



Ninety-Ninth Legislature - First Session - 2005
Committee Statement
LB 407

Hearing Date: January 26, 2005
Committee On: Revenue

Introducer(s): (Raikes, Hudkins, Redfield)
Title: Eliminate provisions relating to agricultural and horticultural land valuation

Roll Call Vote – Final Committee Action:

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

Vote Results:

6	Yes	Senators Baker, Cornett, Landis, Preister, Raikes and Redfield
0	No	
0	Present, not voting	
2	Absent	Senators Connealy and Janssen

Proponents:
Senator Ron Raikes
Dave Nielsen
Catherine Lang
Rob Ogden

Representing:
Introducer
Nebraska Farm Bureau Federation
NE Dept. of Property Assessment & Taxation
Lancaster Co. Assessor/Register of Deeds

Opponents:
None

Representing:

Neutral:
None

Representing:

Summary of purpose and/or changes:

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. Much of the bill is about the use and revision of definitions both with regard to greenbelt and ag land in general.

The definition of agricultural and horticultural land is narrowed to remove parcels of land or parts of parcels where the agricultural and horticultural use may be less serious. This narrowing would also affect qualification for greenbelt because the two would be tied together. The elimination of recapture is another significant change in the bill because such a change would eliminate the need for county assessors to keep track of two values for land receiving special value. The bill would be effective January 1, 2006.

Section by section summary:

Section 1 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 section 10 (statutory section 77-1381, AHLVB authority over special value) and sections 11 & 12, (statutory sections 77-5022, and 5023, TERC authority over special value)

Section 2 would amend section 77-1343 to strike definitions for “agricultural or horticultural use”, “recapture valuation”, and “taxpayer”. 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.

Section 3 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.

Sections 4 & 5 would amend sections 77-1345 & 77-1345.01 by replacing the term “taxpayer” with “applicant” in several places.

Section 6 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”.

Section 7 would amend section 77-1348 to strike recapture and state the assessor may at any time determine that land no longer qualifies for special value. If that occurs, 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 7 days and the owner may then appeal to TERC within 30 days of the decision.

Section 8 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 nonagricultural land, but shall be assessed uniformly and proportionately within the class.

Agricultural and horticultural land would mean 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” (which would be defined if LB 263 is enacted this year) 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 or some other structure. Under LB 407, any land directly associated with any building or enclosed structure could not be agricultural land. It is thought that these changes 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 would remove preferential assessment for those that are not farming commercially. Agricultural or horticultural purposes would include 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”.

Section 9 would amend section 77-1363 to remove language moved to other locations in the statute and clarify that the source used for soil classifications is the Natural Resources Conservation Service of the USDA.

Section 13 would provide that the bill be operative beginning January 1, 2006.

Section 14 would repeal the original sections and

Section 15 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 would still require collecting data on all sales. Section 77-1361 repeats the constitutional authorization for the separate classification of agricultural and horticultural land. In LB 407 this language would be moved to section 77-1359. Section 77-1362 requires the Property Tax Administrator to develop the Ag land manual.

Explanation of amendments, if any:

The committee amendments:

1. Clarify that the value placed on greenbelt land that no longer qualifies may be valued as ag land, residential, commercial, or exempt property.
2. Clarify the point in time at which the loss of special value occurs. Under the amendment, the property would become disqualified upon the declaration by the county assessor, even though the applicant or owner may have appeal avenues that could ultimately prove successful.

3. Assure that either an “owner” under the old definitional scheme or an “applicant” is entitled to notice of disqualification.
4. Insert the provisions of LB 699 to amend several sections of the greenbelt statutes to strike references to agricultural or horticultural zoning as a requirement for obtaining special value and causing recapture if the zoning changes. The definition of “zoned for agricultural or horticultural use” would be struck in section 77-1343, so section 1 of the amendment restates that definition in section 19-2428, which defines agricultural or horticultural zoning in the context of first or second class cities and villages. That section currently contains a cross reference to the definition to be struck.
5. Amend section 77-1355, which created the Greenbelt Advisory Committee, to strike a reference to zoning for agricultural purposes. This change is also from LB 699, and
6. Amend section 77-1369 to strike zoning for other purposes as a disqualification for ag land valuation in general. In other words, under the committee amendment, land could receive the ag land valuation preference even if it were zoned for residential or industrial use, so long as the actual use was for agricultural or horticultural purposes.

Senator David Landis, Chairperson