

HOUSE BILL NO. 1166

Introduced by

Finance and Taxation Committee

(At the request of the Tax Commissioner)

1 A BILL for an Act to amend and reenact sections 57-02-27.1, 57-02-27.2, 57-02-38, and
2 57-12-09, subsection 4 of section 57-14-08, and section 57-20-03 of the North Dakota Century
3 Code, relating to property valuation by townships, the deletion of obsolete dates and references
4 for the purposes of valuation and assessment of agricultural lands, assessment of unplatted,
5 undeveloped, and nonagricultural real property located outside of a city, and notice
6 requirements for increased property tax assessments; and to provide an effective date.

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

8 **SECTION 1. AMENDMENT.** Section 57-02-27.1 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **57-02-27.1. Property to be valued at true and full value.** ~~Beginning with the year~~
11 ~~1981, all~~ All assessors and boards of equalization shall place the values of all items of taxable
12 property at the true and full value of the property except as otherwise specifically provided by
13 law, and the amount of taxes that may be levied on such property ~~for the year 1981 and each~~
14 ~~year thereafter~~ must be limited as provided in this chapter. For the purposes of sections
15 57-02-27, 57-02-27.1, 57-02-27.2, and 57-55-04, the term "true and full value" has the same
16 meaning as provided in subsection 15 of section 57-02-01, except that "true and full value" of
17 agricultural lands must be as determined pursuant to section 57-02-27.2.

18 The governing body of the city or township may establish valuations that recognize the
19 supply of vacant lots available for sale.

20 **SECTION 2. AMENDMENT.** Section 57-02-27.2 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **57-02-27.2. Valuation and assessment of agricultural lands.**

23 1. "True and full value" of agricultural lands must be their agricultural value for the
24 purposes of sections 57-02-27, 57-02-27.1, 57-02-27.2, and 57-55-04. Agricultural

1 value is defined as the "capitalized average annual gross return", except for
2 inundated agricultural land. The "annual gross return" must be determined from
3 crop share rent, cash rent, or a combination thereof reduced by estimated property
4 taxes and crop marketing expenses incurred by farmland owners renting their
5 lands on a cash or crop share basis.

6 2. For purposes of this section, "annual gross return" for cropland used for growing
7 crops other than sugar beets and potatoes means thirty percent of annual gross
8 income produced, "annual gross return" for cropland used for growing sugar beets
9 and potatoes means twenty percent of annual gross income produced, and "annual
10 gross return" for land used for grazing farm animals means twenty-five percent of
11 an amount determined by the ~~agricultural economics~~ department of agribusiness
12 and applied economics of North Dakota state university to represent the annual
13 gross income potential of the land based upon the animal unit carrying capacity of
14 the land.

15 3. The "average annual gross return" for each county must be determined as follows:
16 a. Total the annual gross returns for the ten years immediately preceding the
17 current year for which data is available and discard the highest and lowest
18 annual gross returns of the ten.
19 b. The ~~agricultural economics~~ department of agribusiness and applied
20 economics of North Dakota state university shall establish a base year index
21 of prices paid by farmers using annual statistics on that topic compiled by the
22 national agricultural statistics service for the seven-year period ending in
23 1995, discarding the highest and lowest years' indexes, and averaging the
24 remaining five years' indexes. The ~~agricultural economics~~ department of agribusiness and applied economics shall gather the national agricultural
25 statistics service annual index of prices paid by farmers for the ten years
26 ending with the most recent year used under subdivision a, discard the
27 highest and lowest years' indexes, average the remaining eight years'
28 indexes, and divide the resulting amount by the base year index of prices paid
29 by farmers. This amount must be divided into the amount determined under
30 subdivision a.
31

- 1 c. Divide the figure arrived at in subdivision b by eight.
- 2 4. To find the "capitalized average annual gross return", the average annual gross
3 return must be capitalized by a rate that is a ten-year average of the gross
4 agribank mortgage rate of interest for North Dakota, but the rate used for
5 capitalization under this section may not be less than ~~eight and nine-tenths percent~~
6 ~~for taxable year 2005~~ and eight and three-tenths percent ~~for taxable years after~~
7 ~~2005~~. The ten-year average must be computed from the twelve years ending with
8 the most recent year used under subdivision a of subsection 3, discarding the
9 highest and lowest years, and the gross agribank mortgage rate of interest for each
10 year must be determined in the manner provided in section 20.2032A-4(e)(1) of the
11 United States treasury department regulations for valuing farm real property for
12 federal estate tax purposes, except that the interest rate may not be adjusted as
13 provided in section 20.2032A-4(e)(2).
- 14 5. The ~~agricultural economics~~ department of agribusiness and applied economics of
15 North Dakota state university shall compute annually an estimate of the average
16 agricultural value per acre [.40 hectare] of agricultural lands on a statewide and on
17 a countywide basis; shall compute the average agricultural value per acre [.40
18 hectare] for cropland, noncropland, and inundated agricultural land for each
19 county; and shall provide the tax commissioner with this information by December
20 first of each year. Fifty percent of the annual gross income from irrigated cropland
21 must be considered additional expense of production and may not be included in
22 computation of the average agricultural value per acre [.40 hectare] for cropland for
23 the county as determined by the ~~agricultural economics~~ department of
24 agribusiness and applied economics. Before January first of each year, the tax
25 commissioner shall provide to each county director of tax equalization these
26 estimates of agricultural value for each county.
- 27 6. For purposes of this section, "inundated agricultural land" means property
28 classified as agricultural property containing a minimum of ten contiguous acres if
29 the value of the inundated land exceeds ten percent of the average agricultural
30 value of noncropland for the county, which is inundated to an extent making it
31 unsuitable for growing crops or grazing farm animals for two consecutive growing

1 seasons or more, and which produced revenue from any source in the most recent
2 prior year which is less than the county average revenue per acre for noncropland
3 calculated by the ~~agricultural economics~~ department of agribusiness and applied
4 economics of North Dakota state university. Application for classification as
5 inundated agricultural land must be made in writing to the township assessor or
6 county director of tax equalization by March thirty-first of each year. Before all or
7 part of a parcel of property may be classified as inundated agricultural land, the
8 board of county commissioners must approve that classification for that property
9 for the taxable year. The agricultural value of inundated agricultural lands for
10 purposes of this section must be determined by the ~~agricultural economics~~
11 department of agribusiness and applied economics of North Dakota state
12 university to be ten percent of the average agricultural value of noncropland for the
13 county as determined under this section. Valuation of individual parcels of
14 inundated agricultural land may recognize the probability that the property will be
15 suitable for agricultural production as cropland or for grazing farm animals in the
16 future. Determinations made under this subsection may be appealed through the
17 informal equalization process and formal abatement process provided for in this
18 title.

19 7. Before February first of each year, the county director of tax equalization in each
20 county shall provide to all assessors within the county an estimate of the average
21 agricultural value of agricultural lands within each assessment district. The
22 estimate must be based upon the average agricultural value for the county
23 adjusted by the relative values of lands within each assessment district compared
24 to the county average. In determining the relative value of lands for each
25 assessment district compared to the county average, the county director of tax
26 equalization shall use soil type and soil classification data from detailed and
27 general soil surveys.

28 8. Each local assessor shall determine the relative value of each assessment parcel
29 within the assessor's jurisdiction and shall determine the agricultural value of each
30 assessment parcel by adjusting the agricultural value estimate for the assessment
31 district by the relative value of the parcel. Each parcel must then be assessed

- 1 according to section 57-02-27. If either a local assessor or a township board of
2 equalization develops an agricultural value for the lands in its assessment district
3 differing substantially from the estimate provided by the county director of tax
4 equalization, written evidence to support the change must be provided to the
5 county director of tax equalization. In determining the relative value of each
6 assessment parcel, the local assessor shall apply the following considerations,
7 which are listed in descending order of significance to the assessment
8 determination:
- 9 a. Soil type and soil classification data from detailed or general soil surveys.
 - 10 b. The schedule of modifiers that must be used to adjust agricultural property
11 assessments within the county as approved by the state supervisor of
12 assessments under subsection 9.
 - 13 c. Actual use of the property for cropland or noncropland purposes by the owner
14 of the parcel.
- 15 9. Before February first of each year, the county director of tax equalization in each
16 county shall provide to all assessors of agricultural property within the county a
17 schedule of modifiers that must be used to adjust agricultural property
18 assessments within the county and directions regarding how those modifiers must
19 be applied by assessors. Before the schedule of modifiers is provided to
20 assessors within the county, the county director of tax equalization shall obtain the
21 approval of the state supervisor of assessments for use of the schedule within the
22 county.
- 23 10. For any county that has not fully implemented use of soil type and soil classification
24 data from detailed or general soil surveys for any taxable year after 2009, the tax
25 commissioner shall direct the state treasurer to withhold five percent of that
26 county's allocation each month from the state aid distribution fund under section
27 57-39.2-26.1 until that county has fully implemented use of soil type or soil
28 classification data from detailed and general soil surveys. The amount withheld
29 from the allocation must be withheld entirely from the portion of the allocation
30 which may be retained by the county and may not reduce allocations to any
31 political subdivisions within the county.

1 **SECTION 3. AMENDMENT.** Section 57-02-38 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **57-02-38. Units of real property for assessment.** In all assessment books and tax
4 lists and in all proceedings for the collection of taxes and proceedings founded thereon,
5 unplatted and undeveloped land platted before March 30, 1981, not situated within the limits of
6 an incorporated city must be described in subdivisions not exceeding quarter sections. Real
7 property in the platted portion of a city or real property platted on or after March 30, 1981, that
8 is located outside any city and is not agricultural property under the conditions set out in
9 subsection 1 of section 57-02-01, must be assessed separately as to each lot, ~~but when.~~ When
10 a building or structure covers two or more contiguous lots or parts of lots owned by the same
11 person the assessment may not be entered separately as to each lot or part of lot, but the tract
12 upon which the building is located must be described and assessed as one parcel. A block
13 which has not been subdivided may be described, assessed, and taxed in a unit of one block.
14 A failure to comply with the provisions of this section does not impair the validity of taxes.

15 **SECTION 4. AMENDMENT.** Section 57-12-09 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **57-12-09. Notice of increased assessment to real estate owner.** When any
18 assessor has increased the true and full valuation of any lot or tract of land ~~or~~ including any
19 improvements thereon ~~to~~ by more than ten percent ~~more than~~ over the amount of the last
20 assessment, notice of the amount of increase ~~over the last assessment~~ and the amount of the
21 last assessment must be delivered in writing by the assessor to the property owner, mailed in
22 writing to the property owner at the property owner's last-known address, or provided to the
23 property owner by electronic mail directed with verification of receipt to an electronic mail
24 address at which the property owner has consented to receive notice. Delivery of notice to a
25 property owner under this section must be completed not fewer than fifteen days before the
26 meeting of the local equalization board. The tax commissioner shall prescribe suitable forms
27 for this notice and the notice must show the true and full value as defined by law of the
28 property, including improvements, that the assessor used in making the assessment for the
29 current year and for the year in which the last assessment was made and must also show the
30 date prescribed by law for the meeting of the local equalization board of the assessment district
31 in which the property is located and the meeting date of the county equalization board. The

1 notice must be mailed or delivered at the expense of the assessment district for which the
2 assessor is employed.

3 **SECTION 5. AMENDMENT.** Subsection 4 of section 57-14-08 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 4. When any special assessor has increased the true and full valuation of any lot or
6 tract of land ~~together with~~ including any improvements to that lot or tract of land by
7 ~~fifteen~~ ten percent or more of the last assessment, written notice of the amount of
8 increase over the last assessment and the amount of the last assessment must be
9 delivered in writing by the special assessor to the property owner ~~or~~, mailed in
10 writing to the property owner at the property owner's last-known address ~~except~~
11 ~~that no notice need be delivered or mailed if the true and full valuation is increased~~
12 ~~by less than three thousand dollars,~~ or provided to the property owner by electronic
13 mail directed with verification of receipt to an electronic mail address at which the
14 property owner has consented to receive notice. The tax commissioner shall
15 prescribe suitable forms for this notice and the notice must also show the true and
16 full value as defined by law of the property, including improvements, that the
17 special assessor used in making the reassessment and must also show the date
18 prescribed by law for the meeting of the special board of equalization of the
19 assessment district in which the property is located. ~~This~~ Delivery of notice must
20 ~~be mailed or delivered~~ to the property owner under this section must be completed
21 at least ten fifteen days in advance of the meeting date of the special board of
22 equalization and ~~must be mailed or delivered~~ at the expense of the assessment
23 district for which the special assessor is employed.

24 **SECTION 6. AMENDMENT.** Section 57-20-03 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **57-20-03. Form of tax list.** The tax list must be made out to correspond with the
27 assessment books ~~as respects~~ with respect to ownership and description of property, with
28 columns for the valuation and for the various items of tax included in the total amount of all
29 taxes set down opposite such description of property. The amounts of special taxes must be
30 entered in appropriate columns, but the general taxes may be shown by entering the rate of
31 each tax at the head of the proper column without extending the same, in which case a

1 schedule of the rates of such taxes must be made on the first page of each tax list. The tax lists
2 also must show, in a separate column, the years for which a tax lien has been foreclosed upon
3 any piece or parcel ~~has been sold for taxes~~, if the same has not been redeemed or deeded for
4 such taxes.

5 **SECTION 7. EFFECTIVE DATE.** Sections 3 and 4 of this Act are effective for taxable
6 years beginning after December 31, 2008.