

## No. 66

## AN ACT

## HB 1412

Imposing a special tax upon realty of public utilities; providing for distribution of moneys to local taxing authorities in lieu of local real estate taxes; conferring powers and imposing duties upon the Department of Revenue, local assessing and other officials, and public utilities; and providing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.—This act shall be known and may be cited as the “Public Utility Realty Tax Act.”

Section 2. Definitions.—As used in this act

(a) “Department” means the Department of Revenue of the Commonwealth of Pennsylvania.

(b) “Public utility” means any person, partnership, association, corporation or other entity furnishing public utility service under the jurisdiction of the Pennsylvania Public Utility Commission or the corresponding regulatory agency of any other state or of the United States; and any electric cooperative corporation, municipality or municipality authority furnishing public utility service.

(c) “Utility realty” means all lands, buildings, towers, smokestacks and other structures, located within this Commonwealth and owned by a public utility either directly or by or through a subsidiary, which are used or are in the course of development or construction for use, in the furnishing, including producing, storing, distributing or transporting, of public utility service; but shall not include (i) easements or similar interests, (ii) railroad rights-of-way and superstructures thereon, (iii) machinery, equipment, pole, transmission tower, pipe, rail or other lines, whether or not attached to such lands, buildings, towers, smokestacks or other structures, and (iv) such realty as is subject to local real estate taxation under any law in effect on April 23, 1968.

(d) “State taxable value” means the cost of utility realty, less reserves for depreciation and depletion, as shown by the books of account of a public utility: Provided, That for any public utility which was not required to record annual depreciation on its utility realty prior to enactment of section 503 of the Public Utility Law, the depreciation deduction prescribed in this definition shall be the book reserve or fifty per cent of the book cost, whichever is greater.

(e) “Local taxing authority” means a county, city, borough, town, township or school district having authority to impose taxes on real estate.

(f) “Realty tax equivalent” means the total amount of taxes which a local taxing authority could have imposed on utility realty but for this act, and unless otherwise provided shall be the product of the real estate

property tax rate and the assessed valuation of utility realty.

(g) "Total tax receipts" means the actual amount collected by a local taxing authority under all statutes authorizing the imposition of taxes, but shall not include fines, penalties, fees, licenses or receipts from any source other than taxes.

**Section 3. Imposition of Tax; Report; Interest and Penalties.**—(a) On or before the first day of June of 1970 and of each year thereafter, every public utility shall pay to the State Treasurer, through the Department of Revenue, a tax at the rate of thirty mills upon each dollar of the State taxable value of its utility realty at the end of the preceding calendar year.

(b) Each such payment shall be accompanied by a report, upon oath of the owner or responsible officer of the public utility, showing the amount and manner of computation of the State taxable value upon which such payment is based.

(c) Payment of the tax hereby imposed may be enforced by any means provided by law for the enforcement of payment of taxes to the State. If the tax hereby imposed is not paid by the date herein prescribed, or within any extension granted by the department, the unpaid tax shall bear interest at the rate of one per cent per month, and shall in addition be subject to a penalty of five per cent of the amount of the tax, which penalty may be waived or abated, in whole or in part, by the department unless the public utility has acted in bad faith, negligently, or with intent to defraud.

**Section 4. Effect of Payment; Additional Assessment.**—(a) Payment of the tax imposed by section 3, and the distribution to local taxing authorities prescribed by section 7, shall be in lieu of local taxes upon utility realty, as contemplated by Article VIII, section 4, of the Constitution of Pennsylvania.

(b) If in any calendar year the amount determined by the department pursuant to section 7 (a) (2) shall exceed the total amount of tax collected pursuant to section 3 (a), the department shall determine the ratio which the amount of such excess bears to the total State taxable value of all utility realty reported to it pursuant to section 3 (b). The department shall notify each reporting public utility of such ratio, and it shall be the duty of such public utility, within forty-five days thereafter, to pay to the State Treasurer, through the Department of Revenue, an additional amount of tax equal to the product of (1) such ratio and (2) the State taxable value shown in its report required by section 3 (b). The provisions of section 3 (c) shall be applicable to such additional amount of tax.

**Section 5. Local Assessment of Utility Realty; Initial Assessment; Procedure and Appeals.**—(a) It shall be the duty of the several elected and appointed assessors of real property to assess and value all utility realty in the same manner as is provided by law for the assessment and valuation of real estate.

(b) Such utility realty shall be initially assessed on or before October

1, 1970 or within two months after the effective date of this act, whichever is later, and thereafter shall be assessed or reassessed at the same time and in the same manner as real estate.

(c) A public utility may appeal from the assessment of its utility realty, including the initial assessment, in the manner provided by law for appeals from assessment of real estate. If appeals are pending at the time a local taxing authority prepares its report for submission to the department as prescribed by section 6, the report shall include as the assessment for the utility realty appealed the amount which the public utility has stipulated or alleged as the proper assessment.

Section 6. Reports by Local Taxing Authorities.—(a) On or before the first day of April of 1971 and of each year thereafter, each local taxing authority shall submit to the department:

(1) The name and address of each public utility owning utility realty within its jurisdiction, and the assessed value of such utility realty.

(2) Its real estate tax rate for its current fiscal year.

(3) The realty tax equivalent, which is the assessed value of clause (1) multiplied by the tax rate of clause (2).

(4) Its total tax receipts for its last completed fiscal year.

(5) Any adjustment to the assessed values, tax rates, realty tax equivalents or total tax receipts previously reported pursuant to clauses (1) to (4).

(b) If a local taxing authority shall fail to file the report required by subsection (a) by the date therein prescribed, or within any extension granted by the department, it shall forfeit its right to share in the next-ensuing distribution made pursuant to section 7.

Section 7. Distribution to Local Taxing Authorities.—(a) From the reports received by it in each year pursuant to section 6, the department shall determine:

(1) The total tax receipts shown in all such reports.

(2) The total realty tax equivalent shown in all such reports.

(b) On or before the first day of October of 1971 and of each year thereafter, the department shall distribute to each reporting local taxing authority its share of the total realty tax equivalent determined pursuant to subsection (a) (2), which share shall be the ratio which the total tax receipts reported by that local taxing authority bear to the total tax receipts determined pursuant to subsection (a) (1).

(c) For the purpose of making such payment, the department shall make requisition therefor in the manner prescribed by The Fiscal Code.

Section 8. Legislative Intent.—It is the legislative intent that the tax imposed by this act shall be in addition to any tax now or hereafter imposed upon the gross receipts of public utilities under the act of June 1, 1889 (P.L.420), and this act shall not be construed in any manner as to constitute a replacement for or a repealer of the above cited act.

Section 9. Effective Date.—This act shall take effect immediately.

The foregoing is a true and correct copy of Act of the General Assembly No. 66.

Office of the Secretary of the Commonwealth

Harrisburg, March 10, 1970

I do certify that the above bill, entitled "An act imposing a special tax upon realty of public utilities; providing for distribution of moneys to local taxing authorities in lieu of local real estate taxes; conferring powers and imposing duties upon the Department of Revenue, local assessing and other officials, and public utilities; and providing penalties." was presented to the Governor on the twenty-seventh day of February, one thousand nine hundred and seventy, and was not returned within ten days after it had been presented to him, wherefore it has, agreeably to the Constitution of this Commonwealth, become a law in like manner as if he had signed it.



*Secretary of the Commonwealth.*