

**West Virginia Board of Public Works
December 15, 2011 – 3:00 p.m.
Governor's Cabinet and Conference Room
Minutes**

Attendees:

Members

Governor Earl Ray Tomblin
Commissioner of Agriculture Gus R. Douglass
Secretary of State Natalie E. Tennant
Attorney General Darrell V. McGraw, Jr.
State Superintendent of Schools Dr. Jorea Marple
State Treasurer John D. Perdue
State Auditor Glen B. Gainer

Guests

Craig A. Griffith, Commissioner of the State Tax Department
Jeff Amburgey, Tax Department
Kurt Dettinger, Governor's Office
Russ Rollyson, Auditor's Office
Danny Ellis, Treasurer's Office
Kathy Schultz, Attorney General's Office
Dawn Warfield, Attorney General's Office
Sandy Marinacci, Department of Agriculture
Dale Steager, WV Oil Gathering
Phil Kabler, WV Gazette
Ashley Summitt, Secretary of State's Office
Ashley Parsons, Secretary of State's Office
Bradley Harris, Secretary of State's Office

The West Virginia Board of Public Works re-convened on Thursday, December 15, 2011 at 3:00 p.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 Governor Tomblin. A quorum of elected officials was established.

The first item on the agenda was the approval of the minutes from the December 5, 2011 West Virginia Board of Public Works meeting. Commissioner Douglass stated that since this was a re-convening of the meeting, the minutes should not be voted on yet.

The second item on the agenda was recognition of receiving the correct plan sheet for the deed between the Board of Education of the County of Kanawha and the WV Department of Transportation, Division of Highways approved at the December 5, 2011 Board of Public Works meeting. The record will show that the WV Department of Transportation has submitted the requested document.

The third item on the agenda was receiving the requested reports from the State Tax Department defining the process for determining the weight given as it pertains to the three approaches for determining the assessed values and the most recent available report on auditing the production of oil and gas companies. Commissioner Griffith addressed the Board. He referred to the two memos the Tax Department prepared. The first issue was the valuating that was done on the public utility companies. The Tax Department is given a lot of leeway in determining how to weight the different approaches for public utility purposes. He referenced rule 110CSR1M. There is no step formula in the rule for determining weight given to each approach. After last week's meeting, the Tax Department polled the other southern states to see what their practices were. The other states take the same approach as West Virginia, which gives a lot of weight to appraiser judgment. It's really not process driven as much as it is results driven. In addition to the leeway given in the rule, there is also some case law that gives guidance. The second issue was oil and gas appraisals. Commissioner Griffith explained that this is not something that typically requires Board approval. In the past, the Tax Department had two auditors that would go through the audit process and verify reported figures. Over about a 15 year period, they audited about 350 companies. They found over 95% compliance with what the producers were reporting. Due to retirements and promotions in 2009, the Tax Department decided that the best approach would be to allow their appraisers to take over the auditing duties. They go through the same processes that the auditors would. They do a cross check with production information submitted to the DEP. They do another cross check with price information that is submitted to the Department of Energy. They also look at what is reported by the producer to what is reported by the royalty owner. If there are discrepancies in any of those areas, they contact the producer and make any adjustments as deemed necessary. The Tax Department is happy with the process. It is efficient to use the appraisers already on staff based on the percentage of compliance in the industry.

Governor Tomblin asked if anyone had questions. Dr. Marple stated she would like to thank the Tax Department for meeting with her to increase her understanding and awareness of the process. She explained that she appreciates the great work that they do. She stated that she would like a system in the Board of Public Works to have independent analysis of assessed values, particularly of the 30 top revenue producing public utility companies. Dr. Marple made a motion that the Board requests some type of consideration for an appropriation that would employ an independent analyst that would work with the Tax Department to review and provide a report to the Board of Public Works to verify the assessment rates of at least the top 30 largest public utility corporations. Governor Tomblin asked where she was proposing to obtain the funds for the position. She stated she would like consideration from the Governor's office. The Attorney General seconded the motion. He stated that the Code provides for the Secretary of State's office to supply support and staff for the Board of Public Works. Secretary Tennant stated that her office could draft the legislation. She explained that it would need to be a formal request for appropriations. She asked for clarification. Would the position be part time or a 1 time yearly audit? Treasurer Perdue asked if we already have in place in State Government auditors and people that audit these corporations to see that they are already providing the Board correct data to allow the Tax Department to do the analysis of the tax assessments for the State. Commissioner Griffith said they have 4 dedicated appraisers at the Tax Department. Jeff Amburgey is in charge of them and he is very knowledgeable. Treasurer Perdue asked if they are the independent voice when it comes to analyzing corporations in the tax structure. Commissioner Griffith said yes. Commissioner Douglass stated that he has reservations about adding another layer of government. He explained that if the Board is bringing additional staff on, job assignments should be determined. He was concerned that it could require a lot of additional funding. He asked for discussion to make a case for it. Dr. Marple stated that she was not necessarily calling for another full time position. She explained that there is a lot of judgment

involved with the 3 approaches to assessing values. In any field, particularly when taking a recommendation to the Board of Public Works, having a separate, independent entity that adds another judgment and recommendation to the Board is appropriate. Commissioner Douglass stated that there is no comparison to what the Tax Department is trying to apportion taxes to because many of the companies are not based in the state of West Virginia. Treasurer Perdue asked if the Tax Department had the opportunity to get independent analysis of anything they needed. If the Board requested independent analysis of something presented to the Board, would the Tax Department have the authority to obtain it? Commissioner Griffith said they could. The Tax Department is a member some national organizations that deal with public utilities that can do reviews. Jeff Amburgey specified The International Association of Assessing Officers. Commissioner Griffith explained that at no cost they can request an independent analysis on processes from them. Auditor Gainer asked if that was like a peer review. Commissioner Griffith said yes. Auditor Gainer stated that he thinks it would be more prudent to go through the peer review process and have that report brought back to the Board. If that process causes concern, then at that point look into expending moneys for a consultant. The peer review process would give the Board a level of comfort knowing the processes they are using are in accordance with nationally accepted standards. Governor Tomblin asked how long the process would take. Jeff Amburgey estimated about 6 months. Secretary Tennant asked for clarification on one of the reports from the Tax Department. She asked if the appraisers doing the auditors work was a policy or code. Commissioner Griffith stated that it was policy. Governor Tomblin restated Dr. Marples motion for an analyst to review the top 30 revenue producing public utilities. The motion failed.

The final item on the agenda was the receiving and approval of the final tax assessments for public utilities for tax year 2012. Governor Tomblin stated that the amount is \$8,460,701,440. That represents an increase of \$253,956,700 over the 2011 assessments. Treasurer Perdue made a motion to approve the final assessment for public utilities for tax year 2012 as has been presented by the Tax Department with Commissioner Douglass seconding. The motion carried. The Attorney General abstained.

Auditor Gainer made a motion that the Board ask the Tax Department to proceed with a peer review of the process. He stated that if there is any cost associated with this, the Auditor's office would pay for it out the public utility fund. Secretary Tennant seconded the motion. The motion carried. The Attorney General abstained.

With no further business, Commissioner Douglass made a motion to adjourn the meeting. The meeting adjourned.



Natalie E. Tennant,
Secretary of State and
Ex-Officio Secretary of the
WV Board of Public Works