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SENATE BILL 874

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Carlos R. Cisneros

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING FOR AND PERMITTING THE
ELECTION OF ALTERNATIVE METHODS OF VALUATION OF PROPERTY USED
FOR THE GENERATION, TRANSMISSION OR DISTRIBUTION OF ELECTRIC
POWER OR ENERGY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-36-29 NMSA 1978 (being Laws 1975,
Chapter 165, Section 10) is amended to read:

"7-36-29. SPECIAL METHOD OF VALUATION--PROPERTY USED FOR
THE GENERATION, TRANSMISSION OR DISTRIBUTION OF [~~ELECTRICAL~~]
ELECTRIC POWER OR ENERGY. --

A. All property used for the generation,
transmission or distribution of [~~electrical~~] electric power or
energy subject to valuation for property taxation purposes
shall be valued in accordance with the provisions of this

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1 section.

2 B. As used in this section:

3 [~~(3)~~] (1) "construction work in progress"
4 means the total of the balances of work orders for an electric
5 plant in process of construction on the last day of the
6 preceding calendar year exclusive of land, land rights and
7 licensed vehicles;

8 [~~(1)~~] (2) "depreciation" means straight line
9 depreciation over the useful life of the item of property;

10 (3) "economic obsolescence" means, with
11 respect to valuation for property taxation purposes, the loss
12 in value caused by unfavorable economic influences or factors
13 outside of the property; "economic obsolescence" is the loss
14 in value in addition to a loss in value attributable to
15 physical depreciation;

16 [~~(2)~~] (4) "electric plant" means all property
17 situated in this state used or useful for the generation,
18 transmission or distribution of electric power or energy, but
19 does not include land, land rights, general buildings and
20 improvements, construction work in progress, materials and
21 supplies and licensed vehicles;

22 (5) "functional obsolescence" means, with
23 respect to valuation for property taxation purposes, the loss
24 in value caused by functional inadequacies or deficiencies
25 caused by factors within the property; "functional

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1 obsolescence" is the loss in value in addition to a loss in
2 value attributable to physical depreciation;

3 [~~(4)~~] (6) "general buildings and
4 improvements" means buildings of the nature of offices,
5 residential housing, warehouses, shops and associated
6 improvements in general use by the taxpayer and not directly
7 associated with generation, transmission or distribution of
8 [~~electrical~~] electric power or energy;

9 [~~(5)~~] (7) "materials and supplies" means the
10 cost, including sales, use and excise taxes, and
11 transportation costs to point of delivery in this state, less
12 purchases and trade discounts, of all unapplied material and
13 supplies on hand in this state as of December 31 of the
14 preceding calendar year;

15 [~~(6)~~] (8) "other justifiable factors"
16 includes, but is not limited to, functional obsolescence and
17 economic obsolescence, such as the limitation upon the use of
18 the property based upon the available reserves committed to
19 the property; and

20 [~~(7)~~] (9) "tangible property cost" means the
21 actual cost of acquisition or construction of property,
22 including additions, retirements, adjustments and transfers,
23 but without deduction of related accumulated provision for
24 depreciation, amortization or other purposes.

25 C. Each taxpayer having property subject to

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1 valuation pursuant to this section shall elect to have that
2 property valued by the department in accordance with either
3 Subsection D or H of this section. The election shall be
4 effective for subsequent property tax years unless prior
5 permission of the secretary is obtained to change the election
6 for good cause shown. A taxpayer shall not seek permission to
7 change an election unless the prior election has been
8 effective for at least three consecutive property tax years.
9 The secretary shall find that good cause exists to change the
10 election upon a showing satisfactory to the secretary by the
11 taxpayer that:

12 (1) the net result of all amendments to the
13 property tax statutes and rules with effective dates
14 commencing within the property tax year has a substantial
15 adverse effect on the valuation for property tax purposes
16 under the alternative elected for the property for that year
17 relative to what the valuation for property tax purposes would
18 have been under the other alternative in the absence of the
19 amendments;

20 (2) the net result of all changes in law or
21 circumstances, but excluding acquisition or sale of property
22 subject to valuation pursuant to this section, including
23 changes that do not affect property tax liability, occurring
24 within the property tax year has a substantial adverse effect
25 on the valuation for property tax purposes under the

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1 alternative elected for the property for that year relative to
2 what the valuation for property tax purposes for the property
3 would have been under the other alternative in absence of the
4 changes; and

5 (3) changes in property tax statutes or
6 regulations that are effective prior to the property tax year
7 have a substantial adverse effect on the valuation for
8 property tax purposes under the alternative elected for the
9 property relative to what the valuation for property tax
10 purposes would have been under the other alternative.

11 [~~C-~~] D. An electric plant valued under this
12 subsection shall be valued as follows:

13 (1) the department shall determine the
14 tangible property cost of the electric plant;

15 (2) such tangible property cost shall then be
16 reduced by the related accumulated provision for depreciation
17 and any other justifiable factors; and

18 (3) notwithstanding the foregoing
19 determination of value for property taxation purposes, the
20 value for property taxation purposes of an electric plant
21 shall not be less than twenty percent of the tangible property
22 cost of the electric plant.

23 [~~D-~~] E. The value of construction work in progress
24 shall be fifty percent of the amount expended and entered upon
25 the accounting records of the taxpayer as of December 31 of

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1 the preceding calendar year as construction work in progress.

2 ~~[E-]~~ F. The value of materials and supplies shall
3 be the tangible property cost for ~~[such]~~ the property as of
4 December 31 of the preceding calendar year.

5 ~~[F-]~~ G. Each item of property having a taxable
6 situs in the state and valued under this section shall have
7 its net taxable value allocated to the governmental units in
8 which the property is located.

9 H. An electric plant valued under this subsection
10 shall be valued applying the unit rule of appraisal using the
11 following components, as appropriate:

12 (1) capitalization of earnings;

13 (2) market value of stock and debt; and

14 (3) cost less depreciation, economic
15 obsolescence and functional obsolescence.

16 I. A claim for the deduction of economic
17 obsolescence or functional obsolescence pursuant to this
18 section shall contain a requested obsolescence factor along
19 with a brief statement of the facts upon which the claim is
20 made, together with documentation to support the claim.

21 J. If a taxpayer has not established a claim for
22 economic obsolescence or functional obsolescence in accordance
23 with rules adopted by the department, the department shall
24 notify the taxpayer in writing of the reasons for its
25 determination and specify the information that the department

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1 requires for a claim for economic obsolescence or functional
2 obsolescence. The department shall provide that notice in
3 sufficient time to permit the taxpayer to establish a claim
4 for economic obsolescence or functional obsolescence in
5 accordance with department rules before the department issues
6 a valuation notice to the taxpayer.

7 [G.] K. The department shall adopt [~~regulations~~
8 ~~under Section 72-31-88 NMSA 1953~~] rules to implement the
9 provisions of this section. "

10 Section 2. APPLICABILITY. -- The provisions of this act
11 apply to the 2007 and subsequent property tax years.