 2010, 2011, 2012, and 2013, as six-sevenths of the amount that could have been generated pursuant to § 13-37-16;

(8) "Allocation for a student with a level one disability ," for the school fiscal year beginning July 1, 2004, is $ 3,533.13. For each school year thereafter, the allocation for a student with a level one disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;

(9) "Allocation for a student with a level two disability ," for the school fiscal year beginning July 1, 2004, is $ 8,277.21. For each school year thereafter, the allocation for a student with a level two disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;

(10) "Allocation for a student with a level three disability ," for the school fiscal year beginning July 1, 2004, is $ 12, 580.73. For each school year thereafter, the allocation for a student with a level three disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;

(11) "Allocation for a student with a level four disability ," for the school fiscal year beginning July 1, 2004, is $ 12, 001.80. For each school year thereafter, the allocation for a student with a level four disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;

(12) "Allocation for a student with a level five disability ," for the school fiscal year beginning July 1, 2004, is $ 15, 882.21. For each school year thereafter, the allocation for a student with a level five disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;

(12A) "Allocation for a student with a level six disability ," for the school fiscal year beginning July 2004, is $8,122.23. For each school year thereafter, the allocation for a student with a level six disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;

(13) "Child count," is the number of students in need of special education or special education and related services according to criteria set forth in rules promulgated pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education in accordance with rules promulgated pursuant to § 13-37-1.1;

(14) "Average daily membership," the average number of kindergarten through twelfth grade pupils enrolled in all schools operated by the school district during the previous regular school year plus the average number of pupils for whom the district pays tuition;

(15) "Nonpublic school," a sectarian organization or entity which is accredited by the secretary of education for the purpose of instructing children of compulsory school age. This definition excludes any school that receives a majority of its revenues from public funds;

(16) "Nonpublic average daily membership," the average number of children under age sixteen who are approved for alternative instruction pursuant to § 13-27-2 during the previous school year plus:

(a) For nonpublic schools located within the boundaries of a public school district with an average daily membership of six hundred or more during the previous school year, the average number of kindergarten through twelfth grade pupils enrolled during the previous regular school year in all nonpublic schools located within the boundaries of the public school district;

(b) For nonpublic schools located within the boundaries of a public school district with an average daily membership of less than six hundred during the previous school year, the average number of resident kindergarten through twelfth grade pupils enrolled during the previous school year in all nonpublic schools located within the State of South Dakota;

(17) "Special education average daily membership," average daily membership plus nonpublic average daily membership;

(18) "Local need," an amount to be determined as follows:

(a) Multiply the special education average daily membership by 0.1013 and multiply the result by the allocation for a student with a level one disability;

(b) Multiply the number of students having a level two disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level two disability;

(c) Multiply the number of students having a level three disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level three disability;

(d) Multiply the number of students having a level four disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level four disability;

(e) Multiply the number of students having a level five disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level five disability;

(f) Multiply the number of students having a level six disability as reported on the child count for the previous school fiscal year by the allocation for a student

with a level six disability;

(g) Sum the results of (a) through (f);

(19) "Effort factor," ~~the school district's special education tax levy in dollars per thousand divided by $1.20. The maximum effort factor is~~ for taxes payable 2009, 2010, 2011, 2012, and 2013 shall be 1.0.