



STATE OF VERMONT
OFFICE OF LEGISLATIVE COUNCIL

MEMORANDUM

To: Senate Committee on Finance
From: Peter Griffin
Date: April 20, 2015
Subject: Senate Current Use Committee

In the summer and fall of 2013, the Senate assembled an informal Current Use Committee that held public forums across the State on how to improve the Current Use Program. Below is draft language that was produced by the Committee.

Sec. 1 values methane digesters to be valued at cost for purposes of municipal reimbursements.

Sec. 2 changes the way assessors appraise a portion of a parcel for purposes of the land use change tax.

This section allows owners to exclude from enrollment two-acre "floating" portions within a parcel that remain un-enrolled. The floating parcel is valued at the average current FMV for such a parcel, and is valued at FMV when developed.

Under the changes, the local assessing official also shall:

- 1) determine FMV of entire parcel (comparable to similar parcels in municipality);
- 2) determine FMV of unenrolled portion as separate parcel;
- 3) value of enrolled land = FMV of whole parcel minus the value of the portion of a parcel.

Sec. 3 requires the Director of PVR to disregard the value assigned to manure storage systems in calculating the municipal reimbursements. This section also allows the Director of PVR to appeal the value of a farm buildings assigned by a local lister.

Sec. 4 requires PVR to conduct annual audits of ten towns to determine the accuracy of local assessments for enrolled parcels. Where an audit reveals that a townwide appraisal reached by local assessors is more than 10% higher than PVR's townwide assessment, the Director shall substitute his or her values for that of the town.

Sec. 5 requires the Department of Taxes and Agency of Agriculture, Food and Markets to develop rules for ensuring agricultural lands continue to meet the requirements for enrollment in current use.

Sec. 6 requires a study of the adequacy of the current number of county foresters.

*** * * Methane Digesters * * ***

Sec. 1. 32 V.S.A. § 3607a is amended to read:

§ 3607a. BARNS, SILOS, AND OTHER FARM STRUCTURES

(a) Barns, silos, sugarhouses, and bunkers used for silage storage shall be entered in the grand list at fair market value as defined in subdivision 3481(1) of this title, except that by a majority vote of those present and voting at an annual or special meeting warned for the purpose, a municipality may elect to exempt, or to appraise at less than fair market value, barns, silos, sugarhouses, and bunkers used for silage storage located within the municipality which are owned or leased by a farmer as defined in subdivision 3752(7) of this title and used by the farmer as part of a farming operation. An election to exempt or to reduce appraisals made under this section shall remain in effect for future tax years until amended or repealed by a similar vote of the municipality.

(b) Methane digesters, located on farms, shall be valued by a cost method for purpose of taxation. The Director of the Division of Property Valuation and Review shall provide uniform guidance to local assessing officials on the appropriate cost method of valuing methane digesters.

*** * * Portions of Parcels * * ***

Sec. 2. 32 V.S.A. § 3756 is amended to read:

§ 3756. QUALIFICATION FOR USE VALUE APPRAISAL

(a) The owner of eligible agricultural land, farm buildings, or managed forestland shall be entitled to have eligible property appraised at its use value provided the owner shall have applied to the Director on or before September 1 of the previous tax year, on a form approved by the Board and provided by the Director. A farmer, whose application has been accepted on or before December 31 by the Director of the Division of Property Valuation and Review of the Department of Taxes for enrollment for the use value program for the current tax year, shall be entitled to have eligible property appraised at its

use value, if he or she was prevented from applying on or before September 1 of the previous year due to the severe illness of the farmer.

(b) ~~{Deleted.}~~ When applying for a use value appraisal, the owner of eligible agricultural land or managed forestland may designate a portion of the parcel, not to exceed two acres, that shall be valued at the average current fair market value per acre of the parcel, instead of at the use value appraisal. The designated portion does not need to represent a fixed location, or portion of the parcel, and an owner may designate more than one portion per parcel. Notwithstanding any other provision of law, when the owner develops the portion of the parcel designated under this subsection, it shall be valued at its fair market value for purposes of calculating the land use change tax under section 3757 of this title.

(c) The Director shall notify the applicant no later than April 15 of his or her decision to classify or refusal to classify his or her property as eligible for use value appraisal by delivery of such notification to him or her in person or by mailing such notification to his or her last and usual place of abode. In the case of a refusal, the Director shall state the reasons therefor in the notification.

(d) The assessing officials shall appraise qualifying agricultural land and managed forestland and farm buildings at use value appraisal as defined in subdivision 3752(12) of this title. If the land to be appraised is a portion of a parcel, the assessing officials shall:

~~(1) determine the contributory value of each portion such that the fair market value of the total parcel is comparable with other similar parcels in the municipality; and~~

~~(2) notify the landowner according to the procedures for notification of change of appraisal. The portion of the parcel that is not to be appraised at use value shall be appraised at its fair market value.~~ determine the fair market value of the entire parcel that is comparable with similar parcels in the municipality;

(2) determine the fair market value of the portion not being appraised at use value as if it were a separate parcel at a value that is comparable with similar parcels in the municipality;

(3) for purposes of the payment to municipalities under section 3760 of this title, determine fair market value of the portion being appraised at use value as the difference between the value of subdivisions (1) and (2) of this subsection; and

(4) notify the owner of the value used in accordance with the procedures for notification of a change of appraisal.

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*** * * Manure Storage Systems * * ***

Sec. 3. 32 V.S.A. § 3760(a)(5) is amended to read:

(5) The Director's calculation of payment amounts to municipalities shall be based on grand list values and total tax appropriations as submitted to the ~~director~~ Director for the prior year.; provided however:

(A) The Director shall exclude from his or her calculation of the grand list values the portion of any property value assigned to an animal manure storage system. Annually, the local assessing officials shall provide the Director with the value assigned to any animal manure storage system on land subject to a use value appraisal. If the Director is unable to obtain the value assigned by the local assessing official, the Director may withhold any payment due the municipality under this section until he or she receives the assessed value information.

(B) Notwithstanding any other provision of law, for the purposes of farm buildings subject to a use value appraisal, the Director shall be eligible to appeal the fair market value assessment of a farm building by a local listing official under sections 4044 and 4461 of this title. However, any appeal by the Director under section 4461 of this title shall only be to Superior Court.

*** * * Audit Language * * ***

Sec. 4. 32 V.S.A. § 3760a is added to read:

§ 3760a. VALUATION AUDITS

(a) Annually, the Director shall conduct an audit of ten towns with enrolled land to ensure that parcels with a use value appraisal are appraised by the local assessing officials consistent with the appraisals for nonenrolled parcels.

(b) In determining which towns to select for an audit, the Director shall consider factors that demonstrate a deviation from consistent valuations, including the following:

- (1) the fair market value per acre of enrolled land in each town;
- (2) the fair market value of enrolled land versus unenrolled land in the same town;
- (3) the fair market value of enrolled farm buildings in each town; and

(4) the fair market value of enrolled farm buildings in relation to the fair market value of the associated land.

(c) For each town selected for an audit, the Director shall:

(1) conduct an independent appraisal of enrolled parcels and enrolled farm buildings in that town;

(2) compare the appraisals reached by the Director for each enrolled parcel with the appraisal reach by the local assessing officials; and

(3) review the land schedule and appraisal model applied by the town.

(d) If, as a result of an audit, the Director determines that an appraisal reached by the Director differs from the appraisal reached by the local assessing officials by more than 10 percent, then the Director shall substitute his or her appraisal of fair market value for the appraisal reached by the local assessing officials. A substitution of a fair market appraisal under this subsection shall be treated as a substitution by the Director under subsection 3760(b) of this title.

*** * * Agricultural Lands * * ***

Sec. 5. AGRICULTURAL LANDS SUBJECT TO A USE VALUE
APPRAISAL

The Commissioner of Taxes, in consultation with the Secretary of Agriculture, Food and Markets, shall establish rules to ensure that agricultural lands subject to a use value appraisal continue to meet the statutory requirements for those appraisals.

*** * * County Foresters * * ***

Sec. 6. COUNTY FORESTERS

(a) The Secretary of Natural Resources, in consultation with the Commissioner of Taxes and the Commissioner of Forest, Parks and Recreation, shall report to the Senate Committee on Finance and House Committee on Ways and Means on whether the current number of county foresters is sufficient to oversee compliance of forestland subject to a use value appraisal under 32 V.S.A. chapter 124, given the increasing number of forestland parcels, and the increasing acreage of forestland, in the current use program. In addition to any issues the Secretary considers relevant to this report, he or she shall specifically consider whether any or all of the following would be appropriate to strengthening the current use program:

(1) providing an additional forester whose sole responsibility would be investigating alleged violations of the current use requirements and doing spot compliance checks for forestland parcels;

(2) adding additional foresters to reflect the growth in forestland parcels subject to a use value appraisal; and

(3) requiring consulting foresters to be licensed by the State.

(b) The report of the Secretary of Natural Resources under this section shall be due on January 15, 2015.

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* * * Effective Date * * *

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2014 and apply to grand lists compiled after that date.