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SENATE, WEST VIRGINIA

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1987



ENROLLED

Committee Substitute for
SENATE BILL NO. 276

(By Senator *Jones*.....)



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.**

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

21 (b) Any notice returned by the post office as
22 undeliverable or returned to the tax department for lack of
23 address shall be forwarded to the office of the sheriff of the
24 county. The sheriff shall cause such notices to be delivered
25 by certified mail, or in any manner reasonably designed to
26 ensure that such property owners will be properly notified.
27 It is the duty of the county assessors to assist in the
28 discovery of proper mailing addresses necessary in order
29 that appraisal notices may be delivered in a timely fashion.
30 Any additional expenses or costs incurred by the sheriff or
31 the assessor, or both, in completing the duties assigned to

32 each by the provisions of this subsection shall be paid or
33 reimbursed by the county commission upon certification by
34 the tax commissioner to the county commission as to the
35 amount and the reasonableness thereof.

36 (c) The notice required to be mailed by the provisions of
37 subsection (a) of this section shall be upon uniform forms
38 prepared by the tax commissioner and shall be of simple
39 and readily understandable language and design. The
40 notice shall advise each property owner that (i) an
41 additional opportunity and final period of review is being
42 afforded to request a review of the appraised value of the
43 real property before the county commission prior to the
44 final implementation of such values for ad valorem tax
45 purposes, (ii) that an application or request for such review
46 must be filed with the county commission not later than the
47 second day of September, one thousand nine hundred
48 eighty-six, (iii) that all property owners have a right to
49 petition for review of the value placed upon such property
50 irrespective of whether such owners had previously
51 petitioned for review by the county commission which had
52 finally determined such value or whether such review
53 process was currently pending either before the county
54 commission or upon certiorari before the circuit court as
55 provided in section eighteen, article one-a of this chapter,
56 (iv) that the information and data relied upon in making the
57 appraisal and in fixing the value of such property is
58 available in the office of the county assessor at no cost to the
59 property owner or other interested persons, (v) that such
60 owner may in his or her petition or at any hearing held
61 thereon, in addition to those matters relative to the
62 reappraisal, present such factors or circumstances as, in the
63 judgment of the owner, may have resulted in either an
64 increase or decrease in the value of the property in question
65 since the appraisal, and (vi) the description of the property
66 which shall include, but not be limited to, the acreage and
67 general landbook description on the landbook. Such factors
68 or circumstances may be taken into consideration by the
69 county assessor or county commission in fixing the assessed
70 value thereof for the tax year for which a lien attaches on
71 the first day of July, one thousand nine hundred eighty-
72 seven: *Provided*, That such factors shall have no bearing
73 upon the issues involved in establishing the true value of
74 such property as established by the appraisal. Such notice

75 shall include the information hereinbefore required, and
76 for notices affecting surface real property values, shall set
77 forth at least the following information in the form shown
78 or as near thereto as may be practicable:

79 "NOTICE

80 YOU ARE HEREBY NOTIFIED OF THE VALUE
81 PLACED UPON YOUR PROPERTY WHICH IS
82 IDENTIFIED BELOW. THIS VALUE RESULTS FROM
83 THE REAPPRAISAL OF ALL PROPERTY SUBJECT TO
84 PROPERTY TAX AS REQUIRED BY THE STATE
85 CONSTITUTION. COUNTY _____ DIST _____
86 MAP _____ PARCEL _____ SPID _____ PROPERTY
87 LOCATION: (Including address) _____
88 _____ DATE _____
89 TAX CLASS: _____ ACCOUNT NO. _____

90 NOTICE: _____

91 OWNERS NAME
92 MAILING ADDRESS
93 CITY, STATE, ZIP

94 DEAR PROPERTY OWNER,
95 IN COMPLIANCE WITH THE PROVISIONS OF THE
96 WEST VIRGINIA STATE CONSTITUTION, ALL
97 PROPERTY HAS BEEN REAPPRAISED BASED ON FAIR
98 MARKET VALUE AS OF JULY, 1983.

99 STATE LAW REQUIRES THAT ALL ASSESSMENTS
100 BE 60% OF FAIR MARKET VALUE AND THAT ANY
101 INCREASES IN ASSESSMENTS BE PHASED-IN OVER
102 A 10-YEAR PERIOD.

103 FOLLOWING ARE THE RESULTS OF THE
104 REVALUATION AND THE ESTIMATED TAX IMPACT
105 FOR THE PROPERTY LISTED ABOVE.

106 YOUR PROPERTY'S 1983
107 MARKET/VALUE..... = \$ _____
108 X60%
109 ASSESSMENT VALUE..... = \$ _____
110 LESS YOUR CURRENT
111 ASSESSED VALUE..... = \$ _____
112 DIFFERENCE IN VALUE = \$ _____

113 ASSUMING THE TAX RATES IN YOUR COUNTY DO
114 NOT CHANGE AND ALSO ASSUMING THAT THERE
115 HAVE BEEN NO CHANGES IN YOUR PROPERTY SINCE
116 1983, YOUR CURRENT ASSESSED VALUE OF \$ _____
117 WILL BE INCREASED TO \$ _____ FOR THE YEAR

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.”

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

158 (e) The fact that an owner failed to receive any notice
159 pursuant to the provisions of this article shall not affect the
160 right of the property owner to petition for review within the

161 time prescribed, and shall not extend the period by or
162 during which any such petition is permitted to be filed, as
163 provided by this article, nor serve to toll the time by which
164 any such petition is required to be filed, nor invalidate any
165 value otherwise correct: *Provided*, That nothing herein
166 shall be construed to limit the rights and remedies provided
167 in article three, chapter eleven: *Provided, however*, That
168 the failure to receive notice shall give rise to review under
169 section twenty-four, article three of chapter eleven.

170 (f) The sheriff, assessor, clerk of the county commission
171 and all other county officers shall cooperate and assist the
172 tax commissioner in locating and ascertaining proper,
173 correct and current addresses of all owners of property
174 subject to ad valorem taxes in order that the mailing of the
175 notices required by the provisions of this section or of any
176 other provision of this article may achieve the greatest
177 degree of proficient and accurate delivery.

178 (g) Nothing in this article shall be construed to diminish
179 to any extent any responsibility on the part of any property
180 owner or taxpayer to see to the proper, accurate and timely
181 return of any property required to be returned or to see that
182 any such property is assessed and taxed according to law
183 and to the extent provided by law.

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

1 (a) The tax commissioner, the assessor or any property
2 owner at any time after the second day of September, one
3 thousand nine hundred eighty-six, and before the first day
4 of October of said year shall have the right to petition the
5 county commission to reopen and review in accordance
6 with the provisions of this article. In the event the tax
7 commissioner or assessor so petitions the county
8 commission, the owner of the property shall forthwith be
9 notified of the petition by mailing or delivering a true copy
10 thereof to such owner. Similarly, if the owner petitions the
11 county commission in accordance herewith, he or she shall
12 likewise notify the tax commissioner and the assessor of
13 that fact. It shall be the affirmative burden of the
14 petitioning party to clearly show that the matters raised in
15 the petition were newly discovered since the first day of

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

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

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

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

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

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

1 (a) All property as defined in section three of this article
2 shall be appraised at its true and actual value as that term is
3 defined in subsection (i), section three, article one-a of this
4 chapter.

5 (b) County commissions shall proceed in a timely
6 manner to hold the review hearings and issue
7 determinations in accordance with the provisions of this
8 article and the guidelines and regulations of the tax
9 commissioner. If all hearings have not been held, or
10 completed, or determinations thereon have not been issued,
11 by the first day of June, one thousand nine hundred eighty-
12 seven, the tax commissioner shall deem the values appealed
13 from, and the results thereof, substantially correct and the
14 review procedures substantially complied with, for
15 purposes of subsection (c) of this section. In such instances,
16 the county commission shall proceed to hold review
17 hearings and issue determinations in accordance with the
18 provisions of this article and the guidelines and regulations
19 of the tax commissioner, and shall complete all hearings
20 and issue all determinations on or before the first day of
21 August, one thousand nine hundred eighty-seven, at which
22 time it is the duty of the county commissions to have all
23 hearings held and completed, all determinations issued,
24 and the results thereof reported to the tax commissioner.

25 (c) Upon completion of the review procedures provided
26 in this article, and after certification by the tax commission
27 to the Governor, President of the Senate and Speaker of the
28 House of Delegates that, with the exception of those matters
29 pending under subsection (b) of this section or in the circuit
30 courts of this state or on appeal to the supreme court of
31 appeals, said review procedures have been substantially
32 complied with and further that the results thereof are
33 substantially correct, the final valuations arrived at, by,
34 and through the appraisal process to establish value of all
35 property for the year one thousand nine hundred eighty-
36 three, as provided for in article one-a of this chapter and by
37 this article, shall be and the same are hereby directed to be
38 used for ad valorem property taxation in the year for which
39 lien would attach on the first day of July, one thousand nine
40 hundred eighty-seven. Such valuations shall be adjusted
41 and maintained by the assessor in accordance with
42 regulations governing the appraisal of property for
43 property tax purposes and instructions provided by the
44 state tax commissioner to reflect consideration of such
45 substitutions, alterations, accretions, improvements,
46 additions, replacements, destructions, removals, casualties,
47 acts of God, waste or like occurrences or circumstances, as

48 well as economic and other factors which result in or cause
49 an increase or decrease in the value of any such property or
50 any other divisions, redivision or other change in such
51 property since its reappraisal for the year one thousand
52 nine hundred eighty-three.

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

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

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

71 (d) The tax commissioner shall be provided by the
72 assessor with any information, findings, or reasons relied
73 upon by the assessor in increasing or decreasing values as a
74 result of economic or other factors if applied by the assessor
75 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.**

1 (a) The provisions of section twelve of this article or of
2 any other provision of this article to the contrary
3 notwithstanding, the period during which the final
4 determination by the county commission in any matter
5 upon or in which a petition for review of the appraised value
6 of any taxable property was timely filed under the
7 provisions of either section eight or fifteen of this article or

8 any other provision thereof, was to be finally determined is
9 hereby extended to and through the first day of June, one
10 thousand nine hundred eighty-seven. The time period
11 during which hearings may be conducted with respect to
12 any such timely-filed petitions for review is hereby
13 extended until and through the first day of May, one
14 thousand nine hundred eighty-seven with respect to those
15 matters in which hearings have not been previously
16 concluded prior to the effective date of this section. Further,
17 in any such matter in which the petition for review had been
18 filed timely and in which either the hearing or the final
19 determination or both was held or shall be made after the
20 first day of December, one thousand nine hundred eighty-
21 six, such determination shall nonetheless be deemed timely
22 heard or determined for all intents and purposes, including,
23 but not limited to, the intents and purposes of this article.

24 (b) After the final determination of values has been
25 made in accordance with the provision of subsection (a) of
26 this section and the results certified for use in the tax year
27 for which the ad valorem tax lien attaches on the first day of
28 July, one thousand nine hundred eighty-seven, the assessor
29 and the tax commissioner shall review the list of all
30 property subject to ad valorem taxation (and it shall be the
31 joint, several and co-existing duty of the assessor and the
32 tax commissioner so to do) for the purpose of ascertaining,
33 identifying and listing any and all items of such property
34 which are obviously grossly or significantly overvalued or
35 undervalued; which list, together with their
36 recommendation as to the true and actual value of each such
37 item of such property, shall be certified to the county
38 commission not later than the fourth day of January, in the
39 year one thousand nine hundred eighty-eight for the use
40 and consideration of the respective boards of equalization
41 and review in February of that year. The assessor shall be
42 reimbursed by the state tax department in an amount not to
43 exceed seventy-five percent of the cost and expenses
44 incurred by the assessor in the review of such lists and the
45 preparation and certification of such report to the board of
46 equalization and review: *Provided*, That prior approval of
47 the tax commissioner is obtained in advance of the
48 incurring of such costs or expense. The percentage of
49 reimbursement as to each assessor shall be of a uniform
50 amount as to all assessors.

51 (c) The provisions of section fourteen of this article shall
52 apply to any matter decided or validated pursuant to this
53 section, as shall the provisions of section eighteen, article
54 one-a of this chapter, to the extent the same are not in
55 conflict with this section.

56 (d) All other provisions of this article enacted by the
57 Legislature, at the first extraordinary session thereof held
58 in the year one thousand nine hundred eighty-six which are
59 not in conflict with this section shall apply to all matters,
60 circumstances and situations which may be subject to this
61 article, and to the extent of any such conflict, the provisions
62 of this section shall apply.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Bruce O. Johnson
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Jedd C. Stills
.....
Clerk of the Senate

Donald S. Kopp
.....
Clerk of the House of Delegates

San Tanbani
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *approved* this the *14th*
day of *March* 1987.

Archa. Prance, Jr.
.....
Governor



PRESENTED TO THE
GOVERNOR

Date 3/11/87

Time 9:45 a.m.