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HOUSE BILL 617

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Luciano "Lucky" Varela

AN ACT

RELATING TO PROPERTY TAXES; AMENDING THE PROPERTY TAX CODE TO
BROADEN THE DEFINITION OF A COMMUNICATIONS SYSTEM FOR PROPERTY
TAX PURPOSES; DECLARING AN EMERGENCY.

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

Section 1. Section 7-36-30 NMSA 1978 (being Laws 1975,
Chapter 165, Section 11, as amended) is amended to read:

"7-36-30. SPECIAL METHODS OF VALUATION--PROPERTY THAT IS
PART OF A COMMUNICATIONS SYSTEM.--

A. All property that is part of a communications
system and is subject to valuation for property taxation
purposes shall be valued in accordance with the provisions of
this section.

B. As used in this section:

(1) "communications system" means a system for

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1 the transmission ~~[and]~~ or reception of information or a
2 combination of the transmission and reception of information by
3 the use of electronic, magnetic or optical means or any
4 combination ~~[thereof]~~ of those communication technologies, and
5 which system or any portion ~~[thereof]~~ of the system is
6 available for use by another person for consideration;

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

9 (3) "other justifiable factors" includes but
10 is not limited to wear and tear of the property not covered by
11 depreciation, inadequacy, changes in demand and requirements of
12 public authorities attributable to the applicable decrease in
13 value and functional or economic obsolescence;

14 (4) "plant" means all tangible property
15 located in this state and used or useful for the ~~[provision of~~
16 ~~communication service]~~ transmission or reception of
17 information, as reflected by the uniform system of accounting
18 in use by the taxpayer, but does not include construction work
19 in progress or materials and supplies;

20 (5) "construction work in progress" means the
21 total of the balance of work orders for a plant in the process
22 of construction on the last day of the preceding calendar year,
23 exclusive of land and land rights;

24 (6) "tangible property cost" means the actual
25 cost of acquisition or construction of property, including

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1 additions, retirements, adjustments and transfers, but without
2 deduction of related accumulated provision for depreciation,
3 amortization or other purposes; and

4 (7) "materials and supplies" means the cost,
5 including sales, use and excise taxes, and transportation costs
6 to point of delivery in this state, less purchases and trade
7 discounts, of all unapplied materials and supplies on hand in
8 this state as of December 31 of the preceding calendar year.

9 C. Each taxpayer having property subject to
10 valuation under this section shall elect to have that property
11 valued by the department in accordance with either Subsection D
12 or Subsection F of this section. The election shall be
13 effective for subsequent property tax years, unless prior
14 permission of the secretary is obtained to change the election
15 for good cause shown. A taxpayer may not seek permission to
16 change an election, unless the prior election has been
17 effective for at least three consecutive property tax years.
18 The secretary shall find that good cause exists to change the
19 election upon a showing satisfactory to the secretary by the
20 taxpayer that:

21 (1) the net result of all amendments to the
22 property tax statutes and regulations with effective dates
23 commencing within the property tax year has a substantial
24 adverse effect on the valuation for property tax purposes under
25 the alternative elected for the property for that year relative

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1 to what the valuation for property tax purposes would have been
2 under the other alternative in the absence of the amendments;

3 (2) the net result of all changes in law or
4 circumstances but excluding acquisition or sale of property
5 subject to valuation under this section, including changes
6 which do not affect property tax liability, occurring within
7 the property tax year has a substantial adverse effect on the
8 valuation for property tax purposes under the alternative
9 elected for the property for that year relative to what the
10 valuation for property tax purposes for the property would have
11 been under the other alternative in the absence of the changes;
12 or

13 (3) changes in property tax statutes or
14 regulations [~~which~~] that are effective prior to the property
15 tax year have a substantial adverse effect on the valuation for
16 property tax purposes under the alternative elected for the
17 property relative to what the valuation for property tax
18 purposes would have been under the other alternative.

19 D. Communications system property valued under this
20 subsection shall be valued in accordance with Paragraphs (1),
21 (2) and (3) of this subsection:

22 (1) a plant shall be valued in the following
23 manner:

24 (a) the department shall first establish
25 the tangible property cost of the plant;

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1 (b) from such tangible property cost
2 shall be deducted the related accumulated provision for
3 depreciation and other justifiable factors; and

4 (c) notwithstanding the foregoing
5 determination of value for property taxation purposes, the
6 value for property taxation purposes of the plant shall not be
7 less than twenty percent of the tangible property cost of the
8 plant;

9 (2) construction work in progress shall have a
10 value for property taxation purposes equal to fifty percent of
11 the actual amounts expended and entered upon the accounting
12 records of the taxpayer as of December 31 of the preceding
13 calendar year for construction work in progress; and

14 (3) the value of materials and supplies shall
15 be the tangible property cost for such property as of December
16 31 of the preceding calendar year.

17 E. Each item of property having a taxable situs in
18 the state and valued under this section shall have its net
19 taxable value allocated to the governmental units in which the
20 property is located.

21 F. Communications system property valued under this
22 subsection shall be valued using one or more or a combination
23 of the following methods of valuation and applying the unit
24 rule of appraisal to the property:

25 (1) capitalization of earnings;

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- (2) market value of stock and debt; or
- (3) cost less depreciation and obsolescence.

G. The department shall adopt regulations [~~under~~
~~Section 7-38-88 NMSA 1978~~] to implement the provisions of this
section."

Section 2. EMERGENCY.--It is necessary for the public
peace, health and safety that this act take effect immediately.