



Ninety-Ninth Legislature - Second Session - 2006
Committee Statement
LB 808

jHearing Date: February 2, 2006
Committee On: Revenue

Introducer(s): (Landis)
Title: Change income tax and sales tax rates

Roll Call Vote – Final Committee Action:

- Advanced to General File
 - X Advanced to General File with Amendments
 - Indefinitely Postponed
-

Vote Results:

7	Yes	Senators Baker, Connealy, Cornett, Janssen, Landis, Raikes and Redfield
0	No	
0	Present, not voting	
1	Absent	Senator Preister

Proponents:
Senator David Landis

Representing:
Introducer

Opponents:
None

Representing:

Neutral:
None

Representing:

Summary of purpose and/or changes:

LB 808 would amend sections 77-2701.01 (income tax rate) and 77-2701.02 (sales and use tax rate), to change the rate of the sales and income taxes in an unspecified way. The changes would be effective January 1, 2007.

Explanation of amendments, if any:

The Committee Amendments to LB 808 replace its contents with the provisions of three other bills which were advanced from the Revenue Committee. These three bills are LB 407, LB 812, and LB 813.

LB 407 would amend various sections of the law regarding special value (greenbelt) and agricultural land to tie the definitions and qualifications together, redefine “agricultural and horticultural land,” allow special value to be sought by an “applicant” rather than the “owner,” and eliminate the requirement of recapture when land loses its qualification for greenbelt assessment. Before advancing LB 407, the Committee also inserted provisions of LB 699 to strike the requirement that land be zoned for agricultural use to qualify for special valuation. The provisions originally from LB 699 are also in the committee amendments to LB 808.

LB 812 was the annual bill from the Tax Equalization and Review Commission to improve and clarify their duties and responsibilities. The bill, as advanced by the Committee, would expand the powers of special masters and referees, broaden the right to appeal, and clarify the power of county boards under the undervalued and overvalued section.

LB 813 is the annual bill from the Property Tax Administrator to clarify and enhance the administration of the property tax in Nebraska. Many of the sections in the bill this year deal with community redevelopment law, the formal name for the statutes that authorize tax increment financing (TIF). Others clarify the statutes or update terminology. Also, sections dealing with discipline against county assessors are coordinated and two sections that call for separate penalties against county assessors for failure to report would be repealed.

Section by section summary -

Section 1 would amend community redevelopment law, section 18-2117.01, to eliminate the need for cities to annually report the total valuation, consolidated levy, and the total taxes collected in each project. The annual report would still contain the redevelopment plan and a general description of the project. A new requirement would be the effective date of the division of taxes. The Property Tax Administrator would still be required to issue a report annually, including the tax information based on records of the county. **(LB 813)**

Section 2 would amend section 18-2147 to require the county assessor to place a value on property that was previously exempt, but is now the subject of a TIF project. The value would be the fair market value as of January 1 of the year prior to the year the taxes are to be divided. This value may be protested within 30 days. The protest is to be determined by the County Board of Equalization within 30 days of the protest. The decision could then be appealed to the TERC within 30 days. **(LB 813)**

Beginning August 1, 2006, all notices of the division of taxes are to be on forms developed by the Property Tax Administrator.

Section 3 would amend section 18-2148 to require the county assessor to report the current value to the redevelopment authority by a date certain, August 20th under the bill. **(LB 813)**

Section 4 would amend section 18-2149 to insert a new paragraph governing what would occur if the current valuation of a property in a redevelopment project falls below the redevelopment project valuation. In that case, the redevelopment project valuation would be the current valuation and there would be no increment to levy against to satisfy the bonds. **(LB 813)**

Section 5 would amend section 19-2428 to insert definitions of “agricultural use” and “agricultural use zone” for purposes of city zoning and planning. The definitions would be struck in section 77-1343 (section 11 of this amendment) so they would be reinserted here. **(LB 407 and LB 699)**

Section 6 would amend section 23-3202, dealing with the qualifications of county assessors, to clarify that persons may be neither appointed to nor hold the office without a certificate. **(LB 813)**

Section 7 would amend section 23-3209 to provide that a county assessor that refuses to perform the duties of the office shall no longer be subject to criminal prosecution, but may be liable for damages to any political subdivision injured as a result. **(LB 813)**

Section 8 would amend section 77-201 to strike a reference to “recapture value” since recapture would be eliminated by the bill. Similar changes are also made in sections 26 and 27, (statutory sections 77-5022, and 5023, TERC authority over special value). **(LB 407)**

Section 9 would amend section 77-422 to provide that any person whose assessor’s certificate has been invalidated shall not be eligible to hold a certificate for five years after the date of invalidation. **(LB 813)**

Section 10 would amend section 77-801.01 to update the term “telegraphs, telephones” to the term “telecommunications” in the definition of “operating property” of a public service company subject to central assessment. **(LB 813)**

Section 11 would amend section 77-1343 to strike definitions for “agricultural or horticultural use,” “recapture valuation,” “taxpayer,” and “zoned for agricultural or horticultural use.” The agricultural and horticultural use definition is not needed because under the bill greenbelt would be available to any “agricultural and horticultural land” as defined in section 77-1359. The definition of “taxpayer” eligible to apply for special value would be replaced by the new definition of “applicant” which would mean any owner or lessee. The current definition of taxpayer includes lessees only if the lessee is responsible for paying property taxes. Finally, the zoning requirement would be eliminated. **(LB 407 and LB 699)**

Section 12 would amend section 77-1344 to incorporate use of the term “agricultural or horticultural land” within the qualifications for special value. This section also strikes references to “recapture value” and replaces the term with “80 percent of actual value.” If land becomes disqualified from greenbelt assessment prior to the levy date, it is to be assessed at 80 percent of its actual value for that year. If it becomes disqualified after that date, it would retain special value for that year and be reassessed the following year. **(LB 407)**

Sections 13 and 14 would amend sections 77-1345 and 77-1345.01 by replacing the term “taxpayer” with “applicant” in several places. **(LB 407)**

Section 15 would amend section 77-1347 to replace the term “taxpayer” with the term “applicant” and replace “used for agricultural purposes” with the term “agricultural or horticultural land.” A reference to zoning would also be struck. **(LB 407 and LB 699)**

Section 16 would amend section 77-1348 to strike recapture and state the assessor may determine that land no longer qualifies for special value. If that occurs by March 19, the county assessor is to notify the owner within 15 days, including the reason for the disqualification. The owner has 30 days to file a protest and the county board, in turn, has 30 days to decide the protest. The county clerk is to mail notice of the decision within seven days and the owner may then appeal to TERC within 30 days of the decision.

If the determination is made between March 19 and July 25, the county assessor is to report the disqualification directly to the county board that would make a determination during the same period of time as valuation protests are heard. If the county board deems the land disqualified, notice is to be sent, a protest may be filed with the board within 30 days, and an appeal would be to the TERC. **(LB 407)**

Section 17 would amend section 77-1355, which created the Greenbelt Advisory Committee, to strike a reference to zoning for agricultural purposes. **(LB 407 and LB 699)**

Section 18 would amend section 77-1359, the definition of agricultural and horticultural land. First the section would begin by restating the constitutional authority for separate classification of agricultural and horticultural land. The property need not be assessed uniformly and proportionately with non-agricultural land, but shall be assessed uniformly and proportionately within the class.

Agricultural and horticultural land means a parcel of land predominately used for agricultural purposes. Currently, the definition requires only that land is used primarily for the production of “agricultural products.” The use of the term “parcel” means that entire tracts will be considered when examining predominate use. Currently, many owners have argued that part of a parcel is still eligible for greenbelt assessment even though another part contains a large house. Under the committee amendment, any land directly associated with any building or enclosed structure cannot be agricultural land. It is thought that these changes will narrow the definition of agricultural and horticultural land and, in turn, the use of special value.

Agricultural and horticultural purposes means used for the commercial production of any plant or animal product in a raw or unprocessed state. This definition is to remove preferential assessment for those that are not farming commercially. Agricultural or horticultural purposes includes land protected under a conservation easement and land enrolled in a federal or state program for removing land from production temporarily. Both of these are in the law currently as within the definition of “agricultural or horticultural land” rather than “agricultural or horticultural purposes.” **(LB 407)**

Section 19 would amend section 77-1363 to remove language moved to other locations in the statute and clarify the source used for soil classifications. **(LB 407)**

Section 20 would amend section 77-1502 to clarify that valuation protests are to be signed and filed for each parcel of real property and provide that the report of the decision shall be given to the county assessor on or before August 2nd. **(LB 813)**

Section 21 would amend section 77-1504 to narrow the jurisdiction of the county board of equalization in dealing with undervalued and overvalued property. The county board could only consider the report of the county assessor pursuant to section 77-1315.01. If an individual protests a county's action under this section, notice of the county's decision on the protest must be made within seven days indicating that the county's report of its action is available and may be used to appeal the decision to TERC. **(LB 812)**

Section 22 would amend section 77-1507 to clarify that the use of the omitted property section is limited to real property that was not reported to the county assessor. If action is taken under the omitted property section, the board's decision is to be available at the county clerk's office and may be used to file an appeal. This section would also clarify that improvements that were properly reported are to be added to the assessment roll by March 19th. **(LB 813)**

Section 23 would amend section 77-1843 to strike a cross reference to section 77-1515, which would be repealed outright by the bill. **(LB 813)**

Section 24 would amend section 77-5009, dealing with special masters and referees employed by the TERC, to expand the powers of special masters to include investigations and redefine the duties and responsibilities of referees to include confidential mediation between the parties. **(LB 812)**

Section 25 would amend section 77-5019, dealing with appeals *from* decisions of the TERC, to clarify that the right to appeal includes not only parties to an appeal, but also parties aggrieved by orders of the TERC dealing with assessor certificates and equalization orders. Currently such appeals must be pursued by a petition in error. **(LB 813)**

Section 28 would amend section 77-1529 to provide that county assessors are to change value as ordered by the TERC in equalization processes by June 1st of each year. **(LB 812)**

Section 29 would amend section 79-1016, school adjusted value, to strike an independent definition of clerical error that would justify a change and adopt the general definition in section 77-128 instead. **(LB 813)**

Section 30 would provide that the greenbelt changes be operative January 1, 2007. The other sections would be operative on their effective date, which could be on the signature of the Governor.

Sections 31 and 32 are the repealers.

Section 33 would repeal sections 77-1515 and 77-1613.03 outright. Section 77-1515 provides penalties for county assessors that fail to prepare the abstract, and 77-1613.03 provides penalties for county assessors that fail to prepare the certificate of taxes levied. Neither is necessary given

the general authority of the Property Tax Administrator and the TERC to discipline assessors. **(LB 813)**

Section 34 would repeal sections 77-1360.01, 77-1361, and 77-1362 outright. Section 77-1360.01 requires the Property Tax Administrator to collect market information on agricultural and horticultural land sales. Section 77-1327 requires collecting data on all sales. Section 77-1361 repeats the constitutional authorization for the separate classification of agricultural and horticultural land. Under this amendment, this language would be moved to section 77-1359. Section 77-1362 requires the Property Tax Administrator to develop the Ag Land Manual. **(LB 407)**

Section 35 would declare an emergency.

Senator David Landis, Chairperson