WEST VIRGINIA CODE: §16-13B-10

§16-13B-10. Notice to property owners of assessments; hearings, correcting and laying assessments; report on project completion; permits.

(a) After the execution of an agreement or agreements for the construction of a project with another governmental agency or the acceptance by the board of a bid by one or more contractors as contemplated by section nine of this article, but prior to the commencement of construction, the board shall cause the engineer, governmental agency or person charged by the board with the supervision of the project, to prepare a report describing each lot or parcel of land abutting the project in the case of a wastewater or water project, or each lot or parcel on which a flood relief project shall be undertaken or shall protect in the case of such a project; and setting forth the total cost of the project based on the contract with the governmental agency, or the accepted bid or bids, and all other costs incurred prior to the commencement of construction, and the respective amounts chargeable upon each lot or parcel of land which may be assessed and the proper amount to be assessed against the respective lots or parcels of land in accordance with sections eleven and twelve of this article, with a description of the lots and parcels of land as to ownership, frontage and location. If two or more different kinds of projects are involved, the report shall set forth the portion of the assessment attributable to each respective project. The board shall thereupon give notice to the owners of property to be assessed that on or after a date specified in the notice an assessment may be levied against the property: Provided, That construction of a project shall not commence until the assessment district has laid all assessments on the property to be benefitted by the project and has issued all assessment certificates necessary to evidence the assessments in accordance with section fifteen of this article. The notice shall state that the owner of assessed property, or other interested party, may on said date appear before the board to move the revision or correction of the proposed assessment, and shall show the total cost of the project, whether the assessments will pay for all or part of the total cost of the project, and the lots or parcels of property to be assessed and the respective amounts to be assessed against such lots or parcels, with a description of the respective lots and parcels of land as to ownership, frontage and location. The notice shall be published as a Class II-O legal advertisement in compliance with the provisions of article three, chapter fifty-nine of the code, and the publication area for such publication is the assessment district. On or after the date so advertised, the board may revise, amend, correct and verify the report and proceed by resolution to lay the assessments as corrected and verified.

(b) Upon completion of a project, or the completion of that portion of a project that provides water, wastewater or flood protection benefits to the property subject to the assessments, the board shall cause the engineer or committee charged by the board with the supervision of the project, to prepare a final report certifying the completion of the project and showing the total cost of the project and whether the cost is greater or less than the cost originally estimated. If the total cost of the project is less or greater than the cost shown in the report

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prepared prior to construction, the board may revise the assessment charged on each lot or parcel of land pursuant to subsection (a) of this section to reflect the total cost of the project as completed, and in so doing shall, in the case of an assessment increase only, (1) follow the same procedure with regard to notice and providing each owner of assessed property the right to appear before the board to move for the revision or correction of such proposed reassessment as required for the original assessment, and (2) issue such additional assessment certificates as may be necessary to evidence the amount by which the assessment applicable to each lot or parcel of land has increased. If an assessment is decreased, the board shall, by resolution and written notice to the sheriff of the county in which the assessment district is located, cause the next installment or installments of assessment fees then due and payable by each affected property owner to be reduced pro rata, and shall provide written notice to such property owners of the amount of such decrease by the deposit of such notice in the United States mail, postage prepaid. In such cases the board shall also transmit to the sheriff an amount of funds equal to the difference between the cost of the project upon which the assessments were originally laid and the cost of the project as completed, and the sheriff shall disburse such funds to the holders of the assessment certificates issued in connection with the project on a pro rata basis.

(c) Prior to the construction of a project, the board shall obtain all permits and licenses required by law for the construction and operation of the project: Provided, That the board is not required to obtain a certificate of public convenience from the Public Service Commission under article two, chapter twenty-four of this code: Provided, however, That prior to the construction of each project, the board shall apply to the Public Service Commission for authorization enabling the construction and shall submit with said application any certificate required by the division of public health, any certification or permit required by the Division of Environmental Protection, the contract for utility service, if a utility will be involved, a copy of the utility's applicable, existing rate tariff, a copy of the order or ordinance creating the board and a certificate of a qualified professional engineer that the utility providing service has the capacity to provide or treat, as the case may be. The Public Service Commission shall render its final decision on any application filed under the provisions of this section within (i) ninety days in the case of a project serving twenty-five or fewer residential customers, or (ii) one hundred twenty days in the case projects serving commercial customers or more than twenty-five residential customers, following the submission of such application and all information herein required.

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