

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1260

Introduced by Wickersham, 49

Read first time January 18, 2000

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-1343, 77-1346 to 77-1348, and 77-1371, Reissue Revised
3 Statutes of Nebraska, sections 77-1344, 77-1345, 77-1381,
4 and 77-5023, Revised Statutes Supplement, 1998, and
5 section 79-1016, Revised Statutes Supplement, 1999; to
6 change greenbelt valuation provisions; to harmonize
7 provisions; to provide an operative date; and to repeal
8 the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-1343, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-1343. The purpose of sections 77-1343 to 77-1348 and
4 section 4 of this act is to provide a special valuation for
5 qualified agricultural or horticultural land so that the current
6 assessed valuation of the land for property tax purposes is the
7 value that the land would have if the only purpose or use is for
8 agricultural or horticultural purposes or uses. For purposes of
9 sections 77-1343 to 77-1348 and section 4 of this act:

10 (1) Agricultural or horticultural land shall mean that
11 land as defined in section 77-1359;

12 (2) Agricultural or horticultural use shall mean the use
13 of land as defined in section 77-1359, so that incidental use of
14 the land for nonagricultural purposes shall not disqualify the
15 land;

16 (3) Owner shall mean an owner of agricultural or
17 horticultural land who holds an estate in fee simple or for life,
18 any one of tenants in common or joint tenants who hold an estate in
19 fee simple or for life, or the purchaser of agricultural or
20 horticultural land under a contract for sale;

21 (4) Recapture valuation shall mean eighty percent of the
22 valuation that the land would have pursuant to section 77-112,
23 without regard to special valuation;

24 (5) Special valuation shall mean eighty percent of the
25 valuation that the land would have if agricultural or horticultural
26 use were the highest and best use that could be made of the land;

27 (6) Subdivision shall mean the division of a parcel of
28 land into two or more parcels, either of which is less than ten

1 acres; and

2 (7) ~~(2)~~ Zoned for agricultural or horticultural use shall
3 mean designation of any land predominantly for agricultural or
4 horticultural use by any political subdivision pursuant to Chapter
5 14, article 4, Chapter 15, article 9, Chapter 16, article 9,
6 Chapter 17, article 10, Chapter 18, article 13, or Chapter 23,
7 article 1. The primary objective of the agricultural or
8 horticultural use zoning shall be to preserve and protect
9 agricultural activities and the potential for the agricultural,
10 horticultural, or open use of land. Uses to be allowed on such
11 lands shall include primarily agricultural-related or
12 horticultural-related uses, and nonagricultural industrial,
13 commercial, or residential uses allowed on such lands shall be
14 restricted so that they do not conflict with or detract from this
15 objective.

16 Sec. 2. Section 77-1344, Revised Statutes Supplement,
17 1998, is amended to read:

18 77-1344. (1) Any land which has an actual value as
19 defined in section 77-112 reflecting a ~~potential use purposes or~~
20 uses other than agricultural or horticultural use, ~~is located~~
21 ~~outside the corporate boundaries of any sanitary and improvement~~
22 ~~district, city, or village, is used exclusively for agricultural or~~
23 ~~horticultural use, and is zoned for agricultural or horticultural~~
24 ~~use shall be valued at eighty percent of its actual value for~~
25 ~~agricultural or horticultural use pursuant to sections 77-1359 to~~
26 ~~77-1363 and not at the actual value it would have if applied to~~
27 ~~other than agricultural or horticultural use shall be valued at its~~
28 special valuation and not at its recapture value if application for

1 such special valuation is made pursuant to ~~sections 77-1343 to~~
2 ~~77-1348~~ section 77-1345. In order for the land to qualify for
3 special valuation all of the following criteria shall be met: (a)
4 The land is located outside the corporate boundaries of any
5 sanitary and improvement district, city, or village, (b) the land
6 is used for agricultural or horticultural purposes, and (c) the
7 land is zoned for agricultural or horticultural use.

8 (2) The special valuation provisions may be applicable to
9 real property included within the corporate boundaries of a city or
10 village if the ~~real property~~ land is subject to a conservation or
11 preservation easement as provided in the Conservation and
12 Preservation Easements Act and the governing body of the city or
13 village approves the agreement creating the easement.

14 (3) The special valuation provisions shall not be
15 applicable to that portion of lands zoned predominantly for
16 agricultural or horticultural use if such lands have been
17 subdivided.

18 (4) No land which has an actual value as defined in
19 section 77-112 reflecting ~~a potential use~~ purposes or uses other
20 than agricultural or horticultural use shall be valued at eighty
21 percent of its actual value for agricultural or horticultural use
22 unless it receives the special valuation pursuant to sections
23 77-1343 to 77-1348 and section 4 of this act.

24 (5) ~~(2)~~ The eligibility of land for the special valuation
25 provisions of this section shall be determined as of January 1, but
26 if land so qualified becomes disqualified prior to the levy date of
27 the same year, it shall be valued at its actual value as defined by
28 section 77-112 without regard to this section. If the land becomes

1 disqualified after the date of levy, its valuation for that year
2 shall continue as provided in this section.

3 Sec. 3. Section 77-1345, Revised Statutes Supplement,
4 1998, is amended to read:

5 77-1345. (1) Any owner of lands eligible for special
6 valuation under ~~subsection (1) of~~ section 77-1344 shall, to secure
7 such valuation, make application to the county assessor on or
8 before ~~August 1~~ June 15 of the first year in which such valuation
9 is requested.

10 (2)(a) The application shall be made upon forms ~~prepared~~
11 prescribed by the Property Tax Administrator and ~~supplied by~~
12 available from the county assessor and shall include such
13 information as may reasonably be required to determine the
14 eligibility of the applicant and the land.

15 (b) The application ~~may~~ shall be signed by any one of the
16 following:

17 (i) The owner; ~~of the agricultural or horticultural land~~
18 ~~who holds an estate in fee simple or for life;~~

19 (ii) ~~Any one of tenants in common or joint tenants,~~
20 ~~holding an estate in the agricultural or horticultural land in fee~~
21 ~~simple or for life;~~

22 ~~(iii)~~ Any person of legal age duly authorized in writing
23 to sign an application on behalf of any person described in
24 ~~subdivisions~~ subdivision (b)(i) ~~and (ii)~~ of this subsection; or

25 (iii) ~~(iv)~~ The guardian or conservator of an owner or the
26 executor or administrator of an owner's estate. ~~+ or~~

27 ~~(v) The purchaser of the fee simple or life estate of an~~
28 ~~owner under a contract of sale.~~

1 (c) The assessor shall not approve an application signed
 2 by a person whose authority to sign is not a matter of public
 3 record unless there is filed with the assessor a true copy of the
 4 deed, contract of sale, power of attorney, or other appropriate
 5 instrument evidencing the signer's interest or authority.

6 Sec. 4. (1) On or before June 30 in the year of
 7 application, the county assessor shall approve or deny the
 8 application for special valuation filed pursuant to section
 9 77-1345. The county assessor shall send notification of his or her
 10 action to the applicant by regular mail to the address on the
 11 application. If the application is approved, the county assessor
 12 shall value the land as provided in section 77-1344.

13 (2) If the application is denied, the applicant may
 14 protest the disapproval to the county board of equalization on or
 15 before July 31. The county board shall decide the protest on or
 16 before August 15.

17 (3) The applicant may appeal the decision of the county
 18 board of equalization to the Tax Equalization and Review Commission
 19 pursuant to the Tax Equalization and Review Commission Act.

20 Sec. 5. Section 77-1346, Reissue Revised Statutes of
 21 Nebraska, is amended to read:

22 77-1346. The Property Tax Administrator shall adopt and
 23 promulgate rules and regulations ~~to establish standards~~ to be used
 24 by county assessors in determining eligibility for special
 25 valuation under ~~subsection (1) of~~ section 77-1344 and in
 26 determining the value of such land for agricultural or
 27 horticultural purposes under section 77-1344. ~~Such standards shall~~
 28 not be designed to exclude from the special valuation those lands

1 ~~which are in agricultural or horticultural use for which tax relief~~
2 ~~is intended.~~

3 Sec. 6. Section 77-1347, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 77-1347. (1) Upon approval of an application, the county
6 assessor shall value the land as provided in ~~subsection (1) of~~
7 section 77-1344 ~~and shall also enter on the valuation the notation~~
8 ~~and potential additional tax liability~~ until the land becomes
9 disqualified for such valuation by:

10 ~~(1)~~ (a) Notification by the ~~taxpayer~~ owner to the
11 assessor to remove such special valuation;

12 ~~(2)~~ (b) Sale or transfer to an ownership making it exempt
13 from ~~ad valorem~~ property taxation;

14 ~~(3)~~ (c) A change in zoning so that the land is no longer
15 zoned for agricultural or horticultural use;

16 ~~(4)~~ (d) Subdivision of the land;

17 ~~(5)~~ (e) Inclusion of the land within the corporate
18 boundaries of any sanitary and improvement district, city, or
19 village; or

20 ~~(6)~~ (f) The land no longer being in agricultural or
21 horticultural use.

22 (2) The special valuation placed on such land by the
23 county assessor under this section shall be subject to equalization
24 by the agricultural and horticultural land valuation board, the
25 county board of equalization, and the Tax Equalization and Review
26 Commission.

27 Sec. 7. Section 77-1348, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 77-1348. (1) Whenever land which has received special
2 valuation under ~~subsection (1) of~~ section 77-1344 becomes
3 disqualified for such valuation pursuant to section 77-1347, the
4 assessor shall notify the owner and there shall be added to the tax
5 extended against the land on the next general property tax roll, to
6 be collected and distributed in the same manner as other taxes
7 levied upon real estate, an amount equal to the sum of the
8 following:

9 (a) If the land was disqualified for the special
10 valuation pursuant to section 77-1347 before the levy date of the
11 year of disqualification, the total amount by which the taxes
12 assessed against the land would have been increased if it had been
13 valued without regard to ~~subsection (1) of~~ section 77-1344 during
14 the last three or lesser number of years in which such agricultural
15 or horticultural use valuation was in effect for the land, and, if
16 the land was disqualified on or after the levy date of the year of
17 disqualification, the total amount by which the taxes assessed
18 against the land would have increased if it had been valued without
19 regard to ~~subsection (1) of~~ section 77-1344 during the last four or
20 lesser number of years in which such agricultural or horticultural
21 use valuation was in effect for the land; and

22 (b) Interest upon the amounts of additional tax from each
23 year included in subdivision (1)(a) of this section at the rate of
24 six percent from the dates at which such additional taxes would
25 ~~have been payable~~ become delinquent until paid if no special
26 valuation under ~~subsection (1) of~~ section 77-1344 had been in
27 effect.

28 (2) In cases when the designation of ~~specially valued~~

1 ~~land special valuation~~ is removed as a result of a sale or transfer
2 described in subdivision ~~(2)~~ (1)(b) of section 77-1347 other than
3 an acquisition described in subsection ~~(4)~~ (3) of this section, the
4 lien for such increased taxes and interest shall attach as of the
5 day preceding such sale or transfer.

6 (3) ~~Land receiving special assessment as agricultural use~~
7 ~~land immediately prior to August 26, 1983, which becomes~~
8 ~~disqualified on August 26, 1983, solely because of the amendment of~~
9 ~~sections 77-1343, 77-1344, and 77-1347 by Laws 1983, LB 26, shall~~
10 ~~not be subject to subsection (1) of this section at that time, but~~
11 ~~shall be subject to subsection (1) of this section if any other~~
12 ~~event occurs which would disqualify such land if it were receiving~~
13 ~~the special valuation under subsection (1) of section 77-1344.~~

14 ~~(4)~~ The provisions of subsection (1) of this section do
15 not apply if the land was acquired by eminent domain or if the land
16 was sold to a public entity which would have had the authority to
17 acquire the land by eminent domain.

18 Sec. 8. Section 77-1371, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 77-1371. When using comparable sales in any method of
21 determining actual value provided in section 77-112, the following
22 guidelines shall be considered in determining what constitutes a
23 comparable sale:

24 (1) Whether the sale was financed by the seller and
25 included any special financing considerations or the value of
26 improvements;

27 (2) Whether zoning affected the sale price of the
28 property;

1 (3) For sales of agricultural land or horticultural land
2 as defined in section 77-1359, whether a premium was paid to
3 acquire nearby property. Land within one mile of currently owned
4 property shall be considered nearby property;

5 (4) Whether sales or transfers made in connection with
6 foreclosure, bankruptcy, or condemnations, in lieu of foreclosure,
7 or in consideration of other legal actions should be excluded from
8 comparable sales analysis as not reflecting current market value;

9 (5) Whether sales between family members within the third
10 degree of consanguinity include considerations that fail to reflect
11 current market value;

12 (6) Whether sales to or from federal or state agencies or
13 local political subdivisions reflect current market value;

14 (7) Whether sales of undivided interests in real property
15 or parcels less than forty acres or sales conveying only a portion
16 of the unit assessed reflect current market value;

17 (8) Whether sales or transfers of property in exchange
18 for other real estate, stocks, bonds, or other personal property
19 reflect current market value;

20 (9) Whether deeds recorded for transfers of convenience,
21 transfers of title to cemetery lots, mineral rights, and rights of
22 easement reflect current market value;

23 (10) Whether sales or transfers of property involving
24 railroads or other public utility corporations reflect current
25 market value;

26 (11) Whether sales of property substantially improved
27 subsequent to assessment and prior to sale should be adjusted to
28 reflect current market value or eliminated from such analysis; and

1 (12) For agricultural land or horticultural land as
2 defined in section 77-1359 which is or has been receiving the
3 special valuation pursuant to sections 77-1343 to 77-1348 and
4 section 4 of this act, whether the sale price reflects a value
5 which the land has for purposes or uses other than as agricultural
6 land or horticultural land and therefor does not reflect current
7 market value of other agricultural land or horticultural land.

8 The Property Tax Administrator may issue guidelines for
9 assessing officials for use in determining what constitutes a
10 comparable sale. Guidelines shall take into account the factors
11 listed in this section and other relevant factors as prescribed by
12 the Property Tax Administrator.

13 Sec. 9. Section 77-1381, Revised Statutes Supplement,
14 1998, is amended to read:

15 77-1381. Each board may:

16 (1) Employ such full-time or part-time clerical,
17 professional, legal, or other personnel and maintain an office as
18 deemed necessary by the board to carry out the board's duties. All
19 original files, records, and property of the board shall be
20 maintained at such office;

21 (2) In addition to the annual meeting, hold meetings and
22 hearings as called by the chairperson of the board or upon the
23 request of a majority of the board;

24 (3) After April 1 and on or before April 15 of each year,
25 (a) increase or decrease by percentage the value of a class or
26 subclass of agricultural and horticultural land, including
27 agricultural land granted special valuation under section 77-1344,
28 in any county in its land manual area in order to establish

1 separately the equalization of the value of agricultural or
2 horticultural land and the equalization of the value of
3 agricultural and horticultural land granted special valuation under
4 section 77-1344 between the various counties in its land manual
5 area effective for that year, (b) make necessary changes in
6 classification of agricultural and horticultural land within its
7 land manual area if the evidence discloses incorrect
8 classification, (c) report to the Tax Equalization and Review
9 Commission the action taken or that no action was taken, (d) order
10 the county assessor to implement the board's action, and (e) within
11 ten days after the action taken by the board, publish, in
12 newspapers of general circulation in the affected counties, the
13 board's action along with a notice that appeals of the board's
14 action must be filed with the Tax Equalization and Review
15 Commission;

16 (4) Make recommendations to the Property Tax
17 Administrator as to changes in the agricultural land valuation
18 manual and to the Legislature concerning changes in laws necessary
19 to obtain valuation of agricultural and horticultural land; and

20 (5) Participate in appeals of its actions.

21 Sec. 10. Section 77-5023, Revised Statutes Supplement,
22 1998, is amended to read:

23 77-5023. Pursuant to section 77-5022, the commission
24 shall have the power to increase or decrease the value of a class
25 or subclass of real property of any county or tax district or real
26 property valued by the state so that all classes or subclasses of
27 real property in all counties fall within the acceptable range.
28 For agricultural land, the acceptable range shall be from

1 seventy-four percent to eighty percent of actual value of
2 agricultural land; for agricultural and horticultural land eligible
3 for special valuation under section 77-1344, the acceptable range
4 shall be from seventy-four percent to eighty percent of the actual
5 value for agricultural and horticultural use, not considering other
6 uses; and for nonagricultural real property, the acceptable range
7 shall be from ninety-two percent to one hundred percent of actual
8 value of nonagricultural real property. Such increase or decrease
9 shall be made by a percentage and shall result in an average level
10 of assessment for the class or subclass adjusted at seventy-seven
11 percent of actual value for agricultural land, seventy-seven
12 percent of actual value for agricultural or horticultural use for
13 agricultural and horticultural land eligible for special valuation
14 under section 77-1344, and ninety-six percent of actual value for
15 nonagricultural real property.

16 Sec. 11. Section 79-1016, Revised Statutes Supplement,
17 1999, is amended to read:

18 79-1016. (1) On or before August 25, the county assessor
19 shall certify to the Property Tax Administrator the total taxable
20 value by school district in the county for the current assessment
21 year on forms prescribed by the Property Tax Administrator. On or
22 before October 10, the Property Tax Administrator shall compute and
23 certify to the State Department of Education the adjusted valuation
24 for the current assessment year for each class of property in each
25 school district and each local system. The adjusted valuation of
26 property for each school district and each local system, for
27 purposes of determining state aid pursuant to the Tax Equity and
28 Educational Opportunities Support Act, shall reflect as nearly as

1 possible state aid value as defined in subsection (2) of this
2 section. The Property Tax Administrator shall also notify each
3 school district and each local system of its adjusted valuation for
4 the current assessment year by class of property on or before
5 October 10. Establishment of the adjusted valuation shall be based
6 on assessment practices established by rule and regulation adopted
7 and promulgated by the Property Tax Administrator. The assessment
8 practices may include, but not be limited to, the appraisal methods
9 listed in section 77-112.

10 (2) For purposes of this section, state aid value means:

11 (a) For real property other than agricultural land, one
12 hundred percent of market value;

13 (b) For agricultural land, eighty percent of market value
14 as provided in sections 77-1359 to 77-1363; and

15 (c) For personal property, the net book value as defined
16 in section 77-120.

17 (3) On or before November 10, any local system may file
18 with the Property Tax Administrator written objections to the
19 adjusted valuations prepared by the Property Tax Administrator,
20 stating the reasons why such adjusted valuations are not the
21 valuations required by subsection (2) of this section. The
22 Property Tax Administrator shall fix a time for a hearing. Either
23 party shall be permitted to introduce any evidence in reference
24 thereto. On or before January 1, the Property Tax Administrator
25 shall enter an order modifying or declining to modify, in whole or
26 in part, the adjusted valuations and shall certify the order to the
27 State Department of Education. Modification by the Property Tax
28 Administrator shall be based upon the evidence introduced at

1 hearing and shall not be limited to the modification requested in
2 the written objections or at hearing. The final determination of
3 the Property Tax Administrator may be appealed to the Tax
4 Equalization and Review Commission in accordance with the Tax
5 Equalization and Review Commission Act.

6 (4) On or before November 10, any local system or county
7 official may file with the Property Tax Administrator a written
8 request for a nonappealable correction of the adjusted valuation
9 due to clerical error or, for agricultural land, assessed value
10 changes by reason of land qualified or disqualified for special use
11 valuation pursuant to sections 77-1343 to 77-1348 and section 4 of
12 this act. For purposes of this subsection, clerical error means
13 transposition of numbers, allocation of value to the wrong school
14 district, mathematical error, and omitted value. On or before the
15 following January 1, the Property Tax Administrator shall approve
16 or deny the request and, if approved, certify the corrected
17 adjusted valuations resulting from such action to the State
18 Department of Education.

19 (5) No injunction shall be granted restraining the
20 distribution of state aid based upon the adjusted valuations
21 pursuant to this section.

22 (6) A school district whose state aid is to be calculated
23 pursuant to subsection (4) of this section and whose state aid
24 payment is postponed as a result of failure to calculate state aid
25 pursuant to such subsection may apply to the state board for
26 lump-sum payment of such postponed state aid. Such application may
27 be for any amount up to one hundred percent of the postponed state
28 aid. The state board may grant the entire amount applied for or

1 any portion of such amount. The state board shall notify the
2 Director of Administrative Services of the amount of funds to be
3 paid in a lump sum and the reduced amount of the monthly payments.
4 The Director of Administrative Services shall, at the time of the
5 next state aid payment made pursuant to section 79-1022, draw a
6 warrant for the lump-sum amount from appropriated funds and forward
7 such warrant to the district.

8 Sec. 12. This act becomes operative on January 1, 2001.

9 Sec. 13. Original sections 77-1343, 77-1346 to 77-1348,
10 and 77-1371, Reissue Revised Statutes of Nebraska, sections
11 77-1344, 77-1345, 77-1381, and 77-5023, Revised Statutes
12 Supplement, 1998, and section 79-1016, Revised Statutes Supplement,
13 1999, are repealed.