

By Mr. Bolling of Boston, petition of Royal L. Bolling, Jr., and Thomas M. Gallagher for legislation to provide for the uniform valuation of utility company real and personal property and to further regulate the administration of abatements. Taxation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Five.

AN ACT TO PROVIDE FOR THE UNIFORM VALUATION OF UTILITY COMPANY REAL AND PERSONAL PROPERTY AND TO FURTHER REGULATE THE ADMINISTRATION OF ABATEMENTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 38 of chapter 59 of the General Laws, as
2 most recently amended by section 15 of chapter 797 of the acts of
3 1979, is hereby further amended by striking out the first paragraph
4 and inserting in place thereof the following paragraph:

5 The assessors of each city and town shall at the time appointed
6 therefor make a fair cash valuation of all the estate, real and
7 personal, subject to taxation therein, based on one or a combina-
8 tion of all generally accepted methods for determining the full and
9 fair cash value of such property, including a comparison of sales
10 prices of similar property, the capitalization of market rental
11 income, the replacement cost less depreciation, the reproduction
12 cost less depreciation; provided, however, that in the case of real or
13 personal property owned by an electric company or gas company,
14 both as defined in section 1 of chapter 164, the cost of constructing
15 comparable alternative facilities capable of delivering or produc-
16 ing equivalent energy, less the actual depreciation attributable to
17 the estate subject to taxation, shall be presumed to be the fair cash
18 value of such property. The determination made by the assessors
19 shall be the assessed valuation of such estate. In cities, the assessors
20 may, in any year, divide the city into convenient assessment
21 districts.

1 SECTION 2. Chapter 58A of the General Laws is hereby
2 amended by inserting after section 12C the following section:

3 *Section 12D.* Notwithstanding the provisions of any general or
4 special law to the contrary, at any hearing relative to the assessed
5 fair cash valuation of any real or personal property owned by an
6 electric company or gas company, both as defined in section 1 of
7 chapter 164, the board shall determine the valuation of such
8 property based upon the actual anticipated cost of constructing
9 comparable alternative facilities capable of delivering or produc-
10 ing equivalent energy, less the actual depreciation attributable to
11 the estate subject to taxation and shall not take into consideration
12 the regulated earnings of the owner of such utility property unless
13 said earnings are in fact reduced by the taxes on real or personal
14 estate paid to cities and towns. Upon motion of any party after an
15 appeal has been filed concerning real or personal property of an
16 electric or gas company for a fiscal year certified for classification
17 by the commissioner under the provisions of section fifty-six of
18 chapter forty, any party may appeal the classification of such
19 property as determined by the assessor or as certified by the
20 commissioner, and the board shall properly classify such property
21 and determine the fair cash value of such property, and the tax
22 paid, or to be paid, notwithstanding the original classification of
23 such property or the form of the tax bill received and paid; pro-
24 vided, however, that upon a determination that property should be
25 reclassified, the taxpayer shall be allowed to late file an appeal
26 concerning the valuation of such property, if an appeal has not
27 been previously filed. Any hearing pursuant to an appeal under
28 this chapter, the appellant shall have the burden of proving why
29 the fair cash value of its property is not the cost of constructing
30 alternative facilities capable of delivering or producing equivalent
31 energy.

1 SECTION 3. The second paragraph of section 64 of chapter 59
2 of the General Laws, as most recently amended by section 4 of
3 chapter 72 of the acts of 1983, is hereby amended by inserting
4 after the last sentence the following new sentence: Notwithstading
5 the provisions of any general or special law to the contrary, and
6 notwithstanding any provisions of this section, if an abatement or

7 abatements granted relating to the real or personal property
8 owned by an electric or gas company, both as defined in section 1
9 of chapter 164, shall exceed one million dollars in the aggregate,
10 exclusive of interest, the amount thereof shall not be paid to the
11 taxpayer by the city or town treasurer and no execution shall issue,
12 but the taxpayer shall be issued an abatement certificate or a
13 series of abatement certificates recording the amount of the
14 abatement granted by the board, together with any interest
15 accrued thereon as hereinafter calculated through the date of the
16 board's order, which certificates shall be redeemed by application
17 as credits against that taxpayer's tax liabilities for future fiscal
18 years; provided, that the balance of such abatements in excess of
19 one million dollars, and the balance of such abatements below one
20 million dollars, shall each bear interest at the rate of one percent
21 per annum from the date of payment of the tax; and, provided
22 further, that no abatement certificate shall be granted until all
23 pending appeals concerning the real or personal property subject
24 to an abatement proceeding by the board have been finally
25 appealed and decided.

26 *Whereas*, the deferred operation of this act would tend to defeat
27 its purpose, which is the uniform and equitable procedures for the
28 valuation and taxation of utility company, real and personal prop-
29 erty within the Commonwealth and the procedures to be applied
30 to any appeals pending at the Appellate Tax Board and the
31 manner in which abatements, if any, shall be calculated and paid,
32 therefore, it is hereby declared to be an emergency law, necessary
33 for the immediate preservation of the public convenience.

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