WEST VIRGINIA CODE CHAPTER 11 ARTICLE 6

WV Legislature

§11-6-1. Returns of property to board of public works.

(a) On or before May 1 in each year a return in writing shall be filed with the board of public works: (1) By the owner or operator of every railroad, wholly or in part, within this state; (2) by the owner or operator of every railroad bridge upon which a separate toll or fare is charged; (3) by the owner or operator of every car or line of cars used upon any railroad within the state for transportation or accommodation of freight or passengers, other than the owners or operators as may own or operate a railroad within the state; (4) by the owner or operator of every express company or express line, wholly or in part, within this state, used for the transportation by steam or otherwise of freight and other articles of commerce; (5) by the owner or operator of every pipeline, wholly or in part, within this state, used for the transportation of oil or gas or water, whether the oil or gas or water be owned by the owner or operator or not, or for the transmission of electrical or other power, or the transmission of steam or heat and power or of articles by pneumatic or other power; (6) by the owner or operator of every telegraph or telephone line, wholly or in part, within this state, except private lines not operated for compensation; (7) by the owner and operator of every gas company and electric lighting company furnishing gas or electricity for lighting, heating or power purposes; (8) by the owner or operator of hydroelectric companies for the generation and transmission of light, heat or power; (9) by the owner or operator of water companies furnishing or distributing water; and (10) by the owner or operator of all other public service corporations or persons engaged in public service business whose property is located, wholly or in part, within this state.

(b) The words "owner or operator," as applied herein to railroad companies, shall include every railroad company incorporated by or under the laws of this state for the purpose of constructing and operating a railroad, or of operating part of a railroad within this state, whether the railroad or any part of it be in operation or not; and shall also include every other railroad company, or persons or associations of persons, owning or operating a railroad or part of a railroad in this state on which freight or passengers, or both, are carried for compensation. The word "railroad," as used herein includes every street, city, suburban or electric or other railroad or railway.

(c) The words "owner or operator," as applied herein to express companies, shall include every express company incorporated by or under the laws of this state, or doing business in this state, whether incorporated or not, and any person or association of persons, owning or operating any express company or express line upon any railroad or otherwise, doing business partly or wholly within this state.

(d) The return shall be signed and sworn to by the owner or operator if a natural person, or, if the owner or operator shall be a corporation, shall be signed and sworn to by its president, vice president, secretary or principal accounting officer.

(e) The return required by this section of every owner or operator shall cover the year ending on December 31, next preceding, and shall be made on forms prescribed by the board of public works, which board is hereby invested with full power and authority and it is

hereby made its duty to prescribe the forms as will require from any owner or operator herein mentioned information as in the judgment of the board may be of use to it in determining the true and actual value of the properties of the owners or operators.

WV Legislature

§11-6-2. Same -- Railroads.

In the case of a railroad, such return shall show for every such owner or operator: (a) The whole number of miles of railroad owned, leased or operated within this state; (b) if such railroad be partly within and partly without this state, the whole number of miles within this state, and the whole number of miles without the same, including its branches in and out of the state, (c) the railroad track in each county in this state through which it runs; giving the whole number of miles of road in the county, including the track and its branches and side and second tracks, switches and turnouts therein, and the true and actual value per mile of such railroad in each county, stating the valuation of main track, second main track, branches, sidings, switches and turnouts separately; (d) all rolling stock owned, leased or operated, showing in separate classes: (1) The rolling stock owned; (2) the rolling stock leased or held under any conditional sale or other contract, giving such owner or operator the possession or control thereof; (3) the rolling stock used upon the line of such owner or operator, but owned by other railroad companies not owning or operating a railroad wholly or in part within this state; and (4) the rolling stock used upon such line, but owned, held or operated by corporations or companies not railroad companies, or by individuals and for each of such classes giving a detailed statement of the number and ownership of engines, car lines and cars, including passenger, mail, express, baggage, freight, sleeping, dining, parlor, refrigerator, stock and other cars of every description, and the names and addresses of the owners, and the true and actual value of all such cars used wholly or in part in this state, distinguishing between those used wholly in this state and those used partly within and partly without the state; the whole number of engines, including their appendages, used wholly or in part within this state, distinguishing between those used wholly within this state and those used partly within and partly without the same, and the true and actual value of those used wholly within the state and those used partly within and partly without the state; and the proportional value of cars and engines used partly within and partly without the state, according to the time used and the number of miles run by such cars and engines in and out of the state; and the proportional value thereof in each county in this state within which such railroad runs; (e) the depots, station houses, section houses, freight houses, machine and repair shops and machinery therein, and all other buildings, structures and appendages connected thereto or used therewith, including tool houses, and the tools usually kept therein, together with all other real estate, other than railroad track, owned or used in connection with the railroad, and not otherwise taxed, including telegraph and telephone lines, owned or used, and the true and actual value of all buildings and structures, and all such machinery and appendages, and each parcel of such real estate, including such telegraph or telephone lines, and the true and actual value thereof in each county in this state in which it is located; (f) personal property, of every kind whatsoever, including money, credits and investments wholly held or used in this state, showing the amount and value thereof in each county; (g) an itemized list of all other real property, with the location thereof, which list shall show as to each parcel whether it is assessed for taxation, and if so, by what officer or authority; (h) the capital actually employed; the total amount of bonded indebtedness, and of indebtedness not bonded; gross earnings for the year, including earnings from telegraph lines, which shall be stated separately, on the whole length of road,

WVLegislature.gov

including the branches thereof, in and out of the state, and also such earnings within the state on way freight and passengers, and the proportion of such earning in this state on through freight and passengers carried over lines in and out of the state, to be ascertained by the number of miles the same was carried within and the number of miles without the state; and, if such owner or operator be a corporation, its actual capital stock, and the number, character, amount and market value of the shares thereof, and the amount of capital stock actually paid in; (i) gross expenditures for the year, giving a detailed statement thereof under each class or head of expenditures.

WV Legislature

§11-6-3. Same -- Toll bridges.

In the case of any bridge upon which a separate toll or fare is charged, such return shall show: (a) The location of the same; (b) for what used; and, if used by a railroad, what railroad uses it; (c) the length of such bridge; and, if used by a railroad, the number of tracks on it; (d) all other property owned by such owner or operator and used in connection with such bridge; (e) the capital actually invested; the amount of capital stock authorized and issued, the par value and the market value of the shares into which the capital stock is divided, and the amount of dividends declared on the capital stock within the twelve months preceding the first day of the current assessment year; the total amount of bonded indebtedness and of indebtedness not bonded; gross earnings for the year from all sources; (f) gross expenditures for the year, giving a detailed statement thereof under each class or head of expenditure; (g) any other information requested by the board of public works which the board deems may be of use to it in determining the actual value of such bridge or bridges.

WV Legislature

§11-6-4. Same -- Car line companies.

In the case of car lines used for the transportation or accommodation of passengers or freight by owners or operators, other than railroad companies making their return under this law, such return shall show for every such owner or operator: (a) All cars and other rolling stock, giving a detailed statement of the number of cars, including passenger, mail, express, baggage, freight, sleeping, dining, parlor, refrigerator, stock or other cars of every description, and the true and actual value of all such cars used wholly or in part in this state, distinguishing between those used wholly in this state and those used partly within and partly without the state, and the true and actual value of those used wholly within the state and those used partly within and partly without the state, and the proportional value of such cars used partly within and partly without the state, according to the time used and the number of miles run by such cars in and out of the state, the railroad over which they were run, and the proportional value in each county within this state within which such cars were run; but in any case where it may appear to the board of public works that from the nature of the employment of such cars, or otherwise, it is not practicable to show the matters hereinbefore required in this section as to the cars used in this state, and the proportional value of the cars used partly within and partly without this state and each county thereof, the board may, as to such matters, accept such other information as it may be practicable to obtain, or in its discretion the board may dispense with such showing as to any such matter; (b) real and personal property of every kind, whatever, including money, credits and investments and the amount thereof, wholly held or used in this state, showing the amount and the true and actual value in each county; (c) the actual capital employed in the business of such owner or operator, the total amount of bonded indebtedness with respect to such line, and of indebtedness not bonded; the whole length of the several lines of railroad over which such cars run, including branches and connecting lines in and out of the state; and, if such owner or operator be a corporation, its actual capital stock and the number, character, amount and market value of the shares thereof, and the amount of capital stock actually paid in; its bonded indebtedness and its indebtedness not bonded. The board of public works shall have the right to require any such owner or operator to furnish such other and further information as, in the judgment of the board, may be of use to it in determining the true and actual value of the property to be assessed to such owner or operator.

WVLegislature

§11-6-5. Same -- Pipeline companies.

In the case of a pipeline, such return shall show for each owner or operator: (a) The number of miles of pipeline owned, leased or operated within this state, the size or sizes of the pipe composing such line, and the material of which such pipe is made; (b) if such pipeline be partly within and partly without this state, the whole number of miles thereof within this state and the whole number of miles without this state, including all branches and connecting lines in and out of the state; (c) the length, size and true and actual value of such pipelines in each county of this state, including in such valuation the main line, branches and connecting lines, and stating the different values of the pipe separately; (d) its pumping stations, machine and repair shops and machinery therein, tanks, storage tanks and all other buildings, structures and appendages connected or used therewith, together with all real estate, other than its pipeline, owned or used by it in connection with its pipeline, including telegraph and telephone lines, and the true and actual value of all such buildings, structures, machinery and appendages and of each parcel of such real estate, including such telegraph and telephone lines, and the true and actual value thereof in each county in this state in which it is located; and the number and value of all tank cars, tanks, barges, boats and barrels; (e) its personal property of every kind whatsoever, including money, credits and investments, and the amount thereof wholly held or used in this state, showing the amount and value thereof in each county; (f) an itemized list of all other real property within this state, with the location thereof; and (g) the actual capital employed in the business of such owner or operator, the total amount of the bonded indebtedness of such owner or operator with respect to such line, and of indebtedness not bonded; and, if such owner or operator be a corporation, its capital stock, the character, number and amount and the market value of the shares thereof, and the amount of capital stock actually paid in; its bonded indebtedness and its indebtedness not bonded. The board of public works shall have the right to require such owner or operator to furnish such other and further information as, in the judgment of the board may be of use in determining the true and actual value of the property to be assessed to such owner or operator.

WV Legislature

§11-6-6. Same -- Express companies.

In case of an express company or express line, such report shall show for every such owner or operator: (a) The whole number of miles of railroad over which such express company operates its cars within this state; (b) if such railroad be partly within and partly without this state, the whole number of miles of such railroad over which such express company runs its cars within this state, and the whole number of miles without the same, including its branches in and out of this state; (c) the whole number of miles of railroad in each county in this state over which such express company runs its cars; (d) the whole number of cars used or run by it within the limits of this state; (e) the gross and net earnings of such express company wherever its business is carried on, and the gross and net earnings within the limits of this state; (f) the personal property of every kind whatsoever, including the number of horses, drays, wagons, carts, money, credits and investments wholly held or used in this state, showing the amount and value thereof in each county; (g) an itemized list of all its real property, with the location thereof; which list shall show, as to each parcel, whether it is assessed for taxation, and if so, by what officer or authority; (h) the capital actually employed and the amount of indebtedness; and, if such owner or operator be a corporation, its actual capital stock, and number, character, amount and market value, of the shares thereof, and the amount of capital stock actually paid in; (i) the gross expenditures for each year, giving a detailed statement thereof under each class or head of expenditure.

WV Legislature

§11-6-7. Same -- Telegraph and telephone companies.

In the case of a telegraph or telephone line, the report shall show for every owner or operator: (a) The number of miles of lines owned, leased or operated within this state, the gauge of the wire, the number of strands of wire, the material of which it is made and, as accurately as may be, the time when the line or any material part thereof was constructed or last replaced; (b) if such lines be partly within and partly without the state, the whole number of miles thereof within this state and the whole number of miles without this state, including all branches and connecting lines in and out of the state; (c) the true and actual value per mile of such line in each county of this state; (d) its stations, shops and machinery therein, and all buildings, structures and appendages connected or used therewith, together with all real estate, other than its telegraph or telephone line, owned or used by it in connection with its line, and of each parcel of such real estate and the true and actual value thereof in each county in this state in which it is located; (e) its personal property of every kind whatsoever, including money, credits and investments, and the amounts thereof wholly held or used in this state, showing the amount and value thereof in each county; (f) an itemized list of all other real property within this state, with the location thereof; and (g) the actual capital employed in the business of such owner or operator, the total amount of the bonded indebtedness of the owner or operator, with respect to the line, and of all indebtedness not bonded; and, if the owner or operator be a corporation, its capital stock, the character, number, amount and the market value of the shares thereof, and the amount of capital stock actually paid in; its bonded indebtedness and its indebtedness not bonded. The board of public works shall have the right to require any such owner or operator to furnish such other and further information as, in the judgment of the board, may be of use to it in determining the true and actual value of the property to be assessed to the owner or operator.

WV Legislature

§11-6-7a.

Repealed.

Acts, 1999 Reg. Sess., Ch. 265.

WV Legislature

§11-6-7b.

Repealed.

Acts, 1999 Reg. Sess., Ch. 265.

WV Legislature

§11-6-8. Form and manner of making return; failure to make return; criminal penalty.

All returns to be made to the board of public works, under this chapter, shall be made in conformity with any reasonable requirement of the board of which the person making the return shall have had notice, and shall be made upon forms which may be furnished by the board, and according to instructions which the board may give relating thereto, and to the description and itemizing of the property. Such owner or operator, whether a natural person, or a corporation or company, failing to make such return as herein required shall be guilty of a misdemeanor and, fined $1,000 for each month such failure continues.

WV Legislature

§11-6-9. Compelling such return; procuring information and tentative assessments by Tax Commissioner.

(a) If any owner or operator fails to make such return within the time required by section one of this article, it shall be the duty of the Tax Commissioner to take such steps as may be necessary to compel such compliance, and to enforce any and all penalties imposed by law for such failure.

(b) The return delivered to the Tax Commissioner shall be examined by him and if it be found insufficient in form or in any respect defective, imperfect or not in compliance with law, he shall compel the person required to make it to do so in proper and sufficient form, and in all respects as required by law.

(c) If any such owner or operator fails to make such return, the Tax Commissioner shall proceed, in such manner as to him may seem best, to obtain the facts and information required to be furnished by such returns.

(d) The Tax Commissioner may send for persons and papers, and may compel the attendance of any person and the production of any paper necessary, in the opinion of said Tax Commissioner, to enable him to obtain the information required for the proper discharge of his duties under this section.

(e) The Tax Commissioner shall arrange, collate and tabulate such returns and all pertinent information and data contained therein, such further evidence or information as may be required by the Tax Commissioner of such owner or operator, and all other pertinent evidence, information and data he has been able to procure, upon suitable work sheets, so that they may be conveniently considered, and shall on or before September 15, lay such returns and work sheets, together with his recommendations in the form of a tentative assessment of the property of each such owner or operator, before the board of public works. And as soon as the Tax Commissioner has completed the preparation of such work sheets and tentative assessments, he shall notify the owner or operator affected thereby of the amount of such tentative assessment by written notice deposited in the United States post office, addressed to such owner or operator at the principal office or place of business of such owner or operator, and the Tax Commissioner shall retain in his office true copies of such work sheets which shall be available for inspection by any such owner or operator or his duly authorized representative.

WV Legislature

§11-6-10. Failure to give information required by board of public works; criminal penalty.

If any person shall refuse to appear before the board when required to do so, as aforesaid, or shall refuse to testify before the board in regard to any matter as to which the board may require him to testify, or if any person shall refuse to produce any paper in his possession or under his control, which the board may require him to produce, every such person shall be guilty of a misdemeanor and, fined $500, and may be imprisoned not less than one nor more than six months, at the discretion of the court.

WV Legislature

§11-6-11. Valuation of property by board.

Upon the fifteenth day after giving the notices required by section nine of this article, or as soon thereafter as reasonably convenient but not later than October 1, the board of public works shall proceed to access and fix the true and actual value of all property of such owner or operator hereinbefore required to be returned, in each county through which the railroad, car line, cars, express, telegraph, telephone, or pipeline of such owner or operator runs, and in which any property to be assessed is located. In ascertaining such value the board shall consider the return, if any, made by the owner or operator, and any return which may have been previously made by such owner or operator, the work sheets and tentative assessment recommended by the Tax Commissioner, such evidence or information as may be offered by such owner or operator, such further evidence or information as may be required by the board of such owner or operator, and any other pertinent evidence, information and data. Any and all evidence, information and data, at a regular meeting of the board held for such purpose at least fifteen days after giving the notice required by section nine of this article. Before any assessment shall be made by the board, any and all evidence, information and data considered by the board shall be available for inspection by any such owner or operator or his duly authorized representative, and an opportunity given to be heard thereon when the board of public works has assessed any property hereby required to be returned, and has determined the valuation thereof, such assessment and valuation shall be entered of record in the book of minutes of its proceedings, and shall be certified by the secretary of the board to the Auditor.

Nothing in this chapter contained shall be construed to require the assessment by the board of public works of any part of a railroad, telegraph, telephone or pipeline until such part is so far completed as to be fit for use. But material held by any railroad, telegraph, telephone or pipeline company shall be returned to the board of public works for assessment as personal property. As soon as such assessment is made, the secretary of the board shall notify the owner or operator affected thereby of the amount thereof by written notice deposited in the United States post office, addressed to such owner or operator at the principal office or place of business of such owner or operator. Such assessment and valuation shall be final and conclusive, unless the same be appealed from in the manner following, within fifteen days after such notice is so deposited.

WV Legislature

§11-6-11a. Adjustment of valuation by board.

Any time before an owner or operator appeals a valuation to circuit court, as provided for in section twelve of this article, the board of public works may, after consideration of all relevant facts and evidence, adjust the valuation made by the board pursuant to section eleven of this article.

WV Legislature

§11-6-11b.

Repealed.

Acts, 1986 Reg. Sess., Ch. 156.

WV Legislature

§11-6-11c.

Repealed.

Acts, 1986 Reg. Sess., Ch. 156.

WV Legislature

§11-6-11d.

Repealed.

Acts, 1986 Reg. Sess., Ch. 156.

WV Legislature

§11-6-11e.

Repealed.

Acts, 1986 Reg. Sess., Ch. 156.

WV Legislature

§11-6-12. Appeal from valuation by board.

Any owner or operator claiming to be aggrieved by any such decision may, within the time aforesaid, apply by petition in writing, duly verified, to the circuit court of the county in which the property so assessed is situated, or if such property be situated in more than one county then in the county in which the largest assessment of such owner or operator was made in the next preceding year, for an appeal from the assessment and valuation so made of all such property, and jurisdiction is hereby conferred upon and declared to exist in the court, in which such application is filed, to grant, docket and hear such appeal; and such appeal, as to all of the property so assessed, as well as that situated in the county of the court so applied to, as that situated in the several other counties, shall forthwith be allowed by such court so applied to, and be heard by such court as to all of such property as soon as possible after the appeal is docketed, but notice in writing of such petition shall be given to the Secretary of State, as secretary of the board of public works, by mailing a copy of the petition for an appeal filed as aforesaid, which said petition shall recite the fact that copies of such petition have been sent by registered mail. Notice in writing of the hearing upon such petition shall be given to the State Tax Commissioner at least fifteen days beforehand. Likewise, the State Tax Commissioner may, by giving notice in writing at least fifteen days beforehand to the petitioner, bring on such appeal for hearing. Upon such hearing the court shall hear all such legal evidence as shall be offered on behalf of the state or any other county, district or municipal corporation interested, or on behalf of the appealing owner or operator. If the court be satisfied that the value so fixed by the board of public works is correct, it shall confirm the same, but if it be satisfied that the value so fixed by the board is either too high or too low, the court shall correct the valuation so made and shall ascertain and fix the true and actual value of such property according to the facts proved, and shall certify such value to the Auditor and to the secretary of the board of public works. The state or the owner or operator may appeal to the Supreme Court of Appeals if the assessed value of the property be $50,000 or more.

If the court to which an application for appeal would properly be made as aforesaid shall not be in session, the judge thereof in vacation shall forthwith allow the appeal, and if the judge thereof be disqualified or for any reason not be available, the filing of the aforesaid petition in the office of the clerk of the circuit court of the county in which the largest assessment of such owner or operator was made in the preceding year, within the time of aforesaid, shall constitute sufficient compliance with this section, and the appeal shall thereafter be proceeded with as otherwise provided in this section.

WV Legislature

§11-6-12a. Relief from erroneous assessments.

(a) Any owner or operator claiming to be aggrieved by an assessment of the board of public works, including matters relating to the valuation of property resulting from a clerical error or a mistake occasioned by an unintentional or inadvertent act as distinguished from a mistake resulting from negligence or the exercise of poor judgment may, within sixty days of the effective date of this section and thereafter within one year from the date upon which the board of public works has set final values or within one year from the time such clerical error or mistake is discovered or reasonably could have been discovered, apply for relief to the board of public works as provided in this section.

(b) Upon the discovery of any such clerical error or mistake, the secretary of the board of public works shall send notice to the owner or operator affected by the clerical error or mistake by first class mail advising the owner or operator of the right to make application for relief from the erroneous assessment.

(c) Except as otherwise provided in subsection (a) of this section, the application for relief shall be presented to the secretary of the board of public works no later than one year from the date upon which the error or mistake is discovered.

(d) If the board of public works determines that the applicant is entitled to relief, any excess taxes already paid shall be refunded or, if the taxes are charged but not paid, the applicant shall be released from the payment of such excess: Provided, That except for an application for relief filed within sixty days of the effective date of this section, in the event a mistake or error is discovered more than one year from the date the board has set final values, and the board determines the applicant is entitled to relief, then any correction under this section shall be in the form of a credit against future years' taxes.

(e) Whenever any correction is made by the board of public works, the secretary of the board of public works shall direct that the adjustments be made by the State Tax Commissioner and communicated to the Auditor for correction of the tax statements. The Auditor shall thereafter cease any attempt to collect any amounts erroneously charged against the owner or operator and, if already collected, shall refund any excess taxes paid: Provided, That except for an application for relief filed within sixty days of the effective date of this section, in the event a mistake or error is discovered more than one year from the date the board has set final values, and the board determines the applicant is entitled to relief, then any correction under this section shall be in the form of a credit against future years' taxes.

(f) The provisions of this section shall not be construed to authorize the board of public works to consider any question involving the assessment or valuation of property which has been the subject matter of an appeal under the provisions of section twelve of this article.

(g) Any owner or operator may appeal the decision of the board of public works with respect to an application made for relief under this section in the same manner as appeals are authorized under the provisions of section twelve of this article.

WV Legislature

§11-6-13. Apportionment of value among counties, districts and municipalities.

In case the list and valuation of the property filed with the Tax Commissioner be satisfactory to the board of public works, or upon assessment of the property of such owner or operator being made by the board of public works the Auditor shall immediately apportion to each county, in which any part of such property is situated, the value of the property therein of every such owner or operator as valued or assessed hereunder and the relative value of such operating property within each county compared to the value of the total operating property within the state, to be determined upon such factors as the Auditor shall deem proper; and further shall apportion such values among the several districts, being school districts, and a proportional valuation to each municipality therein, in which any part of such property is situated, according to the value thereof, as near as may be, and forthwith shall certify to the county commission of such county the values so apportioned. The clerk of the county commission shall forthwith certify such values to the school district and to the several municipalities, respectively, in such county.

Inasmuch as there was litigation challenging the long term apportionment method consistently used by the State Auditor under the provisions of this section by which distribution was made of the ad valorem tax values of the operable properties and assets of public service businesses attributable to more than one county, and with the Legislature subsequently approving, codifying and ordering the continuance of such method of apportionment; and inasmuch as the Legislature having changed such apportionment method and having vested the authority to accomplish such and to issue assessments under this article through actions of the State Tax Commissioner rather than assessment by the board of public works and apportionment by the State Auditor, pursuant to chapter one hundred fifty-nine, acts of the Legislature, 1985 regular session,; and in light of the Legislature being unaware of the dramatic shifting of valuations among counties as a result of application or use of such new apportionment method and thus desiring to return to the former method of apportionment and that the same be performed by the State Auditor, as formerly and that final assessment activity, as such, and hearings in respect thereof be performed by the board of public works, as formerly; therefore, the Legislature finds and determines that apportionment and distribution of ad valorem tax valuations hereunder should and are to be performed by the State Auditor promptly and for current periods and on the basis of the above-mentioned long-term apportionment method used consistently by the State Auditor and with the valuations as determined by the application of such apportionment method to be certified forthwith to the county commissions. Specifically, as to the true and actual values of the property of public service businesses reported on their tax returns required to be filed by May 1, 1985 and as thereafter determined by tentative assessment and final assessment by the Tax Commissioner or by court decision for tax fiscal year 1986, the State Auditor shall, by March 1, 1986, or as soon as may be practicable, apportion and distribute such values, as required, to the respective levying bodies and on the basis of his using the long-term, consistent apportionment method of his office as long engaged in the applied under the provisions of this section and article.

WV Legislature

§11-6-13a.

Repealed.

Acts, 1986 Reg. Sess., Ch. 156.

WV Legislature

§11-6-13b.

Repealed.

Acts, 1986 Reg. Sess., Ch. 156.

WV Legislature

§11-6-13c.

Repealed.

Acts, 1986 Reg. Sess., Ch. 156.

WV Legislature

§11-6-13d.

Repealed.

Acts, 1986 Reg. Sess., Ch. 156.

WV Legislature

§11-6-13e.

Repealed.

Acts, 1986 Reg. Sess., Ch. 156.

WV Legislature

§11-6-13f.

Repealed.

Acts, 1986 Reg. Sess., Ch. 156.

WV Legislature

§11-6-13g.

Repealed.

Acts, 1986 Reg. Sess., Ch. 156.

WV Legislature

§11-6-13h.

Repealed.

Acts, 1986 Reg. Sess., Ch. 156.

WV Legislature

§11-6-13i.

Repealed.

Acts, 1986 Reg. Sess., Ch. 156.

WV Legislature

§11-6-13j.

Repealed.

Acts, 1986 Reg. Sess., Ch. 156.

WV Legislature

§11-6-14. Certification of levies to Auditor.

The clerk of the county court of every county in which any property lies which was so assessed shall, within thirty days after the county and district levies are laid by such court, certify to the Auditor the amount levied upon each $100 value of the property of each class in the county for county purposes, and on each $100 of the value of the property of each class in each magisterial district for the district purposes. It shall be the duty of the secretary of the board of Education of every school district and independent district in which any part of the property lies, within thirty days after the levies are laid therein for free school and building purposes, or either, to certify to the Auditor the amount so levied on each $100 value of the property of each class therein for each of such purposes; and it shall be the duty of the recorder, clerk or other recording officer of every municipal corporation in which any part of the property lies, within the same time, after levies are laid therein for any of the purposes authorized by law, to certify to the Auditor the amount levied upon each $100 value of the property of each class therein for each and every purpose.

WV Legislature

§11-6-15. Failure of officers to perform duties as to property of public service corporations.

Any clerk of a county court, secretary of the board of Education, or recorder, clerk or other recording officer of a municipal corporation, who shall fail to perform any of the duties herein required of him shall be guilty of a misdemeanor, and, upon conviction thereof, fined not less than $100 nor more than $500. In case of the failure of any such officers to furnish to the Auditor the certificate herein required, the Auditor may obtain the rate of taxation for any of said purposes from the copies of the land books on file in his office, if the same be found in such books, if not, in such other way or manner as he may deem necessary or proper for the purpose.

WV Legislature

§11-6-16. Entry of assessment by Auditor of property of such public service businesses.

As soon as possible after the valuation of the property of such owner or operator is fixed by the board of public works or by the circuit court on appeal as aforesaid, and after he shall have obtained the information herein provided for to enable him to do so, the Auditor shall assess and charge each class of property of every such owner or operator with the taxes properly chargeable thereon, in a book to be kept by him for that purpose, as follows: (a) With the whole amount of taxes upon such property for state and state school purposes, if any such taxes are levied; (b) with the whole amount of taxes on such property in each county for county purposes; (c) with the whole amount of taxes on such property in each school district for free school and building purposes; and (d) with the whole amount of taxes on such property in each municipal corporation for each and all of the purposes for which a levy therein was made by the municipal authorities of such corporation.

WV Legislature

§11-6-17. Injunction to restrain collection of tax.

No injunction shall be awarded by any court or judge to restrain the collection of the taxes, or any part of them, so assessed upon the property of such owner or operator, except upon the ground that the assessment thereof was in violation of the Constitution of the United States, or of this state; or that the same were fraudulently assessed, or that there was a mistake made by the Auditor in the amount of taxes properly chargeable on the property of such owner or operator; and in the latter case no such injunction shall be awarded unless application be first made to the Auditor to correct the mistake claimed, and the Auditor shall refuse to do so, which fact shall be stated in the bill, nor unless the complainant pay into the treasury of the state all taxes appearing by the bill of complaint to be owing.

WV Legislature

§11-6-18. Payment of assessment by owner or operator.

The Auditor shall, as soon as possible after such assessment is completed, make out and transmit by mail or otherwise, to such owner or operator, a statement of all taxes and levies so charged, and it shall be the duty of such owner or operator, so assessed and charged, to pay one half of the amount of such taxes and levies into the treasury of the state by September 1, and the remaining one half by the first day of the following March, subject to a deduction of two and one-half per centum if the taxes be paid on or before the date due. If such owner or operator fail to pay such taxes and levies when due, interest thereon at the rate of nine per centum per annum until paid shall be added, and the Auditor shall certify, after the date the second installment is due, to the sheriff of each county, the amount of such taxes and levies assessed within his county; and it shall be the duty of every sheriff to collect and account for such taxes and levies in the same manner as other taxes are levied or collected and accounted for by him The payment of such taxes and levies by any such owner or operator shall not prejudice or affect the right of such owner or operator to obtain relief against the assessment or valuation of its property in proceedings now pending or hereafter brought under the provisions of section twelve of this article, or in any suit, action or proceeding in which such relief may be obtainable; and if under the provisions of said section twelve or in any suit, action or proceeding, it be ascertained that the assessment or valuation of the property of such owner or operator is too high and the same is accordingly corrected, it shall be the duty of the Auditor of the state to issue to the owner or operator a certificate showing the amount of taxes and levies which have been overpaid, and such certificate shall be receivable thereafter for the amount of such overpayment in payment of any taxes and levies assessed against the property of such owner or operator, its successors or assigns. It shall likewise be the duty of said Auditor to certify to the county court, school districts and municipalities, the amounts of the respective overpayments distributable to such counties, school districts and municipalities. All moneys received by the Auditor under the provisions of this section shall be transmitted to the several counties within twenty days from receipt thereof.

WV Legislature

§11-6-19. Accounting by sheriff for district and municipal taxes from public service corporations.

When the district and independent school district taxes and levies are collected by the sheriff, he shall account for and pay the same as treasurer of such district. When such taxes and levies due to a municipal corporation are collected by the sheriff he shall pay the same to the proper collecting officer, or treasurer, of such municipal corporation, or otherwise, as the council or other proper authority thereof may direct.

WV Legislature

§11-6-20. No release of taxes assessed against such corporations.

Neither the county court of any county, nor any Board of Education, nor the municipal authorities of any incorporated town, shall have jurisdiction, power or authority, by compromise or otherwise, to remit or release any portion of the taxes so assessed upon the property of any such owner or operator, and when such taxes or levies are certified to the sheriff of any county for collection, as aforesaid, it shall be his duty to collect the whole thereof, regardless of any order or direction of any such county court, Board of Education or municipal authority to the contrary; and, if he fail to do so, he and his sureties in his official bond shall, unless he be restrained or prohibited from so doing by legal process from some court having jurisdiction to issue the same, be liable thereon for such taxes and levies he may so fail to collect, if he could have collected the same by the use of due diligence. Any member of the county court or Board of Education, or of the council of a municipal corporation, who shall vote to remit or release any part of the taxes, so assessed on the property of any such owner or operator, shall be guilty of a misdemeanor and, fined $500, and shall be removed from his office by the court by which the judgment of such fine is rendered, in addition to such fine.

WV Legislature

§11-6-21. Accounting for levies against public service corporations.

When such taxes and levies are paid into the treasury, as herein provided, the Auditor shall account to the sheriff of each of the counties, to which any sum so paid in for county levies belongs, for the amount due such county, and may arrange the same with such sheriff in any settlement for state taxes in such a way as may be most convenient; and the sheriff shall account to the county court of his county for the amount so received by him in the same manner as for other county levies. The amount so paid for each district and independent school district shall be added to the distributable share of the school fund payable to such district, and shall be paid upon the requisition of the county superintendent of free schools in like manner as other school moneys are paid.

WV Legislature

§11-6-22. Certification by Auditor of amount chargeable to sheriff from levies against public service corporations; payment of amount due municipality.

The Auditor shall certify to the county court and the county superintendent of schools of every such county, on or before February 1 in each year, the respective amounts with which the sheriff thereof is chargeable on account of the various levies upon the property of such owner or operator. The amount so paid in for each municipal corporation shall, as soon as received by the Auditor, be paid over to the sheriff, or the treasurer of such municipal corporation, or to such other officer of the municipality as the council may designate, and the Auditor shall report such payment to the council. But the failure of the clerk of any county court, or the secretary of any Board of Education, or the proper officer of any municipal corporation, to certify the levies to the Auditor within the time herein prescribed shall not invalidate or prevent the assessment required by this article, but the Auditor shall make the assessment and proceed to collect or certify the same to the sheriff as soon as practicable after he shall have obtained the information necessary to make such assessment.

WV Legislature

§11-6-23. Lien of taxes; notice; collection by suit.

(a) The amount of taxes and levies assessed under this article shall constitute a debt due the state, county, district, or municipal corporation entitled thereto, and shall be a lien on all property and assets of the taxpayer within the state.

(b) The lien shall attach December 31, following the commencement of the assessment year, and shall be prior to all other liens and charges.

(c) The auditor shall, between May 1 and May 15 of each year, prepare a list of the taxpayers delinquent in the payment of the taxes and levies, setting forth their respective addresses and the amount of state, county, district, and municipal taxes due from each, which list shall be certified by the Auditor to the Board of Public Works and filed in the Office of the Secretary of State.

(d) The Secretary of State shall preserve the list in his or her office, and a certificate from him or her that any taxpayer mentioned in the list is delinquent in the amount of taxes assessed under this article shall be prima facie evidence thereof.

(e) Within 10 days after the filing of the list, the Secretary of State shall give final written notice of any delinquency of $1,000 or greater by registered or certified mail to each of the delinquent taxpayers at his or her, or its, last known post office address; the Secretary of State may give final written notice of any delinquency of less than $1,000 by first class mail to each of the delinquent taxpayers at his or her, or its, last known post office address; and upon the failure of any delinquent taxpayer to pay the taxes within 30 days from the mailing of the notice.

(f) The Attorney General shall enforce the collection of the taxes and levies, and for that purpose he or she may distrain upon any personal property of the delinquent taxpayer, or a sufficient amount thereof to satisfy the taxes, including accrued interest, penalties, and costs.

(g) The Attorney General may also enforce the lien created by this section on the real estate of the delinquent taxpayer by instituting a suit, or suits, in equity in the Circuit Court of Kanawha County.

(h) In the bill filed in the suit it shall be sufficient to allege that the defendant or defendants have failed to pay the taxes and that each of them justly owes the amount of property taxes, levies, and penalties, which amount shall be computed up to the first day of the month in which the bill was filed.

(i) No defendant may plead that the Secretary of State failed to give notice as prescribed by this section.

(j) If, upon the hearing of the suit, it shall appear to the court that any defendant has failed

WV Legislature

to pay the taxes and accrued penalties, the court shall enter a decree against the defendant for the amount due, and if the decree is not paid within 10 days, the court shall enter a decree directing a sale of the real estate subject to the lien, or so much as may be necessary to satisfy the taxes, including interest, penalties, and costs.

(k) When two or more taxpayers are included in one suit, the court shall apportion the cost among them as it may deem just.

WV Legislature

§11-6-24. Assessment of buildings and real estate of public service corporations.

All buildings and real estate owned or held by such owner or operator, and used or occupied for any purpose immediately connected with the property, shall be included in such assessment by the board of public works; but all real estate owned or held by any such owner or operator and not used or occupied for purposes immediately connected with the property, shall be assessed as otherwise provided in this chapter.

WV Legislature

§11-6-25. Exception.

Notwithstanding the provisions of sections one, nine, eleven, eighteen, twenty-two and twenty-three of this article, the provisions of this article as of January 1, 1961, shall govern the assessment of public service corporations for the assessment year beginning December 31, 1960.

WV Legislature

§11-6-26. Operating fund for public utilities division in Auditor's Office.

The Auditor shall establish a special operating fund in the state Treasury for the public utilities division in his or her office. The Auditor shall pay into the fund one and three eighths percent of the gross receipts of all moneys collected as provided for in this article. Up to one percent of the gross receipts shall be transferred from the operating fund to the tax loss restoration fund created in §11-6-27. From the operating fund, the Auditor shall reimburse the Tax Division for the actual operating expenses incurred in the performance of its duties required by this article not to exceed 50 percent of the fund balance after annual transfers to the tax loss restoration fund. Any moneys remaining in the special operating fund after annual transfers to the tax loss restoration fund shall be used by the Tax Division and the Auditor for funding the operation of their offices. If, at the end of any fiscal year, the balance in the special operating fund established under this section exceeds 20 percent of the gross revenues from the special operating fund operations, the excess shall be transferred to the General Revenue Fund.

WV Legislature

§11-6-27. Public utilities tax loss restoration fund.

(a) The Auditor shall establish a special revenue fund in the state Treasury entitled the "Public Utilities Tax Loss Restoration Fund". The Auditor shall pay into the fund up to one percent of the gross receipts deposited in the public utilities operating fund created in §11-6-26 of this code and up to one percent of the gross receipts deposited in the operating fund of the interstate commerce division created in §11-6G-17 of this code. The proceeds of the tax loss restoration fund shall be distributed quarterly on a proportional basis to counties, districts and municipalities that have lost assessed value from the prior year's assessment and the method of distribution is based upon the county, district or municipality's percentage loss compared to the total loss of all counties, districts and municipalities that have lost assessed value from the prior year's assessment: *Provided*, That the calculation to the adjustments shall exclude loss in tax revenue attributed to the school current levy, as set forth in §11-8-6c of this code: *Provided, however*, That the proceeds received by any county, district or municipality shall not be greater than the loss of tax revenue caused by the decrease in assessed value.

(b) The Auditor shall request the State Treasurer to invest the balance of the Public Utilities Tax Loss Restoration Fund pursuant to §12-6C-6 of this code. The Auditor may use the earnings from investments to support any provisions of this code administered by the Auditor related to local government oversight or the general operations of the office.

WV Legislature