

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SENATE BILL 1461

AN ACT

REPEALING SECTION 41-3006.22, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3016.01; AMENDING TITLE 42, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-2077; AMENDING SECTIONS 42-11054, 42-13054, 42-13152, 42-13251, 42-13252, 42-13353, 42-14156, 42-14158, 42-14403, 42-16051 AND 42-16159, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF REVENUE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Section 41-3006.22, Arizona Revised Statutes, is repealed.

4 Sec. 2. Title 41, chapter 27, article 2, Arizona Revised Statutes, is
5 amended by adding section 41-3016.01, to read:

6 41-3016.01. Department of revenue; termination July 1, 2016

7 A. THE DEPARTMENT OF REVENUE TERMINATES ON JULY 1, 2016.

8 B. TITLE 42, CHAPTER 1, ARTICLE 1 IS REPEALED ON JANUARY 1, 2017.

9 Sec. 3. Title 42, chapter 2, article 2, Arizona Revised Statutes, is
10 amended by adding section 42-2077, to read:

11 42-2077. New interpretation or application of law; affirmative
12 defense; definition

13 A. UNLESS EXPRESSLY AUTHORIZED BY LAW, THE DEPARTMENT SHALL NOT APPLY
14 ANY NEWLY ENACTED LAW RETROACTIVELY OR IN A MANNER THAT WILL PENALIZE A
15 TAXPAYER FOR COMPLYING WITH PRIOR LAW.

16 B. IF THE DEPARTMENT ADOPTS A NEW INTERPRETATION OR APPLICATION OF ANY
17 PROVISION OF THIS TITLE OR TITLE 43 OR DETERMINES THAT ANY OF THOSE
18 PROVISIONS APPLIES TO A NEW OR ADDITIONAL CATEGORY OR TYPE OF TAXPAYER, AND
19 THE CHANGE IN INTERPRETATION OR APPLICATION IS NOT DUE TO A CHANGE IN THE
20 LAW:

21 1. THE CHANGE IN INTERPRETATION OR APPLICATION APPLIES PROSPECTIVELY
22 UNLESS IT IS FAVORABLE TO TAXPAYERS.

23 2. THE DEPARTMENT SHALL NOT ASSESS ANY TAX, PENALTY OR INTEREST
24 RETROACTIVELY BASED ON THE CHANGE IN INTERPRETATION OR APPLICATION.

25 3. THE CHANGE IS AN AFFIRMATIVE DEFENSE IN ANY ADMINISTRATIVE OR
26 JUDICIAL ACTION FOR RETROACTIVE ASSESSMENT OF TAX, INTEREST AND PENALTIES TO
27 TAXABLE PERIODS BEFORE THE NEW INTERPRETATION OR APPLICATION WAS ADOPTED.

28 C. TAX LIABILITIES, PENALTIES AND INTEREST PAID BEFORE A NEW
29 INTERPRETATION OR APPLICATION OF CHAPTER 5 OF THIS TITLE BY THE DEPARTMENT
30 SHALL NOT BE REFUNDED UNLESS THE TAXPAYER REQUESTING THE REFUND PROVIDES
31 EVIDENCE SATISFACTORY TO THE DEPARTMENT THAT THE AMOUNTS WILL BE REFUNDED TO
32 THE PERSON WHO PAID AN ADDED CHARGE TO COVER THE TAX.

33 D. FOR THE PURPOSES OF THIS SECTION, "NEW INTERPRETATION OR
34 APPLICATION" INCLUDES POLICIES AND PROCEDURES ADOPTED BY ADMINISTRATIVE RULE,
35 TAX RULING, TAX PROCEDURE OR INSTRUCTIONS TO A TAX RETURN.

36 Sec. 4. Section 42-11054, Arizona Revised Statutes, is amended to
37 read:

38 42-11054. Standard appraisal methods and techniques

39 A. FOR THE PURPOSES OF LEGISLATIVE CONVENIENCE AND PRACTICALITY, AND
40 SUBJECT TO SUBSECTION B OF THIS SECTION, THE LEGISLATURE DELEGATES TO THE
41 DEPARTMENT THE LEGISLATIVE POWER TO ~~the department shall~~:

42 1. DRAFT, ADOPT AND prescribe guidelines AND TABLES for applying
43 standard appraisal methods and techniques that shall be used by the
44 department and county assessors in determining the valuation of property.

1 personal property that is initially classified during or after tax year 1995
2 as class two (P) pursuant to section 42-12002:

3 1. For the first tax year of assessment, the assessor shall use
4 thirty-five per cent of the scheduled depreciated value.

5 2. For the second tax year of assessment, the assessor shall use
6 fifty-one per cent of the scheduled depreciated value.

7 3. For the third tax year of assessment, the assessor shall use
8 sixty-seven per cent of the scheduled depreciated value.

9 4. For the fourth tax year of assessment, the assessor shall use
10 eighty-three per cent of the scheduled depreciated value.

11 5. For the fifth and subsequent tax years of assessment, the assessor
12 shall use the scheduled depreciated value as prescribed in the ~~department's~~
13 guidelines [ADOPTED BY THE DEPARTMENT PURSUANT TO SECTION 42-11054](#).

14 C. The additional depreciation prescribed in subsection B of this
15 section:

16 1. Does not apply to any property valued by the department.

17 2. Shall not reduce the valuation below the minimum value prescribed
18 by the department for property in use.

19 Sec. 6. Section 42-13152, Arizona Revised Statutes, is amended to
20 read:

21 ~~42-13152.~~ [Computing valuation of golf courses](#)

22 A. In recognition of the importance of the open space and economic
23 benefits of golf courses, county assessors shall value all golf courses
24 uniformly based on guidelines prescribed by the department [PURSUANT TO](#)
25 [SECTION 42-11054](#).

26 B. Subject to section 42-13154, values shall be made on the assumption
27 that no other property use is possible.

28 C. Land shall be valued at five hundred dollars per acre.

29 D. The improvement value of the golf course is established by the
30 department's 1988 per hole cost, as prescribed in subsection E of this
31 section for the grade of the golf course as described in the department's
32 assessment practices manual for golf course assessment effective January 1,
33 1986. The per hole cost shall be multiplied by the number of holes included.
34 The value shall be adjusted to reflect the application of economic
35 obsolescence, which shall be uniformly determined as follows:

36 1. Determine the number of actual rounds of golf played during the
37 most recent twelve months ending on July 31.

38 2. Multiply the rounds played during the peak month by twelve to
39 determine the number of rounds of play the course would have had under
40 optimum conditions.

41 3. Divide the actual number of rounds played during the year by the
42 optimum rounds played.

43 4. The quotient is the relationship between the actual rounds played
44 and projected play under optimum conditions or the per cent good after the
45 economic obsolescence has been deducted.

1 5. Apply the obsolescence by multiplying the total per hole cost by
2 the per cent good.

3 6. The obsolescence factors developed by applying the procedures
4 prescribed by paragraphs 1 through 5 shall be applied to the data submitted
5 to the county assessor annually by golf course owners or managers on a form
6 prescribed by the department. The assessor shall mail the form to the last
7 known mailing address of each golf course owner or manager on or before
8 August 1 of each year. The form shall reflect the number of rounds played by
9 month for the most recent twelve months ending on July 31. The form shall be
10 returned to the county assessor not later than September 30 to receive the
11 economic obsolescence adjustment.

12 7. Add the replacement cost new less the depreciation for the
13 structures and additional items to determine the full cash value of the
14 facility improvements.

15 8. To determine the full cash value of the golf course, add the per
16 acre value as reflected in this section, the valuation of the golf course
17 improvements, adjusted for obsolescence pursuant to paragraphs 1 through 6,
18 and the valuation of the structures and additional items pursuant to
19 paragraph 7.

20 E. For tax year 1995, the 1988 per hole improvement cost described in
21 subsection D of this section shall be used to value golf courses. In each
22 subsequent tax year the per hole improvement costs shall be adjusted using
23 the change in the GDP price deflator as defined in section 41-563. For **THE**
24 purposes of this subsection, the per hole improvement cost values include
25 landscaping, bridges, lakes, lake liners, practice ranges, irrigation
26 systems, paths, golf greens and tees.

27 Sec. 7. Section 42-13251, Arizona Revised Statutes, is amended to
28 read:

29 42-13251. Equalization of valuations by department

30 A. The department may adopt a schedule of examining and comparing the
31 valuations of property in the several counties every year.

32 B. The review shall be according to and consistent with the valuation
33 directives, ~~AND~~ rules and **THE** guidelines adopted by the department **PURSUANT**
34 **TO SECTION 42-11054.**

35 C. Each county assessor shall provide complete copies of data files
36 and proposed assessments to the department on or before December 15 of the
37 year preceding the valuation year. If the data is not complete or is in a
38 format that is not readable by the department, the department may use the
39 latest available data for the purposes of complying with this article.

40 Sec. 8. Section 42-13252, Arizona Revised Statutes, is amended to
41 read:

42 42-13252. Scope of equalization

43 A. If the department finds that inequalities exist between or within
44 counties or between or within classes or classifications, the department may

1 equalize them so that all property that is subject to taxation is listed on
2 the rolls at its full cash value.

3 B. The department shall not issue an equalization order or directive
4 except as provided by this article.

5 C. The department may equalize valuations of property:

6 1. Between or within counties.

7 2. Between any designated areas authorized under the guidelines
8 ~~established~~ ADOPTED by the department PURSUANT TO SECTION 42-11054.

9 3. Between or within the statutory classes of property established by
10 chapter 12, article 1 of this title or the standard use classifications of
11 property established by the department including between or within counties
12 or between any designated area authorized under the guidelines ~~established~~
13 ADOPTED by the department PURSUANT TO SECTION 42-11054.

14 D. The equalization may be based on a deviation from the standard
15 median or on a deviation from the coefficient of dispersion, as prescribed by
16 law.

17 Sec. 9. Section 42-13353, Arizona Revised Statutes, is amended to
18 read:

19 42-13353. Depreciated values of personal property of
20 manufacturers, assemblers and fabricators

21 A. Except as provided in subsection B of this section and
22 notwithstanding any other statute, the department shall adjust depreciation
23 schedules for use by the assessors to determine the valuation of personal
24 property valued under this article that was or is initially assessed during
25 or after tax year 1994 as follows:

26 1. For the first tax year of assessment, the assessor shall use
27 thirty-five per cent of the scheduled depreciated value.

28 2. For the second tax year of assessment, the assessor shall use
29 fifty-one per cent of the scheduled depreciated value.

30 3. For the third tax year of assessment, the assessor shall use
31 sixty-seven per cent of the scheduled depreciated value.

32 4. For the fourth tax year of assessment, the assessor shall use
33 eighty-three per cent of the scheduled depreciated value.

34 5. For the fifth and subsequent tax years of assessment, the assessor
35 shall use the scheduled depreciated value as prescribed by the ~~department's~~
36 guidelines ADOPTED BY THE DEPARTMENT PURSUANT TO SECTION 42-11054.

37 B. The additional depreciation prescribed in subsection A of this
38 section shall not reduce the valuation below the minimum value prescribed by
39 the department for property in use.

40 Sec. 10. Section 42-14156, Arizona Revised Statutes, is amended to
41 read:

42 42-14156. Computing valuation of electric generation
43 facilities; definitions

44 A. The valuation of electric generation facilities referred to in
45 section 42-14151, subsection A, paragraph 4 shall be determined as follows:

1 1. The value of land used by the facility shall be determined by the
2 county assessor in the county in which the property is located and
3 transmitted to the department.

4 2. The valuation of real property improvements used in operating the
5 facility is the cost multiplied by valuation factors prescribed by tables
6 adopted by the department PURSUANT TO SECTION 42-11054.

7 3. The valuation of personal property used in operating the facility
8 is the cost multiplied by the valuation factors as prescribed by tables
9 adopted by the department PURSUANT TO SECTION 42-11054, adjusted as follows:

10 (a) For the first year of assessment, the department shall use
11 thirty-five per cent of the scheduled depreciated value.

12 (b) For the second year of assessment, the department shall use
13 fifty-one per cent of the scheduled depreciated value.

14 (c) For the third year of assessment, the department shall use
15 sixty-seven per cent of the scheduled depreciated value.

16 (d) For the fourth year of assessment, the department shall use
17 eighty-three per cent of the scheduled depreciated value.

18 (e) For the fifth and subsequent years of assessment, the department
19 shall use the scheduled depreciated value as prescribed in the ~~department's~~
20 guidelines ADOPTED BY THE DEPARTMENT PURSUANT TO SECTION 42-11054.

21 4. In addition to the computation prescribed in paragraphs 2 and 3 of
22 this subsection, the taxpayer may submit documentation showing the need for,
23 and the department shall consider, an additional adjustment to recognize
24 obsolescence using standard appraisal methods and techniques.

25 5. The valuation prescribed in paragraph 2 of this subsection shall
26 not reduce the valuation below ten per cent of the cost of the real property
27 improvements. The valuation prescribed in paragraph 3 of this subsection
28 shall not reduce the valuation below ten per cent of the cost of the personal
29 property.

30 6. The following apply in determining cost for the purposes of this
31 subsection:

32 (a) "Cost" means the cost of constructing the property or acquiring
33 the property in an arm's length transaction.

34 (b) The cost of personal property is the invoice cost of the personal
35 property, the cost of transporting the property to the facility site and the
36 cost of labor to install the property, plus any transaction privilege or use
37 taxes paid.

38 (c) The cost of leased property is the lessor's cost of the property,
39 except that in the case of a lease financing transaction, the cost is the
40 actual cost of construction based on the invoice cost similar to any other
41 type of financing.

42 (d) In the case of a facility that is acquired from another taxpayer:

43 (i) If, after the acquisition, the buyer has possession of the cost
44 information, the valuation of the facility shall continue based on the
45 seller's cost as if there were no change in ownership.

1 (ii) If, after the acquisition, the buyer does not possess the cost
2 information, the acquisition cost in an arm's length transaction shall be
3 used.

4 (e) For generation facilities that were in service before January 1,
5 2001, costs incurred before January 1, 2002 shall be computed in accordance
6 with section 42-14158. For these facilities, all costs incurred on or after
7 January 1, 2002 shall be reported in accordance with subdivisions (a) through
8 (d) of this paragraph.

9 7. The department shall not value personal property construction work
10 in progress until the property is first placed in commercial service. For
11 the purposes of this paragraph, "commercial service" means:

12 (a) For machinery and equipment used in the generation of electricity
13 being valued and placed on the tax roll for the first time, the official
14 assumption of operation and ownership of the machinery and equipment from the
15 contractor by the plant operator.

16 (b) For machinery and equipment added to existing electric generation
17 facilities, that the construction work has progressed to a sufficient degree
18 for the machinery and equipment to be useful for the purpose for which it is
19 being constructed.

20 (c) For machinery and equipment related to self-constructed
21 facilities, that the construction work has progressed to a sufficient degree
22 for the machinery and equipment to be useful for the purpose for which it is
23 being constructed.

24 B. For the purposes of this section:

25 1. "Personal property" means all tangible property except for land and
26 real property improvements as defined in this section. Personal property
27 includes foundations or supports for the machinery or apparatus for which
28 they are provided, including water cooling towers.

29 2. "Real property improvements" means buildings, including
30 administration buildings, maintenance warehouses and guard shacks, water
31 retention ponds, sewage treatment ponds, reservoirs, sidewalks, drives,
32 curbs, parking lots, tunnels, duct banks, canals, fencing and landscaping.

33 Sec. 11. Section 42-14158, Arizona Revised Statutes, is amended to
34 read:

35 42-14158. Existing generation facilities; computing adjusted
36 original cost; computing full cash value;
37 definitions

38 A. To achieve equity in the full cash values of existing and new
39 electric generation facilities, the department shall compute adjusted
40 original costs for existing generation facilities in lieu of actual cost for
41 use in determining the full cash values in accordance with section
42 42-14156. Adjusted original costs shall be used to determine full cash
43 values for existing generation facilities for tax year 2004 and subsequent
44 years. Retirements of property in service before January 1, 2002 shall be
45 deducted based on the percentage of adjusted original cost to actual original

1 cost for each vintage year. For any property added to an existing generation
2 facility on or after January 1, 2002, or for an electric generation facility
3 placed in service on or after January 1, 2001, cost shall be determined in
4 accordance with the provisions of section 42-14156.

5 B. To compute the adjusted original cost of property placed in service
6 before January 1, 2002 for existing generation facilities, the department
7 shall:

8 1. Determine the full cash value ratio.

9 2. Determine the original cost by vintage year for 2001 and all prior
10 years.

11 3. Multiply the original costs for real property improvements and
12 personal property by vintage year by the full cash value ratio to reflect the
13 tax year 2003 full cash value by vintage year.

14 4. Divide the full cash value by vintage year as calculated in
15 paragraph 3 of this subsection of real property improvements and personal
16 property by the valuation factors reflected in the ~~department's~~ valuation
17 tables ~~as prescribed in~~ USED FOR PURPOSES OF section 42-14156, without
18 phase-in adjustments prescribed in section 42-14156, subsection A,
19 paragraph 3.

20 C. For the purposes of this section:

21 1. "Existing generation facility" means the property of an electric
22 generation facility that was valued by the department as of January 1,
23 2001. It does not include any property added to the facility after January
24 1, 2002.

25 2. "Full cash value ratio" means the full cash value of the existing
26 generation facility for tax year 2003, excluding the value of land associated
27 with the facility, renewable energy equipment and materials and supplies as
28 of December 31, 2001, divided by the total original cost, excluding the cost
29 of land associated with the facility, renewable energy equipment and
30 materials and supplies for the facility as of December 31, 2001.

31 3. "Original cost" means the actual cost of acquiring or constructing
32 property, including additions, retirements, adjustments and transfers.

33 4. "Vintage year" means the first year of depreciation of the asset
34 reflected on the owner's balance sheet.

35 Sec. 12. Section 42-14403, Arizona Revised Statutes, is amended to
36 read:

37 42-14403. Determining valuation; definition

38 On or before August 31 of each year the department shall determine the
39 valuation as of January 1 of the property of all telecommunications companies
40 operating in this state at its full cash value. Real estate shall be valued
41 at market value, and personal property shall be valued on a unitary basis at
42 its historical cost less depreciation. For THE purposes of this section:

43 1. Depreciation is computed based on the tables adopted by the
44 department PURSUANT TO SECTION 42-11054 in its personal property manual in
45 effect on January 1, 1993 for the following categories:

- 1 (a) Buildings with a twenty-five year life.
- 2 (b) Cable with a fifteen year life.
- 3 (c) Telecommunications equipment with a five year life.
- 4 (d) Any other telecommunications property that is not included in
- 5 subdivisions (a), (b) and (c) with a seven year life.

6 2. "Historical cost" means the original cost as reported on the

7 company's books and records.

8 3. For cellular or other wireless telecommunications companies, the

9 "taxable unit" is the applicable metropolitan statistical area or rural

10 statistical area and does not include the value of any license that is issued

11 by the federal communications commission.

12 Sec. 13. Section 42-16051, Arizona Revised Statutes, is amended to

13 read:

14 42-16051. Petition for assessor review of improper valuation or

15 classification

16 A. An owner of property which in the owner's opinion has been valued

17 too high or otherwise improperly valued or listed on the roll may file a

18 petition with the assessor on a written form prescribed by the department.

19 B. The petition shall state the owner's opinion of the full cash value

20 of the property and substantial information that justifies that opinion of

21 value for the assessor to consider for purposes of basing a change in

22 classification or correction of the valuation. For THE purposes of this

23 subsection, the owner provides substantial information to justify the opinion

24 of value by stating the method or methods of valuation on which the opinion

25 is based and:

26 1. Under the income approach, including the information required in

27 section 42-16052.

28 2. Under the market approach, including the full cash value of at

29 least one comparable property in the same geographic area or the sale of the

30 subject property.

31 3. Under the cost approach, including the cost to build or rebuild the

32 property plus the land value.

33 C. The petition may include more than one parcel of property if they

34 are part of the same economic unit according to ~~department~~ guidelines **ADOPTED**

35 **BY THE DEPARTMENT PURSUANT TO SECTION 42-11054** or if they are owned by the

36 same owner, have the same use, are appealed on the same basis and are located

37 in the same geographic area, as determined pursuant to ~~department~~ guidelines

38 **ADOPTED BY THE DEPARTMENT PURSUANT TO SECTION 42-11054**, and are on a form

39 prescribed by the department.

40 D. The petition shall be filed within sixty days after the date the

41 assessor mailed, delivered by common carrier or transmitted electronically,~~—~~

42 the notice of valuation under section 42-15101. United States postal service

43 postmark dates are evidence of the date petitions were filed for purposes of

44 this subsection.

1 Sec. 14. Section 42-16159, Arizona Revised Statutes, is amended to
2 read:

3 42-16159. Hearing on department equalization order

4 A. At the request of a county assessor who receives an equalization
5 order issued by the department under chapter 13, article 6 of this title, the
6 state board shall hold a hearing and issue its decision within fifteen days
7 after receipt of an appeal pursuant to section 42-13255.

8 B. The state board shall receive testimony from the department and the
9 assessor on the merits of the equalization order as to:

10 1. The proper application of standard appraisal methods and
11 techniques.

12 2. The rules OF THE DEPARTMENT and guidelines ~~of the department~~
13 ADOPTED BY THE DEPARTMENT PURSUANT TO SECTION 42-11054 as they relate to the
14 order.

15 3. Any errors in the information or methodology used by the department
16 to determine the necessity for the order, including changes in the valuation
17 of property that were not included in the information used by the department.

18 4. Any other evidence relating to the validity of the order.

19 C. Revisions to the equalization order are effective for the valuation
20 year in which the equalization order was issued.

21 Sec. 15. Purpose

22 Pursuant to section 41-2955, subsection B, Arizona Revised Statutes,
23 the legislature continues the department of revenue to efficiently and fairly
24 administer and collect the taxes levied by this state and to determine the
25 valuation of centrally assessed property in this state.

26 Sec. 16. Retroactivity

27 Sections 1 and 2 of this act are effective retroactively to July 1,
28 2006.