

2011 PROPERTY TAX LEGISLATIVE BULLETIN

(2011 1st Special Session)

MINNESOTA • REVENUE

Appeals and Legal Services Division
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Unless otherwise noted, the provisions discussed in this bulletin can be found in 2011 Minn. Laws, 1st Special Session, Chapter 7, Articles 5 and 6.

PROPERTY TAXES

Wetland exemption reimbursements. Minn. Stat. § 275.295 was repealed to eliminate the state-paid reimbursements to taxing districts for property taxes not paid on wetlands that are exempt under Minn. Stat. § 272.02, subd. 11(iii) – *i.e.*, land in a wetland preservation area under Minn. Stat. § 103F.612 - 103F.616. Effective for taxes and reimbursements payable in 2012 and thereafter.

Property tax working group. Minn. Stat. § 270C.991, subd. 4, was amended to remove the commissioner of revenue as a voting member of the group, and to change the date when the group's authority expires, and when its report is due to the legislature, from February 1, 2012 to February 1, 2013. The commissioner remains responsible for providing administrative support to the group. Effective July 21, 2011.

Public property held for economic development purposes. Minn. Stat. § 272.02, subd. 39, was amended to provide that, in the case of property located in a city of over 5,000 population or in a city within the metropolitan area, the holding of property by a political subdivision for later resale for economic development purposes is a public purpose for a period not to exceed nine years (was eight). This provision provides a “safe harbor” allowing the property to remain exempt as “public property used for public purposes” during the allowed time period irrespective of an inability to use or sell the property for the intended purpose. Effective for taxes payable in 2012 and thereafter.

Electric generation facility; personal property. Minn. Stat. § 272.02 was amended by adding the new subdivision 95, to exempt from property taxation, and payments in lieu of taxation, the described attached machinery and personal property that is part of a new 20-30 megawatt electric generation facility for which construction is commenced in 2012, 2013, or 2014. Among other requirements: the facility must be designed to utilize natural gas as its primary fuel; be owned by a municipal power agency; be located within one mile of an existing natural gas pipeline; be located in, and designed to provide emergency backup power service for, the city of Fairmont; and, the exemption must be approved by both the city and the county. Effective for taxes payable in 2013 and thereafter.

Property used for mining that is subject to the net proceeds tax. Minn. Stat. § 272.02 was amended by adding the new subdivision 97, to clarify the exemption in current law for property used for, or in connection with, the mining, quarrying, producing, or refining, of ores, metals, or minerals if that activity is subject to the net mining proceeds tax under Minn. Stat. § 298.015. Effective for taxes payable in 2012 and thereafter. 2011 Minn. Laws, 1st Special Session, Chapter 7, Article 7, Section 1.

Property valuation notices; notice of classification changes. Minn. Stat. § 273.121, subd. 1, was amended to remove obsolete language; and, to require that the notice include a prominent statement that the classification of the property has changed from the prior assessment if that has occurred. Effective for notices that will be mailed in 2012 and thereafter.

Agricultural-use property. Minn. Stat. § 273.13, subd. 23(i)(5), previously amended by 2010 Minn. Laws, ch. 120, art. 11, sec. 8, was amended to require the operator of a game farm for birds or waterfowl to provide a copy of their most recent federal schedule F to the assessor in order to qualify the birds or waterfowl as agricultural products under this clause. Effective for property tax payable in 2012 and thereafter.

Seasonal resorts. Minn. Stat. § 273.13, subd. 25(d), was amended to reorganize the language of clause (1), and to add qualifying small resorts to this seasonal commercial class. Resorts qualifying under the new language are those having 20 or fewer rental units which are located in a city or town of 2,500 population or less that is outside the metropolitan area but which has a state DNR administered trail. Effective for taxes payable in 2012 and thereafter.

Private cabins; recodification of provisions. Minn. Stat. § 126C.01, subd. 3 (“Referendum market value” definition), and Minn. Stat. § 275.025, subd. 3 (“Seasonal residential recreational tax capacity” definition), were amended to update the cross-references to the property tax statute that classifies private seasonal cabins as class 4c(12). This provision previously was in class 4c(1) along with commercial seasonal resorts. Minn. Stat. § 273.13, subd. 25(d), was amended to effectuate the change under which private seasonal cabins are now in class 4(c)(12) instead of 4(c)(1). Effective for taxes payable in 2012 and thereafter.

Market value exclusions; homesteads of disabled or deceased veterans. Minn. Stat. § 273.13, subd. 34, was amended to: (i) extend the existing surviving-spouse benefit in par. (c) by four years; (ii) enact a new five-year exclusion in par. (d) for the surviving spouse of any serviceperson who dies for service-connected reasons while in active service; (iii) enact a new exclusion for the homestead of the “primary family caregiver” of the veteran under par. (e); and, (iv) provide application and definitional details to help in the administration of the subdivision. Effective for taxes payable in 2012, subject to the respective application deadlines.

Homestead market value credits. Minn. Stat. § 273.13 was amended by adding the new subdivision 35; Minn. Stat. § 273.1384, subs. 3 and 4; Minn. Stat. § 273.1393; and Minn. Stat. § 276.04, subd. 2, were amended; and, Minn. Stat. § 273.1384, subd. 1, was repealed to convert the homestead market value credits currently under § 273.1384, subd. 1, into equivalent market-value exclusions for the affected properties according to the provisions of the new subdivision, and to eliminate the state-paid reimbursements to local taxing districts for the former property tax credits. Minn. Stat. § 126C.01, subd. 3, was amended so that this exclusion does not reduce the tax base for school referendum, and other levies, that are levied against the market value tax base defined in that statute. Effective for taxes payable in 2012 and thereafter. An uncodified provision modifies the prior-year’s tax amount shown on the property tax statements for taxes payable in 2012 to accommodate the conversion. Effective for taxes payable in 2012 only. Minn. Stat. § 477A.011, subd. 20, was amended so that this exclusion is taken into account in determining “city net tax capacity” (i.e., the size of the local tax base) when computing city aid under Minn. Stat. § 477A.013. Effective for aid payable in 2013 and thereafter. An uncodified provision, effective for credit-reimbursement payments in 2011, limits the 2011 credit-reimbursement payments for counties and cities to the amounts received in 2010. Also repeals, effective for taxes payable in

2012 and thereafter, Minn. Stat. § 273.1384, subd. 6, under which the credit-reimbursement payments for all local taxing authorities for 2011 and thereafter are reduced by the amount of the reductions in 2010 under § 477A.0133.

Internal Revenue Code. Minn. Stat. § 289A.02, subd. 7, was amended to change the version of the Internal Revenue Code (“Code”) that is referenced in the definitions contained in Minn. Stat. § 272.03, subd. 13, and § 273.105, so that, for the purposes of Minn. Stat. chs 270 through and including 284, a statute that refers to the “Internal Revenue Code” refers to the United States Internal Revenue Code of 1986 (*i.e.*, United States Code, Title 26), as amended through April 14, 2011; unless the context in which the phrase occurs clearly provides otherwise. This has the effect of incorporating into the statutes which use the phrase any changes made to the Code between the prior cut-off date and the new cut-off date. Effective July 21, 2011 for taxable years beginning after December 31, 2009. 2011 Minn. Laws, 1st Special Session, Chapter 7, Article 2.

Sustainable Forest Incentive Act. Minn. Stat. § 290C.07 was amended to change the incentive payment to a flat rate of \$7 per acre and cap the annual payment for each Social Security Number or state or federal business identification number at \$100,000. The old formula was based on the greater of:

- (1) the difference between the property tax that would be assessed using the previous year’s average total township tax rate and a class rate of one per cent;
- (2) the difference between the property tax that would be paid if the land were valued at the statewide average class 2c managed forest land value per acre and its current use value per acre; or
- (3) \$7 per acre.

In addition, if a claimant’s calendar year 2010 or 2011 payment is limited to \$100,000 the claimant has until December 31, 2011 to elect to terminate participation in the program. The termination is effective retroactively to the date of the election but if the claimant certified to the commissioner its participation in the program under Minn. Stat. § 290C.05, the release is effective on December 31, 2011.

Adds an uncodified section that allows a landowner whose payment was either affected by the \$100,000 cap in calendar year 2010 or would be affected by the cap for calendar year 2011 and who terminates enrollment before September 1, 2011, to have the land reclassified as 2(c) managed forest land for taxes payable in 2012 if the landowner applies to the county assessor for reclassification by September 1, 2011. Class 2(c) managed forest land has a reduced class rate of 0.65%. Application for reclassification would normally be required to be filed by May 1, 2011 for taxes payable in 2012.

Also includes a purpose statement regarding the legislature’s rationale for changing the program due to modest public benefits of the program relative to its costs, a finding that many of the eligibility requirements are in the participants’ own economic interests, participants with the largest amount of acreage in the program would likely follow the same forest management practices mandated by the program and the need to provide permanent structural balance to the state budget. Effective July 21, 2011. The new formula is effective beginning with payments made in calendar year 2011.

Tax increment financing; Minneapolis. An uncodified 1995 law is amended to allow the city of Minneapolis to add up to 200 parcels from federal disaster area 1990-DR, related to the May 22nd tornado, to its noncontiguous housing replacement district. A new uncodified provision creates procedures under which increments from tax increment financing districts within the city can be spent on acquisition, demolition, or improvements over the next 36 months in the disaster area. Effective upon compliance by the city with Minn. Stat. § 645.021, subd. 3.

Disaster-related tax abatements. An uncodified provision allows Anoka and Hennepin counties to grant state-funded property tax abatements to damaged homesteads in the federal disaster area 1990-DR, related to the May 22nd tornado that do not qualify for disaster abatements under Minn. Stat. § 273.1233. The abatement is limited to the taxes attributable to the damaged part of the structure. Effective July 21, 2011.

Payments in lieu of taxes for DNR lands. Under various statutes, the state makes certain payments to counties and towns related to lands that are owned or administered by the department of natural resources, and therefore not subject to local taxation. Minn. Stat. § 97A.061, subd. 1, and Minn. Stat. § 477A.11, subd. 1, were amended to eliminate a cross-reference to the repealed annual inflation-adjustment statute. Minn. Stat. § 477A.12, subd. 1, was amended to eliminate the annual inflation-adjustment to the per-acre reimbursement amounts specified in that statute (i.e., payments related to acquired natural resources land, county-administered other natural resources land, land utilization project land, and state-administered other natural resources land); and, to change the per-acre amounts to what they would be this year with the inflation adjustment. Minn. Stat. § 477A.14, subd. 1, was amended to eliminate the annual inflation-adjustment for the amounts of the in lieu amounts per acre that are allocated to the county's resource development fund, and to organized townships); and, to change the per-acre amounts to what they would be this year with the inflation adjustment. Effective for payments in 2011 and thereafter. Minn. Stat. § 477A.145 was repealed under which the annual inflation adjustment for the various fixed reimbursement amounts related to the in lieu payments was computed. Effective for payments in 2012 and thereafter.

An uncodified provision in 2011 Minn. Laws, 1st Special Session, Chapter 2, Article 4, Section 35, requires the commissioner of natural resources – in consultation with the commissioner of revenue – to report to the legislature by December 1, 2012 on recommended changes in future years to the payments in lieu of taxes for these and other natural resources lands. Effective July 1, 2011.

County program aid. Minn. Stat. § 477A.0124 was amended by adding the new subdivision 6, to provide that the total aid payment to a county under § 477A.0124 in 2011 and 2012 is the lesser of (i) the amount of such aid actually received by the county in 2010, or (ii) the amount computed under § 477A.0124 for the county for aid payable in 2011. Effective for aid payable in 2011 and 2012. Minn. Stat. § 477A.03, subd. 2b, was amended to eliminate an unnecessary amount-limitation for county program aid for aid payable in 2012; and, to limit the amount of aid distributed by the allocation formulae in § 477A.0124, subsd. 3 and 4, to \$80,795,00 and \$84,909,575 respectively, for aid payable in 2013 and thereafter. Effective for aid payable in 2012 and thereafter.

An uncodified provision changes the July 20, 2011 payment date in Minn. Stat. § 477A.015 for county program aid to July 27. Effective July 20, 2011.

City local government aid. Minn. Stat. § 477A.013, subd. 9, was amended to provide that, for the purpose of computing the aid payable in 2013 and thereafter, and determining whether a city's aid

for that year is within the increase and decrease limits, as compared to the prior year, the prior year's aid amount is the amount the city was certified to receive in the prior year, because no post-certification reductions are in effect for those years. For aid payable in 2011 and 2012, current law applies. Effective for aid payable in 2013 and thereafter. Minn. Stat. § 477A.013 was amended by adding the new subdivision 11, to limit the amount of a city's local government aid under § 477A.013 for 2011 and 2012 to the lesser of (i) the amount actually received in 2010, after the reductions under §§ 477A.0133 and 477A.0134, exclusive of two provisions that increased aid for two cities for 2010 only; or, (ii) the amount determined under § 477A.013 for the city for payment in 2011, excluding for 2012 a provision that increased aid for a city in 2011 only. Effective for aid payable in 2011 and 2012. Minn. Stat. § 477A.03, subd. 2a, was amended to eliminate an unnecessary amount-limitation for city local government aid formula for aid payable in 2012; and, to limit the amount of aid distributed by the allocation formula in 2013 and thereafter to \$426,438,012. Effective for aid payable in 2012 and thereafter.

An uncodified provision changes the July 20, 2011 payment date in Minn. Stat. § 477A.015 for city local government aid to July 27. Effective July 20, 2011.

Commissioner powers. An uncodified provision grants the commissioner the authority to issue nonappealable orders that either eliminate the mandatory nature of a step in the administration of the property tax, or allow more time for that action to be done, if the commissioner determines that the state shutdown has made it impractical for the action or determination to be made by the date specified in law and that taxpayers will not be significantly harmed by the elimination or delay. Effective July 21, 2011. 2011 Minn. Laws, 1st Special Session, Chapter 7, Article 10.

School district levy adjustments. An uncodified provision requires the commissioner of education to adjust school district's tax levy and equalizing factor by the ratio derived from the statewide property tax capacity for assessment year 2010 before passage of the 2011 omnibus tax act. This adjustment will involve department of revenue information and data. Effective retroactively beginning July 1, 2011. 2011 Minn. Laws, 1st Special Session, Chapter 11, Article 1, Section 34.

Police and fire aids. An uncodified provision provides that a city or a police or firefighters relief association does not forfeit its 2010 or 2011 police or fire aid if the financial reports required under Minn. Stat. § 69.051, subs. 1 and 1b for 2009 were submitted by April 30, 2011. Effective July 21, 2011. 2011 Minn. Laws, 1st Special Session, Chapter 8, Article 4, Section 1.

Minn. Stat. §§ 353.667 and 353.668 were enacted to allow the Minneapolis Firefighters and Police Relief Associations to consolidate with the public employees police and fire retirement fund and cease their separate existence. Minn. Stat. § 423A.02, subd. 1b, was amended so that the city of Minneapolis remains eligible for additional amortization state aid based on contributions related to the Firefighters and Police Relief Associations that it must continue to make under the new Minn. Stat. §§ 353.667 and 353.668. Minn. Stat. § 69.77, subs. 1a and 4, was amended to remove the Minneapolis Firefighters and Police Relief Associations from the list that must meet the requirements in Minn. Stat. § 69.77, subs. 3 to 10 in order to receive state police or fire aid. A conforming technical change was made to Minn. Stat. § 423A.02, subd. 2, subd. 1, so that the city's annual Amortization State Aid amount continues to be reduced by the statutory amounts related to these two Associations. Effective December 30, 2011 subject to numerous local approvals. 2011 Minn. Laws, 1st Special Session, Chapter 8, Article 6, Section 14; 2011 Minn. Laws, 1st Special Session, Chapter 8, Article 7, Sections 14 and 15, and 2011 Minn. Laws, 1st Special Session, Chapter 8, Article 8, Sections 4, 5, and 11.