WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1987

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ENROLLED
Committee Substitute for
SENATE BILL NO. 276

(By Senator...

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PASSED March 9, 1987
In Effect from Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 276
(SENATOR JONES, original sponsor)

[Passed March 9, 1987; in effect from passage]

AN ACT to amend and reenact sections six, fifteen, seventeen and eighteen, article one-b, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article one-b by adding thereto a new section, designated section nineteen, all relating to the review of statewide property appraisals for ad valorem tax purposes; the additional review of such appraisals; notice of the appraised values of real property to the owners thereof by the tax commissioner; prescribing certain procedures with respect to any such notices returned as undeliverable because of lack of proper address; the duties of the sheriff and the assessor with respect to such return notices; requiring that such notices be delivered to property owners and the procedures relating thereto; providing for the partial reimbursement of the sheriff and the assessor by the county commission of certain costs incurred in connection therewith upon certain certifications by the tax commission; clarifying that values upon properties shall not be invalidated because of the owner's failure to receive such notice and providing review by the board of equalization and review in such cases; providing a
procedure for review with respect to properties the values of which have been changed by the tax commissioner or the assessor after the first day of October, one thousand nine hundred eighty-six; the review of such values by the board of equalization and review in the year one thousand nine hundred eighty-eight; requiring the county commission to report to the tax commissioner by the thirtieth day of June, one thousand nine hundred eighty-seven, with respect to certain matters relating to the appeal and review of property values and appraisals for ad valorem taxes; requiring the tax commissioner to provide a summary of such reports to the President of the Senate and the Speaker of the House of Delegates by the fifteenth day of July, one thousand nine hundred eighty-seven; requiring the county commissions to review and determine all appeals which have not been determined by the first day of June, one thousand nine hundred eighty-seven, by the first day of August, one thousand nine hundred eighty-seven; requiring the assessor to adjust and maintain the values of all such property in accordance with regulations provided by the tax commissioner; extending the review of hearings with respect to all such appeals filed by the second day of September, one thousand nine hundred eighty-six, to the first day of May, one thousand nine hundred eighty-seven; extending the period during which determinations may be made with respect to all such hearings to the first day of June, one thousand nine hundred eighty-seven; validating any hearings or determinations, or both, made after the first day of December, one thousand nine hundred eighty-six; requiring the tax commissioner and the assessor to examine the lists of all property subject to ad valorem tax after the final determination on the first day of July, one thousand nine hundred eighty-seven, to determine all properties which are grossly overvalued or undervalued; requiring that such lists be furnished to the county commission no later than the fourth day of January, one thousand nine hundred eighty-eight, for use by the board of equalization and review in February of said year; providing for partial reimbursement of the costs incurred by the assessors in connection with such review by the state tax commissioner; and providing for certain rules of construction with respect to such amended sections and such new section.
Be it enacted by the Legislature of West Virginia:

That sections six, fifteen, seventeen and eighteen, article one-b, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article one-b be further amended by adding thereto a new section, designated section nineteen, all to read as follows:

ARTICLE 1B. ADDITIONAL REVIEW OF PROPERTY APPRAISALS; IMPLEMENTATION.

§11-1B-6. Notice of appraised values of real property to owner by tax commissioner; content; form.

(a) The tax commissioner shall also on or before the fifteenth day of August, one thousand nine hundred eighty-six, first mail to each owner, a notice of the amount of such appraised value of all real property subject to ad valorem taxation, as modified or revised. Such notice shall be addressed and mailed to the person or persons in whose name any and all such real property is assessed or was assessed in the year one thousand nine hundred eighty-three, or if the property has been transferred or replaced upon the tax books of the sheriff, then at the name and address reflected upon the tax tickets in the office of the sheriff of the county wherein such property is located. If such address be unknown to the tax commissioner, an alphabetical listing of such properties shall be forwarded to such sheriff on or before the fifteenth day of June, one thousand nine hundred eighty-six, and such sheriff shall provide the appropriate mailing address for each such property in the list, such completed list to be returned to the tax commissioner on or before the first day of July, one thousand nine hundred eighty-six.

(b) Any notice returned by the post office as undeliverable or returned to the tax department for lack of address shall be forwarded to the office of the sheriff of the county. The sheriff shall cause such notices to be delivered by certified mail, or in any manner reasonably designed to ensure that such property owners will be properly notified. It is the duty of the county assessors to assist in the discovery of proper mailing addresses necessary in order that appraisal notices may be delivered in a timely fashion. Any additional expenses or costs incurred by the sheriff or the assessor, or both, in completing the duties assigned to
(c) The notice required to be mailed by the provisions of subsection (a) of this section shall be upon uniform forms prepared by the tax commissioner and shall be of simple and readily understandable language and design. The notice shall advise each property owner that (i) an additional opportunity and final period of review is being afforded to request a review of the appraised value of the real property before the county commission prior to the final implementation of such values for ad valorem tax purposes, (ii) that an application or request for such review must be filed with the county commission not later than the second day of September, one thousand nine hundred eighty-six, (iii) that all property owners have a right to petition for review of the value placed upon such property irrespective of whether such owners had previously petitioned for review by the county commission which had finally determined such value or whether such review process was currently pending either before the county commission or upon certiorari before the circuit court as provided in section eighteen, article one-a of this chapter, (iv) that the information and data relied upon in making the appraisal and in fixing the value of such property is available in the office of the county assessor at no cost to the property owner or other interested persons, (v) that such owner may in his or her petition or at any hearing held thereon, in addition to those matters relative to the reappraisal, present such factors or circumstances as, in the judgment of the owner, may have resulted in either an increase or decrease in the value of the property in question since the appraisal, and (vi) the description of the property which shall include, but not be limited to, the acreage and general landbook description on the landbook. Such factors or circumstances may be taken into consideration by the county assessor or county commission in fixing the assessed value thereof for the tax year for which a lien attaches on the first day of July, one thousand nine hundred eighty-seven: Provided, That such factors shall have no bearing upon the issues involved in establishing the true value of such property as established by the appraisal. Such notice
shall include the information hereinbefore required, and
for notices affecting surface real property values, shall set
forth at least the following information in the form shown
or as near thereto as may be practicable:

"NOTICE
YOU ARE HEREBY NOTIFIED OF THE VALUE
PLACED UPON YOUR PROPERTY WHICH IS
IDENTIFIED BELOW. THIS VALUE RESULTS FROM
THE REAPPRAISAL OF ALL PROPERTY SUBJECT TO
PROPERTY TAX AS REQUIRED BY THE STATE
CONSTITUTION. COUNTY ______ DIST ______
MAP _____ PARCEL _____ SPID _____ PROPERTY
LOCATION: (Including address) __________________________
DATE ___________________
TAX CLASS: ___________ ACCOUNT NO. ______
NOTICE: ________________________________

OWNERS NAME
MAILING ADDRESS
CITY, STATE, ZIP
DEAR PROPERTY OWNER,
IN COMPLIANCE WITH THE PROVISIONS OF THE
WEST VIRGINIA STATE CONSTITUTION, ALL
PROPERTY HAS BEEN REAPPRAISED BASED ON FAIR
MARKET VALUE AS OF JULY, 1983.
STATE LAW REQUIRES THAT ALL ASSESSMENTS
BE 60% OF FAIR MARKET VALUE AND THAT ANY
INCREASES IN ASSESSMENTS BE PHASED-IN OVER
A 10-YEAR PERIOD.
FOLLOWING ARE THE RESULTS OF THE
REVALUATION AND THE ESTIMATED TAX IMPACT
FOR THE PROPERTY LISTED ABOVE.
YOUR PROPERTY'S 1983
MARKET/VALUE ............... = $___________
X60%
ASSESSMENT VALUE ............ = $___________
LESS YOUR CURRENT
ASSESSED VALUE ............. = $___________
DIFFERENCE IN VALUE ...... = $___________
ASSUMING THE TAX RATES IN YOUR COUNTY DO
NOT CHANGE AND ALSO ASSUMING THAT THERE
HAVE BEEN NO CHANGES IN YOUR PROPERTY SINCE
1983, YOUR CURRENT ASSESSED VALUE OF $ _____
WILL BE INCREASED TO $ ________ FOR THE YEAR
Enr. Com. Sub. for S. B. No. 276] 6

[118] _____ AND WILL BE INCREASED $______ EACH
[119] YEAR THEREAFTER FOR A TOTAL PERIOD OF TEN
[120] YEARS. BASED ON CURRENT ASSESSMENTS YOUR
[121] TAX FOR THE NEXT YEAR WILL BE $_____. IF YOUR
[122] ASSESSOR DETERMINES THAT YOUR PROPERTY
[123] HAS THE SAME VALUATION AS IN 1983, AND THAT
[124] THE LEVY RATES REMAIN THE SAME, THEN IN THAT
[125] EVENT YOUR TAX THE TENTH YEAR WILL BE
[126] $____. THE VALUES, ASSESSMENTS AND AMOUNT
[127] OF TAXES SHOWN ABOVE DO NOT INCLUDE OR
[128] TAKE INTO ACCOUNT ANY CREDIT FOR THE
[129] HOMESTEAD EXEMPTION. IF YOU ARE ELIGIBLE
[130] FOR THE HOMESTEAD EXEMPTION, NEXT YEAR'S
[131] PROPERTY TAX SHOULD BE REDUCED OR
[132] ELIMINATED.
[133] THE VALUES SHOWN ABOVE DO NOT INCLUDE OR
[134] REFLECT ANY INCREASES OR DECREASES IN VALUE
[135] BECAUSE OF REPLACEMENT, ADDITIONS OR OTHER
[136] FACTORS OR CIRCUMSTANCES OCCURRING SINCE
[137] 1983.
[138] IF YOU DISAGREE WITH THE VALUE PLACED
[139] UPON THE ABOVE DESCRIBED PROPERTY OR IF YOU
[140] BELIEVE CHANGES HAVE OCCURRED IN SUCH
[141] PROPERTY SINCE 1983 WHICH WOULD IN YOUR
[142] OPINION REDUCE THE VALUE OF YOUR PROPERTY,
[143] THEN YOU SHOULD PETITION THE COUNTY
[144] COMMISSION FOR REVIEW.”

(d) In addition to any other notice required to be given
to property owners by any provisions of this article, the
sheriff shall give or provide a notice which shall advise the
property owners of the fact that the right to petition for
review of the value will expire on the second day of
September, one thousand nine hundred eighty-six, that
such petition must be filed or presented to the county
commission on or before that date, and that no such petition
shall be received thereafter. Such notice shall be included
as a separate document within the same envelope in which
tax tickets are mailed, or be delivered with such tax tickets
to property owners pursuant to section eight, article one,
chapter eleven-a of this code.

(e) The fact that an owner failed to receive any notice
pursuant to the provisions of this article shall not affect the
right of the property owner to petition for review within the
time prescribed, and shall not extend the period by or
during which any such petition is permitted to be filed, as
provided by this article, nor serve to toll the time by which
any such petition is required to be filed, nor invalidate any
value otherwise correct: \emph{Provided}, That nothing herein
shall be construed to limit the rights and remedies provided
in article three, chapter eleven: \emph{Provided, however}, That
the failure to receive notice shall give rise to review under
section twenty-four, article three of chapter eleven.

\begin{itemize}
\item[(f)] The sheriff, assessor, clerk of the county commission
and all other county officers shall cooperate and assist the
tax commissioner in locating and ascertaining proper,
correct and current addresses of all owners of property
subject to ad valorem taxes in order that the mailing of the
notices required by the provisions of this section or of any
other provision of this article may achieve the greatest
degree of proficient and accurate delivery.
\item[(g)] Nothing in this article shall be construed to diminish
to any extent any responsibility on the part of any property
owner or taxpayer to see to the proper, accurate and timely
return of any property required to be returned or to see that
any such property is assessed and taxed according to law
and to the extent provided by law.
\end{itemize}

\textbf{§11-1B-15. Right of tax commissioner, assessor or property
owner to review of newly discovered matters; limitations.}

\begin{itemize}
\item[(a)] The tax commissioner, the assessor or any property
owner at any time after the second day of September, one
thousand nine hundred eighty-six, and before the first day
of October of said year shall have the right to petition the
county commission to reopen and review in accordance
with the provisions of this article. In the event the tax
commissioner or assessor so petitions the county
commission, the owner of the property shall forthwith be
notified of the petition by mailing or delivering a true copy
thereof to such owner. Similarly, if the owner petitions the
county commission in accordance herewith, he or she shall
likewise notify the tax commissioner and the assessor of
that fact. It shall be the affirmative burden of the
petitioning party to clearly show that the matters raised in
the petition were newly discovered since the first day of
Enr. Com. Sub. for S. B. No. 276] 8

September, one thousand nine hundred eighty-six and were
therefore unknown to the parties so petitioning.

(b) The assessor shall petition the county commission to
adjust the appraised value of any parcel where that value
appears to be clearly in error or based upon inconsistencies
in valuation procedures, trends in valuation, clerical errors
or other cause. Notice of any petition filed by the assessor
shall be given to any affected owner and the tax
commissioner. A hearing held pursuant to such petition
shall be governed by the same procedures described for
review and hearings as provided for in section eight of this
article.

(c) In the event the tax commissioner or assessor
changes the base year value of property as a result of
matters discovered subsequent to October one, one
thousand nine hundred eighty-six, the owner of the
property shall forthwith be notified of the change by
mailing or delivering a notice thereof to such owner. The
owner has forty-five days from the date on the notification
to file an objection in writing with the county commission.
The county commission may only hear and determine the
matter when meeting after the year one thousand nine
hundred eighty-seven for the purpose of reviewing and
equalizing in accordance with section twenty-four, article
three of this chapter.

§11-1B-17. Report by county commission required; reports to
Legislature.

The county commission shall make a report to the tax
commissioner on or before the thirtieth day of June, one
thousand nine hundred eighty-seven, of the number of
hearings held by it in review of any and all appraisals and
any adjustments in valuation made by the county
commission. The tax commissioner shall provide a
summary of such reports to the President of the Senate and
the Speaker of the House of Delegates on or before the
fifteenth day of July, one thousand nine hundred eighty-
seven.

§11-1B-18. Appraisal of property; date of implementation;
assessor to make assessments.

(a) All property as defined in section three of this article
shall be appraised at its true and actual value as that term is
defined in subsection (i), section three, article one-a of this
chapter.
(b) County commissions shall proceed in a timely manner to hold the review hearings and issue determinations in accordance with the provisions of this article and the guidelines and regulations of the tax commissioner. If all hearings have not been held, or completed, or determinations thereon have not been issued, by the first day of June, one thousand nine hundred eighty-seven, the tax commissioner shall deem the values appealed from, and the results thereof, substantially correct and the review procedures substantially complied with, for purposes of subsection (c) of this section. In such instances, the county commission shall proceed to hold review hearings and issue determinations in accordance with the provisions of this article and the guidelines and regulations of the tax commissioner, and shall complete all hearings and issue all determinations on or before the first day of August, one thousand nine hundred eighty-seven, at which time it is the duty of the county commissions to have all hearings held and completed, all determinations issued, and the results thereof reported to the tax commissioner.

(c) Upon completion of the review procedures provided in this article, and after certification by the tax commission to the Governor, President of the Senate and Speaker of the House of Delegates that, with the exception of those matters pending under subsection (b) of this section or in the circuit courts of this state or on appeal to the supreme court of appeals, said review procedures have been substantially complied with and further that the results thereof are substantially correct, the final valuations arrived at, by, and through the appraisal process to establish value of all property for the year one thousand nine hundred eighty-three, as provided for in article one-a of this chapter and by this article, shall be and the same are hereby directed to be used for ad valorem property taxation in the year for which lien would attach on the first day of July, one thousand nine hundred eighty-seven. Such valuations shall be adjusted and maintained by the assessor in accordance with regulations governing the appraisal of property for property tax purposes and instructions provided by the state tax commissioner to reflect consideration of such substitutions, alterations, accretions, improvements, additions, replacements, destructions, removals, casualties, acts of God, waste or like occurrences or circumstances, as
well as economic and other factors which result in or cause
an increase or decrease in the value of any such property or
any other divisions, redivision or other change in such
property since its reappraisal for the year one thousand
nine hundred eighty-three.

In the implementation of such values, the assessor of each
of the several counties shall assess the property subject to
ad valorem taxation (other than public utility property) in
the manner and subject to the procedures for return,
assessment, equalization and review heretofore provided in
this code, at sixty percent of the market value less such
exemptions and allowance for phase-in which may be
applicable.

With respect to property, the market value of which has
changed since the reappraisal; the assessor shall enter on
the computer network provided for by section twenty-one,
article one-a of this chapter, the basis of any change in value
utilized in such assessment.

With respect to property not subject to reappraisal at the
time of the reappraisal, or property on which improvements
have been made, the assessor shall use as a basis for phase-
in of the reappraisal, the statewide phase-in rate
promulgated by the tax commissioner for like property.

(d) The tax commissioner shall be provided by the
assessor with any information, findings, or reasons relied
upon by the assessor in increasing or decreasing values as a
result of economic or other factors if applied by the assessor
to any species or class of property generally or uniformly.

§11-1B-19. Extending the period for hearings in certain cases;
limitations; extending period of final
determination of certain cases; validation of
certain determinations; duty of assessor and tax
commissioner with respect to certain overvalued
or undervalued property; construction of
section.

(a) The provisions of section twelve of this article or of
any other provision of this article to the contrary
notwithstanding, the period during which the final
determination by the county commission in any matter
upon or in which a petition for review of the appraised value
of any taxable property was timely filed under the
provisions of either section eight or fifteen of this article or
any other provision thereof, was to be finally determined is hereby extended to and through the first day of June, one thousand nine hundred eighty-seven. The time period during which hearings may be conducted with respect to any such timely-filed petitions for review is hereby extended until and through the first day of May, one thousand nine hundred eighty-seven with respect to those matters in which hearings have not been previously concluded prior to the effective date of this section. Further, in any such matter in which the petition for review had been filed timely and in which either the hearing or the final determination or both was held or shall be made after the first day of December, one thousand nine hundred eighty-six, such determination shall nonetheless be deemed timely heard or determined for all intents and purposes, including, but not limited to, the intents and purposes of this article.

(b) After the final determination of values has been made in accordance with the provision of subsection (a) of this section and the results certified for use in the tax year for which the ad valorem tax lien attaches on the first day of July, one thousand nine hundred eighty-seven, the assessor and the tax commissioner shall review the list of all property subject to ad valorem taxation (and it shall be the joint, several and co-existing duty of the assessor and the tax commissioner so to do) for the purpose of ascertaining, identifying and listing any and all items of such property which are obviously grossly or significantly overvalued or undervalued; which list, together with their recommendation as to the true and actual value of each such item of such property, shall be certified to the county commission not later than the fourth day of January, in the year one thousand nine hundred eighty-eight for the use and consideration of the respective boards of equalization and review in February of that year. The assessor shall be reimbursed by the state tax department in an amount not to exceed seventy-five percent of the cost and expenses incurred by the assessor in the review of such lists and the preparation and certification of such report to the board of equalization and review: Provided, That prior approval of the tax commissioner is obtained in advance of the incurring of such costs or expense. The percentage of reimbursement as to each assessor shall be of a uniform amount as to all assessors.
(c) The provisions of section fourteen of this article shall apply to any matter decided or validated pursuant to this section, as shall the provisions of section eighteen, article one-a of this chapter, to the extent the same are not in conflict with this section.

(d) All other provisions of this article enacted by the Legislature, at the first extraordinary session thereof held in the year one thousand nine hundred eighty-six which are not in conflict with this section shall apply to all matters, circumstances and situations which may be subject to this article, and to the extent of any such conflict, the provisions of this section shall apply.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within ................. approved .................. this the ..............

.......day of .................., 1987.

Governor