2020 South Dakota Legislature

House Bill 1259

ENROLLED

AN ACT

ENTITLED An Act to clarify provisions regarding the discretionary formula for determining the assessed value of property for tax purposes.

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

Section 1. That § 10-6-35.2 be AMENDED:

10-6-35.2. Discretionary formula for reduced taxation of new structures and additions--Partially constructed structures.

Any structure classified pursuant to this section, shall, following construction, be valued for taxation purposes in the usual manner. However, the board of county commissioners of the county where the structure is located, may adopt any formula for assessed value to be used for tax purposes. The formula may include for any or all of the five tax years following construction all, any portion or none of the assessed valuation for tax purposes. Any formula adopted shall be equally applied to specifically classified structures within a tax increment finance district. The board of county commissioners of the county where the structure is located may, if requested by the owner of the structure, not apply the discretionary formula and the full assessment shall be made without application of the formula. In waiving the formula for the structure of one owner, the board of county commissioners is not prohibited from applying the formula for subsequent new structures. The assessed valuation during any of the five years may not be less than the assessed valuation of the property in the year preceding the first year of the tax years following construction.

Any structure that is partially constructed on the assessment date may be valued for tax purposes pursuant to this section and the valuation may not be less than the assessed valuation of the property in the year preceding the beginning of construction. The period that the property is valued for tax purposes under this section may include the years when the property is partially constructed.

Following the five-year period under this section, the property shall be assessed at the same percentage as is all other property for tax purposes.

Any of the following types of real property may be specifically classified for the purpose of taxation pursuant to this section:

(1) Any new industrial or commercial structure, or any addition, renovation, or reconstruction to an existing structure, located within a designated urban renewal area as defined in § 11-8-4, if the new structure, addition, renovation, or reconstruction has a full and true value of thirty thousand dollars or more;

(2) Any new industrial structure, including a power generation facility, or an addition to an existing structure, if the new structure or addition has a full and true value of thirty thousand dollars or more;

(3) Any new nonresidential agricultural structure, or any addition to an existing structure, if the new structure or addition has a full and true value of ten thousand dollars or more;

(4) Any new commercial structure, or any addition to an existing structure, except a commercial residential structure as described in subdivision (5), if the new structure or addition has a full and true value of thirty thousand dollars or more;

(5) Any new commercial residential structure, or addition to an existing structure, containing four or more units, if the new structure or addition has a full and true value of thirty thousand dollars or more;

(6) Any new affordable housing structure containing four or more units with a monthly rental rate of the units at or below the annually calculated rent for the state's sixty percent area median income being used by the South Dakota Housing Development Authority, for a minimum of ten years following the date of first occupancy, if the structure has a full and true value of thirty thousand dollars or more;

(7) Any new residential structure, or addition to or renovation of an existing structure, located within a redevelopment neighborhood established pursuant to § 10-6-56 if the new structure, addition, or renovation has a full and true value of five thousand dollars or more. The structure shall be located in an area defined and designated as a redevelopment neighborhood based on conditions provided in § 11-7-2 or 11-7-3: or

(8) Any commercial, industrial, or nonresidential agricultural property which increases more than ten thousand dollars in full and true value as a result of reconstruction or renovation of the structure.

Section 2. That § 10-6-35.1 be REPEALED.

10-6-35.1. New industrial structures and additions specifically classified for tax purposes.

Section 3. That § 10-6-35.3 be REPEALED.

10-6-35.3. Pollution standards to qualify for construction tax incentive.

Section 4. That § 10-6-35.4 be AMENDED:

10-6-35.4. Municipal adoption of reduction for new property.

If the board of county commissioners of a county has not adopted a formula pursuant to § 10-6-35.2, the governing board of a municipality where the structures defined in § 10-6-35.2 are located, or within three miles of the corporate limits of the municipality may in the governing board's discretion adopt all or any part of the formula for assessed value pursuant to § 10-6-35.2 or 10-6-55.

Section 5. That § 10-6-35.19 be REPEALED.

10-6-35.19. Nonresidential property--Increased value due to reconstruction or renovation--Special classification.

Section 6. That §§ 10-6-35.21 to 10-6-35.22 be REPEALED.

Section 7. That § 10-6-35.23 be AMENDED:

10-6-35.23. Adoption of assessed value formula by governing board of improvement district.

If the board of county commissioners of a county has not adopted a formula pursuant to § 10-6-35.2, the governing board of an improvement district where the structures defined in subdivision 10-6-35.2(2) are located may adopt all or any part of the formula for assessed value pursuant to § 10-6-35.2.

Section 8. That §§ 10-6-35.24 to 10-6-35.26 be REPEALED.

Section 9. That §§ 10-6-54 to 10-6-55 be REPEALED.

Section 10. That § 10-6-56 be AMENDED:

10-6-56. Boundaries of redevelopment neighborhood.

The board of county commissioners or the municipal governing body that approves the adoption of a reduced valuation pursuant to subdivision 10-6-35.2(7) shall, by ordinance, identify the exact boundaries of the redevelopment neighborhood where the reduced valuation will be available.

Section 11. That § 13-13-20.4 be AMENDED:

13-13-20.4. Actual assessed valuation for certain property given reduced valuation.

For any property given a reduced valuation pursuant to § 10-6-35.2 or 10-6-67, the portion of actual assessed valuation of the property used when calculating state aid to education shall be twenty percent in the first year, forty percent in the second year, sixty percent in the third year, eighty percent in the fourth year, and one hundred percent each year thereafter. In addition, the actual assessed valuation of any property given exempt status pursuant to § 10-4-39 shall be used when calculating state aid to education.

Section 12. That § 9-54-8 be AMENDED:

9-54-8. Lease or sale payments sufficient to pay bonds and costs--Payments in lieu of property taxes.

Revenue agreements pursuant to § 9-54-3.1 shall provide for contractual payments sufficient to pay the principal, premium, if any, and interest on any bonds issued by the municipality under the resolution or ordinance or trust indenture, when due or subject to mandatory redemption, and also to pay all taxes, special assessments and other governmental charges levied or imposed with respect to the project, and to pay all costs of insurance, operation, and maintenance thereof. The agreements shall also reimburse the municipality for the cost of any other obligation assumed by the municipality in connection with the project. Revenue agreements in the form of a lease or sale contract shall further provide for payment of a sum equal to the amount of property taxes which would be due if the lessee or purchaser were the owner of the project, to be prorated among the taxing districts involved and taking into consideration reductions permitted pursuant to § 10-6-35.2 for the term of the agreement.

Section 13. That § 10-12-44 be AMENDED:

10-12-44. County auditor in school district to raise additional revenue from real property taxes to compensate for tax abatement, tax increment financing district, or discretionary formula.

The county auditor in each school district shall raise additional revenue, for the general fund and special education fund, from real property taxes to compensate for a tax abatement, a tax increment financing district, or a discretionary formula as follows:

(1) For tax increment financing districts created pursuant to chapter 11-9 the county auditor shall impose an additional tax levy for an amount not to exceed an amount equal to the sum of the levies in §§ 10-12-42 and 13-37-16 times the tax increment valuation as defined in § 11-9-1;

(2) For property subject to § 10-6-35.2 or 10-6-67, the county auditor shall impose an additional tax levy for an amount not to exceed the amount of taxes that were not collected due to the reduction in valuation based on the maximum levies pursuant to §§ 10-12-42 and 13-37-16; and

(3) For abated taxes the county auditor shall impose an additional tax levy for an amount not to exceed the amount of the school district's portion of the taxes that were abated pursuant to chapter 10-18 during the previous tax year.

The levies in this section are not subject to the referendum provision of § 10-12-43 and these levies shall maintain the same proportion to each other as represented in the mathematical relationship at the maximum levies pursuant to § 10-12-42.

Section 14. That § 11-9-20 be AMENDED:

11-9-20. Determination of tax increment base of district.

On application in writing by the municipal finance officer, on a form prescribed by the department, the department shall determine the aggregate assessed value of the taxable property in the district, which aggregate assessed value, on certification to the finance officer, shall constitute the tax increment base of the district. Except as provided for in § 11-9-20.1, the department shall use the values as last previously certified by the department adjusted for the value to the date the district was created for any buildings or additions completed or removed and without regard to any reduction pursuant to §§ 1-19A-20, 10-6-35.2, and 10-6-67.

Section 15. That a NEW SECTION be added:

10-6-35.27. Real property receiving discretionary formula prior to July 1, 2020.

Any real property receiving the benefit of a discretionary formula prior to July 1, 2020, shall continue to be assessed and taxed in the manner provided for in any county or municipal resolution adopted pursuant to this chapter and in effect prior to July 1, 2020, and shall continue to be subject to the provisions of subdivision 10-12-44(2), and §§ 11-9-20 and 13-13-20.4.

Section 16. Section 15 of this Act is repealed on June 30, 2025.

An Act to clarify provisions regarding the discretionary formula for determining the assessed value of property for tax purposes.

I certify that the attached Act originated in the:

House as Bill No. 1259

_____
Chief Clerk

_____
Speaker of the House

Attest:

_____
Chief Clerk

_____
President of the Senate

Attest:

_____
Secretary of the Senate

House Bill No. 1259
File No. ____
Chapter No. _____

Received at this Executive Office
this _____ day of _____,

2020 at _____M.

By _____
for the Governor

The attached Act is hereby
approved this _____ day of
_____, A.D., 2020

_____
Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Filed _____, 2020
at _____ o'clock __M.

_____
Secretary of State

By _____
Asst. Secretary of State