WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990

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ENROLLED

Com. Sub. for
HOUSE BILL No. 4127

(By Delegates Sattes & Sears)

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Passed March 10, 1990

In Effect From Passage

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 4127

(BY DELEGATES SATTES AND SUSMAN)

[Passed March 10, 1990; in effect from passage.]

AN ACT to amend chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article one-c; to amend article eight of said chapter eleven by adding thereto two new sections, designated sections six-e and six-f; and to amend and reenact section eleven, article nine-a, chapter eighteen of said code, all relating to taxation and property valuation; reciting legislative findings; defining terms; creating property valuation training and procedures commission; providing for composition of commission, terms of members and their compensation; prescribing powers and duties of commission; authorizing commission to borrow from board of investments; authorizing commission to make rules; requiring certain training for assessors, their staffs and county commissioners; specifying certain duties of county assessors relating to appraisal of property; prescribing additional powers and duties of tax commissioner relating to property valuation; providing for additional funding for assessors' offices; requiring periodic valuations of property; providing criminal penalties for failure to list property or file return or report; creating classification designated managed timberland; requiring assessment at certain percent of appraisal value for all property including property assessed by board of public works; providing severability clause; requiring reduction in levy rate when appraisal results in tax increase; requiring notice and public hearing prior to decision in lieu of such reduction by county commissions and municipalities; providing that Legislature effects any increase of school board levy rate after public hearing; transferring certain existing duties regarding appraisal to new article one-c; providing for total assessed taxable value for next fiscal year; and deleting outdated provisions of code.

Be it enacted by the Legislature of West Virginia:

That chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article one-c; that article eight of said chapter eleven be amended by adding thereto two new sections, designated sections six-e and six-f, and that section eleven, article nine-a, chapter eighteen of said code, be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 1C. FAIR AND EQUITABLE PROPERTY VALUATION.

§11-1C-1. Legislative findings.

(a) The Legislature hereby finds and declares that all property in this state should be fairly and equitably valued wherever it is situated so that all citizens will be treated fairly and no individual species or class of property will be overvalued or undervalued in relation to all other similar property within each county and throughout the state.

(b) The Legislature by this article seeks to create a method to establish and maintain fair and equitable values for all property. The Legislature does not intend by this article to implement the reappraisal as conducted under articles one-a and one-b of this chapter, nor does it intend to affect tax revenue in any manner.

(c) The Legislature finds that requiring the valuation of property occur in three-year cycles with an annual adjustment of assessments as to those properties for which a change in value is discovered shall not violate the equal and uniform provision of section one, article ten of the West Virginia Constitution, the Legislature further finding that such three-year cycle and annual adjustment are an integral and indispensable part of a systematic review of all properties in order to achieve equality of assessed valuation within and among the counties of this state.

(d) The Legislature deems that the goal of this article is that by the end of the three-year cycle contemplated by this article, and thereafter from year to year, all property shall be annually assessed at sixty percent of its then current fair market value except for the values derived for farms and managed timberland properties, which are to be valued as prescribed by articles 1C and 4 of this chapter.

§11-1C-2. Definitions.

For the purposes of this article, the following words shall have the meanings hereafter ascribed to them unless the context clearly indicates otherwise:

(a) "Timberland" means any surface real property except farm wood lots of not less than ten contiguous acres which is primarily in forest and which, in consideration of their size, has sufficient numbers of commercially valuable species of trees to constitute at least forty percent normal stocking of forest trees which are well distributed over the growing site.

(b) "Managed timberland" means surface real property, except farm woodlots, of not less than ten contiguous acres which is devoted primarily to forest use and which, in consideration of their size, has sufficient numbers of commercially valuable species of trees to constitute at least forty percent normal stocking of forest trees which are well distributed over the growing site, and that is managed pursuant to a plan provided for in section ten of this article.

(c) "Tax commissioner", "commissioner", or "tax department" means the state tax commissioner or a designee of the state tax commissioner.

(d) "Valuation commission" or "commission" means the commission created in section three of this article.

(e) "County board of education" or "board" means the duly elected board of education of each county.

§11-1C-3. Property valuation training and procedures commission generally; appointment; term of office; meetings; compensation.

(a) There is hereby created, under the department of tax and revenue, a property valuation training and procedures commission which consists of the state tax commissioner, or a designee, who shall serve as chairperson of the commission, three county assessors, four citizens of the state, one of which shall be a certified appraiser, and two county commissioners. The assessors, four citizen members and two county commissioners shall be appointed by the governor with the advice and consent of the Senate. For each assessor to be appointed, the West Virginia Assessors Association shall nominate three assessors, no more than two of whom shall belong to the same political party, and shall submit such list of nominees to the governor. For each of the two county commissioners to be appointed, the County Commissioner's Association of West Virginia shall nominate three commissioners, no more than two of whom shall belong to the same political party, and shall submit such list of nominees to the governor. Except for the tax commissioner, there may not be more than one member from any one county. No more than seven members of the commission shall belong to the same political party: *Provided,* That any member of the commission who is a direct party to any dispute before the board shall excuse himself or herself from any consideration or vote regarding the dispute.

A list of nine assessor nominees shall be submitted to the governor by the assessors association within thirty days of the effective date of this article, and not more than six of such nominees shall belong to the same political party. Within sixty days of such effective date, the governor shall appoint the assessor and citizen members of the commission.

A list of six county commissioner nominees shall be submitted to the governor by the county commissioners association within thirty days of the effective date of this article, and not more than four of such nominees shall belong to the same political party. Within sixty days of such effective date, the governor shall appoint two county commission members of the commission.

(b) All members, except the tax commissioner, shall serve for four-year terms: *Provided*, That of the members initially appointed, two assessors, one county commission member and one citizen shall serve two-year terms, and one assessor, one county commissioner member and three citizen members shall serve four-year terms. Any assessor member and county commissioner member ceases to be a member immediately upon leaving the office of assessor or county commissioner. Members shall remain members of the commission until their successors have been appointed. In case of a vacancy occurring prior to the end of the term of a member, a replacement shall be appointed within thirty days in the same manner as the member was appointed and shall serve until the end of the term of the member so replaced.

(c) The tax commissioner shall call the first meeting of the commission within thirty days of the appointment of the assessor, county commissioner and citizen members. Subsequently, meetings shall be at the call of the chairperson or at the written request of any four members, except that the commission shall meet at least twice annually. Assessor members, county commissioner members and the tax commissioner shall serve without compensation, and citizen members shall receive fifty dollars per day for each day of actual service rendered. All members shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties as members of the commission.

(d) The commission shall be funded by an appropriation by the Legislature through a separate line item appropriated to the state tax commissioner.

§11-1C-4. Commission powers and duties; rule-making.

(a) On or before the first day of October, one thousand nine hundred ninety, and thereafter as necessary the property valuation training and procedures commission shall perform the following duties:

(1) Devise training and certification criteria for county assessors and their employees and members of county commissions, which shall include a definition of "appropriate staff member" as the term is used in section six of this article relating to required training, which definition shall include deputy assessors as provided for in section three, article two of this chapter;

(2) Establish uniform, statewide procedures and methodologies for the mapping, visitation, identification and collection of information on the different species of property, which procedures and methodologies shall include reasonable requirements for visitation of property, including a requirement that a good faith effort be made to contact any owner of owner-occupied residential property: *Provided*, That the commission is not authorized to establish the methods to value real and personal property, but shall have the authority to approve such methods;

(3) Develop an outline of items to be included in the county property valuation plan required in section seven of this article, which shall include information to assist the property valuation training and procedures commission in its determination of the distribution of state funds provided pursuant to section eight of this article.

(b) On or before the first day of July, one thousand nine hundred and ninety-one, the commission shall establish objective criteria for the evaluation of the performance of the duties of county assessors and the tax commissioner.

(c) In the event the tax commissioner and a county assessor cannot agree on the content of the plan required under section seven of this article, the commission shall examine the plan and the objections of the tax commissioner and shall resolve the dispute on or before the first day of the fiscal year following the fiscal year in which the plan was submitted to the commission for resolution.

(d) The commission shall have the power to make such rules as it deems necessary to carry out the provisions of this section. Any rules adopted by the commission prior to the first day of October, one thousand nine hundred ninety, under subsection (a) of this section are exempt from the provisions of article three of chapter twenty-nine-a of this code: *Provided*, That the commission shall file a copy of any rule so exempted from the provisions of chapter twenty-nine-a of this code with the legislative rule-making review committee created pursuant to section eleven, article three of said chapter prior to the thirtieth day of November, one thousand nine hundred ninety.

(e) The commission shall have the authority to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this article.

(f) In order to fund the costs of the requirements of this article, the valuation commission shall have the authority, on a one time basis, to borrow five million dollars and to distribute such funds according to need and the valuation plan submitted by the counties. Upon request of the valuation commission, the state board of investments shall loan, under commercially reasonable terms to be determined by the parties, up to five million dollars to the valuation commission, on a one time basis, from one of the various funds administered by the state board of investments.

(g) The commission shall be required, in the event that the tax commissioner has failed to do so, to appoint one or more special assessors if it is the determination of the commission that an assessor has substantially failed to perform the duties required by sections seven and eight of this article. A writ of mandamus shall be the proper remedy if the commission fails to perform any of its duties required by law.

§11-1C-5. Tax commissioner powers and duties.

(a) In addition to the powers and duties of the tax commissioner in other provisions of this article and this code, the tax commissioner shall have the power and duty to:

(1) perform such duties and exercise such powers as may be necessary to accomplish the purposes of this article;

(2) determine the methods of valuation for both real and personal property in accordance with the following:

(A) As to personal property, the tax commissioner shall provide a method to appraise each major specie of personal property in the state so that all such items of personal property are valued in the same manner no matter where situated in the state, shall transmit these methods to each county assessor who shall use these methods to value the various species of personal property. The tax commissioner shall periodically conduct such studies as are necessary to determine that such methods are being followed. Such method shall be in accordance with the provisions of article five of this chapter: *Provided*, That notwithstanding any other provision of this code to the contrary, the several county assessors shall appraise motor vehicles as follows: The state tax commissioner shall annually compile a schedule of automobile values based upon the lowest values shown in a nationally accepted used car guide, which said schedule shall be furnished to each assessor and shall be used by the several county assessors to determine the assessed value for all motor vehicles in an amount equal to sixty percent of said lowest values.

(B) As to managed timberland as defined in section two of this article, the tax commissioner shall provide a method to appraise such property in the state so that all such property is valued in the same manner no matter where it is situated in the state, which shall be a valuation based on its use and productive potential as managed timberland, which may be accorded special valuation as forestlands as authorized by section fifty-three, article six of the Constitution of West Virginia: *Provided*, That timberland that does not qualify for identification as managed timberland shall be valued at market value: *Provided*, *however*, That the tax commissioner may not implement any rules or regulations in title one hundred ten, which relate to valuation or classification of timberland: *Provided further*, That on or before the first day of October, one thousand nine hundred ninety, the tax commissioner shall, in accordance with chapter twenty-nine-a of this code, promulgate new rules relating to the valuation and classification of timberland.

(C) As to farm land used, occupied and cultivated by an owner or bona fide tenant, the tax commissioner shall provide a method to appraise such property in the state so that all such property is valued in the same manner no matter where it is situated in the state, which valuation shall be arrived at according to the fair and reasonable value of the property for the purpose for which it is actually used regardless of what the value of the property would be if used for some other purpose, in accordance with section one, article three of this chapter and as authorized by subsection B, section one-b, article ten of the Constitution of West Virginia.

(D) As to public utility property, the tax commissioner shall prescribe appropriate methods for the appraisal of the various types of property subject to taxation as public utilities and the types of property which are to be included in the operating property of a public utility and thereby not subject to taxation by the county assessor. Only parcels or other property, or portions thereof, which are an integral part of the public utility's function as a utility shall be included as operating property and assessed by the Board of Public Works under provisions of article six of this chapter;

(3) Evaluate the performance of each assessor based upon the criteria established by the commission and each county's approved plan and take appropriate measures to require any assessor who does not meet these criteria or adequately carry out the provisions of the plan to correct any deficiencies. Such evaluation shall include the periodic review of the progress of each assessor in conducting the appraisals required in sections seven and nine of this article and in following the approved valuation plan. If the tax commissioner determines that an assessor has substantially failed to

perform the duties required by said sections, the tax commissioner shall take all necessary steps, including the appointment of one or more special assessors in accordance with the provisions of section one, article three of this chapter, or utilize such other authority as the commissioner has over county assessors pursuant to other provisions of this code as may be necessary to complete the tasks and duties imposed by this article: *Provided*, That a writ of mandamus shall be the appropriate remedy if the tax commissioner fails to perform his or her statutory duty provided for in section five, article one of this chapter.

(4) Submit to the Legislature, on or before the fifteenth day of February of each year, a preliminary statewide aggregate tax revenue projection and other information which shall assist the Legislature in its deliberations regarding county board of education levy rates pursuant to section six-f, article eight of this chapter, which information shall include any amount of reduction required by said section six-f;

(5) Maintain the valuations each year by making or causing to be made such surveys, examinations, audits and investigations of the value of the several classes of property in each county which should be listed and taxed under the several classifications; and

(6) Establish by uniform rules a procedure for the sale of computer generated material, appraisal manuals and reproduction of microfilm, photography and maps. Any funds received as a result of the sale of such reproductions shall be deposited to the appropriate account from which the payment for reproduction is made.

(b) The tax commissioner may adopt any regulation adopted prior to the first day of January, one thousand nine hundred ninety, pursuant to article one-a of this chapter, which adoption shall not constitute an implementation of the statewide mass reappraisal of property. Such adoption, including context modifications made necessary by the enactment of this article, shall occur on or before the first day of July, one thousand nine hundred ninety-one, through inclusion in the plan required by section ten of this article or inclusion in the minute record of the valuation commission. Upon the adoption of any such regulations, any modification or repeal of such regulation shall be in accordance with the provisions of article three, chapter twenty-nine-a of this code.

§11-1C-6. Required training for assessors, their staffs and county commissioners.

(a) All county assessors and their appropriate staff members are required to participate in a training program which meets the basic criteria set by the property valuation training and procedures commission. The tax commissioner shall provide the training programs, which shall commence on or before the first day of December, one thousand nine hundred ninety. The tax commissioner shall determine which persons have met the basic criteria established by the property valuation training and procedures commission for certification in their respective positions. Those persons who have met the basic criteria shall be issued appropriate certificates so signifying. Those persons who have failed to meet the basic criteria shall be required to take additional training in those areas in which they are deficient. Any staff person employed as of the effective date of this section who fails to meet the basic criteria within one calendar year of his or her first training shall be placed on probationary status for six months and, upon continued failure to meet the criteria, shall be dismissed of any duties related to the actual valuation of property. Any staff person employed after the effective date of this section shall become certified within six months of his or her first training, and otherwise shall be placed on probationary status for six months and, unless becoming certified, shall be dismissed of any duties related to the actual valuation of property. The tax commissioner shall conduct periodic training sessions of a continuing education nature for all assessors and appropriate staff members whether certified or not. These sessions shall be held at least once a year. All newly elected or newly appointed assessors shall participate in a basic training program prior to taking office. Newly appointed appropriate staff members are required to participate in the next available basic training program. The commission shall further establish requirements for minimum continuing education for each appropriate staff member in order to maintain a certification.

(b) All county commissioners are required to participate in a training program which meets the criteria set by the property valuation training and procedures commission. The tax commissioner shall conduct such programs to educate county commissioners in their duties as a board of equalization and review and to make them generally familiar with appraisal techniques.

§11-1C-7. Duties of county assessors; property to be appraised at fair market value; exceptions; initial equalization; valuation plan.

(a) Except for property appraised by the state tax commissioner under section ten of this article and property appraised and assessed under article six of this chapter, all assessors shall, within three years of the approval of the county valuation plan required pursuant to this section, appraise all real and personal property in their jurisdiction at fair market value except for special valuation provided for farm land and managed timberland. They shall utilize the procedures and methodologies established by the property valuation training and procedures commission and the valuation system established by the tax commissioner.

(b) In determining the fair market value of the property in their jurisdictions, assessors may use as an aid to valuation any information available on the character and values of such property including, but not limited to, the updated information found on any statewide electronic data processing system network established pursuant to section twenty-one, article one-a of this chapter. Valuations shall not be based exclusively on such statewide electronic data processing system network, and usage of the information on such files as an aid to proper valuation shall not constitute an implementation of the statewide mass reappraisal of property.

(c) Before beginning the valuation process, each assessor shall develop a county valuation plan for using information currently available, for checking its accuracy and for correcting any errors found. The plan must be submitted to the tax commissioner on or before the first day of December, one thousand nine hundred ninety, for review and approval, and such plan must be revised as necessary and resubmitted every three years thereafter. Whenever a plan is submitted to the tax commissioner, a copy shall also be submitted to the county commission of that county and the property valuation training and procedures commission, and that county commission and the property valuation training and procedures commission may forward comments to the tax commissioner. The tax commissioner shall respond to any plan submitted or resubmitted within sixty days of its receipt. The valuation process shall not begin nor shall funds provided in section eight of this article be available until the plan has received approval by the tax commissioner: *Provided*, That any initial plan that has not received approval by the commissioner prior to the first day of May, one thousand nine hundred ninety-one, shall be submitted on or by such date to the valuation commission for resolution prior to the first day of July, one thousand nine hundred ninety-one, by which date all counties shall have an approved valuation plan in effect.

(d) Upon approval of the valuation plan, the assessor shall immediately begin implementation of the valuation process. Any change in value discovered subsequent to the certification of values by the assessor to the county commission, acting as the board of equalization and review, in any given year shall be placed upon the property books for the next certification of values.

(e) Willing and knowing refusal of the assessor or the county commission to comply with and effect the provisions of this article, or to correct any deficiencies as may be ordered by the tax commissioner with the concurrence of the valuation commission under any authority granted pursuant to this article or other provisions of this code, shall constitute grounds for removal from office. Such removal may be appealed to the circuit court.

§11-1C-8. Additional funding for assessors' offices; maintenance funding.

(a) In order to finance the extra costs associated with the valuation and training mandated by this article, there is hereby created a revolving valuation fund in each county which shall be used exclusively to fund the assessor's office. The valuation and training programs, for the fiscal year commencing on the first day of July, one thousand nine hundred ninety, shall be funded through the valuation commission and distributed in accordance with need on a county by county basis and the county's approved plan. The necessary funds shall be transferred to each county's valuation fund following approval of the plans submitted by the respective assessors. The said funds shall be transferred by the valuation commission on condition that no persons shall be hired hereunder without the approval of the valuation commission and such hirings shall be without regard to political favor or affiliation. And further, such persons hired hereunder shall be subject to the provisions of the Ethics Act, chapter six-b of this code, including but not limited to the conflict of interest provisions thereunder.

During the fiscal year commencing the first day of July, one thousand nine hundred ninety-four, and thereafter as necessary, any county receiving moneys provided by the valuation commission under this section, shall use the county's valuation fund first to repay the valuation commission the money so received plus accrued interest, provided that the fund should not drop below one percent of the total municipal, county commission and county school board revenues generated by application of the respective regular levy rates.

(b) To finance the ongoing extra costs associated with the valuation and training mandated by this article, beginning with the fiscal year commencing on the first day of July, one thousand nine hundred ninety-one, and for a period of three consecutive years, an amount equal to two percent of the previous year's projected tax collections from the regular levy set by, or for, the county commission, the county school board and any municipality in the county shall be prorated as to each levying body, set aside and placed in the valuation fund. Commencing on the first day of July, one thousand nine hundred ninety-four, and each year thereafter, the valuation fund shall be continued at an annual amount of one percent of the previous year's projected tax collections from such regular levies: *Provided*, That county commissions, and municipalities may present written evidence, prior to the thirty first day of March each year acceptable to the valuation commission showing that a lesser amount would be adequate to fund the extra costs associated with the valuation mandated by section seven of this article: *Provided, however*, That the valuation commission shall meet prior to the fifteenth day of April to consider and decide upon all written evidence so submitted: *Provided further*, That the county commissions, in addition, shall fund the county assessor's office at least the level of funding provided during the fiscal year in which this section was initially enacted.

These additional funds are intended to enable assessors to maintain current valuations and to perform the periodic reevaluation required under section nine of this article. Beginning with the fiscal year ending June thirtieth, one thousand nine hundred ninety-six, any unexpended balance in the valuation fund at the end of the fiscal year shall expire back proportionately into the respective accounts of the levying bodies.

(c) Any funds provided by the valuation commission shall be distributed among the counties by the property valuation training and procedures commission based upon work load, need and other relevant factors as shown by the valuation plans developed under section seven of this article.

(d) Moneys due the valuation fund shall be deposited by the sheriff of the county on a monthly basis for the benefit of the assessor and shall be available to and may be spent by the assessor without prior approval of the county commission, which shall not exercise any control over the fund.

§11-1C-9. Periodic valuations.

(a) After completion of the initial valuation required under section seven of this article, each assessor shall maintain current values on the real and personal property within the county. In repeating three-year cycles, every parcel of real property shall be visited by a member of the assessor's staff who has been trained pursuant to section six of this article to determine if any changes have occurred which would affect the valuation for the property. With this information and information such as sales ratio studies provided by the tax commissioner, the assessor shall make such adjustments as are necessary to maintain accurate, current valuations of all the real and personal property in the county and shall adjust the assessments accordingly.

(b) In any year the assessed value of a property or species of property be less than or exceed sixty percent of current market value, the tax commissioner shall direct the assessor to make the necessary adjustments. If any assessor fails to comply with the provisions of this section, the tax commissioner may, at the county commission's expense, take reasonable steps to remedy the assessment deficiencies.

§11-1C-10. Valuation of industrial property and natural resources property by tax commissioner; penalties; methods; values sent to assessors.

(a) As used in this section:

(1) "Industrial property" means real and personal property integrated as a functioning unit intended for the assembling, processing and manufacturing of finished or partially finished products.

(2) "Natural resources property" means coal, oil, natural gas, limestone, fireclay, dolomite, sandstone, shale, sand and gravel, salt, lead, zinc, manganese, iron ore, radioactive minerals, oil shale, managed timberland

as defined in section two of this article, and other minerals.

(b) All owners of industrial property and natural resources property each year shall make a return to the state tax commissioner and, if requested in writing by the assessor of the county where situated, to such county assessor at a time and in the form specified by the commissioner of all industrial or natural resources property owned by them. The commissioner may require any information to be filed which would be useful in valuing the property covered in the return. Any penalties provided for in this chapter or elsewhere in this code relating to failure to list any property or to file any return or report may be applied to any owner of property required to make a return pursuant to this section.

(c) The state tax commissioner shall value all industrial property in the state at its fair market value within three years of the approval date of the plan for industrial property required in subsection (e) of this section. The commissioner shall thereafter maintain accurate values for all such property. The tax commissioner shall forward each industrial property appraisal to the county assessor of the county in which that property is located and the assessor shall multiply each such appraisal by sixty percent and include the resulting assessed value in the land book or the personal property book, as appropriate for each tax year. The commissioner shall supply support data that the assessor might need to evaluate the appraisal.

(d) Within three years of the approval date of the plan required for natural resources property required pursuant to subsection (e) of this section, the state tax commissioner shall determine the fair market value as defined in section one, article three of this chapter of all natural resources property in the state. The commissioner shall thereafter maintain accurate values for all such property.

(1) In order to qualify for identification as managed timberland for property tax proposes the owner must

annually certify, in writing to the division of forestry, that the property meets the definition of managed timberland as set forth in this article and contracts to manage property according to a plan that will maintain the property as managed timberland. In addition, each owner's certification must state that forest management practices will be conducted in accordance with approved practices from the publication "Best Management Practices for Forestry". Property certified as managed timberland shall be valued according to its use and productive potential. The tax commissioner shall promulgate rules and regulations for certification as managed timberland.

(2) In the case of all other natural resources property, the commissioner shall develop an inventory on a county by county basis of all such property and may use any resources, including, but not limited to, geological survey information; exploratory, drilling, mining and other information supplied by natural resources property owners; and maps and other information on file with the state department of energy. Any information supplied by natural resources owners or any proprietary or otherwise privileged information supplied by the state department of energy shall be kept confidential unless needed to defend an appraisal challenged by a natural resources owner. Formulas for natural resources valuation may contain differing variables based upon known geological or other common factors. The tax commissioner shall forward each natural resources property appraisal to the county assessor of the county in which that property is located and the assessor shall multiply each such appraisal by sixty percent and include the resulting assessed value in the land book or the personal property book, as appropriate, for each tax year. The commissioner shall supply support data that the assessor might need to explain or defend the appraisal. The commissioner shall directly defend any challenged appraisal when the assessed value of the property in question exceeds two million dollars or an owner challenging an appraisal holds or controls property situated in the same county with an assessed value exceeding two million dollars. At least every five

years, the commissioner shall review current technology for the recovery of natural resources property to determine if valuation methodologies need to be adjusted to reflect changes in value which result from development of new recovery technologies.

(e) The tax commissioner shall develop a plan for the valuation of industrial property and a plan for the valuation of natural resources property. The plans shall include expected costs and reimbursements, and shall be submitted to the property valuation training and procedures commission on or before the first day of January, one thousand nine hundred ninety-one, for its approval on or before the first day of July of such year. Such plan shall be revised, resubmitted to the commission and approved every three years thereafter.

(f) To perform the valuation duties under this section, the state tax commissioner shall have the authority to contract with a competent property appraisal firm or firms to assist with or to conduct the valuation process as to any discernible species of property statewide if the contract and the entity performing such contract is specifically included in a plan required by subsection (e) of this section or otherwise approved by the commission. If the tax commissioner desires to contract for valuation services only in one county or a group of counties, the contract must be approved by the assessor of the county and by the commission.

(g) The county assessor may accept the appraisal provided, pursuant to this section, by the state tax commissioner: *Provided*, That if the county assessor fails to accept the appraisal provided by the state tax commissioner, the county assessor shall show just cause to the valuation commission for the failure to accept such appraisal and shall further provide to the valuation commission a plan by which a different appraisal will be conducted.

(h) The tax commissioner may charge each county assessor's office the costs of appraising the industrial and natural resources property within that county, and any costs of defending same: *Provided*, That the office of the state attorney general shall provide legal representation on behalf of the tax commissioner or assessor, at no cost, in the event the industrial and natural resources appraisal is challenged in court. Such charges shall be paid from the county valuation fund. Any moneys so received from the counties shall be placed in a revolving state fund established in the state treasurer's office and shall be expended only to carry out the duties imposed upon the commissioner under this section.

(i) For purposes of revaluing managed timberland as defined in section two of this article, any increase or decrease in valuation by the commissioner shall not become effective prior to the first day of July, one thousand nine hundred ninety-one. The property owner may request a hearing by the director of the division of forestry, who may thereafter rescind the disqualification or allow the property owner a reasonable period of time in which to qualify the property. A property owner may appeal a disqualification to the circuit court in which the property is located.

§11-1C-11. Managed timberland.

Upon request of state, county or other taxing authorities of appropriate jurisdiction, the division of forestry shall inspect property under contract as managed timberland and determine whether or not such properties do qualify. In the event that a property is found not to qualify by reason of a change in use, or it is discovered that a material misstatement of fact was made by the owner in the certification required in §11C-1C-10(d)(1), the division of forestry shall notify the state tax commissioner that the property is disqualified from its identification as managed timberland.

§11-1C-12. Board of equalization and review; assessments; board of public works.

(a) As valuations of property in a county are completed to the extent that a total valuation for each class of property can be determined, such valuation shall be delivered by the assessor to the county commission, and the county commission, sitting as a board of equalization and review, shall use such appraised valuations as a basis for determining the true and actual value for assessment purposes of the several classes of property.

(b) For the tax year subsequent to the end of the initial valuation period in each county, and for each year thereafter, each county shall implement a uniform assessment that is equal to sixty percent of the most current appraised value for all real and personal property situated within the county. Such implementation shall be in accordance with provisions to be included in the plan required by section seven of this article.

(c) Until such time as the uniform sixty percent assessment required in subsection (b) is effected, the total assessed valuation in each of the four classes of property shall not be less than sixty percent nor more than one hundred percent of the appraised valuation of each said class of property.

(d) The board of public works, in performing the duties required in article six of this chapter relating to the assessment of public service businesses, shall submit on or before the first day of January, one thousand nine hundred ninety-one, a plan to the property valuation training and procedures commission for implementing on or before the first day of July, one thousand nine-hundred ninety-four, and for each year thereafter, a uniform assessment that is equal to sixty percent of the most current valuation for all property valued by the board of public works. Such plan shall be approved on or before the first day of July, one thousand nine hundred ninety-one.

§11-1C-13. Severability.

If any provisions of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or its application and to this end the provisions of this article are declared to be severable.

ARTICLE 8. LEVIES.

§11-8-6e. Effect on levy rate when appraisal results in tax increase; public hearings.

(a) Notwithstanding any other provision of law, where any annual appraisal, triennial appraisal or general valuation of property would produce an assessment that would cause an increase of one percent or more in the total projected property tax revenues that would be realized were the then current levy rates by the county commission and the municipalities to be imposed, the rate of levy shall be reduced proportionately as between the county commission and the municipalities and for all classes of property for the forthcoming tax year so as to cause such rate of levy to produce no more than one hundred one percent of the previous year's projected property tax revenues from extending the county commission and municipality levy rates, unless there has been compliance with subsection (c) of this section. An additional appraisal or valuation due to new construction or improvements to existing real property, including beginning recovery of natural resources, and newly acquired personal property shall not be an annual appraisal or general valuation within the meaning of this section, nor shall the assessed value of such improvements be included in calculating the new tax levy for purposes of this section. Special levies shall not be included in the reduced levy calculation set forth in subsection (b) of this section, but shall be continued for the remainder of the established period on the basis of the property values and levy rates in effect on the effective date of this bill.

(b) The reduced rates of levy shall be calculated in the following manner:

(1) The total assessed value of each class of property it is defined by section five, article eight of this chapter for the assessment period just concluded shall be reduced by deducting the total assessed value of newly created properties not assessed in the previous year's tax book for each class of property;

(2) The resulting net assessed value of Class I property

shall be multiplied by .01; the value of Class II by .02; and the values of Class III and IV, each by .04;

(3) Total the current year's property tax revenue resulting from regular levies for each county commission and municipality and multiply the resulting sum by one hundred one percent: *Provided*, That the one hundred one percent figure shall be increased by the amount the county's or municipality's increased levy provided for in subsection (b), section eight, article one-c of this chapter.

(4) Divide the total regular levy tax revenues, thus increased in subdivision (3), above, by the total weighted net assessed value as calculated in paragraph two of this section and multiply the resulting product by one hundred; the resulting number is the Class I regular levy rate, stated as cents-per-one hundred dollars of assessed value;

(5) The Class II rate is two times the class I rate; Classes III and IV, four times the Class I rate as calculated in the preceding subdivision.

(c) The governing body of a county or municipality may, after conducting a public hearing, which may be held at the same time and place as the annual budget hearing, increase the rate above the reduced rate required in this section if any such increase is deemed to be necessary by such governing body: *Provided*, That in no event shall the governing body of a county or municipality increase the rate above the reduced rate required by subsection (b) of this section for any single year in a manner which would cause total property tax revenues accruing to the governing body of the county or municipality, excepting additional revenue attributable to assessed valuations of newly created properties not assessed in the previous year's tax book for each class of property, to exceed by more then ten percent those property tax revenues received by the governing body of the county or municipality for the next preceding year: *Provided, however*, That this provision shall not restrict the ability of a county or municipality to enact excess levies as authorized under existing statutory or constitutional provisions.

Notice of the public hearing and the meeting in which the levy rate shall be on the agenda shall be given at least seven days before the date for each public hearing by the publication of a notice in at least one newspaper of general circulation in such county or municipality: *Provided,* That a Class IV town or village as defined in section two, article one, chapter eight of this code, in lieu of the publication notice required by this subsection, may post no less than four notices of each public hearing, which posted notices shall contain the information required by the publication notice and which shall be in available, visible locations including the town hall. The notice shall be at least the size of one-eighth page of a standard size newspaper or one-fourth page of a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than twenty-four point. The publication notice shall be placed outside that portion, if any, of the newspaper reserved for legal notices and classified advertisements and shall also be published as a Class II-O legal advertisement in accordance with the provisions of article three, chapter fifty-nine of this code. The publication area is the county. The notice shall be in the following form and contain the following information, in addition to such other information as the local governing body may elect to include:

NOTICE OF PROPOSED TAX INCREASE

The (name of the county or municipality) proposes to increase property tax levies.

1. Appraisal/Assessment Increase: Total assessed value of property, excluding additional assessments due to new or improved property, exceeds last year's total assessed value of property by ____ percent.

2. Lowered Rate Necessary to Offset Increased Assessment: The tax rate which would levy the same amount of property tax as last year, when multiplied by the new total assessed value of property with the exclusions mentioned above, would be $____ per $100 of assessed value for Class I property, $____ per $100 of

assessed value for Class II property, $____ per $100 of assessed value for Class III and $____ per $100 of assessed value for Class IV property. These rates will be known as the "lowered tax rates."

3. Effective Rate Increase: The (name of the county or municipality) proposes to adopt a tax rate of $____ per $100 of assessed value for Class I property, $____ per $100 of assessed value for Class II property, $____ per $100 of assessed value for Class III property and $____ per $100 of assessed value for Class IV property. The difference between the lowered tax rates and the proposed rates would be $____ per $100, or ____ percent for Class I; $____ per $100, or ____ percent for Class II; $____ per $100, or ____ percent for Class III and $____ per $100, or ____ percent for Class IV. These differences will be known as the "effective tax rate increases."

Individual property taxes may, however, increase at a percentage greater than or less than the above percentage.

4. Revenue produced last year: $____

5. Revenue projected under the effective rate increases: $____

6. Revenue projected from new property or improvements: $____

7. General areas in which new revenue is to be allocated: .

A public hearing on the increases will be held on (date and time) at (meeting place). A decision regarding the rate increase will be made on (date and time) at (meeting place).

(d) All hearings are open to the public. The governing body shall permit persons desiring to be heard an opportunity to present oral testimony within such reasonable time limits as are determined by the governing body.

(e) This section shall be effective as to any regular levy rate imposed by the county commission or a municipality for taxes due and payable on or after the first day of July, one thousand nine hundred ninety-one. If any provision of this section is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or its application and to this end the provisions of this section are declared to be severable.

§11-8-6f. Effect on school board levy rate when appraisal results in tax increase.

(a) Notwithstanding any other provision of law, where any annual appraisal, triennial appraisal or general valuation of property would produce a statewide aggregate assessment that would cause an increase of one percent or more in the total property tax revenues that would be realized were the then current levy rates of the county boards of education to be imposed, the rate of levy for county boards of education shall be reduced uniformly statewide and proportionately for all classes of property for the forthcoming tax year so as to cause such rate of levy to produce no more than one hundred one percent of the previous year's projected statewide aggregate property tax revenues from extending the county board of education levy rate, unless subsection (b) of this section is complied with. The reduced rates of levy shall be calculated in the following manner: (1) The total assessed value of each class of property as it is defined by section five, article eight of this chapter for the assessment period just concluded shall be reduced by deducting the total assessed value of newly created properties not assessed in the previous year's tax book for each class of property; (2) the resulting net assessed value of Class I property shall be multiplied by .01; the value of Class II by .02; and the values of Class III and IV, each by .04; (3) Total the current year's property tax revenue resulting from regular levies for the boards of education throughout this state and multiply the resulting sum by one hundred one percent: *Provided*, That the one hundred one percent figure shall be increased by the amount the boards of educations' increased levy provided for in subsection (b), section eight, article one-c of this chapter; (4) Divide the total regular levy tax revenues, thus increased in subdivision (3), above, by the total weighted net assessed value as calculated in paragraph two of this section and multiply the resulting product by one hundred; the resulting number is the Class I regular levy rate, stated as cents-per-one hundred dollars of assessed value; and (5) The Class II rate is two times the Class I rate; Classes III and IV, four times the Class I rate as calculated in the preceding subdivision. An additional appraisal or valuation due to new construction or improvements, including beginning recovery of natural resources, to existing real property or newly acquired personal property shall not be an annual appraisal or general valuation within the meaning of this section, nor shall the assessed value of such improvements be included in calculating the new tax levy for purposes of this section. Special levies shall not be included in any calculations under this section, but shall be continued for the remainder of the established period on the basis of the property values and levy rates in effect on the effective date of this bill.

(b) After conducting a public hearing, the Legislature may, by act, increase the rate above the reduced rate required in subsection (a) of this section if any such increase is deemed to be necessary.

(c) This section shall be effective as to any regular levy rate imposed for the county boards of education for taxes due and payable on or after the first day of July, one thousand nine hundred ninety-one. If any provision of this section is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or its application and to this end the provisions of this section are declared to be severable.

CHAPTER 18. EDUCATION.

§18-9A-11. Computation of local share; appraisal and assessment of property.

(a) For the fiscal year beginning on the first day of July, one thousand nine hundred ninety, the total assessed taxable value required for each class of property in each county shall not exceed the value so required by the tax commissioner for the fiscal year beginning on the first day of July, one thousand nine hundred eighty-nine. Thereafter, on the basis of the most recent property valuations in the state as to all classes of property in all counties as determined and published by the tax commissioner in reliance upon the appraised values annually developed by each county assessor pursuant to the provisions of article one-c and article three, chapter eleven of this code, the state board shall for each county compute by application of the levies for general current expense purposes, as defined in section two of this article, the amount of revenue which such levies would produce if levied upon one hundred percent of the appraised value of each of the several classes of property contained in the report or revised report of such value, made to it by the tax commissioner as follows:

(1) The state board shall first take ninety-seven and one-half percent of the amount ascertained by applying these rates to the total assessed public utility valuation in each classification of property in the county.

(2) The state board shall then apply these rates to the assessed taxable value of other property in each classification in the county as determined by the tax commissioner and shall deduct therefrom five percent as an allowance for the usual losses in collections due to discounts, exonerations, delinquencies and the like. All of the amount so determined shall be added to the ninety-seven and one-half percent of public utility taxes computed as provided above and this total shall be the local share of the particular county.

(b) Whenever in any year a county assessor or a county commission shall fail or refuse to comply with the provisions of this section in setting the valuations of property for assessment purposes in any class or classes of property in the county, the state tax commissioner shall review the valuations for assessment purposes made by the county assessor and the county commission and shall direct the county assessor and the county commission to make such corrections in the valuations as may be necessary so that they shall comply with the requirements of chapter eleven [§11-1-1 et seq.] of this code and this section, and the tax commissioner shall enter the county and fix the assessments at the required ratios. Refusal of the assessor or the county commission to make such corrections shall constitute ground for removal from office.

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

Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Donald L. Kopp
Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 31st

day of March, 1990.

Governor

PRESENTED TO THE
GOVERNOR
Date 3/27/90
Time 4:48 pm