

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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September 11, 2000

NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: John Montgomery
State Tax Commission
P.O. Box 1005
Charleston, WV 25324

FROM: Legislative Rule-Making Review Committee

Proposed Rule: Valuation of Public Utility Property for Ad Valorem Property Tax Purposes, 110CSR1M

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative rule
(a) as originally filed
(b) as modified by the agency
2. Authorize the agency to promulgate part of the Legislative rule;
a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with
certain amendments; amendments and a statement of reasons
for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as
modified with certain amendments; amendments and a
statement of reasons for such recommendation is attached.
5. Recommends that the Legislative rule be withdrawn; a statement
of reasons for such recommendation is attached.

FILED
SEP 13 11 31 AM '00
SECRETARY OF STATE
WEST VIRGINIA

SCANNED

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: State Tax Commissioner

Subject: Valuation of Public Utility Property for Ad Valorem Property Tax Purposes, 110CSR1M

PERTINENT DATES

Filed for public comment: May 26, 2000
 Public comment period ended: June 26, 2000
 Filed following public comment period: July 11, 2000
 Filed LRMRC: July 11, 2000
 Filed as emergency:
 Fiscal Impact: None

OFFICE OF THE
 SECRETARY OF STATE

AUG 1 8 59 AM '00

FILED

ABSTRACT

The proposed rule amends a current legislative rule. The following is a synopsis of the substantive amendments.

Section 4 relates to the valuation of operating public utility property, excluding interstate commercial motor vehicle property. A new classification, underground gas storage companies, has been added to the list of public utilities. It provides that for public service corporations with underground gas storage and no other WV property, operating property consists of only the gas stored underground.

Section 5 of the current rule relates to the valuation of commercial motor vehicles. As amended, Section 5 would relate only to interstate commercial motor vehicles. All references to WV-based motor carriers have been deleted.

AUTHORITY

Statutory authority: W.Va. Code, §11-1C-5, which provides, in part, as follows:

(a) In addition to the powers and duties of the tax commissioner in other provisions of this article and this code, the tax commissioner shall have the power and duty to:

...(2) Determine the methods of valuation for both real and personal property in accordance with the following:

...(D) As to public utility property, the tax commissioner shall prescribe appropriate methods for the appraisal of the various types of property subject to taxation as public utilities and the types of property which are to be included in the operating property of a public utility and thereby not subject to taxation by the county assessor. Only parcels or other property, or portions thereof, which are an integral part of the public utility's function as a utility shall be included as operating property and assessed by the board of public works under provisions of article six of this chapter;

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes. The proposed rule is necessary because Enrolled Committee Substitute for HB 2670 which passed in 1999 transferred responsibility for the assessment of intrastate carriers from the Board of Public Works to the county assessors.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISIONS OF THE CODE?

Yes.

VIII. OTHER