WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985

ENROLLED
SENATE BILL NO. 538

(By Mrs. Lucie D. Shillione)

PASSED April 13, 1985
In Effect July 1, 1985
AN ACT to amend and reenact sections one, three, four, five, seven, eight, nine, ten, eleven, twelve, thirteen and sixteen, all of article six, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto fifteen new sections, designated sections eleven-a, eleven-b, eleven-c, eleven-d, eleven-e, thirteen-a, thirteen-b, thirteen-c, thirteen-d, thirteen-e, thirteen-f, thirteen-g, thirteen-h, thirteen-i and thirteen-j, all relating generally to assessment of public service businesses for ad valorem property taxes; changing title of article; transferring to tax commissioner duty of making such assessments; providing form and manner of making return of property; imposing criminal penalty for failure to make such return; permitting tax commissioner to compel furnishing of information by public service business by issuance of subpoena or subpoena duces tecum; providing for service and enforcement of subpoena and subpoena duces tecum, requiring issuance of tentative assessments; providing for administrative hearing if petition for reassessment is timely filed; making tentative assessment prima facie evidence of assessed value; providing for service of notice of tentative assessments and assessments; providing rules for timely filing of returns and other documents; providing for issuance of assessments; permitting appeal of assessment where tentative assessment
was protested and administrative hearing held; providing procedures for administrative hearing and appeals to court; specifying time periods within which petitions for reassessment and petitions for appeal must be filed; providing for assessment to be prima facie evidence of assessed value; providing for apportionment of value among counties, school districts and municipalities by tax commissioner; and providing for auditor to enter assessments against public service business.

Be it enacted by the Legislature of West Virginia:

That sections one, three, four, five, seven, eight, nine, ten, eleven, twelve, thirteen and sixteen, article six, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto fifteen new sections, designated sections eleven-a, eleven-b, eleven-c, eleven-d, eleven-e, thirteen-a, thirteen-b, thirteen-c, thirteen-d, thirteen-e, thirteen-f, thirteen-g, thirteen-h, thirteen-i and thirteen-j, all to read as follows:

ARTICLE 6. ASSESSMENT OF PUBLIC SERVICE BUSINESSES.

§11-6-1. Returns of property to tax commissioner.

1 (a) On or before the first day of May in each year a return in writing shall be filed with the tax commissioner: (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 such 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 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;
(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 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 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) 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.

(e) 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 tax commissioner, who is hereby
invested with full power and authority and it is hereby
made his duty to prescribe such forms as will require from
any owner or operator herein mentioned such information
as in the judgment of the tax commissioner may be of use to
him in determining the true and actual value of the
properties of such owners or operators.

§11-6-3. Same—Toll bridges.

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

§11-6-4. Same—Car line companies.

1 In the case of car lines used for the transportation or
2 accommodation of passengers or freight by owners or
3 operators, other than railroad companies making their
4 return under this law, such return shall show for every such
5 owner or operator: (a) All cars and other rolling stock,
6 giving a detailed statement of the number of cars, including
7 passenger, mail, express, baggage, freight, sleeping, dining,
8 parlor, refrigerator, stock or other cars of every description,
9 and the true and actual value of all such cars used wholly or
10 in part in this state, distinguishing between those used
11 wholly in this state and those used partly within and partly
12 without the state, and the true and actual value of those
13 used wholly within the state and those used partly within
14 and partly without the state, and the proportional value of
15 such cars used partly within and partly without the state,
16 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 tax commissioner 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 tax commissioner may, as to such matters,
accept such other information as it may be practicable to
obtain, or in its discretion the tax commissioner 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; and (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 tax commissioner shall
have the right to require any such owner or operator to
furnish such other and further information as, in the
judgment of the tax commissioner, may be of use to him in
determining the true and actual value of the property to be
assessed to such owner or operator.

§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 tax commissioner shall
have the right to require such owner or operator to furnish
such other and further information as, in the judgment of
the tax commissioner may be of use in determining the true
and actual value of the property to be assessed to such
owner or operator.

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

In the case of a telegraph or telephone line, such report
shall show for every such 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
mines 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 such owner
or operator, with respect to such line, and of all
indebtedness not bonded; and, if such 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 tax
commissioner shall have the right to require any such owner
or operator to furnish such other and further information
as, in the judgment of the tax commissioner, may be of use to
him in determining the true and actual value of the property
to be assessed to such owner or operator.

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

All returns to be made to the tax commissioner, under this
chapter, shall be made in conformity with any reasonable
requirement of the tax commissioner of which the person
making the return shall have had notice, and shall be made
upon forms which may be furnished by the tax
commissioner, and according to instructions which the tax
commissioner 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 one thousand dollars for each month such failure continues.

§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. Service of a subpoena or subpoena duces tecum, and enforcement of compliance with such subpoena or subpoena duces tecum, shall be in conformity with the provisions of section one, article five, chapter twenty-nine-a of this code.

(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. 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.

(f) On or before the first day of September in each year beginning with the current calendar year, the tax commissioner shall make a tentative assessment of the true and actual value of all property owned or operated by each public service business whose property is located in whole or in part within this state.

§11-6-10. Failure to give information required by tax commissioner; criminal penalty.

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

§11-6-11. Valuation of property by tax commissioner.

1 (a) In ascertaining the true and actual value of all property of such owner or operator hereinbefore required to be returned, the tax commissioner 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 prepared 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 tax commissioner of such owner or operator, and any other pertinent evidence, information and data. Any and all evidence, information and data considered by the tax commissioner shall be available for inspection by any such owner or operator or his duly authorized representative, and an opportunity given to be heard thereon as provided in this section.

(b) Nothing in this chapter contained shall be construed to require the assessment by the tax commissioner 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 tax commissioner for assessment as personal property.

(c) The proportionate share of the value of the intangible property of such public service businesses as do business in this and other states, growing out of the use of their tangible property in this state under their franchises, privileges and contracts, shall have it situs in this state and in the several counties and municipalities thereof in which they exercise their rights: Provided, That property of any such owner located outside of this state which is not directly used in the business to which the property in this state is devoted, shall not enter into the value of the property within this state to be assessed.

§11-6-11a. Notice of tentative assessment; petition for reassessment.

(a) The tax commissioner shall give the owner or operator of the public service business written notice of the amount of any tentative assessment made pursuant to this article.

(b) Unless the owner or operator to whom a notice of assessment is given files, within thirty days after date of issuance thereof, either personally or by certified mail, with the tax commissioner a petition in writing, verified under oath by the owner or operator, or his duly authorized agent having knowledge of the facts, setting forth with particularity: (1) The items of the tentative assessment objected to, together with (2) the reasons for the objections, the tentative assessment shall become final and not subject to administrative or judicial review.

§11-6-11b. Administrative hearing; procedures.

(a) When a petition for reassessment is filed in the form and within the time prescribed in section eleven-a of this article, the tax commissioner shall assign a time and place for a hearing upon the same. Written notice of the hearing shall be given to the petitioner at least ten days in advance thereof. At the same time that notice is given to the petitioner, notice of the hearing shall also be filed in the state register created in the office of the secretary of state by section two, article two, chapter twenty-nine-a of this code.

(b) Any hearing may be continued by the tax
commissioner upon his own motion, agreement of the parties, or motion of the petitioner setting forth good cause. Notice of such continuance shall promptly be given to all parties and filed in the state register.

(c) A hearing on a petition for reassessment shall be a contested case, as defined in section two, article one, chapter twenty-nine-a of this code, and shall be conducted in accordance with the provisions of article five, chapter twenty-nine-a of this code, that are not inconsistent with this article, notwithstanding the provisions of section five, article five of chapter twenty-nine-a, which exempts the state tax commissioner from the provisions of said article five. A copy of the notice of tentative assessment shall be admissible and shall constitute prima facie evidence of the assessed value of the property of the public service business under the provisions of this article.

§11-6-11c. Service of notice.

(a) Notices of tentative assessments and assessments shall be served upon the owner or operator of a public service business, or his designated agent, by personal service, or by regular or certified mail.

(b) If served by regular or certified mail, the notice shall be deposited in the United States mail, postage prepaid, in an envelope addressed to such owner or operator, or his designated agent, at the principal office or place of business of such owner or operator, or his designated agent. Service shall be complete upon deposit of the notice in the United States mail in conformity with this subsection.

(c) Proof of the giving of notice in conformity with this section may be made by the affidavit of any person over eighteen years of age, naming the owner or operator, or his designated agent, to whom such notice was given and specifying the time, place and manner of the giving thereof. If service was by certified mail, proof of service may be made by affidavit as aforesaid, or by the certified mail return receipt card. The affidavit or certified mail return receipt card shall be prima facie evidence of service under this section.

§11-6-11d. Timely filing.

(a) Delivery in person.—If any return, claim, statement
or other document required to be filed, within a prescribed period or on or before a prescribed date, is delivered in person on or before such date to the tax commissioner, or the appropriate division or officer of the tax department, at Charleston, West Virginia, during normal business hours of the tax department, it shall be timely filed.

(b) Timely mailing.—If any return, claim, statement or other document required to be filed, within a prescribed period or on or before a prescribed date under authority of any provision of this article, is after such period or such date, delivered by United States mail to the tax commissioner or the state tax department, the date of the United States postmark stamped on the cover in which such return, claim, statement or other document or payment is mailed shall be deemed to be the date of delivery or the date of payment, as the case may be, provided the following mailing requirements are met:

(1) The postmark date falls within the prescribed period or on or before the prescribed date for filing (including any extension granted for such filing), of the return, claim, statement or other document or for making the payment (including any extension granted for such payment), and

(2) The return, claim, statement, other document or payment was, within the time prescribed in subsection (a) of this section, deposited in the mail in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the tax commissioner or the state tax department.

Postmarks.—This section applies in the case of postmarks not made by the United States post office only if and to the extent provided by rules or regulations prescribed by the tax commissioner.

(d) Registered and certified mailing.—For purposes of this section, if any return, claim, statement or other document or payment is sent by United States registered or certified mail, the date of registration or certification shall be deemed the postmark date.

(e) Last date for filing or payment.—The last date for timely filing or timely making payment shall include any extension of time authorized by law or regulation and any extension of time granted in writing by the tax commissioner.
§11-6-11e. Time for performance of acts where last day falls on Saturday, Sunday or legal holiday.

1 When the last day prescribed under authority of any article of this chapter imposing any tax administered under this article for performing any act falls on Saturday, Sunday or a legal holiday, the performance of such act shall be considered timely if it is performed on the next succeeding day which is not a Saturday, Sunday or a legal holiday. For purposes of this section, the last day for the performance of any act shall be determined by including any authorized extension of time; and the term "legal holiday" means a legal holiday in this state.

§11-6-12. Appeal from valuation by tax commissioner.

1 (a) If the owner or operator of a public service business does not file a petition for reassessment with the tax commissioner within the time prescribed in section eleven-a of this article, the amount of the tentative assessment shall be assessed, and notice of the assessment given to the owner or operator, or his designated agent.

2 (b) If the owner or operator of a public service business timely files a petition for reassessment under section eleven-a of this article, the tax commissioner shall review the petition and any evidence or information as may be offered by the owner or operator, or his duly authorized agent, along with the return, if any, made by the owner or operator, any return which may have been previously made by such owner or operator, the tentative assessment and the work sheets. If after his review the tax commissioner determines that his tentative assessment is too high or low, he shall, if the petitioner be in agreement, correct his tentative assessment and issue an assessment.

3 (1) This agreement shall be in writing, and shall be signed by the tax commissioner and the petitioner. Such agreement shall be final and conclusive of the assessed value of the property, and except upon a showing of fraud or malfeasance, or misrepresentation of a material fact, shall not be subject to administrative or judicial review.

4 (2) Whenever an agreement is made under this subsection, there shall be placed on file in the office of the tax commissioner, the amount of the tentative assessment,
the amount of the assessment and the reason or reasons for
the difference.
(c) If the owner or operator of a public service business
timely files a petition for reassessment under section
eleven-a of this article, and if an agreement cannot be
reached under subsection (b) of this section, an
administrative hearing shall be held as provided in section
eleven-b of this article, and a final order or decision issued.
An assessment shall be made for the amount of the final
order or decision and notice of this assessment shall be
served on the petitioner along with a copy of the final order
or decision. Such decision and assessment shall become
final and not subject to judicial or administrative review
unless a petition for appeal is filed within thirty days after
date the decision and assessment are issued.
(d) 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. Except as specifically provided in this
subsection (d), judicial review of the final order or decision
shall be in accordance with the provisions of section four,
article five, chapter twenty-nine-a of this code. A certified
copy of the assessment and administrative decision of the
tax commissioner shall be admissible and shall constitute
prima facie evidence of the assessed value of the property of
the public service business under the provisions of this
article. An appeal may be taken by either party to the
supreme court of appeals, as provided in section one, article
six, chapter twenty-nine-a of this code, if the assessed value
of the property be fifty thousand dollars or more.

(e) Assessments under this section must be made on or
before the fifteenth day of January succeeding the date of
the tentative assessment.

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

(a) Upon assessment of the property of such owner or
operator as aforesaid, the tax commissioner shall
immediately apportion to each county, both as to the fixed
situs property and the nonfixed but distributable and
apportionable operating property, the relative value of such
operating property within each county to the value of the
total operating property within the state, to be determined
upon such factors as the tax commissioner shall deem
proper and in respect to the value of property of every such
owner or operator as valued or assessed as aforesaid; and
further shall apportion such value as aforesaid among the
several districts, school districts and independent school
districts therein, according to the value thereof, as near as
may be and forthwith shall certify to the auditor and 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.

(b) The assessed value of operating property owned,
leased or used by the various public service businesses shall
be apportioned to each tax district as provided in sections
thirteen-a through thirteen-j of this article: Provided, That
the tax commissioner may also consider any other factors
that will help determine the fair apportionment of
indefinite-situs distributable operating property to each
tax district. For purposes of apportionment, operating
property is classified as definite-situs distributable
operating property or as indefinite-situs distributable
operating property. Definite-situs distributable operating
property as defined in sections thirteen-a through thirteen-
j of this article shall be apportioned to the tax district
wherein such property is located. Indefinite-situs
distributable operating property is any operating property
that is not definite-situs distributable operating property,
and its assessed value shall be apportioned among the several tax districts as provided in sections thirteen-a through thirteen-j of this article. For purposes of apportionment, the term tax district means and includes the state and local levying bodies, including the county commission, school districts and municipalities of this state.

§11-6-13a. Bridge companies; apportionment of assessed valuation.

(a) A bridge company's definite-situs distributable operating property consists of: (1) Bridges; (2) land on which bridge heads are located; and (3) the company's rights-of-way.

(b) A bridge company's operating property which is not described in subsection (a) of this section is indefinite-situs distributable operating property. The tax commissioner shall apportion and distribute the assessed valuation of this property among the taxing districts in which the company has property that is described in subsection (a) of this section. The amount which shall be distributed to a taxing district equals the product of (1) the total assessed valuation of the bridge company's indefinite-situs distributable operating property, multiplied by (2) a fraction, the numerator of which is the book value of the company's operating property which is located in the taxing district and which is described in subsection (a) of this section, and the denominator of which is the book value of the company's operating property which is located in this state and which is described in subsection (a) of this section.

§11-6-13b. Bus companies; apportionment of assessed valuation.

(a) The definite-situs distributable operating property of a bus company consists of real property and tangible personal property which is located within or on the real property.

(b) A bus company's operating property which is not described in subsection (b) of this section is indefinite-situs distributable operating property. This property includes, but is not limited to, buses and other mobile equipment. The tax commissioner shall apportion and distribute the assessed valuation of this property among the taxing
districts in or through which the company operates its system. The amount which shall be distributed to a taxing district equals the product of (1) the total assessed valuation of the bus company's indefinite-situs distributable operating property, multiplied by (2) a fraction, the numerator of which is the company's average daily regularly scheduled passenger vehicle route miles in the taxing district, and the denominator of which is the company's average daily regularly scheduled passenger vehicle route miles in this state.

§11-6-13c. Express companies; apportionment of assessed valuation.

(a) The definite-situs distributable operating property of an express company consists of real property and tangible personal property which has a definite-situs. The remainder of the express company's property is indefinite-situs distributable operating property.

(b) The tax commissioner shall apportion and distribute the assessed valuation of an express company's indefinite-situs distributable operating property among the taxing districts in which the definite-situs distributable operating property of the company is located. The amount which shall be distributed to a taxing district equals the product of (1) the total assessed valuation of the express company's indefinite-situs distributable operating property, multiplied by (2) a fraction, the numerator of which is the book value of the company's definite-situs distributable operating property which is located in the taxing district, and the denominator of which is the book value of the company's definite-situs distributable operating property which is located in this state.

§11-6-13d. Light, heat or power companies; apportionment of assessed valuation.

(a) The definite-situs distributable operating property of a light, heat or power company consists of: (1) Office furniture and fixtures; (2) other tangible personal property which is not used as part of the company's production plant, transmission system or distribution system; and (3) real
property which is not part of the company's rights-of-way, transmission system or distribution system.
(b) A light, heat or power company's property which is not described as definite-situs distributable operating property in subsection (a) of this section is indefinite-situs distributable operating property. This property includes, but is not limited to, turbogenerators, boilers, transformers, transmission lines, distribution lines and pipelines. The tax commissioner shall apportion and distribute the assessed valuation of this property among the taxing districts in which the company's transmission lines, distribution lines and pipelines are located. The amount which shall be distributed to a taxing district equals the product of (1) the total assessed valuation of the company's indefinite-situs distributable operating property multiplied by (2) a fraction, the numerator of which is the length of the company's transmission lines, distribution lines and pipelines, weighted by the capacity of such lines which are located in the taxing district, and the denominator of which is the length of the company's lines weighted by the capacity of such lines which are located in this state.

§11-6-13e. Pipeline companies; apportionment of assessed valuation.
(a) The definite-situs distributable operating property of a pipeline company consists of: (1) Real property which is not part of a pipeline or right-of-way of the company; and (2) tangible personal property which is not part of the company's transmission system.
(b) A pipeline company's property which is not described in subsection (a) of this section is indefinite-situs distributable operating property. The tax commissioner shall apportion and distribute the assessed valuation of this property among the taxing districts in which the company's pipelines are located. The amount which shall be distributed to a taxing district equals the product of (1) the total assessed valuation of the pipeline company's indefinite-situs distributable operating property, multiplied by (2) a fraction, the numerator of which is the length of the company's pipelines weighted by the capacity of such lines in the taxing district, and the denominator of which is the length of the company's pipelines weighted by the capacity of such lines in this state.
§11-6-13f. Railroad companies; apportionment of assessed valuation.

(a) A railroad company’s definite-situs distributable operating property consists of the company’s: (1) Rights-of-way and road beds; (2) station and depot grounds; (3) yards, yard sites, superstructures, turntables and turnouts; (4) tracks; (5) telegraph poles, wires, instruments and other appliances, which are located on the rights-of-way; and (6) any other buildings or definite-situs personal property used in the operation of the railroad.

(b) A railroad company’s operating property which is not described in subsection (a) of this section is indefinite-situs distributable operating property. This property includes, but is not limited to, rolling stock. The tax commissioner shall apportion and distribute the assessed valuation of this property among the taxing districts in which the railroad company operates its system. The amount which the tax commissioner shall distribute to a taxing district equals the product of (1) the total assessed valuation of the railroad company’s indefinite-situs distributable operating property, multiplied by (2) a fraction, the numerator of which is the main line and second main line track mileage, including such lines and tracks as are leased, which are located in the taxing district, and the denominator of which is the main line and second main line track mileage including such lines and tracks, as are leased, which are located in this state.

§11-6-13g. Railroad car companies; apportionment of assessed valuation.

(a) The definite-situs distributable operating property of a railroad car company consists of real property and tangible personal property which has a definite-situs. The remainder of the railroad car company’s operating property is indefinite-situs distributable property.

(b) The tax commissioner shall apportion and distribute a railroad car company’s indefinite-situs distributable operating property apportioned to this state on the basis of the number of miles traveled on each railroad company’s trackage located in the state weighted by the number of main line and second main line track miles of such railroad in each taxing district. The amount distributable to each
taxing district equals the product of: (1) The total assessed valuation of the railroad carline company's indefinite-situs distributable operating property multiplied by (2) a fraction, the numerator of which is the number of miles traveled on each railroad operating in the state, and the denominator of which is the quotient of the number of main line and second main line track miles of the railroad located in each taxing district divided by the number of main line and second main line track miles of railroad located in the state.

§11-6-13h. Telephone and telegraph companies; apportionment of assessed valuation.

1. (a) The definite-situs distributable operating property of a telephone or telegraph company consists of: (1) Tangible personal property which is not used as part of the distribution system of the company; and (2) real property which is not part of the company's rights-of-way or distribution system.

2. (b) A telephone or telegraph company's property which is not described under subsection (a) of this section is indefinite-situs distributable operating property. The tax commissioner shall apportion and distribute the assessed valuation of this property among the taxing districts in which the company's lines or cables, including laterals, are located. The amount which the tax commissioner shall distribute to a taxing district equals the product of: (1) The total assessed valuation of the telephone or telegraph company's indefinite-situs distributable operating property, multiplied by (2) a fraction, the numerator of which is the length of the company's lines and cables, (including lateral lines and cables), weighted by the capacity of such lines and cables, which are located in the taxing district, and the denominator of which is the length of the company's lines and cables, (including lateral lines and cables), weighted by the capacity of such lines and cables, which are located in this state.

§11-6-13i. Water distribution companies; apportionment of assessed valuation.

1. (a) The definite-situs distributable operating property of a water distribution company consists of: (1) Tangible
personal property which is not used as part of the company's distribution system; and (2) real property which is not part of the company's rights-of-way or distribution system. A well, settling basin or reservoir (except an impounding reservoir) is not definite-situs distributable operating property of a water distribution company if it is used to store treated water or water in the process of treatment.

(b) A water distribution company's property which is not described as definite-situs distributable operating property under subsection (a) of this section is indefinite-situs distributable operating property. The tax commissioner shall apportion and distribute the assessed valuation of this property among the taxing districts in which the company's water mains, including feeder and distribution mains, are located. The amount which the tax commissioner shall distribute to a taxing district equals the product of: (1) The total assessed valuation of the water distribution company's indefinite-situs distributable operating property, multiplied by (2) a fraction, the numerator of which is the length of the company's water mains, including feeder and distribution mains, weighted by the capacity of all such mains, which are located in the taxing district, and the denominator of which is the length of the company's water mains, including feeder and distribution mains, weighted by the capacity of all such mains, which are located in this state.

§11-6-13j. Other companies; apportionment of assessed valuation.

For a public service business which is not within one of the classes of business companies whose property is described in section thirteen-a through thirteen-i of this article, the definite-situs distributable operating property of the company consists of real property and tangible personal property which has a permanent situs. The remainder of the company's property is indefinite-situs distributable operating property. The tax commissioner shall, in a manner which he considers fair, apportion and distribute the assessed valuation of the company's indefinite-situs distributable operating property among the taxing districts in which the public service business operates.
§11-6-16. Entry of assessment by auditor of property of such public service businesses.

1 As soon as possible after the valuation of the property of such owner or operator is fixed by the tax commissioner 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect July 1, 1985.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within ................... this the ............

day of ......................... 1985.

Governor