

SB 766

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1998



ENROLLED

SENATE BILL NO. 766

(By Senator Wooten, ET AL)



PASSED MARCH 14, 1998

In Effect 90 Days From Passage

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OFFICE OF THE CLERK
SENATE OF WEST VIRGINIA
CHARLESTON, WEST VIRGINIA

ENROLLED

Senate Bill No. 766

(BY SENATORS WOOTON, BALL, DITTMAR, HUNTER, KESSLER,
OLIVERIO, ROSS, SNYDER, WHITE, DEEM AND SCOTT)

[Passed March 14, 1998; in effect ninety days from passage.]

AN ACT to amend article six, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twelve-a, relating to authorizing the board of public works to correct erroneous assessments.

Be it enacted by the Legislature of West Virginia:

That article six, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section twelve-a, to read as follows:

ARTICLE 6. ASSESSMENT OF PUBLIC SERVICE BUSINESSES.**§11-6-12a. Relief from erroneous assessments.**

1 (a) Any owner or operator claiming to be aggrieved by
2 an assessment of the board of public works, including
3 matters relating to the valuation of property resulting
4 from a clerical error or a mistake occasioned by an
5 unintentional or inadvertent act as distinguished from a
6 mistake resulting from negligence or the exercise of poor
7 judgment may, within sixty days of the effective date of
8 this section and thereafter within one year from the date
9 upon which the board of public works has set final values
10 or within one year from the time such clerical error or
11 mistake is discovered or reasonably could have been
12 discovered, apply for relief to the board of public works as
13 provided in this section.

14 (b) Upon the discovery of any such clerical error or
15 mistake, the secretary of the board of public works shall
16 send notice to the owner or operator affected by the
17 clerical error or mistake by first class mail advising the
18 owner or operator of the right to make application for
19 relief from the erroneous assessment.

20 (c) Except as otherwise provided in subsection (a) of this
21 section, the application for relief shall be presented to the
22 secretary of the board of public works no later than one
23 year from the date upon which the error or mistake is
24 discovered.

25 (d) If the board of public works determines that the
26 applicant is entitled to relief, any excess taxes already
27 paid shall be refunded or, if the taxes are charged but not
28 paid, the applicant shall be released from the payment of
29 such excess: *Provided*, That except for an application for
30 relief filed within sixty days of the effective date of this
31 section, in the event a mistake or error is discovered more
32 than one year from the date the board has set final values,
33 and the board determines the applicant is entitled to
34 relief, then any correction under this section shall be in

35 the form of a credit against future years' taxes.

36 (e) Whenever any correction is made by the board of
37 public works, the secretary of the board of public works
38 shall direct that the adjustments be made by the state tax
39 commissioner and communicated to the auditor for
40 correction of the tax statements. The auditor shall
41 thereafter cease any attempt to collect any amounts
42 erroneously charged against the owner or operator and, if
43 already collected, shall refund any excess taxes paid:
44 *Provided*, That except for an application for relief filed
45 within sixty days of the effective date of this section, in
46 the event a mistake or error is discovered more than one
47 year from the date the board has set final values, and the
48 board determines the applicant is entitled to relief, then
49 any correction under this section shall be in the form of a
50 credit against future years' taxes.

51 (f) The provisions of this section shall not be construed
52 to authorize the board of public works to consider any
53 question involving the assessment or valuation of property
54 which has been the subject matter of an appeal under the
55 provisions of section twelve of this article.

56 (g) Any owner or operator may appeal the decision of the
57 board of public works with respect to an application made
58 for relief under this section in the same manner as appeals
59 are authorized under the provisions of section twelve of
60 this article.

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

Andy Schooner
.....
Chairman Senate Committee

Nick Santoro
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Carroll Adams
.....
Clerk of the Senate

Eugene M. Burt
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

W. H. ...
.....
Speaker House of Delegates

The within *approved* this the *6th*
April
day of, 1998.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/31/98

Time 10:58 am