

# Senate Study Bill 3112

## Bill Text

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1 1 Section 1. Section [427.1](#), subsection 22, unnumbered  
1 2 paragraphs 2 and 5, Code Supplement 2001, are amended to read  
1 3 as follows:  
1 4 Application for this exemption shall be filed with the  
1 5 commissioners of the soil and water conservation district in  
1 6 which the property is located, not later than February 1 of  
1 7 the assessment year, on forms provided by the department of  
1 8 revenue and finance. The application shall describe and  
1 9 locate the property to be exempted and have attached to it an  
1 10 aerial photo of that property on which is outlined the  
1 11 boundaries of the property to be exempted. In the case of an  
1 12 open prairie, the property shall be inspected and certified by  
1 13 the soil conservation division of the department of  
1 14 agriculture and land stewardship as having at least sixty-five  
1 15 percent ground cover by native species, exclusive of primary  
1 16 and secondary noxious weeds and that all primary and secondary  
1 17 noxious weeds present are controlled to prevent the spread of  
1 18 seeds by either wind or water. In the case of an open prairie  
1 19 which is or includes a gully area susceptible to severe  
1 20 erosion, an approved erosion control plan must accompany the  
1 21 application. Upon receipt of the application, the  
1 22 commissioners shall certify whether the property is eligible  
1 23 to receive the exemption. The commissioners shall not  
1 24 withhold certification of the eligibility of property because  
1 25 of the existence upon the property of an abandoned building or  
1 26 structure which is not used for economic gain. If the  
1 27 commissioners certify that the property is eligible, the  
1 28 application shall be forwarded to the board of supervisors by  
1 29 May 1 of that assessment year with the certification of the  
1 30 eligible acreage. An application must be accompanied by an  
1 31 affidavit signed by the applicant that if an exemption is  
1 32 granted, the property will not be used for economic gain  
1 33 during the assessment year in which the exemption is granted.  
1 34 The board of supervisors does not have to grant tax  
1 35 exemptions under this subsection, grant tax exemptions in the  
2 1 aggregate of the maximum acreage which may be granted  
2 2 exemptions, or grant a tax exemption for the total acreage for  
2 3 which the applicant requested the exemption. Only real  
2 4 property in parcels of two acres or more which is recreational  
2 5 lakes, forest cover, river and stream, river and stream banks,  
2 6 or open prairie and which is utilized for the purposes of  
2 7 providing soil erosion control or wildlife habitat or both,  
2 8 and which is subject to property tax for the fiscal year for  
2 9 which the tax exemption is requested, is eligible for the  
2 10 exemption under this subsection. However, in addition to the  
2 11 above, in order for a gully area which is susceptible to  
2 12 severe erosion to be eligible, there must be an erosion  
2 13 control plan for it approved by the commissioners of the soil  
2 14 and water conservation district in which it is located. In  
2 15 the case of an open prairie, the property shall be inspected  
2 16 and certified by the soil conservation division of the  
2 17 department of agriculture and land stewardship as having at  
2 18 least sixty-five percent ground cover by native species,  
2 19 exclusive of primary and secondary noxious weeds and that all  
2 20 primary and secondary noxious weeds present are controlled to  
2 21 prevent the spread of seeds by either wind or water. In the

2 22 case of an exemption for river and stream or river and stream  
2 23 banks, the exemption shall not be granted unless there is  
2 24 included in the exemption land located at least thirty-three  
2 25 feet from the ordinary high water mark of the river and stream  
2 26 or river and stream banks. Property shall not be denied an  
2 27 exemption because of the existence upon the property of an  
2 28 abandoned building or structure which is not used for economic  
2 29 gain. If the real property is located within a city, the  
2 30 approval of the governing body must be obtained before the  
2 31 real property is eligible for an exemption. For purposes of  
2 32 this subsection:

2 33 Sec. 2. Section [427.1](#), subsection 22, Code Supplement  
2 34 2001, is amended by adding the following new unnumbered  
2 35 paragraph:

3 1 NEW UNNUMBERED PARAGRAPH. In the case of an open prairie  
3 2 that does not receive the certification from the soil  
3 3 conservation division of the department of agriculture and  
3 4 land stewardship as it relates to the ground cover, the  
3 5 applicant shall be notified of the availability of resource  
3 6 enhancement and protection fund cost-share moneys and soil and  
3 7 conservation technological assistance for reestablishing  
3 8 native vegetation.

3 9 Sec. 3. Section [427.1](#), subsection 24, Code Supplement  
3 10 2001, is amended to read as follows:

3 11 24. LAND CERTIFIED AS A WILDLIFE HABITAT. The owner of  
3 12 agricultural land may designate not more than two acres of the  
3 13 land for use as a wildlife habitat. After inspection, if the  
3 14 land meets the standards established by the natural resource  
3 15 commission for a wildlife habitat under section 483A.3, and  
3 16 the property is inspected and certified by the soil  
3 17 conservation division of the department of agriculture and  
3 18 land stewardship as having at least sixty-five percent ground  
3 19 cover by native species, exclusive of primary and secondary  
3 20 noxious weeds and that all primary and secondary noxious weeds  
3 21 present are controlled to prevent the spread of seeds by  
3 22 either wind or water, the department of natural resources  
3 23 shall certify the designated land as a wildlife habitat and  
3 24 shall send a copy of the certification to the appropriate  
3 25 assessor not later than February 1 of the assessment year for  
3 26 which the exemption is requested. The department of natural  
3 27 resources may subsequently withdraw certification of the  
3 28 designated land if it fails to meet the established standards  
3 29 for a wildlife habitat and the ground cover requirement and  
3 30 the assessor shall be given written notice of the  
3 31 decertification.

3 32 In the case where the property does not receive the  
3 33 certification from the soil conservation division of the  
3 34 department of agriculture and land stewardship as it relates  
3 35 to the ground cover, the owner shall be notified of the  
4 1 availability of resource enhancement and protection fund cost-  
4 2 share moneys and soil and conservation technological  
4 3 assistance for reestablishing native vegetation.

4 4 Sec. 4. APPLICABILITY DATE. This Act applies to  
4 5 assessment years beginning on or after January 1, 2003.

4 6 EXPLANATION

4 7 This bill requires that before property which is an open  
4 8 prairie or wildlife habitat receives a property tax exemption,  
4 9 the soil conservation division of the department of  
4 10 agriculture and land stewardship must certify that the  
4 11 property has ground cover that is 65 percent native species,  
4 12 exclusive of primary and secondary noxious weeds and that all  
4 13 primary and secondary noxious weeds are controlled to prevent  
4 14 the spread of seeds by wind or water. The bill also provides  
4 15 that if the property does not receive such certification, that  
4 16 the owner be told of the availability of resource enhancement  
4 17 and protection fund cost-share moneys and technological  
4 18 assistance for reestablishing native vegetation.

4 19 The bill applies to assessment years beginning on or after  
4 20 January 1, 2003.  
4 21 LSB 6541SC 79  
4 22 mg/hk/91