

H. B. 4470

(By Delegates Boggs and Reynolds)

[By request of the Division of Tax]

[Introduced February 11, 2014; referred to the
Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-6K-4 and §11-6K-5 of the Code of West Virginia, 1931, as amended, all relating to tentative appraisals of natural resources property by the Tax Commissioner for ad valorem property tax purposes; clarifying that notice requirements apply to all oil and natural gas property in production and reserve; clarifying that informal review procedures do not apply to oil or natural gas property in production and reserve.

Be it enacted by the Legislature of West Virginia:

That §11-6K-4 and §11-6K-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 6K. ASSESSMENT OF INDUSTRIAL PROPERTY AND NATURAL RESOURCES PROPERTY.

§11-6K-4. Review of returns; procuring information for tentative

1 **appraisals; tentative appraisals by Tax Commissioner;**
2 **and notification to taxpayers.**

3 (a) All returns delivered to the Tax Commissioner shall be
4 examined by him or her, and if found insufficient in form, ~~or in~~
5 ~~any respect~~ defective, imperfect or not in compliance with law, he
6 or she shall compel the person delivering the return to make it in
7 proper and sufficient form in all respects as required by law.

8 (b) If any owner, operator or producer fails to make a
9 required return, the Tax Commissioner shall proceed to obtain the
10 facts and information required to be furnished by the returns.

11 (c) For the purposes of ascertaining the correctness of any
12 return filed pursuant to this article or of valuing the property of
13 any industrial taxpayer or natural resources property owner or
14 operator, the Tax Commissioner may exercise all of the powers and
15 authority granted to him or her by sections five-a, five-b and
16 five-c, article ten of this chapter.

17 (d) Using information provided on the returns and all other
18 pertinent evidence, information and data ~~he or she~~ the Tax
19 Commissioner has been able to procure, the Tax Commissioner shall
20 annually value and make tentative appraisals of all industrial
21 property and natural resources property as provided in section ten,
22 article one-c of this chapter.

23 (e) (1) On or before October 15 of the assessment year, the Tax
24 Commissioner shall complete the preparation of tentative appraisals

1 of all industrial property and natural resources property and shall
2 notify the affected owner or operator ~~affected thereby~~ of the
3 amount of the tentative appraisals: *Provided*, That in the case of
4 oil-producing property, natural ~~gas-producing~~ gas property and
5 managed timberland, the Tax Commissioner shall complete the
6 preparation of tentative appraisals and notify the affected owner
7 or operator by December 1 of the assessment year, and: *Provided*,
8 ~~further~~ however, That no notification shall be required where the
9 total increase in the aggregate amount of the tentative appraisals
10 to the affected owner or operator ~~affected thereby~~ does not exceed
11 \$1,000 and the total tentative appraisals did not increase by more
12 than ten percent from the prior year's appraisals. Notification
13 may, at the reasonable discretion of the Tax Commissioner, be:

14 ~~(1)~~ (A) By written notice deposited in the United States mail,
15 addressed to the owner or operator at the principal office or place
16 of business of the owner or operator;

17 ~~(2)~~ (B) By electronic notification; or

18 ~~(3)~~ (C) By any other means designed to communicate the
19 tentative appraisal information to the owner or operator in a
20 timely and efficient manner and in a convenient useable form.

21 (2) Any notice required to be provided under this section to
22 an owner or operator shall also be provided by the Tax Commissioner
23 to the assessor of the county in which the property is located. The
24 Tax Commissioner shall retain in his or her office true copies of

1 tentative appraisals and of the underlying work sheets used to
2 compute the tentative appraisals, all of which shall be available
3 for inspection by any owner or operator or his or her duly
4 authorized representative.

5 **§11-6K-5. Informal petition to Tax Commissioner for review of**
6 **tentative appraisals.**

7 (a) A taxpayer who is of the opinion that the tentative
8 appraisal of its industrial property or natural resources property,
9 except ~~oil-producing~~ oil property, natural ~~gas-producing~~ gas
10 property and managed timberland, does not reflect the true and
11 actual value of the property or is otherwise improperly valued may,
12 after receiving its tentative appraisal and on or before November
13 15 of the assessment year, informally petition the Tax Commissioner
14 requesting a review of the tentative appraisal. Likewise, an
15 assessor who is of the opinion that the tentative appraisal of any
16 industrial property or natural resources property, except
17 ~~oil-producing~~ oil property, natural ~~gas-producing~~ gas property and
18 managed timberland, located in the county does not reflect the true
19 and actual value of the property or is otherwise improperly valued
20 may, after receiving the tentative appraisal and on or before
21 November 15 of the assessment year, informally petition the Tax
22 Commissioner requesting a review of the tentative appraisal. The
23 Tax Commissioner may require the petition be made on a written form
24 prescribed by the Tax Commissioner. At the time a petition is filed

1 by a taxpayer with the Tax Commissioner, the petitioner shall
2 provide a copy of the petition to the assessor of the county in
3 which the property is located. At the time a petition is filed by
4 an assessor with the Tax Commissioner, the petitioner shall provide
5 a copy of the petition to the taxpayer involved.

6 (b) At the petitioner's request, the Tax Commissioner or his
7 or her representative shall meet with the petitioner or the
8 petitioner's representative to discuss the petition at a time and
9 place designated at least five working days in advance by the Tax
10 Commissioner after the petition is filed. If the petitioner is
11 unable to appear and meet with the Tax Commissioner at the time and
12 place set by the Tax Commissioner, the petitioner may submit
13 written evidence to support the petition if it is submitted before
14 the date of the meeting.

15 (c) The Tax Commissioner shall consider and rule on each
16 informal petition filed under this section on or before January 15
17 of the tax year. If the Tax Commissioner agrees with the petition
18 he or she shall modify the tentative appraisal accordingly. The Tax
19 Commissioner shall then notify the petitioner and assessor of the
20 county in which the property is located in writing of his or her
21 decision and shall include supporting data that the assessor might
22 need to evaluate the appraisal.

NOTE: The purpose of this bill is to clarify that the

provisions of code sections §11-6K-4 and §116K-5 apply to both oil and natural gas properties and reserve oil and natural gas property.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.