

SHORT TITLE: Ad valorem taxation; transferring duty of conducting study on adjustment and equalization of property valuation from Oklahoma Tax Commission to State Auditor and Inspector; effective date.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 295

By: Stipe

AS INTRODUCED

An Act relating to ad valorem taxation; amending 68 O.S. 1991, Sections 2865 and 2866, which relate to property valuation and ratios; transferring duty of conducting study on adjustment and equalization of property valuation from Oklahoma Tax Commission to State Auditor and Inspector; granting certain powers to and imposing certain responsibilities upon State Auditor and Inspector in connection therewith; amending 70 O.S. 1991, Sections 18-102 and 18-109.1, which relate to State Aid to school districts; deleting legislative intent; requiring certain forms and reports to be filed with State Auditor and Inspector; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 2865, is amended to read as follows:

Section 2865. A. ~~The Oklahoma Tax Commission~~ State Auditor and Inspector shall render ~~its~~ his or her findings as to the adjustment and equalization of the valuation of real and personal property of the several counties of the state by reporting to the State Board of Equalization the ratio derived from comparing the assessed value of the real property of each county to the full or fair cash value of

the real property of such county; and such findings shall, on or before December 1 of each calendar 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.

B. All duties, powers and authority relating to the adjustment and equalization of the valuation of real and personal property of the several counties of the state, shall be vested in the ~~Oklahoma Tax Commission~~ State Auditor and Inspector, 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 assessment of all property which it is their duty to assess for taxation, all county officers shall continue to perform all the duties required of them, and to exercise all the powers and authority vested in them, by law.

D. In the performance of its duties, as herein defined, the ~~Oklahoma Tax Commission~~ State Auditor and Inspector, 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, or of any county; and to enter any business or commercial premises and inspect the property of the taxpayer.

E. Prior to entering the business or commercial premises of any taxpayer for purposes of discovering personal property, the ~~Oklahoma Tax Commission~~ State Auditor and Inspector 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~~ State Auditor and Inspector 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 2. AMENDATORY 68 O.S. 1991, Section 2866, is amended to read as follows:

Section 2866. A. For purposes of reporting to the State Board of Equalization the ratio derived from comparing the assessed value of the real property of each county to the full or fair cash value of such real property, the ~~Oklahoma Tax Commission~~ State Auditor and Inspector shall conduct and publish an equalization ratio study for each county annually in accordance with the requirements of this section.

B. The equalization ratio study shall be conducted in a manner that ensures:

1. ~~the~~ The ratio of assessed value to the fair cash value of properties in a sample extracted from a county is expressed as a median of the ratios determined for all properties included in the sample;

2. ~~sample~~ Sample data gathered for purposes of establishing the fair cash value of properties within the sample relates to the applicable assessment date of the study in a manner that produces reliable ratio study results;

3. ~~sample~~ Sample sizes of sufficient numbers to produce an estimated ratio for a use category within a county or a ratio for an entire county at a ratio that accurately estimates the true, but unknown, assessment level;

4. ~~appraisals~~ Appraisals selected for inclusion in the ratio study are representative of the use category or stratum of properties included in the sample;

5. ~~sales~~ Sales files containing adequate information are developed and maintained for purposes of appraisals; and

6. ~~uniformity~~ Uniformity of assessments within a use category or stratum for a county do not exceed a coefficient of dispersion value of twenty percent (20%).

C. ~~The Oklahoma Tax Commission~~ State Auditor and Inspector shall provide for a computer system that permits the equalization ratio study to be conducted pursuant to the requirements of this section. Such computer system shall be designed to permit monitoring and analysis of assessment performance in the several counties ~~and~~. The State Auditor and Inspector shall allow the Oklahoma Tax Commission such access to the system as may be necessary for the Tax Commission to detect noncompliance with legal standards for valuation of taxable property in order to fulfill the duties imposed by Section 2830 of this title. The provisions of this subsection shall not be construed to authorize the ~~Oklahoma Tax Commission~~ State Auditor and Inspector to install a mainframe computer capable of remote monitoring of or making inputs into computers in the offices of the various county assessors.

SECTION 3. AMENDATORY 70 O.S. 1991, Section 18-102, is amended to read as follows:

Section 18-102. ~~The Legislature recognizes that it would be unfair to the taxpaying citizens of the state to base a system of state financial aid to schools upon the amounts of local ad valorem taxes collected for education as this act does without equalizing ad valorem assessments throughout the state. It is the intention of the Legislature to equalize ad valorem assessments so that every parcel and item of taxable property in the state will be assessed at the same percentage of its fair cash value. To provide the information necessary for the accomplishment of this goal of equalization the~~
The following procedure is hereby established:

1. At the time a deed or other instrument of conveyance is presented to the county clerk for filing, the clerk will present to the grantee a form to be mailed within fifteen (15) days to the

~~Oklahoma Tax Commission~~ State Auditor and Inspector on which the grantee will state the consideration paid. ~~Said~~ The statement shall not be revealed to the county clerk, county assessor, nor any other official, but is to be mailed ~~direct~~ directly to ~~said Tax Commission~~ the State Auditor and Inspector where the information will be treated as confidential and privileged. The purpose of the reports is so that ~~said Tax Commission~~ the State Auditor and Inspector may have ~~said~~ the information to prepare statistics showing the sales assessment ratio in each county-;

2. The county clerk will forward to the ~~Tax Commission~~ State Auditor and Inspector each ninety (90) days a report showing each conveyance transaction in ~~their~~ the county for ~~said~~ such period of time listing the name and address of the grantee and the description of the property involved-; and

3. If the consideration is not a total cash transaction, the grantee will show the cash consideration paid and the amount of any mortgage assumed or owed on the form, which will be prepared by the ~~Tax Commission~~ State Auditor and Inspector. ~~Said~~ The form shall have a proviso as follows: "If the above consideration which was paid does not represent the true market value of the property involved, please state why." This will give the grantee the right to state in his or her own words the reason why ~~he~~ the grantee might have paid more than the actual or usual price for the property involved. The ~~Tax Commission~~ State Auditor and Inspector shall use the information collected for no other reason than to prepare statistical information on each county and school district, to be presented to the Oklahoma Legislature. In preparing these statistical tables for each county, the ~~Tax Commission~~ State Auditor and Inspector will not use as a basis for ~~their~~ ratios, land sold for industrial use, for development purposes or highway purchases, as regards the value of the balance of adjacent lands of the grantor.

SECTION 4. AMENDATORY 70 O.S. 1991, Section 18-109.1, is amended to read as follows:

Section 18-109.1 The Legislature hereby declares, for the purpose of financial support to school districts through the State Aid Formula, that greater equalization of State Aid to school districts will be attained by the following procedure:

1. For the 1989-90 school year, the real property portion of the valuations for those school districts in counties having an assessment ratio in excess of twelve percent (12%) shall be computed at a twelve percent (12%) assessment ratio to determine chargeable valuations. Beginning with the 1990-91 school year, the real property portion of the valuations for those school districts in counties having an assessment ratio in excess of eleven percent (11%) shall be computed at an eleven percent (11%) assessment ratio to determine chargeable valuations. Beginning with the 1991-92 school year, the commercial personal and agricultural personal property portion of the valuations for those school districts in counties having an assessment ratio in excess of eleven percent (11%) shall be computed at an eleven percent (11%) assessment ratio to determine chargeable valuations. The Oklahoma Tax Commission shall supply to the State Department of Education the information necessary to carry out the provisions of this paragraph-;

2. The real property portions of the valuations for those school districts in counties having an actual assessment ratio of less than twelve percent (12%) shall be computed at the actual assessment ratio in effect for the county as determined by the ~~Oklahoma Tax Commission~~ State Auditor and Inspector in order to determine chargeable valuations for calculating State Aid to such district if such ratio is at least nine percent (9%) and the county is certified by the Oklahoma Tax Commission to have a verifiable revaluation program using property identification cards for the applicable assessment year-;

3. The real property portion of the valuations for those school districts in counties which have an actual assessment ratio of less than twelve percent (12%) as determined by the State Auditor and Inspector and which are not certified by the Oklahoma Tax Commission to have a verifiable revaluation program using property identification cards shall be computed at a twelve percent (12%) assessment ratio to determine chargeable valuations. For each school year, the actual assessment ratio shall be the assessment ratio recommended by the ~~Oklahoma Tax Commission~~ State Auditor and Inspector and certified by the State Board of Equalization for the applicable assessment year-;

4. The Oklahoma Tax Commission shall certify by October 1, for each applicable assessment year, to the State Superintendent of Public Instruction those counties which have revaluation programs using property identification cards. The Oklahoma Tax Commission shall, as soon as practicable, certify to the State Superintendent of Public Instruction and the district attorney for the applicable county the date as of which a county implements a verifiable revaluation program using property identification cards after October 1 of any year-;

5. Any county assessor who fails to have an approved revaluation program using property identification cards shall pay a penalty in the amount of One Hundred Dollars (\$100.00) for each calendar day beyond October 1 of any year that the county does not have a verifiable revaluation program using property identification cards. The penalty shall be imposed for each calendar day on and after October 2 of each year until the county implements a verifiable revaluation program using property identification cards; provided, that such penalty shall be collected from any county assessor of a county which did not have a verifiable revaluation program using property identification cards as of October 1, 1985, for each day from and after July 1, 1986, that the applicable county

does not have a verifiable revaluation program using property identification cards-;

6. Upon receipt of certification by the Oklahoma Tax Commission of the counties having approved revaluation programs, the State Superintendent of Public Instruction shall cause notice to be mailed by return receipt mail to the county assessor, the district attorney, the county treasurer and the superintendent of each school district of any county not included in the certification-;

7. The district attorney, upon receipt of the notice provided for in paragraph 6 of this section, shall immediately institute an action to collect the One Hundred Dollar (\$100.00) penalty for each day that the county does not have a verifiable revaluation program using property identification cards. The district attorney shall be authorized to institute a single action in district court pursuant to which any amount of penalty may be collected for any day the assessor fails to implement the revaluation program using property identification cards. Any amount of such fine collected shall be deposited in a special account within the county general fund. Such amounts shall be apportioned to the school districts of the county on the basis of the preceding year's average daily attendance-;

8. The district attorney shall initiate action for removal of the county assessor from office for malfeasance if the county assessor has not instituted a verifiable revaluation program using property identification cards within thirty (30) days after the district attorney receives notice from the State Superintendent of Public Instruction. Initiation of an action for the removal of the county assessor for malfeasance as required by this section is a mandatory duty of the office of the district attorney. If the district attorney fails to initiate an action within forty (40) days after receipt of the notice from the State Superintendent of Public Instruction, and the county assessor has not implemented a verifiable revaluation program using property identification cards,

the district attorney shall pay a penalty of One Hundred Dollars (\$100.00) for each day that an action could have been filed for the removal of the county assessor and such action has not been filed or until the county assessor implements the revaluation program using property identification cards. The Attorney General shall initiate an action to collect the penalty from the district attorney pursuant to the authority of Section 18b of Title 74 of the Oklahoma Statutes. All penalties collected pursuant to the provisions of this paragraph shall be deposited in the special account within the county general fund and apportioned to the school districts of the county on the basis of the preceding year's average daily attendance-; and

9. The notice to the superintendents of the various school districts from the State Superintendent of Public Instruction shall state that the State Aid formula funds computed for such districts based upon the actual assessment ratio valuations in excess of the amount computed upon twelve percent (12%) assessment ratio valuations shall be withheld from distribution to the school district until the office of the county assessor has complied with the requirement of a verifiable revaluation program using property identification cards.

SECTION 5. This act shall become effective January 1, 1998.

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