

Senate Bill 369

By: Senators Payne of the 54th, Hufstetler of the 52nd and Albers of the 56th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-5-511 of the Official Code of Georgia Annotated, relating to
2 returns of public utilities to commissioner of the Department of Revenue, itemization and fair
3 market value of property, other information, and apportionment to more than one tax
4 jurisdiction, so as to require electronic transmission of returns to the Department of Revenue
5 by public utilities; to provide for related matters; to provide for an effective date and
6 applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 48-5-511 of the Official Code of Georgia Annotated, relating to returns of
10 public utilities to commissioner of the Department of Revenue, itemization and fair market
11 value of property, other information, and apportionment to more than one tax jurisdiction,
12 is amended as follows:

13 "48-5-511.

14 (a)(1) As used in this Code section, the term 'electronic transmission' means any form
15 of communication that does not directly involve the physical transmission of paper and
16 that creates a record that may be retained, retrieved, and reviewed by a recipient thereof
17 and that may be directly reproduced in paper form by such a recipient through an
18 automated process.

19 (2) The chief executive officer of each public utility shall be required to make by
20 electronic transmission an annual tax return of all property located in this state to the
21 commissioner. The return shall be made to the commissioner on or before March 1 in
22 each year and shall be current as of January 1 preceding.

23 (b) The returns of each public utility shall be in writing and sworn to under oath by the
24 chief executive officer to be a just, true, and full return of the fair market value of the
25 property of the public utility without any deduction for indebtedness. Each class or species
26 of property shall be separately named and valued as far as practicable and shall be taxed

27 like all other property under the laws of this state. The returns shall also include the capital
 28 stock, net annual profits, gross receipts, business, or income (gross, annual, net, or any
 29 other kind) for which the public utility is subject to taxation by the laws of this state. Each
 30 parcel of real estate included in the return shall be identified by its street address. If the
 31 commissioner is unable to locate the property by its street address after exercising due
 32 diligence in attempting to locate the property, then the commissioner may request more
 33 information from the taxpayer to help identify the exact location of the property. Such
 34 additional information may include a map or parcel identification information.

35 (c)(1) Each chief executive officer shall apportion, under rules and regulations
 36 promulgated by the commissioner, the fair market value of his or her public utility's
 37 properties to this state, if the public utility owns property in states other than this state,
 38 and between the several tax jurisdictions in this state.

39 (2) In promulgating the regulations specifying the method of apportionment, the
 40 commissioner shall consider:

41 (A) The location of the various classes of property;

42 (B) The gross or net investment in the property;

43 (C) Any other factor reflecting the public utility's investment in property;

44 (D) Pertinent business factors reflecting the utility of the property;

45 (E) Pertinent mileage factors; and

46 (F) Any other factors which in the commissioner's judgment are reasonably calculated
 47 to apportion fairly and equitably the property between the various tax jurisdictions.

48 (3) Any reasonable value directly attributable to property physically located in one
 49 jurisdiction in this state shall not be apportioned to any other jurisdiction in this state."

50 **SECTION 2.**

51 This Act shall become effective upon its approval by the Governor or upon its becoming law
 52 without such approval and shall be applicable to tax years beginning on or after January 1,
 53 2020.

54 **SECTION 3.**

55 All laws and parts of laws in conflict with this Act are repealed.