WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1943

ENROLLED

HOUSE BILL No. 112

(By Mr. Ballard and Mr. Van Sickler)

PASSED February 25, 1943

In Effect from

March 6, Passed by House, notwithstanding veto of Governor. Effective from passage.

Mr. Van Sickler to the Senate.

[Signature]
Clerk, House of Delegates
AN ACT to amend and reenact sections one, nine and eleven, article six, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to returns by and procedure for the assessment of the property of public service corporations for tax purposes.

Be it enacted by the Legislature of West Virginia:

That sections one, nine and eleven, article six, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 1. Public Service Corporations; Returns of Property to Board of Public Works.—On or before the first day of April in each year a return in writing to the board of public works shall be delivered to the tax commissioner by the owner or operator of every railroad, wholly or in part within this state; by the owner or
operator of every railroad bridge upon which a separate
toll or fare is charged; 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 such owners or operators as
may own or operate a railroad within the state; by the
owner or operator of every express company or express
line, wholly or in part within this state, used for the trans-
portation by steam or otherwise of freight and other
articles of commerce; by the owner or operator of every
pipe line, wholly or in part within this state, used for the
transportation of oil or gas or water, whether such oil
or gas or water be owned by such 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; and by the owner
or operator of every telegraph or telephone line, wholly
or in part within this state, except private lines not op-
erated for compensation; and by the owner and operator
of every gas company and electric lighting company fur-
nishing gas or electricity for lighting, heating or power
purposes; and hydro-electric companies for the generation
and transmission of light, heat or power; water com-
panies furnishing or distributing water, and all other pub-
lic service corporations or persons engaged in public
service business whose property is located wholly or in
part within this state. 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 such 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 car-
rried for compensation. The word "railroad," as used
herein includes every street, city, suburban or electric
or other railroad, or railway. The words "owner or op-
erator," as applied herein to express companies shall in-
clude 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. Such return shall be signed and sworn to by such owner or operator if a natural person, or, if such owner or operator shall be a corporation, shall be signed and sworn to by its president, vice president, secretary or principal accounting officer. The return required by this section of every such owner or operator shall cover the year ending on the thirty-first day of December, 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 such forms as will require from any owner or operator herein mentioned such 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 such owners or operators.

Sec. 9. Compelling Such Return; Procuring Information and Tentative Assessment by Tax Commissioner.—
If any owner or operator fail 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. 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. If any such owner or operator fail 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; and to this end 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. The tax commissioner shall arrange, collate and tabulate
such returns and all pertinent information and data con-
tained 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 the fifteenth day of May, lay such re-
turns and work sheets, together with his recommenda-
tions in the form of a tentative assessment of the prop-
erty 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 tenta-
itive assessments, he shall notify the owner or operator
affected thereby of the amount of such tentative assess-
ment 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 oper-
ator 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.
Sec. 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 the first day of June, the board of public works shall proceed to assess 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 pipe line 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, 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 evi-
dence, 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 re-
quired to be returned, and has determined the valua-
tion thereof, such assessment and valuation shall be en-
tered 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 con-
strued to require the assessment by the board of public
works of any part of a railroad, telegraph, telephone or
pipe line until such part is so far completed as to be fit
for use. But material held by any railroad, telegraph,
telephone or pipe line company shall be returned to the
board of public works for assessment as personal prop-
erty. 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Ray F. Jennings
Chairman Senate Committee

Fred H. Patuwe
Chairman House Committee

Originated in the House of Delegates

Takes effect from passage.

A. Hale Watkins
Clerk of the Senate

Williff
Clerk of the House of Delegates

James P. Taylor
President of the Senate

John E. Atwood
Speaker House of Delegates

The within this the day of, 1943.

Governor.