

## CHAPTER 358

---

**TAXATION**

---

**HOUSE BILL 00-1473**

BY REPRESENTATIVES McPherson and Vigil;  
also SENATOR Lamborn.

**AN ACT**

CONCERNING PROPERTY TAX ASSESSMENTS INVOLVING PUBLIC UTILITIES.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Legislative declaration.** The general assembly hereby finds and declares that the purpose of this bill is to clarify that when determining the valuation of public utilities for property tax purposes, an affiliate or subsidiary of a company that is not doing business primarily as a statutorily defined public utility shall not be included in the valuation of the public utility in any manner.

**SECTION 2.** 39-4-101 (3), Colorado Revised Statutes, is amended to read:

**39-4-101. Definitions.** As used in this article, unless the context otherwise requires:

(3) (a) "Public utility" means, for property tax years commencing on or after January 1, 1987, every sole proprietorship, firm, limited liability company, partnership, association, company, or corporation, and the trustees or receivers thereof, whether elected or appointed, which does business in this state as a railroad company, airline company, electric company, rural electric company, telephone company, telegraph company, gas company, gas pipeline carrier company, domestic water company selling at retail except nonprofit domestic water companies, pipeline company, coal slurry pipeline, or private car line company.

(b) ON AND AFTER JANUARY 1, 2000, FOR PURPOSES OF THIS ARTICLE, "PUBLIC UTILITY" SHALL NOT INCLUDE ANY AFFILIATE OR SUBSIDIARY OF A SOLE PROPRIETORSHIP, FIRM, LIMITED LIABILITY COMPANY, PARTNERSHIP, ASSOCIATION, COMPANY, OR CORPORATION OF ANY TYPE OF COMPANY DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3) THAT IS NOT DOING BUSINESS IN THE STATE PRIMARILY AS

---

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

A RAILROAD COMPANY, AIRLINE COMPANY, ELECTRIC COMPANY, RURAL ELECTRIC COMPANY, TELEPHONE COMPANY, TELEGRAPH COMPANY, GAS COMPANY, GAS PIPELINE CARRIER COMPANY, DOMESTIC WATER COMPANY SELLING AT RETAIL EXCEPT NONPROFIT DOMESTIC WATER COMPANIES, PIPELINE COMPANY, COAL SLURRY PIPELINE, OR PRIVATE CAR LINE COMPANY. VALUATION AND TAXATION OF ANY SUCH AFFILIATE OR SUBSIDIARY OF A PUBLIC UTILITY AS DEFINED IN PARAGRAPH (a) OF THIS SUBSECTION (3), SHALL BE ASSESSED PURSUANT TO ARTICLE 5 OF THIS TITLE.

**SECTION 3.** 39-4-108 (8), Colorado Revised Statutes, is amended to read:

**39-4-108. Complaint - hearing - decision.** (8) Further proceedings brought by a party adversely affected by the administrator's decision shall be before the board of assessment appeals under the provisions of section 39-2-125 OR BEFORE THE DENVER DISTRICT COURT FOR A TRIAL DE NOVO with no presumption in favor of any pending valuation, and no judicial review shall be available to any party under the provisions of section 39-4-109 until the board OR THE DISTRICT COURT has rendered its decision.

**SECTION 4.** 39-4-109, Colorado Revised Statutes, is amended to read:

**39-4-109. Judicial review.** (1) Any petitioner or any other public utility, assessor, or board of county commissioners adversely affected or the administrator may appeal any decision of the board of assessment appeals OR THE DISTRICT COURT denying a petition in whole or in part to the court of appeals. No new or additional evidence may be introduced in the court of appeals unless such other public utility, assessor, or board of county commissioners adversely affected has had no opportunity to present such evidence at the hearing before the board of assessment appeals OR AT THE TRIAL IN THE DISTRICT COURT; otherwise, the cause shall be heard on the record of the board of assessment appeals OR THE DISTRICT COURT, which shall be certified by it to the court in which the appeal was taken. Whenever any new or additional evidence is introduced, the court, in its discretion, may remand the case to the board of assessment appeals OR THE DISTRICT COURT for rehearing.

(2) An appeal may be taken to the court of appeals according to the Colorado appellate rules and the provisions of section 24-4-106 (11), C.R.S., after the decision of the board of assessment appeals OR THE DISTRICT COURT is issued, but, if the appeal is taken by the public utility actually owning the property involved in the petition to the board of assessment appeals OR THE DISTRICT COURT, such public utility shall pay the full amount of all taxes levied upon the valuation for assessment of its property and plant to the treasurer of the county in which the same is located prior to taking its appeal.

(3) If, upon appeal to the court of appeals, the petitioner is sustained, in whole or in part, then, upon presentation to the treasurer to whom the taxes were paid of a certified copy of the order modifying the valuation for assessment of its property and plant, the treasurer shall forthwith make the appropriate refund of taxes, together with refund interest at the same rate as delinquent interest as specified in section 39-10-104.5, and the petitioner shall also be entitled to a refund of costs incurred in the hearing before the board of assessment appeals OR THE TRIAL IN THE DISTRICT COURT and in the appeal to the court or such portion thereof as the court may decree; but, if judgment is for the board of assessment appeals, then the board of assessment

appeals shall receive its costs from the appellant. Such refund interest shall only accrue from the date on which payment of taxes was received by the treasurer from the petitioner.

**SECTION 5. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 2000