

HOUSE AGRICULTURE, ACEQUIAS AND WATER RESOURCES
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 28

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO LAND VALUATION; PROVIDING THAT THE RESTING OF LAND AS A DIRECT RESULT OF AN INSUFFICIENT VOLUME OF WATER NECESSARY TO PRODUCE THE CONTINUAL AND HISTORIC YIELD OF AGRICULTURAL PRODUCTS BEING PROVIDED DUE TO AN INFRASTRUCTURE FAILURE OF A POLITICAL SUBDIVISION'S PUBLIC WATER SUPPLY MEANS "AGRICULTURAL USE" FOR THE PURPOSE OF THE VALUATION OF PROPERTY AND DETERMINING WHETHER THE PROPERTY IS USED PRIMARILY FOR AGRICULTURAL PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-36-20 NMSA 1978 (being Laws 1973, Chapter 258, Section 21, as amended) is amended to read:

"7-36-20. SPECIAL METHOD OF VALUATION--LAND USED PRIMARILY FOR AGRICULTURAL PURPOSES.--

A. The value of land used primarily for

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underscored material = new
[bracketed material] = delete

1 agricultural purposes shall be determined on the basis of the
2 land's capacity to produce agricultural products. Evidence of
3 bona fide primary agricultural use of land for the tax year
4 preceding the year for which determination is made of
5 eligibility for the land to be valued under this section
6 creates a presumption that the land is used primarily for
7 agricultural purposes during the tax year in which the
8 determination is made. If the land was valued under this
9 section in one or more of the three tax years preceding the
10 year in which the determination is made and the use of the land
11 has not changed since the most recent valuation under this
12 section, a presumption is created that the land continues to be
13 entitled to that valuation.

14 B. For the purpose of this section:

15 (1) "agricultural products" means plants,
16 crops, trees, forest products, orchard crops, livestock,
17 poultry, captive deer or elk, or fish; and

18 (2) "agricultural use" means the:

19 (a) use of land for the production of
20 agricultural products;

21 (b) use of land that meets the
22 requirements for payment or other compensation pursuant to a
23 soil conservation program under an agreement with an agency of
24 the federal government;

25 (c) resting of land to maintain its

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1 capacity to produce agricultural products; [~~or~~]

2 (d) resting of land as the direct result
 3 of at least moderate drought conditions as designated by the
 4 United States department of agriculture, if the drought
 5 conditions occurred in the county within which the land is
 6 located for at least eight consecutive weeks during the
 7 previous tax year; provided that the land was used in the tax
 8 year immediately preceding the previous tax year primarily for
 9 a purpose identified pursuant to this paragraph; or

10 (e) resting of land as the direct result
 11 of an insufficient volume of water necessary to produce the
 12 continual and historic yield of agricultural products being
 13 provided due to an infrastructure failure of a political
 14 subdivision's public water supply system, as certified by that
 15 water supply system to the county assessor; provided that the
 16 land was used primarily for a purpose identified pursuant to
 17 this paragraph in the tax year immediately preceding the
 18 previous tax year or immediately preceding the tax year in
 19 which the infrastructure failure occurred.

20 C. The department shall adopt rules for determining
 21 whether land is used primarily for agricultural purposes. The
 22 rules shall provide that the use of land for the lawful taking
 23 of game shall not be considered in determining whether land is
 24 used primarily for agricultural purposes.

25 D. The department shall adopt rules for determining

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1 the value of land used primarily for agricultural purposes.

2 The rules shall:

3 (1) specify procedures to use in determining
4 the capacity of land to produce agricultural products and the
5 derivation of value of the land based upon its production
6 capacity;

7 (2) establish carrying capacity as the
8 measurement of the production capacity of land used for grazing
9 purposes, develop a system of determining carrying capacity
10 through the use of an animal unit concept and establish
11 carrying capacities for the land in the state classified as
12 grazing land;

13 (3) provide that land the bona fide and
14 primary use of which is the production of captive deer or elk
15 shall be valued as grazing land and that captive deer shall be
16 valued and taxed as sheep and captive elk shall be valued and
17 taxed as cattle;

18 (4) provide for the consideration of
19 determinations of any other governmental agency concerning the
20 capacity of the same or similar lands to produce agricultural
21 products;

22 (5) assure that land determined under the
23 rules to have the same or similar production capacity shall be
24 valued uniformly throughout the state; and

25 (6) provide for the periodic review by the

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1 department of determined production capacities and
2 capitalization rates used for determining annually the value of
3 land used primarily for agricultural purposes.

4 E. All improvements, other than those specified in
5 Section 7-36-15 NMSA 1978, on land used primarily for
6 agricultural purposes shall be valued separately for property
7 taxation purposes, and the value of these improvements shall be
8 added to the value of the land determined under this section.

9 F. The owner of the land shall make application to
10 the county assessor in a tax year in which the valuation method
11 of this section is first claimed to be applicable to the land
12 or in a tax year immediately subsequent to a tax year in which
13 the land was not valued under this section. Application shall
14 be made under oath, shall be in a form and contain the
15 information required by department rules and shall be made no
16 later than thirty days after the date of mailing by the
17 assessor of the notice of valuation. Once land is valued under
18 this section, application need not be made in subsequent tax
19 years as long as there is no change in the use of the land.

20 G. The owner of land valued under this section
21 shall report to the county assessor whenever the use of the
22 land changes so that it is no longer being used primarily for
23 agricultural purposes. This report shall be made on a form
24 prescribed by department rules and shall be made by the last
25 day of February of the tax year immediately following the year

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1 in which the change in the use of the land occurs.

2 H. Any person who is required to make a report
3 under the provisions of Subsection G of this section and who
4 fails to do so is personally liable for a civil penalty in an
5 amount equal to the greater of twenty-five dollars (\$25.00) or
6 twenty-five percent of the difference between the property
7 taxes ultimately determined to be due and the property taxes
8 originally paid for the tax years for which the person failed
9 to make the required report."

10 SECTION 2. APPLICABILITY.--The provisions of this act
11 apply to property tax years beginning on or after January 1,
12 2025.