

DEPARTMENT OF TAXATION

2009 Fiscal Impact Statement

1. **Patron** Robert D. Orrock, Sr.

2. **Bill Number** HB 2098

3. **Committee** Passed House and Senate

House of Origin:

 Introduced

 Substitute

 Engrossed

4. **Title** Real Property Tax; Use Assessment

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would provide that real property that otherwise qualifies for agricultural, horticultural, forest or open-space use assessment would not be disqualified because a portion of such property is being used for a different purpose pursuant to a special use permit or as otherwise allowed by zoning. The portion of the property being used for a different purpose would be deemed a separate piece of property for purposes of assessment. The bill would also provide that the presence of utility lines, zoning designations, and special use permits shall not be considered in determining whether the property is devoted to agricultural, horticultural, forest or open-space use.

The effective date of this bill is not specified.

6. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

7. **Budget amendment necessary:** No.

8. **Fiscal implications:**

This bill would have no impact on state revenues. To the extent that additional real estate qualifies for land use taxation, this bill would have a negative impact on local revenues.

9. **Specific agency or political subdivisions affected:**

All localities.

10. **Technical amendment necessary:** No.

11. **Other comments:**

Land Use Taxation

Land use valuation and taxation is intended to encourage conservation by providing tax relief to the owner of real estate devoted solely to agricultural, horticultural, forest or open-

space use. In valuing land at its use value, the assessing officer considers only the value of the real estate in its current use. The assessing officer does not consider the fair market value of the land at its most profitable use.

Owners of real property situated in a locality that has adopted a land-use plan and ordinance providing for use value assessment may apply to their local assessing officer for taxation of their real property on the basis of use value. Such owners must devote a minimum number of acres of real property to agricultural, horticultural, forest, or open-space use.

In order to qualify as real estate devoted to agricultural use under current law, the real estate must be devoted to the production for sale of plants and animals determined useful under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services or devoted to and meeting the requirements and qualifications of a soil conservation program under an agreement with a federal government agency.

In order to qualify as real estate devoted to horticultural use under current law, the real estate must be devoted to the production for sale of fruits, vegetables, and nursery and floral products under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services or devoted to and meeting the requirements and qualifications of a soil conservation program under an agreement with a federal government agency.

In order to qualify as real estate devoted to forest use under current law, the real estate must be devoted to tree growth in such quantity and so spaced and maintained as to constitute a forest area under standards prescribed by the State Forester.

In order to qualify as real estate devoted to open-space use under current law, the real estate must be used or preserved for i) park or recreational purposes, ii) conservation of land or other natural resources, iii) floodways, iv) wetlands, v) riparian buffers, vi) historic or scenic purposes, or vii) assisting in community development or for the public interest.

Under current law, if real estate that qualified for assessment and taxation on the basis of use value is subsequently devoted to a nonqualifying use, or the zoning of the real estate is changed to a more intensive use at the request of the owner or his agent, then the real estate is subject to roll-back taxes. Roll-back taxes are only assessed against the portion of real estate that no longer qualifies for assessment and taxation on the basis of use value.

Proposal

This bill would provide that real property that otherwise qualifies for agricultural, horticultural, forest or open-space use assessment would not be disqualified because a portion of such property is being used for a different purpose pursuant to a special use permit or as otherwise allowed by zoning. The portion of the property being used for a different purpose would be deemed a separate piece of property for purposes of assessment. The bill would also provide that the presence of utility lines, zoning designations, and special use permits shall not be considered in determining whether the property is devoted to agricultural, horticultural, forest or open-space use.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 2/24/2009 AM
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