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July 24, 2024

SENT VIA EMAIL

Joe Hurly
2010 South 1st Avenue
Sioux Falls, SD 57501
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Filed this 24th day of

July 2024

Monae L. Johnson

SECRETARY OF STATE

Dear Mr. Hurly:

SDCL 12-13-25 requires the Legislative Research Council (LRC) to review each proposed initiated measure submitted to it by a sponsor, for the purpose of assisting the sponsor in writing the measure "in a clear and coherent manner in the style and form of other legislation" that "is not misleading or likely to cause confusion among voters." See SDCL 12-13-24.

SDCL 12-13-24 requires an initiative to be written in the "form of other legislation." The LRC suggests several style, form, and clarity changes to the proposed initiated measure (enclosed) to conform to this requirement.

1. When proposing new text in legislation, the new text is underscored. When deleting existing text, the language is stricken. For each proposed section, the LRC recommends underscoring the new text proposed to be added to the law and striking existing text that is proposed to be removed from the law. This will allow the reader to see what changes are being proposed.
2. Agricultural property valuations are based on the agricultural income value of the property. The effect of this measure's proposed valuation limitation on the current agricultural property valuation process under SDCL chapter 10-6 is unclear. The sponsor may wish to consider more specifically how this proposal interacts with the valuation of agricultural properties and the agricultural income valuation approach.
3. Since the base amount of a property stays the same upon a change in ownership, is section 1, subdivision (2), necessary? It is unclear if there is a difference between subdivisions (1) and (2) of section 1, when the section later provides that the base amount is transferred from one owner to the next.
4. Relatedly, it doesn't appear that the second to last sentence in section 1 is necessary, since the base amount stays the same upon a change in ownership. If the base amount stays the same upon a change in ownership, the base amount would not be the sale price of the property, as the property would "retain the same base amount as existed with the prior owner."
5. The base amount should be a fixed number. The proposed language provides that the base amount includes any assessment made after November 1, 2020, which means the base would change every year after November 1, 2020. The suggested changes provide for a definite period to calculate the base amount (assessment years 2021 to 2026, inclusive). Please review these suggested changes to determine if those years align with the intent of the proposal.

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6. Please consider simplifying the language of proposed section 1, subdivision (3). A suggested manner of simplifying the text is proposed. However, the sponsor should review and evaluate the suggestions and make any necessary changes to conform with the sponsor's intent.
7. SDCL 10-6-119 provides that the fair market value of a property is determined "by appropriate consideration of the cost approach, the market approach, and the income approach to appraisal." The proposed initiated measure seems to require a market approach (comparable properties) to valuation when new construction has been completed on a property. The sponsor may want to consider preserving the option to use different valuation approaches, rather than require the market approach alone for certain valuations. The suggested changes remove references to "comparable properties." The LRC also recommends deleting the sentence beginning with, "Where no comparison properties are available..." If no comparison properties are available, another valuation approach could be used, if an assessor has the option to use a different approach.
8. If this proposed initiated measure were to be on the ballot, it would likely be considered at the 2026 general election, with an effective date of July 1, 2027. Therefore, please consider changing the assessment year in which the changes would be effective.
9. The last sentence in section 1 provides that the base amount may be increased for property classification changes or additions or expansions to a property. The assumption is that this sentence is to be read with the proposed section 1, subdivision (3), which requires the base amount for new structures to be valued as if the property were assessed on November 1, 2020. Suggested language was added to clarify that the adjustments allowed by the last sentence in section 1 are effective for assessment year 2027 and thereafter.
10. The sponsor may want to consider S.D. Const., Art. XI, § 2, to determine whether the measure will result in property taxes being "uniform on all property of the same class."

Although there is no statutory requirement to make changes based upon the suggestions and comments provided above, you are encouraged to be cognizant of the standards established in SDCL 12-13-24 and 12-13-25 and ensure that your language is in conformity.

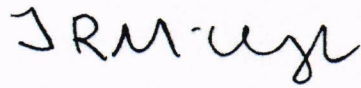
Fiscal Impact

This proposal will likely have an impact on the revenues, expenditures, or fiscal liability of the state and its political subdivisions. Please provide the LRC, as required by SDCL 12-13-25.1, with a copy of the proposed initiated measure, as submitted in final form to the Attorney General, so that a final fiscal impact determination can be made.

Compliance

This letter is issued in compliance with statutory requirements placed upon the LRC. It is neither an endorsement of the proposed initiated measure nor of any suggested edits. This letter is not a guarantee of the proposal's sufficiency. If you proceed with the proposed initiated measure, please ensure that neither your statements nor any advertising contain any suggestion of endorsement or approval by the LRC.

Sincerely,



John McCullough, Director, Legislative Research Council

CC: The Honorable Monae L. Johnson, Secretary of State
The Honorable Marty Jackley, Attorney General

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

Section 1. That chapter 10-6 be amended with a NEW SECTION:

For purposes of this section, the term "base amount" means:

(1) The fair market value of any ~~Agricultural property, Nonagricultural property, and~~ owner-occupied single-family dwelling, agricultural property, and nonagricultural property on November 1, 2020, increased by no more than two and a quarter percent annually for each assessment required by § 10-6-105 that was completed ~~thereafter in 2021 to 2026, inclusive; and~~

(2) ~~Where a change in ownership of existing Agricultural property, Nonagricultural property, and an owner-occupied single-family dwelling has occurred after November 2, 2020, the fair market value of the property on November 1, 2020 increased by no more than two and a quarter percent annually for any assessment required by § 10-6-105, that was completed after thereafter, regardless of ownership.~~

(3) ~~Where possible, whenever there is new construction to Agricultural property, Nonagricultural property, or an owner-occupied single-family dwelling, and that new construction can be reasonably compared to similar property, which existed on November 1, 2020, the new property shall take on the assessed value of November 1, 2020 on said similar property as though said comparison property were new on November 1, 2020, and the assessed value from that point. For any owner-occupied single-family dwelling, agricultural property, and nonagricultural property where a new structure or addition was added between 2021 to 2026, inclusive, the fair market value of the property, taking into account the new structure or addition, as if the valuation occurred on November 1, 2020, increased by no more than two and a quarter percent annually from the date of completion of the new property, shall be the initial assessed value structure or addition to assessment year 2026, inclusive. Where no comparison property is available, the fair market value of the property on the date of completion increased by no more than two and a quarter percent annually for any assessment required by § 10-6-105, that was completed after the transfer or completion.~~

For purposes of the annual assessment required by § 10-6-105, the assessed value of ~~Agricultural property, Nonagricultural property, and~~ an owner-occupied single-family dwelling, agricultural property, and nonagricultural property may not increase more than two and a quarter percent annually, from the base amount beginning with assessment year ~~2025 2027~~ and each assessment year thereafter.

~~When~~If a change in ownership of ~~Agricultural property, Nonagricultural property, and~~ an owner-occupied single-family dwelling, agricultural property, or nonagricultural property occurs, the property retains the same base amount assessed value as existed with the prior owner at the time the change in ownership occurred.

~~When Agricultural property, Nonagricultural property, and an owner-occupied single-family dwelling is sold between a willing seller and a willing buyer with no coercion or advantage taken by either party, the property's base amount may not exceed the sales price of the property.~~

~~The~~In assessment year 2027 and thereafter, the base amount assessed value of any ~~Agricultural property, Nonagricultural property, and~~ owner-occupied single-family dwelling, agricultural property, and nonagricultural property may be further increased if there is a change in the use or classification of the property or to account for any addition or expansion to the property.

Section 2. That § 10-6-105 be AMENDED:

10-6-105. All real property subject to taxation ~~shall~~ must be listed and assessed annually, but the value of ~~such~~ the property is to be determined according to its value on the first day of November preceding the assessment, subject to the value limitations provided in section 1 of this Act.