Jill Rowland *Legislative Service Commission*

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(As Reported by H. Agriculture and Natural Resources)

Reps. Core, Wolpert, Setzer, Jerse, Allen, Ujvagi, Webster, Aslanides, Gibbs, Carmichael, Distel, Domenick, C. Evans, Faber, Niehaus, Reinhard, Schlichter

BILL SUMMARY

- Establishes application procedures and requirements for enrollment of land in an agricultural security area, specifies that an application is a public record, and establishes criteria, including a minimum acreage criterion, for enrollment.

- Allows two or more landowners to aggregate their land in order to satisfy the minimum acreage criterion for enrollment in an agricultural security area.

- Requires an applicant to include in the application a statement that he will not initiate, approve, or finance any new development for nonagricultural purposes on the land that is proposed to be enrolled in an agricultural security area during the enrollment period, except as otherwise authorized under the bill, prohibits an owner of enrolled land from failing to comply with that statement, requires anyone who violates the prohibition to be fined $500, and specifies that the statement is no longer applicable if the land ceases to be enrolled in the agricultural security area.

- Requires applicable boards of township trustees and boards of county commissioners to conduct a public hearing on an application for enrollment in an agricultural security area and to provide prior public notice of the hearing together with an opportunity for public comment on the application.

- Requires applicable boards of township trustees and boards of county commissioners to adopt a resolution in order to create an agricultural

security area, establishes requirements concerning the content of the resolution, and specifies that the resolution is not appealable.

- Specifies that an agricultural security area may continue in existence for ten years unless certain conditions occur, and authorizes renewal of an agricultural security area.

- Authorizes and establishes procedures for a landowner's withdrawal from an agricultural security area, establishes requirements for providing notice of that withdrawal, requires an owner of land who fails to provide the required notice of withdrawal to be fined $500, and requires a county auditor who discovers that an owner of land has failed to provide the required notice of withdrawal to provide that notice to specified parties.

- Requires a clerk of court that receives payment of fine money collected under the bill to forward half of the money to the boards of township trustees of the townships and half of the money to the boards of county commissioners of the counties in which the agricultural security area is located, requires the money to be divided among the townships and counties in equal shares, and authorizes the boards to use the money for farmland preservation purposes.

- Authorizes the creation of a tax exemption for qualifying real property in an agricultural security area, requires the applicable boards of township trustees and boards of county commissioners to establish the number of years that the exemption will apply together with the amount of the exemption, which may equal up to 75% of the taxable value of the qualifying real property, requires the exemption to be reviewed annually by the appropriate tax incentive review council, and provides for the recoupment of tax savings, plus interest, from the exemption if the qualifying property that the exemption involves becomes ineligible for continued enrollment in an agricultural security area.

- Authorizes a landowner to transfer a portion of land in an agricultural security area to a relative for purposes of building a residence for the relative, prohibits more than one such residence from being constructed per each 40 acres of the owner's land within the area, and specifies that the transferred acreage must be included in determining the acreage of the area.

- Authorizes, upon the request of a landowner and the approval by resolution of each applicable board of township trustees and board of county commissioners, the establishment in an agricultural security area of a business that does not impair agriculture.

- Requires the Director of Agriculture, upon request, to provide guidance and technical assistance to landowners, boards of township trustees, and boards of county commissioners in the creation of agricultural security areas.

- Requires the Director to prepare and submit an annual report on agricultural security areas to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

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CONTENT AND OPERATION

Overview

The bill provides for the establishment of agricultural security areas and allows limited use of land in such areas for purposes other than agriculture. In addition, the bill establishes certain tax exemptions for land within those areas.

Application requirements for enrollment in agricultural security area

Under the bill, land may be enrolled in an agricultural security area through the submittal of an application to the board of township trustees of each township and to the board of county commissioners of each county in which the land is located requesting the establishment of such an area. If all of the land sought to be enrolled in the agricultural security area is owned by the same person, that person must submit the application to those boards. If the land sought to be enrolled consists of parcels owned by different persons who have aggregated their parcels, either each owner may submit a separate application to those boards or all of the owners collectively may submit one application for the entire agricultural security area to those boards. An application must be on the form that the Director of Agriculture prescribes. The Director must provide copies of the application form to county auditors.

The bill requires an application to be signed by each applicant who is submitting it and to contain all of the following:

(1) The first, middle, and last name of the applicant or applicants;

(2) Information concerning any property interest in the land sought to be enrolled in an agricultural security area that is held by a person other than the applicant or applicants, including, without limitation, mineral rights or easements in the land that are held by a person other than the applicant or applicants and any other interest in the land that may not be conducive to agriculture and that is held by another person;

(3) A statement by each applicant who is submitting the application that the applicant will not initiate, approve, or finance any new development for nonagricultural purposes on the land that is proposed to be enrolled in an agricultural security area during the ten-year period of the enrollment, except as is otherwise authorized under the bill (see "***Authorized nonagricultural uses of land in agricultural security area: residence or business***," below). For purposes of the statement, "new development" includes, without limitation, an applicant's transfer to another person of the ownership of a property interest in the land that occurs during the period beginning on the date that the application is submitted

and ending on the date that the ten-year period of enrollment is scheduled to expire. "New development" does not include taking any actions that are authorized under property rights in the land, such as mineral rights or easements, that were transferred to a person other than an applicant prior to the date that the application is submitted. In addition, "new development" does not include the construction, modification, or operation of transmission lines for electricity, gas, or oil or of any gathering or production lines for oil or gas, provided that the construction, modification, or operation of the lines does not cause the land to become ineligible for valuation and assessment for real property tax purposes in accordance with its current agricultural use value (CAUV) under the CAUV tax program established under current law.[1]

(4) A listing of all administrative enforcement orders issued to each applicant who is submitting the application, all civil actions in which an applicant was determined by the trier of fact to be liable in damages or was the subject of injunctive relief or another type of civil relief, and all criminal actions in which an applicant pleaded guilty or was convicted, during the ten years immediately preceding the date of submission of the application, in connection with any violation of environmental laws or similar laws of another state. "Environmental laws," as defined under current law and applied to the bill, means sections or chapters of the Revised Code the principal purpose of which is environmental protection; any federal or local counterparts or extensions of those sections or chapters; rules adopted under any such sections, chapters, counterparts, or extensions; and terms and conditions of orders, permits, licenses, license renewals, variances, exemptions, or plan approvals issued under such sections, chapters, counterparts, or extensions (sec. 931.02(A)(4), by reference to sec. 3745.70(E), not in the bill).[2]

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[1] *The CAUV program enables land that fits the definition of "land devoted exclusively to agricultural use" to be taxed in accordance with its current agricultural use value rather than its true taxable value. This valuation of land under the CAUV program results in tax savings for the owner of the land. (Secs. 5713.30 to 5713.38, not in the bill.)*

[2] *"Environmental laws" specifically includes the following state laws: certain provisions governing the authority of the Division of Soil and Water Conservation in the Department of Natural Resources (R.C. section 1511.02), the prohibition against disposing of refuse on waters or state lands (R.C. section 1531.29), the Air Pollution Control Law (R.C. Chapter 3704.), the Solid, Infectious, and Hazardous Waste Law (R.C. Chapter 3734.), the Environmental Protection Agency Law (R.C. Chapter 3745.), the Voluntary Action Program ("brownfields") Law (R.C. Chapter 3746.), the Emergency Planning Law (R.C. Chapter 3750.), the Hazardous Substances Law (R.C. Chapter 3751.), the Cessation of Regulated Operations Law (R.C. Chapter 3752.), the Safe Drinking Water Law (R.C. Chapter 6109.), and the Water Pollution Control Law (R.C. Chapter 6111.) (sec. 3745.70(E), not in the bill).*

(5) A statement from the Natural Resources Conservation Service in the United States Department of Agriculture, a soil and water conservation district with jurisdiction over the land to which the application applies, or any other conservation professional approved by the Director that, at the time of the application, each applicant who is submitting the application is complying with best management practices; and

(6) A map that complies with all of the following:

(a) Is prepared and certified by a regional or county planning commission established under current law or a professional engineer or surveyor registered under current law;

(b) Identifies the area of land to which the application applies and includes the corresponding parcel number that the county auditor has assigned under current law to each parcel of land that comprises that area;

(c) Shows the boundaries of the land to be enrolled in an agricultural security area;

(d) Shows the names and locations of all streams, creeks, or other bodies of water, roads, rights-of-way, railroads, utility lines, and water and sewer lines together with any existing residential, recreational, commercial, or industrial facilities that are on or are situated on the land to be included in the area and within 500 feet of the perimeter of the area;

(e) Indicates the date on which the map was prepared; and

(f) Identifies the person or persons who prepared the map.

(7) A list of the other boards of township trustees and boards of county commissioners to whom an application has been submitted.

The bill specifies that an application submitted for the enrollment of land in an agricultural security area is a public record. (Sec. 931.02(A).)

Criteria for enrollment in agricultural security area

Under the bill, an area for which an application has been submitted must be established as an agricultural security area when all of the following criteria are satisfied:

(1) The area consists of not less than 500 acres of contiguous farmland. In order to satisfy the acreage requirement, two or more owners of contiguous farmland may aggregate their land. (Sec. 931.02(B).) The bill defines

"contiguous farmland" as geographically contiguous property used for agriculture, noncontiguous property used for agriculture that is owned by one person and connected by a right-of-way that the person controls and to which the public does not have access, or two or more pieces of property used for agriculture that would be geographically contiguous but for the fact that the property is separated by a public or private right-of-way or rights-of-way or by rivers, streams, creeks, or other bodies of water (sec. 931.01(C)). Under the bill, "agriculture" is defined to include farming; ranching; aquaculture; apiculture and related apicultural activities, production of honey, beeswax, honeycomb, and other related products; horticulture; viticulture, winemaking, and related activities; animal husbandry, including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the above; the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production; and any additions or modifications to the above made by the Director by rule adopted under the Administrative Procedure Act (sec. 931.01(A) by reference to sec. 1.61, not in the bill).

(2) The land forming the area is in an agricultural district or districts established under current law;

(3) The land forming the area is valued and assessed for real property tax purposes in accordance with its current agricultural use value under the CAUV tax program. Land forming the area that is a portion of a farm on which is located a dwelling house, a yard, or outbuildings such as a barn or garage is deemed to satisfy this criterion despite the fact that it does not qualify for CAUV because it is not land devoted exclusively to agricultural use and also is deemed to satisfy the 500 contiguous acres criterion;

(4) Each application submitted by the owner or owners of the land forming the area is approved in accordance with the bill by the boards of township trustees of all of the townships in which the land is located; and

(5) Each application submitted by the owner or owners of the land forming the area is approved in accordance with the bill by the boards of county commissioners of all of the counties in which the land is located (sec. 931.02(B)).[3]

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[3] *Agricultural land may be enrolled in an agricultural district if it meets certain criteria. Enrollment in an agricultural district is renewable every five years and provides the landowner with certain protections. These protections include exemption from the*

Establishment of agricultural security area

Hearing on application

Not later than 60 days after receipt of an application for enrollment in an agricultural security area submitted under the bill, the board of township trustees of each township in which the land that is proposed for enrollment in the area is located and the board of county commissioners of each county in which the land is located must hear the application at the next regularly scheduled meeting of the board. A board, not later than 30 days prior to the time of the meeting, must cause a notice containing the time and place of the meeting to be published in a newspaper of general circulation in the township or county, as applicable, and to be sent to the superintendent of each school district within the proposed agricultural security area, the county engineer of each county in which the proposed area would be located, and the Director of Transportation. (Sec. 931.03(A)(1).)

The bill specifies that as part of the hearing on an application, a board must review any information that it possesses concerning improvements that are planned to be made during the subsequent ten years to existing or proposed roads that are located or are to be located within the area that is proposed for enrollment in an agricultural security area. "Proposed road" means any future roadway project that is on a new alignment or relocation of an existing alignment and for which state or federal funding has been allocated for, but not limited to, a planning level roadway improvement study, an interchange justification or bypass study, environmental review, design, right-of-way acquisition, or construction. "Improvement" includes any action taken with respect to an existing or proposed road that would cause the road to cover a portion of land that it does not cover or is not proposed to cover at the time of the hearing. Any portion of land that would be covered by a planned improvement is not eligible for enrollment in an agricultural security area. (Sec. 931.03(A)(1).)

As part of the hearing on an application, a board also may consider any comprehensive plan that is in place for the county or township, as applicable, and may choose to approve or reject the application on the basis of the proposed agricultural security area's compliance with the comprehensive plan (sec. 931.03(A)(1)).

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collection of real property assessments for purposes of sewer, water, or electrical service and a defense in civil actions for nuisances involving agricultural activities. (Chapter 929., not in the bill.)

Joint meeting

Under the bill, the board of township trustees of each township and the board of county commissioners of each county that is required to hear an application may conduct a joint meeting in lieu of meeting separately not later than 45 days after receipt of an application. A single public notice concerning the joint meeting must be provided in the same manner as is required for a separate meeting in each township and county participating in the joint meeting. The cost of the public notice must be shared equally by all townships and counties participating in the joint meeting. (Sec. 931.03(A)(2).)

Procedures for incorrect or incomplete application

Not later than 45 days after a board or township trustees hears the application and not later than 60 days after a board of county commissioners hears the application, each respective board must adopt a resolution either approving or rejecting the application. However, if a board determines that the information in the application is incorrect or the application is incomplete, the board must return the application to the applicant, by certified mail, with an enumeration of the items that are incorrect or incomplete.

Upon receipt of the returned application, the applicant may amend the application and, not later than 15 days after receipt of the returned application, may submit an amended application to each board of township trustees and each board of county commissioners to whom the original application was submitted. Not later than 30 days after receipt of an amended application, a board must adopt a resolution either approving or rejecting the amended application. (Sec. 931.03(A)(3).)

Opportunity for public comment

The bill authorizes any person to submit comments to any board of county commissioners or board of township trustees to which an application or amended application has been submitted to enroll land in an agricultural security area at any time prior to and at any public meeting at which the application or amended application is heard (sec. 931.03(A)(4)).

Adoption of resolution establishing agricultural security area

An agricultural security area is established, and the land that is proposed for inclusion in the area is enrolled in the area, upon the adoption of a resolution by each of the affected boards of township trustees and boards of county commissioners approving the same version of the application or applications requesting the establishment of the area (sec. 931.03(B)(1)). Not later than five

days after adoption of the resolution, a board must notify the applicant, by certified mail, of the board's decision to approve or reject the application (sec. 931.03(A)(3)). Not later than 30 days after a board adopts a resolution approving the establishment of an agricultural security area, the board must send a copy of the resolution, by certified mail, to the Director of Agriculture, the Director of Transportation, the superintendent of each school district within the area, the county engineer, and the county auditor (sec. 931.03(B)(2)).

A resolution approving the establishment of an agricultural security area must include all of the following:

(1) A statement that the board of township trustees or board of county commissioners, as applicable, commits not to initiate, approve, or finance any development for residential, commercial, or industrial purposes, including construction of new roads and water and sewer lines, within the area for a period of ten years. The bill specifies that for purposes of the statement, "development" does not include any of the following: (a) the improvement of existing roads, provided that the county engineer of each county in which the portion of the area affected by the improvement is located determines that the improvement is necessary for traffic safety, and provided that the improvement is consistent with the agricultural use of land in the area, (b) the construction, modification, or operation of transmission lines for electricity, gas, or oil or of any gathering or production lines for oil or gas, provided that the construction, modification, or operation of the lines does not cause the land to become ineligible for the CAUV tax program, or (c) the construction, modification, or operation of water lines or sewer lines, provided that an official or employee of the Environmental Protection Agency orders the construction, modification, or operation for the purpose of enabling water and sewer service areas that are outside of the agricultural security area to be connected to each other, and provided that the lines do not provide service connections to land within the agricultural security area. (Sec. 931.03(C)(1).)

(2) A requirement that the owner or owners of the land in the area use best management practices (sec. 931.03(C)(2)). The bill defines "best management practices" as the engagement of agricultural production and management, including practices such as manure handling, tillage, forestry management, and similar practices, in a manner that is generally accepted in the agriculture industry and that is approved by the United States Department of Agriculture, the Natural Resources Conservation Service in the United States Department of Agriculture, the Department of Natural Resources, or a soil and water conservation district established under current state law. With respect to organic or sustainable production methods, "best management practices" includes those practices that are

approved by a conservation professional whom the Director approves as having expertise in those methods. (Sec. 931.01(B).)

(3) A statement that describes the agreement that was reached with other boards, if applicable, under the bill (see "***Tax exemption***," below) concerning the percentage of the taxable value of qualifying agricultural real property in the agricultural security area that is to be exempted from taxation under the bill and the number of years that the tax exemption will apply to that property (sec. 931.03(C)(3)).

Lack of ability to appeal

The bill specifies that the approval or disapproval of an application is not a final order, adjudication, or decision under the law governing appeals from decisions of political subdivisions and is not appealable under that law (sec. 931.03(E)).

Term of agricultural security area

The bill specifies that an agricultural security area may continue in existence for ten years unless either of the following occurs: (1) the sole owner of land enrolled in the area withdraws (see "***Withdrawal from agricultural security area***," below), or (2) an owner's land is no longer enrolled in an agricultural district, no longer qualifies for the CAUV tax program, or fails to satisfy the 500 contiguous acres criterion unless certain exceptions to the acreage requirement apply (see "***Exceptions to acreage requirement***," below) (sec. 931.03(D)).

Renewal of enrollment in agricultural security area

The bill specifies that not later than 180 days prior to the expiration of an agricultural security area, an owner of land that is enrolled in the area may renew the enrollment. The bill's procedures for the initial enrollment of land in an agricultural security area apply to the renewal of enrollment. In addition, all of the requirements governing initial enrollment apply to enrollment renewal. (Sec. 931.06.)

Withdrawal from agricultural security area

Under the bill, an owner of land that is enrolled in an agricultural security area may withdraw from the area by sending written notice of withdrawal, by certified mail, to the county auditor of each county, the board of township trustees of each township, and the board of county commissioners of each county in which the land is located. (Sec. 931.07(A)(1).)

Notice of withdrawal

The owner of land that is enrolled in an agricultural security area must send written notice, by certified mail, to those parties when all or a portion of the land becomes ineligible for enrollment in the area due to the occurrence of any of the following events:

(1) The owner of the land withdraws all or a portion of the land from an agricultural district;

(2) The land is removed from the agricultural district in which it is situated because of the termination of the district, and a renewal application has not been filed within the time prescribed under the Agricultural Districts Law or has not been approved under that Law; or

(3) All or a portion of the land is converted from being land devoted exclusively to agricultural use within the meaning of the CAUV tax program unless the conversion is incident to the appropriation of land by the state, one of its political subdivisions, or a public or private agency that is authorized under current law to appropriate property. (Sec. 931.07(A)(2).)

An owner of land who fails to provide notice of withdrawal from an agricultural security area as discussed above must be fined $500. A clerk of court must distribute the fine money in accordance with the bill (see "***Distribution of fine money***," below). (Sec. 931.99.)

The bill specifies that the county auditor of a county in which land enrolled in an agricultural security area is located who discovers that any of the events described in items (1) to (3) above has occurred and that the owner of the land has not complied with the notice requirements established with respect to those events must provide the required notice to the specified parties, except that for the purposes of item (1), the auditor need notify only the county auditors of the other affected counties (sec. 931.07(A)(3)).

Upon receipt of a notice of withdrawal, a board of township trustees or a board of county commissioners immediately must send a certified copy of the notice to the Director of Agriculture. The copy must indicate the name of the township or county, as applicable. (Sec. 931.07(B).)

Exceptions to acreage requirement

If an owner of land that is enrolled in an agricultural security area withdraws from the area or if at any time an owner's land is no longer enrolled in an agricultural district or no longer qualifies for the CAUV tax program, any other owners of land that is enrolled in that area who do not withdraw and whose land

satisfies those criteria may continue to have their land enrolled in the agricultural security area until the enrollment expires under any of the following circumstances:

(1) Within the first five years of a ten-year enrollment period, enrollment may continue if the number of acres remaining in the agricultural security area equals 500 or more;

(2) Within the first five years of a ten-year enrollment period, if the number of acres remaining in the area has diminished to fewer than 500, enrollment may continue only if additional contiguous farmland is enrolled in the area to the extent that the number of acres in the area increases once more to equal 500 or more. Such an increase in acreage may occur through the addition of contiguous farmland to the area either by a landowner who already has land enrolled in the area or by another landowner. In either case, in order to enroll the land in the area, the landowner must submit, not later than 60 days following the date on which the acreage in the area diminished to fewer than 500, an application to the Director in accordance with the bill's application requirements. The landowner must obtain approval of the application from all appropriate boards of township trustees and boards of county commissioners in accordance with the bill. Enrollment of the additional land in the agricultural security area continues until the expiration of the existing, partially elapsed ten-year enrollment period and may be renewed in accordance with the bill's renewal requirements.

(3) Within the last five years of a ten-year enrollment period, enrollment may continue regardless of the number of acres remaining in the agricultural security area. (Sec. 931.07(C)(1).)

If the state or a municipal corporation appropriates part of the land that is enrolled in an agricultural security area and, as a result of the appropriation, the area fails to satisfy the bill's 500 contiguous acres requirement, the owners of land enrolled in the area whose land still is enrolled in an agricultural district and qualifies for the CAUV tax program may continue to have their land enrolled in the agricultural security area until the enrollment expires (sec. 931.07(C)(2)).

Effect of withdrawal on applicability of statement promising no development

The bill specifies that if at any time land that is enrolled in an agricultural security area ceases to be enrolled in the area, the statements promising not to develop the land for nonagricultural purposes that were made by the owner of land and by the board of township trustees or board of county commissioners in accordance with the bill are no longer applicable (sec. 931.07(D)).

Prohibition against violating statement that promises no development

The bill prohibits an owner of land that is enrolled in an agricultural security area from failing to comply with the statement that he submitted with his application for enrollment of the land in the area that he would not initiate, approve, or finance any new development on the land for nonagricultural purposes (sec. 931.08). Whoever violates the prohibition must be fined $500. The clerk of court must distribute the fine money in accordance with the bill (see "***Distribution of fine money***," below). (Sec. 931.99.)

Distribution of fine money

The bill requires a clerk of court that receives payment of fine money under the bill to forward half of the money to the board of township trustees of the township and half of the money to the board of county commissioners of the county in which the applicable agricultural security area is located. In the case of an agricultural security area that is located in more than one township, the clerk must divide half of the fine money in equal shares among the townships and must forward the appropriate portion to each board of township trustees. In the case of an agricultural security area that is located in more than one county, the clerk must divide half of the fine money in equal shares among the counties and must forward the appropriate portion to each board of county commissioners. (Sec. 931.99.) A board of township trustees or a board of county commissioners may, but is not required to, use the fine money that it receives for farmland preservation purposes (sec. 931.99).

Tax exemption

The bill specifies that at the time of the establishment or renewal of an agricultural security area or at any time during which land is enrolled in an agricultural security area, a percentage of the taxable value of qualifying agricultural real property first appearing on the real and public utility property tax list in a tax year during the enrollment may be exempted from taxation. The bill defines "qualifying agricultural real property" as a building, structure, improvement, or fixture that is used exclusively for agricultural purposes, is located on land enrolled in an agricultural security area, and has a true value in money of $25,000 or more. The board of township trustees of each township in which the land that is enrolled in the agricultural security area is located and the board of county commissioners of each county in which the land is located must confer with each other and reach an agreement concerning the tax exemption. At the time the agreement is reached, the boards must send written notice of the agreement to the superintendent of each school district within the agricultural security area. After the agreement is reached and the tax exemption is granted, the

qualifying agricultural real property becomes exempt in the tax year following the year in which the construction of the property is completed. (Sec. 5709.28.)

The agreement must establish the percentage of the taxable value of qualifying agricultural real property that is to be exempted from taxation and the number of years that the tax exemption will apply. The agreement may specify that the tax years during which the exemption will apply to the property may extend past the scheduled expiration date of the period of enrollment in the agricultural security area, provided that the enrollment is renewed and otherwise continues during the tax years that the exemption applies. The agreement cannot exempt from taxation more than 75% of the taxable value of the qualifying agricultural real property. In addition, the agreement may establish the maximum amount of the value of the qualifying agricultural real property to which the tax exemption may apply. Subsequent to the agreement establishing that maximum amount, the owner of the property may request the applicable boards to alter the agreement and increase the maximum value of the property to which the tax exemption applies. The agreement must be reviewed annually by the appropriate tax incentive review council (see "***Tax incentive review councils***," below). (Sec. 5709.28.)

Each time that a renewal application is filed for an agricultural security area that involves qualifying agricultural real property that has been the subject of an exemption that expired on or before the date on which the previous period of enrollment in an agricultural security area expired, the applicable boards must reach a new agreement concerning the exemption before any of the boards adopts a resolution either approving or rejecting the renewal application. (Sec. 5709.28.)

The bill requires the county auditor to enter any qualifying agricultural real property that is the subject of an exemption under the bill on the list, which is established under current law, of real property that is exempt from taxation. With respect to the exemption, an application is not required to be filed under current law governing a board of education's rights concerning a tax exemption. The county auditor must remove the qualifying agricultural real property from the list at the time that he discovers or is notified in accordance with the bill that a withdrawal, removal, or conversion of land from an agricultural security area has occurred in a way that makes the qualifying agricultural real property no longer eligible for the exemption. (Sec. 5709.28.)

If the county auditor removes qualifying agricultural real property from the list of property that is exempt from taxation and the owner of the removed property claimed a tax exemption established under the bill for a prior tax year, the amount of tax otherwise imposed on the qualifying agricultural real property that was the subject of the exemption must be increased. The amount of the increase must equal the aggregate value of the tax exemption received by the taxpayer

since the agricultural security area was most recently approved for establishment or renewal, as applicable, plus interest on that amount at the average bank prime rate, determined in accordance with the Agricultural Districts Law, at the time that the county auditor removes the property from the list of property that is exempt from taxation. The tax year in which the increase must occur is dependent upon the date on which the county auditor makes a discovery or is notified under the bill that a withdrawal, removal, or conversion of land from an agricultural security area has occurred. If the discovery or notification occurs prior to the date in a tax year on which the county auditor delivers a copy of the general tax list to the county treasurer as required under current law, the increase must occur in the same tax year that the discovery or notification occurred. If the discovery or notification occurs on or after the date in a tax year on which the copy of the general tax list is delivered to the county treasurer, the increase must occur in the tax year that immediately follows the year in which the discovery or notification occurred. (Sec. 5709.28.)

Tax incentive review councils

Current law provides for the creation of tax incentive review councils by the legislative authorities of counties, townships, or municipal corporations that grant property tax exemptions. The membership of a council varies depending on specified circumstances. A council is charged with conducting annual reviews of agreements that grant exemptions from property taxation and any performance or audit reports that are required to be submitted under those agreements. (Sec. 5709.85(A) and (C)(1).)

The bill requires an agreement concerning a tax exemption created in accordance with the bill to be reviewed annually by the appropriate tax incentive review council and specifies that a tax incentive review council that reviews an agreement for such an exemption must consist of the following members: three members appointed by the board of county commissioners; two members from each municipal corporation, if any, to which the agreement applies, appointed by the chief executive officer with the concurrence of the legislative authority of the respective municipal corporations; two members of each township to which the agreement applies, appointed by the board of township trustees of the respective townships; the county auditor or the county auditor's designee; and an individual appointed by the board of education of each city, local, exempted village, and joint vocational school district to which the agreement applies. At least two members of the council must be residents of the municipal corporations or townships to which the agreement applies. (Sec. 5709.85(C)(1).)

The bill requires the council to determine whether the agreement for the tax exemption complies with the bill's requirements and whether a withdrawal, removal, or conversion of land from an agricultural security area has occurred in a

manner that makes the exempted property no longer eligible for the exemption. On the basis of the determination, on or before September 1 each year, the council must submit written recommendations for continuation, modification, or cancellation of the agreement to the appropriate local legislative authorities. (Sec. 5709.85(C)(1).)

In making the determination, the council may request from the recipient of the tax exemption any information reasonably necessary for the council to perform its review. The request must be in writing and must be sent to the recipient by certified mail. Within ten days after receipt of the request, the recipient must provide the information requested. (Sec. 5709.85(F).)

Authorized nonagricultural uses of land in agricultural security area: residence or business

The bill authorizes two uses of land in an agricultural security area other than agriculture. Accordingly, the bill specifies that an owner of land that is enrolled in an agricultural security area may do either or both of the following: (1) request approval to operate any business that does not impair the owner's ability to engage in agriculture from each board of township trustees and each board of county commissioners that adopted a resolution approving the establishment of the agricultural security area, or (2) develop, authorize the development of, or, for the purpose of developing, transfer ownership of a portion of the owner's land within the agricultural security area for constructing or otherwise establishing a single-family residence for an individual who is related by consanguinity or by affinity to the owner. The bill prohibits more than one such residence from being constructed per each 40 acres of the owner's land within the agricultural security area. (Sec. 931.04(A).) The amount of land that is used for either of these authorized purposes must be included when determining whether the bill's 500 contiguous acres requirement is satisfied (sec. 931.04(C)).

Request to operate a business

To obtain approval to operate a business in an agricultural security area, a person must send a written request, by certified mail, to each appropriate board of township trustees and each appropriate board of county commissioners. The request must contain a description of the proposed business, a description of the intended location of the business, a description of the intended size of the business, and, if applicable, a detailed description of any construction, renovation, or excavation that will occur for purposes of the proposed business. (Sec. 931.04(B)(1).)

Not later than 30 days after receipt of a request to operate a business in an agricultural security area, a board must adopt a resolution either approving or

rejecting the request. If the board approves the request, it must send by certified mail, not later than 30 days after adopting the resolution, a copy of the resolution to the Director of Agriculture, each appropriate county auditor, and the person requesting the business. (Sec. 931.04(B)(2).) If all of the appropriate boards of township trustees and boards of county commissioners adopt a resolution approving the request to operate a business, the person making the request may establish the requested business (sec. 931.04(B)(3)).

Provision of guidance and technical assistance by Director

The bill requires the Director of Agriculture or the Director's authorized representative, upon request, to provide guidance and technical assistance to owners of land who are seeking enrollment in agricultural security areas and to boards of township trustees and boards of county commissioners who receive applications requesting the establishment of agricultural security areas (sec. 931.05).

Director's annual report

Under the bill, the Director must prepare and submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives an annual report concerning agricultural security areas in the state. The report must include information concerning the number of acres that are enrolled in agricultural security areas and their location and any tax exemptions granted under the bill. (Sec. 931.09.)

HISTORY

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