

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1054

Introduced by

Legislative Management

(Taxation Committee)

1 A BILL for an Act to amend and reenact section 57-02-27.2 of the North Dakota Century Code,
2 relating to assessment of agricultural property; and to provide an effective date.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 57-02-27.2 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **57-02-27.2. Valuation and assessment of agricultural lands.**

- 7 1. "True and full value" of agricultural lands must be their agricultural value for the
8 purposes of sections 57-02-27, 57-02-27.1, 57-02-27.2, and 57-55-04. Agricultural
9 value is defined as the "capitalized average annual gross return", except for
10 ~~inundated nonproductive~~ agricultural land. The "annual gross return" must be
11 determined from crop share rent, cash rent, or a combination thereof reduced by
12 estimated property taxes and crop marketing expenses incurred by farmland owners
13 renting their lands on a cash or crop share basis.
- 14 2. For purposes of this section, "annual gross return" for cropland used for growing crops
15 other than sugar beets and potatoes means thirty percent of annual gross income
16 produced, "annual gross return" for cropland used for growing sugar beets and
17 potatoes means twenty percent of annual gross income produced, and "annual gross
18 return" for land used for grazing farm animals means twenty-five percent of an amount
19 determined by the department of agribusiness and applied economics of North Dakota
20 state university to represent the annual gross income potential of the land based upon
21 the animal unit carrying capacity of the land.
- 22 3. The "average annual gross return" for each county must be determined as follows:

- 1 a. Total the annual gross returns for the ten years immediately preceding the current
2 year for which data is available and discard the highest and lowest annual gross
3 returns of the ten.
- 4 b. The department of agribusiness and applied economics of North Dakota state
5 university shall establish a base year index of prices paid by farmers using
6 annual statistics on that topic compiled by the national agricultural statistics
7 service for the seven-year period ending in 1995, discarding the highest and
8 lowest years' indexes, and averaging the remaining five years' indexes. The
9 department of agribusiness and applied economics shall gather the national
10 agricultural statistics service annual index of prices paid by farmers for the ten
11 years ending with the most recent year used under subdivision a, discard the
12 highest and lowest years' indexes, average the remaining eight years' indexes,
13 and divide the resulting amount by the base year index of prices paid by farmers.
14 This amount must be divided into the amount determined under subdivision a.
- 15 c. Divide the figure arrived at in subdivision b by eight.
- 16 4. To find the "capitalized average annual gross return", the average annual gross return
17 must be capitalized by a rate that is a ten-year average of the gross agribank
18 mortgage rate of interest for North Dakota, ~~but the rate used for capitalization under~~
19 ~~this section may not be less than eight percent for taxable year 2009, seven and~~
20 ~~seven-tenths percent for taxable year 2010, and seven and four-tenths percent for~~
21 ~~taxable year 2014.~~ The ten-year average must be computed from the twelve years
22 ending with the most recent year used under subdivision a of subsection 3, discarding
23 the highest and lowest years, ~~and the~~. The gross agribank mortgage rate of interest for
24 each year must be determined in the manner provided in section 20.2032A-4(e)(1) of
25 the United States treasury department regulations for valuing farm real property for
26 federal estate tax purposes, except that the interest rate may not be adjusted as
27 provided in section 20.2032A-4(e)(2).
- 28 5. The department of agribusiness and applied economics of North Dakota state
29 university shall compute annually an estimate of the average agricultural value per
30 acre [.40 hectare] of agricultural lands on a statewide and on a countywide basis; shall
31 compute the average agricultural value per acre [.40 hectare] for cropland; and

1 noncropland, ~~and inundated agricultural land~~ for each county; ~~and shall, and~~ provide
2 the tax commissioner with this information by December first of each year. Fifty
3 percent of the annual gross income from irrigated cropland must be considered
4 additional expense of production and may not be included in computation of the
5 average agricultural value per acre [.40 hectare] for cropland for the county as
6 determined by the department of agribusiness and applied economics. Before January
7 first of each year, the tax commissioner shall provide to each county director of tax
8 equalization these estimates of agricultural value for each county.

- 9 6. ~~For purposes of this section, "inundated agricultural land" means property classified as~~
10 ~~agricultural property containing~~The county director of tax equalization may classify
11 agricultural land as nonproductive agricultural land if it consists of a minimum of
12 ten~~five~~ contiguous acres ~~if the value of the inundated land exceeds ten percent of the~~
13 ~~average agricultural value of noncropland for the county, which is inundated to an~~
14 ~~extent making it~~and is unsuitable for growing crops or grazing farm animals for two
15 consecutive growing seasons or more; ~~and which produced~~did not produce revenue
16 from any source in the most recent prior year which is ~~less~~more than fifty percent of
17 the county average revenue per acre for noncropland calculated by the department of
18 agribusiness and applied economics of North Dakota state university. Land may not be
19 classified as nonproductive agricultural land solely because it is wooded.

20 Application for classification as ~~inundated~~nonproductive agricultural land for
21 property that was not so classified in the prior year must be made by the owner in
22 writing to the ~~township assessor or~~ county director of tax equalization by March
23 thirty-first of eachthe taxable year. The owner shall thereafter furnish to the county
24 director of tax equalization, when requested to do so, any information that is believed
25 will support the claim to retain nonproductive agricultural land classification for any
26 subsequent year. Before all or part of a parcel of property may be classified as
27 ~~inundated~~nonproductive agricultural land, the board of county commissioners must
28 approve that classification for that property for the taxable year.

29 The agricultural value of ~~inundated~~nonproductive agricultural lands for purposes
30 of this section must be determined ~~by the department of agribusiness and applied~~
31 ~~economics of North Dakota state university~~ to be ten percent of the average

1 agricultural value of noncropland for the county as determined under this section.
2 ~~Valuation of individual parcels of inundated agricultural land may recognize the~~
3 ~~probability that the property will be suitable for agricultural production as cropland or~~
4 ~~for grazing farm animals in the future.~~

5 Determinations made under this subsection may be appealed through the
6 ~~informal~~ equalization process and ~~formal~~ abatement process provided for in this title.

7 7. Before the second Wednesday in February first of each year, the county director of tax
8 equalization in each county shall provide to all assessors within the county an estimate
9 of the average agricultural value of agricultural lands within each assessment district.

10 The estimate must be based upon the average agricultural value for the county
11 adjusted by the relative values of lands within each assessment district compared to
12 the county average. In determining the relative value of lands for each assessment
13 district compared to the county average, the county director of tax equalization shall
14 use soil type and soil classification data from detailed and general soil surveys.

15 8. Each local assessor shall determine the relative value of each assessment parcel
16 within the assessor's jurisdiction and shall determine the agricultural value of each
17 assessment parcel by adjusting the agricultural value estimate for the assessment
18 district by the relative value of the parcel. ~~Each parcel must then be assessed~~
19 ~~according to section 57-02-27. If either a local assessor or a township board of~~
20 ~~equalization develops an agricultural value for the lands in its assessment district~~
21 ~~differing substantially from the estimate provided by the county director of tax~~
22 ~~equalization, written evidence to support the change must be provided to the county~~
23 ~~director of tax equalization.~~ In determining the relative value of each assessment
24 parcel, the local assessor shall apply the following considerations, ~~which are listed in~~
25 ~~descending order of significance to the assessment determination:~~

26 a. Soil type and soil classification data from detailed or general soil surveys. It is
27 presumed that if the soil capability class is 2, 3, or 4, that soil must be valued as
28 cropland and if the soil capability class is 5, 6, 7, or 8, that soil must be valued as
29 noncropland. How the property is used by the owner, by itself, does not
30 overcome this presumption.

- 1 b. The schedule of modifiers that ~~must~~may be used to adjust agricultural property
2 assessments within the county ~~as approved by the state supervisor of~~
3 ~~assessments under subsection 9~~and the guidelines established by the state
4 supervisor of assessments for application of those modifiers.
- 5 e. ~~Actual use of the property for cropland or noncropland purposes by the owner of~~
6 ~~the parcel.~~
- 7 9. Modifiers that may be applied to an agricultural property assessment parcel are:
- 8 a. Inaccessibility, consisting of topographic conditions making farm machinery
9 access impracticable.
- 10 b. Nonconformity, consisting of an area of relatively higher productivity soil type
11 surrounded by nonproductive or lower productivity soil type land, making it
12 impracticable to utilize the area to its highest productive capacity.
- 13 c. Uncharacteristic salinity, consisting of a greater degree of salinity than is
14 characteristic of the soil type where it exists, by reason of water seepage,
15 discharge, or collection.
- 16 10. Before the second Wednesday in February ~~first~~ of each year, the county director of tax
17 equalization in each county shall provide to all assessors of agricultural property within
18 the county instruction on how to use and apply available soil survey resources, a
19 schedule of modifiers that must be used to adjust agricultural property assessments
20 within the county and ~~directions~~a copy of the current guidelines established by the
21 state supervisor of assessments regarding how those modifiers must be applied by
22 assessors. ~~Before the schedule of modifiers is provided to assessors within the~~
23 ~~county, the county director of tax equalization shall obtain the approval of the state~~
24 ~~supervisor of assessments for use of the schedule within the county~~Modifiers may be
25 applied to reduce the soil type valuation of an area consisting of at least five
26 contiguous acres of a soil type affected by conditions described for one or more of the
27 allowable modifiers, if the assessor confirms the existence of those conditions.
- 28 11. An agricultural property owner may challenge any aspect of the agricultural property
29 assessment determined for a parcel of that person's property, including the soil survey
30 determinations, the application or nonapplication of modifiers, and the application or
31 nonapplication of nonproductive status. The owner must present the evidence and

1 argument supporting the challenge to the assessor or through the equalization or
2 abatement process provided for in this title.

3 ~~10.12.~~ For any county that has not fully implemented use of soil type and soil classification
4 data from detailed or general soil surveys by February first of any taxable year after
5 2011, the tax commissioner shall direct the state treasurer to withhold five percent of
6 that county's allocation each quarter from the state aid distribution fund under section
7 57-39.2-26.1 beginning with the first quarter of 2013, and continuing until the tax
8 commissioner certifies to the state treasurer that that county has fully implemented
9 use of soil type or soil classification data. The amount withheld from the allocation
10 must be deposited into the agricultural land valuation fund. The amount withheld from
11 the allocation must be withheld entirely from the portion of the allocation which may be
12 retained by the county and may not reduce allocations to any political subdivisions
13 within the county.

14 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
15 December 31, 2015.