

Act No. 257
Public Acts of 1995
Approved by the Governor
January 4, 1996
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**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1995**

Introduced by Reps. Bullard, Brackenridge, Gernaat and Goschka

ENROLLED HOUSE BILL No. 5218

AN ACT to amend sections 4, 9, 10, 11, 12, 13, 14, and 19 of Act No. 282 of the Public Acts of 1905, entitled as amended "An act to provide for the assessment of the property, by whomsoever owned, operated or conducted, of railroad companies, union station and depot companies, telegraph companies, telephone companies, sleeping car companies, express companies, car loaning companies, stock car companies, refrigerator car companies, and fast freight companies, and all other companies owning, leasing, running or operating any freight, stock, refrigerator, or any other cars, not being exclusively the property of any railroad company paying taxes upon its rolling stock under the provisions of this act, over or upon the line or lines of any railroad or railroads in this state, and for the levy of taxes thereon by a state board of assessors, and for the collection of such taxes, and to repeal all acts or parts of acts contravening any of the provisions of this act," section 13 as amended by Act No. 361 of the Public Acts of 1994, being sections 207.4, 207.9, 207.10, 207.11, 207.12, 207.13, 207.14, and 207.19 of the Michigan Compiled Laws; and to add section 5b.

The People of the State of Michigan enact:

Section 1. Sections 4, 9, 10, 11, 12, 13, 14, and 19 of Act No. 282 of the Public Acts of 1905, section 13 as amended by Act No. 361 of the Public Acts of 1994, being sections 207.4, 207.9, 207.10, 207.11, 207.12, 207.13, 207.14, and 207.19 of the Michigan Compiled Laws, are amended and section 5b is added to read as follows:

Sec. 4. The state board of assessors shall annually determine the true cash value and taxable value of property having a situs in this state of railroad companies, union station and depot companies, telegraph companies, telephone companies, sleeping car companies, express companies, car loaning companies, stock car companies, refrigerator car companies, fast freight line companies, and all other companies owning, leasing, running, or operating any freight, stock, refrigerator, or any other cars not the exclusive property of a railroad company paying taxes on its rolling stock under the provisions of this act, over or on the line or lines of any railroad in this state. The property of a telegraph and telephone company with gross receipts within this state for a year ending December 31 of not more than \$1,000.00 is exempt from taxation under this act. All telegraph and telephone companies doing business in this state shall make the report required by section 6.

Sec. 5b. (1) As used in this act, "taxable value" is that value determined in the same manner taxable value is determined under section 27a of the general property tax act, Act No. 206 of the Public Acts of 1893, being section 211.27a of the Michigan Compiled Laws.

(2) All property of a company subject to taxation under this act shall be considered 1 parcel in determining the taxable value of that company's property.

Sec. 9. (1) Not later than May 15 in each year, the state board of assessors shall prepare an assessment roll upon which they shall set forth the true cash value and taxable value on the immediately preceding December 31 of all the

property of the companies subject to taxation under this act. A determination of true cash value and taxable value is not final until reviewed as provided in this act. For the purpose of arriving at the true cash value and taxable value of the property on the assessment roll, the state board of assessors may personally inspect the property assessed, may consider the reports filed under this act or reports and returns filed in the office of any officer of this state or in the office of any other governmental agency, and any other evidence or information obtained or possessed by the state board of assessors.

(2) In determining the true cash value and taxable value of the property of a railroad, union station, and depot company that owns, leases, operates, or uses lines partly within or partly outside of this state, the state board of assessors shall consider the proportion of the number of miles of all track controlled or used by that company within this state to the entire mileage of all track controlled or used by that company both within and outside of this state. The state board of assessors shall also consider any other uniform factors that reflect a fair allocation of value to this state.

(3) In determining the true cash value and taxable value of the property of a telegraph company or telephone company that owns, leases, operates, or uses lines partly within and partly outside of this state, the state board of assessors shall consider the proportion of the number of miles of telegraph or telephone lines controlled or used by that company within this state to the entire mileage of telegraph or telephone lines controlled or used by that company both within and outside of this state. The state board of assessors shall also consider any other uniform factors that reflect a fair allocation of value to this state.

(4) In determining the true cash value and taxable value of the property of an express company, the state board of assessors shall determine the actual value of the entire amount of the capital stock and bonded indebtedness of that express company. From that amount, the state board of assessors shall determine and deduct the actual value of all real property owned by that express company, and the actual value of all personal property owned by that express company that is not used in the express business of that express company. The state board of assessors shall then divide the remaining amount by the total number of miles, as determined by the state board of assessors, of railroad, stage, water, and other routes over which the company did business to obtain the value per mile. The state board of assessors shall then multiply the value per mile by the total number of miles of the routes within this state, as determined by the state board of assessors. The state board of assessors shall then add to the product of that calculation the value of all real estate owned by that express company in this state, as determined by the state board of assessors. The sum of this calculation is the actual value of the property of that express company subject to assessment and taxation in this state.

(5) If the state board of assessors determines that the ocean routes of a company are so different in character from its other routes that the mileage basis of apportionment of the value of the entire property to be apportioned in this state would be unfair if the full mileage of the ocean routes were included, the state board of assessors may make an allowance for that company's ocean routes to bring those ocean routes to parity with that company's other routes. In making this determination, the state board of assessors shall consider the relative mileage values and earning capacities of the ocean routes and the other routes and shall require special reports of the character, mileage, earnings, and value of the ocean routes. The state board of assessors may exclude from its determination of aggregate mileage any ocean routes on which the express company fails to furnish the requisite reports, but no further penalty shall be imposed for the failure to report the mileage of ocean routes.

(6) If a company claims in writing that the mileage basis of apportionment of the value of the entire property to be attributed to Michigan is unfair, the state board of assessors shall make the apportionment that in its judgment is fair. In making that apportionment, the state board of assessors shall consider the mileage within and outside of this state, making any necessary allowance for ocean mileage as provided in this section.

(7) In determining the true cash value and taxable value of the property in this state of car loaning, stock car, refrigerator, fast freight lines, and other car companies, and other companies owning, leasing, running, or operating cars subject to taxation under this act, the state board of assessors shall consider the proportion of the aggregate car mileage made or run by the entire number of cars owned or operated by a company to the car mileage made or run by the entire number of cars owned or operated by that company within this state.

Sec. 10. On the assessment roll, after the name of each of the companies assessed, the state board of assessors shall place a general description of the property of each company, which includes all of the property of each company liable to taxation under this act. In the case of railroad, union station, and depot companies, the general description may be "Real estate, rolling stock, right-of-way and appurtenances, and all other property used in carrying on the corporate business and subject to taxation by a state board of assessors.". In the case of telegraph and telephone companies, the general description may be "Real estate, exchanges, switchboards, conduits, telegraph and telephone poles, and lines, and other appurtenances, and all other property used in carrying on the business of said company, and subject to taxation by a state board of assessors.". In the case of car loaning, stock car, refrigerator and fast freight line, and other car companies, and other companies, owning, leasing, running, or operating any cars subject to taxation under this act, the general description may be "Cars subject to taxation by a state board of assessors.". In the case of express companies and sleeping car companies, the general description may be "Property subject to taxation by a state board of assessors.". In a column opposite the name of each company assessed shall be extended the true cash value and taxable value of the property assessed.

Sec. 11. On the third Monday in May in each year, the state board of assessors shall meet at its office in the city of Lansing and continue in session from day to day for as long as necessary, but not later than June 15, to review the assessment roll. Any interested company or person may appear during that period and be heard as to the true cash value or taxable value of the property of any company assessed. The state board of assessors may, on application or on its own motion, correct the true cash value or taxable value of the property assessed. To determine the true cash value or taxable value of the property assessed, the state board of assessors may subpoena witnesses as provided in section 3 and may hold any hearing it considers necessary. If the property of a company subject to taxation under this act has been omitted from the assessment roll, the state board of assessors shall place that property on the assessment roll and assess the property as required in sections 9 and 10. An assessment under this section shall not be made if there are less than 5 days before the completion of the review. After the state board of assessors completes the review of the assessment roll, it shall place opposite each description of property in the assessment roll, in a column provided for that purpose, the true cash value and taxable value of that property as determined by it. The taxable value determined by the state board of assessors is the final valuation on which the tax on that property shall be levied and spread. After the state board of assessors completes its review of the assessment roll, a majority of the state board of assessors shall certify that the assessment roll has been acted upon and reviewed in accordance with this act, shall state all of the alterations, changes, corrections, and additions made to the true cash value or taxable value of the property on the assessment roll, shall state all the alterations, changes, and corrections made in the true cash value or taxable value of the property of the state other than that included in this act on which ad valorem taxes are assessed for state, county, township, school, and municipal purposes for the current year, and shall also state all of the alterations, changes, and corrections made in computing the average rate as provided in this act.

Sec. 12. The county clerk in each county in this state, as soon as possible after the equalization of the board of supervisors of his or her county of the assessment rolls of the municipalities in that county, and not later than December 1 in each year shall make a report, duly certified, to the state board of assessors, upon a form to be provided by the state board of assessors, of the amount of ad valorem taxes to be raised in the municipalities in that county for state, county, municipal, township, school, and other purposes, a statement of the aggregate valuation of the property in each of the municipalities in that county, as taken from the assessment rolls of the municipalities for the year in which the equalization is made, and, for taxes levied before January 1, 1995, the state equalized valuation of each municipality and, for taxes levied after December 31, 1994, the taxable value of each municipality. The supervisor or other assessing officer of each township, city, and village in this state shall make, within the time provided in this section, a report to the state board of assessors, upon a form to be provided by the state board of assessors, of all ad valorem taxes raised in his or her assessing district for the current year, and, for taxes levied before January 1, 1995, of the state equalized valuation of real and personal property upon which the taxes are levied and, for taxes levied after December 31, 1994, of the taxable value of real and personal property upon which the taxes are levied. If any county clerk or any supervisor or assessing officer neglects or fails to make the report required by this section within the time provided in this section, the state board of assessors shall inspect and examine or cause an inspection and examination of the records of the board of supervisors or of the proper township, city, or village officers, to procure the information required to arrive at the average rate of taxation in this state. Any county clerk, supervisor, or assessing officer, who fails to make the report required by this section is subject to a penalty of \$100.00, to be recovered in an action in the name of the people of the state of Michigan in any court of competent jurisdiction.

Sec. 13. (1) The state board of assessors, from the information contained in the reports provided for in section 12, shall determine for the year in which the reports are required to be made the average rate of taxation levied upon other commercial, industrial, and utility property upon which ad valorem taxes are assessed for state, county, township, school, and municipal purposes, and enter the determination upon its records, together with the method by which the average rate of taxation was determined. In determining the average rate of taxation for taxes levied under this act before January 1, 1996, the state board of assessors shall divide the state equalized value as set by the state board of equalization for the previous year into the total ad valorem taxes as reported by each county clerk as provided in section 12. In determining the average rate of taxation for taxes levied under this act after December 31, 1995, the state board of assessors shall divide the state taxable value for the previous year into the total ad valorem taxes as reported by each county clerk as provided in section 12. In determining the average rate of taxation for 1994, ad valorem taxes levied for the year in which the reports are required by a local school district for school operating purposes under section 1211 of the school code of 1976, Act No. 451 of the Public Acts of 1976, being section 380.1211 of the Michigan Compiled Laws, shall be excluded from the calculation required by this section and the state board of assessors shall add to the tax rate calculated under this section after the exclusion required by this sentence, the number of mills levied under the state education tax act, Act No. 331 of the Public Acts of 1993, being sections 211.901 to 211.906 of the Michigan Compiled Laws, plus the statewide average number of mills levied in 1994 by local school districts for school operating purposes under Act No. 451 of the Public Acts of 1976, being sections 380.1 to 380.1852 of the Michigan Compiled Laws. If the state board of assessors is unable to determine the average rate of taxation for 1994 before June 1, 1994, the state board of assessors shall determine a preliminary average rate of taxation that shall be used to complete the 1994 tax roll under section 14. However, before June 1, 1995, the state board of assessors shall determine

and certify the average rate of taxation for 1994 and prepare a supplemental 1994 tax roll using the 1994 assessed valuations for the purpose of levying a supplemental tax or making a refund. The supplemental tax is due and payable and the refund, if any, is due July 1, 1995 without interest. If the supplemental tax is paid after August 1, 1995, the tax is payable with interest due at the rate of 1% per month or portion of a month calculated from January 15, 1995 to the date of payment.

(2) A railroad company is allowed a credit against the tax imposed by this act for the tax year in an amount equal to 25% of the amount expended for the maintenance or improvement of rights of way, including those items, except depreciation, in the official maintenance-of-way and capital track accounts of the railroad company in this state during the calendar year immediately preceding the tax year but not to exceed the total liability for the tax under this act. The manner of applying for the credit and the proof of expenditures required shall be prescribed by the state board of assessors.

(3) A railroad company that claims a credit under this section is required to file an annual report with the state board of assessors that shall include detailed data of right of way work conducted in this state during the past calendar year. The state board of assessors shall transmit a copy of the report to the chairperson of the senate finance committee and the house taxation committee. This report submitted to the state board of assessors shall include the number of notices of violation from railway inspectors by railroad section, and shall include a detailed account of the location and the nature of the work. The location of the work shall be defined by the railroad section or mile posts surrounding the work area plus the county, city, or township in which the work was performed. This report shall include a separation of costs by labor and materials on each project. The report also shall include an itemized account of what work was done. This account shall be itemized by the following categories:

- (a) Miles of track laid.
- (b) Tons of new ballast installed.
- (c) Number of ties installed.
- (d) Miles of tracks surfaced.
- (e) Signals installed.
- (f) Under drainage work done.

(4) The railroad companies, in order to qualify for the full 25% credit under this act, must demonstrate to the state board of assessors that the highest priority of expenditures for the maintenance or improvement of rights of way has been given to rail lines that handle hazardous materials, especially those that are located in urban or residential areas. A railroad company that claims a credit under this section is required to file an annual report with the state board of assessors that shall include detailed data on the tonnages of hazardous materials handled in relation to tonnages of other traffic handled over the rail line for which a tax credit is being applied.

(5) A railroad company utilizing the property tax credit provisions of this act shall grant to another railroad company, upon application by the latter, trackage rights over its line for trains, providing that the train operations do not interfere with the movement of Michigan freight using the same trackage, if operations can be accomplished safely in the opinion of the grantor and if trackage arrangements and train operations are approved by the interstate commerce commission. The grantee shall pay the grantor reasonable charges agreed to between the 2 parties if the charges and terms of the agreement between the 2 parties are not in violation of the antitrust provisions of federal laws as amended by the Staggers rail act of 1980, Public Law 96-448, 94 Stat. 1895.

Sec. 14. (1) The state board of assessors shall tax the property of the companies subject to taxation under this act based upon the taxable value of the property determined by the state board of assessors and at the rate determined by the state board of assessors. The amount of tax to be paid by each company assessed shall be extended on the assessment roll, opposite the description of that company's property. After the tax roll is completed, and before June 20 in each year, the state board of assessors shall attach to the tax roll a certificate signed by the members of the state board of assessors, or a majority of the members of the state board of assessors, that states "We do hereby certify that we have set down in the above assessment roll all of the property of railroad companies, express companies, union station and depot companies, telegraph and telephone companies, car loaning, stock car, refrigerator, fast freight line, and other car companies, and other companies owning, leasing, running, or operating cars, and sleeping car companies liable to be taxed in this state, according to our best information, and that we have determined the true cash value and taxable value of that property, and that we have assessed the taxes on that property at the average rate of taxes for state, county, township, school, municipal, and other purposes levied through this state during the preceding year as determined by us."

(2) The tax roll shall be delivered to the commissioner of revenue, who shall immediately notify by registered mail each company taxed to pay the taxes extended on the tax roll to the state treasurer. The taxes assessed are payable on July 1 following the assessment and levy of those taxes, and are in lieu of all ad valorem taxes for state and local purposes, not including special assessments on property particularly benefited made in any county, city, village, or township. All taxes not paid before August 1 in the year in which those taxes are payable shall bear interest from

August 1 at the rate of 1% per month or fraction of a month. However, if 1/2 of the amount of the taxes due are paid before August 1, the remaining taxes due may be paid before the immediately succeeding December 1 without interest, otherwise the taxes unpaid on August 1 shall bear interest as provided in this section. The taxes levied are a debt of the company assessed to the state and are a lien on all of the property of that company, real, personal, and mixed. A lien under this section takes precedence over all demands, judgments, assignments by warranty deed or otherwise, or decrees against the company assessed. A lien and debt under this section may be enforced by the seizure or sale of the property assessed or any portion of the property assessed necessary to satisfy the lien and debt. The state board of assessors shall, upon the completion of the tax roll and the correction of the tax roll as provided in this act, annex to the tax roll a warrant, signed by the board or a majority of the state board of assessors, commanding the commissioner of revenue to collect the taxes due under this act. The warrant shall authorize and command the commissioner of revenue, in case any corporation, company, or person named in the tax roll does not pay the tax due under this act, to levy the tax due by distress and sale of the property of that corporation, company, or person or any portion of that property necessary to raise sufficient money to satisfy the tax due and the expense of the sale, after giving the corporation, company, or person notice of the sale as provided by law for the sale of property seized for taxes and offered for sale. However, the commissioner may bring an action in the name of the people of this state in any court of competent jurisdiction in this state, or in any other state, to enforce the lien and after obtaining a judgment or decree, the judgment or decree may be collected by execution, levy, and sale.

Sec. 19. If the state board of assessors willfully assesses any property at more or less than what the members taking part in making that assessment believe to be its true cash value or taxable value, each member voting in favor of that assessment is guilty of a misdemeanor punishable by imprisonment in the county jail for not more than 1 year or by a fine of not more than \$5,000.00.

Section 2. This amendatory act shall take effect December 30, 1995. This amendatory act is intended to clarify that the taxable basis of property subject to tax under this act, including intangible property, is also subject to the limitations on taxable value provided in section 3, article IX, of the Michigan Constitution of 1963. This act is not intended to exempt any particular type of property.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.