

Journal of the House

Tuesday, January 26, 2010

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Father Mike Augustinowicz of St. Augustine's Parish, Montpelier, VT.

Pledge of Allegiance

Page Sam Biondalillo of Barre City led the House in the Pledge of Allegiance.

Third Reading; Bill Passed

H. 461

House bill, entitled

An act relating to small estates

Was taken up, read the third time and passed.

Bill Amended; Third Reading Ordered

H. 485

Rep. Clarkson of Woodstock, for the committee on Ways and Means, to which had been referred House bill, entitled

An act relating to the use value appraisal program

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Use Value Appraisal Enrollment Moratorium * * *

Sec. 1. USE VALUE APPRAISAL ENROLLMENT MORATORIUM

Notwithstanding any provisions of chapter 124 of Title 32, no property may be initially enrolled in the use value appraisal program for the April 1, 2010, grand list. Applications for new enrollment of property in the use value appraisal program for the April 1, 2010, grand list shall be treated as applications for enrollment for the April 1, 2011, grand list, unless the applicant withdraws the application, in which case the director shall refund the application fee.

* * * Method and Calculation of Land Use Change Tax * * *

Sec. 2. 32 V.S.A. § 3757 is amended to read:

§ 3757. LAND USE CHANGE TAX

(a) Land which has been classified as agricultural land or managed ~~forest land~~ forestland pursuant to this chapter shall be subject to a land use change tax upon the development of that land, as defined in section 3752 of this chapter. ~~Said~~ The tax shall be at the rate of ~~20~~ 10 percent of the full fair market value of the changed land determined without regard to the use value appraisal; ~~or the tax shall be at the rate of 10 percent if the owner demonstrates to the satisfaction of the director that the parcel has been enrolled continuously more than 10 years. If changed land is a portion of a parcel, the fair market value of the changed land shall be the fair market value of the changed land prorated on the basis of acreage, divided by the common level of appraisal. Such~~ For purposes of the land use change tax, fair market value shall be determined as of the date the land is no longer eligible for use value appraisal developed. This tax shall be in addition to the annual property tax imposed upon such property. Nothing in this section shall be construed to require payment of an additional land use change tax upon the subsequent development of the same land, nor shall it be construed to require payment of a land use change tax merely because previously eligible land becomes ineligible, provided no development of the land has occurred.

* * *

(c) ~~The determination of the fair market value of the land as of the date the land is no longer eligible for a use value appraisal, or as of the time of the withdrawal of the land from use value appraisal, shall be made by the director~~ local assessing officials in accordance with the land schedule of their municipality. The determination shall be made within 30 days after the date that the owner ~~or assessing officials~~ petition ~~petition~~ petitions for the determination and shall be effective on the date of dispatch to the owner. The local assessing officials may make the determination on their own initiative following written notice to the owner and a period of not less than 30 days for the owner to respond.

(d) The land use change tax shall be due and payable by the owner 30 days after the tax notice is mailed to the taxpayer. The tax shall be paid to the ~~commissioner for deposit into the general fund~~ municipality in which the land is located. ~~The commissioner~~ local assessing officials shall issue a form to the ~~assessing officials~~ commissioner which shall provide for a description of the land ~~developed for which the tax is due, the amount of tax payable, and the fair market value of the land at the time of development or withdrawal from use value appraisal~~ used to calculate the tax. The owner shall fill out the form and

shall sign it under the penalty of perjury. After receipt of payment, the ~~commissioner~~ local assessing officials shall furnish the owner with one copy, ~~shall~~ retain one copy ~~and shall~~ forward one copy to the ~~local assessing officials~~ commissioner along with one-half of the tax collected, and forward one copy to the register of deeds of the municipality in which the land is located. Thereafter, the land which has been withdrawn or developed shall be appraised and listed at its full fair market value in accordance with the provisions of chapter 121 of this title.

* * *

(e) The owner of any classified land receiving use value appraisal under this subchapter shall immediately notify the director and local assessing officials of:

* * *

Sec. 3. 32 V.S.A. § 3758(a) and (b) are amended to read:

(a) Whenever the director denies in whole or in part any application for classification as agricultural land or managed ~~forest land~~ forestland or farm buildings, or grants a different classification than that applied for, or the director or assessing officials fix a use value appraisal, or determine that previously classified property is no longer eligible or that the property has undergone a change in use, the aggrieved owner may appeal the decision ~~of the director~~ to the director within 30 days of the decision. The aggrieved owner may appeal the director's final decision to the commissioner within 30 days, and from there to the superior court in the same manner and under the same procedures as an appeal from a decision of a board of civil authority, as set forth in subchapter 2 of chapter 131 of this title; and may appeal the decision of the assessing officials in the same manner as an appeal of a grand list valuation.

(b) Any owner who is aggrieved by the determination of the fair market value of classified land for the purpose of computing the land use change tax may appeal ~~in the same manner as an appeal of a grand list valuation to the director~~ within 30 days of the local assessing official's decision, and the director's decision may be appealed in the same manner and under the same procedures as an appeal of a decision of a board of civil authority as set forth in subchapter 2 of chapter 131 of this title.

* * * Increase the Property Transfer Tax for Certain Enrolled Land * * *

Sec. 4. 32 V.S.A. § 9602(2) is amended to read:

(2) with respect to the transfer of property which is ~~enrolled at the time of the transfer in a program under chapter 124 of this title, or is otherwise a~~

working farm at the time of the transfer ~~if not so enrolled~~, the tax shall be imposed in the amount of five-tenths of one percent on the entire value of the property transferred; provided, however that no part of the property is converted to a use which would subject it to the land use change tax or an obligation to repay property tax benefits under chapter 124 of this title for a period of three years following the date of the transfer, or if it is a working farm which is not enrolled under chapter 124, that the property is not taken out of agricultural production for a period of six years following the date of the transfer. For the purposes of this subdivision, a working farm shall mean a parcel of land actively used by a farmer, as that term is defined under subdivision 3752(7) of this title. If the conditions of this subdivision are breached by the buyer, the buyer shall be obligated to pay the full transfer tax in the amount of one and one-quarter percent and this obligation shall run with the land.

* * * Use Proceeds of Increased Property Transfer Tax * * *

Sec. 5. APPROPRIATION

For fiscal year 2011, there is appropriated to the use value appraisal program special fund created pursuant to 32 V.S.A. § 3756(e) the first \$300,000.00 of revenues collected from the property transfer tax imposed pursuant to chapter 231 of Title 32. This appropriation shall be prior to the allocation of the property transfer tax revenues provided for in 10 V.S.A. § 312, 24 V.S.A. § 4306(a), and 32 V.S.A. § 435(b)(10) and shall be used by the program to convert the administration of the program to an electronic format.

Sec. 6. NOTICE

The director of property valuation and review shall timely provide written notice to each owner of land enrolled in the use value appraisal program of the changes provided for in this act and the options the owner has with respect to any enrolled land.

Sec. 7. EFFECTIVE DATES AND TRANSITION RULE

(a) Any withdrawal of property from the use value appraisal program after the date of passage of this act and before the effective date of Secs. 2 and 3 of this act shall be deemed to affect the enrollment status of the withdrawn property for the grand list of April 1, 2010.

(b) This section and Secs. 1, 5, and 6 of this act shall take effect upon passage.

(c) Secs. 2 and 3 of this act shall take effect 90 days after the passage of this act.

(d) Sec. 4 of this act shall apply to all property transfers on or after April 1, 2010.

Rep. Johnson of South Hero, for the committee on Appropriations, recommended that the bill be amended as recommended by the committee on Ways and Means and that the bill be further amended as follows:

First: By striking Sec. 2 in its entirety and inserting in lieu thereof the following:

Sec. 2. 32 V.S.A. § 3757 is amended to read:

§ 3757. LAND USE CHANGE TAX

(a) Land which has been classified as agricultural land or managed ~~forest land~~ forestland pursuant to this chapter shall be subject to a land use change tax upon the development of that land, as defined in section 3752 of this chapter. ~~Said~~ The tax shall be at the rate of ~~20~~ 10 percent of the full fair market value of the changed land determined without regard to the use value appraisal; ~~or the tax shall be at the rate of 10 percent if the owner demonstrates to the satisfaction of the director that the parcel has been enrolled continuously more than 10 years. If changed land is a portion of a parcel, the fair market value of the changed land shall be the fair market value of the changed land prorated on the basis of acreage, divided by the common level of appraisal. Such~~ For purposes of the land use change tax, fair market value shall be determined as of the date the land is no longer eligible for use value appraisal developed. This tax shall be in addition to the annual property tax imposed upon such property. Nothing in this section shall be construed to require payment of an additional land use change tax upon the subsequent development of the same land, nor shall it be construed to require payment of a land use change tax merely because previously eligible land becomes ineligible, provided no development of the land has occurred.

* * *

(c) ~~The determination of the fair market value of the land as of the date the land is no longer eligible for a use value appraisal, or as of the time of the withdrawal of the land from use value appraisal, shall be made by the director~~ local assessing officials in accordance with the land schedule of their municipality divided by their common level of appraisal. The determination shall be made within 30 days after the date that the owner ~~or assessing officials~~ petition petitions for the determination and shall be effective on the date of dispatch to the owner. The local assessing officials may make the determination on their own initiative following written notice to the owner and a period of not less than 30 days for the owner to respond.

(d) The land use change tax shall be due and payable by the owner 30 days after the tax notice is mailed to the taxpayer. The tax shall be paid to the ~~commissioner for deposit into the general fund~~ municipality in which the land is located. The ~~commissioner~~ local assessing officials shall issue a form to the ~~assessing officials~~ commissioner which shall provide for a description of the land ~~developed for which the tax is due~~, the amount of tax payable, and the fair market value ~~of the land at the time of development or withdrawal from use value appraisal~~ used to calculate the tax. The owner shall fill out the form and shall sign it under the penalty of perjury. After receipt of payment, the ~~commissioner~~ local assessing officials shall furnish the owner with one copy, ~~shall retain one copy and shall~~ forward one copy to the ~~local assessing officials~~ commissioner along with one-half of the tax collected, and forward one copy to the register of deeds of the municipality in which the land is located. Thereafter, the land which has been withdrawn or developed shall be appraised and listed at its full fair market value in accordance with the provisions of chapter 121 of this title.

(e) The owner of any classified land receiving use value appraisal under this subchapter shall immediately notify the director and local assessing officials of:

* * *

Second: By adding Sec. 5a immediately after Sec. 5 to read as follows:

Sec. 5a. It is the intent of the general assembly to appropriate the first \$300,000 of revenues collected from the property transfer tax to the use value appraisal program special fund to continue conversion of the administration of the program to an electronic format in each of fiscal years 2012 and 2013.

Third: By striking Sec. 7 in its entirety and inserting in lieu thereof the following:

Sec. 7. WAIVER OF ERRORS AND OMISSIONS

For April 1, 2010, grand list only, the provisions of 32 V.S.A. § 4261 requiring selectboard approval before listers may correct errors on the grand list are waived with respect to making changes to the grand list that are the result of withdrawals of property from the use value appraisal program after the date of passage of this act and before the effective date of Secs. 2 and 3 of this act.

Sec. 8. EFFECTIVE DATES AND TRANSITION RULES

(a) Any withdrawal of property from the use value appraisal program after the date of passage of this act and before the effective date of Secs. 2 and 3 of

this act shall be deemed to affect the enrollment status of the withdrawn property for the grand list of April 1, 2010.

(b) Property withdrawn from the use value appraisal program before the effective date of Secs. 2 and 3 of this act, but not developed before that date, shall be subject to the land use change tax under the provisions of 32 V.S.A. § 3757 that were in effect at the time of withdrawal; and revenues from land use change tax paid on any such property shall be paid to the commissioner for deposit into the general fund.

(c) This section and Secs. 1, 5, 6, and 7 of this act shall take effect upon passage.

(d) Secs. 2 and 3 of this act shall take effect 90 days after the passage of this act.

(e) Sec. 4 of this act shall apply to all property transfers on or after April 1, 2010.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on Ways and Means and Appropriations agreed to and third reading ordered.

Joint Resolutions Adopted in Concurrence

Joint resolutions of the following titles were severally taken up and adopted in concurrence.

J.R.S. 43

Joint resolution, entitled

Joint resolution providing for a Joint Assembly for the election of two legislative Trustees of the Vermont State Colleges Corporation

J.R.S. 44

Joint resolution, entitled

Joint resolution establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2010

Adjournment

At eleven o'clock and fifteen minutes in the forenoon, on motion of **Rep. Komline of Dorset**, the House adjourned until tomorrow at one o'clock in the afternoon.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 205

House concurrent resolution in memory of Ted Bridges;

H.C.R. 206

House concurrent resolution congratulating the 2009 Essex High School Hornets Division I championship football team;

H.C.R. 207

House concurrent resolution honoring Ski for Heat founder Martha Robertson on the event's 10th anniversary;

H.C.R. 208

House concurrent resolution honoring retired Winooski city clerk-treasurer Pauline Schmoll;

H.C.R. 209

House concurrent resolution congratulating the 2009 South Burlington High School Rebels Division I championship lacrosse team;

H.C.R. 210

House concurrent resolution congratulating RockTenn of Sheldon Springs on its receipt of the 2009 Franklin County Industrial Development Corporation's business award;

H.C.R. 211

House concurrent resolution congratulating South Burlington High School Athletic Director Mike O'Day on his receipt of the 2009 Thomas E. Frederick Award of Excellence;

H.C.R. 212

House concurrent resolution congratulating the Great Falls Community Kitchen on its 20th anniversary;

H.C.R. 213

House concurrent resolution congratulating Craig Divis on being named the 2010 Vermont Teacher of the Year;

H.C.R. 214

House concurrent resolution congratulating Brittany Langston on her singing appearance at Fenway Park;

H.C.R. 215

House concurrent resolution congratulating Dammy Mustapha and Alisa Dupuis on winning the male and female championship, respectively, at the 2009 Knights of Columbus Decathlon and Heptathlon;

H.C.R. 216

House concurrent resolution congratulating the Yellow Barn Music School & Festival on its 40th anniversary;

H.C.R. 217

House concurrent resolution honoring Louise Thompson as the oldest resident in the village of Saxtons River;

H.C.R. 218

House concurrent resolution recognizing Nurse Anesthetists Week in Vermont;

H.C.R. 219

House concurrent resolution in memory of the American military and Central Intelligence Agency personnel who have died in the service of their nation in Iraq or Afghanistan from January 21, 2009 to December 31, 2009;

[The full text of the concurrent resolutions appeared in the House and Senate Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2010, seventieth Biennial session.]