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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 298 Session of  
2009

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INTRODUCED BY YAW, BAKER, WAUGH, KITCHEN, SCARNATI, M. WHITE,  
ORIE, D. WHITE, WONDERLING, RAFFERTY, GORDNER, BROWNE,  
FOLMER, ALLOWAY AND VANCE, MARCH 5, 2009

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AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, OCTOBER 5, 2010

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AN ACT

1 Amending the act of December 19, 1974 (P.L.973, No.319),  
2 entitled "An act prescribing the procedure under which an  
3 owner may have land devoted to agricultural use, agricultural  
4 reserve use, or forest reserve use, valued for tax purposes  
5 at the value it has for such uses, and providing for  
6 reassessment and certain interest payments when such land is  
7 applied to other uses and making editorial changes," further  
8 providing for definitions, for general responsibilities of  
9 county assessors, for split-off, separation or transfer and  
10 for roll-back taxes and special circumstances, and providing  
11 ~~for removal of land from preferential assessment.~~ ←

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 Section 1. The definitions of "agricultural reserve,"  
15 "agricultural use" and "forest reserve" in section 2 of the act  
16 of December 19, 1974 (P.L.973, No.319), known as the  
17 Pennsylvania Farmland and Forest Land Assessment Act of 1974,  
18 amended December 21, 1998 (P.L.1225, No.156) and December 8,  
19 2004 (P.L.1785, No.235), are amended and the section is amended  
20 by adding definitions to read:

21 Section 2. Definitions.--As used in this act, the following

1 words and phrases shall have the meanings ascribed to them in  
2 this section unless the context obviously otherwise requires:

3 \* \* \*

4 "Agricultural reserve." Noncommercial open space lands used  
5 for outdoor recreation or the enjoyment of scenic or natural  
6 beauty and open to the public for such use, without charge or  
7 fee, on a nondiscriminatory basis. The term includes any land  
8 devoted to the development and operation of an alternative  
9 energy system, if a majority of the energy annually generated is  
10 utilized on the tract.

11 "Agricultural use." Land which is used for the purpose of  
12 producing an agricultural commodity or is devoted to and meets  
13 the requirements and qualifications for payments or other  
14 compensation pursuant to a soil conservation program under an  
15 agreement with an agency of the Federal Government. The term  
16 includes:

17 (1) any farmstead land on the tract[. The term includes];

18 (2) a woodlot [and];

19 (3) any land which is rented to another person and used for  
20 the purpose of producing an agricultural commodity; and

21 (4) any land devoted to the development and operation of an  
22 alternative energy system, if a majority of the energy annually  
23 generated is utilized on the tract.

24 \* \* \*

25 "Alternative energy." Electricity, heat or other usable form  
26 of energy generated from a Tier I energy source.

27 "Alternative energy system." A facility or energy system  
28 that utilizes a Tier I energy source to generate alternative  
29 energy. The term includes a facility or system that generates  
30 alternative energy for utilization onsite or for delivery of the

1 energy generated to an energy distribution company or to an  
2 energy transmission system operated by a regional transmission  
3 organization.

4 \* \* \*

5 "Forest reserve." Land, ten acres or more, stocked by forest  
6 trees of any size and capable of producing timber or other wood  
7 products. The term includes any land devoted to the development  
8 and operation of an alternative energy system, if a majority of  
9 the energy annually generated is utilized on the tract.

10 \* \* \*

11 "Tier I energy source." A Tier I alternative energy source,  
12 as defined in section 2 of the act of November 30, 2004 (P.L.  
13 1672, No.213), known as the "Alternative Energy Portfolio  
14 Standards Act."

15 \* \* \*

16 Section 1.1. Section 5 of the act, amended December 8, 2004  
17 (P.L.1785, No.235), is amended to read:

18 Section 5. Responsibilities of the County Assessor in  
19 General.--(a) In addition to keeping such records as are now or  
20 hereafter required by law, it shall be the duty of the county  
21 assessor:

22 (1) To indicate on property record cards, assessment rolls,  
23 and any other appropriate records, the fair market value, the  
24 normal assessed value, the land use category and the number of  
25 acres enrolled in each land use category, the use value under  
26 section 4.2 and the preferentially assessed value of each parcel  
27 granted preferential use assessments under this act; and  
28 annually, to record on such records all changes, if any, in the  
29 fair market value, the normal assessed value, the land use  
30 category and the number of acres enrolled in each land use

1 category, the use value under section 4.2 and the preferentially  
2 assessed value of such properties.

3 (2) To notify in writing the appropriate taxing bodies and  
4 landowner of any preferential assessments granted or terminated  
5 for each parcel, including the land use category and the number  
6 of acres enrolled in each land use category, within their taxing  
7 jurisdiction and of the reason for termination within five days  
8 of such change. There shall be a right of appeal as provided by  
9 section 9.

10 (3) To notify in writing the owner of a property that is  
11 preferentially assessed under this act, and the taxing bodies of  
12 the district in which such property is situated, of any changes  
13 in the fair market value, the normal assessed value, the land  
14 use category and the number of acres enrolled in each land use  
15 category, the use value under section 4.2 or the preferentially  
16 assessed value within five days of such change. There shall be a  
17 right of appeal as provided for in section 9.

18 (4) To maintain a permanent record of the tax rates, in  
19 mills, levied by each of the taxing authorities in the county  
20 for each tax year.

21 (5) By January 31 of each year, to report to the department  
22 for the previous year the number of acres enrolled in each land  
23 use category, the number of acres terminated in each land use  
24 category, the dollar amount received as roll-back taxes and the  
25 dollar amount received as interest on roll-back taxes.

26 (b) It shall be the duty of the county assessor, as set  
27 forth under section 8(c), to calculate roll-back taxes, give  
28 notice of the amounts due to landowners and interested parties  
29 and to file liens for unpaid roll-back taxes.

30 (b.1) With respect to the development of an alternative

1 energy system which continues to meet the definition of  
2 agricultural use, agricultural reserve or forest reserve, the  
3 land devoted to that development and operation shall retain the  
4 same land use category for preferential assessment as was  
5 approved for the land before the devotion took place.

6 (c) The preferential use assessments granted under this act  
7 shall be considered by the State Tax Equalization Board in  
8 determining the market value of taxable real property for school  
9 subsidy purposes. The State Tax Equalization Board shall not  
10 reflect the individual school district market value decrease, as  
11 it relates to agricultural land, when certifying the Statewide  
12 market value to the Department of Education.

13 Section 2. Section 6 heading and (a.1) of the act, amended  
14 December 21, 1998 (P.L.1225, No.156), are amended and the  
15 section is amended by adding subsections to read:

16 Section 6. Split-off, Separation or Transfer; Leasing for  
17 Wireless Service; Utilization of Land or Conveyance of Rights  
18 for Exploration or Extraction of Gas, Oil or Coal Bed Methane;  
19 Utilization of Land for Commercial Alternative Energy  
20 Generation; Death of Landowner; Temporary Leases.--(a.1) (1)

21 The split-off of a part of land which is subject to preferential  
22 assessment under this act shall subject the land so split off  
23 and the entire tract from which the land was split off to roll-  
24 back taxes as set forth in section 5.1, except as provided in  
25 this subsection. [The landowner changing the use of the land to  
26 one inconsistent with this act] The landowner who conducts the  
27 split-off shall be liable for payment of roll-back taxes. [The  
28 landowner of land which continues to be eligible for  
29 preferential assessment shall not be liable for any roll-back  
30 taxes triggered as a result of a change to an ineligible use by

1 the owner of the split-off tract. Roll-back] If one of the  
2 following provisions apply, roll-back taxes under section 5.1  
3 shall [not] only be due [if one of the following provisions  
4 applies] as provided in this subsection:

5 (i) The tract or tracts split off [does] do not exceed two  
6 acres annually, except that a maximum of the minimum residential  
7 lot size requirement annually may be split off if the property  
8 is situated in a local government unit which requires a minimum  
9 residential lot size of two to three acres; the tract or tracts  
10 split off [is] are used only for agricultural use, agricultural  
11 reserve or forest reserve or for the construction of a  
12 residential dwelling to be occupied by the person to whom the  
13 land is conveyed; and the total tract or tracts so split off do  
14 not exceed the lesser of ten acres or ten percent (10%) of the  
15 entire tract subject to preferential assessment.

16 (ii) The split-off occurs through a condemnation.

17 (2) Each tract which has been split off under and meets the  
18 provisions of paragraph (1)(i) shall be subject to roll-back  
19 taxes for such a period of time as provided in section 5.1. The  
20 landowner [changing the use of the land] who conducts the split-  
21 off shall be liable for payment of roll-back taxes, which shall  
22 only be due with respect to the split-off portion of land. If  
23 the owner of the tract which has been split off under paragraph  
24 (1)(i) subsequently changes the use of that land to an  
25 ineligible use, the owner of the original tract which continues  
26 to be eligible for preferential assessment shall not be liable  
27 for any roll-back taxes triggered as a result.

28 (2.1) No roll-back taxes shall be due for ~~split-offs~~ A  
29 SPLIT-OFF described in paragraph (1)(ii).

30 (3) The split-off of a tract of land which meets the



1 provisions of paragraph (1) shall not invalidate the  
2 preferential assessment on any land retained by the landowner  
3 which continues to meet the provisions of section 3.

4 (4) Payment of roll-back taxes by the liable landowner shall  
5 not invalidate the preferential assessment on any land which  
6 continues to meet the provisions of section 3.

7 (5) Any person may bring an action in equity to enjoin use  
8 of the land inconsistent with the use provided in this  
9 subsection.

10 (6) Land which has been split off shall be deemed to be used  
11 for residential use, agricultural use, agricultural reserve or  
12 forest reserve unless it is demonstrated that the owner of the  
13 split-off parcel is actively using the tract in a manner which  
14 is inconsistent with residential use, agricultural use,  
15 agricultural reserve or forest reserve.

16 \* \* \*

17 (c.1) The following apply:

18 (1) Land subject to preferential assessment may be leased or  
19 otherwise devoted to the exploration for and removal of gas and  
20 oil, including the extraction of coal bed methane, and the  
21 development of appurtenant facilities, including new roads and  
22 bridges, pipelines and other buildings or structures, related to  
23 exploration for and removal of gas and oil and the extraction of  
24 coal bed methane.

25 (2) Portions of land subject to preferential assessment may  
26 be used for exploration for and removal of gas and oil,  
27 including the extraction of coal bed methane, and the  
28 development of appurtenant facilities, including new roads and  
29 bridges, pipelines and other buildings or structures, related to  
30 those activities.

1 (3) Roll-back taxes shall be imposed upon those portions of  
2 land actually devoted to activities set forth in paragraph (2),  
3 excluding land devoted to subsurface transmission or gathering  
4 lines, which shall not be subject to roll-back tax. The portion  
5 of land subject to roll-back tax shall be the restored well site  
6 and land which is incapable of being immediately used for the  
7 agricultural use, agricultural reserve or forest reserve  
8 activities required under section 3, as measured from the well  
9 site restoration report as approved by the Department of ←  
10 Environmental Protection as required by 25 Pa. Code 78.65  
11 (relating to site restoration) or its subsequent version. A copy  
12 of this report shall be submitted by the Department of  
13 Environmental Protection to the county assessor within ten days  
14 of its approval. The fair market value of the restored well site  
15 and land which is incapable of being immediately used for the  
16 agricultural use, agricultural reserve or forest reserve  
17 activities required under section 3 shall be adjusted  
18 retroactively to the date ~~the~~ A permit was approved under ←  
19 section 201 of the act of December 19, 1984 (P.L.1140, No.223),  
20 known as the "Oil and Gas Act." Roll-back taxes shall become due  
21 upon the filing of the approved well site restoration report  
22 with the county assessor. The utilization of a portion of land  
23 for activities set forth in paragraph (2) shall not invalidate  
24 the preferential assessment of the land which is not so utilized  
25 and the land shall continue to receive preferential assessment  
26 if it continues to meet the requirements of section 3.

27 (4) Notwithstanding paragraph (3), no roll-back tax shall be  
28 imposed upon a landowner for activities related to the  
29 exploration for or removal of oil or gas, including the  
30 extraction of coal bed methane, conducted by parties other than



1 the landowner that hold the rights to conduct such activities  
2 pursuant to an instrument, conveyance or other vesting of the  
3 rights if the transfer of the rights occurred:

4 (i) before the land was enrolled for preferential assessment  
5 under this act; and

6 (ii) before the effective date of this section.

7 (c.2) The following apply:

8 (1) Portions of land subject to preferential assessment may  
9 be leased or otherwise devoted to a wind power generation  
10 system.

11 (2) Roll back taxes for a wind power generation system shall  
12 be imposed upon the portion of land where the foundation of the  
13 wind turbine is located and upon the area of surface covered by  
14 appurtenant structures, including new roads, bridges,  
15 transmission lines, substations and other buildings and  
16 structures related to the system. The fair market value of the  
17 portion of land for which roll back taxes have been assessed  
18 under this subsection shall be adjusted accordingly. The  
19 utilization of a portion of the land for a wind power generation  
20 system shall not invalidate the preferential assessment of land  
21 which is not so utilized, and such land shall continue to  
22 receive preferential assessment if it continues to meet the  
23 requirements of section 3. An owner who is subject to roll back  
24 taxes under this subsection shall submit a notice of the  
25 installation of a wind power generation system to the county  
26 assessor no later than 30 days following the commencement of  
27 electricity generation at the wind power generation system  
28 (RESERVED).

29 (c.3) The owner of property subject to preferential  
30 assessment may temporarily lease a portion of the land for pipe

1 storage yards, PROVIDED, HOWEVER, THAT ROLL-BACK TAXES SHALL BE ←  
2 IMPOSED UPON THOSE PORTIONS OF LAND SUBJECT TO PREFERENTIAL  
3 ASSESSMENT THAT ARE TEMPORARILY LEASED OR OTHERWISE DEVOTED FOR  
4 PIPE STORAGE YARDS, AND THE FAIR MARKET VALUE OF THOSE PORTIONS  
5 OF LAND SHALL BE ADJUSTED ACCORDINGLY. THE IMPOSITION OF ROLL-  
6 BACK TAXES ON PORTIONS OF LAND TEMPORARILY LEASED OR DEVOTED FOR  
7 PIPE STORAGE YARDS SHALL NOT INVALIDATE THE PREFERENTIAL  
8 ASSESSMENT OF LAND WHICH IS NOT SO LEASED OR DEVOTED, AND THAT  
9 LAND SHALL CONTINUE TO BE ELIGIBLE FOR PREFERENTIAL ASSESSMENT  
10 IF IT CONTINUES TO MEET THE REQUIREMENTS OF SECTION 3. Only one  
11 lease is permitted to the owner under this subsection IS ←  
12 PERMITTED TO A LANDOWNER, and a copy of the lease shall be  
13 provided to the county assessor within ten days of its signing  
14 by the landowner. The lease may SHALL not exceed two years AND ←  
15 SHALL NOT BE EXTENDED OR RENEWED. Following the expiration of  
16 the lease, the land shall be restored to the original use which  
17 qualified it for preferential assessment.

18 ~~(c.4) The following apply:~~ ←

19 ~~(1) The owner of property subject to preferential assessment~~  
20 ~~may lease or otherwise devote land subject to preferential~~  
21 ~~assessment to small noncoal surface mining, as provided for~~  
22 ~~under the act of December 19, 1984 (P.L.1093, No.219), known as~~  
23 ~~the "Noncoal Surface Mining Conservation and Reclamation Act."~~

24 ~~(2) Roll back taxes shall be imposed upon those portions of~~  
25 ~~land leased or otherwise devoted to small noncoal surface~~  
26 ~~mining, and the fair market value of those portions of the land~~  
27 ~~shall be adjusted accordingly. Roll back taxes on those portions~~  
28 ~~of the land shall not invalidate the preferential assessment of~~  
29 ~~the land which is not so leased or devoted, and the land shall~~  
30 ~~continue to be eligible for preferential assessment if it~~

1 ~~continues to meet the requirements of section 3.~~

2 ~~(3) Only one small noncoal surface mining permit may be~~  
3 ~~active at any one time on land subject to a single application~~  
4 ~~for preferential assessment.~~

5 \* \* \*

6 Section 3. Section 8(b) of the act, amended December 21,  
7 1998 (P.L.1225, No.156), is amended to read:

8 Section 8. Roll-Back Taxes; Special Circumstances.--

9 (b) Unpaid roll-back taxes shall be a lien upon the property  
10 collectible in the manner provided by law for the collection of  
11 delinquent taxes. Roll-back taxes shall become due on the date  
12 of change of use or on the date a well site restoration report  
13 is filed with the county assessor under section 6(c.1)(3) or, ←  
14 with regard to a wind power generation system under section  
15 6(c.2)(2), on the date the notice of the installation of the  
16 system is received by the county assessor, or any other  
17 termination of preferential assessment and shall be paid by the  
18 owner of the land at the time of change in use, or any other  
19 termination of preferential assessment, to the county treasurer  
20 or to the tax claim bureau, as the case may be, whose  
21 responsibility it shall be to make proper distribution of the  
22 taxes to the taxing bodies wherein the property is located.  
23 Nothing in this section shall be construed to require the taxing  
24 body of a taxing district in which land enrolled in preferential  
25 use is situated to accept the roll-back taxes due and payable to  
26 that taxing district if the use of the land is changed for the  
27 purpose of granting or donating such land to:

28 (1) a school district;

29 (2) a municipality;

30 (3) a county;

1 (4) a volunteer fire company;  
2 (5) a volunteer ambulance service;  
3 (6) a not-for-profit corporation, tax exempt under section  
4 501(c)(3) of the Internal Revenue Code of 1954 (68A Stat. 3, 26  
5 U.S.C. § 501(c)(3)), provided that, prior to accepting ownership  
6 of the land, such corporation enters into an agreement with the  
7 municipality wherein the subject land is located guaranteeing  
8 that it will be used exclusively for recreational purposes, all  
9 of which shall be available to the general public free of  
10 charge. In the event the corporation changes the use of all or a  
11 portion of the land or charges admission or any other fee for  
12 the use or enjoyment of the facilities, the corporation shall  
13 immediately become liable for all roll-back taxes and accrued  
14 interest previously forgiven pursuant hereto; or

15 (7) a religious organization for construction or regular use  
16 as a church, synagogue or other place of worship, including  
17 meeting facilities, parking facilities, housing facilities and  
18 other facilities which further the religious purposes of the  
19 organization.

20 \* \* \*

21 ~~Section 3.1. The act is amended by adding a section to read:~~ ←

22 ~~Section 8.1. Removal of Land From Preferential Assessment.~~

23 ~~(a) A landowner receiving preferential assessment under this~~  
24 ~~act may remove land from preferential assessment if:~~

25 ~~(1) the landowner notifies in writing the county assessor by~~  
26 ~~June 1 of the year immediately preceding the tax year for which~~  
27 ~~the removal is requested;~~

28 ~~(2) the entire tract or tracts enrolled on a single~~  
29 ~~application for preferential assessment are removed from~~  
30 ~~preferential assessment; and~~

1 ~~(3) the landowner pays roll-back taxes on the entire tract~~  
2 ~~or tracts as provided for in section 5.1.~~

3 ~~(b) Land removed from preferential assessment under this~~  
4 ~~section shall not be eligible to be subsequently reenrolled in~~  
5 ~~preferential assessment by the same landowner.~~

6 ~~(c) Nothing in this section shall be construed to prohibit a~~  
7 ~~landowner whose land was terminated from preferential assessment~~  
8 ~~under other sections of this act from reenrolling the land in~~  
9 ~~preferential assessment.~~

10 Section 4. This act shall take effect in 60 days.