



1997 ASSEMBLY BILL 460

July 22, 1997 - Introduced by Representatives M. LEHMAN, GOETSCH, KAUFERT, TURNER, GROTHMAN, URBAN, R. YOUNG, OWENS, STASKUNAS and DUFF, cosponsored by Senator A. LASEE. Referred to Committee on Ways and Means.

1 **AN ACT to amend** 70.43 (3), 70.511 (2) (b), 70.995 (8) (a), 74.35 (3) (c), 74.37 (3)
2 (c) and 74.41 (4) (b); and **to create** 70.43 (3m), 70.511 (2) (bm), 74.35 (3) (cm)
3 and 74.37 (3) (cm) of the statutes; **relating to:** instalment payments of certain
4 refunds of property taxes and to appeals of manufacturing property taxes.

Analysis by the Legislative Reference Bureau

Under current law, municipalities are required to pay refunds of property taxes in lump sums. Under this bill, a municipality may pay a refund, along with interest, in 5 annual instalments if the municipality's property tax levy for its general operations for the year for which the taxes to be refunded are due is less than \$100,000,000 (currently, all municipalities except Milwaukee, Madison and Green Bay), the refund is at least 0.0025 of the municipality's levy for its general operations for the year for which the taxes to be refunded are due and the refund is more than \$10,000.

Under current law, both the owner of manufacturing property and a municipality in which manufacturing property is located may appeal the property tax assessment of that kind of property. The first appeal is to the state board of assessors, and the 2nd appeal is to the tax appeals commission. Under this bill, a manufacturer who has appealed to the state board of assessors may not raise new issues before the tax appeals commission.

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For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 70.43 (3) of the statutes is amended to read:

2 70.43 (3) The dollar amount of the adjustment determined in the correction
3 under sub. (2) shall be referred to the board of review and, if certified by that board,
4 shall be entered in a separate section of the current assessment roll, as prescribed
5 by the department of revenue, and shall be used to determine the amount of
6 additional taxes to be collected or taxes to be refunded. The dollar amount of the
7 adjustment may be appealed to the board of review in the same manner as other
8 assessments. The taxes to be collected or refunded shall be determined on the basis
9 of the net tax rate of the previous year, taking into account credits under s. 79.10.
10 The Except as provided in sub. (3m), the taxes to be collected or refunded shall be
11 reflected on the tax roll in the same manner as omitted property under s. 70.44, but
12 any such adjustment may not be carried forward to future years. The governing body
13 of the taxation district shall proceed under s. 74.41.

14 **SECTION 2.** 70.43 (3m) of the statutes is created to read:

15 70.43 (3m) A municipality may pay a refund under sub. (3) in 5 annual
16 instalments, each of which except the last is equal to at least 20% of the amount of
17 the refund plus 20% of the interest on the refund at the rate of 0.8% per month,
18 beginning in the year of the correction, if all of the following conditions exist:

19 (a) The municipality's property tax levy for its general operations for the year
20 for which the taxes to be refunded are due is less than \$100,000,000.

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1 (b) The refund is at least 0.0025 of the municipality's levy for its general
2 operations for the year for which the taxes to be refunded are due.

3 (c) The refund is more than \$10,000.

4 **SECTION 3.** 70.511 (2) (b) of the statutes is amended to read:

5 70.511 (2) (b) If the reviewing authority reduces the value of the property in
6 question, or determines that manufacturing property is exempt, the taxpayer may
7 file a claim for refund of taxes resulting from the reduction in value or determination
8 that the property is exempt. If Except as provided in par. (bm), if a claim for refund
9 is filed with the clerk of the municipality on or before the November 1 following the
10 decision of the reviewing authority, the claim shall be payable to the taxpayer from
11 the municipality no later than January 31 of the succeeding year. A Except as
12 provided in par. (bm), a claim filed after November 1 shall be paid to the taxpayer by
13 the municipality no later than the 2nd January 31 after the claim is filed. Interest
14 on the claim at the rate of 0.8% per month shall be paid to the taxpayer when the
15 claim is paid. If the taxpayer requests a postponement of proceedings before the
16 reviewing authority, interest on the claim shall permanently stop accruing at the
17 date of the request. If the hearing is postponed at the request of the taxpayer, the
18 reviewing authority shall hold a hearing on the appeal within 30 days after the
19 postponement is requested unless the taxpayer agrees to a longer delay. If the
20 reviewing authority postpones the hearing without a request by the taxpayer,
21 interest on the claim shall continue to accrue. No interest may be paid if the
22 reviewing authority determines under s. 70.995 (8) (a) that the value of the property
23 was reduced because the taxpayer supplied false or incomplete information. If taxes
24 are refunded, the municipality may proceed under s. 74.41.

25 **SECTION 4.** 70.511 (2) (bm) of the statutes is created to read:

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1 70.511 (2) (bm) A municipality may pay a refund under par. (b) in 5 annual
2 instalments, each of which except the last is equal to at least 20% of the amount of
3 the refund and at least 20% of the interest on the refund that is due, beginning on
4 the date under par. (b), if all of the following conditions exist:

5 1. The municipality's property tax levy for its general operations for the year
6 for which the taxes to be refunded are due is less than \$100,000,000.

7 2. The refund is at least 0.0025 of the municipality's levy for its general
8 operations for the year for which the taxes to be refunded are due.

9 3. The refund is more than \$10,000.

10 **SECTION 5.** 70.995 (8) (a) of the statutes is amended to read:

11 70.995 (8) (a) The secretary of revenue shall establish a state board of
12 assessors, which shall be comprised of the members of the department of revenue
13 whom the secretary designates. The state board of assessors shall investigate any
14 objection filed under par. (c) or (d) if the fee under that paragraph is paid. The state
15 board of assessors, after having made the investigation, shall notify the person
16 assessed or the person's agent and the appropriate municipality of its determination
17 by 1st class mail. Beginning with objections filed in 1989, the state board of assessors
18 shall make its determination on or before April 1 of the year after the filing. If the
19 determination results in a refund of property taxes paid, the state board of assessors
20 shall include in the determination a finding of whether the refund is due to false or
21 incomplete information supplied by the person assessed. The person assessed or the
22 municipality having been notified of the determination of the state board of assessors
23 shall be deemed to have accepted the determination unless the person or
24 municipality files a petition for review with the clerk of the tax appeals commission
25 as provided in s. 73.01 (5) and the rules of practice promulgated by the commission.

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1 If an assessment is reduced by the state board of assessors, the municipality affected
2 may file an appeal seeking review of the reduction, or may, within 30 days after the
3 person assessed files a petition for review, file a cross-appeal, before the tax appeals
4 commission even though the municipality did not file an objection to the assessment
5 with the board. If the board does not overrule a change from assessment under this
6 section to assessment under s. 70.32 (1), the affected municipality may file an appeal
7 before the tax appeals commission. If an assessment is increased by the board, the
8 person assessed may file an appeal seeking review of the increase, or may, within 30
9 days after the municipality files a petition for review, file a cross-appeal, before the
10 commission even though the person did not file an objection to the assessment with
11 the board. If the person assessed has filed an objection to the assessment with the
12 board of assessors, the person may not raise new issues during the appeal or
13 cross-appeal to the tax appeals commission.

14 **SECTION 6.** 74.35 (3) (c) of the statutes is amended to read:

15 74.35 (3) (c) If the governing body of the taxation district determines that an
16 unlawful tax has been paid and that the claim for recovery of the unlawful tax has
17 complied with all legal requirements, the governing body shall allow the claim. The
18 Except as provided in par. (cm), the taxation district treasurer shall pay the claim
19 not later than 90 days after the claim is allowed.

20 **SECTION 7.** 74.35 (3) (cm) of the statutes is created to read:

21 74.35 (3) (cm) A municipality may pay a refund under par. (c) in 5 annual
22 instalments, each of which except the last is equal to at least 20% of the amount of
23 the refund plus 20% of the interest on the refund at the rate of 0.8% per month,
24 beginning in the year of the determination, if all of the following conditions exist:

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1 1. The municipality's property tax levy for its general operations for the year
2 for which the taxes to be refunded are due is less than \$100,000,000.

3 2. The refund is at least 0.0025 of the municipality's levy for its general
4 operations for the year for which the taxes to be refunded are due.

5 3. The refund is more than \$10,000.

6 **SECTION 8.** 74.37 (3) (c) of the statutes is amended to read:

7 74.37 (3) (c) If the governing body of the taxation district or county that has a
8 county assessor system determines that a tax has been paid which was based on an
9 excessive assessment, and that the claim for an excessive assessment has complied
10 with all legal requirements, the governing body shall allow the claim. The Except
11 as provided in par. (cm), the taxation district or county treasurer shall pay the claim
12 not later than 90 days after the claim is allowed.

13 **SECTION 9.** 74.37 (3) (cm) of the statutes is created to read:

14 74.37 (3) (cm) A municipality may pay a refund under par. (c) in 5 annual
15 instalments, each of which except the last is equal to at least 20% of the amount of
16 the refund plus 20% of the interest on the refund at the rate of 0.8% per month,
17 beginning in the year of the determination, if all of the following conditions exist:

18 1. The municipality's property tax levy for its general operations for the year
19 for which the taxes to be refunded are due is less than \$100,000,000.

20 2. The refund is at least 0.0025 of the municipality's levy for its general
21 operations for the year for which the taxes to be refunded are due.

22 3. The refund is more than \$10,000.

23 **SECTION 10.** 74.41 (4) (b) of the statutes is amended to read:

24 74.41 (4) (b) Determine the amount of rescinded or refunded taxes and the
25 interest paid on those taxes to taxpayers under ss. 70.43 (3m), 70.511 (2) (bm), 74.35

