

No. 736, A.]

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CHAPTER 493.

AN ACT to provide for the taxation of the property of street railway companies and electric light, heat and power companies, operated in connection with street railways and making an appropriation therefor, and to repeal sections 1222c, 1222d, 1222e, 1222f, of the statutes of 1898, chapter 354 of the laws of 1899, chapter 197 of the laws of 1903, and all acts and parts of acts inconsistent with this act.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Assessment of, how made. SECTION 1. That the commissioner of taxation, the first assistant commissioner of taxation and the second assistant commissioner of taxation shall be ex-officio a state board of assessment and as such shall make an annual assessment of the property of all street railway companies and electric light, heat and power companies operated in connection with street railways within this state for the purpose of levying and collecting taxes thereon as hereinafter provided. The secretary of the commissioner of taxation shall be secretary of the board.

Terms defined. SECTION 2. For the purposes of this act the following provisions and definitions are made:

I. The term "board" in this act, without other designation, means the state board of assessment hereby created for the assessment and taxation of the property of street railway companies and light, heat and power companies operated in connection with a street railway company.

II. Any corporation organized under the laws of this state for constructing, maintaining and operating a street railway with the power of accepting and operating under street railway franchises granted by municipalities and owning and operating a street railway or operating as lessee or otherwise a street railway within, through, or between one or more towns, cities or villages, shall be deemed a street railway company within the meaning of this act.

III. Any corporation organized under the laws of this state for manufacturing, generating or furnishing light, heat, power,

signals or other service by electricity with the power of accepting and operating under franchises granted by municipalities and wholly operated by a street railway company and operated in connection with the railway property of such company as owner, lessee or otherwise, shall be deemed a light, heat and power company within the meaning of this act.

IV. The word "company" in this act without other designation or qualification shall mean and include any street railway company or light, heat and power company and shall be applicable alike to each such company.

The words "property of a company" without other designation or qualification shall mean and include the property of any street railway company or the property of any light, heat and power company and shall be applicable alike to the property of each such company.

V. The term "property of a company" as used in this act, shall include all franchises, right of way, roadbed, tracks, stations, terminals, rolling stock, equipment and all other real and personal property of a street railway company used or employed in the operation of the railway or in conducting its business, and shall include all title and interest in such property as owner, lessee, or otherwise, and all franchises, right of way, poles, wires, cables, devices, appliances, instruments, equipment and all other real and personal property of a light, heat and power company used or employed in the operation of the company or in conducting its business and shall include all title and interest in such property as owner, lessee or otherwise, and such term shall apply alike to the property of each such company.

VI. Every company operating a street railway in this state with all appliances and property connected and used therewith in the street railway service, and every company operating the property of a light, heat and power company with all appliances and property connected and used therewith in the light, heat and power service shall be the representative of every title and interest in the property of the company as owner, lessee or otherwise, and notice to the operating company shall be notice to all interests in the property for the purpose of taxation. The assessment and taxation of the property of a company in the name of the owner, lessee or operating company shall be deemed and held an assessment and taxation of all the title and interest in such property of every kind or nature.

VII. The term "general property of the state" shall be deemed to include all real and personal property appearing upon the assessment rolls and tax rolls throughout the state upon which state, county and local taxes are levied and collected with such changes and corrections made by the board as hereinafter provided.

Access to records authorized. SECTION 3. The board shall have access to all books, papers, documents, statements or accounts on file, or of record in any of the departments of the state. It shall have like access to all books, papers, documents, statements and accounts on file or of record in counties, towns, cities, villages and assessment districts, and the officers thereof shall in form prescribed by said board make returns to it of all information which may be called for. Said board shall have the power, by a summons signed by a member of said board and served in like manner as a subpoena issued from courts of record, to compel witnesses to attend, give evidence and to produce books and papers. Any member of the board or the secretary thereof is authorized to administer the oath to witnesses. The attendance of any witness may be compelled by attachment issued by any circuit court upon a proper showing that such witness has been duly served with the summons, and has refused to appear before said board. In case of the refusal of a witness to produce books, papers, documents or accounts, or to give evidence on matters material to the hearing, such refusal shall be reported to the attorney general who shall thereupon institute proceedings in the proper circuit court to compel such witness to testify or produce books and papers and to punish him for the refusal. The person serving such summons shall receive the same compensation as now allowed to sheriffs or other officers for serving subpoenas. The person appearing before said board in obedience to the summons shall in the discretion of the board, receive the same compensation as a witness in the circuit court, to be audited by the secretary of state on the certificate of a member of said board. The records, books, accounts and papers of any person, association or corporation, owning or operating a street railway or light, heat and power property to be assessed under this act shall be subject to the visitation, inspection and examination by said board or such person as it may designate.

Depositions. SECTION 4. The board in any matter material to the valuation, assessment or taxation of the property of

street railway or light, heat and power companies may cause the deposition of witnesses residing without the state or absent therefrom to be taken upon notice to the company interested, in like mode as the depositions of witnesses are taken in civil actions pending in the circuit court.

Annual reports. SECTION 5. Every company operating a street railway or light, heat and power company in this state shall annually between the first day of July and the first day of September in each year, under the oath of the president or other chief officer and the secretary, treasurer, auditor or superintendent of such company, make and file with the board in such form as said board may prescribe, reports containing the following facts:

1. The name of the company.
2. The nature of the company, whether a person, association, company or corporation, and under the laws of what state or country organized, the date of original organization, date of reorganization, consolidation or merger, with specific reference to laws authorizing the same.
3. The location of its principal office.
4. The name of the place where its books, papers and accounts are kept.
5. The name and post office address of the president, secretary, treasurer, auditor, superintendent, general manager, council, directors and all other general officers.
6. The name and post office address of the chief officer or managing agent of the company in Wisconsin and of all other general officers residing in the state.
7. The total number of shares of capital stock.
8. The par value of the shares of the capital stock for the whole system showing, separately,
 - (I) Amount authorized.
 - (II) Amount issued.
 - (III) Amount outstanding.
 - (IV) Also the dividends paid thereon.
9. The market value of the shares of capital stock for the whole system, on the dates and for the periods the board may request or specify.
10. If such capital stock has no market value, the actual value on the dates and for the periods designated by said board.
11. The funded debt of the company for the whole system, and a detailed statement of all series of bonds, debentures or other securities, forming a part of the funded debt at par value, with date of issue, maturity, rate of interest and interest paid.

12. The market value of each series of funded debt for the whole system on the dates and for the periods designated by said board, and if the whole or a part of such funded debt has no market value, then the actual value thereof for such dates and periods as said board may specify.

13. Such general description of the real estate of the company owned or operated in Wisconsin as would be sufficient in a conveyance thereof, under a judicial decree, directing a sale for taxes to vest in the grantee all title and interest in and to the said property.

14. A like description of the personal property, including moneys and credits held by the company as a whole system and the part thereof apportioned to the line in Wisconsin.

15. A statement in detail of all capital stock, bonds or other securities of such company owned by, or held in trust, for the company and the capital stock, bonds, or other securities of other persons, companies or corporations owned by, or held in trust for it, and the par value and the market or actual value of the same same.

16. The whole length of the lines of the system operated by the company and the length of the lines in Wisconsin, whether operated as owner, lessee or otherwise. The length of the line owned and the length of the line operated for the whole system and in Wisconsin, shall be separately reported.

17. The entire gross earnings of the company from operation, income from operation, and the income from other sources for the whole system and in Wisconsin, and the disposition made of such income.

18. The entire gross earnings of such company in Wisconsin for each and every month for each calendar year ending on the thirty-first day of December.

19. The annual reports of the board of directors or other officers to the stockholders of the company, duplicates of the annual reports of street railways made to the railroad commissioner of this state and to the railroad commissioners or state officers or boards of the other states in or through which their lines are operated.

20. Each street railway company shall further report as follows:

a. The number of miles of main single track, second, third or fourth track, side track or other tracks in each county and in each municipality within or through which the street railway company operates its line within this state.

b. The gross earnings of such street railway company from the operation of its business in each county and in each town, city and village within or through which said company operated for the year ending on the 31st day of December preceding.

c. The total number of fare passengers carried on the entire system and separately for Wisconsin.

d. The fare passengers per mile of single track for the entire system and separately for Wisconsin.

e. The fare passengers per mile of single track in each county and in each town, city and village in this state in which the line of the company is operated.

21. Each light, heat and power company shall further report as follows:

a. The names of the assessment districts in which its principal and other power plants are located with the average daily quantity of electricity produced at each plant.

b. The average daily quantity of electricity employed in the operation of the street railway property and the quantity furnished for public lighting and other public service and separately the quantity furnished private consumers.

c. The number of miles of wires in each county and separately in each municipality within or through which the property of such company is operated.

The average daily quantity of electricity furnished for public service and to private consumers in each county and each municipality within or through which the company operates.

d. The gross receipts from the operation obtained in each county and in each municipality within or through which any such company operates from the business of furnishing light, heat, power or other service for the year ending the 31st day of December preceding.

22. An company, association or corporation owning all or a majority of the capital stock of the company operating in this state or having practical control of any such company may be required to make report of such facts and information specified in this section as may be deemed necessary by the board to a correct valuation and assessment of the property of such operating company.

23. Such other facts and information as said board may require in the form of returns prescribed by it.

Blanks for making the above reports shall be furnished to such companies by said board except for the copies of reports required under the provisions of subdivision 19 of this section.

In case any company refuses or neglects to make the reports required by this act, or refuses or neglects to furnish any information requested, the board shall inform itself the best it may on the matters necessary to be known in order to discharge its duties with respect to the valuation and assessment of the property of such company.

Personal property. SECTION 6. The property of a company as defined in section 2, subject to taxation under the provisions of this act is declared to be personal property and the place of assessment and taxation of such property is fixed at the capital of the state.

Penalty for refusal. SECTION 7. If any company or its officers or agents shall refuse or neglect to make any reports required by this act or said board, or shall refuse or neglect to permit an inspection and examination of its records, books, accounts or papers when requested by said board, or shall refuse or neglect to appear before the board in obedience to a summons, such company shall be estopped to question or impeach the action or determination of the board except upon satisfactory proof of fraud or mistake injurious to the company. No company shall be allowed in any action or proceeding to question the amount or valuation of its property as assessed by the board unless such company shall have made and filed with such board a full and complete report of the facts and information prescribed by section 5 of this act and called for by the board thereunder, provided the refusal or neglect of such company to file the report in time may on application of the company and for good cause shown be excused by the board on condition that such company shall make a full and complete report of all facts and information mentioned in said section 5 within fifteen days after notice by mail of the amount of the preliminary valuation of the property of such company and shall appear before the board before the time of the final hearing and make a full disclosure of all property liable to assessment and taxation under this act and show the value of such property to the satisfaction of the board.

Preliminary hearing, how had. SECTION 8. The board on or between the first day of September and the first day of November in each year, according to their best knowledge and judgment shall ascertain and determine the true cash value of the property of each company within the state. Every such company shall be entitled on its own motion to a preliminary

hearing and to present evidence before such board at any time on or between the first and fifteenth days of September, relating to the value of the property of such company, or to the value of the general property of the state. On request in writing for such hearing or presentation the board shall appoint a time and place therefor within the period aforesaid; the same to be conducted in such manner as the board shall direct. Such preliminary hearing shall not impair or affect the right to the further hearing provided for in section 11. The value of the property of a company for assessment shall be made on the same basis and for the same period of time as near as may be as the value of the general property of the state is ascertained and determined. The board shall prepare an assessment roll and place thereon after the name of each street railway company assessed, the following general description of the property of such street railway company, to-wit: "Real estate, right of way, tracks, stations, terminals, appurtenances, rolling stock, equipment, franchises and all other real estate and personal property of said company," which shall be deemed and held to include the entire property and franchises of such street railway company within the state, and all title and interest therein, and after the name of each light, heat and power company assessed, the following general description of the property on such last named company, to-wit: "Real estate, right of way, poles, wires, conduits, devices, appliances, instruments, franchises and all other real and personal property of said company" which shall be deemed and held to include the entire property and franchises of such light, heat and power company within the state and all title and interest therein.

For the purpose of determining the true cash value of the property of each company, appearing on the assessment roll, the board may, if deemed necessary, view and inspect the property of such company and shall consider the reports filed in compliance with this act, and the reports and returns of the company filed in the office of any officer of this state, and such other evidence or information as may have been taken or obtained bearing upon the true cash value of the property of the company assessed. In case of companies which own or operate lines lying partly within and partly without the state, the said board shall only value and assess the property within this state. In determining the value of the portion within the state the board may take into consideration the value of the entire system, the mileage of the whole system and of the part within

this state, together with such other information, facts and circumstances as will enable the board to make a substantially just and correct determination. When the true cash value of the property of a company within this state shall have been ascertained and determined the amount thereof shall be entered upon the assessment roll opposite the name of the company and shall be, and constitute, the assessment of the entire property of such company within this state for the levy of taxes thereon, subject to review and correction, as hereinafter provided. The board shall thereupon give notice by mail to each company assessed of the amount of its assessment as entered upon such roll.

Data before state board. SECTION 9. When the state board of assessment shall have valued the general property of the state and completed the assessment of said property subject to taxation pursuant to chapter 237, laws of 1901, or any amendments thereof, and not later than the first day of October in each year, the secretary of said state board of assessment shall lay before said board the different classes and value of said property set down in the list opposite the name of each county, as fixed and determined by the state board of assessment, together with the assessed valuation of all taxable property in each county, in the form as returned by the county clerks to the secretary of state, and all other statistics, returns, records, papers, and statements, which the state board of assessment considered in determining the valuation of the general property of the state, or which were used in compiling statistics, or tables for consideration of the state board of assessment.

Cash value of all property determined. SECTION 10. The board not later than the first day of November in each year from the information laid before the board by the secretary of state or the secretary of the state board of assessment, statistics of the sales of real estate as returned to the secretary of state by the registers of deeds and the assessed value of said real estate, the returns of officers of the assessed value of said real estate, the returns of officers of the assessed value of all real and personal property on the tax rolls in the state, and upon all the evidence, proofs, statistics and information obtainable from all available sources, shall, according to their best knowledge and judgment, ascertain and determine the true cash value of all the general property of the state liable to state, county and local taxes in the then present year, and shall enter

upon its records the aggregate true cash value of such property.

Reviews; hearing. SECTION 11. The board shall meet at the capitol at Madison on the second Tuesday of November in each year and continue in session from day to day, unless adjourned for a longer time, for such period as may be necessary, not later than the fifteenth day of December following, for the purpose of reviewing the valuation and assessment of the property of the companies on the assessment roll, and the value of the general property of the state. Any company interested shall have the right to appear and be heard as to the value and assessment of the property of such company and the tax to be levied thereon, and as to the value of the general property of the state, and the board may on such application or of its own motion correct the valuation or assessment of such company in such manner as will in its judgment make the valuation thereof just and relatively equal with the valuation of the general property of the state, and may correct the valuation of the general property of the state. The assessed value of the property of a company as it appears on the roll shall not be increased without notice to the company by registered letter that such increase is contemplated, and fixing the time for a hearing in relation thereto. The attorney general shall attend at such hearings and represent the interest of the state.

Aggregate tax determined, how. SECTION 12. The board on or between the first Monday in December and the fifteenth day of January in each year upon returns from the secretary of state or from county, town, city and village officers, or both, shall ascertain and determine the aggregate tax in the whole state for state, county and local purposes levied on the general property of the state excluding special assessments on property for local improvements, and when the aggregate of all taxes, state, county and local consolidated, is thus ascertained and determined, the amount thereof shall be entered on the records of the board.

Powers conferred. SECTION 13. When the officers of any town, city or village shall have failed to return the amount of state, county and local taxes, levied on property therein, within the time required by law, the said board may inspect and examine, or cause an inspection and examination of the records of such officers to procure the required information and when

no return is made and no information can be procured, the state, county and local taxes levied in such town, city or village in the prior year may be used in determining the aggregate taxes mentioned in section 12.

Rate of taxation, how fixed. SECTION 14. From the aggregate true cash value of the general property of the state and the aggregate of taxes so determined and entered on the records, the board shall compute and determine the average rate of taxation, state, county and local consolidated, by dividing the aggregate taxes by the aggregate true cash value of the general property of the state upon which said taxes were levied as revised and corrected by the board, which said rate so arrived at and determined shall be entered upon the records of the board and shall constitute the rate of taxation on the true cash value of the property of the companies liable to taxation under this act.

Tax, how levied; certificate. SECTION 15. The board shall compute and levy a tax upon the property of each company as assessed at the average rate of taxation determined as aforesaid, and the amount of tax to be paid by each company shall be extended upon the assessment roll opposite the description of the property of the respective companies. After the completion of said tax roll, and prior to the first day of May in each year, the board shall attach thereto a certificate signed by the members of said board, or a majority thereof, which shall be as follows:

We do hereby certify that the foregoing tax roll includes the properties of all street railway and light, heat and power companies liable to taxation in this state; that the valuation of the property of each company as set down in said tax roll is the true cash value thereof according to our best knowledge and judgment, and that we have assessed and levied the taxes thereon charged in said tax roll at the average rate of taxation in this state as required by law.

The said tax roll shall thereupon forthwith be delivered to the state treasurer, who shall immediately notify by registered mail the several companies taxed therein to pay the taxes extended thereon, to the state treasurer on or before the first day of December in each year. The taxes extended against any company after the same become due with interest, shall be a lien upon all the property of such company prior to all other liens, claims and demands whatsoever, which lien may be enforced in an action in the name of the state in any court of competent jurisdiction against the property of such company within the state as an entirety.

Re-assessments. SECTION 16. If any tax levied under the provisions of this act shall be adjudged illegal and non-enforceable, or shall be set aside by any court of the state of competent jurisdiction, it shall be the duty of said board, whether any part of the taxes assessed and levied have been paid or not, to forthwith re-ascertain and re-determine the value of the property of the companies or the value of the general property of the state or the average rate of taxation throughout the state as may be required; and when such re-ascertainment and re-determination has been made, to make a duplicate of the original assessment roll and to extend the taxes thereon according to such re-assessment and when such duplicate roll has been made and the taxes extended thereon in the manner provided in this section, it shall be of the same force and effect as an original assessment made in accordance with law. All proceedings for such re-assessment and for the extension, payment and collection of taxes upon such duplicate assessment roll shall be conducted in the method originally provided for as near as may be. The board shall fix the time and place for the hearings or proceedings for the re-assessment and give notice thereof by mail to the companies.

The power to re-assess the property of any company and the general property of the state, and to re-determine the average rate of taxation, may be exercised as aforesaid and as often as may be necessary until the amount of taxes legally due from any such company for any year under the provisions of this act, has been finally and definitely determined. Whenever any sum or part thereof, levied upon any property subject to taxation under this act so set aside has been paid and not refunded, the payment so made shall be applied upon the re-assessment upon said property and the re-assessment of taxes to that extent shall be deemed to be satisfied.

When the tax roll on the re-assessment is completed and delivered to the state treasurer, he shall immediately notify by registered mail each of the several companies taxed therein to pay the amount of the taxes extended thereon within thirty days.

How construed. SECTION 17. No tax assessed upon any of the general property of the state and no average rate determined by said board as herein required, shall be held invalid on account of any assessment, or tax roll, not having been made or proceedings 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 per-

son 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 substantial accordance with the statutes of this state.

Proceedings; provisions directory. SECTION 18. The proceedings of the board shall be presumed to be regular and the determination of the board shall not be impaired, vitiated or set aside upon any grounds not affecting the substantial justice of the tax.

The provisions in this act prescribing a date or period at or within which an act shall be performed or determination shall be made by the board shall be deemed directory only, and no failure to perform any such act or make such determination at or within the time prescribed therefor shall affect the validity of such act or of any determination made by the board, unless it shall appear that substantial injustice has resulted therefrom.

Payment of tax justly and equitably due. SECTION 19. In any action, suit or proceeding brought by such company, in the state court to set aside, restrain, or postpone the payment or collection of any tax levied upon the property of the company, no injunction, order or writ to enjoin or restrain the payment or collection of the tax shall issue, or be continued in force, unless said company shall pay to the state treasurer for the use of the state the amount of taxes which the court shall determine primarily to be justly and equitably due from such company. Such primary determination shall be made by the state court in which the action, suit or proceeding is pending, upon motion, summarily and without delay.

In case the amount of tax justly and equitably due from such company, shall be finally determined to be less than the amount so paid, the excess shall be refunded to such company by direction of the court, and for that purpose the secretary of state, upon the filing in his office of a certified copy of such final determination, shall draw a warrant upon the state treasurer for the amount to be so refunded.

Action may be brought, when. SECTION 20. Any company claiming to be aggrieved by the levy of a tax upon its property, and alleging facts showing substantial injustice in the determination of the board, may within six months from the

payment of the tax, and not thereafter, bring and maintain an action against the state in the circuit court of the state to recover such part of the tax as shall exceed the amount the company should have paid. The state may be served with a summons in such action by delivering a copy to the attorney general or leaving it at his office in the capitol with one of his assistants. The attorney general shall appear and defend the action in behalf of the state.

Place of trial. SECTION 21. Any action brought by any company to cancel or set aside any tax or enjoin the collection thereof under the provisions of sections 16 or 19 or to recover back any taxes under the provisions of section 20, shall be commenced and tried in the circuit court for the county of Dane, and the place of trial thereof shall not be changed except upon consent of parties. If the judge of said court shall be disqualified, or if the statutory affidavit of prejudice be filed, such judge shall call upon some other circuit judge of the state to attend and hold court for the trial of such action in accordance with the provisions of section 2625, statutes of 1898, as amended by chapter 101, of the laws of 1901, except as hereinafter provided; and it is hereby made the duty of such circuit judge so called upon to attend and conduct the trial of such action.

The power to call in another judge and the jurisdiction of such judge to attend and hold court for the trial of any such action shall not expire with the term at which the application is made or affidavit of prejudice is filed nor at any subsequent term of court, but shall continue until the action is tried and final judgment entered. The said circuit court after the trial of any such action is commenced may in its discretion for proper cause adjourn the trial thereof from time to time beyond the dates fixed by statute for the terms of court in said county.

Interest rate of; delinquent taxes. SECTION 22. All taxes which shall not be paid at the time provided in this act shall thereupon become delinquent and shall bear interest at the rate of fifteen per cent per annum from the time the same become delinquent until actually paid.

The neglect of any company to pay the taxes and interest thereon within sixty days after the entry of final judgment dismissing in whole or in part any action of such company to restrain or set aside a tax or the neglect of any company

within sixty days after the entry of final judgment in favor of the state for the taxes and interest to pay the judgment shall be cause for forfeiture of all the rights, privileges and franchises whether granted by special charter or obtained under general laws, by or under which such company is organized and its business is operated.

The attorney general upon such neglect shall proceed by action to have forfeiture of such rights, privileges and franchises of such company duly declared.

Any such company, at any time before the final judgment for forfeiture of such rights, privileges and franchises is rendered, may be permitted upon good cause shown to make payment of the taxes, interest, and costs herein provided, upon special application to the court in which the action to declare such forfeiture is pending upon such terms as the court shall direct.

Lien; change of venue; equity; judgment; substitute judge.

SECTION 23. The taxes levied upon and extended against the property of any company, after the same become due, with interest thereon, shall become a lien upon the property of such company within the state prior to all other liens, debts, claims, or demands whatsoever, which lien may be enforced in an action in the name of the state in any state court of competent jurisdiction against such company and against the property of such company within the state. The place of the trial shall not be changed from the county in which any such action is commenced, except upon consent of parties. The action to recover taxes and interest and to enforce the same as a lien shall be an action in equity and shall be commenced and carried on and judgment entered according to the laws of the state and the rules and practice of courts of equity so far as applicable. No reference shall be made to take testimony or to hear, try and determine the issues of fact in the action. The judgment shall fix the amount of taxes, and interest, adjudge the same a lien on the property of the company and provide for the sale of such property in ninety days after the entry of judgment upon publication of the notice of sale in the official state paper for four consecutive weeks prior to such sale. The judgment shall bear interest at the rate of ten per cent per annum from the date of entry until finally paid.

The state treasurer for and in the name of the state may bid at the sale and the state may become the purchaser of the property of a company under a judgment for its sale for taxes, interest and costs.

If the judge of the court in which such action is commenced shall be disqualified, or an affidavit of prejudice is filed, such judge shall call upon some other circuit judge to attend and hold court for the trial of the action, according to the mode provided in section 21.

Time of assessments. SECTION 24. The first assessment of the property of the companies under this act shall be commenced in the year 1907 and be completed in the year 1908 and shall be known as the assessment of 1908, and the second assessment of the property of the companies under this act shall be commenced in the year 1908 and completed in the year 1909 and shall be known as the assessment of 1909. Assessments thereafter shall be commenced and completed in a similar manner.

To be in lieu of all other taxes. SECTION 25. The taxes imposed by this act shall be in lieu of all other taxes on the property of such companies necessarily used in the operation of the business of such companies in this state, except the same shall be subject to special assessment for local improvements in cities and villages. The taxes hereby imposed or paid by such companies shall also be in lieu of all taxes on the shares of stock of such companies owned or held by individuals of this state and such shares of stock in the hands of individuals shall be exempt from further taxation.

Moneys, how applied. SECTION 26. All taxes collected from companies under the provisions of this act shall be paid to the state treasurer and become a part of the general fund for the use of the state except as hereinafter provided.

Experts; clerks; assistants; compensation. SECTION 27. The said board is authorized and empowered to employ an expert engineer, and expert accountant and such clerks and assistants as may be necessary to properly perform the duties imposed by this act, and in the work of the valuation and taxation of the property of the companies, and to fix their compensation. The compensation and necessary expenses of such experts, clerks and assistants, and the expenses of the members of the board shall be paid out of the treasury, as the salaries and expenses of other state officers are paid, and a sum sufficient to carry out the provisions of this act is hereby appropriated.

Expenses, etc., of judge; fees of officers. SECTION 28. The railroad fare and other expenses of any judge who may be called in and shall attend and hold court for the trial of any action under the provisions of this act, not exceeding five dollars per day for such expenses, shall be paid out of the state treasury upon the certified statement of such judge filed with the secretary of state and audited by him.

The fees of the sheriff and one deputy, the clerk of the court and one deputy, and the official stenographer for attendance upon the court for the trial of any action under this act, upon the certification of said clerk and approval by the attorney general shall be audited by the secretary of state and paid out of the state treasury.

Municipalities, record of. SECTION 29. Before the assessment and tax roll is delivered to the state treasurer the board from the reports of the companies and from all the evidence, information and statistics obtainable, shall ascertain and determine the total gross receipts of every company from the operation of its business within the state and the amount of the gross receipts from the operation of the business of each such company within each town, city and village within or through which the lines of the company extend or in which its business is operated and carried on for the year ending the 31st day of December preceding the date of the report under section 5.

The total gross receipts of each company shall be entered upon the records of the board and opposite the names of the municipalities within which the business of such company is operated and carried on, shall be entered the amount of the gross receipts which the board ascertain and determines was obtained from the operation of the business of the company within or through each such municipality.

Tax apportioned, how. SECTION 30. The state shall retain fifteen per cent of the taxes paid into the treasury under the provisions of this act and eighty-five per cent of the taxes so paid by any company shall be distributed to the towns, cities and villages within or through which the business of the company was carried on and operated in proportion to the gross receipts from operation in each such town, city or village during the calendar year specified in section 29.

The board shall ascertain and determine the amount of the tax when paid into the state treasury by any company which on the basis of eighty-five per cent of the whole shall be distributed

to the towns, cities and villages through or in which its business is operated and shall cause to be entered in the record of the board the names of such towns, cities and villages and opposite the names thereof, the amount of taxes to be paid to each such municipality.

The board shall prepare a distribution tax roll in triplicate containing a list of the companies assessed and taxed under this act with the total tax levied on the property of each company and immediately following the name of each company the names of the towns, cities and villages in which the lines of the company are operated and its business carried on and shall enter opposite the names thereof the amount of the taxes each such town, city and village shall receive from the state. To these rolls shall be annexed the following certificate signed by the members of the board or a majority thereof:

We hereby certify the foregoing distribution tax roll contains the names of all street railway and light, heat and power companies liable to taxation in this state with the tax levied upon their respective properties and that we have ascertained and determined the amount of taxes to be distributed to towns, cities and villages through or within which the business of each company is operated and carried on according to law and that the amount set opposite the names of each town, city and village on the foregoing roll is the true amount which shall be paid to said towns, cities and villages.

The board at the time the assessment and tax roll is delivered to the state treasurer shall deliver the certified distribution tax roll to him and a certified copy of the distribution tax roll shall also be delivered to the secretary of state.

Partial payments, how apportioned; refund. SECTION 31. When the taxes due from any company shall be paid in whole or in part to the state treasurer, he shall forthwith notify the secretary of state of the name of the company and the amount of the payment and the secretary of state shall audit the amounts payable to each municipality and the treasurer shall pay the same. In case only a part of the tax due from a company is paid, a proportionate part shall be audited and paid to the municipalities. If a tax due from a company becomes delinquent and is subsequently collected or paid into the state treasury with interest thereon, the interest on eighty-five per cent of the tax shall also be distributed to municipalities in the same proportion as herein provided for payment of the tax itself.

If the state is compelled to refund the whole or any part of the tax received from any company and a part of such tax has been distributed to municipalities under the provisions of this act, such municipalities shall repay to the state the proper proportion of such tax so received by them and the secretary of state shall certify the amounts to be repaid to the state to the county clerks of the counties in which such municipalities are located for levy and collection from said municipalities as other state taxes are levied and collected.

Conflicting laws repealed. SECTION 32. Sections 1222c, 1222d, 1222e, 1222f of the statutes of 1898, chapter 354 of the laws of 1899, chapter 197 of the laws of 1903, and all acts and parts of acts inconsistent with this act are hereby repealed, but such repeal shall not defeat, remit or affect the license fees paid or to be paid by the companies in 1905, 1906 and 1907, nor affect any penalty or remedy for the failure or neglect to pay license fees in said year. The reports of earnings shall be made and license fees paid by said companies for the years 1905, 1906 and 1907 pursuant to existing laws.

SECTION 33. This act shall take effect and be in force from and after its passage and publication.

Approved June 20, 1905.

No. 724, A.]

[Published June 28, 1905.

CHAPTER 494.

AN ACT to provide for the taxation of the property of telegraph companies and making an appropriation therefor, and to repeal sections 1216, 1217, 1218, and subdivision 15 of section 1038 of the statutes of 1898.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Assessment of, how made. SECTION 1. That the commissioner of taxation, the first assistant commissioner of taxation and the second assistant commissioner of taxation shall be ex-