

LEGISLATIVE BILL 105

Approved by the Governor March 21, 1979

Introduced by Cullan, 49

AN ACT to amend sections 77-601 to 77-603, 77-606, 77-609 to 77-611, 77-614, 77-618 to 77-626, 77-636, 77-637, 77-640, 77-646, 77-651, 77-656, and 77-660, Reissue Revised Statutes of Nebraska, 1943, and section 77-605, Revised Statutes Supplement, 1978, relating to taxation and revenue; to change duties of the State Board of Equalization and Assessment; to change provisions relating to the assessment of railroad property; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 77-601, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~77-601. The State Board of Equalization and Assessment shall assess all property of the railroads and railroad corporations in the State of Nebraska; Provided, that all real and personal property belonging to any such railroad which is not subject to assessment and assessed by the State Board of Equalization and Assessment under section 77-602; and also all machine and repair shops, general office buildings, and storehouses, shall be listed for purposes of taxation by the principal officers or agents of such companies with the assessor of the county where such real or personal property may be situated, in the manner provided by law for the listing and valuation of real and personal property. The State Board of Equalization and Assessment shall assess all operating property of the railroads and railroad corporations in the State of Nebraska as defined in section 77-602, Reissue Revised Statutes of Nebraska, 1943.~~

Sec. 2. That section 77-602, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-602. The State Board of Equalization and Assessment on the first Monday of May of each year shall proceed to ascertain all operating property of any railroad company owning, operating, or controlling any railroad or railroad service in this state, which for the purpose of assessment and taxation, shall be held to include the main track, side track, spur tracks,

warehouse tracks, roadbed, right-of-way and depot grounds, all machine and repair shops, general office buildings, storehouses, and all water and fuel stations, buildings and superstructures located on any of such property, thereon; any manufacturing plant necessary in the operation of such railroad and any property used or held in connection with the manufacturing plant, and all machinery, rolling stock, telegraph lines and instruments connected with such lines, therewith; all material on hand and supplies provided for operating and carrying on the business of such road, in whole or in part, together with franchises and all other real or personal property of such railroad company used or held for the purpose of operating its road, and appraise and assess the same as personal property.

Sec. 3. That section 77-603, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-603. On or before April 1 each year, the person, company, or corporation owning, operating, or controlling any railroad or railroad service in this state, shall, by its president, secretary, or principal accounting officer, or duly authorized corporate representative or official, return to the State Board of Equalization and Assessment a sworn statement or schedule of the property of such company on ~~March--31~~ January 1 preceding, as follows:

(1) ~~Of~~ A list of the right-of-way, track and roadbed, giving the entire length of the main track in this and other states, and showing as to this state the portion in each governmental subdivision;

~~(2)-The-length-of-each-side-or-second-track-and turnout,-spur-and-warehouse-track-and-aggregate-length-of such-side-or-second-track,-turnout,-spur-and-warehouse tracks,-together-with-the-name-of-the-governmental subdivision-in-which-such-side-or-second-track-and turnouts,-spur-and-warehouse-tracks-are-located;~~

(3) (2) A complete list giving size, location as to governmental subdivision, material and value of all depots, station houses, machine shops, stockyards, scales, or other buildings situated wholly or in part on the right-of-way, together with all platforms, fuel and water stations, and the machinery and tanks connected therewith;

(4) (3) Showing A list showing the number of ties in track per mile, and weight of iron or steel rails per yard, used in the main or side track, what joints or

chairs are used in track, kind of ballasting, length of time iron or steel has been used, and what length of time the road has been built;

(5) (4) A full list of the rolling stock belonging to or operated by such road, which shall distinctly set forth the number, class, and value of all locomotives, passenger cars, dining cars, express cars, mail cars, baggage cars, grain cars, box cars, horse cars, cattle cars, coal cars, flat cars, wrecking cars, pay cars, and all other kinds of cars owned or used by such company, whether within or without the State of Nebraska, together with a statement of the number of miles traveled by each of the classes of cars over the line of such company within the State of Nebraska and without the State of Nebraska, separately during the preceding year ~~preceding--January--1--last--past~~ ending December 31;

(6) (5) A statement of schedule showing: (a) the The amount of capital stock authorized, and the number of shares into which said such capital stock is divided; (b) the amount of capital stock paid up; (c) the market value of such the stock, or, if of no market value, then the true value of the shares of stock; (d) the total amount of all secured and unsecured indebtedness, except for current expenses of operating the road; and (e) the location and actual valuation of all its real estate and personal property in this state that is locally assessed. Such schedule shall be made in conformity to with such instructions and forms as may be prescribed by the State Board of Equalization and Assessment, which values shall be taken into account and be considered in arriving at the true value of such railroad property and its franchises;

(7) (6) A correct return of the value of all tools and materials used for repairs, and of all other personal property in the State of Nebraska, together with such other information as the State Board of Equalization and Assessment may require; ~~in-order-to--enable--them--to apportion-such-rolling-stock-between-the--main--line--and branches-of-the-road;~~

(8) (7) A true statement of all bridges, showing where located as to governmental subdivisions, the true value thereof, kind and material, the length, width, and height of such structure; and

(9) (8) The total gross earnings and net earnings of said such corporation during the year for which said the statement is made, and the total amount expended in the operation and maintenance of the property and the

improvements ~~thereof~~ to such property, distinguishing that expended in improvement or betterment from that expended in maintenance and operation; also the dividend last declared upon its shares and the amount thereof, and the date, number, and the amount of all dividends declared upon its stock during the year next preceding the date of such report, and such other information as the state board may in writing require, all of which shall be taken into consideration in ascertaining and fixing the value of such road and the franchise thereof, ~~7-together-with-such-other-information-as-the-board-may require-in-relation-thereto:~~

Sec. 4. That section 77-605, Revised Statutes Supplement, 1978, be amended to read as follows:

77-605. In case of failure to make such statement or schedule to the State Board of Equalization and Assessment, such person, company, or corporation so failing to make a return shall be guilty of a Class I misdemeanor. In such case the board shall proceed upon the best information obtainable, and in the manner directed in section 77-604, to ascertain the actual and assessed valuation of all the taxable operating property of such corporation, and to the assessed valuation they shall may add fifty per cent thereof as a penalty for such failure.

Sec. 5. That section 77-606, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-606. Any railroad company operating any road within the State of Nebraska shall, on or before April 1 of each year, report to the county assessor, or the county clerk where he is ex officio county assessor, of each county through which its ~~line-of-road~~ track runs, the number of miles of main track situated within each governmental subdivision in the county as of January 1, together with ~~all-machine-and-repair-shops, general office-buildings, storehouses,~~ and all real and personal property belonging to such railroad company which is not subject to assessment and assessed by the State Board of Equalization and Assessment under section 77-602.

Sec. 6. That section 77-609, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-609. Beginning January 1, 1980, and each third year thereafter, the board shall recalculate all factors used in distributing value along the line. In making its assessment of railroad operating property for

the purpose of taxation, the State Board of Equalization and Assessment shall prepare a complete transcript of its proceedings. It shall set forth the manner in which it arrived at the assessment, the several items included in the total assessment, and the manner of arriving at the several items, and the total. The record shall clearly show what was the basis of the assessment of said the railroad operating property and how the same was arrived at, which record shall be made and kept as a part of the permanent records of said the board.

Sec. 7. That section 77-610, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-610. Either the railroad company or the Attorney General of the State of Nebraska, acting for and on behalf of the state, and ~~for--and--on--behalf--of~~ the subdivisions of the state interested in said the taxation, shall be permitted to introduce evidence showing or tending to show that said the railroad operating property is underassessed or overassessed, and either party shall be permitted to introduce relevant and competent evidence tending to show the actual assessable value of the said railroad operating property, ~~and--said~~ Such evidence shall be preserved in record form by the State Board of Equalization and Assessment, and shall at all times be subject to inspection and examination as a public record.

Sec. 8. That section 77-611, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-611. The State Board of Equalization and Assessment, after having valued and assessed all of the railroad operating property in this state, shall, within thirty days ~~thereof, of such assessment,~~ unless an appeal is taken from said the assessment as provided in section 77-613, make return to the county clerk of each ~~and--every~~ county in which any portion of the railroad operating property as designated in sections 77-609 to 77-620 may be located, to be used as the basis of levy for the county and governmental subdivisions through which any railroad or part thereof may extend.

Sec. 9. That section 77-614, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-614. Upon filing the transcript with the Supreme Court of Nebraska, the Supreme Court shall prescribe the amount of the bond to be given by the

appellant as follows:

(1) If the appeal is taken by the state, then no bond shall be required.

(2) If the appeal is taken by the railroad company, then the bond shall be in such an amount as the court shall deem just and reasonable, conditioned that the ~~appropriate~~ appellant shall prosecute its appeal without delay, ~~and~~ abide the judgment of the court, and will pay the costs of the proceeding in the event judgment is rendered against it in the Supreme Court; ~~but the~~ The bond shall not be in excess of such an amount as the Supreme Court shall determine to be proper to protect the state from the delay or loss occasioned by the appeal.

Sec. 10. That section 77-618, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-618. The Supreme Court shall adjudge and determine the assessable value of the operating property of ~~said~~ the railroad company, and shall, upon a final determination of ~~said~~ the cause so appealed, adjudge and determine from all the evidence before it, ~~what is~~ the fair and reasonable value of the railroad operating property so assessed, and may lower or raise the assessment as the court shall deem to be just and equitable. It shall transmit its judgment to the State Board of Equalization and Assessment, and the judgment shall be final in reference to ~~said~~ the assessment.

Sec. 11. That section 77-619, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-619. In the event a notice of appeal is filed and the appeal is perfected by the railroad company as provided in section 77-613, then the State Board of Equalization and Assessment shall forthwith make its return to the respective county clerks of the several counties in which any portion of the railroad operating property may be located, stating the amount of the assessment as determined by the board and the amount which the railroad company claims such assessment same to be in excess of the ~~true~~ assessed value, in the event of an appeal by the railroad company. In the event of an appeal by the Attorney General, the return shall set forth the assessment made by the board and the amount which the notice claims ~~said~~ such assessment to be less than the ~~true~~ assessed value of the property. The taxing boards of the respective counties shall have authority to

levy and collect taxes under the assessment so made against railroad property upon the uncontested value of the assessment.

Sec. 12. That section 77-620, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-620. Immediately after a final determination ~~thereof of the assessment~~ by the Supreme Court of the state, the State Board of Equalization and Assessment shall forthwith certify to the county clerks of the respective counties ~~as-aforesaid~~; the final judgment of the court determining the true assessed value of the property. The taxing boards of the respective counties shall have authority to correct the assessment to comply with the judgment of the court, and to levy and collect taxes against the railroad operating property upon the value determined by the Supreme Court, if any, in excess of the uncontested value upon which levy was made under section 77-619.

Sec. 13. That section 77-621, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-621. The return by the State Board of Equalization and Assessment to the county clerks shall include the following:

(1) Number ~~The number~~ of miles of track of each railroad located in each governmental subdivision in the county, and the total length of such road track in the county;

(2) The average valuation per mile of such road track;

(3) The valuations that shall be placed to the credit of such governmental subdivision in the county.

Sec. 14. That section 77-622, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-622. The State Board of Equalization and Assessment shall transmit to each county, as soon as practicable after receiving returns from the railroad company, a statement from such returns showing as to each county and railroad ~~all-machine-and-repair-shops,-general office-buildings,-storehouses,-and--also~~ all real and personal property which is not subject to assessment and assessed by the State Board of Equalization and

Assessment under section sections 77-601 and 77-602, and in what governmental subdivision located 7--which Such returns shall be for the benefit of the county board and local assessors.

Sec. 15. That section 77-623, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-623. Railroad The assessed value of railroad operating property assessed as determined by the State Board of Equalization and Assessment and reported to the county pursuant to section 77-621, Reissue Revised Statutes of Nebraska, 1943, shall be apportioned by the county assessor, or the county clerk where he is ex officio county assessor or in those counties having unit tax ledgers which are prepared by the county clerks, among the respective governmental subdivisions in which the same such property is located, and the value thereof may be entered on the tax list and collected by the county treasurer.

Sec. 16. That section 77-624, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-624. The president or other chief officer of every car company, mercantile or other company, or corporation, other than a railroad company operating a line of railroad, and every firm, corporation, or individual owning or operating any railroad cars, except sleeping cars, through, in, or into the State of Nebraska shall, on or before June 1 of each year, make to the State Board of Equalization and Assessment a true, full, and accurate statement, verified by the affidavit of the officer or person making it, showing (1) the aggregate number of miles made by their cars on the several lines of railroad in this state during the preceding year ending with ~~March~~ December 31, ~~last~~ past; (2) the average number of miles traveled per day by the cars of a particular class covered by the statement in the ordinary course of business during the year, and (3) the total number of cars owned by the company, individual, or firm.

Sec. 17. That section 77-625, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-625. The president or other chief officer of every railroad company whose lines run through or into this state shall, on or before June 1 of each year, furnish to the State Board of Equalization and Assessment a statement, verified by the affidavit of the officer or

person making the same statement, showing the total number of miles made traveled by the cars of every such car company, mercantile or other company, firm, or individual on their lines, branches, sidings, spurs, and warehouse tracks in this state during the preceding year ending on March December 31. last-past:

Sec. 18. That section 77-626, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-626. The State Board of Equalization and Assessment shall ascertain from the statements made under sections 77-624 and 77-625, the number of cars required to make the total mileage in this state of the cars of each car company, mercantile or other company, or corporation, within the period of one year. The board shall ascertain and fix the valuation upon each particular class of cars, which as nearly as possible, shall be the true actual value of such cars; and the number so ascertained shall be assessed to the respective car company, mercantile or other company, firm, or individual. For the purpose of making the assessment, the board is authorized to base the assessment upon the statements of the several railroad companies.

Sec. 19. That section 77-636, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-636. If any such sleeping car company shall fail or refuse to make the report as herein required, the State Board of Equalization and Assessment shall proceed to assess the property of such sleeping car company upon the best information it may be able to obtain, and shall may add to the value so ascertained fifty per cent as a penalty for the failure or refusal of such sleeping car company to make its report.

Sec. 20. That section 77-637, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-637. For the purpose of sections 77-637 to 77-675 the following provision and definitions are made:

(1) Any The term railroad company shall include any person, association, company, or corporation owning and operating a railroad, or operating a railroad in this state, or owning or operating any station, depot, track, terminal, or bridge for railroad purposes as owner, lessee, or otherwise; ~~shall be deemed a railroad company;~~

(2) The term union station and depot company shall include every person, association, or corporation owning or operating any union station or depot for more than one railroad company or railroad system;

(3) The term car company shall include any person, association, or corporation owning or operating sleeping cars, refrigerator cars, stock cars, furniture cars, or cars of any other description over any line or lines of railroad, or parts thereof, in this state;

(4) The term freight line company shall include any person, association, or corporation engaged in the business of operating cars not included in the former definitions, for the transportation of freight, whether such freight be owned by such company or any other person or company, over any railway line or lines in whole or in part within this state, such line or lines not being leased, owned, or operated by such company; the term shall also include every person, association, or corporation, wherever organized, engaged in the business of furnishing or leasing cars of whatever kind or description to be used in the operation of any railway line or lines wholly or partially within this state, such line or lines not being leased, owned or operated by such company;

(5) The term property shall ~~be deemed to~~ include all property, real and personal, belonging to the persons or corporations subject to taxation under sections 77-637 to 77-675, including the franchise, right-of-way, roadbed, bridges, superstructures, terminals, stations, cars, rolling stock, tracks, ~~wagons,--horses,~~ office furniture, telegraph and telephone poles, wires, conduits, switchboards, and all other property of every kind, including all title and interest in the same as owner, lessee, operator, or otherwise, used in carrying on the business of such companies;

(6) The term local property shall include all of the tangible property of a company in any city or village, except rolling stock; local property shall not include any part of the franchise of any company;

(7) The term company, without modifying words, shall apply to and be construed as referring respectively to any railroad company, union station and depot company, car company, or freight line company, and to any and all other persons and corporations subject to taxation under sections 77-637 to 77-675;

(8) The term assessor, shall include ~~within--its meaning~~ the county assessor of any county, the tax

commissioner of any city, as well as any officer authorized by law to assess for taxation, for city or village purposes, any property in this state;

(9) The term board in sections 77-637 to 77-675 shall mean the State Board of Equalization and Assessment; and

(10) The term assess as used in sections 77-637 to 77-675 shall include within its meaning the valuation of property for the purpose of taxation.

Sec. 21. That section 77-640, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-640. Every person, company, or corporation owning, managing, or operating a railroad, union station, or depot in this state, also every car company and freight line company operating cars or doing business in the State of Nebraska, shall cause all its taxable property to be listed for the purpose of local taxation by cities and villages, with reference to its amount, kind and value ~~on March 1~~ as of January 1 of the year in which it is listed reported.

Sec. 22. That section 77-646, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-646. The records, books, accounts, and papers of any company or duly authorized agency owning, operating, or controlling, or managing any of the property mentioned in sections 77-637 to 77-675 shall be subject to the visitation, inspection, and examination by any member of the State Board of Equalization and Assessment, or by such person as it the board may designate.

Sec. 23. That section 77-651, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-651. Every union station and depot company shall submit reports for each assessor and the State Board of Equalization and Assessment as follows:

(1) The name of the company;

(2) The nature of the company and under the laws of what state or country it is organized;

- (3) The location of its principal office;
- (4) The name and post-office address of the president, secretary, auditor, treasurer, and superintendent or general manager;
- (5) The name and post-office address of the chief officer or managing agent of the company in Nebraska;
- (6) The number of shares of capital stock;
- (7) The par value and market value, or if there be no market value, the actual value of the shares of stock on the first day of ~~March~~ January of the year in which the report is made;
- (8) A detailed statement of the real estate owned by the company in Nebraska, and where situated and the value thereof;
- (9) A detailed statement of the personal property, including money and credits owned by the company in Nebraska, on ~~March~~ January 1 in the year in which the report is made, where situated and the value thereof;
- (10) The total value of the real estate owned by the company situated outside of Nebraska;
- (11) The total value of the personal property of the company situated outside of Nebraska;
- (12) The whole length of their railway lines, if any, and the length of so much of their lines as is within or is without Nebraska, which lines shall include what such companies control and use as owners, lessees, or otherwise;
- (13) A statement of the entire gross receipts of the companies, from whatever source derived, for the year ending ~~April~~ January 1 in the year ~~for~~ in which the report is made; and
- (14) Such other facts and information as the board may require, in the form of the returns prescribed by it.

Sec. 24. That section 77-656, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-656. It shall be the duty of the assessor, upon the receipt of such assessment roll, between ~~March~~

January 1 and ~~May~~ March 1 each year, to value and assess all of the local property of each company in each city and village within his jurisdiction as of ~~March~~ January 1 of the current year. The valuation so placed upon the property of each company within each city and village shall be the true actual value, as nearly as may be determined, of that part of the company's local property located in such city or village, so that the same may be assessed and taxed on the same basis as other property is required to be assessed and taxed within such city or village. The returns of the companies required by sections 77-637 to 77-675 shall not be held to be conclusive upon the assessor or the State Board of Equalization and Assessment, but each assessor and the board is authorized to make an assessment from all of the facts, circumstances, and evidence which he or it may obtain in carrying out the provisions of sections 77-637 to 77-675. The assessment as made by the assessor shall not be final until reviewed as herein provided in sections 77-637 to 77-675, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto.

Sec. 25. That section 77-660, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-660. The State Board of Equalization and Assessment, on the first Monday in May of each year, shall proceed to assess, for the purposes of city and village taxation, all of the property taxable under the provisions of sections 77-637 to 77-675, except local property. The assessment shall be made in the following manner: (1) The board shall first ascertain and find the total allocated value of all the property of each company in the entire State of Nebraska; ~~---From~~ (2) ~~from~~ the amount so ascertained shall be deducted the value of all the tangible property of the company except rolling stock; ~~and~~ (3) the residue so ascertained shall be divided by the total number of miles of railroad main track in Nebraska owned by each railroad company, and by the total number of miles of railroad main track over which each car company and freight line company has run cars during the preceding year; and (4) the quotient shall be the unit basis of city and village taxation of such property. The assessed valuation of the rolling stock in each city and village shall be computed by the board by multiplying the unit of valuation so found for each company by the number of miles, and fraction thereof, of the main track of such company in such city and village respectively.

Sec. 26. That original sections 77-601 to 77-603, 77-606, 77-609 to 77-611, 77-614, 77-618 to

77-626, 77-636, 77-637, 77-640, 77-646, 77-651, 77-656,
and 77-660, Reissue Revised Statutes of Nebraska, 1943,
and section 77-605, Revised Statutes Supplement, 1978,
are repealed.