



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-1337/1
JK:kjf

2017 ASSEMBLY BILL 15

January 12, 2017 - Introduced by Representative OTT, by request of Department of Revenue. Referred to Committee on Judiciary.

1 **AN ACT to repeal** 70.47 (7) (c), 70.47 (8) (j), 70.47 (16) (c), 74.37 (4) (d) and 74.37
2 (6); and **to amend** 70.47 (8) (d), 70.47 (13), 70.47 (16) (a), 73.03 (2a) and 74.37
3 (4) (c) of the statutes; **relating to:** changes to board of review proceedings
4 (suggested as remedial legislation by the Department of Revenue).

Analysis by the Legislative Reference Bureau

This bill eliminates provisions related to board of review proceedings for hearing objections to property tax assessments that the Wisconsin Supreme Court found unconstitutional in *Metropolitan Associates v. City of Milwaukee*, 2011 WI 20, 332 Wis. 2d 85, 796 N.W.2d 717, and *Nankin v. Village of Shorewood*, 2001 WI 92, 245 Wis. 2d 86, 630 N.W.2d 141.

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

5 **SECTION 1.** 70.47 (7) (c) of the statutes is repealed.

6 **SECTION 2.** 70.47 (8) (d) of the statutes is amended to read:

7 70.47 (8) (d) It may and upon request of either the assessor or the objector shall
8 compel the attendance of witnesses for hearing, except objectors who may testify by

ASSEMBLY BILL 15**SECTION 2**

1 telephone, and the production of all books, inventories, appraisals, documents and
2 other data which may throw light upon the value of property, and, with regard to an
3 objection that is subject to sub. (7) (c) or (16) (c), may, on a showing of good cause,
4 compel the attendance of witnesses for depositions.

5 **SECTION 3.** 70.47 (8) (j) of the statutes is repealed.

6 **SECTION 4.** 70.47 (13) of the statutes is amended to read:

7 70.47 (13) REVIEW CERTIORARI. Except as provided in this subsection and in ss.
8 s. 70.85 and 74.37, appeal from the determination of the board of review shall be by
9 an action for certiorari commenced within 90 days after the taxpayer receives the
10 notice under sub. (12). The action shall be given preference. If the court on the appeal
11 finds any error in the proceedings of the board which renders the assessment or the
12 proceedings void, or if the court determines that the board lacked good cause to deny
13 a request for a deposition subpoena, it shall remand the assessment to the board for
14 further proceedings in accordance with the court's determination and retain
15 jurisdiction of the matter until the board has determined an assessment in
16 accordance with the court's order. For this purpose, if final adjournment of the board
17 occurs prior to the court's decision on the appeal, the court may order the governing
18 body of the assessing authority to reconvene the board. If the appellant challenges
19 the value determination that the board made at a proceeding under sub. (7) (c), the
20 court shall presume that the board's valuation is correct, except that the
21 presumption may be rebutted by a sufficient showing by the appellant that the
22 valuation is incorrect. If the presumption is rebutted, the court shall determine the
23 assessment without deference to the board of review and based on the record before
24 the board of review, except that the court may consider evidence that was not
25 available at the time of the hearing before the board, that the board refused to

ASSEMBLY BILL 15

1 ~~consider, or that the court otherwise determines should be considered in order to~~
2 ~~determine the correct assessment. In the event that an objection to the previous~~
3 ~~year's assessment has not been resolved, the parties may agree that the assessment~~
4 ~~for the previous year shall also apply for the current year and shall be included in~~
5 ~~the court's review of the prior year's assessment without an additional hearing by the~~
6 ~~board.~~

7 **SECTION 5.** 70.47 (16) (a) of the statutes is amended to read:

8 70.47 (16) (a) In 1st class cities all objections to the amount or valuation of real
9 or personal property shall be first made in writing and filed with the commissioner
10 of assessments on or before the 3rd Monday in May. No person may, in any action
11 or proceeding, question the amount or valuation of real or personal property in the
12 assessment rolls of the city unless objections have been so filed. The board may not
13 waive the requirement that objections be in writing. Persons who own land and
14 improvements to that land may object to the aggregate valuation of that land and
15 improvements to that land, but no person who owns land and improvements to that
16 land may object only to the valuation of that land or only to the valuation of
17 improvements to that land. If the objections have been investigated by a committee
18 of the board of assessors under s. 70.07 (6), the board of review may adopt the
19 recommendation of the committee unless the objector requests or the board orders
20 a hearing. At least 2 days' notice of the time fixed for the hearing shall be given to
21 the objector or attorney and to the city attorney of the city. The provisions of the
22 statutes relating to boards of review not inconsistent with this subsection apply to
23 proceedings before the boards of review of 1st class cities, except that the board need
24 not adjourn until the assessment roll is completed by the commissioner of
25 assessments, as required in s. 70.07 (6), but may immediately hold hearings on

ASSEMBLY BILL 15**SECTION 5**

1 objections filed with the commissioner of assessments, and the changes, corrections
2 and determinations made by the board acting within its powers shall be prima facie
3 correct. Appeal from the determination shall be by an action under ~~sub. (13)~~ for
4 certiorari commenced within 90 days after the taxpayer receives the notice under
5 sub. (12). The action shall be given preference. ~~If the court on the appeal finds any~~
6 ~~error in the proceedings of the board that renders the assessment or the proceedings~~
7 ~~void or, with regard to an objection that is subject to par. (c), if the court determines~~
8 ~~that the board lacked good cause to deny a request for a deposition subpoena, it shall~~
9 ~~remand the assessment to the board for further proceedings in accordance with the~~
10 ~~court's determination and retain jurisdiction of the matter until the board has~~
11 ~~determined an assessment in accordance with the court's order. If the appellant~~
12 ~~challenges the value determination that the board made at a proceeding under sub.~~
13 ~~(16) (c), the court shall presume that the board's valuation is correct, except that the~~
14 ~~presumption may be rebutted by a sufficient showing by the appellant that the~~
15 ~~valuation is incorrect. If the presumption is rebutted, the court shall determine the~~
16 ~~assessment without deference to the board of review and based on the record before~~
17 ~~the board of review, except that the court may consider evidence that was not~~
18 ~~available at the time of the hearing before the board or that the board refused to~~
19 ~~consider, or that the court otherwise determines should be considered in order to~~
20 ~~determine the correct assessment. In the event that an objection to the previous~~
21 ~~year's assessment has not been resolved, the parties may agree that the assessment~~
22 ~~for the previous year shall also apply for the current year and shall be included in~~
23 ~~the court's review of the prior year's assessment without an additional hearing by the~~
24 ~~board.~~

25 **SECTION 6.** 70.47 (16) (c) of the statutes is repealed.

ASSEMBLY BILL 15

1 **SECTION 7.** 73.03 (2a) of the statutes is amended to read:

2 73.03 (2a) To prepare and publish, in electronic form and on the Internet,
3 assessment manuals. The manual shall discuss and illustrate accepted assessment
4 methods, techniques and practices with a view to more nearly uniform and more
5 consistent assessments of property at the local level. The manual shall be amended
6 by the department from time to time to reflect advances in the science of assessment,
7 court decisions concerning assessment practices, costs, and statistical and other
8 information considered valuable to local assessors by the department. The manual
9 shall incorporate standards for the assessment of all types of renewable energy
10 resource systems used in this state as soon as such systems are used in sufficient
11 numbers and sufficient data exists to allow the formulation of valid guidelines. The
12 manual shall incorporate standards, which the department of revenue and the state
13 historical society of Wisconsin shall develop, for the assessment of nonhistoric
14 property in historic districts and for the assessment of historic property, including
15 but not limited to property that is being preserved or restored; property that is
16 subject to a protective easement, covenant or other restriction for historic
17 preservation purposes; property that is listed in the national register of historic
18 places in Wisconsin or in this state's register of historic places and property that is
19 designated as a historic landmark and is subject to restrictions imposed by a
20 municipality or by a landmarks commission. The manual shall incorporate general
21 guidelines about ways to determine whether property is taxable in part under s.
22 70.1105 and examples of the ways that s. 70.1105 applies in specific situations. The
23 manual shall state that assessors are required to comply with s. 70.32 (1g) and shall
24 suggest procedures for doing so. The manual or a supplement to it shall specify per
25 acre value guidelines for each municipality for various categories of agricultural land

ASSEMBLY BILL 15**SECTION 7**

1 based on the income that could be generated from its estimated rental for
2 agricultural use, as defined by rule, and capitalization rates established by rule. The
3 manual shall include guidelines for classifying land as agricultural land, as defined
4 in s. 70.32 (2) (c) 1g., and guidelines for distinguishing between land and
5 improvements to land. ~~The manual shall specify the evidence to be exchanged under~~
6 ~~s. 70.47 (7) (e) and (16) (e).~~ The cost of the development, preparation, and Internet
7 publication of the manual and of revisions and amendments to it shall be paid from
8 the appropriation under s. 20.566 (2) (bm).

9 **SECTION 8.** 74.37 (4) (c) of the statutes is amended to read:

10 74.37 (4) (c) No claim or action for an excessive assessment may be brought or
11 maintained under this section if the assessment of the property for the same year is
12 contested under s. 70.47 (7) (e), (13), ~~or (16) (e)~~ or 70.85. No assessment may be
13 contested under s. 70.47 (7) (e), (13), ~~or (16) (e)~~ or 70.85 if a claim is brought and
14 maintained under this section based on the same assessment.

15 **SECTION 9.** 74.37 (4) (d) of the statutes is repealed.

16 **SECTION 10.** 74.37 (6) of the statutes is repealed.

17 **(END)**