

LEGISLATIVE BILL 934

Approved by the Governor March 13, 1996

Introduced by Wickersham, 49

AN ACT relating to agricultural land valuation; to amend sections 77-112, 77-1344, and 77-1359, Revised Statutes Supplement, 1994, and sections 77-1361 and 79-3809, Revised Statutes Supplement, 1995; to eliminate the Agricultural Land Valuation Advisory Board; to harmonize provisions; to repeal the original sections; and to outright repeal section 77-1366, Reissue Revised Statutes of Nebraska, and section 77-1367, Revised Statutes Supplement, 1995. Be it enacted by the people of the State of Nebraska,

Section 1. Section 77-112, Revised Statutes Supplement, 1994, is amended to read:

77-112. (1) Actual value of real property for purposes of taxation shall mean the market value of real property in the ordinary course of trade. Actual value may be determined using professionally accepted mass appraisal techniques, including, but not limited to:

(a) Comparison with sales of real property of known or recognized value, taking into account location, zoning, and current functional use;

(b) Earning capacity of the real property; and

(c) Reproduction cost less depreciation.

(2) Taxable value of agricultural land and horticultural land for purposes of taxation shall mean the value determined pursuant to sections 77-1359 to 77-1367 and 77-1371 77-1365.

Sec. 2. Section 77-1344, Revised Statutes Supplement, 1994, is amended to read:

77-1344. (1) Any land which has an actual value as defined in subsection (1) of section 77-112 reflecting a potential use other than agricultural or horticultural use, is located outside the corporate boundaries of any sanitary and improvement district, city, or village, is used exclusively for agricultural or horticultural use, and is zoned for agricultural or horticultural use shall be valued at its actual value for agricultural or horticultural use pursuant to sections 77-1359 to 77-1367 and 77-1371 77-1365 and not at the actual value it would have if applied to other than agricultural or horticultural use if application for such special valuation is made pursuant to sections 77-1343 to 77-1348, except that the special valuation provisions shall not be applicable to that portion of lands zoned predominantly for agricultural or horticultural use if such lands have been subdivided for residential use. No land which has an actual value as defined in subsection (1) of section 77-112 reflecting a potential use other than agricultural or horticultural use shall be valued as agricultural land or horticultural land unless it receives the special valuation pursuant to sections 77-1343 to 77-1348.

(2) The eligibility of land for the special valuation provisions of this section shall be determined as of January 1, but if land so qualified becomes disqualified prior to July 1 of the same year, it shall be valued at its actual value as defined by subsection (1) of section 77-112 without regard to this section. If the land becomes disqualified after July 1, its valuation for that year shall continue as provided in this section.

Sec. 3. Section 77-1359, Revised Statutes Supplement, 1994, is amended to read:

77-1359. For purposes of sections 77-1359 to 77-1367 and 77-1371 77-1365:

(1) Agricultural land and horticultural land shall mean a parcel of land (a) over twenty acres in size which is used for the production of agricultural or horticultural products, (b) which is wasteland lying in or adjacent to and in common ownership or management with land used for the production of agricultural or horticultural products, or (c) of twenty acres or less in size when such land (i) is managed in conjunction with other agricultural land or horticultural land which when totaled exceeds twenty acres in size or (ii) meets the requirements of section 77-1360. Such land shall have been used for production of agricultural or horticultural products in at least two of the last three previous years as certified on or before March 1 of the assessment year using a form prescribed by the Department of Revenue. Land retained or protected for future agricultural or horticultural uses under a conservation easement as provided in the Conservation and Preservation Easements Act shall be defined as agricultural land or

horticultural land. Land enrolled in a federal or state program in which payments are received for removing such land from agricultural or horticultural production shall be defined as agricultural land or horticultural land. Land that is zoned predominantly for purposes other than agricultural or horticultural use shall not be assessed as agricultural land or horticultural land; and

(2) Agricultural or horticultural products shall include grain and feed crops; forages and sod crops; animal production, including breeding, feeding, or grazing of cattle, horses, swine, sheep, goats, bees, or poultry; and fruits, vegetables, flowers, seeds, grasses, trees, and other horticultural crops.

Sec. 4. Section 77-1361, Revised Statutes Supplement, 1995, is amended to read:

77-1361. (1) Agricultural land and horticultural land used solely for agricultural or horticultural purposes shall constitute a separate and distinct class of property for purposes of property taxation. Agricultural land and horticultural land shall be valued using the agricultural land valuation manual issued by the Property Tax Administrator pursuant to section 77-1330 which shall be developed using the methods prescribed in sections 77-1359 to ~~77-1367 and 77-1371~~ 77-1365.

(2) No residential, commercial, industrial, or agricultural building or enclosed structure or the directly associated land or site of the building or enclosed structure shall be assessed as agricultural land or horticultural land.

(3) No area of land directly associated with an improvement or structure described in subsection (2) of this section shall apply in determining compliance with the twenty-acre requirement of sections 77-1359 and 77-1360.

Sec. 5. Section 79-3809, Revised Statutes Supplement, 1995, is amended to read:

79-3809. (1) On or before July 1 for 1994 and on or before June 1 for each year thereafter, the Property Tax Administrator shall compute and certify to the State Department of Education the adjusted valuation of each district for each class of property in each such district so that the valuation of property for each district, for purposes of determining state aid pursuant to the Tax Equity and Educational Opportunities Support Act, shall reflect as nearly as possible state aid value as defined in subsection (2) of this section. Establishment of the adjusted valuation shall be based on assessment practices established by rule and regulation adopted and promulgated by the Property Tax Administrator. The assessment practices may include, but not be limited to, the appraisal techniques listed in section 77-112.

(2) For purposes of this section, state aid value shall mean:

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

(b) For agricultural land, eighty percent of market value as provided in sections 77-1359 to ~~77-1367 and 77-1371~~ 77-1365;

(c) For personal property other than motor vehicles, the net book value as defined in section 77-120; and

(d) For motor vehicles, the value established pursuant to section 77-1239.

(3) For 1995 and each year thereafter, ~~prior~~ Prior to July 1 any school district may file with the Property Tax Administrator written objections to the adjusted valuations prepared by the Property Tax Administrator, stating the reasons why such adjusted valuations are not the valuations required by subsection (2) of this section. The Property Tax Administrator shall fix a time for a hearing. Either party shall be permitted to introduce any evidence in reference thereto. Prior to December 1, the Property Tax Administrator shall enter an order modifying or declining to modify, in whole or in part, the adjusted valuations and shall certify the order to the State Department of Education. Modification by the Property Tax Administrator shall be based upon the evidence introduced at hearing and shall not be limited to the modification requested in the written objections or at hearing. The final determination of the Property Tax Administrator may be appealed to the Tax Equalization and Review Commission.

(4) For 1994, prior to August 1 any school district may file with the Department of Revenue written objections to the adjusted valuations prepared by the department, stating the reasons why such adjusted valuations are not the valuations required by subsection (2) of this section. The Tax Commissioner shall fix a time for a hearing to be held prior to August 15. Either party shall be permitted to introduce any evidence in reference thereto. Prior to September 1, the Tax Commissioner shall enter an order

~~modifying or declining to modify, in whole or in part, the adjusted valuations and shall certify the order to the State Department of Education. Modification by the Tax Commissioner shall be based upon the evidence introduced at hearing and shall not be limited to the modification requested in the written objections or at hearing. The final determination of the Tax Commissioner may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.~~

~~(5) (4) The Property Tax Administrator shall, on the date the adjusted valuations are certified to the State Department of Education under subsection (1) of this section, cause to be published notice of such adjusted valuations in a newspaper published or of general circulation in each county in Nebraska.~~

~~(6) (5) No injunction shall be granted restraining the distribution of state aid based upon the adjusted valuations pursuant to this section.~~

Sec. 6. Original sections 77-112, 77-1344, and 77-1359, Revised Statutes Supplement, 1994, and sections 77-1361 and 79-3809, Revised Statutes Supplement, 1995, are repealed.

Sec. 7. The following sections are outright repealed: Section 77-1366, Reissue Revised Statutes of Nebraska, and section 77-1367, Revised Statutes Supplement, 1995.