WEST VIRGINIA CODE: §16-13B-12

§16-13B-12. Apportionment and assessment of cost.

(a) The cost of a wastewater or water project, including the cost of all improvements at and within intersections and the cost attributable to any portion of the project located outside an assessment district, shall be apportioned to, and assessed against and borne by the properties abutting upon all public ways located within the assessment district, in or upon which the improvements involved in the project shall have been made. Each lot or parcel of land located within the assessment district so abutting shall be assessed, subject to the provisions of section eleven of this article respecting assessment for improvements of corner lots, acreage not divided into lots and lots or acreage improved on more than one side or end, with that portion of the cost of the entire project, located both within and outside the assessment district, which is represented by the proportion which the abutting frontage in feet of such lot or parcel of land bears to the total abutting frontage in feet of all the lots or parcels of land abutting on the public ways so improved within the assessment district: Provided, That if the character of the improvements shall be substantially different upon different public ways or portions thereof, the cost may be equitably apportioned to the respective public ways, or portions thereof, in proportion to the character and cost of the respective improvements thereon and the part of the cost so apportioned to each respective public way, or portion thereof, shall be apportioned to and assessed against the respective lots or parcels of land abutting thereupon in the proportion as hereinabove provided: Provided, however, That property shall be assessed only to the extent it is benefited and if there is any property abutting on the portion of the public way located within the assessment district, so improved which the board in the resolution authorizing the project has determined will not be specially benefited by the improvements, or will not be specially benefited to the full extent of the cost of the project, or for other reasons which would not be liable to assessment for any of, or for some part of, the cost of the project, then the cost of such project abutting such part of said public way, or so much thereof as is so determined to be nonassessable, shall be apportioned among, assessed against and borne by the remaining property abutting upon the public ways located within the assessment district, improved in proportion, subject to the aforesaid provisions of section eleven of this article, to the frontage of such remaining abutting property as hereinabove provided: Provided further, That if there be property abutting the public way located in the assessment district, so improved, which is owned by the United States of America, and, for that reason, not legally subject to assessment, then the county or municipality shall pay the proportionate part of the cost of the improvement which otherwise would be assessable against such federally owned property.

(b) Solely in the case of a flood relief project as defined in subparagraph (1) or (2), subsection (g), section two of this article, that portion of the cost of the project incurred in the preparation of the studies and reports required under this article prior to the construction of the project and all other costs relating to the development and planning of

the project and which are incurred prior to the commencement of construction of the project and not in the actual construction of the project on or protecting one lot or parcel of land, shall be apportioned equally to each lot or parcel of land benefited and protected by the project, and all construction costs and any development costs incurred solely in completing a flood relief project benefiting and protecting a specific lot or parcel of land, shall be apportioned solely to such parcel or lot.

(c) Solely in the case of a flood relief project as defined in subparagraph (3), subsection (g), section two of this article, the cost of the project shall be apportioned pro rata to each lot or parcel of land benefited and protected by the project on which a house, building or other structure is situate, based on the ratio which the total square footage of protected space in such house, building or other structure bears to the total square footage of space in all houses, buildings and other structures located on property benefited and protected by the project.

(d) In apportioning the cost of any project to any lot or parcel of land in any circumstances not expressly covered in this article, the cost shall be apportioned equitably, as determined by the board, in keeping with the concepts and principles expressed in this article and the special benefit to the property in question from the improvements made.

WV Legislature