

As Introduced

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H. B. No. 218

Representative Winburn

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A B I L L

To amend sections 5727.01, 5727.11, and 5727.111 of 1
the Revised Code to modify the tax valuation of 2
public utility tangible personal property used to 3
generate electricity from renewable resources. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5727.01, 5727.11, and 5727.111 of 5
the Revised Code be amended to read as follows: 6

Sec. 5727.01. As used in this chapter: 7

(A) "Public utility" means each person referred to as a 8
telephone company, telegraph company, electric company, natural 9
gas company, pipe-line company, water-works company, water 10
transportation company, heating company, rural electric company, 11
railroad company, or combined company. 12

(B) "Gross receipts" means the entire receipts for business 13
done by any person from operations as a public utility, or 14
incidental thereto, or in connection therewith, including any 15
receipts received under Chapter 4928. of the Revised Code. The 16
gross receipts for business done by an incorporated company 17
engaged in operation as a public utility includes the entire 18
receipts for business done by such company under the exercise of 19
its corporate powers, whether from the operation as a public 20

utility or from any other business. 21

(C) "Rural electric company" means any nonprofit corporation, 22
organization, association, or cooperative engaged in the business 23
of supplying electricity to its members or persons owning an 24
interest therein in an area the major portion of which is rural. 25

(D) Any person: 26

(1) Is a telegraph company when engaged in the business of 27
transmitting telegraphic messages to, from, through, or in this 28
state; 29

(2) Is a telephone company when primarily engaged in the 30
business of providing local exchange telephone service, excluding 31
cellular radio service, in this state; 32

(3) Is an electric company when engaged in the business of 33
generating, transmitting, or distributing electricity within this 34
state for use by others, but excludes a rural electric company; 35

(4) Is a natural gas company when engaged in the business of 36
supplying or distributing natural gas for lighting, power, or 37
heating purposes to consumers within this state, excluding a 38
person that is a governmental aggregator or retail natural gas 39
supplier as defined in section 4929.01 of the Revised Code; 40

(5) Is a pipe-line company when engaged in the business of 41
transporting natural gas, oil, or coal or its derivatives through 42
pipes or tubing, either wholly or partially within this state; 43

(6) Is a water-works company when engaged in the business of 44
supplying water through pipes or tubing, or in a similar manner, 45
to consumers within this state; 46

(7) Is a water transportation company when engaged in the 47
transportation of passengers or property, by boat or other 48
watercraft, over any waterway, whether natural or artificial, from 49
one point within this state to another point within this state, or 50

between points within this state and points without this state; 51

(8) Is a heating company when engaged in the business of 52
supplying water, steam, or air through pipes or tubing to 53
consumers within this state for heating purposes; 54

(9) Is a railroad company when engaged in the business of 55
owning or operating a railroad either wholly or partially within 56
this state on rights-of-way acquired and held exclusively by such 57
company, or otherwise, and includes a passenger, street, suburban, 58
or interurban railroad company. 59

As used in division (D)(2) of this section, "local exchange 60
telephone service" means making available or furnishing access and 61
a dial tone to all persons within a local calling area for use in 62
originating and receiving voice grade communications over a 63
switched network operated by the provider of the service within 64
the area and for gaining access to other telecommunication 65
services. 66

(E) "Taxable property" means the property required by section 67
5727.06 of the Revised Code to be assessed by the tax 68
commissioner, but does not include either of the following: 69

(1) An item of tangible personal property that for the period 70
subsequent to the effective date of an air, water, or noise 71
pollution control certificate and continuing so long as the 72
certificate is in force, has been certified as part of the 73
pollution control facility with respect to which the certificate 74
has been issued; 75

(2) An item of tangible personal property that during the 76
construction of a plant or facility and until the item is first 77
capable of operation, whether actually used in operation or not, 78
is incorporated in or being held exclusively for incorporation in 79
that plant or facility. 80

Notwithstanding section 5701.03 of the Revised Code, for tax 81

year 2006 and thereafter, "taxable property" includes patterns, 82
jigs, dies, and drawings of an electric company or a combined 83
company for use in the activity of an electric company. 84

(F) "Taxing district" means a municipal corporation ~~of~~ or 85
township, or part thereof, in which the aggregate rate of taxation 86
is uniform. 87

(G) "Telecommunications service" has the same meaning as in 88
division (AA) of section 5739.01 of the Revised Code. 89

(H) "Interexchange telecommunications company" means a person 90
that is engaged in the business of transmitting telephonic 91
messages to, from, through, or in this state, but that is not a 92
telephone company. 93

(I) "Sale and leaseback transaction" means a transaction in 94
which a public utility or interexchange telecommunications company 95
sells any tangible personal property to a person other than a 96
public utility or interexchange telecommunications company and 97
leases that property back from the buyer. 98

(J) "Production equipment" means all taxable steam, nuclear, 99
hydraulic, and other production plant equipment used to generate 100
electricity. For tax years prior to 2001, "production equipment" 101
includes taxable station equipment that is located at a production 102
plant. 103

(K) "Tax year" means the year for which property or gross 104
receipts are subject to assessment under this chapter. This 105
division does not limit the tax commissioner's ability to assess 106
and value property or gross receipts outside the tax year. 107

(L) "Combined company" means any person engaged in the 108
activity of an electric company or rural electric company that is 109
also engaged in the activity of a heating company or a natural gas 110
company, or any combination thereof. 111

(M) "Public utility property lessor" means any person, other than a public utility or an interexchange telecommunications company, that leases personal property, other than in a sale and leaseback transaction, to a public utility, other than a railroad, water transportation, telephone, or telegraph company if the property would be taxable property if owned by the public utility. A public utility property lessor is subject to this chapter only for the purposes of reporting and paying tax on taxable property it leases to a public utility other than a telephone or telegraph company. A public utility property lessor that leases property to a public utility other than a telephone or telegraph company is not a public utility, but it shall report its property and be assessed in the same manner as the utility to which it leases the property.

(N) "Renewable resource" means solar photovoltaic or solar thermal energy or wind energy.

Sec. 5727.11. (A) Except as otherwise provided in this section, the true value of all taxable property, except property of a railroad company, required by section 5727.06 of the Revised Code to be assessed by the tax commissioner shall be determined by a method of valuation using cost as capitalized on the public utility's books and records less composite annual allowances as prescribed by the commissioner. If the commissioner finds that application of this method will not result in the determination of true value of the public utility's taxable property, the commissioner may use another method of valuation.

(B)(1) Except as provided in division (B)(2) of this section, the true value of current gas stored underground is the cost of that gas shown on the books and records of the public utility on the thirty-first day of December of the preceding year.

(2) For tax year 2001 and thereafter, the true value of

current gas stored underground is the quotient obtained by 143
dividing (a) the average value of the current gas stored 144
underground, which shall be determined by adding the value of the 145
gas on hand at the end of each calendar month in the calendar year 146
preceding the tax year, or, if applicable, the last day of 147
business of each month for a partial month, divided by (b) the 148
total number of months the natural gas company was in business 149
during the calendar year prior to the beginning of the tax year. 150
with the approval of the tax commissioner, a natural gas company 151
may use a date other than the end of a calendar month to value its 152
current gas stored underground. 153

(C) The true value of noncurrent gas stored underground is 154
thirty-five per cent of the cost of that gas shown on the books 155
and records of the public utility on the thirty-first day of 156
December of the preceding year. 157

(D)(1) Except as provided in ~~division~~ divisions (D)(2) and 158
(3) of this section, the true value of the production equipment of 159
an electric company and the true value of all taxable property of 160
a rural electric company is the equipment's or property's cost as 161
capitalized on the company's books and records less fifty per cent 162
of that cost as an allowance for depreciation and obsolescence. 163

(2) The true value of the production equipment of an electric 164
company or rural electric company purchased, transferred, or 165
placed into service after ~~the effective date of this amendment~~ 166
July 6, 1999, is the purchase price of the equipment as 167
capitalized on the company's books and records less composite 168
annual allowances as prescribed by the tax commissioner. 169

(3) For tax year 2010 and each tax year thereafter, the true 170
value of the taxable property of an electric company that is used 171
to produce electricity from a renewable resource is the purchase 172
price of the equipment as capitalized on the company's books and 173
records without deduction of composite annual allowances. 174

(E) The true value of taxable property, except property of a railroad company, required by section 5727.06 of the Revised Code to be assessed by the tax commissioner shall not include the allowance for funds used during construction or interest during construction that has been capitalized on the public utility's books and records as part of the total cost of the taxable property. This division shall not apply to the taxable property of an electric company or a rural electric company, excluding transmission and distribution property, first placed into service after December 31, 2000, or to the taxable property a person purchases, which includes transfers, if that property was used in business by the seller prior to the purchase.

(F) The true value of watercraft owned or operated by a water transportation company shall be determined by multiplying the true value of the watercraft as determined under division (A) of this section by a fraction, the numerator of which is the number of revenue-earning miles traveled by the watercraft in the waters of this state and the denominator of which is the number of revenue-earning miles traveled by the watercraft in all waters.

(G) The cost of property subject to a sale and leaseback transaction is the cost of the property as capitalized on the books and records of the public utility owning the property immediately prior to the sale and leaseback transaction.

(H) The cost as capitalized on the books and records of a public utility includes amounts capitalized that represent regulatory assets, if such amounts previously were included on the company's books and records as capitalized costs of taxable personal property.

(I) Any change in the composite annual allowances as prescribed by the commissioner on a prospective basis shall not be admissible in any judicial or administrative action or proceeding as evidence of value with regard to prior years' taxes.

Information about the business, property, or transactions of any taxpayer obtained by the commissioner for the purpose of adopting or modifying the composite annual allowances shall not be subject to discovery or disclosure.

Sec. 5727.111. The taxable property of each public utility, except a railroad company, and of each interexchange telecommunications company shall be assessed at the following percentages of true value:

(A) Fifty per cent in the case of the taxable transmission and distribution property of a rural electric company, and twenty-five per cent for all its other taxable property;

(B) In the case of a telephone or telegraph company, twenty-five per cent for taxable property first subject to taxation in this state for tax year 1995 or thereafter for tax years before tax year 2007, and pursuant to division (H) of section 5711.22 of the Revised Code for tax year 2007 and thereafter, and the following for all other taxable property:

(1) For tax years prior to 2005, eighty-eight per cent;

(2) For tax year 2005, sixty-seven per cent;

(3) For tax year 2006, forty-six per cent;

(4) For tax year 2007 and thereafter, pursuant to division (H) of section 5711.22 of the Revised Code.

(C) Twenty-five per cent in the case of a natural gas company.

(D) Eighty-eight per cent in the case of a pipe-line, water-works, or heating company;

(E)(1) For tax year 2005, eighty-eight per cent in the case of the taxable transmission and distribution property of an electric company, and twenty-five per cent for all its other

taxable property;	236
(2) For tax year <u>years</u> 2006 and each tax year thereafter,	237
<u>2007, 2008, and 2009,</u> eighty-five per cent in the case of the	238
taxable transmission and distribution property of an electric	239
company, and twenty-four per cent for all its other taxable	240
property;	241
<u>(3) For tax year 2010 and each tax year thereafter, of the</u>	242
<u>taxable property of an electric company:</u>	243
<u>(a) Eighty-five per cent in the case of the taxable</u>	244
<u>transmission and distribution property;</u>	245
<u>(b) Twelve per cent in the case of taxable property used to</u>	246
<u>produce electricity from renewable resources;</u>	247
<u>(c) Twenty-four per cent for all its other taxable property.</u>	248
(F)(1) Twenty-five per cent in the case of an interexchange	249
telecommunications company for tax years before tax year 2007;	250
(2) Pursuant to division (H) of section 5711.22 of the	251
Revised Code for tax year 2007 and thereafter.	252
(G) Twenty-five per cent in the case of a water	253
transportation company.	254
Section 2. That existing sections 5727.01, 5727.11, and	255
5727.111 of the Revised Code are hereby repealed.	256