

48:2-59

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NJSA: 48:2-59

(Public utilities--
assessments)

LAWS OF: 1968

CHAPTER: 173

Bill No: A574

Sponsor(s): Todd and others

Date Introduced: April 1, 1968

Committee: Assembly: Transportation & Communication

Senate: Transportation & Public Utilities

Amended during passage: Yes Assembly Committee Substitute
(OCR) enacted

Date of Passage: Assembly: May 27, 1968

Senate: June 17, 1968

Date of Approval: July 16, 1968

Following statements are attached if available:

Sponsor statement: No

Committee Statement: Assembly: No

Senate: No

Fiscal Note: Yes

Veto Message: No

Message on signing: No

Following were printed:

Reports: Yes

Hearings: No

(over)

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1968

New Jersey. Department of Public Utilities. Board of Public
Utility Commissioners.
Report to the Governor and members of the New Jersey
Legislature by William F. Hyland. 1968

(see pages enclosed)

KBG/SLJ

CHAPTER 173 LAWS OF N. J. 1968

APPROVED 7-16-68

[OFFICIAL COPY REPRINT]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 574

STATE OF NEW JERSEY

ADOPTED MAY 13, 1968

AN ACT providing for assessments against public utilities for certain purposes and supplementing Title 48 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. To enable the Board of Public Utility Commissioners in the
2 Department of Public Utilities to better perform its lawful duties
3 relating to service, classifications to be used, rates and charges to
4 be made and collected, rules and regulations to be prescribed, and
5 supervision over all public utilities under its jurisdiction, the
6 Board of Public Utility Commissioners shall annually make an
7 assessment against each public utility.

1 2. The assessment shall be equal to a percentage of the gross
2 operating revenue of the public utilities under the jurisdiction of
3 the board derived from intrastate operations during the preceding
4 calendar year at a rate to be determined annually by the board on
5 or before June 30 in the following manner:

6 The total amount appropriated to the Department of Public
7 Utilities by law for its general purposes for its next fiscal year shall
8 be divided by the total amount of the gross operating revenues of
9 all public utilities under the jurisdiction of the board derived from
10 intrastate operations during the preceding calendar year. The
11 quotient resulting shall constitute the percentage rate of the assess-
12 ment for the calendar year in which such computation is made. **The*
13 *total amount so assessed to any particular public utility shall not*
14 *exceed 1/10 of 1% of the gross operating revenue subject to assess-*
15 *ment hereunder of that utility derived from its intrastate operation*
16 *during the preceding calendar year.**

1 3. Operating revenue derived from any service provided or per-
2 formed by any public utility which is receiving public funds in con-
3 nection with such service under contracts with the State pursuant
4 to the provisions of Article III of chapter 301 of the laws of 1966
5 (C. 27:1A-15 through C. 27:1A-28), shall not be included in deter-
6 mining the gross operating revenue of any such public utility or

7 the total gross operating revenues of all public utilities subject to
8 the provisions of this act.

1 4. The assessment prescribed by sections 1 and 2 shall be levied
2 by the Board of Public Utility Commissioners not later than July 1,
3 and shall be paid within 30 days after mailing by registered mail
4 to any public utility notice thereof and a statement of the amount.

5 Each public utility shall on or before June 1, file with the Board
6 of Public Utility Commissioners, under oath, a statement showing
7 its gross operating revenues derived from intrastate operations
8 during the preceding calendar year.

1 5. Within 15 days after the date of mailing a statement as pro-
2 vided in this act, the public utility against which the statement is
3 rendered may file with the board its objections thereto. Not less
4 than 30 nor more than 60 days after giving notice thereof to the
5 objector, the board shall hold a hearing on the objections.

1 6. If after the hearing the board finds any part of the charge
2 against the objecting public utility excessive, erroneous, unlawful
3 or invalid, it shall record its findings upon its minutes and transmit
4 to the objector, by registered mail, an amended statement in ac-
5 cordance with the findings, which shall have the same force and
6 effect as an original statement. If the board finds the entire state-
7 ment unlawful or invalid, it shall notify the objector, by registered
8 mail, of such determination, and the original statement shall be
9 null and void. If the board finds that the statement as rendered is
10 neither excessive, erroneous, unlawful nor invalid, in whole or in
11 part, it shall record its findings upon its minutes and transmit
12 notice thereof to the objector by registered mail.

1 7. If a statement against which objections are filed is not paid
2 within 30 days after mailing to the objector notice of a finding that
3 the objections have been disallowed, or in case an amended state-
4 ment is not paid within 30 days after a copy thereof is mailed to
5 the objector, the board shall give notice of the delinquency to the
6 State Treasurer and to the objector, and the State Treasurer shall
7 proceed to make the collection.

1 8. No action for recovery of an amount paid under the terms of
2 this act shall be maintained in any court unless objections have
3 been filed with the board. In an action for recovery of any pay-
4 ments, plaintiff may raise any relevant issue of law, but the board's
5 findings of fact shall be prima facie evidence of the facts therein
6 stated.

1 9. No action or proceeding shall be maintained in any court for
2 the purpose of restraining or delaying the collection or payment
3 of a statement rendered in accordance with the provisions of this

4 act. A public utility against which a statement is rendered shall
5 pay the amount thereof, and after the payment may in the manner
6 provided by this act at any time within 2 years from the date of
7 the payment, bring against the State an action at law to recover
8 the amount paid, with legal interest thereon from the date of pay-
9 ment, upon the ground that the assessment was excessive, errone-
10 ous, unlawful or invalid in whole or in part.

1 10. The procedure provided in this act for determining the law-
2 fulness of statements and the recovery of payments made pursuant
3 to statements of assessments shall be exclusive of all other remedies
4 and procedures.

1 11. If any public utility to which a statement for the amount
2 assessed against it as provided in this act has been rendered fails
3 or refuses to pay the amount within 15 days, or fails to file with the
4 board objections to the statement as provided herein, the board
5 shall transmit to the State Treasurer a certified copy of the state-
6 ment of the assessment together with notice of the neglect or refusal
7 of the public utility to pay the amount thereof, and at the same time
8 shall mail to the public utility a copy of the notice transmitted to
9 the State Treasurer.

1 12. Within 10 days after receipt of the notice and certified copy
2 of the statement, the State Treasurer shall proceed to collect the
3 amount stated to be due, with legal interest, by seizure and sale
4 of any goods or chattels, including stocks, securities, bank accounts,
5 evidences of debt and accounts receivable belonging to the public
6 utility anywhere within the State.

1 13. All moneys received by the board under the provisions of
2 this act shall be paid to the State Treasurer.

1 14. The provisions of section 1 of chapter 43 of the laws of 1959
2 (C. 48:2-56) relating to the collections of fees and charges by the
3 Board of Public Utility Commissioners, shall be inapplicable to
4 public utility companies subject to assessment pursuant to this act.

1 15. This act shall take effect immediately.

ASSEMBLY, No. 574

STATE OF NEW JERSEY

INTRODUCED APRIL 1, 1968

By Assemblymen TODD, SELECKY, GIMSON, HOLLENBECK,
GARIBALDI and IRWIN

Referred to Committee on Transportation and Public Utilities

AN ACT providing for assessments against public utilities for certain purposes and supplementing Title 48 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. To enable the Board of Public Utility Commissioners in the
2 Department of Public Utilities to better perform its lawful duties
3 relating to service, classifications to be used, rates and charges to
4 be made and collected, rules and regulations to be prescribed, and
5 supervision over all public utilities under its jurisdiction, the
6 Board of Public Utility Commissioners shall annually make an
7 assessment against each public utility.

1 2. The assessment shall be equal to $\frac{1}{10}$ of 1% of the gross op-
2 erating revenue of the public utilities under the jurisdiction of the
3 board derived from intrastate operations during the preceding
4 calendar year.

1 3. The assessment prescribed by sections 1 and 2 shall be levied
2 by the Board of Public Utility Commissioners not later than July 1,
3 and shall be paid within 30 days after mailing by registered mail
4 to any public utility notice thereof and a statement of the amount.

5 Each public utility shall on or before June 1, file with the Board
6 of Public Utility Commissioners, under oath, a statement showing
7 its gross operating revenues derived from intrastate operations
8 during the preceding calendar year.

1 4. Within 15 days after the date of mailing a statement as pro-
2 vided in this act, the public utility against which the statement is
3 rendered may file with the board its objections thereto. Not less
4 than 30 nor more than 60 days after giving notice thereof to the
5 objector, the board shall hold a hearing on the objections.

1 5. If after the hearing the board finds any part of the charge
2 against the objecting public utility excessive, erroneous, unlawful
3 or invalid, it shall record its findings upon its minutes and transmit
4 to the objector, by registered mail, an amended statement in ac-
5 cordance with the findings, which shall have the same force and
6 effect as an original statement. If the board finds the entire state-
7 ment unlawful or invalid, it shall notify the objector, by registered
8 mail, of such determination, and the original statement shall be
9 null and void. If the board finds that the statement as rendered is
10 neither excessive, erroneous, unlawful nor invalid, in whole or in
11 part, it shall record its findings upon its minutes and transmit
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1 6. If a statement against which objections are filed is not paid
2 within 30 days after mailing to the objector notice of a finding that
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1 7. No action for recovery of an amount paid under the terms of
2 this act shall be maintained in any court unless objections have
3 been filed with the board. In an action for recovery of any pay-
4 ments, plaintiff may raise any relevant issue of law, but the board's
5 findings of fact shall be prima facie evidence of the facts therein
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1 8. No action or proceeding shall be maintained in any court for
2 the purpose of restraining or delaying the collection or payment
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8 the amount paid, with legal interest thereon from the date of pay-
9 ment, upon the ground that the assessment was excessive, errone-
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1 9. The procedure provided in this act for determining the law-
2 fulness of statements and the recovery of payments made pursuant
3 to statements of assessments shall be exclusive of all other remedies
4 and procedures.

1 10. If any public utility to which a statement for the amount
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3 or refuses to pay the amount within 15 days, or fails to file with the

4 board objections to the statement as provided herein, the board
5 shall transmit to the State Treasurer a certified copy of the state-
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8 shall mail to the public utility a copy of the notice transmitted to
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1 11. Within 10 days after receipt of the notice and certified copy
2 of the statement, the State Treasurer shall proceed to collect the
3 amount stated to be due, with legal interest, by seizure and sale
4 of any goods or chattels, including stocks, securities, bank accounts,
5 evidences of debt and accounts receivable belonging to the public
6 utility anywhere within the State.

1 12. All moneys received by the board under the provisions of
2 this act shall be paid to the State Treasurer and placed in the
3 general fund of the State for the use of the Board of Public Utility
4 Commissioners.

1 13. Whenever the board, in the performance of its duties under
2 this act, shall on its own initiative conduct an investigation of the
3 affairs of any public utility, involving an examination of the rec-
4 ords, facilities or activities thereof, such public utility shall pay
5 to the board a sum equal to the salaries and fees paid to the board's
6 employees, agents, consultants and experts while engaged in such
7 examination, together with such traveling and subsistence expenses
8 of said employees, agents, consultants or experts as may be directly
9 attributable to such examination and only if such examination ex-
10 ceeds \$2,000.00 in cost: Provided, however, that wherever the board
11 shall conduct an investigation into the affairs of 2 or more public
12 utilities jointly, the assessment under this article shall be prorated
13 among such public utilities upon the basis of their gross intrastate
14 operating revenues.

1 14. This act shall take effect July 1, 1968.

FISCAL NOTE TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 574

STATE OF NEW JERSEY

DATED: MAY 27, 1968

Assembly Committee Substitute for Assembly Bill No. 574 is an act that provides for assessments against public utilities for certain purposes. This act would also supplement Title 48 of the Revised Statutes.

The Department of Public Utilities estimates that enactment of this legislation would produce revenues in the amount of \$1,340,640.00 for the current fiscal year, \$1,498,720.00 for fiscal 1968-69 and \$1,648,640.00 for fiscal 1969-70.

In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.

none of us wants to assume that attitude.

The Commission is cooperating with the United States Department of Transportation in the developing of new grade crossing safety standards and also techniques for the diagnosis of the most hazardous crossings. This will insure that the most modern equipment for grade crossing protection is being used and that project priorities are established in a scientific manner.

RECOMMENDATIONS FOR THE FUTURE

The quality of utility regulation in New Jersey has been maintained at a high level since the Board of Public Utility Commissioners was created under Governor Woodrow Wilson in 1910. However, the amazing growth in technology and population has thrust upon the Commission responsibilities which have strained to the very limits its personnel and other resources. The calendar of cases is refreshingly current under all of these circumstances. This is a tribute to the able and devoted staff of the Department. But how long can these individuals be expected to perform beyond the demands of reason?

An intensive effort must be made to supplement the existing staff with young, competent people, and the rewards of their service must be sufficient to assure that they will remain willing to be a part of state government. Present staff personnel must also be up-graded in salary and other employment benefits if we are to avoid losing them to private industry.

In most cases the salary and employment advantages of private industry are superior to those which the state can offer. Consequently the state is able to recruit only those individuals who are motivated by a desire for governmental service, and it is not surprising to find in these days of materialism that such individuals are part of a declining breed.

Accordingly, I respectfully recommend that the Legislature adopt a formula for the assessment of the costs of utility regulation against privately owned utilities which come under the jurisdiction of the Commission, preferably on the basis of a percentage of gross revenues, and that the Legislature also authorize the Commission to make additional assessments against utilities in particular cases where special investigations or studies are required. This latter power could be utilized where serious accidents involving prolonged hearings are involved, or in the case of special technical studies arising out of such episodes as the June 5th, 1967 blackout where outside consultants could render a valuable service.

This procedure for financing utility regulation already exists in more than half of the states of the nation. It prevails, for example, both in New York and Pennsylvania. While indirectly the assessment charges are paid by the public, the resulting benefits are so clearly evident that the merits of the system are almost beyond debate.

I have discussed this proposal with the representatives of a number of our major utilities, and in general have found favorable response, because it is decidedly in the interests of the utility industry to have the Commission adequately and competently staffed. This helps to assure the expeditious handling of rate cases and other important matters, and the reliable evaluation by the regulatory staff of proposed operating practices and policies.

I feel confident that legislation can be drafted which will adequately protect the utility industry from an inequitable financing formula, guarantee the prudent expenditure of the funds made available to the Commission, and at the same time free the Commission from the financial limitations which so severely limit its ability to secure and maintain an adequate staff.

The Department of Public Utilities has been engaged in studying this proposal for a considerable period of time and should be prepared, assuming the new Commission is in agreement with the proposal I have outlined, to cooperate with the Executive Department, the Legislature and the utility industry in the formulation of the exact details of such legislation.

Respectfully submitted,

William F. Hyland
President