

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

SENATE BILL NO. 1179

By: Wilkerson of the Senate

and

Begley of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 62 O.S. 1991, Section 193, as last amended by Section 1, Chapter 273, O.S.L. 1993 (62 O.S. Supp. 1997, Section 193), which relates to the Ad Valorem Reimbursement Fund; modifying purposes for which monies from Fund may be expended; specifying certain requirements for claims for reimbursement from Fund; deleting obsolete language; specifying priority for payment of claims; directing Director of State Finance to make certain fund transfer; amending Section 6, Chapter 345, O.S.L. 1996 (68 O.S. Supp. 1997, Section 500.6), as last amended by Section 20 of Enrolled House Bill No. 3348 of the 2nd Session of the 46th Oklahoma Legislature, which relates to apportionment of gasoline tax; requiring funds in County Bridge Improvement Fund to be deposited in county highway fund or County Bridge and Road Improvement Fund; amending 68 O.S. 1991, Sections 2817, as last amended by Section 1, Chapter 318, O.S.L. 1997, 2841, 2842, 2857, as amended by Section 10, Chapter 57, O.S.L. 1995, 2875, 2880.1, 2884, as last amended by Section 2, Chapter 330, O.S.L. 1997, and 2892, as amended by Section 3, Chapter 345, O.S.L. 1997 (68 O.S. Supp. 1997, Sections 2817, 2857, 2884 and 2892), which relate to the Ad Valorem Tax Code; specifying procedure for assessment of personal property destroyed by certain events; allowing county assessor to combine value of land and improvements in preparation of land list and assessment roll; modifying penalties for failure or refusal to file certain information with Oklahoma Tax Commission; specifying apportionment thereof; modifying duties of Ad Valorem Division of the Oklahoma Tax Commission; providing that county assessor not be permitted to appeal certain orders of county board of equalization; authorizing county assessor to request declaratory judgment; providing for representation and funding for such requests; modifying certain duty of Oklahoma Tax Commission; clarifying language; modifying certain procedures when ad valorem taxes are protested; clarifying procedure for filing for homestead exemption; requiring exemption to be granted for certain year if filed by certain date; requiring exemption to be granted for certain year if filed after certain date; clarifying procedure for notifying county assessor of changes of ownership or use of property; providing for noncodification; repealing 62 O.S. 1991, Sections 192.1,

192.2 and 192.3, which relate to the Fund for Reimbursement of Counties; and providing effective dates.

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

SECTION 1. AMENDATORY 62 O.S. 1991, Section 193, as last amended by Section 1, Chapter 273, O.S.L. 1993 (62 O.S. Supp. 1997, Section 193), is amended to read as follows:

Section 193. A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Tax Commission to be designated the "Ad Valorem Reimbursement Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. Monies apportioned to this fund shall be expended ~~to~~:

1. To reimburse counties of this state for loss of revenue due to exemptions of ad valorem taxes for new or expanded manufacturing or research and development facilities; and

2. To reimburse counties of this state for loss of revenue for school district and county purposes due to exemptions granted pursuant to the provisions of Section 2890 of Title 68 of the Oklahoma Statutes.

Provided that it shall be the duty of the ~~Oklahoma~~ Tax Commission to assess the valuation of all property for new or expanded manufacturing or research and development facilities which are exempt from ad valorem taxes.

Monies apportioned to this fund also may be transferred to other state funds or otherwise expended as directed by the Legislature by law.

B. The county commissioners of each county seeking reimbursement for lost revenue from the Ad Valorem Reimbursement Fund shall make ~~one claim~~ claims for reimbursement on forms prescribed by the ~~Oklahoma~~ Tax Commission prior to April 30 of each year. Claims for reimbursement for loss of revenue due to exemptions of ad valorem taxes for new or expanded manufacturing or research and development facilities shall be made separately from claims for reimbursement for loss of revenue for school

district and county purposes due to exemptions granted pursuant to the provisions of Section 2890 of Title 68 of the Oklahoma Statutes. Provided, the assessed valuation of a school district as stated in the claim for reimbursement shall be the same as reported to the State Department of Education on the Estimate of Need and shall include the total valuation of property exempt from taxation pursuant to Section 2902 of Title 68 of the Oklahoma Statutes. ~~Said~~ The claims shall be either approved or disapproved in whole or in part by the Tax Commission by June 15 of each year. If the Tax Commission determines that an exemption has been erroneously or unlawfully granted, it shall notify the appropriate county assessor who shall immediately value and assess the property and place it on the rolls for ad valorem taxation. Disbursements from the fund shall be made on warrants issued by the State Treasurer against claims filed by the Tax Commission with the Office of State Finance for payment. ~~For the fiscal year ending June 30, 1988, and for each fiscal year thereafter, such~~ Such disbursements shall be exempt from all agency expenditure ceilings. The county treasurer shall apportion or disburse such funds for expenditures in the same manner as other ad valorem tax collections.

C. In the event monies apportioned to the Ad Valorem Reimbursement Fund are insufficient to pay all claims for reimbursement made pursuant to subsection B of this section, ~~the available~~ claims for reimbursement for loss of revenue due to exemptions of ad valorem taxes for new or expanded manufacturing or research and development facilities shall be paid first, and any remaining funds shall be distributed proportionally among the counties making claims for reimbursement for loss of revenue for school district and county purposes due to exemptions granted pursuant to the provisions of Section 2890 of Title 68 of the Oklahoma Statutes, according to the amount of the claim made by each county.

SECTION 2. On September 1, 1998, the Director of State Finance shall transfer all monies in the Fund for Reimbursement of Counties, created pursuant to the provisions of Section 192.1 of Req. No. 3091Page 3

Title 62 of the Oklahoma Statutes, to the Ad Valorem Reimbursement Fund, created pursuant to the provisions of Section 193 of Title 62 of the Oklahoma Statutes.

SECTION 3. AMENDATORY Section 6, Chapter 345, O.S.L. 1996 (68 O.S. Supp. 1997, Section 500.6), as last amended by Section 20 of Enrolled House Bill No. 3348 of the 2nd Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 500.6 A. The tax of sixteen cents (\$0.16) per gallon of gasoline that is levied by Section 500.4 of this title, and penalties and interest thereon, collected by the Oklahoma Tax Commission under the levy shall be apportioned and distributed monthly as follows:

1. The first Two Hundred Fifty Thousand Dollars (\$250,000.00) of the levy collected each month shall be deposited in the State Treasury to the credit of the State Transportation Fund;

2. One and six hundred twenty-five one-thousandths percent (1.625%) of the levy shall be remitted to the State Treasurer to the credit of the General Revenue Fund of the State Treasury;

3. Sixty-three and seventy-five one-hundredths percent (63.75%) of the levy shall be deposited in the State Treasury to the credit of the State Transportation Fund to be apportioned as follows:

a. the first Eight Hundred Fifty Thousand Dollars (\$850,000.00) collected each fiscal year shall be deposited into the Public Transit Revolving Fund, created in Section 4031 of Title 69 of the Oklahoma Statutes,

b. the second Eight Hundred Fifty Thousand Dollars (\$850,000.00) collected each fiscal year shall be deposited into the Railroad Maintenance Revolving Fund and shall be used by the Department of Transportation to contract railroad passenger services, including but not limited to a route linking stations in Oklahoma and Tulsa Counties with other primary points in the national railroad passenger system and passenger rail service within

the state and to provide necessary facility, signaling, and track improvements for those contracted services,

- c. forty-one and two-tenths percent (41.2%) of the monies apportioned to the State Transportation Fund shall be used for any purpose provided for in Section 1502 of Title 69 of the Oklahoma Statutes,
- d. nine and eight-tenths percent (9.8%) of the monies apportioned to the State Transportation Fund shall be used to provide funds for the construction and maintenance of farm-to-market roads on the state highway system, and other rural farm-to-market roads and bridges, and
- e. any remaining amount of the apportionment shall be deposited into the State Transportation Fund;

4. Twenty-seven percent (27%) of the levy shall be transmitted by the Tax Commission to the various counties of the state, to be apportioned and used as follows:

- a. sixty-five and three-tenths percent (65.3%) of the monies apportioned under this paragraph shall be used on the following basis:
 - (1) forty percent (40%) of such sum shall be distributed to the various counties in the proportion which the county road mileage of each county bears to the entire state road mileage as certified by the ~~State~~ Transportation Commission, and
 - (2) the remaining sixty percent (60%) of such sum shall be distributed to the various counties on the basis which the population and area of each county bears to the total population and area of the state. The population shall be as shown by the last Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census,

- b. twenty-three and one-tenth percent (23.1%) of the monies apportioned under this paragraph shall be distributed to the counties in the following manner: One-third (1/3) on area; one-third (1/3) on rural population, defined as including the population of all municipalities with a population of less than five thousand (5,000) according to the latest Federal Decennial Census; and one-third (1/3) on county road mileage, as last certified by the Department of Transportation, as each county bears to the entire area, rural population and road mileage of the state, and
- c. eleven and six-tenths percent (11.6%) of the monies apportioned under this paragraph shall be distributed to the various counties of the state based on a formula developed by the ~~Oklahoma~~ Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes. The formula shall be similar to the formula currently used for the distribution of monies in the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to county road improvement and maintenance costs. Any county may, by resolution of the board of county commissioners, direct the ~~Oklahoma~~ Tax Commission to deposit the funds apportioned pursuant to this subparagraph directly into the County Bridge and Road Improvement Fund to be used for the purposes set forth in the County Bridge and Road Improvement Act;

5. Three and one hundred twenty-five one-thousandths percent (3.125%) of the levy shall be distributed to the various counties of the state based on a formula developed by the ~~Oklahoma~~ Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section

Req. No. 3091Page 6

302.1 of Title 69 of the Oklahoma Statutes. The formula shall be similar to the formula currently used for the distribution of monies in the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to county road improvement and maintenance costs. Any county may, by resolution approved by a majority of the board of county commissioners and filed with the ~~Oklahoma~~ Tax Commission, direct the ~~Oklahoma~~ Tax Commission to deposit the funds apportioned pursuant to this paragraph directly into the County Bridge and Road Improvement Fund to be used for the purposes set forth in the County Bridge and Road Improvement Act;

6. Two and six hundred twenty-five one-thousandths percent (2.625%) of the levy shall be deposited in the County Bridge and Road Improvement Fund of the State Treasury to be used for the purposes set forth in the County Bridge and Road Improvement Act; and

7. One and eight hundred seventy-five one-thousandths percent (1.875%) of the levy shall be transmitted by the Tax Commission to the treasurers of the various incorporated cities and towns of the state in the percentage which the population, as shown by the last Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census, bears to the total population of all the incorporated cities and towns in this state. The funds shall be expended for the construction, repair and maintenance of the streets and alleys of the incorporated cities and towns of this state.

B. 1. The funds apportioned or transmitted pursuant to subparagraphs a, b, and c of paragraph 4 of subsection A of this section, subsection B of Section 500.7 of this title, subsection B of Section 704 of this title, Section 706 of this title, and paragraph 2 of subsection D of Section 707.3 of this title shall be sent to the respective county treasurers and deposited in the county highway fund to be used by the county commissioners for the purpose of constructing and maintaining county highways and bridges.

2. The funds received by any county shall not be diverted to any other county of the state, and shall only be expended under the direction and control of the board of county commissioners in the county to which the funds are appropriated. If any part of the funds is diverted for any other purpose, the county commissioners shall be liable on their bond for double the amount of the money so diverted. This paragraph shall not prohibit counties from entering into cooperative agreements pertaining to the maintenance and construction of roads and bridges.

3. Where any county highway has been laid out over a road already constructed in any county by the use of money raised from county bond issues for that purpose, either alone or by the use of federal or state aid, or both, the county commissioners may set aside out of the funds apportioned to that county, as provided in this section, an amount of money equal to the value of any part thereof, of the interest of such county in such highway or bridge, which amount of money shall be considered by the excise board in reducing the levy for the purpose of retiring the bonded indebtedness and interest thereon of the county, and shall be used for investment or deposit in the same manner as provided by law for the disposition of other sinking fund money.

4. In all counties where the county excise board may find it necessary, because of insufficient revenue, to maintain county government out of the general fund, after a levy of ten (10) mills has been made for any fiscal year, the county excise board may appropriate out of any such funds apportioned to the county an amount sufficient to pay the salaries of the county commissioners of the county for the fiscal year.

5. Counties may use funds deposited in the county highway fund for the purpose of matching federal or state funds, provided such funds are available, as necessary to secure assistance in the construction or improvement of the county road system.

C. With regards to the apportionment of the levy as set forth in paragraph 5 of subsection A of this section, paragraph 5 of subsection A of Section 500.7 of this title, and subsection C of Section 707.2 of this title:

1. If any county has an accrued balance of funds which were appropriated to or otherwise accrued in a restricted road maintenance fund, such funds shall be deposited directly to the county highway fund of the county;

2. If any county has an accrued balance of funds which were appropriated to or otherwise accrued in the County Road Improvement Fund, or the County Bridge Improvement Fund, as ~~that fund~~ such funds existed prior to ~~the effective date of this act~~ July 1, 1997, such funds shall, by resolution approved by a majority of the board of county commissioners and filed with the Department of Transportation, be deposited in the county highway fund of the county or shall be deposited to the County Bridge and Road Improvement Fund to be used for the purposes set forth in the County Bridge and Road Improvement Act; and

3. If any county has an advanced funding agreement with the Department of Transportation, the Department of Transportation shall notify the Tax Commission as to the amount the county is obligated to pay according to the terms of the advanced funding agreement. The obligated amount shall be transferred each month by the Tax Commission to the Department of Transportation to the credit of the County Bridge and Road Improvement Fund from the funds apportioned to the county pursuant to paragraph 5 of subsection A of this section. A county may elect to increase the monthly amount to be repaid pursuant to the advanced funding agreement from the funds apportioned to the county, but a county shall not be permitted to reduce the amount agreed to pursuant to the advanced funding agreement.

D. The tax levied on gasoline pursuant to Section 500.4A of this title, and the penalties and interest thereon, collected by the Tax Commission under the levy shall be apportioned and distributed on a monthly basis to the State Highway Construction and Maintenance Fund for the purposes authorized by Section 1502 of Title 69 of the Oklahoma Statutes.

SECTION 4. AMENDATORY 68 O.S. 1991, Section 2817, as last amended by Section 1, Chapter 318, O.S.L. 1997 (68 O.S. Supp. 1997, Section 2817), is amended to read as follows:

Section 2817. A. All taxable personal property, except intangible personal property, personal property exempt from ad valorem taxation, or household personal property, shall be listed and assessed each year at its fair cash value, estimated at the price it would bring at a fair voluntary sale, as of January 1.

The fair cash value of household personal property shall be valued at ten percent (10%) of the appraised value of the improvement to the residential real property within which such personal property is located as of January 1 each year. The assessment of household personal property as provided by this section may be altered by the taxpayer listing such property at its actual fair cash value. For purposes of establishing the value of household personal property, pursuant to the requirement of Section 8 of Article X of the Oklahoma Constitution, the percentage of value prescribed by this section for the household personal property shall be presumed to constitute the fair cash value of the personal property.

All unmanufactured farm products shall be assessed and valued as of the preceding May 31. Every person, firm, company, association, or corporation, in making the assessment, shall assess all unmanufactured farm products owned by the person, firm, company, association or corporation on the preceding May 31, at its fair cash value on that date instead of January 1.

Stocks of goods, wares and merchandise shall be assessed at the value of the average amount on hand during the preceding year, or the average amount on hand during the part of the preceding year the stock of goods, wares or merchandise was at its January 1 location.

B. All taxable real property shall be assessed annually as of January 1, at its fair cash value, estimated at the price it would bring at a fair voluntary sale for:

1. The highest and best use for which the property was actually used during the preceding calendar year; or

2. The highest and best use for which the property was last classified for use if not actually used during the preceding calendar year.

The Ad Valorem Division of the Oklahoma Tax Commission shall be responsible for the promulgation of rules which shall be followed by each county assessor of the state, for the purposes of providing for the equitable use valuation of locally assessed real property in ~~the State of Oklahoma~~ this state. Agricultural land and nonresidential improvements necessary or convenient for agricultural purposes shall be assessed for ad valorem taxation based upon the highest and best use for which the property was actually used, or was previously classified for use, during the calendar year next preceding January 1 on which the assessment is made.

C. The use value of agricultural land shall be based on the income capitalization approach using cash rent. The rental income shall be calculated using the direct capitalization method based upon factors including, but not limited to:

1. Soil types, as depicted on soil maps published by the Soil Conservation Service of the United States Department of Agriculture;

2. Soil productivity indices approved by the Ad Valorem Division of the ~~Oklahoma~~ Tax Commission;

3. The specific agricultural purpose of the soil based on use categories approved by the Ad Valorem Division of the ~~Oklahoma~~ Tax Commission; and

4. A capitalization rate to be determined annually by the Ad Valorem Division of the ~~Oklahoma~~ Tax Commission based on the sum of the average first mortgage interest rate charged by the Federal Land Bank for the immediately preceding five (5) years, weighted with the prevailing rate or rates for additional loans or equity, and the effective tax rate.

The final use value will be calculated using the soil productivity indices and the agricultural use classification as defined by rules promulgated by the State Board of Equalization. This subsection shall not be construed in a manner which is inconsistent with the ~~State Board of Equalization's~~ duties, powers and authority of the Board as to valuation of the counties as

fixed and defined by Section 21 of Article X of the Oklahoma Constitution.

D. The use value of nonresidential improvements on agricultural land shall be based on the cost approach to value estimation using currently updated cost manuals published by the Marshall and Swift Company or similar cost manuals approved by the Ad Valorem Division of the ~~Oklahoma~~ Tax Commission. The use value estimates for the nonresidential improvements shall take obsolescence and depreciation into consideration in addition to necessary adjustments for local variations in the cost of labor and materials. This section shall not be construed in a manner which is inconsistent with the ~~State Board of Equalization's~~ duties, powers and authority of the Board as to equalization of valuation of the counties as determined and defined by Section 21 of Article X of the Oklahoma Constitution.

The use value of facilities used for poultry production shall be determined according to the following procedures:

1. The Ad Valorem Division of the Tax Commission is hereby directed to develop a standard system of valuation of both real and personal property of such facilities, which shall be used by all county assessors in this state, under which valuation based on the following shall be presumed to be the fair cash value of the property:

- a. for real property, a ten-year depreciation schedule, at the end of which the residual value is twenty percent (20%) of the value of the facility during its first year of operation, and
- b. for personal property, a five-year depreciation schedule, at the end of which the residual value is zero;

2. Such facilities shall be valued only in comparison to other facilities used exclusively for poultry production. Such a facility which is no longer used for poultry production shall be deemed to have no productive use;

3. During the first year such a facility is placed on the tax rolls, its fair cash value shall be presumed to be the lesser of

the actual purchase price or the actual documented cost of construction; and

4. For the purpose of determining the valuation of nonresidential improvements used for poultry production, the provisions of this subsection shall be applicable and such improvements shall not be considered to be commercial property.

E. The transfer of real property without a change in its use classification shall not require a reassessment thereof based exclusively upon the sale value of the property. However, if the county assessor determines:

1. That by reason of the transfer of a property there is a change in the actual use or classification of the property; or

2. That by reason of the amount of the sales consideration it is obvious that the use classification prior to the transfer of the property is not commensurate with and would not justify the amount of the sales consideration of the property;

then the assessor shall, in either event, reassess the property for the new use classification for which the property is being used, or, the highest and best use classification for which the property may, by reason of the transfer, be classified for use.

F. When the term "fair cash value" or the language "fair cash value, estimated at the price it would bring at a fair voluntary sale" is used in the Ad Valorem Tax Code, in connection with and in relation to the assessment of real property, it is defined to mean and shall be given the meaning ascribed and assigned to it in this section; ~~and~~ and when the term or language is used in the Code in connection with the assessment of personal property it shall be given its ordinary or literal meaning.

G. Where any real property is zoned for a use by a proper zoning authority, and is not being used for any higher or better use classification, the purpose for which the property is zoned shall be considered the highest and best use classification of the property for determining its value for assessment purposes; however, the zoning classification for assessment purposes shall only apply in the event that the rezoning occurs by reason of the application of the landowner or the agent of the landowner. Any

reassessment required shall be effective January 1 following the change in use or classification and upon a transfer of ownership of the rezoned property. Taxable real property need not be listed annually with the county assessor.

H. If any real property shall become taxable after January 1 of any year, the county assessor shall assess the same and place it upon the tax rolls for the next ensuing year. When any improvements or buildings having value are placed upon real estate after January 1 of any year, the value of the improvements shall be added by the county assessor to the assessed valuation for the next ensuing year; however, in case the improvements or buildings are new construction for single family residential purposes only, the improvements or buildings shall be deemed completed and to have a value for assessment purposes when the improvements or buildings shall have been conveyed to a bona fide purchaser or when they have been occupied, whichever shall first occur before January 1 of the initial assessment year. In the event that the single family residential improvements were not conveyed to a bona fide purchaser, occupied or completed within the year prior to January 1 of the initial assessment year, the county assessor shall assess the improvements based on the fair market value of the materials used therein. The county assessor shall continue to assess the improvements or buildings based upon the fair market value of the materials used therein until the single family residential improvements are conveyed to a bona fide purchaser or occupied. In case the improvements, other than buildings, are made in anticipation of residential or commercial development and the property is not conveyed or leased within the year prior to January 1 of the year that the improvements would initially be assessed, fair cash value of the property shall be deemed to be the lesser of the fair cash value of the property with the improvements or the fair cash value of the property immediately prior to the improvements being made. The county assessor shall continue to assess the property based upon such fair cash value until the property is leased or conveyed.

I. In case improvements on land or personal property located therein or thereon are destroyed by fire, lightning, storm, winds, floodwaters, overflow of streams or other cause, or the value of land is impaired, damaged or destroyed by fire, lightning, storm, winds, floodwaters, overflow of streams or other cause, after January 1 and before the adjournment of the county board of equalization during any year, the county board of equalization, in cooperation with the county assessor, shall determine the amount of damage, and shall make an order directing the assessment of the property for that year at the fair cash value of the property, as defined herein, taking into account the damage occasioned by fire, lightning, storm, winds, floodwaters, overflow of streams or other causes.

SECTION 5. AMENDATORY 68 O.S. 1991, Section 2841, is amended to read as follows:

Section 2841. Each county assessor in the state shall prepare and keep a book to be known as a "land list", which shall contain ~~the:~~

1. The name of the owner and a description, sufficient for identification of all real estate in the county, with the number of acres and value of the land and the value of the improvements; ~~the~~

2. The number of the lot or lots; ~~the~~

3. The name of the city or town; ~~the~~

4. The value of the city or town lots; ~~and the~~

5. The value of the improvements.

Provided, in those counties in this state which have approved an exemption of household goods of the heads of families and livestock employed in support of the family from ad valorem taxation pursuant to the provisions of subsection (b) of Section 6 of Article X of the Oklahoma Constitution, the county assessor may, in preparation of the land list, combine the value of land and improvements thereon. The county assessor shall correct the land list each year before commencing the assessment by noting thereon all transfers of record as shown by the office of county clerk, and shall note thereon such transfers as may be brought to

Req. No. 3091Page 15

~~his~~ the attention of the assessor while assessing, and also note thereon what real estate is not subject to taxation and the reason therefor. The land list shall be in such form as may be acceptable to the Oklahoma Tax Commission.

SECTION 6. AMENDATORY 68 O.S. 1991, Section 2842, is amended to read as follows:

Section 2842. A. Each county assessor in the state shall annually prepare an assessment roll, which shall be in such form as may be prescribed by the Oklahoma Tax Commission and shall contain the following:

1. A list of all lands in the county in numerical order beginning with the lowest numbered section, in the lowest numbered township in the lowest numbered range in the county, and ending in the highest numbered section, township and range, with the number of acres in each tract, and the numbers of the school districts in which such lands are located, and the name and address of the owner in each instance excepting unplatted lands located inside a city or town;

2. A list of town lots in each town or city in like numerical order and the unplatted lands located inside each city and town, in numerical order beginning with the lowest numbered section in the lowest numbered township and range with the number of acres in each tract, and the number of the school district in which such lots or tracts are located, and the name and address of the owner in each instance;

3. A list in alphabetical order of all persons and bodies corporate in whose names any personal property has been assessed, the address of each such taxpayer, the number of the school district in which such property is taxable, with a sufficient number of columns opposite each name to enter the value, and where practicable the number of the several classes of property assessed to each property owner;

4. The value fixed by the county assessor of all property; and additional columns to show the equalized value as fixed by the State Board of Equalization. In listing real estate the value of land and improvements shall be shown separately in each instance;

provided, in those counties in this state which have approved an exemption of household goods of the heads of families and livestock employed in support of the family from ad valorem taxation pursuant to the provisions of subsection (b) of Section 6 of Article X of the Oklahoma Constitution, the county assessor may, in preparation of the assessment roll, combine the value of land and improvements thereon; and

5. Such other information as may be required by the ~~Oklahoma~~ Tax Commission. Each property in which there is a homestead interest shall be entered on a separate line, and the assessment roll shall show the total assessed valuation of each homestead, the amount of exemption allowed, and the assessed valuation less the exemption.

B. The assessment roll shall be correctly balanced and it shall be the mandatory duty of the county assessor as outlined under the penalties of Section 2943 of this title to deliver the completed roll to the county board of equalization on or before the fourth Monday in April of each year, in order that ~~said~~ the board may correct and adjust the taxable value of the property of the county.

C. Prior to November 1 each year, the county assessor shall submit on a form prepared by the ~~Oklahoma~~ Tax Commission a report to the Tax Commission which states the net assessed valuation and millage levy of each political subdivision or taxing authority of the state that is authorized to levy a property tax regardless of whether such property tax is actually levied.

SECTION 7. AMENDATORY 68 O.S. 1991, Section 2857, as amended by Section 10, Chapter 57, O.S.L. 1995 (68 O.S. Supp. 1997, Section 2857), is amended to read as follows:

Section 2857. A. Should any railroad, air carrier or public service corporation doing business in this state fail or refuse to ~~make~~ file the statements or schedules ~~to~~ with 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.~~

B. There shall be assessed by the State Board of Equalization an administrative penalty for every day which a railroad, air carrier or public service corporation doing business in this state fails or refuses to file the statements or schedules with the Tax Commission within the time and manner required by law in the amount of Two Hundred Dollars (\$200.00) per day for each county in which such entity has property subject to ad valorem tax. The State Board of Equalization shall be responsible for collecting this penalty and shall remit fifty percent (50%) of such penalty to the county general fund of the counties in which such entity has property subject to ad valorem tax. Fifty percent (50%) of such penalty shall be deposited in the General Revenue Fund.

SECTION 8. AMENDATORY 68 O.S. 1991, Section 2875, is amended to read as follows:

Section 2875. A. There is hereby created within the Oklahoma Tax Commission the Ad Valorem Division which shall be administered by a Director. References to the Oklahoma Tax Commission in any provision of the Oklahoma Statutes in relation to ad valorem taxation shall be construed to mean the Ad Valorem Division of the Oklahoma Tax Commission unless the context clearly requires otherwise.

B. The Director of the Ad Valorem Division shall be a citizen of the United States, at least thirty (30) years of age, and shall have three (3) years of experience in ad valorem assessment administration including employment by a state governmental agency or entity responsible for annual valuation of taxable property pursuant to a computerized or computer-assisted mass appraisal system. The Director shall also possess an official professional appraiser designation from at least one of the following

organizations: American Institute of Real Estate Appraisers, American Society of Appraisers, American Society of Farm Managers and Rural Appraisers, International Association of Assessing Officers, International Right-of-Way Association, National Association of Independent Fee Appraisers, National Society of Real Estate Appraisers, and the Society of Real Estate Appraisers.

C. The Director of the Ad Valorem Division shall organize the Division in such manner as the Director deems advisable to discharge the duties and responsibilities of the Ad Valorem Division.

D. The Ad Valorem Division shall have the authority and it shall be its duty to:

1. Confer with and assist county assessors and county boards of equalization in the performance of their duties, to the end that all assessments of property be made relative, just and uniform and that real property and tangible personal property may be assessed at its fair cash value estimated at the price it would bring at a fair voluntary sale;

2. Prescribe forms with numbers ascribed thereto for the county assessors' use in assessment procedure, including property classification and appraisal forms;

3. Provide technical assistance to county assessors and county boards of equalization in the services of appraisal engineers;

4. Provide from year to year schedules of values of personal property to aid county assessors in the assessment of personal property;

5. Conduct training schools, institutes, conferences and meetings for the purpose of improving the qualifications of county assessors and their deputies as required by law;

6. Prepare and furnish from time to time to county assessors an assessors' manual. Such manual shall include, but not be limited to, valuation methodologies for property in a county for which no comparable property exists in order for a county assessor to establish a value for ad valorem tax purposes. The manual shall include information concerning valuation of hazardous waste

disposal facilities and such other types of facilities as may be requested by the county assessor for which the assessor does not have adequate data to value such property;

7. Render such other assistance as may be conducive to the proper assessment of property for ad valorem taxation;

8. Adopt regulations establishing uniform procedures and standards for the appraisal of real property by county assessors; ~~and~~

9. Develop assessment manuals for the valuation of manufactured homes and periodic updates for such manuals for use by county assessors; and

10. Promptly notify county assessors, county treasurers and members of county excise and equalization boards of any changes to the laws relating to ad valorem taxation.

E. The county assessors shall not use any form not prescribed or approved by the Ad Valorem Division.

F. Each county assessor shall comply with the rules, regulations, and guides adopted by the Ad Valorem Division.

G. The Ad Valorem Division, upon request of any county assessor, shall furnish to the county assessor any information shown by its files and records as to any real and personal property, subject to taxation, including income and expense data as shown by income tax returns, to the end that no property shall escape taxation, and this information is to be furnished notwithstanding any statute that such files and records shall be confidential and privileged.

H. The Ad Valorem Division shall be authorized to obtain information relating to the ownership, location, taxable status or valuation for purposes of ad valorem taxation of real or personal property from any state agency, board, commission, department, authority or other division of state government if necessary to respond to a request by a county assessor as provided by subsection G of this section. Such information shall be confidential and privileged and shall only be released to a county assessor in order to locate, discover and correctly value taxable property as required by law.

SECTION 9. AMENDATORY 68 O.S. 1991, Section 2880.1, is amended to read as follows:

Section 2880.1 A. Both the taxpayer and the county assessor shall have the right of appeal from any order of the county board of equalization to the district court of the same county, and right of appeal of either may be either upon questions of law or fact including value, or upon both questions of law and fact. In case of appeal the trial in the district court shall be de novo. Provided, the county assessor shall not be permitted to appeal an order of the county board of equalization upon a question of the constitutionality of a law upon which the board based its order, but the county assessor is hereby authorized in such instance to request a declaratory judgment to be rendered by the district court.

B. Notice of appeal shall be filed with the county clerk as secretary of the county board of equalization, which appeal shall be filed in the district court within ten (10) days after the final adjournment of the board. It shall be the duty of the county clerk to preserve all complaints and to make a record of all orders of the board and both the complaint and orders shall be a part of the record in any case appealed to the district court from the county board of equalization.

C. Either the taxpayer or the county assessor may appeal from the district court to the Supreme Court, as provided for in the Code of Civil Procedure, but no matter shall be reviewed on such appeal which was not presented to the district court.

D. In such appeals to the district court and to the Supreme Court and in requests for declaratory judgment it shall be the duty of the district attorney to appear for and represent the county assessor. ~~It shall be the duty of the~~ The General Counsel or an attorney for the Tax Commission ~~to~~ may appear in such appeals or requests for declaratory judgment on behalf of the county assessor, either upon request of the ~~county~~ district attorney for assistance, or upon request of the county assessor. It shall be the mandatory duty of the board of county commissioners and the county excise board to provide the necessary

funds to enable the county assessor to pay the costs necessary to be incurred ~~by him~~ in perfecting appeals and requests for declaratory judgment made by ~~him~~ the county assessor to the courts.

E. In all appeals taken by the county assessor the presumption shall exist in favor of the correctness of the county assessor's valuation and the procedure followed by ~~him~~ the county assessor.

SECTION 10. AMENDATORY 68 O.S. 1991, Section 2884, as last amended by Section 2, Chapter 336, O.S.L. 1997 (68 O.S. Supp. 1997, Section 2884), is amended to read as follows:

Section 2884. A. The full amount of the taxes assessed against the property of any taxpayer who has appealed from a decision affecting the value or taxable status of such property as provided by law shall be paid at the time and in the manner provided by law. If at the time such taxes or any part thereof become delinquent and any such appeal is pending, it shall abate and be dismissed upon a showing that the taxes have not been paid.

B. ~~By~~ When such taxes are paid, or by December 31, whichever is earlier, the persons ~~paying~~ protesting the taxes shall give notice to the county treasurer that an appeal involving such taxes has been taken and is pending, and shall set forth the total amount of tax that has been paid under protest or required by law to be paid prior to April 1 that will be paid under protest. The notice shall be on a form prescribed by the Tax Commission. If taxes are paid in two equal installments and the amount paid under protest does not exceed fifty percent (50%) of the full amount of assessed taxes, all protested taxes shall be specified in the second installment payment. If such amount does exceed fifty percent (50%) of the full amount of assessed taxes, then the portion of protested taxes that exceeds fifty percent (50%) of the full amount of assessed taxes shall be specified in the first installment payment and the entire second installment shall be specified to be paid under protest. The taxpayer shall attach to such notice a copy of the petition filed in the court or other appellate body in which the appeal was taken. For railroads, air

Req. No. 3091Page 22

carriers, and public service corporations, the amount of taxes protested shall not exceed the amount of tax calculated on the protested assessed valuation specified in the complaint filed pursuant to the provisions of subsection A of Section 2881 of this title.

C. It shall be the duty of the county treasurer to hold taxes paid under protest separate and apart from other taxes collected. Any portion of such taxes not paid under protest shall be apportioned as provided by law. The treasurer shall invest the protested taxes in the same manner as the treasurer invests surplus tax funds not paid under protest, but shall select an investment medium which will permit prompt refund or apportionment of the protested taxes upon final determination of the appeal.

D. 1. Prior to January 31 of each year, the county treasurer shall determine the amount of ad valorem taxes paid under protest and those ad valorem taxes that will be paid under protest pursuant to subsection B of this section. The county treasurer shall then notify the State Auditor and Inspector of the total amount of paid protested ad valorem taxes and anticipated protested ad valorem taxes, the total amount of protested taxes and anticipated protested taxes by each individual taxpayer, and how such paid protested ad valorem taxes and anticipated protested ad valorem taxes would have been apportioned to each school district and vocational-technical school district by fund ~~if~~ had such amount of protested ad valorem taxes ~~had~~ not been protested.

2. The State Auditor and Inspector shall compile all of the information submitted by the county treasurers in a format which shall set forth the total amount of paid and anticipated protested taxes for each school district and vocational-technical school district by fund and a total for each school district and vocational-technical school district by fund. This information shall then be submitted by the State Auditor and Inspector to the State Superintendent of Public Instruction, the Director of the State Department of Vocational and Technical Education, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate ~~by March 1 of each year~~. If any of the

information ~~compiled by~~ submitted to the State Auditor and Inspector changes after ~~March 1~~ being submitted, the county treasurer shall notify the State Auditor and Inspector and the State Auditor and Inspector shall submit revised information to the parties enumerated in this paragraph within thirty (30) days of such change.

3. Within ten (10) days of the release of the escrowed ad valorem taxes by the county treasurer, as required by subsection E of this section, the county treasurer shall submit a schedule showing the disposition of the released funds, separated by fund for each school district and area school, to the State Auditor and Inspector. The State Auditor and Inspector shall certify the apportionment schedule and transmit a copy to the State Superintendent of Public Instruction and the Director of the State Department of Vocational and Technical Education.

4. The State Auditor and Inspector shall promulgate any necessary rules to implement the provisions of this subsection.

E. 1. In cases involving taxpayers other than railroads, air carriers, or public service corporations, if upon the final determination of any such appeal, the court shall find that the property was assessed at too great an amount, the board of equalization from whose order the appeal was taken shall certify the corrected valuation of the property of such taxpayers to the county assessor, in accordance with the decision of the court, and shall send a copy of such certificate to the county treasurer. Upon receipt of the corrected certificate of valuation, the county assessor shall compute and certify to the county treasurer the correct amount of taxes payable by the taxpayer. The difference between the amount paid and the correct amount payable, with accrued interest, shall be refunded by the treasurer to the taxpayer upon the taxpayer filing a proper verified claim therefor, and the remainder paid under protest, with accrued interest, shall be apportioned as provided by law.

2. If upon the final determination of any appeal, the court shall find that the property of the railroad, air carrier, or public service corporation was assessed at too great an amount,

the State Board of Equalization from whose order the appeal was taken shall certify the corrected valuation of the property of the railroads, air carriers, and public service corporations to the State Auditor and Inspector in accordance with the decision of the court. Upon receipt of the corrected certificate of valuation, the State Auditor and Inspector shall certify to the county treasurer the correct valuation of the railroad, air carrier, or public service corporation and shall send a copy of the certificate to the county assessor, who shall make the correction as specified in Section 2871 of this title. The difference between the amount paid and the correct amount payable with accrued interest shall be refunded by the treasurer upon the taxpayer filing a proper verified claim, and the remainder paid under protest with accrued interest shall be apportioned according to law.

F. If an appeal is upon a question of valuation of the property, then the amount paid under protest by reason of the question of valuation being appealed shall be limited to the amount of taxes assessed against the property for the year in question less the amount of taxes which would be payable by the taxpayer for that year if the valuation of the property asserted by the taxpayer in the appeal were determined by the court to be correct.

G. If an appeal is upon a question of assessment of the property, then the amount paid under protest by reason of the question of assessment being appealed shall be limited to the amount of taxes assessed against the property for the year in question less the amount of taxes which would be payable by the taxpayer for that year if the assessment of the property asserted by the taxpayer in the appeal was determined by the court to be correct.

SECTION 11. AMENDATORY 68 O.S. 1991, Section 2892, as amended by Section 3, Chapter 345, O.S.L. 1997 (68 O.S. Supp. 1997, Section 2892), is amended to read as follows:

Section 2892. A. ~~Each taxpayer who applies for~~ To receive a homestead exemption shall, a taxpayer shall be required to file an

application with the county assessor. Such application may be filed at any time; provided, the county assessor shall, if such applicant otherwise qualifies, grant a homestead exemption for a tax year only if the application is filed on or before the fifteenth day of March in any year following the year of:

~~1. The purchase of real estate; or~~

~~2. The change of use or status of real property, so as to entitle it to homestead exemption~~ March 15 of such year. If an application for a homestead exemption is filed after March 15, the county assessor shall, if such applicant otherwise qualifies, grant the homestead exemption beginning with the following tax year.

B. Any taxpayer who has been granted a homestead exemption and who continues to occupy such homestead property as a homestead, shall not be required to reapply for such homestead exemption.

C. Once granted, the homestead exemption shall remain in full force and effect for each succeeding year, so long as:

1. The record of actual property ownership is vested in the taxpayer;

2. The instrument of ownership is on record in the county clerk's office;

3. The owner-taxpayer is in all other respects entitled by law to the homestead exemption; and

4. The taxpayer has no delinquent accounts appearing on the personal property tax lien docket in the county treasurer's office. On October 1st of each year, the county treasurer will provide a copy of the personal property tax lien docket to the county assessor. Based upon the personal property tax lien docket, the county assessor shall act to cancel the homestead exemption of all property owners having delinquent personal property taxes. Such cancellation of the homestead exemption will become effective January 1 of the following year and will remain in effect for at least one (1) calendar year; however, such cancellation will not become effective January 1 of the following year if the taxpayer pays such delinquent personal property taxes

prior to January 1. Cancellation of the homestead exemption will require the county assessor to notify each taxpayer no later than January 1 of the next calendar year whose homestead is canceled and will require the taxpayer to refile an application for homestead exemption by those dates so indicated in this section and the payment of all delinquent personal property taxes before the homestead can be reinstated.

D. Any purchaser or new owner of real property must file an application for homestead exemption as herein provided.

E. The application for homestead exemption shall be filed with the county assessor of the county in which the homestead is located.

A taxpayer applying for homestead exemption shall not be required to appear before the county assessor in person to submit such application.

F. The property owner shall sign and swear to the truthfulness and correctness of the application's contents. If the property owner is a minor or incompetent, the legal guardian shall sign and swear to the contents of the application.

G. The county assessor and duly appointed deputies are authorized and empowered to administer the required oaths.

H. The taxpayer shall notify the county assessor ~~the year~~ following any change in the use of property with homestead exemption thereon. The notice of change in homestead exemption status of property shall be in writing and may be filed with the county assessor at any time on or before ~~the fifteenth day of~~ March 15 of the next following year after which such change occurs. The filing of a deed or other instrument evidencing a change of ownership or use shall constitute sufficient notice to the county assessor.

I. Any single person of legal age, married couple and their minor child or children, or the minor child or children of a deceased person, whether residing together or separated, or surviving spouse shall be allowed under this Code only one homestead exemption in the State of Oklahoma.

J. Any property owner who fails to give notice of change to the county assessor and permits the allowance of homestead exemption for any succeeding year where such homestead exemption is unlawful and improper shall owe the county treasurer:

1. An amount equal to twice the amount of the taxes lawfully due but not paid by reason of such unlawful and improper allowance of homestead exemption; and

2. The interest and penalty on such total sum as provided by statutes on delinquent ad valorem taxes. There shall be a lien on the property while such taxes are unpaid, but not for a period longer than that provided by statute for other ad valorem tax liens.

K. Any person who has intentionally or knowingly permitted the unlawful and improper allowance of homestead exemption shall forfeit the right to a homestead exemption on any property in this state for the two (2) succeeding years.

SECTION 12. The provisions of Section 2 of this act shall not be codified in the Oklahoma Statutes.

SECTION 13. REPEALER 62 O.S. 1991, Sections 192.1, 192.2 and 192.3, are hereby repealed.

SECTION 14. Sections 1, 2, 12 and 13 of this act shall become effective September 1, 1998. Sections 3, 4, 5, 6 and 11 of this act shall become effective November 1, 1998. Section 7 of this act shall become effective January 1, 1999.

46-2-3091 CD (<time=system>)