

SENATE BILL No. 665

By Committee on Ways and Means

2-29

9 AN ACT concerning property taxation; relating to public utilities; late
10 filing of returns, penalties.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) Any public utility required to make a return in writing
14 to the director of property valuation on forms prescribed by the director
15 showing all the information that the director requires and deems neces-
16 sary for the appraisal and apportionment of values of such public utility's
17 property that fails to make such return on or before the date prescribed
18 by K.S.A. 79-5a02, and amendments thereto, shall be subject to a penalty
19 as follows:

20 The director, after having ascertained the assessed value of the prop-
21 erty of such public utility, shall add 5% thereto as a penalty for late filing
22 if the failure is not for more than one month, with an additional 5% for
23 each additional month or fraction thereof during which such failure con-
24 tinues, not exceeding 25% in the aggregate.

25 For good cause shown the director may grant one extension in time,
26 not to exceed 30 days, in which to make and file such return. Such request
27 for extension of time must be in writing and shall state just and adequate
28 reasons on which the request may be granted. The request must be re-
29 ceived by the director on or prior to the due date of the return. In the
30 event the extension is granted, no penalty shall accrue until the due date
31 of such return. In the event the extension is denied, the public utility
32 shall be notified in writing of such denial and shall file the return within
33 five days following receipt of such notice of denial. Penalties for late filing
34 of such return shall accrue at the end of such five-day period.

35 (b) If, within one year following the date prescribed by K.S.A. 79-
36 5a02, and amendments thereto, any public utility that fails to make a
37 return in writing to the director of property valuation on forms prescribed
38 by the director showing all the information that the director requires and
39 deems necessary for the appraisal and apportionment of values of such
40 public utility's property or fails to make and file a full and complete return
41 for such purposes, the director shall proceed to ascertain the assessed
42 value of the property of such public utility, and for this purpose the di-
43 rector may examine under oath any person or persons whom the director

1 deems to have knowledge of such assessed value of such property. The
2 director, after having ascertained the assessed value of such property,
3 shall add 50% thereto as a penalty for failure to file such statement or for
4 failure to file a full and complete statement.

5 (c) Any public utility may appeal any penalty imposed pursuant to
6 this section to the board of tax appeals as provided by K.S.A. 74-2438,
7 and amendments thereto. Notice of such appeal shall be filed with the
8 secretary of the board within 30 days after the director of property val-
9 uation has notified the public utility in writing of the assessment of the
10 penalty, or within 30 days after the mailing of the notification of the
11 results of the informal conference prescribed by K.S.A. 79-5a05, and
12 amendments thereto, when an informal conference has been requested.
13 The director shall not have the authority to abate or reduce any penalty
14 imposed under the provisions of this section, except that, the board of
15 tax appeals shall have the authority to abate or reduce any penalty im-
16 posed under the provisions of this section and order the refund of the
17 abated penalty, whenever excusable neglect on the part of the public
18 utility required to make and file the statement listing property for as-
19 sessment and taxation purposes is shown, or whenever the property for
20 which a statement of assessment was not filed as required by law is re-
21 possessed, judicially or otherwise, by a secured creditor and such secured
22 creditor pays the taxes and interest due.

23 Sec. 2. (a) If, the director of property valuation discovers, after the
24 assessed valuation of any public utility's property has been certified to the
25 county clerk, as provided by K.S.A. 79-5a27, and amendments thereto,
26 that the assessed valuation of any real or personal, tangible or intangible
27 property of a public utility subject to taxation was omitted from such
28 certification, the director shall certify to the county clerk of each county
29 the amount of assessed valuation apportioned to each taxing unit therein
30 that was omitted from such certification and the county clerk shall place
31 such property on the tax roll as an added tax, or if, after one year from
32 the date prescribed by K.S.A. 79-5a02, and amendments thereto, for the
33 listing of tangible personal property, the director discovers that any real
34 or personal, tangible or intangible, property of a public utility which was
35 subject to taxation in any year or years within two years next preceding
36 January 1 of the calendar year in which it was discovered has not been
37 listed or has been underreported for whatever reason, such property shall
38 be deemed to have escaped taxation. In the case of property which has
39 not been listed, it shall be the duty of the director to list and appraise
40 such property and, for an added tax, add penalties as prescribed in section
41 1, and amendments thereto, and which shall be designated on the ap-
42 praisal roll as an added appraisal for that year. In the case of property
43 which has escaped taxation, it shall be the duty of the director to list and

1 appraise such property and add 50% thereto as a penalty for escaping
2 taxation for each such year during which such property was not listed,
3 and it shall be designated on the appraisal roll as escaped appraisal for
4 each such preceding year or years. In the case of property which has been
5 listed but underreported, it shall be the duty of the director to list and
6 appraise the underreported portion of such property and add 50% thereto
7 as a penalty for escaping taxation for each such year during which such
8 property was underreported, and it shall be designated on the appraisal
9 roll as escaped appraisal for each such preceding year or years. The county
10 clerk, upon receipt of the valuation for such property in either of the
11 aforementioned cases, shall place such property on the tax rolls and com-
12 pute the amount of tax due based upon the mill levy for the year or years
13 in which such tax should have been levied, and shall certify such amount
14 to the county treasurer as an added or escaped appraisal. The amount of
15 such tax shall be due immediately and payable within 45 days after the
16 issuance of an additional or escaped property tax bill by the county trea-
17 surer. Taxes levied pursuant to this section which remain unpaid after
18 such 45-day period shall be deemed delinquent and the county treasurer
19 shall collect and distribute such tax in the same manner as prescribed by
20 law for the collection and distribution of other taxes levied upon property
21 which are delinquent.

22 (b) Any public utility may appeal any penalty imposed pursuant to
23 this section to the board of tax appeals as provided by K.S.A. 74-2438,
24 and amendments thereto. Notice of such appeal shall be filed with the
25 secretary of the board within 30 days after the director of property val-
26 uation has notified the public utility in writing of the assessment of the
27 penalty, or within 30 days after the mailing of the notification of the
28 results of the informal conference prescribed by K.S.A. 79-5a05, and
29 amendments thereto, when an informal conference has been requested.
30 The director shall not have the authority to abate or reduce any penalty
31 imposed under the provisions of this section, except that, the board of
32 tax appeals shall have the authority to abate or reduce any penalty im-
33 posed under the provisions of this section and order the refund of the
34 abated penalty, whenever excusable neglect on the part of the public
35 utility required to make and file the statement listing property for as-
36 sessment and taxation purposes is shown, or whenever the property for
37 which a statement of assessment was not filed as required by law is re-
38 possessed, judicially or otherwise, by a secured creditor and such secured
39 creditor pays the taxes and interest due.

40 Sec. 3. This act shall take effect and be in force from and after its
41 publication in the statute book.