



**House
Legislative
Analysis
Section**

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AGRICULTURAL USE TAX

**House Bill 4456 (Substitute H-2)
Sponsor: Rep. Judson Gilbert III
First Committee: Agriculture and
Resource Management
Second Committee: Land Use and
Environment**

Complete to 6-4-01

**A SUMMARY OF HOUSE BILL 4456 (SUBSTITUTE H-2) AS REFERRED FROM THE
HOUSE COMMITTEE ON AGRICULTURE AND RESOURCE MANAGEMENT ON 5-
31-01**

The bill would create the Alternative Agricultural Production Tax Act under which farmland could be exempted from the general property tax and instead be subject to an alternative tax based on agricultural use value. The alternative tax would apply only to property for which an agricultural production exemption certificate had been approved by the local unit of government and the State Tax Commission. Such a certificate would only be available in an agricultural production district designated by a local unit of government (a township, village, or city). A certificate would be in effect for up to 12 years (although a property owner could apply for a new certificate when an earlier one expired). The property owner would also be required to enter into an agricultural production agreement in order for the certificate to be in effect. No certificate could take effect before December 31, 2002. A county could veto the creation of an agricultural production district; that is, it could terminate a district created by a local unit by means of a resolution enacted within 30 days after the establishment of the district.

(The bill's procedural provisions resemble those found in Public Act 198 of 1974, the Plant Rehabilitation and Industrial Development Districts Act. That act provides for a specific tax in lieu of general property taxes in order to provide tax abatements to manufacturers.)

Agricultural Use Value. Agricultural use value would be a value calculated by a method determined by the State Tax Commission in consultation with the Department of Agriculture. The method could not include sales of comparable agricultural property but would have to include 1) evidence of the productive capability of the property for agricultural use, including soil characteristics; 2) the average annual net return in the immediately preceding five-year period for typical agricultural property located in the same county, discounted by an appropriate interest rate; and 3) the average rental income for typical agricultural property in the county. The agricultural use value of a parcel would be subject to a cap: it could not increase from one year to the next by more than five percent or the increase in the consumer price index, whichever was less.

Repayment of Tax Benefits. If an exemption certificate was subsequently revoked or expired and was not renewed, if the property no longer qualified as agricultural property, or if the owner violated the agricultural production agreement, the property owner would be liable to the local unit of government for an amount equal to the difference between the alternative taxes paid

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on the property and the taxes that would have been paid if the property had been subject to general property taxes for each year the certificate had been in effect, up to seven years. (However, if an owner whose certificate expired applied for renewal and was denied, he or she would not be liable for the payment.) These funds would be credited to the state's Agricultural Preservation Fund. The local assessor would determine each year the amount of property taxes that would have been due on the property if an exemption certificate had not been in force, and would have to notify the State Tax Commission, the legislative body of each unit levying taxes on the property, and the holder of the exemption certificate of the determination.

Agricultural Production District. Under the bill, the legislative body of a local unit of government could by resolution establish an agricultural production district within which it would be possible to levy the alternative tax. The district could consist of one or more parcels or tracts of agricultural property and the local unit could establish the district on its own initiative or upon a written request filed by property owners. The request would have to be filed with the local clerk by the owner or owners of 75 percent of the state equalized value of the agricultural property located within the proposed agricultural production district. Before adopting a resolution establishing a district, the local legislative body would have to give written notice by certified mail to all the owners of real property within the proposed district and hold a public hearing at which those owners and other residents and taxpayers of the unit would have a right to appear and be heard.

Exemption Certificate. If a district was established, the owner of agricultural property could file an application for an agricultural production exemption certificate with the local clerk. The application would have to contain or be accompanied by a general description of the property, a description of the proposed use of the property, and a legal description of the real property. The local legislative body would have to decide whether to approve or disapprove the exemption certificate within 60 days of receiving the application and after affording the applicant, the local assessor, and representatives of affected tax units an opportunity for a hearing. For an approved certificate, the local legislative body would have to determine the period of time, not to exceed 12 years, that the certificate would be in effect.

In a resolution approving an application, the local legislative body would have to set forth a finding and determination that the granting of the certificate, considered together with the aggregate amount of certificates previously granted and in force, would not have the effect of substantially impeding the operation of the local unit or impairing the financial soundness of a taxing unit within which the agricultural land was located. If the application was disapproved, the reasons would have to be set forth in writing in the resolution. An applicant would have 10 days to appeal a disapproval to the State Tax Commission.

The local clerk would have to forward an approved certificate to the State Tax Commission within 60 days of approval or before October 31, whichever was first. Within 60 days of receiving an approved certificate or an appeal of a disapproval, the commission would have to determine if the property complied with the provisions of the new act. If the property did comply, the commission would issue an exemption certificate. A party aggrieved by the issuance, refusal to issue, revocation, transfer, or modification of a certificate could appeal from the finding and order of the commission as provided in the Administrative Procedures Act.

Agricultural Production Agreement. Within 30 days of the State Tax Commission issuing a certificate, the local clerk would have to prepare an agricultural production agreement and provide it to the property owner. If the property owner executed the agreement, the certificate would be subject to the agreement and would take effect on the immediately succeeding December 31. Once the certificate expired, the property owner would no longer be subject to the agreement. The agreement would have to contain the period of years that the certificate was to be in effect and a provision specifying that the property owner would have to maintain the property as agricultural property for that period of time or be subject to the repayments of tax benefits.

Property Tax Exemption. The agricultural property for which a certificate had been granted would then be exempt from ad valorem property taxes for as long as the certificate was in force and any lessee, occupant, user, or person in possession of that agricultural property would also be exempt from ad valorem taxes under Public Act 189 of 1953, which governs the taxation of lessees and users of tax-exempt property. Personal property that had been exempt under the General Property Tax Act would also be exempt from the alternative tax. If agricultural property was located in a renaissance zone, it would be exempt from the new alternative tax, except for special assessments, debt millages, school sinking fund levies, and school enhancement millages. A certificate and agreement could be transferred and assigned to a new owner or lessee as long as the property remained agricultural property.

Alternative Tax. The alternative agricultural production tax would be determined by multiplying the agricultural use value of the property by the total mills levied as ad valorem taxes by all taxing units in which the property was located. It would be an annual tax, payable at the same times, in the same installments, and to the same officer or officers as taxes collected under the General Property Tax Act. The revenues collected would also, with certain exceptions, be disbursed in the same way as property tax revenues. (These provisions governing the collection and disbursement of the alternative tax are similar to those governing the industrial facility tax, an existing specific tax.) The exemption certificate would be terminated if the alternative tax was not paid. The tax would be a lien upon the real property.

The State Tax Commission would be authorized to promulgate rules necessary for the administration of the new act.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.