

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 694

6 By: Schulz of the Senate

7 and

8 Wright of the House

9 COMMITTEE SUBSTITUTE

10 An Act relating to revenue and taxation; providing
11 procedures for determination of fair cash value of
12 real and personal property for purposes of Section 6B
13 of Article X of the Oklahoma Constitution; providing
14 for valuation methods by mutual agreement; providing
15 for valuation method in absence of mutual agreement;
16 prescribing required content for agreement; imposing
17 requirements related to formalities of execution of
18 agreement; requiring record retention; providing for
19 selection of valuation method by Oklahoma Tax
20 Commission; providing for valuations performed by
21 Oklahoma Tax Commission; providing for valuation
22 methods after expiration of exemption period;
23 providing for ability to protest modifications to
24 valuation; creating evidentiary presumption;
providing for effect of evidentiary presumption upon
value determinations; providing for applicability of
presumption in proceedings before the county board of
equalization and during appeals to district court;
providing for scope of judicial review based on
proceedings in district court; authorizing rules;
amending 68 O.S. 2011, Sections 2902, as amended by
Section 1, Chapter 306, O.S.L. 2012, 2877, as last
amended by Section 2, Chapter 387, O.S.L. 2014 and
2880.1 (68 O.S. Supp. 2014, Sections 2902 and 2877),
which relate to procedures for determination of fair
cash value and determinations by county board of
equalization and district court; providing for
codification; and providing an effective date.

1 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 2902.5 of Title 68, unless there
4 is created a duplication in numbering, reads as follows:

5 A. For all qualifying manufacturing concerns that become
6 eligible for the exemption authorized by Section 6B of Article X of
7 the Oklahoma Constitution and pursuant to Section 2902 of Title 68
8 of the Oklahoma Statutes for the first time on or after January 1,
9 2016, or the assets of a qualifying manufacturing concern which
10 become eligible for the exemption for the first time on or after
11 January 1, 2016, the Oklahoma Tax Commission, the county assessor of
12 the county or counties in which the real or personal property of the
13 qualifying manufacturing concern is located (or both such real and
14 personal property), and the qualifying manufacturing concern shall
15 mutually agree upon a valuation method for the real and personal
16 property which is eligible for the exemption, including a method for
17 depreciation.

18 B. The agreement among the parties described in subsection A of
19 this section shall be in writing upon such form as the Tax
20 Commission may prescribe for such purpose or contained in an
21 agreement as mutually agreed to by the parties. The agreement
22 shall contain a description of the valuation method to be used with
23 respect to the assets described in the agreement for the period of
24 time the exemption described in subsection A of this section is in

1 effect, including any method for the depreciation of such property.
2 Such agreement shall be binding upon successors in public office and
3 upon any successor in interest if the entity which owns the assets
4 is acquired by any other entity pursuant to purchase of its equity
5 interests.

6 C. The agreement shall be signed by authorized representatives
7 of the parties or by the parties in their official capacities. The
8 agreement shall be kept in the records of the Tax Commission for the
9 period of time the qualifying manufacturing concern is eligible for
10 the exemption described in subsection A of this section and for such
11 additional period of time as the Commission shall determine. The
12 agreement shall also be kept in the records of the applicable county
13 assessor for the period of time the qualifying manufacturing concern
14 is eligible for the exemption described in subsection A of this
15 section and for such additional period of time as the assessor shall
16 determine.

17 D. If the county assessor, the Tax Commission and the
18 qualifying manufacturing concern cannot reach a mutual agreement
19 regarding valuation methods or depreciation methods or any other
20 matter relevant to the agreement prior to the time the exemption
21 period begins or not later than the date prescribed by Section 2902
22 of Title 68 of the Oklahoma Statutes for filing an application for
23 the exempt treatment, the Tax Commission shall have the authority to
24 select a valuation method, including a method for depreciation,

1 which is consistent with the provisions of the Ad Valorem Tax Code
2 regarding determinations of fair cash value and such method shall be
3 binding on the county assessor and the qualifying manufacturing
4 concern for the duration of the exemption.

5 E. With respect to the valuation method described in the
6 agreement or selected by the Tax Commission pursuant to subsection D
7 of this section, the Tax Commission shall perform the valuation of
8 the real or personal property or both such real and personal
9 property using the valuation method described in the agreement,
10 including the depreciation method, and shall not use any other
11 method for valuation or depreciation.

12 F. Except as provided by subsection G of this section, after
13 the expiration of the exemption period, the valuation method as
14 memorialized in the agreement among the parties or the valuation
15 method selected by the Tax Commission if the parties were not able
16 to reach a mutual agreement or a valuation method agreed to by both
17 the county assessor and the qualifying manufacturing concern shall
18 continue to be the valuation method used to establish the fair cash
19 value of the real or personal property or both such real and
20 personal property for all assessment years after the expiration of
21 the period of exemption.

22 G. If a county assessor modifies the fair cash value of real or
23 personal property or both such real and personal property in any
24 assessment year subsequent to the last year of the exemption period

1 in an amount which represents a significant increase or decrease
2 from the fair cash value that would otherwise be determined
3 according to the method described in the agreement or the method
4 selected by the Tax Commission if the parties were not able to reach
5 a mutual agreement, the taxpayer may protest the fair cash value as
6 determined by the county assessor and the valuation method,
7 including any depreciation methods, used by the county assessor to
8 make the determination in the manner authorized by the Ad Valorem
9 Tax Code.

10 H. In any proceeding involving an issue regarding the method by
11 which the fair cash value of the relevant assets is being determined
12 as provided by subsection G of this section, there shall be an
13 evidentiary presumption, which may only be overcome by clear and
14 convincing evidence to the contrary, that the fair cash value which
15 would be determined using the valuation methodology in the agreement
16 or the valuation methodology as selected by the Tax Commission if
17 the parties were unable to reach agreement is the correct fair cash
18 value for the real or personal property or both such real and
19 personal property.

20 I. The evidentiary presumption described by subsection H of
21 this section shall govern any proceedings in district court in
22 appeals from final determinations of the county board of
23 equalization.

24

1 J. Upon the appeal of a judgment of a district court in cases
2 arising as a result of modifications to fair cash value of assets by
3 a county assessor after the expiration of the exemption period, the
4 findings and conclusions or judgment of the district court shall
5 only be reversed if the appellate court finds that the evidentiary
6 presumption described by subsection H of this section was rebutted
7 by the presentation of relevant and admissible evidence and that the
8 evidence was clear and convincing.

9 K. The Tax Commission shall have the authority and duty to
10 prescribe forms and to promulgate rules as may be necessary to carry
11 out and administer the terms and provisions of this section.

12 SECTION 2. AMENDATORY 68 O.S. 2011, Section 2902, as
13 last amended by Section 1, Chapter 306, O.S.L. 2012 (68 O.S. Supp.
14 2014, Section 2902), is amended to read as follows:

15 Section 2902. A. Except as otherwise provided by subsection H
16 of Section 3658 of this title pursuant to which the exemption
17 authorized by this section may not be claimed, a qualifying
18 manufacturing concern, as defined by Section 6B of Article X of the
19 Oklahoma Constitution, and as further defined herein, shall be
20 exempt from the levy of any ad valorem taxes upon new, expanded or
21 acquired manufacturing facilities, including facilities engaged in
22 research and development, for a period of five (5) years. The
23 provisions of Section 6B of Article X of the Oklahoma Constitution
24 requiring an existing facility to have been unoccupied for a period

1 of twelve (12) months prior to acquisition shall be construed as a
2 qualification for a facility to initially receive an exemption, and
3 shall not be deemed to be a qualification for that facility to
4 continue to receive an exemption in each of the four (4) years
5 following the initial year for which the exemption was granted.
6 Such facilities are hereby classified for the purposes of taxation
7 as provided in Section 22 of Article X of the Oklahoma Constitution.

8 B. For purposes of this section, the following definitions
9 shall apply:

10 1. "Manufacturing facilities" means facilities engaged in the
11 mechanical or chemical transformation of materials or substances
12 into new products and shall include:

- 13 a. establishments which have received a manufacturer
14 exemption permit pursuant to the provisions of Section
15 1359.2 of this title,
- 16 b. facilities, including repair and replacement parts,
17 primarily engaged in aircraft repair, building and
18 rebuilding whether or not on a factory basis,
- 19 c. establishments primarily engaged in computer services
20 and data processing as defined under Industrial Group
21 Numbers 5112 and 5415, and U.S. Industry Number 334611
22 and 519130 of the NAICS Manual, latest revision, and
23 which derive at least fifty percent (50%) of their
24 annual gross revenues from the sale of a product or

1 service to an out-of-state buyer or consumer, and as
2 defined under Industrial Group Number 5142 of the
3 NAICS Manual, latest revision, which derive at least
4 eighty percent (80%) of their annual gross revenues
5 from the sale of a product or service to an out-of-
6 state buyer or consumer. Eligibility as a
7 manufacturing facility pursuant to this subparagraph
8 shall be established, subject to review by the
9 Oklahoma Tax Commission, by annually filing an
10 affidavit with the Tax Commission stating that the
11 facility so qualifies and such other information as
12 required by the Tax Commission. For purposes of
13 determining whether annual gross revenues are derived
14 from sales to out-of-state buyers, all sales to the
15 federal government shall be considered to be an out-
16 of-state buyer,

- 17 d. for which the investment cost of the construction,
18 acquisition or expansion of the manufacturing facility
19 is Two Hundred Fifty Thousand Dollars (\$250,000.00) or
20 more. Provided, "investment cost" shall not include
21 the cost of direct replacement, refurbish, repair or
22 maintenance of existing machinery or equipment, and
23 e. establishments primarily engaged in distribution as
24 defined under Industry Numbers 49311, 49312, 49313 and

1 49319 and Industry Sector Number 42 of the NAICS
2 Manual, latest revision, and which meet the following
3 qualifications:

- 4 (1) construction with an initial capital investment
5 of at least Five Million Dollars (\$5,000,000.00),
- 6 (2) employment of at least one hundred (100) full-
7 time-equivalent employees, as certified by the
8 Oklahoma Employment Security Commission,
- 9 (3) payment of wages or salaries to its employees at
10 a wage which equals or exceeds one hundred
11 seventy-five percent (175%) of the federally
12 mandated minimum wage, as certified by the
13 Oklahoma Employment Security Commission, and
- 14 (4) commencement of construction on or after November
15 1, 2007, with construction to be completed within
16 three (3) years from the date of the commencement
17 of construction.

18 Eligibility as a manufacturing facility pursuant to this
19 subparagraph shall be established, subject to review by the Tax
20 Commission, by annually filing an affidavit with the Tax Commission
21 stating that the facility so qualifies and containing such other
22 information as required by the Tax Commission.

1 Provided, eating and drinking places, as well as other retail
2 establishments, shall not qualify as manufacturing facilities for
3 purposes of this section, nor shall centrally assessed properties.

4 Eligibility as a manufacturing facility pursuant to this
5 subparagraph shall be established, subject to review by the Tax
6 Commission, by annually filing an application with the Tax
7 Commission stating that the facility so qualifies and containing
8 such other information as required by the Tax Commission;

9 2. "Facility" and "facilities" means and includes the land,
10 buildings, structures, improvements, machinery, fixtures, equipment
11 and other personal property used directly and exclusively in the
12 manufacturing process; and

13 3. "Research and development" means activities directly related
14 to and conducted for the purpose of discovering, enhancing,
15 increasing or improving future or existing products or processes or
16 productivity.

17 C. The following provisions shall apply:

18 1. A manufacturing concern shall be entitled to the exemption
19 herein provided for each new manufacturing facility constructed,
20 each existing manufacturing facility acquired and the expansion of
21 existing manufacturing facilities on the same site, as such terms
22 are defined by Section 6B of Article X of the Oklahoma Constitution
23 and by this section;

1 2. Except as otherwise provided in paragraph 5 of this
2 subsection, no manufacturing concern shall receive more than one
3 five-year exemption for any one manufacturing facility unless the
4 expansion which qualifies the manufacturing facility for an
5 additional five-year exemption meets the requirements of paragraph 4
6 of this subsection and the employment level established for any
7 previous exemption is maintained;

8 3. Any exemption as to the expansion of an existing
9 manufacturing facility shall be limited to the increase in ad
10 valorem taxes directly attributable to the expansion;

11 4. Except as provided in paragraphs 5 and 6 of this subsection,
12 all initial applications for any exemption for a new, acquired or
13 expanded manufacturing facility shall be granted only if:

- 14 a. there is a net increase in annualized payroll of at
15 least Two Hundred Fifty Thousand Dollars (\$250,000.00)
16 if the facility is located in a county with a
17 population of fewer than seventy-five thousand
18 (75,000), according to the most recent Federal
19 Decennial Census, while maintaining or increasing
20 payroll in subsequent years, or at least One Million
21 Dollars (\$1,000,000.00) if the facility is located in
22 a county with a population of seventy-five thousand
23 (75,000) or more, according to the most recent Federal
24 Decennial Census, while maintaining or increasing

1 payroll in subsequent years; provided the payroll
2 requirement of this subparagraph shall be waived for
3 claims for exemptions, including claims previously
4 denied or on appeal on March 3, 2010, for all initial
5 applications for exemption filed on or after January
6 1, 2004, and on or before March 31, 2009, and all
7 subsequent annual exemption applications filed related
8 to the initial application for exemption, for an
9 applicant, if the facility has been located in
10 Oklahoma for at least fifteen (15) years engaged in
11 marine engine manufacturing as defined under U.S.
12 Industry Number 333618 of the NAICS Manual, latest
13 revision, and has maintained an average employment of
14 five hundred (500) or more full-time-equivalent
15 employees over a ten-year period. Any applicant that
16 qualifies for the payroll requirement waiver as
17 outlined in the previous sentence and subsequently
18 closes its Oklahoma manufacturing plant prior to
19 January 1, 2012, may be disqualified for exemption and
20 subject to recapture. For an applicant engaged in
21 paperboard manufacturing as defined under U.S.
22 Industry Number 322130 of the NAICS Manual, latest
23 revision, union master payouts paid by the buyer of
24 the facility to specified individuals employed by the

1 facility at the time of purchase, as specified under
2 the purchase agreement, shall be excluded from payroll
3 for purposes of this section.

4 The Tax Commission shall verify payroll information
5 through the Oklahoma Employment Security Commission by
6 using reports from the Oklahoma Employment Security
7 Commission for the calendar year immediately preceding
8 the year for which initial application is made for
9 base-line payroll, which must be maintained or
10 increased for each subsequent year; provided, a
11 manufacturing facility shall have the option of
12 excluding from its payroll, for purposes of this
13 section, payments to sole proprietors, members of a
14 partnership, members of a limited liability company
15 who own at least ten percent (10%) of the capital of
16 the limited liability company or stockholder-employees
17 of a corporation who own at least ten percent (10%) of
18 the stock in the corporation. A manufacturing
19 facility electing this option shall indicate such
20 election upon its application for an exemption under
21 this section. Any manufacturing facility electing
22 this option shall submit such information as the Tax
23 Commission may require in order to verify payroll
24 information. Payroll information submitted pursuant

1 to the provisions of this paragraph shall be submitted
2 to the Tax Commission and shall be subject to the
3 provisions of Section 205 of this title, and

4 b. the facility offers, or will offer within one hundred
5 eighty (180) days of the date of employment, a basic
6 health benefits plan to the full-time-equivalent
7 employees of the facility, which is determined by the
8 Department of Commerce to consist of the elements
9 specified in subparagraph b of paragraph 1 of
10 subsection A of Section 3603 of this title or elements
11 substantially equivalent thereto.

12 For purposes of this section, calculation of the amount of
13 increased payroll shall be measured from the start of initial
14 construction or expansion to the completion of such construction or
15 expansion or for three (3) years from the start of initial
16 construction or expansion, whichever occurs first. The amount of
17 increased payroll shall include payroll for full-time-equivalent
18 employees in this state who are employed by an entity other than the
19 facility which has previously or is currently qualified to receive
20 an exemption pursuant to the provisions of this section and who are
21 leased or otherwise provided to the facility, if such employment did
22 not exist in this state prior to the start of initial construction
23 or expansion of the facility. The manufacturing concern shall
24 submit an affidavit to the Tax Commission, signed by an officer,

1 stating that the construction, acquisition or expansion of the
2 facility will result in a net increase in the annualized payroll as
3 required by this paragraph and that full-time-equivalent employees
4 of the facility are or will be offered a basic health benefits plan
5 as required by this paragraph. If, after the completion of such
6 construction or expansion or after three (3) years from the start of
7 initial construction or expansion, whichever occurs first, the
8 construction, acquisition or expansion has not resulted in a net
9 increase in the amount of annualized payroll, if required, or any
10 other qualification specified in this paragraph has not been met,
11 the manufacturing concern shall pay an amount equal to the amount of
12 any exemption granted, including penalties and interest thereon, to
13 the Tax Commission for deposit to the Ad Valorem Reimbursement Fund;

14 5. If a facility fails to meet the payroll requirement of
15 subparagraph a of paragraph 4 of this subsection, the payroll
16 requirement shall be waived for claims for exemptions, including
17 claims previously denied or on appeal on June 1, 2009, for all
18 initial applications for exemption filed on or after January 1,
19 2004, and on or before March 31, 2009, and all subsequent annual
20 exemption applications filed related to such initial application for
21 exemption, for an applicant, if the facility:

22 a. has been located for at least five (5) years as of
23 March 31, 2009, in a county in Oklahoma with a
24 population of six hundred thousand (600,000) or more⁺

- 1 b. is owned by an applicant that has been engaged in
2 manufacturing as defined under U.S. Industry Numbers
3 323110, 323111, 323121 and 323122 of the NAICS Manual,
4 latest revision~~;~~;
- 5 c. is owned by an applicant that maintains a workforce of
6 at least three hundred (300) employees on June 1,
7 2009~~;~~;
- 8 d. is owned by an applicant that has filed multiple
9 applications for exemption pursuant to this section~~;~~;
10 and
- 11 e. is owned by an applicant that operates at least one
12 facility in this state of at least seven hundred
13 thirty thousand (730,000) square feet on June 1, 2009.

14 In the event that any applicant obtaining a waiver of the payroll
15 requirement pursuant to this paragraph ceases to operate all of its
16 facilities in this state on or before a date that is four (4) years
17 after any initial application for an exemption is filed by such
18 applicant, all sums of property taxes exempted under this paragraph
19 through a waiver of the payroll requirement that relate to such
20 application shall become due and payable as if such sums were
21 assessed in the year in which the applicant ceases to operate all of
22 its facilities in the state~~;~~;

23 6. Any new, acquired or expanded automotive final assembly
24 manufacturing facility which does not meet the requirements of

1 paragraph 4 of this subsection shall be granted an exemption only if
2 all other requirements of this section are met and only if the
3 investment cost of the construction, acquisition or expansion of the
4 manufacturing facility is Three Hundred Million Dollars
5 (\$300,000,000.00) or more and the manufacturing facility retains an
6 average employment of one thousand seven hundred fifty (1,750) or
7 more full-time-equivalent employees in the year in which the
8 exemption is initially granted and in each of the four (4)
9 subsequent years only if an average employment of one thousand seven
10 hundred fifty (1,750) or more full-time-equivalent employees is
11 maintained in the subsequent year. Any property installed to
12 replace property damaged by the tornado or natural disaster that
13 occurred May 8, 2003, may continue to receive the exemption provided
14 in this paragraph for the full five-year period based on the value
15 of the previously qualifying assets as of January 1, 2003. The
16 exemption shall continue in effect as long as all other
17 qualifications in this paragraph are met. If the average employment
18 of one thousand seven hundred fifty (1,750) or more full-time-
19 equivalent employees is reduced as a result of temporary layoffs
20 because of a tornado or natural disaster on May 8, 2003, then the
21 average employment requirement shall be waived for year 2003 of the
22 exemption period. Calculation of the number of employees shall be
23 made in the same manner as required under Section 2357.4 of this
24 title for an investment tax credit. As used in this paragraph,

1 "expand" and "expansion" shall mean and include any increase to the
2 size or scope of a facility as well as any renovation, restoration,
3 replacement or remodeling of a facility which permits the
4 manufacturing of a new or redesigned product;

5 7. Any new, acquired, or expanded computer data processing,
6 data preparation, or information processing services provider
7 classified in Industrial Group Number 7374 of the SIC Manual, latest
8 revision, and U.S. Industry Number 514210 of the North American
9 Industrial Classification System (NAICS) Manual, latest revision,
10 may apply for exemptions under this section for each year in which
11 new, acquired, or expanded capital improvements to the facility are
12 made if:

- 13 a. there is a net increase in annualized payroll of the
14 applicant at any facility or facilities of the
15 applicant in this state of at least Two Hundred Fifty
16 Thousand Dollars (\$250,000.00), which is attributable
17 to the capital improvements, or a net increase of
18 Seven Million Dollars (\$7,000,000.00) or more in
19 capital improvements, while maintaining or increasing
20 payroll at the facility or facilities in this state
21 which are included in the application, and
22 b. the facility offers, or will offer within one hundred
23 eighty (180) days of the date of employment of new
24 employees attributable to the capital improvements, a

1 basic health benefits plan to the full-time-equivalent
2 employees of the facility, which is determined by the
3 Department of Commerce to consist of the elements
4 specified in subparagraph b of paragraph 1 of
5 subsection A of Section 3603 of this title or elements
6 substantially equivalent thereto; ~~and~~

7 8. An entity engaged in electric power generation by means of
8 wind, as described by the North American Industry Classification
9 System, No. 221119, which does not meet the requirements of
10 paragraph 4 of this subsection shall be granted an exemption only if
11 all other requirements of this section are met and only if there is
12 a net increase in annualized payroll at the facility of at least Two
13 Hundred Fifty Thousand Dollars (\$250,000.00) or a net increase of
14 Two Million Dollars (\$2,000,000.00) or more in capital improvements
15 while maintaining or increasing payroll; and

16 9. An entity which has been granted an exemption for a time
17 period which included calendar year 2009 but which did not meet the
18 base-line payroll requirements of subparagraph a of paragraph 4 of
19 this subsection during calendar year 2009, shall be allowed an
20 exemption, to begin on January 1 of the first calendar year after
21 January 1, 2012, for the number of years, including calendar year
22 2009, remaining in the entity's five-year exemption period, provided
23 such entity attains or increases payroll at or above the base-line
24

1 payroll established for the exemption which was in force during
2 calendar year 2009.

3 D. 1. Except as provided in paragraph 2 of this subsection,
4 the five-year period of exemption from ad valorem taxes for any
5 qualifying manufacturing facility property shall begin on January 1
6 following the initial qualifying use of the property in the
7 manufacturing process.

8 2. The five-year period of exemption from ad valorem taxes for
9 any qualifying manufacturing facility, as defined in subparagraph c
10 of paragraph 1 of subsection B of this section which is located
11 within a tax incentive district created pursuant to the Local
12 Development Act by a county having a population of at least five
13 hundred thousand (500,000), according to the most recent Federal
14 Decennial Census, shall begin on January 1 following the expiration
15 or termination of the ad valorem exemption, abatement, or other
16 incentive provided through the tax incentive district.

17 E. Any person, firm or corporation claiming the exemption
18 herein provided for shall file each year for which exemption is
19 claimed, an application therefor with the county assessor of the
20 county in which the new, expanded or acquired facility is located.
21 The application shall be on a form or forms prescribed by the Tax
22 Commission, and shall be filed on or before March 15, except as
23 provided in Section 2902.1 of this title, of each year in which the
24 facility desires to take the exemption or within thirty (30) days

1 from and after receipt by such person, firm or corporation of notice
2 of valuation increase, whichever is later. In a case where
3 completion of the facility or facilities will occur after January 1
4 of a given year, a facility may apply to claim the ad valorem tax
5 exemption for that year. If such facility is found to be qualified
6 for exemption, the ad valorem tax exemption provided for herein
7 shall be granted for that entire year and shall apply to the ad
8 valorem valuation as of January 1 of that given year. For
9 applicants which qualify under the provisions of subparagraph b of
10 paragraph 1 of subsection B of this section, the application shall
11 include a copy of the affidavit and any other information required
12 to be filed with the Tax Commission.

13 F. The application shall be examined by the county assessor and
14 approved or rejected in the same manner as provided by law for
15 approval or rejection of claims for homestead exemptions. The
16 taxpayer shall have the same right of review by and appeal from the
17 county board of equalization, in the same manner and subject to the
18 same requirements as provided by law for review and appeals
19 concerning homestead exemption claims. Approved applications shall
20 be filed by the county assessor with the Tax Commission no later
21 than June 15, except as provided in Section 2902.1 of this title, of
22 the year in which the facility desires to take the exemption.
23 Incomplete applications and applications filed after June 15 will be
24 declared null and void by the Tax Commission. In the event that a

1 taxpayer qualified to receive an exemption pursuant to the
2 provisions of this section shall make payment of ad valorem taxes in
3 excess of the amount due, the county treasurer shall have the
4 authority to credit the taxpayer's real or personal property tax
5 overpayment against current taxes due. The county treasurer may
6 establish a schedule of up to five (5) years of credit to resolve
7 the overpayment.

8 G. Nothing herein shall in any manner affect, alter or impair
9 any law relating to the assessment of property, and all property,
10 real or personal, which may be entitled to exemption hereunder shall
11 be valued and assessed as is other like property and as provided by
12 law. The valuation and assessment of property for which an
13 exemption is granted hereunder shall be performed by the Tax
14 Commission. The agreement with respect to valuation methods or in
15 the absence of such a mutual agreement the valuation method selected
16 by the Tax Commission pursuant to the provisions of Section 1 of
17 this act shall be deemed to satisfy the requirements of this
18 subsection.

19 H. The Tax Commission shall have the authority and duty to
20 prescribe forms and to promulgate rules as may be necessary to carry
21 out and administer the terms and provisions of this section.

22 SECTION 3. AMENDATORY 68 O.S. 2011, Section 2877, as
23 last amended by Section 2, Chapter 387, O.S.L. 2014 (68 O.S. Supp.
24 2014, Section 2877), is amended to read as follows:

1 Section 2877. A. Upon receipt of an appeal from action by the
2 county assessor on the form prescribed by the Oklahoma Tax
3 Commission, the secretary of the county board of equalization shall
4 fix a date of hearing, at which time said board shall be authorized
5 and empowered to take evidence pertinent to said appeal; and for
6 that purpose, is authorized to compel the attendance of witnesses
7 and the production of books, records, and papers by subpoena, and to
8 confirm, correct, or adjust the valuation of real or personal
9 property or to cancel an assessment of personal property added by
10 the assessor not listed by the taxpayer if the personal property is
11 not subject to taxation or if the taxpayer is not responsible for
12 payment of ad valorem taxes upon such property. The evidentiary
13 presumption required by subsection H of Section 1 of this act for
14 purposes of determining the fair cash value of the real or personal
15 property or both such real and personal property of a qualifying
16 manufacturing concern shall be applicable to proceedings involving
17 the valuation of such property. The secretary of the board shall
18 fix the dates of the hearings provided for in this section in such a
19 manner as to ensure that the board is able to hear all complaints
20 within the time provided for by law. In any county with a
21 population less than three hundred thousand (300,000) according to
22 the latest Federal Decennial Census, the county board of
23 equalization shall provide at least three dates on which a taxpayer
24 may personally appear and make a presentation of evidence. At least

1 ten (10) days shall intervene between each such date. No final
2 determination regarding valuation protests shall be made by a county
3 board of equalization until the taxpayer shall have failed to appear
4 for all three such dates. The county board of equalization shall be
5 required to follow the procedures prescribed by the Ad Valorem Tax
6 Code or administrative rules and regulations promulgated pursuant to
7 such Code governing the valuation of real and personal property.
8 The county board of equalization shall not modify a valuation of
9 real or personal property as established by the county assessor
10 unless such modification is explained in writing upon a form
11 prescribed by the Oklahoma Tax Commission. Each decision of the
12 county board of equalization shall be explained in writing upon a
13 form prescribed by the Oklahoma Tax Commission. The county board of
14 equalization shall make a record of each proceeding involving an
15 appeal from action by the county assessor either in transcribed or
16 tape recorded form.

17 B. In all cases where the county assessor has, without giving
18 the notice required by law, increased the valuation of property as
19 listed by the taxpayer, and the taxpayer has knowledge of such
20 adjustment or addition, the taxpayer may at any time prior to the
21 adjournment of the board, file an appeal in the form and manner
22 provided for in Section 2876 of this title. Thereafter, the board
23 shall fix a date of hearing, notify the taxpayer, and conduct the
24 hearing as required by this section.

1 C. The taxpayer or agent may appear at the scheduled hearing
2 either in person, by telephone or other electronic means, or by
3 affidavit.

4 D. If the taxpayer or agent fails to appear before the county
5 board of equalization at the scheduled hearing, unless advance
6 notification is given for the reason of absence, the county shall be
7 authorized to assess against the taxpayer the costs incurred by the
8 county in preparation for the scheduled hearing. If such costs are
9 assessed, payment of the costs shall be a prerequisite to the filing
10 of an appeal to the district court. A taxpayer that gives advance
11 notification of their absence shall be given the opportunity to
12 reschedule the hearing date.

13 E. 1. In order to increase taxpayer transparency, a member of
14 the board of equalization shall not directly or indirectly
15 communicate with the county assessor or any deputy assessor or
16 designated agent on any matter relating to any pending appeal before
17 the board of equalization prior to the actual hearing.

18 2. The provisions of paragraph 1 of this subsection shall not
19 apply to a routine communication between the county assessor and the
20 board of equalization that relates to the administration of an
21 appraisal roll, including a communication made in connection with
22 the certification, correction, or collection of an account that is
23 not the subject of a pending appeal.

24

1 SECTION 4. AMENDATORY 68 O.S. 2011, Section 2880.1, is
2 amended to read as follows:

3 Section 2880.1 A. Both the taxpayer and the county assessor
4 shall have the right of appeal from any order of the county board of
5 equalization to the district court of the same county, and right of
6 appeal of either may be either upon questions of law or fact
7 including value, or upon both questions of law and fact. In case of
8 appeal the trial in the district court shall be de novo. The
9 evidentiary presumption required by subsection H of Section 1 of
10 this act for purposes of determining the fair cash value of the real
11 or personal property or both such real and personal property of a
12 qualifying manufacturing concern shall be applicable to proceedings
13 involving the valuation of such property. Provided, the county
14 assessor shall not be permitted to appeal an order of the county
15 board of equalization upon a question of the constitutionality of a
16 law upon which the board based its order, but the county assessor is
17 hereby authorized in such instance to request a declaratory judgment
18 to be rendered by the district court.

19 B. Notice of appeal shall be filed with the county clerk as
20 secretary of the county board of equalization, which appeal shall be
21 filed in the district court within ten (10) days after the final
22 adjournment of the board. It shall be the duty of the county clerk
23 to preserve all complaints and to make a record of all orders of the
24 board and both the complaint and orders shall be a part of the

1 record in any case appealed to the district court from the county
2 board of equalization.

3 C. Either the taxpayer or the county assessor may appeal from
4 the district court to the Supreme Court, as provided for in the Code
5 of Civil Procedure, but no matter shall be reviewed on such appeal
6 which was not presented to the district court. The findings and
7 conclusions or the judgment of the district court with respect to
8 determinations of fair cash value of real or personal property or
9 both such real and personal property of qualifying manufacturing
10 concerns may only be reversed according to the standard of review as
11 prescribed by subsection J of Section 1 of this act.

12 D. In such appeals to the district court and to the Supreme
13 Court and in requests for declaratory judgment it shall be the duty
14 of the district attorney to appear for and represent the county
15 assessor. The General Counsel or an attorney for the Tax Commission
16 may appear in such appeals or requests for declaratory judgment on
17 behalf of the county assessor, either upon request of the district
18 attorney for assistance, or upon request of the county assessor. It
19 shall be the mandatory duty of the board of county commissioners and
20 the county excise board to provide the necessary funds to enable the
21 county assessor to pay the costs necessary to be incurred in
22 perfecting appeals and requests for declaratory judgment made by the
23 county assessor to the courts.

24

1 E. In all appeals taken by the county assessor the presumption
2 shall exist in favor of the correctness of the county assessor's
3 valuation and the procedure followed by the county assessor.

4 SECTION 5. This act shall become effective January 1, 2016.

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