

**West Virginia Board of Public Works
Thursday, February 22, 2024 – 10:00 a.m.
Governor’s Cabinet and Conference Room
Minutes**

Attendees:

Members

Attorney General Patrick Morrisey
Commissioner of Agriculture Kent Leonhardt
State Auditor John B. McCuskey
State Superintendent of Schools Michele Blatt
State Treasurer Riley Moore
Secretary of State Mac Warner by teleconference line
Brian Abraham for Governor Jim Justice

Guests:

Commissioner Matthew Irby, State Tax Department
Frank Capehart, State Tax Department
Ting Zhu, State Tax Department
Chad Toney, Division of Highways
Steve DeBarr, City of South Charleston
Dana Burns, City of South Charleston
Russ Rollyson, Auditor’s Office
Sean Whelan, Attorney General’s Office
Sarah Canterbury, Treasurer’s Office
Lindsay Marchio, Treasurer’s Office
Steve Adams, Ogden Newspapers
Maureen Lewis, Secretary of State’s Office
Brian Beechem, First Student, Inc. by teleconference line
Ryan Ivey, Armstrong Telephone Co. by teleconference line
Christy Tribble, Durbin & Greenbrier Valley Railroad, Inc. by teleconference line
Justin Mikol, UGI Appalachia LLC by teleconference line

The West Virginia Board of Public Works re-convened on Thursday, February 22, 2024 at 10:00 a.m. in the Governor’s Cabinet and Conference Room, Building 1, Suite 10 of the State Capitol Complex. The meeting was called to order and chaired by Attorney General Morrisey. A quorum of members was established.

The first item on the agenda was the approval of minutes from the December 13, 2023 WV Board of Public Works meeting. Commissioner Leonhardt made a motion to approve the minutes. Treasurer Moore seconded the motion. The motion carried.

The second item on the agenda was the discussion, review and vote on the final tax assessments for public utility companies for tax year 2024. Treasurer Moore made a motion that the Board go into executive session to receive a legal update of the final assessments. Commissioner Leonhardt seconded the motion. The motion carried. The Board went into executive session.

The Board came out of executive session. AG Morrisey stated that no action had been taken.

Commissioner Irby addressed the Board concerning the final 2024 assessments. He referred to a document prepared by the Tax Department and distributed to Board members containing recommended final values and a listing of recommended adjustments to the tentative assessments. He stated that the overall value change between the tentatives and the final is a reduction of approximately 7 million dollars. He continued that there are a couple of large adjustments. One is related to adjustments that were approved in 2023 being accounted for in the 2024 assessments. He asked if there were any specific questions about the recommended adjustments. There were none. AG Morrissey asked if there was any member of the public that would like to speak to the final assessments. There were none.

Auditor McCuskey made a motion to approve the recommended final assessments for public utility companies for tax year 2024. Treasurer Moore seconded the motion. The motion carried.

The next item on the agenda was the consideration of utility requests for relief from erroneous assessments from First Student Inc., Armstrong Telephone Co.-WV, Durbin & Greenbrier Valley Railroad Inc., and UGI Appalachia LLC.

Commissioner Irby addressed the Board. He stated that regarding First Student, the company had misstated their total mileage associated with their operations in West Virginia and their operations everywhere. That resulted in a larger apportionment figure to West Virginia than it should have been. They realized the error after receiving their tentative value for 2024 and having discussions with the Tax Department. The company supplied additional information about their total mileage everywhere. That resulted in their request for relief from the erroneous assessment in 2023. It is a reduction of approximately 7.4 millions dollars in value. It adjusts their original assessment from 7.4 million dollars to about \$11,000.

Commissioner Irby stated that regarding Armstrong Telephone Co., that corrects an error in the amount of depreciation. The company brought the error to the Tax Department in July and supplied new figures regarding depreciation. The Tax Department validated the figures and made the adjustment. That moves the original assessment of 5.1 million dollars to a revised assessment of 2.6 million dollars. The revised value aligns more with the value just approved for 2024.

Commissioner Irby continued regarding Durbin & Greenbrier Valley Railroad Inc. When the company reported their total cost approach to value, they included their construction work in progress. They also included construction work in progress on a separate line on the return. They double stated approximately 2 million dollars in value. The company provided an updated return for 2023 and corrected their return for 2024. This reduces their 2023 assessment from approximately 3.3 million dollars to 1.8 million dollars.

Commissioner Irby explained that the Tax Department has just received the information regarding the request from UGI Appalachia. They don't have enough information to make a recommendation to the Board.

AG Morrissey asked the representatives of each company to speak to their applications for relief.

Brian Beechum, representing First Student Inc., addressed the Board. He explained that First Student is a yellow school bus transportation company, operating in 35 states. They do not have a physical site in West Virginia. They have a site in Southern Pennsylvania that makes occasional trips to locations in West Virginia. They are usually one day trips transporting students. He continued that the company had made clerical errors on each of the last 2 years returns. They have worked with the Tax Department and the recommended adjustment to the 2024 value was just approved by the Board.

They are asking for a similar adjustment for the 2023 value. Treasurer Moore asked, since this is a large revision, if the company has the issue figured out moving forward. Mr. Beechum replied yes, they now only include the approximately 20 buses, in terms of the mileage everywhere factor, that occasionally make trips to West Virginia in their calculations, rather than the entire fleet. Auditor McCuskey asked if the request is attempting to fix problems that occurred 3 years ago in one change. Mr. Beechum replied that the request is for tax year 2023 only. The revision for tax year 2024 has already been made. These are two separate misstatements that happened on two separate tax years.

Ryan Ivey, representing Armstrong Telephone Co.-WV, addressed the Board. He explained that the request pertains to their tax year 2023 assessment. There was an input error into the WV State Tax Department valuation model in which depreciation and resulting net value were switched. Once the erroneous switch was identified, the company brought it to the attention of the State Tax Department. They are in agreement on what the resulting valuation is after the correction is made. Auditor McCuskey asked if the request is for Northern or Southern. Mr. Ivey replied that one of their companies is delineated as Armstrong Telephone Northern and the other is Armstrong Telephone - WV. The request is for Armstrong Telephone - West Virginia.

Christy Tribble, representing Durbin & Greenbrier Valley Railroad, addressed the Board. She explained that the company had a double accounting entry for construction work in progress for tax years 2023 and 2024. In addition, there was an error in the reporting of COVID business relief aid. The relief was erroneously included in Net Revenue from Railway Operations rather than in non-operating Other Income. The 2024 tax year errors have been corrected by the approved recommendations of the Tax Department. They are requesting the same corrections for the 2023 tax year.

Justin Mikol, representing UGI Appalachia, addressed the Board. He explained that they are requesting relief from erroneous assessment due to a clerical error in the amount of assets reported in West Virginia. UGI Appalachia operates as an interstate natural gas pipeline. Their tax team noticed that there was an over reporting of assets in West Virginia as opposed to splitting those assets between West Virginia and Pennsylvania. He acknowledged that they have not had many discussions with the State Tax Department regarding the issue. They are happy and ready to work with someone on the State side on a resolution.

AG Morrissey asked if there was any further discussion on the presented items. There was none. He called for a vote.

Commissioner Leonhardt made a motion to approve the requested relief for First Student, Inc. Treasurer Moore seconded the motion. The motion carried.

Treasurer Moore made a motion to approve the requested relief for Armstrong Telephone Co.-WV. Commissioner Leonhardt seconded the motion. The motion carried.

Treasurer Moore made a motion to approve the requested relief for Durbin & Greenbrier Valley Railroad, Inc. Commissioner Leonhardt seconded the motion. The motion carried.

Treasurer Moore made a motion to authorize the Tax Department to return to the Board of Public Works once they have done their assessment of the request from UGI Appalachia. Auditor McCuskey seconded the motion. The motion carried.

The next item on the agenda was to certify tax rates on each class of property according to the provisions of W. Va. Code §11-8-8. AG Morrissey stated that this an administrative task because the

Code sets the rates. However, there is a requirement that every year the Board must re-certify the statutory rates to the Tax Commissioner and the Auditor. He read the rates that are set in W. Va. Code §11-8-6a.

Commissioner Leonhardt made a motion to certify the rates. Treasurer Moore seconded the motion. The motion carried.

The fifth item on the agenda was consideration for approval of the following deeds:

1. Between the West Virginia Department of Highways and City of Richwood dated August 10, 2023, approved as to form by the Attorney General's Office January 8, 2024.
2. Between South Charleston Municipal Building Commission and the West Virginia Department of Transportation, Division of Highways dated February 12, 2024, approved as to form by the Attorney General's Office February 16, 2024.

Chad Toney addressed the Board concerning deed number 1. He explained that this is a sanitary sewer easement on a 40 foot piece of property in the City of Richwood currently owned by the DOH. The purpose is for a new line.

Chad Toney addressed the Board concerning deed number 2. He explained that it is an exchange deed located in the Park Place development in South Charleston. He brought a map to show the exchange details.

Treasurer Moore made a motion to approve deeds 1 and 2. Commissioner Leonhardt seconded the motion. The motion carried.

The final item on the agenda was for adjournment. Commissioner Leonhardt made a motion to adjourn. Treasurer Moore seconded the motion. The motion carried. The meeting was adjourned.



Mac Warner, Secretary of State and
Ex-Officio Secretary of the
Board of Public Works