

# HOUSE RESEARCH

## Bill Summary

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**Subject:** Property taxation; establishing an aggregate resource preservation program

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### Overview

Establishes an Aggregate Resource Preservation Property Tax program that is very similar to the Agricultural Green Acres program. Provides that property containing commercial aggregate deposits will be valued and assessed as agricultural property until they are actively mined and the property receives a class rate of 1.0 percent. A covenant must be recorded on the property that is binding on the land. Allows a county to "opt-out" of the program within two years of effective date of the bill.

When the property begins to be mined, that portion will be reclassified to commercial in the next subsequent assessment year. No additional back taxes will be imposed if the qualifying property is ultimately used for aggregate commercial mining. However, additional taxes will be imposed (like they are in Green Acres) if the property is not used for the intended purpose. Effective for taxes levied in 2006, payable in 2007 and thereafter.

### Section

- 1**      **Aggregate resource preservation property tax law.** Establishes an Aggregate Resource Preservation Property Tax Law for certain property containing unmined commercial aggregate. This program is similar to the Agricultural Green Acres program.

**Subd. 1. Requirements.** Provides that real estate is entitled to valuation under this

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program if all of the following requirements are met:

- (1) the property is classified as residential homestead; disabled/blind/paraplegic veteran homestead; agricultural homestead and non-homestead; and timber;
- (2) the property is at least ten contiguous acres, when the application is filed;
- (3) the owner has filed an application with the county assessor where the property is located;
- (4) there are no delinquent taxes on the property; and
- (5) a covenant on the land restricts the use of the property's surface to that which exists on the date of the application and limits its future use to the preparation and removal of the aggregate commercial deposit under its surface.

**Subd. 2. Application.** Provides that the application for valuation deferment under this section must be filed by May 1 of the assessment year. Once an application is filed and granted, it continues in effect for subsequent assessment years until the property no longer qualifies, provided that the required supplemental affidavits are timely filed. The application is filed with the assessor on a form prescribed by the commissioner of revenue and is executed and acknowledged in the same manner as is required for a deed. The application must contain:

- legal description of area;
- name and address of owner;
- copy of affidavit ; and
- statement of proof from the owner that the land contains a restrictive covenant limiting its use for the property's surface to that which exists on the date of the application and limiting its future use to the preparation and removal of the aggregate commercial deposit under its surface. The covenant is binding on the owner or the owner's successor or assignee, and runs with the land, except as provided in subdivision 4 allowing for the covenant's cancellation under certain conditions.

**Subd. 3. Determination of value.** Qualifying land must be valued as if it were agricultural property, using a per acre valuation equal to the current year's per acre valuation of agricultural land in the county. Prohibits the assessor from considering any additional value resulting from potential alternative and future uses of the property. The buildings located on the land are valued in the normal manner.

**Subd. 4. Cancellation of covenant.** Provides that the covenant may be cancelled in two ways:

- (1) by the owner beginning with the next subsequent assessment year provided that

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the additional taxes have been paid at the time of the cancellation; and

(2) by the city or town in which the property is located beginning with the next subsequent assessment year, if the city council or town board:

- **changes the conditional use of the property;**
- **revokes the mining permit; or**
- **changes the zoning to disallow mining.**

No additional taxes are imposed under clause (2).

**Subd. 4a. County termination (opt-out).** Provides that within two years of the effective date of this section, a county may, following notice and public hearing, terminate application of this section in the county. The termination is effective upon adoption of a county board resolution. A termination applies prospectively and does not affect property enrolled under this section prior to the termination date. A county may subsequently reauthorize application by a county board resolution revoking the termination.

**Subd. 5. Additional taxes.** Provides that additional taxes are due when land that has been valued and assessed under this program no longer qualifies. The additional tax amount is determined by:

- (1) computing the difference between the (i) current year's taxes based upon the agricultural valuation under subdivision 3, and (ii) an amount determined by the assessor based upon the property's current year's estimated market value of like real estate at its highest and best use and the appropriate local tax rate; and
- (2) multiplying the amount of difference in clause (1) by the number of years the land was in the program.

The market value determined by the assessor for this calculation must not be greater than if the property was sold in an arms-length transaction. The additional taxes must be extended on the current tax lists and no interest or penalties are due if timely paid. Additional taxes must not be imposed on that portion of the property which has been actively mined and has been removed from the program.

**Subd. 6. Supplemental affidavits; mining activity on land.** Requires an owner to file a supplemental affidavit within 60 days from the day any aggregate is removed stating the number of acres of property that is actively being mined. Any acres that are actively being mined must be valued and classified as commercial property in the next subsequent assessment year, and must be removed from the program under this section.

Copies of the original affidavit and supplemental affidavits must be filed with the county assessor, the local zoning administrator, and the Department of Natural

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Resources, Division of Land and Minerals. Supplemental affidavits must be filed each time a subsequent portion of property is actively mined, provided that the minimum acreage change is five acres, even if the area mined is less than five acres. If these affidavits are not timely filed, additional taxes are imposed.

**Subd. 7. Lien.** Provides that the additional taxes imposed by this section are a lien on the property.

**Subd. 8. Continuation of tax treatment upon sale.** Provides that when qualifying property under this program is sold, additional taxes must not be extended on the property if the property continues to qualify and if the new owner files an application with the assessor for continued deferment within 30 days after the sale.

**Subd. 9. Definitions.** Provides a cross-reference to the definition of "commercial aggregate deposit" and "actively mined" (contained in section 2).

Effective for taxes levied in 2006, payable in 2007, and thereafter, except that for the 2006 assessment, the application date is September 1, 2006.

**2 Class 2; classification for unmined aggregate.** Establishes a new "sub-class" for property containing the commercial aggregate deposit that is not being actively mined. The class rate is 1.0 percent of market value.

Adds paragraph (h) defining property that contains the commercial aggregate deposits and that is eligible for the 1.0 percent classification. Provides that the property must be at least ten contiguous acres and the owner must record with the county recorder an affidavit containing:

- legal description of property;
- disclosure that the property contains a commercial aggregate deposit that is not actively being mined;
- documentation that the conditional use under the county or local zoning ordinance of this property is for mining; and
- documentation that a permit has been issued by the local government or the mining activity is allowed under the local ordinance. The disclosure must contain a statement from a registered professional geologist, engineer, or soil scientist delineating the deposit and certifying that it is a commercial aggregate deposit.

Defines:

- "commercial aggregate deposit" as a deposit that will yield crushed stone or sand and gravel that is suitable for use as a construction aggregate; and
- "actively mined" as the removal of top soil and overburden in preparation for

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excavation or excavation of a commercial deposit.

Provides that when any portion of the property classified under this paragraph begins to be actively mined, the owner must file a supplemental affidavit and the property must be classified as commercial in the next subsequent assessment year.

Effective for taxes levied in 2006, payable 2007, and thereafter.