

1 HOUSE BILL 590

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO PROPERTY TAX VALUATION; LIMITING THE VALUATION BY
12 THE TAXATION AND REVENUE DEPARTMENT OF CERTAIN PROPERTY USED BY
13 THE OIL AND GAS INDUSTRY TO THAT PROPERTY REGULATED BY THE
14 FEDERAL ENERGY REGULATORY COMMISSION; REQUIRING A COUNTY
15 ASSESSOR TO VALUE THE PROPERTY NOT REGULATED BY THAT FEDERAL
16 COMMISSION; LIMITING A SPECIAL METHOD OF VALUATION FOR CERTAIN
17 PROPERTY USED BY THE OIL AND GAS INDUSTRY TO THAT PROPERTY
18 REGULATED BY THE FEDERAL ENERGY REGULATORY COMMISSION.

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

21 SECTION 1. Section 7-36-2 NMSA 1978 (being Laws 1973,
22 Chapter 258, Section 14, as amended) is amended to read:

23 "7-36-2. ALLOCATION OF RESPONSIBILITY FOR VALUATION AND
24 DETERMINING CLASSIFICATION OF PROPERTY FOR PROPERTY TAXATION
25 PURPOSES--COUNTY ASSESSOR AND DEPARTMENT.--

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1 A. The county assessor is responsible and has the
2 authority for the valuation of all property subject to
3 valuation for property taxation purposes in the county except
4 the property specified by Subsections B and C of this section.

5 B. The department is responsible and has the
6 authority for the valuation of all property subject to
7 valuation for property taxation purposes and used in the
8 conduct of the following businesses:

9 (1) railroad;

10 (2) communications system as that term is
11 defined in Section 7-36-30 NMSA 1978;

12 (3) pipeline, plants and equipment regulated
13 by the federal energy regulatory commission;

14 (4) public utility; and

15 (5) airline.

16 C. The department is responsible and has the
17 authority for the valuation of property subject to valuation
18 for property taxation purposes when that property is:

19 (1) an electricity generating plant, whether
20 or not owned by a public utility, if all or part of the
21 electricity is generated for ultimate sale to the consuming
22 public;

23 (2) mineral property and property held or used
24 in connection with mineral property as defined in Sections
25 7-36-22 through 7-36-25 NMSA 1978; or

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1 (3) machinery, equipment and other personal
2 property of all resident and nonresident persons customarily
3 engaged in construction that involves the use during a tax year
4 of the machinery, equipment and other personal property in more
5 than one county. For the purposes of this paragraph,
6 "construction" means leveling or clearing land, excavating
7 earth, drilling wells of any type, including seismograph shot
8 holes or core drilling, or similar work, or building, altering,
9 repairing or demolishing any:

10 (a) road, highway, bridge, parking area
11 or related project;

12 (b) building, fence, stadium or other
13 structure;

14 (c) airport, subway or similar facility;

15 (d) park, trail, athletic field, golf
16 course or similar facility;

17 (e) dam, reservoir, canal, ditch or
18 similar facility;

19 (f) sewerage, [~~or~~] water treatment
20 facility or water pipeline;

21 (g) power generating plant, pump
22 station, natural gas compressing station, gas processing plant,
23 coal gasification plant, refinery, distillery or similar
24 facility regulated by the federal energy regulatory commission;

25 [~~(g)~~] (h) sewerage, water, gas or other

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1 pipeline;

2 [~~(h)~~] (i) transmission line;

3 [~~(i)~~] (j) radio, television or other
4 tower;

5 [~~(j)~~] (k) water, oil or other storage
6 tank;

7 [~~(k)~~] (l) shaft, tunnel or other mining
8 appurtenance; or

9 [~~(l)~~] (m) similar work.

10 D. The entity having responsibility and authority
11 for valuing the property described in Subsections A through C
12 of this section shall also have responsibility and authority
13 for classifying that property as either residential or
14 nonresidential under the provisions of Section 7-36-2.1 NMSA
15 1978.

16 E. The secretary by regulation may delegate
17 authority to the county assessor for the valuation and
18 classification of property subject to valuation for property
19 taxation purposes for which the department is responsible
20 pursuant to Subsections B through D of this section only if:

21 (1) the property is held or used in connection
22 with the transmission, storage, measurement or distribution of
23 water and the transmission, storage, measurement and
24 distribution is conducted by a single person entirely within a
25 single county; or

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1 (2) the property is held or used in connection
2 with a communications system as defined in Section 7-36-30 NMSA
3 1978 and the system operates entirely within a single county.

4 F. The department is authorized to enter into one
5 or more agreements with each county assessor, subject to
6 approval of each agreement by the appropriate board of county
7 commissioners, under which the county assessor agrees to
8 perform the valuation of property for which the department is
9 responsible under Subsection B or C of this section [~~but which~~
10 ~~property is not subject to the special methods of valuation set~~
11 ~~forth in Sections 7-36-27, 7-36-28 and 7-36-30 through 7-36-32~~
12 ~~NMSA 1978~~]."

13 SECTION 2. Section 7-36-27 NMSA 1978 (being Laws 1975,
14 Chapter 165, Section 8, as amended) is amended to read:

15 "7-36-27. SPECIAL METHOD OF VALUATION--PIPELINES, TANKS,
16 SALES METERS AND PLANTS REGULATED BY THE FEDERAL ENERGY
17 REGULATORY COMMISSION AND USED IN THE PROCESSING, GATHERING,
18 TRANSMISSION, STORAGE, MEASUREMENT OR DISTRIBUTION OF OIL,
19 NATURAL GAS, CARBON DIOXIDE OR LIQUID HYDROCARBONS.--

20 A. All pipelines, tanks, sales meters and plants
21 used in the processing, gathering, transmission, storage,
22 measurement or distribution of oil, natural gas, carbon dioxide
23 or liquid hydrocarbons subject to valuation for property
24 taxation purposes and regulation by the federal energy
25 regulatory commission shall be valued in accordance with the

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1 provisions of this section.

2 B. As used in this section:

3 (1) "construction work in progress" means the
4 total of the balances of work orders for pipelines, plants,
5 large industrial sales meters and tanks, in the process of
6 construction on the last day of the preceding calendar year,
7 exclusive of land and land rights and equipment, machinery or
8 devices that are used or are available for use to construct
9 pipelines, plants, large industrial sales meters and tanks but
10 that are not incorporated into the pipelines, plants, large
11 industrial sales meters or tanks;

12 (2) "depreciation" means straight line
13 depreciation over the useful life of the item of property;

14 [~~(3)~~] "~~direct customer distribution pipeline~~"
15 ~~means a low or intermediate pressure distribution system~~
16 ~~pipeline of four inches or smaller diameter situated in urban~~
17 ~~areas;~~

18 ~~(4)~~] (3) "economic obsolescence" means, with
19 respect to valuation for property taxation purposes, loss in
20 value of a property caused by unfavorable economic influences
21 or factors outside of the property; "economic obsolescence" is
22 a loss in value in addition to a loss in value attributable to
23 physical depreciation;

24 [~~(5)~~] (4) "functional obsolescence" means,
25 with respect to valuation for property taxation purposes, loss

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1 in value of a property caused by functional inadequacies or
2 deficiencies caused by factors within the property; "functional
3 obsolescence" is a loss in value in addition to a loss in value
4 attributable to physical depreciation;

5 [~~(6)~~] (5) "large industrial sales meter" means
6 a sales meter [~~having~~] regulated by the federal energy
7 regulatory commission that has an installed tangible property
8 cost in excess of two thousand five hundred dollars (\$2,500);

9 [~~(7)~~] (6) "other justifiable factors"
10 includes, but is not limited to, functional obsolescence and
11 economic obsolescence;

12 [~~(8)~~] (7) "pipeline" means all pipe regulated
13 by the federal energy regulatory commission and associated
14 appurtenances and devices used in systems for gathering,
15 transmission or distribution, but excludes sales meters, a
16 pipeline operated exclusively for and constituting a part of a
17 plant; [~~and a direct customer distribution pipeline;~~

18 ~~(9)~~] (8) "plant" means any refinery, gasoline
19 plant, extraction plant, purification plant, compressor or
20 pumping station or similar plant regulated by the federal
21 energy regulatory commission, including all structures,
22 equipment, pipes and other related facilities, excluding
23 residential housing, office buildings and warehouses;

24 [~~(10)~~] (9) "sales meter" means [~~the~~] a meter
25 regulated by the federal energy regulatory commission and the

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1 associated regulator and all appurtenances and devices used for
2 measuring sales to customers and includes the service pipe to
3 the customer's property line from the point of connection with
4 the pipeline;

5 [~~(11)~~] (10) "schedule value" means a fixed
6 value of an individual property unit within a mass of similar
7 or like units established by determining the total tangible
8 property cost of a substantial sample of such property and
9 deducting therefrom an average related accumulated provision
10 for depreciation and allocating a proportionate part of the
11 remainder to individual taxable property units;

12 [~~(12)~~] (11) "tangible property cost" means the
13 actual cost of acquisition or construction of property,
14 excluding construction work in progress, including additions,
15 retirements, adjustments and transfers, but without deduction
16 of related accumulated provision for depreciation, amortization
17 or other purposes and excluding any amount attributable to oil
18 or gas reserves dedicated to such item of property; and

19 [~~(13)~~] (12) "tank" means any storage tank or
20 container, other than a natural reservoir, regulated by the
21 federal energy regulatory commission and used for storage that
22 is not a component part of a plant.

23 C. Sales meters, other than large industrial sales
24 meters, shall be valued as follows:

25 (1) the department may periodically determine

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1 the average tangible property cost of a substantial sample of
2 sales meters in general use in the state;

3 (2) such average tangible property cost shall
4 then be reduced by the average related accumulated provision
5 for depreciation applicable to the sample of sales meters; and

6 (3) from the determinations pursuant to
7 Paragraphs (1) and (2) of this subsection, a schedule of value
8 for sales meters for property taxation purposes shall be
9 determined and set forth in a rule adopted by the department.

10 D. Pipelines, direct customer distribution
11 pipelines, large industrial sales meters, tanks and plants
12 shall be valued as follows:

13 (1) the ~~[valuation authority]~~ department shall
14 first establish the tangible property cost of each item of
15 property;

16 (2) from such tangible property cost shall be
17 deducted the related accumulated provision for depreciation and
18 any other justifiable factors that further affect the tangible
19 property value of each item of property; and

20 (3) notwithstanding the determination of value
21 for property taxation purposes in Paragraphs (1) and (2) of
22 this subsection, the value for property taxation purposes of
23 each item of property valued under this subsection shall not be
24 less than twenty percent of the tangible property cost of such
25 item of property.

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1 E. Construction work in progress shall be valued at
2 fifty percent of the amount expended and entered upon the
3 accounting records of the taxpayer as of December 31 of the
4 preceding year as construction work in progress.

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

9 G. A reduction in value asserted by a taxpayer as
10 attributable to economic obsolescence or functional
11 obsolescence shall contain an obsolescence factor along with a
12 brief statement of the facts that support the reduction,
13 together with supporting documentation. The documentation may
14 include items such as monthly throughput volumes from the prior
15 year; comparisons to a documented industry standard;
16 comparisons to a close competitor; and an engineer's or
17 appraiser's valuation. The department may adopt rules that
18 include other types of objective evidence of functional
19 obsolescence or economic obsolescence.

20 H. If the department determines that a taxpayer has
21 not established, based on the brief statement of facts and the
22 supporting documentation provided, that the reduction for
23 functional obsolescence or economic obsolescence is in
24 accordance with the law or rules adopted by the department, the
25 department shall notify the taxpayer of the department's

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1 determination in writing setting forth the reasons for its
2 determination and specifying the supporting information that
3 the department requires. The department shall provide the
4 ~~[notice by April 1 or thirty days after the return is filed but~~
5 ~~no later than April 15 of the tax year. If the taxpayer does~~
6 ~~not file the report by March 15 of the property tax year, the~~
7 ~~department shall not be required to furnish a timely notice of~~
8 ~~deficiency by April 15 of the property tax year. In the case~~
9 ~~of properties regulated by the federal energy regulatory~~
10 ~~commission, the] notice of deficiency [shall be provided] to~~
11 the taxpayer within fifteen days after the filing of the report
12 and the taxpayer shall then have ten days within which to
13 correct the deficiency.

14 I. The department shall adopt rules to implement
15 the provisions of this section."

16 SECTION 3. APPLICABILITY.--The provisions of this act
17 apply to property tax years beginning on or after January 1,
18 2020.