

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1006

By: Begley

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 1991, Sections 2803, as amended by Section 1, Chapter 326, O.S.L. 1994, 2808, 2837, 2838, 2840, 2844, 2847, 2848, 2855, 2857, 2858, 2859, 2860, 2867 and 2881, as amended by Section 3, Chapter 360, O.S.L. 1992 (68 O.S. Supp. 1994, Sections 2803 and 2881), which relate to the Ad Valorem Tax Code; providing for certain additional classification of property for purposes of ad valorem taxation; modifying definition of transportation company; providing that railroad and air carrier property be valued and assessed; clarifying statutory language relating to centrally assessed property; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 1991, Section 2803, as amended by Section 1, Chapter 326, O.S.L. 1994 (68 O.S. Supp. 1994, Section 2803), is amended to read as follows:

Section 2803. A. The Legislature, pursuant to authority of Article X, Section 22 of the Oklahoma Constitution, hereby

classifies the following types of property for purposes of ad valorem taxation:

1. Real property;

2. Personal property, except as provided in paragraph 3 of this subsection;

3. Personal property which is household goods of the head of families and livestock employed in support of the family in those counties which have exempted such property pursuant to subsection (b) of Section 6 of Article X of the Oklahoma Constitution; ~~and~~

4. Public service corporation property; and

5. Railroad and air carrier property.

B. Valuation of each class of subjects shall be made by a method appropriate for each class or any subclass thereof, as established by the Ad Valorem Division of the Oklahoma Tax Commission.

C. Classification as provided by this section shall require uniform treatment of each item within a class or any subclass as provided in Article X, Section 5 of the Oklahoma Constitution.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 2808, is amended to read as follows:

Section 2808. A. The term public service corporation, as used in the Ad Valorem Tax Code, shall include all transportation companies, transmission companies, all gas, electric, light, heat and power companies and all waterworks and water power companies, and all persons authorized to exercise the right of eminent domain or to use or occupy any right-of-way, street, alley, or public highway, along, over or under the same in a manner not permitted to the general public.

B. As used in the Ad Valorem Tax Code the term transportation company shall include any company, corporation, trustee, receiver, or any other person owning, leasing or operating for hire, a ~~railroad,~~ street railway, canal, steamboat line, and also any

sleeping car company, parlor car company and express company, ~~all air carriers, as defined under federal law, of scheduled passenger service and/or freight,~~ and any other company, trustee, or person in any way engaged in such business as a common carrier. As used in the Ad Valorem Tax Code, the term "transportation company" shall not include any railroad or any air carrier. However, all railroad and air carrier property shall continue to be valued and assessed by the State Board of Equalization for purposes of ad valorem taxation.

C. The term transmission company shall include any company, corporation, trustee, receiver, or other person owning, leasing or operating for hire any telegraph or telephone line or radio broadcasting system.

D. The term person as used in the Ad Valorem Tax Code shall include individuals, partnerships, associations, and corporations in the singular as well as plural number.

E. As used in the Ad Valorem Tax Code, the terms transmission company and public service corporation shall not be construed to include cable television companies.

SECTION 3. AMENDATORY 68 O.S. 1991, Section 2837, is amended to read as follows:

Section 2837. All corporations organized, existing or doing business in this state, other than ~~railroad~~ railroads, air carriers and public service corporations assessed by the State Board of Equalization, and other than national banks, state banks, trust companies, and building and loan associations, shall be assessed upon the value of their real property and personal property as listed separately by such corporation and less the value of any property which may be relieved of ad valorem taxation by the payment of an in lieu tax.

SECTION 4. AMENDATORY 68 O.S. 1991, Section 2838, is amended to read as follows:

Section 2838. A. All corporations organized, existing or doing business in this state, other than ~~railroad~~ railroads, air carriers and public service corporations assessed by the State Board of Equalization, and other than national banks, state banks and trust companies, and building and loan associations, shall, on or before March 15th of each year, return sworn lists or schedules of their taxable property within each county, to the county assessor of such county, and such property shall be listed with reference to amount, kind and value, on the first day of January of the year in which it is listed; and said property shall be subject to taxation for county, municipal, public school and other purposes to the same extent as the real and personal property of private persons, in the taxing districts in which such property is located. Any real estate owned by such corporation shall be assessed annually at the same time and in the same manner as real estate belonging to private persons. In making such sworn lists, all corporations shall itemize their property in the same manner and to the same extent as required by railroads, air carriers and public service corporations.

B. It shall be the duty of each corporation to make, under oath, and deliver to the county assessor of the county where its principal business is transacted, a statement on forms prescribed by the Oklahoma Tax Commission, of its authorized capital stock and the amount of capital paid thereon, the amount of its outstanding bonded and other indebtedness, the total amount of its invested capital within and without Oklahoma, and such other financial information as may be deemed necessary to enable the county assessor to determine the value of real or personal property owned by any such corporation; and each corporation shall also deliver to the county assessor of the county where its principal business is located, a copy of all lists or schedules of property filed in every other county in this state.

SECTION 5. AMENDATORY 68 O.S. 1991, Section 2840, is amended to read as follows:

Section 2840. A. Each county assessor shall prepare, build and maintain permanent records containing the following information:

1. The classification, grade and value of each tract of land located outside cities and towns and platted subdivisions and additions and the improvements thereon;

2. The description and value of all lots and tracts and the improvements thereon, and a list of lands that have been annexed to any city or town, commencing with the lowest numbered section and the different subdivisions and fractional parts thereof in the lowest numbered townships in the lowest numbered range in the county, and ending with the highest numbered section, township and range and the improvements thereon; and

3. The information required herein to be shown on such permanent records shall be shown as to tax exempt as well as taxable property, and shall be in such forms as may be acceptable to the Oklahoma Tax Commission. It shall not be necessary to place upon such records any grade or value on land and improvements owned by the United States of America, the State of Oklahoma or any subdivision thereof, or any land and improvements exempt from ad valorem taxation by reason of the same being used exclusively and directly for religious, charitable, or educational purposes, such as churches, schools, colleges, universities, cemeteries, and all lands owned by railroads, air carriers, and public service corporations that are assessed by the State Board of Equalization. Exempt Indian land and other exempt property shall be valued and the value placed upon such records.

B. When the valuation of the real estate of each county has been completed, as required by this section, it shall be the mandatory duty of the county assessor and each of his successors in office, to continuously maintain, revise and correct the records

relating thereto, and to continuously adjust and correct assessed valuations in conformity therewith. Such maintenance, revision and correction shall be made each year based upon the results of the calculations required by law to be performed each year in order to determine the fair cash value of all property within the county.

C. Each county assessor shall request in his budget request each year sufficient funds to carry out the provisions of this section. It shall be the mandatory duty of the several boards of county commissioners, the several county excise boards, and the several county budget boards each year to make sufficient appropriations to enable the county assessor to perform the duties required of him by this section. If any board of county commissioners, county excise board, or county budget board fails, neglects or refuses, upon written request of the county assessor, to provide adequate appropriations for supplies, deputy hire or traveling expenses for the performance of the duties imposed upon the county assessor by this section, such appropriations may be obtained by mandamus action instituted in district court by the county assessor or any other county officer, or any taxpayer of the county.

D. The classification and valuation provided for by this section shall be done under the supervisory assistance of the Oklahoma Tax Commission. The forms used in such classification and valuation of property shall be prescribed by the Oklahoma Tax Commission. Where the classification and valuation has already been completed, it shall not be necessary for the county assessor to again make such classification and valuation, except it shall be the duty of such county assessor to continuously maintain, revise and correct the same as required by this section.

SECTION 6. AMENDATORY 68 O.S. 1991, Section 2844, is amended to read as follows:

Section 2844. A. If any real, personal, railroad, air carrier or public service corporation property is omitted in the assessment of any prior year or years, and the property thereby escapes just and proper taxation, at any time and as soon as such omission is discovered, the county assessor or the county board of equalization, or the State Board of Equalization in the case of public service corporation property or railroad and air carrier property, whose duty it is to assess the class of property which has been omitted, shall at any time cause such property to be entered on the assessment rolls and tax rolls for the year or years omitted, not to exceed the last fifteen (15) years as to real property and the last three (3) years as to personal property, and shall, after reasonable notice to the parties affected, in order that they be heard, assess such omitted property for said periods and cause to be extended against the same on the tax rolls for the current year all arrearage of taxes properly accruing against it, including therein interest thereon at the rate of twelve percent (12%) per annum from the time such tax should have become delinquent.

B. If any tax on property subject to taxation is prevented from being collected for any year or years by reason of any erroneous proceedings, or failure to give notice, or otherwise, the amount of such tax which such property should have paid or should have been paid thereon shall be added to the tax on such property for the current year, and if for want of sufficient time or for any cause such assessment cannot be entered, and the tax thereon extended on the tax rolls for the current year, the same shall be done the following year.

SECTION 7. AMENDATORY 68 O.S. 1991, Section 2847, is amended to read as follows:

Section 2847. A. The property of all ~~railroad~~ railroads, air carriers and public service corporations shall be assessed annually

by the State Board of Equalization at its fair cash value estimated at the price it would bring at a fair voluntary sale.

B. Taxable values of real and personal property of all ~~railroad~~ railroads, air carriers and public service corporations shall be established in accordance with the requirements of Article X, Section 8 of the Oklahoma Constitution. The State Board of Equalization shall determine the taxable value of all taxable property that the Board is required by law to assess and value, and shall determine such taxable value in accordance with the requirements of Article X, Section 8 of the Oklahoma Constitution.

C. The percentage of fair cash value for real and personal property of railroads, air carriers and public service corporations required by the Oklahoma Constitution to be taxable, if less than one hundred percent (100%), shall be selected by the State Board of Equalization and, subject to the requirements of federal law, uniformly applied to calculate the taxable values of public service corporation property within the state for the applicable assessment year.

SECTION 8. AMENDATORY 68 O.S. 1991, Section 2848, is amended to read as follows:

Section 2848. A. Every railroad, air carrier and public service corporation organized, existing, or doing business in this state, shall, on or before April 15 of each year, return sworn lists or schedules of its taxable property to the Oklahoma Tax Commission as provided by law, or as may be required by the Commission; and such property shall be listed with reference to the amount, kind, and value as of the first day of January of the year in which it is listed; and said property shall be subject to taxation for county, municipal, public school and other purposes to the same extent as the real and personal property of individuals.

B. The Oklahoma Tax Commission may request certain financial data be included on any statement or schedule including, but not limited to:

1. The amount of capital stock authorized, and the number of shares into which such capital stock is divided;

2. The amount of capital stock paid up;

3. The market value of such stock, or if no market value, then the actual value of the shares of stock; and

4. The total amount of bonded indebtedness.

SECTION 9. AMENDATORY 68 O.S. 1991, Section 2855, is amended to read as follows:

Section 2855. Every sleeping-car company and parlor-car company engaged in business in this state shall file with the Oklahoma Tax Commission a statement under oath, showing the aggregate number of miles made by cars operated by such company over the several lines of railroad in this state during the fiscal year next preceding the date of such statement; the total number of cars owned by such company and the total value thereof and the average number of miles traveled by cars of the particular class covered by the statement in the ordinary course of business during the fiscal year, and it shall be the duty of the State Board of Equalization to ascertain the number of cars required to make the total mileage of cars of such corporation within the period of one (1) year. Said Board shall ascertain and fix a valuation upon each particular class of said cars, and the number so ascertained to be required to make the total mileage of the cars of each such corporation, within the period of one (1) year, shall be assessed to the respective corporations, and such assessment shall be included in the record of the proceedings of the Board and shall be certified by the State Auditor and Inspector to the county clerks of the several counties of the state wherein such cars are operated in the same manner as property of the

other railroads, air carriers and public service corporations is certified and returned.

SECTION 10. AMENDATORY 68 O.S. 1991, Section 2857, is amended to read as follows:

Section 2857. Should any railroad, air carrier or public service corporation doing business in this state fail or refuse to make the statements or schedules to the Oklahoma Tax Commission within the time and manner required by law, it shall be the duty of the State Board of Equalization to ascertain from the best information obtainable the value of the property of such company, and as a mandatory penalty shall add amounts as follows: If listed or assessed after April 15 but on or before May 15, ten percent (10%) of the assessed value; if listed or assessed after May 15, twenty percent (20%) of the assessed value. The Oklahoma Tax Commission may grant an extension without penalty, upon written request of the taxpayer and for a good cause, of not to exceed fifteen (15) days for the filing of the returns as required by the Ad Valorem Tax Code.

SECTION 11. AMENDATORY 68 O.S. 1991, Section 2858, is amended to read as follows:

Section 2858. A. The Oklahoma Tax Commission shall make its findings as to the assessment of all railroad, air carrier and public service corporation property; and such findings shall, on or before the third Monday of June of each year, be presented to the State Board of Equalization as recommendations for its final action under Section 21 of Article X of the Oklahoma Constitution. A copy of the Oklahoma Tax Commission's letter of transmittal of its findings shall, at such time, be furnished each member of said Board.

B. All duties, powers and authority of all officers and agencies of the state, relating to the assessment of railroad, air carrier and public service corporation property, which have been

conferred upon them and vested in them, by law, are hereby transferred to, conferred upon and vested in, the Oklahoma Tax Commission; excepting only the duties, powers and authority of the State Board of Equalization, as fixed and defined by Section 21 of Article X of the Oklahoma Constitution.

C. In the performance of its duties, as prescribed by this section, the Oklahoma Tax Commission, or any duly authorized representative thereof, shall have the power to administer oaths, to conduct hearings and to compel the attendance of witnesses and the production of the books, records and papers of any person, firm, association, or corporation, and to enter any business or commercial premises and inspect the property of the taxpayer.

D. Prior to entering the business or commercial premises of any taxpayer for purposes of discovering personal property, the Oklahoma Tax Commission shall request permission to enter the business or commercial premises and shall state the reason for the inspection. If access to the business or commercial premises is denied, the Oklahoma Tax Commission shall be required to obtain a search warrant in order to conduct an inspection of the interior of the business or commercial premises. A search warrant may be obtained upon a showing of probable cause that personal property located within particularly described business or commercial premises is subject to ad valorem taxation, but not listed or assessed for ad valorem taxation as required by law.

SECTION 12. AMENDATORY 68 O.S. 1991, Section 2859, is amended to read as follows:

Section 2859. A. The returns of ~~railroad~~ railroads, air carriers and public service corporations shall not be conclusive as to the value or amount of any property. The State Board of Equalization shall have the authority and it shall be its duty to raise or lower the returned value:

1. Of any personal property, to conform to the fair cash value thereof, estimated at the price it would bring at a fair voluntary sale; or

2. Of any real property at not to exceed its fair cash value for the highest and best use for which such property is actually used or classified for use.

B. It shall be the duty of the State Board of Equalization, with the assistance of the Oklahoma Tax Commission, to do all things necessary to enable it to assess and value all taxable property of ~~railroad~~ railroads, air carriers and public service corporations, discover omitted property, and determine the taxable status of any property which is claimed to be exempt from ad valorem taxation for any reason.

C. In the performance of its duties, as prescribed by this section, the State Board of Equalization, or any duly authorized representative thereof, shall have the power to administer oaths, to conduct hearings, and to compel the attendance of witnesses and the production of the books, records and papers of any person, firm, association, or corporation; and to enter any business or commercial premises and inspect the property of the taxpayer.

D. Prior to entering the business or commercial premises of any taxpayer for purposes of discovering personal property, the State Board of Equalization shall request permission to enter the business or commercial premises and shall state the reason for the inspection. If access to the business or commercial premises is denied, the State Board of Equalization shall be required to obtain a search warrant in order to conduct an inspection of the interior of the business or commercial premises. A search warrant may be obtained upon a showing of probable cause that personal property located within particularly described business or commercial premises is subject to ad valorem taxation, but not listed or assessed for ad valorem taxation as required by law.

SECTION 13. AMENDATORY 68 O.S. 1991, Section 2860, is amended to read as follows:

Section 2860. A. The State Board of Equalization, after having assessed all property of ~~railroad~~ railroads, air carriers and public service corporations in this state according to the provisions of the Ad Valorem Tax Code, shall cause the assessed valuations to be certified by the State Auditor and Inspector to the county assessors of each county in which any portion of the property of any such railroad, air carrier or public service corporation may be located. Such certificates of assessment shall show the various portions of the property of such corporations located and taxable in each county, and in every city, town, school district or other municipal subdivision thereof, and shall include a full statement of all property of such corporations located in each of the said several subdivisions, together with the assessed value thereof. Said valuations shall be certified by the State Auditor and Inspector to the assessors of the several counties wherein such property is located on or before the third Monday of June of each year.

B. The county assessor shall enter on his assessment roll in its appropriate place the assessed valuation of each railroad, air carrier and public service corporation, and at the proper time, place such assessment on the proper tax roll of his county, subject to the levies as provided by law.

SECTION 14. AMENDATORY 68 O.S. 1991, Section 2867, is amended to read as follows:

Section 2867. A. As soon as practicable after the assessment rolls are corrected and adjusted by the county board of equalization through the first Monday in June, the county assessor shall make out an abstract thereof, containing the total amount of property listed under the various classifications appearing on the blank forms for the listing and assessment of property, and the total value of each class, and it shall be the mandatory duty of the county assessor

under the penalties as outlined pursuant to Section ~~143~~ 2943 of this ~~act~~ title, to transmit this abstract to the Oklahoma Tax Commission not later than June 15 of each year ~~or~~ or the first working day thereafter, unless delayed by court action or other causes beyond his control.

B. It is hereby specifically provided that where any county assessor fails to comply with the provisions of this section by the time herein required, the Oklahoma Tax Commission shall immediately notify the chairman of the board of county commissioners and the county clerk of such county and neither such county assessor nor any of his deputies or employees shall be paid any remuneration, compensation or salary for the month of June and each succeeding month thereafter until such abstract is transmitted to the Oklahoma Tax Commission. This penalty provision shall be cumulative to the penalty provisions and requirements of Section ~~143~~ 2943 of this ~~act~~ title.

C. It shall be the duty of the Oklahoma Tax Commission to furnish the necessary forms for such abstract, which forms shall be subject to approval by the State Auditor and Inspector.

D. Within ten (10) days after the county assessor of each county receives from the State Board of Equalization the certificates of assessment of all ~~railroad~~ railroads, air carriers and public service corporations, and the equalized value of real and personal property of such county, it shall be the duty of the county assessor to prepare and file with the county excise board an abstract of the assessed valuations of the county and each municipal subdivision thereof as shown by his records through that date; and said abstract shall show separately the valuations of all personal property, real property, railroad and air carrier property and public service corporation property, in each municipality, and shall be properly totaled and balanced.

SECTION 15. AMENDATORY 68 O.S. 1991, Section 2881, as amended by Section 3, Chapter 360, O.S.L. 1992 (68 O.S. Supp. 1994, Section 2881), is amended to read as follows:

Section 2881. A. The secretary of the State Board of Equalization shall notify all railroads, air carriers and public service corporations of the ad valorem tax assessments rendered by the State Board, including the valuation, assessment ratio and total amount of assessment. The notice shall clearly be marked with the date upon which the notice was prepared. Such notice shall be mailed within one (1) working day of such date. The taxpayer shall have twenty (20) calendar days from date of such notice in which to file, with the Clerk of the Court of Tax Review, a written complaint, specifying his grievances, and the pertinent facts in relation thereto in ordinary and concise language and without repetition, and in such manner as to enable a person of common understanding to know what is intended.

B. After the filing of a complaint as provided for in subsection A of this section the State Board of Equalization shall have fifteen (15) days within which to file an answer. The Court of Tax Review shall set a date of hearing, conduct such hearing and render its decision within sixty (60) days of the date of the notice which caused the filing of the complaint. The Court of Tax Review shall be authorized and empowered to take evidence pertinent to said complaint, and for that purpose, is authorized to compel the attendance of witnesses and the production of books, records and papers by subpoena, and to confirm, correct or adjust the valuation, as required by law.

C. At the time of hearing upon a complaint filed pursuant to this section, the State Board of Equalization shall bear the burden of proof of supporting its action which is the subject matter of the complaint.

D. Either the State Board of Equalization or the party filing a complaint pursuant to this section may appeal the decision of the Court of Tax Review by filing a notice of intent to appeal with the Clerk of the Court of Tax Review within ten (10) calendar days of the date the final decision is rendered. Appeal shall be made to the Oklahoma Supreme Court which shall give precedence to such appeals and affirm the decision of the Court of Tax Review if supported by competent evidence.

SECTION 16. This act shall become effective July 1, 1995.

SECTION 17. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

45-1-5007

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