

CS for SB 958

1 THE STATE SENATE
2 Monday, February 25, 2008

3 Committee Substitute for
4 Senate Bill No. 958

5 COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 958 - By: JOLLEY and COFFEE
6 of the Senate and TERRILL of the House.

7 [revenue and taxation - ad valorem taxes - fair cash
8 value -
9 emergency]

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

11 SECTION 1. AMENDATORY 68 O.S. 2001, Section 2817, as
12 last amended by Section 1, Chapter 329, O.S.L. 2007 (68 O.S. Supp.
13 2007, Section 2817), is amended to read as follows:

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

19 The fair cash value of household personal property shall be
20 valued at ten percent (10%) of the appraised value of the
21 improvement to the residential real property within which such
22 personal property is located as of January 1 each year. The
23 assessment of household personal property as provided by this
24 section may be altered by the taxpayer listing such property at its
25 actual fair cash value. For purposes of establishing the value of

1 household personal property, pursuant to the requirement of Section
2 8 of Article X of the Oklahoma Constitution, the percentage of value
3 prescribed by this section for the household personal property shall
4 be presumed to constitute the fair cash value of the personal
5 property.

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

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

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

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

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

1 When improvements upon residential real property are divided by
2 a taxing jurisdiction line, those improvements shall be valued and
3 assessed in the taxing jurisdiction in which the physical majority
4 of those improvements are located.

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

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

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

22 2. Soil productivity indices approved by the Ad Valorem
23 Division of the Tax Commission;

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

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

10 The final use value will be calculated using the soil
11 productivity indices and the agricultural use classification as
12 defined by rules promulgated by the State Board of Equalization.
13 This subsection shall not be construed in a manner which is
14 inconsistent with the duties, powers and authority of the Board as
15 to valuation of the counties as fixed and defined by Section 21 of
16 Article X of the Oklahoma Constitution.

17 However, in calculating the use value of buffer strips as
18 defined in Section 2817.2 of this title, exclusive consideration
19 shall be based only on income from production agriculture from such
20 buffer strips, not including federal or state subsidies, when valued
21 as required by subsection C of Section 2817.2 of this title.

22 D. The use value of nonresidential improvements on agricultural
23 land shall be based on the cost approach to value estimation using

1 currently updated cost manuals published by the Marshall and Swift
2 Company or similar cost manuals approved by the Ad Valorem Division
3 of the Tax Commission. The use value estimates for the
4 nonresidential improvements shall take obsolescence and depreciation
5 into consideration in addition to necessary adjustments for local
6 variations in the cost of labor and materials. This section shall
7 not be construed in a manner which is inconsistent with the duties,
8 powers and authority of the Board as to equalization of valuation of
9 the counties as determined and defined by Section 21 of Article X of
10 the Oklahoma Constitution.

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

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

19 a. for real property, a ten-year depreciation schedule,
20 at the end of which the residual value is twenty
21 percent (20%) of the value of the facility during its
22 first year of operation, and

1 b. for personal property, a five-year depreciation
2 schedule, at the end of which the residual value is
3 zero;

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

8 3. During the first year such a facility is placed on the tax
9 rolls, its fair cash value shall be presumed to be the lesser of the
10 actual purchase price or the actual documented cost of construction;
11 and

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

16 E. The value of investment in property used exclusively by an
17 oil refinery that is used wholly as a facility, device or method for
18 the desulphurization of gasoline or diesel fuel as defined in
19 Section 2817.3 of this title shall not be included in the
20 capitalization used in the determination of fair market value of
21 such oil refinery if such property would qualify as exempt property
22 pursuant to Section 2902 of this title, whether or not an
23 application for such exemption is made by an otherwise qualifying

1 manufacturing concern owning the property described by Section
2 2817.3 of this title.

3 F. The use value of a lot in any platted addition or a
4 subdivision in a city, town or county zoned for residential,
5 commercial, industrial or other use shall be deemed to be the fair
6 cash value of the underlying tract of land platted, divided by the
7 number of lots contained in the platted addition or subdivision
8 until the lot with building or buildings located thereon shall have
9 been conveyed to a bona fide purchaser or shall have been occupied
10 other than as a sales office by the owner thereof, or shall have
11 been leased, whichever event shall first occur. One who purchases a
12 lot for the purposes of constructing and selling a building on such
13 lot shall not be deemed to be a bona fide purchaser for purposes of
14 this section. However, if the lot is held for a period longer than
15 two (2) years before construction, then the assessor may consider
16 the lot to have been conveyed to a bona fide purchaser. The cost of
17 any land or improvements to any real property required to be
18 dedicated to public use, including, but not limited to, streets,
19 curbs, gutters, sidewalks, storm or sanitary sewers, utilities,
20 detention or retention ponds, easements, parks or reserves shall not
21 be utilized by the county assessor in the valuation of any real
22 property for assessment purposes.

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

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

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

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

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

1 ~~H.~~ I. Where any real property is zoned for a use by a proper
2 zoning authority, and the use of the property has not been changed,
3 the use and not zoning shall determine assessment. Any reassessment
4 required shall be effective January 1 following the change in use.
5 Taxable real property need not be listed annually with the county
6 assessor.

7 ~~F.~~ J. If any real property shall become taxable after January 1
8 of any year, the county assessor shall assess the same and place it
9 upon the tax rolls for the next ensuing year. When any building is
10 constructed upon land after January 1 of any year, the value of the
11 building shall be added by the county assessor to the assessed
12 valuation of the land upon which the building is constructed at the
13 fair cash value thereof for the next ensuing year. However, after
14 the building has been completed it shall be deemed to have a value
15 for assessment purposes of the fair cash value of the materials used
16 in such building only, until the building and the land on which the
17 building is located shall have been conveyed to a bona fide
18 purchaser or shall have been occupied or used for any purpose other
19 than as a sales office by the owner thereof, or shall have been
20 leased, whichever event shall first occur. The county assessor
21 shall continue to assess the building based upon the fair market
22 value of the materials used therein until the building and land upon
23 which the building is located shall have been conveyed to a bona

1 fide purchaser or is occupied or used for any purpose other than as
2 a sales office by the owner thereof, or is leased, whichever event
3 shall first occur. ~~However, the fair cash value of a lot in any~~
4 ~~platted addition or a subdivision in a city, town or county zoned~~
5 ~~for residential, commercial, industrial or other use shall be deemed~~
6 ~~to be the total purchase price paid by the developer of the addition~~
7 ~~or subdivision for the land comprising the platted addition or~~
8 ~~subdivision divided by the number of lots contained in the addition~~
9 ~~or subdivision until the lot with building or buildings located~~
10 ~~thereon shall have been conveyed to a bona fide purchaser or shall~~
11 ~~have been occupied other than as a sales office by the owner~~
12 ~~thereof, or shall have been leased, whichever event shall first~~
13 ~~occur. One who purchases a lot for the purposes of constructing and~~
14 ~~selling a building on such lot shall not be deemed to be a bona fide~~
15 ~~purchaser for purposes of this section. However, if the lot is held~~
16 ~~for a period longer than two (2) years before construction, then the~~
17 ~~assessor may consider the lot to have been conveyed to a bona fide~~
18 ~~purchaser. The cost of any land or improvements to any real~~
19 ~~property required to be dedicated to public use, including, but not~~
20 ~~limited to, streets, curbs, gutters, sidewalks, storm or sanitary~~
21 ~~sewers, utilities, detention or retention ponds, easements, parks or~~
22 ~~reserves shall not be utilized by the county assessor in the~~
23 ~~valuation of any real property for assessment purposes.~~

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

14 SECTION 2. It being immediately necessary for the preservation
15 of the public peace, health and safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval.

18 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-19-08 - DO PASS,
19 As Amended and Coauthored.