

HOUSE BILL 388

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

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AN ACT

RELATING TO TAXATION; ADDING WASTEWATER TO SPECIAL VALUATION OF PROPERTY; DECLARING AN EMERGENCY.

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

Section 1. Section 7-36-28 NMSA 1978 (being Laws 1975, Chapter 165, Section 9) is amended to read:

"7-36-28. SPECIAL METHOD OF VALUATION--PIPELINES, TANKS, ~~[SALES]~~ COLLECTION SYSTEMS, METERS, PLANTS AND HYDRANTS USED IN THE COLLECTION, TRANSMISSION, STORAGE, TREATMENT, DISCHARGE, MEASUREMENT OR DISTRIBUTION OF WATER OR WASTEWATER.--

A. All pipelines, tanks, ~~[sales]~~ meters, lift stations, treatment facilities, plants and hydrants used in the collection, transmission, storage, measurement, treatment, discharge or distribution of water or wastewater subject to valuation for property taxation purposes shall be valued in

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1 accordance with the provisions of this section.

2 B. As used in this section:

3 (1) "commercial water property" means  
4 privately owned pipelines, tanks, [~~sales~~] meters, plants,  
5 hydrants, materials and supplies, whether in service, in stock  
6 or under construction, owned and operated as a utility for the  
7 purpose of transmitting, storing, measuring or distributing  
8 water for sale to the consuming public, excluding general  
9 buildings and improvements;

10 (2) "commercial wastewater property" means  
11 privately owned pipelines, collection systems, lift stations,  
12 meters, treatment facilities, materials and supplies, whether  
13 in service, in stock or under construction, owned and operated  
14 as a utility for the purpose of collecting, transmitting,  
15 measuring, treating or discharging wastewater used for the  
16 purpose of providing wastewater service to the public,  
17 excluding general buildings and improvements;

18 [~~(2)~~] (3) "depreciation" means straight line  
19 depreciation over the useful life of the item of property;

20 [~~(3)~~] (4) "general buildings and improvements"  
21 means buildings of the nature of offices, residential housing,  
22 warehouses, shops and associated improvements in general use by  
23 the taxpayer but not directly associated with the collection,  
24 transmission, storage, measurement, treatment, discharge or  
25 distribution of water or wastewater;

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1                    [~~(4)~~] (5) "gallons" means the measurement of  
2 water sold or the measurement of wastewater discharged to a  
3 third party's treatment facility or the measurement of  
4 wastewater treated and discharged;

5                    [~~(5)~~] (6) "revenue" means gross utility  
6 operating revenue;

7                    [~~(6)~~] (7) "closed system" means a commercial  
8 water system in which water is gathered primarily by wells and  
9 stored in closed reservoirs and tanks; and

10                   [~~(7)~~] (8) "combination system" means a  
11 commercial water system in which water is gathered both in open  
12 reservoirs and by wells and is stored both in open reservoirs  
13 and closed reservoirs and tanks.

14                   C. The value of commercial water property shall be  
15 determined as follows:

16                    (1) a factor of two and forty-nine one  
17 hundredths per thousand gallons is to be used for a closed  
18 system and three and twenty-five one hundredths is to be used  
19 for a combination system;

20                    (2) the department shall determine the type of  
21 system into which the taxpayer's commercial water properties  
22 should be categorized;

23                    (3) the department shall then ascertain the  
24 number of thousand gallons sold to consumers by the taxpayer  
25 during each of the three immediately preceding calendar years

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1 and the taxpayer's water revenue from the immediately preceding  
2 calendar year;

3 (4) a simple average of the three-year  
4 thousand gallon sales shall be computed and compared to the  
5 actual thousand gallons sold to consumers during the  
6 immediately preceding calendar year. The higher of the average  
7 thousand gallons or the immediately preceding year's actual  
8 thousand gallons shall be the basis for value calculations;

9 (5) the thousand gallon figure determined in  
10 Paragraph (4) of this subsection shall then be multiplied by  
11 the appropriate per thousand gallon factor from Paragraph (1)  
12 of this subsection. The result of this calculation is the  
13 value of commercial water property for property taxation  
14 purposes; and

15 (6) notwithstanding the calculations provided  
16 for ~~[above]~~ in Paragraphs (1) through (5) of this subsection,  
17 the value of the taxpayer's commercial water property shall not  
18 be greater than four and one-half times the revenue derived  
19 during the immediately preceding calendar year from the  
20 operation of the commercial water property.

21 D. The value of commercial wastewater property  
22 shall be determined as follows:

23 (1) a factor of two and forty-nine one  
24 hundredths per thousand gallons shall be used;

25 (2) the department shall then ascertain the

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1 number of thousand gallons wastewater discharged to a third  
2 party's treatment facility or the number of thousand gallons  
3 wastewater treated and discharged during each of the three  
4 immediately preceding calendar years and the taxpayer's  
5 wastewater revenue from the immediately preceding calendar  
6 year;

7 (3) a simple average of the three-year  
8 thousand gallons shall be computed and compared to the actual  
9 thousand gallons during the immediately preceding calendar  
10 year. The higher of the average thousand gallons or the  
11 immediately preceding year's actual thousand gallons shall be  
12 the basis for value calculations;

13 (4) the thousand gallon figure determined in  
14 Paragraph (3) of this subsection shall then be multiplied by  
15 the factor provided in Paragraph (1) of this subsection. The  
16 result of this calculation is the value of commercial  
17 wastewater property for property taxation purposes; and

18 (5) notwithstanding the calculations provided  
19 for in this subsection, the value of the taxpayer's commercial  
20 wastewater property shall not be greater than four and one-half  
21 times the revenue derived during the immediately preceding  
22 calendar year from the operation of the commercial wastewater  
23 property.

24 ~~[D.]~~ E. Each item of property having a taxable  
25 situs in the state and valued ~~[under]~~ pursuant to this section

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1 shall have its net taxable value allocated to the governmental  
2 units in which the property is located on the basis of the  
3 percentage of the taxpayer's total investment in each  
4 governmental unit.

5 ~~[E.]~~ F. The department shall adopt regulations  
6 ~~[under Section 72-31-88 NMSA 1953]~~ to implement the provisions  
7 of this section."

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

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