



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

February 10, 1998

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 355: Notices of Changed Assessments and Board of Review Training and Procedures

Assembly Bill 355 was introduced on May 15, 1997, and referred to the Assembly's Committee on Ways and Means. On October 29, 1997, the Committee adopted Assembly Substitute Amendment 1 on a 15-1 vote and recommended passage of AB 355, as amended, by a vote of 9-7. On October 30, the bill was referred to the Joint Committee on Finance.

### SUMMARY OF BILL

The substitute amendment would make a number of changes related to property assessments and to the procedures for appealing assessed values. The changes made by the substitute amendment would first apply to property assessments for January 1, 2000.

#### Assessment Notices

The substitute amendment would require assessors to notify individuals of any change in the assessed value of their property. Under current law, notification is required only when assessments increase by \$300 or more. This provision applies to real estate and improvements to property enrolled in the managed forest land program, but does not extend to personal property.

The substitute amendment would require assessment notices to precede by at least 15 days the initial meeting of the board of review or the board of assessors, whichever is applicable.

Under current law, a minimum of ten days notice is required. Also, under the substitute amendment, the assessment notice would have to include the time, date and place of the meeting of the board of review or board of assessors. Currently, the notice must include only the date of the board's meeting.

### **Public Notices**

The assessment roll is available for public review after the assessor completes property assessments. A public notice must be either published (Class 1) or posted informing the public of when the assessment roll may be reviewed. The substitute amendment would require the notice to be posted or published at least 15 days prior to the examination period. Current law simply requires the posting or publishing to precede the examination period.

A public notice must be issued prior to the first meeting of the board of review. Under current law, the notice simply has to be posted in three public places and at the place of the meeting. The substitute amendment would require a Class 1 notice to be published at least 15 days before the meeting. Also, the substitute amendment would repeal a related provision imposing a fine and/or imprisonment for persons intentionally altering, damaging, removing or concealing the posted public notice.

If the time of the first public meeting is changed, current law requires a public notice reporting that change to be published, if a city, or posted, if a town or village. The substitute amendment would lengthen the period between this notice and the new date for the meeting from 10 days to 15 days.

### **Assessor Requirements**

The substitute amendment would require the assessor to be present for at least two hours when the assessment roll is first made available for public review. Also, the assessor would have to be present at the first board of review meeting, during the period when the assessment roll is open for public review.

### **Department of Revenue Requirements**

The substitute amendment would impose three new requirements on the Department of Revenue (DOR). First, DOR would be required to provide or approve training for board of review members. Second, DOR would be required to publish and distribute instructional material regarding boards of review. The instructional material would provide information both to persons wishing to file objections and to board of review members. Third, the reasons for which DOR can revoke the certification of assessors would be expanded to include making a fraudulent change in the assessment roll after it is opened for examination. Currently, DOR may revoke

certifications if the certification was obtained through fraud or deceit or for negligence, incompetence or misconduct.

### **Board of Review Members**

The composition of boards of review differs between municipalities, but they generally contain four to nine members. All boards contain either the local government's chief executive officer or an appointee of that officer. The substitute amendment would require the chief executive officer or that officer's designee to have attended a DOR-sponsored or approved board of review training session within two years of the board's first meeting. Municipal clerks would be required to certify to DOR that this requirement has been met.

The substitute amendment would require municipalities, other than first or second class cities, to remove board members from hearing objections if appellants request the exclusion of a member or if a board member has a conflict of interest or a bias, as provided under an ordinance of the municipality. Appellants would be permitted to request the exclusion of only one board member, and the request must precede the hearing on the objection by at least 72 hours.

Further, members would be required to recuse themselves from decisions where participation would result in a violation of state law regarding the code of ethics for local government officials. When members are recused, the municipal clerk would be required to submit an affidavit to DOR declaring that a member was recused. These provisions would extend to all boards of review, including those of first or second class cities.

Boards would be permitted, but not required, to replace excused or recused members. However, at least three members would be required for all hearings.

### **Initial Board of Review Meeting**

Current law requires initial board of review meetings to be held during the 30-day period beginning on the second Monday in May, except that board meetings in municipalities under a county assessment system must be scheduled beginning with the second Monday in April. The substitute amendment removes the reference to the April meetings. Presumably, initial meetings for municipalities with county assessors would be scheduled during the 30-day period beginning on the second Monday in May. Currently, there are no county assessor systems in the state.

The substitute amendment would replace the current requirement that the initial board of review meeting last from 10 a.m. to 4 p.m. with a requirement that it last at least one hour.

Current law requires objections to values be filed prior to adjournment of the board's public hearings, but limits filings to no later than the fifth day the board is in session. The board

may waive this requirement upon a showing of good cause for failure to file. The substitute amendment repeals this provision, and instead, would require objections to be filed prior to adjournment of the board's first public hearing. The board would not be permitted to waive this requirement.

Under current law, boards are required to establish a schedule for hearing each objection. The substitute amendment repeals this provision, and instead, would establish a more specific directive. At its first meeting, the board would be required to schedule hearings for each objection received. Also, at the first meeting, the board would be required to reschedule any objections that the board determines cannot be heard at the time originally scheduled. These provisions appear contradictory, and the latter may be intended to apply to meetings after the first meeting.

The substitute amendment requires the board to schedule a hearing for each objection that it receives. A second provision would require the board to schedule objections when it determines that there is "good cause" to hear an objection. It is not clear whether or not the latter provision is intended to limit the former.

The substitute amendment would permit the board to hear objections at the initial board of review meeting if the assessor, the objector, and the board waive the 72-hour notice requirement.

The substitute amendment would require a minimum waiting period of five working days between the date of the first meeting, when the assessment roll is available for examination, and the next board meeting, when objections to assessments would be heard. This provision would extend only to municipalities not under a county assessor system.

### **General Requirements for Board of Review Meetings**

The substitute amendment requires the board to notify each objector and the assessor at least 72 hours before the objection is heard, unless the requirement is waived by the board of review, the objector and the assessor. This provision would replace the current law requirement that the board provide at least 48 hours notice of the hearing to the objector, the objector's attorney, the assessor and the municipality's attorney.

The substitute amendment would replace the requirement that board of review meetings last from 10 a.m. to 4 p.m. with a requirement that they last at least one hour.

The substitute amendment imposes several requirements not specified under current law. First, all determinations of objections would be by roll call vote. Second, the assessor would be required to provide specific information about the validity of each contested assessment and the information the assessor used to determine the value. Third, the board would be prohibited from lowering any value unless an objector or that person's attorney provides evidence or witnesses

supporting a change. Fourth, the board would be required to presume that the assessor's valuation is correct, although the presumption may be rebutted by the objector. Fifth, the board would be required to state on the record the correct assessment for each contested value and state that the assessment is reasonable in light of all the relevant evidence received by the board.

### **Objector Requirements**

The substitute amendment would impose several new requirements on individuals objecting to values.

First, during the period between the board's first meeting and its final adjournment, persons would be prohibited from contacting or providing information to board members about the person's objection, except at a session of the board.

Second, objectors would be required to notify the clerk of the board whether or not the removal of a board member is requested, and name the board member, and how long the objector believes the hearing will take. The notice from the objector would be required either 72 hours before the board's first meeting or at least 72 hours before the objection is scheduled.

Third, objectors would be required to specify in writing their estimates of the value of the land and the value of the improvements and the information used to arrive at those estimates, at least 72 hours before the board's first meeting or at least 72 hours before the objection is heard.

Fourth, if the income approach was used by the objector or the assessor in arriving at an opinion of value, the objector would be required to supply the assessor information about income and expenses that the assessor requests. The municipality or county would be required to enact an ordinance providing for the confidentiality of that information, except under limited exceptions. Further, the information would not be subject to the state's open records law.

The municipality would be required to post the preceding requirements plus the requirement under current law that objectors are not allowed to participate in a board hearing if they have refused a reasonable written request by certified mail of the assessor to view the property. The posting would occur in three public places and at the place of the meeting.

Finally, the substitute amendment would allow any person to provide the municipal clerk with written comments about valuations, assessment practices and the performance of an assessor. The clerk would be required to provide the comments to the appropriate municipal officer.

### **FISCAL EFFECT**

The Department of Revenue reports that provisions of the bill relating to providing information and training for Board of Review members and information on assessment appeals

for property owners would cause DOR to incur costs estimated at \$58,100 annually and at \$11,700 on a one-time basis. Training responsibilities would require the equivalent of one position. ASA 1 to AB 355 does not provide funding for these additional costs.

DOR estimates increased local costs of \$235,000, primarily related to informing property owners of assessment changes. Because the bill imposes other responsibilities and duties on local governments, other less quantifiable local costs may result.

Prepared by: Rick Olin

MO# ASA 1

BURKE	<input checked="" type="radio"/>	N	A
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JAUCH	<input checked="" type="radio"/>	<input checked="" type="radio"/>	A
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MO# passage as amended

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## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

February 10, 1998

TO: Senator Dale Schultz  
Representative Sheryl Albers

FROM: Rick Olin, Fiscal Analyst

SUBJECT: Summary of Amendment to AB 355

At your request, this memorandum summarizes provisions in LRBA 1573/4, which amends Assembly Substitute Amendment 1 to AB 355. The provisions are organized under the same headings used in the Bureau's analysis of the bill.

### **Assessment Notices**

The amendment does not make any changes to the substitute amendment regarding assessment notices.

### **Public Notices**

The substitute amendment would require a Class 1 notice to be published at least 15 days prior to the first meeting of the board of review. The amendment would require the notice also to be posted in three public places and on the door of the municipal building. The amendment would require the notice to include procedures to be followed by persons appealing their assessments. This negates the need for a provision in the substitute amendment that would require the procedures to be posted, and the amendment deletes that provision.

If a taxpayer shows that the clerk has failed to publish the notice, the amendment would permit taxpayers to file a claim against the municipality under s. 74.37 of the statutes. Currently, s. 74.37 of the statutes permits taxpayers to file claims for excessive assessments against municipalities if they have paid their taxes in a timely fashion and appealed their assessment to the board of review. The claim equals the tax paid on the part of the assessment that is

excessive. The appeal is made to the municipal governing body. Taxpayers in counties with populations exceeding 500,000 (Milwaukee) may not make claims under this provision.

The amendment would delete a section in the substitute amendment which repeals a current law provision. In doing so, the amendment would retain the provision imposing a fine and/or imprisonment for persons intentionally altering, damaging, removing or concealing the posted public notice of the initial board meeting.

### **Assessor Requirements**

The amendment would require the assessor to be present at all board of review meetings. This provision would replace the substitute amendment's requirement that the assessor be present for at least two hours at the initial meeting when the assessment roll is open for review.

### **Department of Revenue Requirements**

The amendment does not make any changes to the substitute amendment regarding DOR requirements.

### **Board of Review Members**

The amendment would modify the requirement that municipalities remove board members from hearing an objection because of "bias." The amendment would require that when a request for removal is based on a claim of bias, the requestor submit an affidavit stating he or she believes the member has a personal bias or prejudice against the requestor and stating the nature of the bias or prejudice.

When requesting the removal of a board member, the amendment would replace the requirement that the request be made at the time the objection is filed with a requirement that the request be made at the time the appellant provides written or oral notice of an intent to file an objection.

The amendment would reduce the period by which a request for removal must precede the hearing from 72 hours to 48 hours.

### **Initial Board of Review Meeting**

The amendment would lengthen the minimum time required for the initial board of review meeting from one hour to two hours. Current law requires an initial meeting of at least four

hours and one meeting prior to adjournment to last at least from 10 a.m. to 4 p.m., with one hour for lunch.

The substitute amendment would require objections be filed prior to adjournment of the board's first public hearing and would prohibit boards from waiving this requirement. The amendment would require objections to be filed within the first two hours of the board's first scheduled meeting. Also, the amendment would allow this requirement to be waived upon a showing of "extraordinary circumstances" but would limit such objections to the first five days the board is in session or the board's final meeting, if the board is in session less than five days.

The amendment repeals s. 70.47(3)(a) of the statutes, regarding board of review sessions, and creates several paragraphs in its place. The amendment would establish the following procedures relative to the first meeting:

- the board shall receive and examine the assessment roll (as under current law);
- the board shall be in session for at least two hours (an increase from one hour under the substitute amendment);
- the board shall schedule hearings for written objections (as under the substitute amendment);
- the board shall grant waivers to persons showing good cause for their failure to properly notify the board's clerk of their intent to object (similar to the requirement under the substitute amendment regarding filing objections);
- the board may hear written objections where the 48-hour notice requirement is either given or waived (the substitute amendment would require 72 hours notice and would not allow boards to hear objections unless the objections are filed 72 hours before the first meeting);
- the board shall adjourn its initial meeting if the assessment roll has not been completed and post a notice stating the time to which the meeting has been adjourned (as under current law); and
- boards of review under county assessor systems shall follow the same procedures that are established for other boards (retains the substitute amendment's deletion of the requirement that initial meetings be held in April).

### **General Requirements for Board of Review Meetings**

The amendment would require boards to require that any forms submitted by objectors "include stated valuations of the property in question." Current law requires that objections be made in writing but does not specify that the objector's opinion of value be in writing. The

amendment retains a current law provision permitting boards to waive the requirement that objections be in writing.

The amendment would remove the proposed provision that would prohibit boards from lowering any value unless an objector or that person's attorney provides evidence or witnesses supporting a change.

The amendment would require boards to reschedule hearings for individual objections when the board cannot comply with its original schedule and give 48 hours notice of subsequent hearings. This provision resolves a contradiction in the substitute amendment that requires hearings to be rescheduled at the same meeting where they are initially scheduled.

### **Objector Requirements**

The amendment would reduce the period by which a request for removal of a board member must precede the hearing from 72 hours to 48 hours.

The amendment would remove the 72-hour notice requirement with regard to the objector's estimates of value and, instead, require that information to be supplied when the objector appears before the board. Under the amendment, objectors would be required to give oral or written notice of their intent to file an objection within 48 hours of the board's first meeting. If a person subsequently files a written objection and shows "good cause" why that notice was not given, the amendment requires the board to waive the notice requirement. The objection would have to be filed at the board's first meeting or, if "extraordinary circumstances" can be shown, within the first five days the board is in session or by the board's adjournment, whichever is sooner.

The amendment would limit the income and expense information that an assessor may request to information related to the income approach to valuation that is enumerated in the Wisconsin Property Assessment Manual that is published by DOR.

The substitute amendment enumerates four requirements for objectors to follow and provides that these requirements, plus a current law requirement relating to refusing assessors' requests to view properties, be posted. The amendment would retain this provision and would also specify that these requirements must be published as a Class 1 notice.

If you have any questions on this information, please let me know.

RO/dls/sas

ASSEMBLY AMENDMENT TO ASSEMBLY AMENDMENT LRB a1573/4  
TO 1997 ASSEMBLY SUBSTITUTE AMENDMENT 1  
TO ASSEMBLY BILL 355

At the location indicated, amend the amendment as follows:

Page 2, line 17: delete "for all meetings" and substitute "at the first meeting".

(End)

MO# LFB 005

BURKE	<input checked="" type="radio"/>	N	A
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