

2013 DRAFTING REQUEST

Bill

Received: 9/19/2013 Received By: jkreye
Wanted: As time permits Same as LRB:
For: Alberta Darling (608) 266-5830 By/Representing: andrew
May Contact: Drafter: jkreye
Subject: Tax, Property - other Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Sen.Darling@legis.wisconsin.gov
Carbon copy (CC) to: joseph.kreye@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Assessment review

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	jkreye 11/13/2013	jdyer 10/2/2013	rschluet 10/2/2013	_____	lparisi 10/2/2013		State S&L
/1		jdyer 11/13/2013	rschluet 11/13/2013	_____	rose 11/13/2013	lparisi 11/14/2013	State S&L

FE Sent For:

at
intro

<END>

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/1		jdyer 11/13/2013	rschluet 11/13/2013	_____	srose 11/13/2013		State S&L

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/P1	jkreye 9/20/2013	jdyer 10/2/2013	rschluet 10/2/2013	_____	lparisi 10/2/2013		State S&L

FE Sent For:

Handwritten signatures and notes:
 11/13 jld
 jdk
 10/2/13
 <END>

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/P1	jkreye	P1 10/2 jld		==			

FE Sent For:

<END>

Kreye, Joseph

From: Evenson, Andrew
Sent: Thursday, September 19, 2013 10:47 AM
To: Kreye, Joseph
Subject: Tax Assessment
Attachments: 20130919110158645.pdf

Hello,

Attached is the draft language for revisions to the Tax Assessment laws. Please let me know if you have any questions.

Sincerely,

Andrew Evenson
Office of State Senator Alberta Darling
State Capitol 317 East
(608) 266-5830

1. Notice of Assessment. Sections 70.365 and 70.47 state that notice shall be given at least 15 days prior to the Board of Review. We would propose changing "15" to "60" – as this is best practice under the Council on State Taxation (COST) guidelines. Alternatively, a 30 or 45 day notice would be much more helpful.
2. Board of Review Proceedings. Currently the taxpayer or representative must attend the Board of Review proceedings unless the Board waives. Under Section 70.47(8), we would propose that the board allows for written submissions by the taxpayer (under oath) in lieu of a physical appearance by the taxpayer or representative. In addition, we would add after Section 70.47(8)(i), "That presumption may be rebutted by a sufficient showing by the objector that the valuation is incorrect **by a preponderance of the evidence**" (added language bolded)
3. Appeal of Values to Circuit Court. Under Section 74.37, the taxpayer can file a Claim for excessive assessment, and when this claim is denied, file a case in circuit court. We would propose adding language in Section 74.37(3)(d), as follows: "If the taxation district or county disallows the claim, the claimant may commence an action in circuit court **or Tax Appeals Commission if the assessment is above \$1,000,000** to recover the amount of the claim not allowed" (added language bolded). Section 73.01 would need additional language clarifying the tax appeals commission power under section 74.37(3)(d)



JLD

Friday
Comb

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

m 9-20-13
D-N

X

1

Gen
AN ACT ...; relating to: objecting to property tax assessments.✓

Analysis by the Legislative Reference Bureau

Under current law, generally, when an assessor assesses property and determines the property's assessment is different from the property's assessment for the previous year, the assessor must provide written notice of the changed assessment to the property owner at least 15 days before the meeting of the board of review. Under this bill, a notice of changed assessment must be sent at least 60 days before the meeting of the board of review.

Under current law, generally, a property owner, or the property owner's representative, must appear in person at the board of review hearing to testify under oath regarding his or her objection to a property tax assessment. This bill permits a property owner, to submit written statements, under oath, instead of appearing at the hearing.✓

Under current law, the board of review must presume that the assessor's assessment is correct, but the property owner may rebut that presumption by a sufficient showing that the assessment is incorrect. Under the bill, the property owner may rebut the presumption that the assessment is correct by showing by the preponderance of the evidence that the assessment is incorrect.✓

Finally, under current law, a property owner may file a claim for an excessive assessment with the taxation district where the property is located. If the taxation district disallows the claim, the property owner may commence an action in circuit court to recover the amount of the disallowed claim. Under this bill, if the assessment exceeds \$1,000,000, the property owner may commence an action with the tax appeals commission rather than in the circuit court.✓

For further information see the *state and 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.** 70.365 of the statutes is amended to read:

2 **70.365 Notice of changed assessment.** When the assessor assesses any
3 taxable real property, or any improvements taxed as personal property under s. 77.84
4 (1), and arrives at a different total than the assessment of it for the previous year,
5 the assessor shall notify the person assessed if the address of the person is known
6 to the assessor, otherwise the occupant of the property. If the assessor determines
7 that land assessed under s. 70.32 (2r) for the previous year is no longer eligible to be
8 assessed under s. 70.32 (2r), and the current classification under s. 70.32 (2) (a) is not
9 undeveloped, agricultural forest, productive forest land, or other, the assessor shall
10 notify the person assessed if the assessor knows the person's address, or otherwise
11 the occupant of the property, that the person assessed may be subject to a conversion
12 charge under s. 74.485. Any notice issued under this section shall be in writing and
13 shall be sent by ordinary mail at least 15 [✓]60 days before the meeting of the board of
14 review or before the meeting of the board of assessors in 1st class cities and in 2nd
15 class cities that have a board of assessors under s. 70.075 and shall contain the
16 amount of the changed assessment and the time, date, and place of the meeting of
17 the local board of review or of the board of assessors. However, if the assessment roll
18 is not complete, the notice shall be sent by ordinary mail at least 15 [✓]60 days prior to
19 the date to which the board of review has adjourned. The assessor shall attach to the
20 assessment roll a statement that the notices required by this section have been
21 mailed and failure to receive the notice shall not affect the validity of the changed

1 assessment, the resulting changed tax, the procedures of the board of review or of the
 2 board of assessors or the enforcement of delinquent taxes by statutory means. After
 3 the person assessed or the occupant of the property receives notice under this section,
 4 if the assessor changes the assessment as a result of the examination of the rolls as
 5 provided in s. 70.45 and the person assessed waives, in writing and on a form
 6 prescribed or approved by the department of revenue, the person's right to the
 7 ~~15-day~~ ^{⊖ ← scored hyphen} 60 day notice of the changed assessment, no additional notice is required
 8 under this section. The secretary of revenue shall prescribe the form of the notice
 9 required under this section. The form shall include information notifying the
 10 taxpayer of the procedures to be used to object to the assessment. The form shall also
 11 indicate whether the person assessed may be subject to a conversion charge under
 12 s. 74.485.

13 **History:** 1977 c. 418; 1981 c. 20; 1983 a. 490; 1991 a. 248; 1997 a. 237; 2007 a. 210.

SECTION 2. 70.47 (2) of the statutes is amended to read:

14 **70.47 (2) NOTICE.** At least ~~15~~ [✓] 60 days before the first session of the board of
 15 review, the clerk of the board of review shall publish a class 1 notice, place a notice
 16 in at least 3 public places and place a notice on the door of the town hall, of the village
 17 hall, of the council chambers or of the city hall of the time and place of the first
 18 meeting of the board of review under sub. (3) and of the requirements under sub. (7)
 19 (aa) and (ac) to (af). A taxpayer who shows that the clerk failed to publish the notice
 20 under this subsection may file a claim under s. 74.37.

History: 1973 c. 90; 1975 c. 151, 199, 427; 1977 c. 29 ss. 755, 1647 (8); 1977 c. 273; 1977 c. 300 ss. 2, 8; 1977 c. 414; 1979 c. 34 ss. 878 to 880, 2102 (46) (b); 1979 c. 95, 110, 355; 1981 c. 20, 289; 1983 a. 192, 219, 432; 1985 a. 39; 1985 a. 120 ss. 155, 3202 (46); 1985 a. 188 s. 16; 1987 a. 27, 139, 254, 378, 399; 1989 a. 31; 1991 a. 39, 156, 218, 315, 316; 1993 a. 82, 307; 1997 a. 237, 252, 283; 2001 a. 109; 2005 a. 187; 2007 a. 86; 2011 a. 161.

21 **SECTION 3.** 70.47 (8) (intro.) of the statutes is amended to read:

22 **70.47 (8) HEARING.** (intro.) The board shall hear upon oath all persons who
 23 appear before it in relation to the assessment and shall allow the property owner, or

SECTION 3

1 the property owner's representative, to submit written statements, under oath,
 2 instead of appearing at the hearing. ✓ The board shall hear upon oath, by telephone,
 3 all ill or disabled persons who present to the board a letter from a physician,
 4 osteopath, physician assistant, as defined in s. 448.01 (6), or advanced practice nurse
 5 prescriber certified under s. 441.16 (2) that confirms their illness or disability. The
 6 board at such hearing shall proceed as follows:

History: 1973 c. 90; 1975 c. 151, 199, 427; 1977 c. 29 ss. 755, 1647 (8); 1977 c. 273; 1977 c. 300 ss. 2, 8; 1977 c. 414; 1979 c. 34 ss. 878 to 880, 2102 (46) (b); 1979 c. 95, 110, 355; 1981 c. 20, 289; 1983 a. 192, 219, 432; 1985 a. 39; 1985 a. 120 ss. 155, 3202 (46); 1985 a. 188 s. 16; 1987 a. 27, 139, 254, 378, 399; 1989 a. 31; 1991 a. 39, 156, 218, 315, 316; 1993 a. 82, 307; 1997 a. 237, 252, 283; 2001 a. 109; 2005 a. 187; 2007 a. 86; 2011 a. 161.

7 **SECTION 4. 70.47 (8) (i)** of the statutes is amended to read:

8 70.47 (8) (i) The board shall presume that the assessor's valuation is correct.
 9 That presumption may be rebutted by a sufficient showing by the objector showing
 10 by the preponderance of the evidence that the valuation is incorrect.

History: 1973 c. 90; 1975 c. 151, 199, 427; 1977 c. 29 ss. 755, 1647 (8); 1977 c. 273; 1977 c. 300 ss. 2, 8; 1977 c. 414; 1979 c. 34 ss. 878 to 880, 2102 (46) (b); 1979 c. 95, 110, 355; 1981 c. 20, 289; 1983 a. 192, 219, 432; 1985 a. 39; 1985 a. 120 ss. 155, 3202 (46); 1985 a. 188 s. 16; 1987 a. 27, 139, 254, 378, 399; 1989 a. 31; 1991 a. 39, 156, 218, 315, 316; 1993 a. 82, 307; 1997 a. 237, 252, 283; 2001 a. 109; 2005 a. 187; 2007 a. 86; 2011 a. 161.

11 **SECTION 5. 73.01 (4) (a)** of the statutes is amended to read:

12 73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015,
 13 the commission shall be the final authority for the hearing and determination of all
 14 questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss.
 15 70.38 (4) (a), 70.397, 70.64, 74.37 (3) (d), and 70.995 (8), ^{and} s. 76.38 (12) (a), 1993 stats.,
 16 ss. 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (5m) and (6) (b), 78.01, 78.22, 78.40,
 17 78.555, 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76, 139.78, 341.405, and
 18 341.45, subch. XIV of ch. 71, and subch. VII of ch. 77. Whenever with respect to a
 19 pending appeal there is filed with the commission a stipulation signed by the
 20 department of revenue and the adverse party, under s. 73.03 (25), or the department
 21 of transportation and the adverse party agreeing to an affirmance, modification, or
 22 reversal of the department of revenue's or department of transportation's position
 23 with respect to some or all of the issues raised in the appeal, the commission shall

1 enter an order affirming or modifying in whole or in part, or canceling the assessment
2 appealed from, or allowing in whole or in part or denying the petitioner's refund
3 claim, as the case may be, pursuant to and in accordance with the stipulation filed.
4 No responsibility shall devolve upon the commission, respecting the signing of an
5 order of dismissal as to any pending appeal settled by the department of revenue or
6 the department of transportation without the approval of the commission.

History: 1973 c. 90; 1975 c. 39, 199; 1977 c. 29; 1979 c. 177 s. 85; 1979 c. 221; 1981 c. 20, 317; 1983 a. 27, 277; 1985 a. 29 ss. 1403 to 1411, 3202 (56) (d); 1987 a. 27 ss. 1542m, 1543m, 3202 (47) (a); 1987 a. 142, 186, 198, 312, 399, 405; 1989 a. 31; 1989 a. 56 s. 259; 1989 a. 335; 1991 a. 39, 262, 315, 316; 1993 a. 184, 213; 1995 a. 351; 1997 a. 27; 1999 a. 145; 2001 a. 16; 2003 a. 33; 2005 a. 49; 2007 a. 49; 2011 a. 68.

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

8 74.37 (3) (d) If the taxation district or county disallows the claim, the claimant
9 may commence an action in circuit court or, if the assessment exceeds \$1,000,000,
10 with the tax appeals commission to recover the amount of the claim not allowed. The
11 action shall be commenced within 90 days after the claimant receives notice by
12 registered or certified mail that the claim is disallowed.

History: 1987 a. 378; 1989 a. 104; 1993 a. 292; 1995 a. 368; 2007 a. 86.

13 **SECTION 7.** 74.39 (1) of the statutes is amended to read:

14 74.39 (1) ~~COURT MAY ORDER~~ ORDER. Except as provided in sub. (3), in any action
15 under s. 74.35 (3) or 74.37 (3), if the court or tax appeals commission determines that
16 a reassessment of the property upon which the taxes were paid is necessary, the court
17 or tax appeals commission, before entering judgment, shall continue the action to
18 permit reassessment of the property. If, based on the reassessment, the court or tax
19 appeals commission determines that the amount of taxes paid by the plaintiff is not
20 excessive, judgment shall be entered for the defendant. If, based on the
21 reassessment, the court or tax appeals commission determines that the amount of
22 taxes paid by the plaintiff is excessive, judgment shall be entered for the plaintiff for
23 the amount of the excessive taxes paid.

History: 1987 a. 378.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3192/P1dn

JK:↗:...

date

Jld

Senator Darling:

Please review this draft carefully to ensure that it is consistent with your intent. ✓

Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

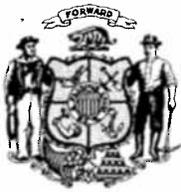
LRB-3192/P1dn
JK:jld:rs

October 2, 2013

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Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3192/P1
JK:jld:rs

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2013 BILL

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Regen

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1 AN ACT to amend 70.365, 70.47 (2), 70.47 (8) (intro.), 70.47 (8) (i), 73.01 (4) (a),
2 74.37 (3) (d), 74.39 (1) and 74.39 (3) of the statutes; relating to: objecting to
3 property tax assessments.

Analysis by the Legislative Reference Bureau

Under current law, generally, when an assessor assesses property and determines the property's assessment is different from the property's assessment for the previous year, the assessor must provide written notice of the changed assessment to the property owner at least 15 days before the meeting of the board of review. Under this bill, a notice of changed assessment must be sent at least 60 days before the meeting of the board of review.

Under current law, generally, a property owner, or the property owner's representative, must appear in person at the board of review hearing to testify under oath regarding his or her objection to a property tax assessment. This bill permits a property owner, to submit written statements, under oath, instead of appearing at the hearing.

Under current law, the board of review must presume that the assessor's assessment is correct, but the property owner may rebut that presumption by a sufficient showing that the assessment is incorrect. Under the bill, the property owner may rebut the presumption that the assessment is correct by showing by the preponderance of the evidence that the assessment is incorrect.

Finally, under current law, a property owner may file a claim for an excessive assessment with the taxation district where the property is located. If the taxation district disallows the claim, the property owner may commence an action in circuit

court to recover the amount of the disallowed claim. Under this bill, if the assessment exceeds \$1,000,000, the property owner may commence an action with the tax appeals commission rather than in the circuit court.

For further information see the *state and 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.** 70.365 of the statutes is amended to read:

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6 to the assessor, otherwise the occupant of the property. If the assessor determines
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8 assessed under s. 70.32 (2r), and the current classification under s. 70.32 (2) (a) is not
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10 notify the person assessed if the assessor knows the person's address, or otherwise
11 the occupant of the property, that the person assessed may be subject to a conversion
12 charge under s. 74.485. Any notice issued under this section shall be in writing and
13 shall be sent by ordinary mail at least ~~15~~ 60 days before the meeting of the board of
14 review or before the meeting of the board of assessors in 1st class cities and in 2nd
15 class cities that have a board of assessors under s. 70.075 and shall contain the
16 amount of the changed assessment and the time, date, and place of the meeting of
17 the local board of review or of the board of assessors. However, if the assessment roll
18 is not complete, the notice shall be sent by ordinary mail at least ~~15~~ 60 days prior to
19 the date to which the board of review has adjourned. The assessor shall attach to the

1 assessment roll a statement that the notices required by this section have been
2 mailed and failure to receive the notice shall not affect the validity of the changed
3 assessment, the resulting changed tax, the procedures of the board of review or of the
4 board of assessors or the enforcement of delinquent taxes by statutory means. After
5 the person assessed or the occupant of the property receives notice under this section,
6 if the assessor changes the assessment as a result of the examination of the rolls as
7 provided in s. 70.45 and the person assessed waives, in writing and on a form
8 prescribed or approved by the department of revenue, the person's right to the
9 ~~15-day~~ 60-day notice of the changed assessment, no additional notice is required
10 under this section. The secretary of revenue shall prescribe the form of the notice
11 required under this section. The form shall include information notifying the
12 taxpayer of the procedures to be used to object to the assessment. The form shall also
13 indicate whether the person assessed may be subject to a conversion charge under
14 s. 74.485.

15 **SECTION 2.** 70.47 (2) of the statutes is amended to read:

16 70.47 (2) NOTICE. At least ~~15~~ 60 days before the first session of the board of
17 review, the clerk of the board of review shall publish a class 1 notice, place a notice
18 in at least 3 public places and place a notice on the door of the town hall, of the village
19 hall, of the council chambers or of the city hall of the time and place of the first
20 meeting of the board of review under sub. (3) and of the requirements under sub. (7)
21 (aa) and (ac) to (af). A taxpayer who shows that the clerk failed to publish the notice
22 under this subsection may file a claim under s. 74.37.

23 **SECTION 3.** 70.47 (8) (intro.) of the statutes is amended to read:

24 70.47 (8) HEARING. (intro.) The board shall hear upon oath all persons who
25 appear before it in relation to the assessment and shall allow the property owner, or

1 the property owner's representative, to submit written statements, under oath,
2 instead of appearing at the hearing. The board shall hear upon oath, by telephone,
3 all ill or disabled persons who present to the board a letter from a physician,
4 osteopath, physician assistant, as defined in s. 448.01 (6), or advanced practice nurse
5 prescriber certified under s. 441.16 (2) that confirms their illness or disability. The
6 board at such hearing shall proceed as follows:

7 **SECTION 4.** 70.47 (8) (i) of the statutes is amended to read:

8 70.47 (8) (i) The board shall presume that the assessor's valuation is correct.
9 That presumption may be rebutted by ~~a sufficient showing by the objector~~ showing
10 by the preponderance of the evidence that the valuation is incorrect.

11 **SECTION 5.** 73.01 (4) (a) of the statutes is amended to read:

12 73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015,
13 the commission shall be the final authority for the hearing and determination of all
14 questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss.
15 70.38 (4) (a), 70.397, 70.64, and 70.995 (8), and 74.37 (3) (d), s. 76.38 (12) (a), 1993
16 stats., ss. 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (5m) and (6) (b), 78.01, 78.22,
17 78.40, 78.555, 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76, 139.78,
18 341.405, and 341.45, subch. XIV of ch. 71, and subch. VII of ch. 77. Whenever with
19 respect to a pending appeal there is filed with the commission a stipulation signed
20 by the department of revenue and the adverse party, under s. 73.03 (25), or the
21 department of transportation and the adverse party agreeing to an affirmance,
22 modification, or reversal of the department of revenue's or department of
23 transportation's position with respect to some or all of the issues raised in the appeal,
24 the commission shall enter an order affirming or modifying in whole or in part, or
25 canceling the assessment appealed from, or allowing in whole or in part or denying

1 the petitioner's refund claim, as the case may be, pursuant to and in accordance with
2 the stipulation filed. No responsibility shall devolve upon the commission,
3 respecting the signing of an order of dismissal as to any pending appeal settled by
4 the department of revenue or the department of transportation without the approval
5 of the commission.

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

7 74.37 (3) (d) If the taxation district or county disallows the claim, the claimant
8 may commence an action in circuit court or, if the assessment exceeds \$1,000,000,
9 with the tax appeals commission to recover the amount of the claim not allowed. The
10 action shall be commenced within 90 days after the claimant receives notice by
11 registered or certified mail that the claim is disallowed.

12 **SECTION 7.** 74.39 (1) of the statutes is amended to read:

13 74.39 (1) ~~COURT MAY ORDER ORDER.~~ Except as provided in sub. (3), in any action
14 under s. 74.35 (3) or 74.37 (3), if the court or tax appeals commission determines that
15 a reassessment of the property upon which the taxes were paid is necessary, the court
16 or tax appeals commission, before entering judgment, shall continue the action to
17 permit reassessment of the property. If, based on the reassessment, the court or tax
18 appeals commission determines that the amount of taxes paid by the plaintiff is not
19 excessive, judgment shall be entered for the defendant. If, based on the
20 reassessment, the court or tax appeals commission determines that the amount of
21 taxes paid by the plaintiff is excessive, judgment shall be entered for the plaintiff for
22 the amount of the excessive taxes paid.

23 **SECTION 8.** 74.39 (3) of the statutes is amended to read:

24 74.39 (3) EXCEPTION. The court or tax appeals commission may proceed to
25 judgment without ordering a reassessment under sub. (1), if the court or tax appeals

1 commission finds that to do so is in the best interests of all parties to the action and
2 if the court or tax appeals commission is able to determine the amount of unlawful
3 taxes with reasonable certainty.

4 **SECTION 9. Initial applicability.**

5 (1) This act first applies to the property tax assessments as of January 1, 2014.

6 (END)

Parisi, Lori

From: Evenson, Andrew
Sent: Thursday, November 14, 2013 4:05 PM
To: LRB.Legal
Subject: Draft Review: LRB -3192/1 Topic: Assessment review

Please Jacket LRB -3192/1 for the SENATE.