

HOUSE JOINT RESOLUTION NO. 98

Directing the Department of Taxation to study and make recommendations regarding the Commonwealth's appeals process for businesses disputing determinations of the fair market value of real and tangible personal property. Report.

Agreed to by the House of Delegates, February 9, 2018

Agreed to by the Senate, March 5, 2018

WHEREAS, the Commonwealth's manufacturing sector ranked 37th in the United States for total capital expenditures per manufacturing employee in 2015 according to the U.S. Census Bureau and the Virginia Manufacturing Competitiveness Index; and

WHEREAS, Virginia's economic development strategy has a primary focus on expanding and attracting manufacturing investments in the Commonwealth; and

WHEREAS, the lack of a clear state appeals process for the property assessments costs taxpayers millions of dollars in court costs each year; and

WHEREAS, public and legal disputes over fair market valuations contribute to a negative image of the Commonwealth for economic development purposes; and

WHEREAS, § 58.1-3983.1 of the Code of Virginia already provides for administrative appeals to the Tax Commissioner but does not require him to state the facts and law in support of his determinations, including an analysis of any appraisals or other valuation information presented by the taxpayer and the commissioner of the revenue or other assessing official; and

WHEREAS, subdivision D 5 of § 58.1-3983.1 of the Code of Virginia prohibits the Tax Commissioner from making a determination regarding the valuation or the method of valuation of property subject to any local tax other than a local business tax; and

WHEREAS, it is imperative that there be a review of the Commonwealth's appeals process involving both real and personal property when there is a dispute over fair market value assessments; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Department of Taxation be directed to study and make recommendations regarding the Commonwealth's appeals process for businesses disputing determinations of the fair market value of real and tangible personal property.

In conducting its study, the Department of Taxation shall evaluate the following: the feasibility and merits of the taxpayer determining the value of individual items of property by allocating a total appraised value for all the machinery and tools at a plant, facility, or any part thereof among the individual items of property at such plant, facility, or any part thereof, on the basis of the percentage of original cost that each such item bears to the total original cost and the feasibility and merits of the Commissioner, based on the documents submitted by the taxpayer and the commissioner of the revenue or other assessing official, (i) determining whether the assessor's method for valuing and assessing machinery and tools is likely to estimate fair market value accurately and whether the assessor has taken into account all forms of depreciation, including obsolescence, and other appropriate factors reasonably necessary to determine fair market value; (ii) determining whether the taxpayer has carried his burden to establish that the machinery and tools in question have been assessed at more than fair market value and the fair market value thereof; (iii) stating the facts and law in support of his determinations, including an analysis of any appraisals or other valuation information presented by the taxpayer and the commissioner of the revenue or other assessing official; and (iv) affirming the assessment if the taxpayer has not carried his burden to establish that the property has a fair market value less than the assessed value, or if the taxpayer has carried his burden, directing that the assessment be corrected by the commissioner of the revenue or other assessing official.

Technical assistance shall be provided to the Department of Taxation by the Virginia Economic Development Partnership, and the Office of the Attorney General. All agencies of the Commonwealth shall provide assistance to the Virginia Department of Taxation for this report, upon request. All stakeholders, including but not limited to local government and the manufacturing sector trade associations, are requested to participate in this report.

The Department of Taxation shall complete its meetings by November 1, 2019, and shall submit to the Governor and the General Assembly an executive summary and a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than December 1, 2019, and shall be posted on the General Assembly's website.

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