STATE BOARD OF ASSESSORS; ASSESSMENT OF PROPERTY OF CERTAIN PUBLIC UTILITIES
Act 282 of 1905

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.

History: 1905, Act 282, Eff. Sept. 16, 1905;—Am. 1909, Act 49, Eff. Sept. 1, 1909.

The People of the State of Michigan enact:

207.1 State board of assessors; secretary, duties; assistants.

Sec. 1. The board of state tax commissioners, created under the laws of this state, together with the governor, shall ex officio, constitute a state board of assessors, 1 of whom shall be elected chairman of said board. The secretary of the board of state tax commissioners shall be ex officio secretary of the state board of assessors without extra compensation, and shall keep a record of all its proceedings in addition to such other duties as may be required of him by said board, and shall devote his whole time to the duties of his office. In addition to the secretary, said board may employ such other clerical assistance as may be necessary and required to perform the duties imposed upon it by this act.

History: 1905, Act 282, Eff. Sept. 16, 1905;—Am. 1909, Act 49, Eff. Sept. 1, 1909;—CL 1915, 4213;—CL 1929, 3552;—CL 1948, 207.1.

Transfer of powers: See MCL 16.185.

Former law: See Act 168 of 1881; Act 152 of 1883; Act 19 of 1899; and Act 173 of 1901.

207.2 State board of assessors; compensation for clerical assistance, expenses.

Sec. 2. Provided, That the compensation paid for such clerical assistance shall be as appropriated by the legislature. All other necessary expenses incurred in carrying out the provisions of this act, shall be allowed by the board of state auditors upon proper vouchers approved by the chairman and secretary of the board of the state tax commissioners, and paid by the state treasurer out of the general fund.

History: 1905, Act 282, Eff. Sept. 16, 1905;—CL 1915, 4214;—CL 1929, 3553;—Am. 1933, Act 29, Imd. Eff. Mar. 14, 1933;—CL 1948, 207.2.

207.3 Access to public records; subpoena, fees; examination of witnesses and accounts; refusal, penalty.

Sec. 3. Said board shall have access to all books, papers, documents, statements and accounts, on file or of record in any of the departments of state, subject to the rules and regulations of the respective departments relative to the care of public records. It shall have like access to all books, papers, documents, statements and accounts, on file or of record in counties, townships and municipalities. It shall have the right to subpoena witnesses, upon a subpoena signed by the chairman of said board and attested by the secretary thereof, delivered to such witnesses, which subpoenas may be served by any person authorized to serve subpoenas from courts of record in this state, and the attendance of witnesses may be compelled by attachment, to be issued by any circuit court in this state, upon proper showing that such witness has been properly subpoenaed, and has refused to obey such subpoena. The person appearing in response to such subpoena shall receive like compensation as is allowed by the statutes of this state to witnesses in the circuit court, to be allowed by the board of state auditors upon the presentation of a copy of such subpoena, with the number of days' service and mileage endorsed thereon and approved by a member of said board of assessors, or the secretary thereof. The person serving such subpoena shall receive the same compensation now allowed to sheriffs or other officers for serving subpoenas. Said board shall have power to examine witnesses under oath, said oath to be administered by any member of the board, or by the secretary thereof. It shall have the right to inspect and examine the books, papers or accounts of any corporation, firm or individual owning property to be assessed by said board, and if such corporation, firm or individual refuse to permit said inspection and examination, or neglect or fail to appear before said board in response to its subpoena, said corporation, firm or individual shall, for each such refusal, neglect or failure, forfeit the sum of 500 dollars to the state, the sum so forfeited

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to be recovered in a proper action brought in the name of the people of the state of Michigan, in any court of competent jurisdiction.

History: 1905, Act 282, Eff. Sept. 16, 1905;—CL 1915, 4215;—CL 1929, 3554;—CL 1948, 207.3.

207.4 Annual assessment of property of certain rail transportation, telephone, and telegraph companies; reports.

Sec. 4. (1) The state board of assessors shall annually determine the true cash value and taxable value of property having a situs in this state of all of the following:

(a) Railroad companies.

(b) Union station and depot companies.

(c) Telegraph companies.

(d) Telephone companies.

(e) Sleeping car companies.

(f) Express companies.

(g) Car loaning companies.

(h) Stock car companies.

(i) Refrigerator car companies.

(j) Fast freight line companies.

(k) 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 this act, over or on the line or lines of any railroad in this state.

(2) For tax years that begin after December 31, 2005, the state board of assessors shall annually determine the true cash value and taxable value of property having a situs in this state of telegraph companies and telephone companies in the same manners as property assessed under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(3) 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.

(4) All telegraph and telephone companies doing business in this state shall make the report required under section 6.

History: 1905, Act 282, Eff. Sept. 16, 1905;—Am. 1909, Act 49, Eff. Sept. 1, 1909;—CL 1915, 4216;—Am. 1917, Act 339, Eff. Aug. 10, 1917;—CL 1929, 3555;—CL 1948, 207.4;—Am. 1956, Act 203, Eff. Aug. 11, 1956;—Am. 1995, Act 257, Imd. Eff. Jan. 5, 1996;—Am. 2002, Act 610, Imd. Eff. Dec. 20, 2002.

Compiler's note: Section 2 of Act No. 257 of 1995 provides:

"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."

207.5 Definitions.

Sec. 5. (1) As used in this act, "property" means 1 of the following:

(a) Except as otherwise provided in subdivision (b), all property, real or personal, belonging to the persons, corporations, companies, copartnerships, and associations subject to taxation under this act, including rights-of-way, road beds, stations, cars, rolling stock, tracks, wagons, horses, office furniture, telegraph and telephone poles, wires, conduits, switchboards, all other property used in carrying on their business and owned by them respectively, all other real and personal property, and all franchises. Franchises shall not be directly assessed, but shall be considered in determining the value of the other property. Property does not include, apply to, or subject to taxation property or real property owned and capable of being conveyed by the persons, corporations, companies, copartnerships, and associations subject to taxation under this act that is not actually occupied in the exercise of their franchises, or in use in the operation and conduct of their business.

(b) For telegraph companies and telephone companies only, for tax years that begin after December 31, 2005, only property that would be subject to the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, if that property were not subject to taxation under this act.

(2) Real property exempt from the tax levied under this act under subsection (1) is subject to taxation in the same manner, for the same purposes, to the same extent, and subject to the same conditions and limitations as other real property in the townships or municipalities in which that property is located.

(3) As used in this act, the terms "company", "corporation", "copartnership", "association", and "person" apply to and shall be construed as referring to the following:

(a) A railroad company, union station and depot company, telegraph company, telephone company, sleeping car company, express company, car loaning company, stock car company, refrigerator or fast freight

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line company, or any other companies owning, leasing, running, or operating any freight cars, stock cars, refrigerator cars, or any other cars, not the exclusive property of a railroad company paying taxes upon its rolling stock under this act, over or upon the line or lines of any railroad or railroads in this state.

(b) A firm, joint stock association, copartnership, corporation, or other association or person engaged in carrying on any business, the tangible property of which is subject to taxation under this act.

(4) As used in this act, "property having a situs in this state," includes all of the following:

(a) Except as otherwise provided in subdivision (b), the property, real and personal, of the persons, corporations, companies, copartnerships, and associations subject to taxation under this act, owned, used, and occupied by them within this state, and also the proportion of their rolling stock, cars, and other property used partly within and partly outside of this state as provided in this act.

(b) For telegraph companies and telephone companies only, for tax years that begin after December 31, 2005, only the tangible property, real and personal, owned, used, and occupied by them within this state.

History: 1905, Act 282, Eff. Sept. 16, 1905;—Am. 1909, Act 49, Eff. Sept. 1, 1909;—CL 1915, 4217;—CL 1929, 3556;—CL 1948, 207.5;—Am. 2002, Act 610, Imd. Eff. Dec. 20, 2002.

207.5a Exemption of materials and supplies.

Sec. 5a. Materials and supplies, including repair parts and fuel of a company, corporation, copartnership, association, or person filing the sworn statement of property required by this act are exempt from taxation under this act.

History: Add. 1975, Act 235, Imd. Eff. Aug. 27, 1975.

207.5b Taxable value; determination.

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.

History: Add. 1995, Act 257, Imd. Eff. Jan. 5, 1996.

Compiler's note: Section 2 of Act No. 257 of 1995 provides:

"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."

207.6 Company's annual statement; contents, time.

Sec. 6. The several corporations, persons, copartnerships, companies and associations whose property is subject to assessment and taxation under the provisions of this act, and whose annual gross receipts exceed $1,000,000.00 shall annually between the first day of January and the thirty-first day of March in each year, and the several corporations, persons, copartnerships, companies and associations whose property is subject to assessment and taxation under the provisions of this act, and whose annual gross receipts do not exceed $1,000,000.00, shall annually between the first day of January and the fifteenth day of March in each year, under oath of the president, secretary, superintendent, or chief officer of such corporation, company or association, or of the person or persons owning such property, make and file with the state board of assessors an annual report, in such form as said board may provide, upon blanks to be furnished by said board setting forth specifically upon blanks so furnished by the board the information prescribed by said board to enable them to make the assessment required in this act.

History: 1905, Act 282, Eff. Sept. 16, 1905;—Am. 1909, Act 49, Eff. Sept. 1, 1909;—CL 1915, 4218;—Am. 1917, Act 339, Eff. Aug. 10, 1917;—CL 1929, 3557;—CL 1948, 207.6;—Am. 1956, Act 203, Eff. Aug. 11, 1956.

207.7 Sleeping car company defined; annual statement, contents, time.

Sec. 7. Every joint stock association, company, copartnership or association incorporated or acting under the laws of this or any other state, or of any foreign nation, and conveying to, from, through, in or across this state, or any part thereof, passengers or travelers, in palace cars, drawing room cars, sleeping cars or tourist cars, under any contract, express or implied with any railroad company, or the managers, lessees, agents or receivers thereof, shall be deemed and held to be a sleeping car company for the purposes of this act; and every such sleeping car company doing business in this state, shall annually between the first day of January and the thirty-first day of March, make out and deliver to the state board of assessors, a statement, verified by the oath of the officer or agent of such company making such statement, with reference to the thirty-first day of December next preceding, setting forth the information prescribed by the board to enable them to make the assessment required in this act.

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History: 1905, Act 282, Eff. Sept. 16, 1905;—CL 1915, 4219;—Am. 1917, Act 339, Eff. Aug. 10, 1917;—CL 1929, 3558;—CL 1948, 207.7;—Am. 1956, Act 203, Eff. Aug. 11, 1956.

207.8 Blanks furnished; other reports; board, self-information; penalty, exception.

Sec. 8. Blanks for making the statements provided for in section 6 and 7 shall be furnished to such companies on making application to said board: Provided, That the reports hereby provided for shall not in any way relieve any of said companies from making the reports now required to be made to other state officers. In case any company fails or refuses to make the statement required by this act, or refuses to furnish any information requested, the board shall inform itself as best it may on the matters necessary to be known, in order to discharge its duties with respect to the assessment of the property of such companies. Any company which shall refuse or neglect to make the report required by this act or any part thereof, within the time specified, shall be subject to a penalty of 500 dollars for each day of the continuance of such neglect or refusal to file said report, to be recovered in a proper action brought in the name of the people of the state of Michigan in any court of competent jurisdiction: Provided, That when any company shall show to the satisfaction of said board that it cannot furnish any of the information requested, said board may excuse said company from furnishing such information.

History: 1905, Act 282, Eff. Sept. 16, 1905;—Am. 1909, Act 49, Eff. Sept. 1, 1909;—CL 1915, 4220;—CL 1929, 3559;—CL 1948, 207.8.

207.9 Assessment roll; contents; time; inspection of physical properties of public utilities; determination of true cash and taxable value; ocean routes; mileage adjustment.

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) For tax years that begin before January 1, 2006, 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 only 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

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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 this state 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.

History: 1905, Act 282, Eff. Sept. 16, 1905;—Am. 1909, Act 49, Eff. Sept. 1, 1909;—CL 1915, 4221;—Am. 1917, Act 339, Eff. Aug. 10, 1917;—CL 1929, 3560;—CL 1948, 207.9;—Am. 1956, Act 203, Eff. Aug. 11, 1956;—Am. 1995, Act 257, Imd. Eff. Jan. 5, 1996;—Am. 2002, Act 610, Imd. Eff. Dec. 20, 2002.

Compiler's note: Section 2 of Act No. 257 of 1995 provides:

"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."

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207.10 Assessment roll; description; form; cash and taxable valuations; placement on roll.

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.

History: 1905, Act 282, Eff. Sept. 16, 1905;—Am. 1909, Act 49, Eff. Sept. 1, 1909;—CL 1915, 4222;—CL 1929, 3561;—CL 1948, 207.10;—Am. 1995, Act 257, Imd. Eff. Jan. 5, 1996.

Compiler's note: Section 2 of Act No. 257 of 1995 provides:

"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."

207.11 State board of assessors; annual meeting; time; place; proceedings; cash or taxable value correction; certification; contents.

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

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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.

History: 1905, Act 282, Eff. Sept. 16, 1905;—CL 1915, 4223;—Am. 1917, Act 339, Eff. Aug. 10, 1917;—CL 1929, 3562;—CL 1948, 207.11;—Am. 1956, Act 203, Eff. Aug. 11, 1956;—Am. 1995, Act 257, Imd. Eff. Jan. 5, 1996.

Compiler's note: Section 2 of Act No. 257 of 1995 provides:

"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."

207.12 County director of tax or equalization department; assessing officer; duties; failure to report; penalty; inspection and examination.

Sec. 12. The director of the tax or equalization department in each county in this state, as soon as possible after the equalization of the board of commissioners of the 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, on 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, including 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, on 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 director of a county tax or equalization department 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 commissioners 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 director of a county tax or equalization department, 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 this state in any court of competent jurisdiction.

History: 1905, Act 282, Eff. Sept. 16, 1905;—CL 1915, 4224;—Am. 1917, Act 339, Eff. Aug. 10, 1917;—CL 1929, 3563;—CL 1948, 207.12;—Am. 1995, Act 257, Imd. Eff. Jan. 5, 1996;—Am. 2001, Act 35, Imd. Eff. June 29, 2001.

Compiler's note: Section 2 of Act No. 257 of 1995 provides:

"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."

207.13 Determining average rate of taxation; entering determination and method on records; determination and payment of supplemental tax; credit against tax allowed railroad company; amount of credit; application for credit; proof of expenditures; annual report; qualification for credit; additional annual report; granting of trackage rights.

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 on other commercial, industrial, and utility property on which ad valorem taxes are assessed for state, county, township, school, and municipal purposes, and enter the determination in 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

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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 director of a county tax or equalization department 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 director of a county tax or equalization department 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 as defined in section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, 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, 1993 PA 331, MCL 211.901 to 211.906, plus the statewide average number of mills levied in 1994 by local school districts for school operating purposes under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852. 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.

History: 1905, Act 282, Eff. Sept. 16, 1905;—Am. 1909, Act 49, Eff. Sept. 1, 1909;—CL 1915, 4225;—Am. 1917, Act 339, Eff.

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Aug. 10, 1917;—CL 1929, 3564;—CL 1948, 207.13;—Am. 1953, Act 30, Imd. Eff. Apr. 15, 1953;—Am. 1977, Act 290, Imd. Eff. Dec. 29, 1977;—Am. 1980, Act 322, Eff. Mar. 31, 1981;—Am. 1993, Act 332, Eff. Apr. 1, 1994;—Am. 1994, Act 361, Imd. Eff. Dec. 27, 1994;—Am. 1995, Act 257, Imd. Eff. Jan. 5, 1996;—Am. 2001, Act 35, Imd. Eff. June 29, 2001.

Compiler's note: Section 2 of Act 322 of 1980 provides: "This act shall be known and may be cited as the "George Montgomery railroad act".

Section 2 of Act No. 257 of 1995 provides:

"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."

207.13a Tax credit; "eligible company,""eligible expenses,""qualified rolling stock," defined.

Sec. 13a. (1) Subject to subsection (2), an eligible company is allowed a credit against the tax imposed under this act for the tax year equal to the amount of eligible expenses incurred during the calendar year immediately preceding the tax year for which the credit under this subsection is claimed.

(2) The sum of the credits under subsection (1) and section 13(2) shall not exceed an eligible company's liability for the tax levied under this act in the tax year in which the credit is claimed.

(3) An eligible company may apply for the credit under subsection (1) by submitting to the state board of assessors an application in the form prescribed by the state board of assessors.

(4) If the board determines that for any eligible company the sum of the credits provided in this section and in section 13(2) equals the eligible company's liability for the tax levied under this act before application of the credits, the board may waive the application requirement in subsection (3) and the reports and statements required under sections 6, 7, 8, and 13. A waiver under this subsection does not affect the board's powers under section 3.

(5) As used in this section:

(a) "Eligible company" means railroad companies, union station and depot 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 upon its rolling stock under this act, over or upon the line or lines of any railroad in this state.

(b) "Eligible expenses" means 1 or more of the following:

(*i*) Expenses incurred in this state to maintain or improve an eligible company's qualified rolling stock.

(*ii*) Seventy-five percent of the expenses incurred in this state for maintenance or improvement of rights-of-way, including those items, except depreciation, in the official maintenance-of-way and capital track accounts of the eligible company.

(c) "Qualified rolling stock" means any freight, stock, refrigerator, or other railcars subject to the tax levied under this act.

History: Add. 2000, Act 341, Imd. Eff. Dec. 27, 2000.

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207.13b Tax credit; amount; limitation; prohibition; credit against remaining tax; carrying forward credit to offset tax liability in subsequent years; application; submission to state board of assessors; form; definitions.

Sec. 13b. (1) Subject to subsections (2), (3), and (4), a company shall be allowed a credit against the tax imposed under this act for the tax year equal to 6% of eligible expenditures incurred in the calendar year immediately preceding the tax year for which the credit under this subsection is claimed.

(2) The amount of the credit under subsection (1) shall be limited as follows:

(a) For the 2003 tax year, the credit shall not exceed 3% of the company's liability for the tax levied under this act in the 2003 tax year.

(b) For the 2004 tax year, the credit shall not exceed the greater of 6% of the company's liability for the tax levied under this act in the 2004 tax year or 100% of the credit the company received under this subsection in the 2003 tax year.

(c) For the 2005 tax year, the credit shall not exceed the greater of 9% of the company's liability for the tax levied under this act in the 2005 tax year or 100% of the credit the company received under this subsection in the 2004 tax year.

(d) For the 2006 tax year and each year after the 2006 tax year, the credit shall not exceed the greater of 12% of the company's liability for the tax levied under this act in the tax year in which the credit is claimed or 100% of the credit the company received under this subsection in the immediately preceding tax year.

(3) The amount of the credit under subsection (1) shall not exceed a company's liability for the tax levied under this act in the tax year in which the credit is claimed.

(4) A credit under subsection (1) may not be claimed by a company in a tax year in which 1 or more of the

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following conditions apply:

(a) The company is not subject to the annual maintenance fee required under section 8 of the metropolitan extension telecommunications rights-of-way oversight act.

(b) The company is subject to the annual maintenance fees required under section 8 of the metropolitan extension telecommunications rights-of-way oversight act, and has failed to pay the annual maintenance fees that are due and payable as of May 1 in that year.

(5) After any credit under subsection (1) is determined, a company shall be allowed a credit against any remaining tax imposed under this act equal to the credit allowed under section 8 of the metropolitan extension telecommunications rights-of-way oversight act, less the amount of any credit determined under subsection (1). If the credit allowed under this subsection for the tax year and any unused carryforward of the credit allowed by this subsection exceed the company's remaining tax liability for the tax year after any credit under subsection (1) is determined, that portion of the credit that exceeds the remaining tax liability for the tax year shall not be refunded but may be carried forward to offset any tax liability in subsequent tax years that remains after any credit claimed under subsection (1) in that subsequent tax year is determined until used up. A credit may not be claimed under this subsection in a tax year in which 1 or more of the conditions set forth in subsection (4) apply.

(6) A company may apply for the credit under subsection (1) by submitting to the state board of assessors an application in a form prescribed by the state board of assessors at the time the annual report required under section 6 is due.

(7) A company may apply for the credit under subsection (5) by submitting to the state board of assessors an application in a form prescribed by the state board of assessors before May 1.

(8) As used in this section:

(a) "Eligible expenditures" means expenditures made by a company to purchase and install eligible equipment after December 31, 2001.

(b) "Eligible equipment" means property placed into service in this state for the first time with information carrying capability in excess of 200 kilobits per second in both directions.

History: Add. 2002, Act 50, Imd. Eff. Mar. 14, 2002.

207.14 Tax assessment; tax roll; certificate; time payable; interest; lien; warrant; collection; enforcement.

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

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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.

History: 1905, Act 282, Eff. Sept. 16, 1905;—Am. 1909, Act 49, Eff. Sept. 1, 1909;—CL 1915, 4226;—Am. 1917, Act 339, Eff. Aug. 10, 1917;—CL 1929, 3565;—Am. 1935, Act 104, Imd. Eff. May 28, 1935;—CL 1948, 207.14;—Am. 1956, Act 203, Eff. Aug. 11, 1956;—Am. 1995, Act 257, Imd. Eff. Jan. 5, 1996.

Compiler's note: Section 2 of Act No. 257 of 1995 provides:

"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."

207.15 Payment of tax under protest; suit against state; unlawful taxes; disposition of recovered taxes.

Sec. 15. A person upon whom any tax is levied under the provisions of this act may pay such tax under protest, specifying at the time, in a writing signed by him, the reasons for the protest. The person paying under protest may sue the state in the court of claims within 30 days for the amount protested, and recover if the tax is shown to be unlawful for the reason specified in the protest. Taxes levied under the provisions of this act are unlawful if the average rate has not been ascertained and determined according to law, or if valuation of property was based upon fraud, error of law or the adoption of wrong principles. Any tax recovered may be refunded or applied upon future taxes payable under this act.

History: 1905, Act 282, Eff. Sept. 16, 1905;—CL 1915, 4227;—CL 1929, 3566;—CL 1948, 207.15;—Am. 1966, Act 208, Imd. Eff. July 11, 1966.

207.16 Irregularities not authorizing court intervention.

Sec. 16. No tax assessed upon any property and no average rate determined by said state board of assessors as hereinbefore required, shall be held invalid by any court of this state on account of any irregularity in any assessment, or on account of any assessment or tax roll not having been made or proceeding had within the time required by law, or on account of the property having been assessed without the name of the owner, or in the name of any corporation or person other than the owner, or on account of any other irregularity, informality or omission, if the method and manner of ascertaining and determining the average rate of taxation on property in this state is in accordance with the constitution and statutes of this state.

History: 1905, Act 282, Eff. Sept. 16, 1905;—CL 1915, 4228;—CL 1929, 3567;—CL 1948, 207.16.

207.17 Taxes on public utilities, payment into general fund.

Sec. 17. All taxes collected under this act shall be paid into the state treasury to the credit of the general fund.

History: 1905, Act 282, Eff. Sept. 16, 1905;—CL 1915, 4229;—CL 1929, 3568;—CL 1948, 207.17;—Am. 1964, Act 90, Eff. July 1, 1964.

207.18 Collection of specific taxes prior to 1909.

Sec. 18. Nothing herein contained shall be deemed a waiver or affect the collection of the specific taxes required to be paid by the companies hereby affected, on the first day of July in the year 1909, and previous years, under the general laws upon the property or business of such companies within this state. The existing laws providing for the collection of such specific taxes shall be continued in force until the collection and payment of all taxes levied thereunder for the year 1909 and previous years.

History: 1905, Act 282, Eff. Sept. 16, 1905;—Am. 1909, Act 49, Eff. Sept. 1, 1909;—CL 1915, 4230;—CL 1929, 3569;—CL 1948, 207.18.

207.19 Certain acts as misdemeanor; penalty.

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

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county jail for not more than 1 year or by a fine of not more than $5,000.00.

History: 1905, Act 282, Eff. Sept. 16, 1905;—CL 1915, 4231;—CL 1929, 3570;—CL 1948, 207.19;—Am. 1995, Act 257, Imd. Eff. Jan. 5, 1996.

Compiler's note: Section 2 of Act No. 257 of 1995 provides:

"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."

207.20 Bribery; forfeiture, criminal prosecution.

Sec. 20. If any person, company, association or corporation whose property is subject to assessment under this act shall directly or indirectly promise, offer or give to any member of said board, during his term of office, or to any other person at his request, any gratuity of any kind whatever, such person or corporation shall forfeit to the state the sum of 10,000 dollars for each such offense, to be recovered in an action in the name of the people of the state of Michigan, in any court of competent jurisdiction. And the recovery of such fine under this act shall not constitute a bar to any prosecution of the person or corporation so offending under the criminal laws of this state.

History: 1905, Act 282, Eff. Sept. 16, 1905;—CL 1915, 4232;—CL 1929, 3571;—CL 1948, 207.20.

207.21 Repeal; saving clause.

Sec. 21. All acts or parts of acts, whether contained in any act for the incorporation of railroad companies, union station and depot companies, telegraph and telephone companies, express companies, car loaning companies, stock car companies, refrigerator car companies, sleeping car companies, fast freight line companies, or other car companies, or in any other law of this state, so far as such acts or parts of acts are inconsistent with the provisions of this act, are hereby repealed, except as herein expressly stated: Provided, however, That all taxes levied or in process of assessment and levy, under the act to which this act is amendatory, shall be assessed, levied and collected under said act; all rights which the state now has under any of said acts for taxes or penalties shall not be in any way affected by this act; nor shall this act constitute a bar to any prosecution or suit for such taxes or penalties or the recovery of judgment therefor.

History: 1905, Act 282, Eff. Sept. 16, 1905;—Am. 1909, Act 49, Eff. Sept. 1, 1909;—CL 1915, 4233;—CL 1929, 3572;—CL 1948, 207.21.

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