

Statewide Appraisal and Litigation Assistance Program: Cost Estimate per Act 163 of 2022

VERMONT DEPARTMENT OF TAXES, OFFICE OF THE COMMISSIONER, January 2023

Charge

[Act 163 of 2022](#), An act relating to municipal retention of property tax collections and valuation for purposes of the education property tax, established a State Appraisal and Litigation Assistance Program within the Division of Property Valuation and Review (PVR) of the Department of Taxes, to assist municipalities with the valuation of complex commercial or other unique properties, and to assist with any appeals arising from those valuations.

The bill instructs the Commissioner of Taxes to submit a cost estimate for this new program to the related legislative committees, including upfront and ongoing costs required to create, implement, and maintain a new program, including contracting with one or more commercial appraisers.

Background

Municipalities are operating with a small and diminishing pool of professional valuation expertise, and much of that expertise is in residential property valuation. Appraising complex commercial properties and defending those values, therefore, often requires contracting with independent consultants/appraisers, which can be prohibitively expensive for many Vermont towns with limited resources. This leads to an inequitable patchwork of valuation between residential and commercial properties across the state. The valuation inequity puts direct rate pressure on residential property taxpayers in those communities through municipal taxes and, within the closed system of the statewide education property tax, inequity is borne by other property taxpayers statewide.

The tax burden is additionally shifted to residential and other commercial taxpayers when towns lack sufficient resources to establish fair and defensible values. An example from the 2021 Report of the Vermont Tax Structure Commission illustrates this issue of misaligned incentives for towns to defend complex valuations:

- Consider a \$4M property in a town with a municipal tax rate of 30 cents. If the listed property value was reduced to \$2M as the result of an appeal, the town would be out just \$6,000 per year, which is not enough to warrant an expensive defense. Meanwhile, at a statewide level, this would shift \$32,560 of education tax per year to other property taxpayers.

For a sense of scale, in FY21 commercial and industrial properties contributed \$206 million in education fund revenue, 17.2% of all funds collected. Commercial and industrial properties are not uniformly distributed across the state, composing anywhere from 0% to 45% of a given town's total equalized education commercial grand list value.

The Department initially raised the issue of inequitable valuation of commercial properties across the state in a report created by Act 73 of 2021 and recommended creating this municipal support structure for complex commercial properties, which is similar to the existing program for hydroelectric dams. Please refer to our Act 73 report for more in depth discussion and data.

Scope/Procedures

Under the new state appraisal program in Vermont Statutes title 32, Sec. 5413, the Department will create an appraisal assistance program for a limited number of unique commercial and other complex properties. It will provide expertise either unavailable to municipalities, or available but at an unreasonable cost given the municipality's share of tax revenue. The Department is also in a position to offer a state-wide perspective on appropriate values.

With experience handling multiple cases, the Department will be in a better position to assess the value of litigation from a state-wide perspective, as opposed to each municipality attempting this assessment alone, sometimes having very limited experience with these unique properties. Rather, the Department will be guided by the fair market value of property – the vital foundation of the grand list.

This cost estimate includes one new position within the Property Valuation and Review Division to manage the program (PVR Program Manager), and one Staff Attorney to advise on legal issues, and offer support in litigation if necessary. Further, funds are dedicated for contracting with private commercial appraisal firms to value unique properties. The Department believes that



it will be able to contract on more favorable terms and procure higher quality services than if municipalities had to do so individually. Contractors will find a larger state contract more valuable and attractive.

The program staff will work with Department leadership to educate municipalities about the program and create an application with selection criteria that will prioritize properties. It is anticipated that there will be greater demand for this service by municipalities than the funds allow. Therefore, the criteria for prioritization will be an important element. We expect priority will include those properties in small municipalities with limited budgets and limited expertise in valuing complex commercial properties in their jurisdiction. Upon selection the Department will request its contractor to consider the subject property and, depending on the circumstances, either provide an appraisal, advise on values that have already been appraised, and help defend the value in subsequent appeal processes if necessary.

With this budget, the Department anticipates this program will have capacity to support towns in valuation and litigation support for approximately 10-15 properties state-wide per year. These properties could be retail properties, shopping centers, manufacturing facilities, multi-unit housing and other commercial properties.

Budget

The Department requests an investment of \$800,000 annually to maintain this program:

Staffing for two (2) FTEs	\$300,000
Contracted appraisal services	\$500,000
SALAP Annual budget	\$800,000