

1999 ASSEMBLY BILL 186

March 8, 1999 – Introduced by Representatives M. LEHMAN, KAUFERT, MUSSER, STASKUNAS, GROTHMAN, F. LASEE and JESKEWITZ, cosponsored by Senators DRZEWIECKI and GROBSCHMIDT. Referred to Committee on Ways and Means.

1 **AN ACT to amend** 70.511 (2) (b), 70.995 (5), 70.995 (6), 70.995 (8) (b), 70.995 (8)
2 (c), 70.995 (8) (d), 70.995 (12) (a), 70.995 (12) (b), 70.995 (12) (c), 74.35 (3) (c) and
3 74.37 (3) (c); and **to create** 20.835 (2) (bm), 70.511 (2) (bm), 70.511 (2) (br), 74.23
4 (1) (a) 5., 74.25 (1) (a) 4m., 74.30 (1) (dm), 74.35 (3) (cm) and 74.37 (3) (cm) of
5 the statutes; **relating to:** instalment payments of refunds of taxes on
6 manufacturing property, appeals of manufacturing property taxes, distribution
7 of taxes on manufacturing property and the interest on refunded and additional
8 taxes on manufacturing property, the deadline for classification of property as
9 manufacturing, manufacturers' reports and making an appropriation.

Analysis by the Legislative Reference Bureau

The department of revenue (DOR) currently assesses manufacturing property for property taxes. DOR has sole discretion to determine what property is classified as manufacturing property for property tax purposes. If a reviewing authority for property assessments reduces a manufacturing property's assessed value or determines that manufacturing property is exempt from property tax, an affected taxpayer may file a claim with the municipality for a property tax refund. The municipality pays the refund to the taxpayer in one sum that includes interest on the refund amount, paid at the rate of 0.8% a month.

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Currently, a manufacturer may file an objection to a property tax assessment of its manufacturing property with the state board of assessors within 60 days of receiving notice from DOR of the assessment of the manufacturer's property.

Under this bill, property may be classified as manufacturing property in any year only if on or before March 1 of that year DOR has classified it as manufacturing or the owner has requested that classification and DOR has complied with the request. Under the bill, a municipality may pay a property tax refund to an owner of manufacturing property in five annual instalments rather than all at once, and the interest on the refund amount is paid either at a rate of 10% a year or at a rate determined by the last auction of six-month U.S. treasury bills, whichever is less.

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.** 20.835 (2) (bm) of the statutes is created to read:

2 20.835 (2) (bm) *Payments of interest on overassessments of manufacturing*
3 *property.* A sum sufficient to make the payments under s. 70.511 (2) (br).

4 **SECTION 2.** 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; or for property assessed under s. 70.995
15 at the average annual discount interest rate determined by the last auction of

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1 6-month U.S. treasury bills before the appeal or objection is filed or 10% per year,
2 whichever is less; shall be paid to the taxpayer when the claim is paid. If the taxpayer
3 requests a postponement of proceedings before the reviewing authority, interest on
4 the claim shall permanently stop accruing at the date of the request. If the hearing
5 is postponed at the request of the taxpayer, the reviewing authority shall hold a
6 hearing on the appeal within 30 days after the postponement is requested unless the
7 taxpayer agrees to a longer delay. If the reviewing authority postpones the hearing
8 without a request by the taxpayer, interest on the claim shall continue to accrue. No
9 interest may be paid if the reviewing authority determines under s. 70.995 (8) (a) that
10 the value of the property was reduced because the taxpayer supplied false or
11 incomplete information. If taxes are refunded, the municipality may proceed under
12 s. 74.41.

13 **SECTION 3.** 70.511 (2) (bm) of the statutes is created to read:

14 70.511 (2) (bm) A municipality may pay a refund under par. (b) of the taxes on
15 property that is assessed under s. 70.995 in 5 annual instalments, each of which
16 except the last is equal to at least 20% of the sum of the refund and the interest on
17 the refund that is due, beginning on the date under par. (b), if all of the following
18 conditions exist:

19 1. 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.

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

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

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

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1 70.511 (2) (br) From the appropriation under s. 20.835 (2) (bm), the department
2 of administration shall pay to each municipality that pays a refund under par. (b) for
3 property that is assessed under s. 70.995 or that pays a refund under par. (bm) an
4 amount equal to the interest that is paid by the municipality in the previous
5 biennium and that has accrued up to the date of the determination by the tax appeals
6 commission of the municipality's obligation.

7 **SECTION 5.** 70.995 (5) of the statutes is amended to read:

8 70.995 (5) ~~Commencing January 1, 1974, and annually thereafter, the The~~
9 department of revenue shall assess all property of manufacturing establishments
10 included under subs. (1) and (2) as of the close of January 1 of each year, if on or before
11 March 1 of that year either the department has classified the property as
12 manufacturing or the owner of the property has requested, in writing, the
13 department to make such a classification and the department later does so. A change
14 in ownership, location or name does not necessitate a new request. In assessing
15 lands from which metalliferous minerals are being extracted and valued for purposes
16 of the tax under s. 70.375, the value of the metalliferous mineral content of such
17 lands shall be excluded.

18 **SECTION 6.** 70.995 (6) of the statutes is amended to read:

19 70.995 (6) Prior to February 15 of each year the department of revenue shall
20 notify each municipal assessor of the manufacturing property within the taxation
21 district that, as of that date, will be assessed by the department during the current
22 assessment year.

23 **SECTION 7.** 70.995 (8) (b) of the statutes is amended to read:

24 70.995 (8) (b) The department of revenue shall annually notify each
25 manufacturer assessed under this section and the municipality in which the

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1 manufacturing property is located of the full value of all real and personal property
2 owned by the manufacturer. The notice shall be in writing and shall be sent by 1st
3 class mail. In addition, the notice shall specify that objections to valuation, amount
4 or taxability must be filed with the state board of assessors within ~~60~~ 50 days of
5 issuance of the notice of assessment, that objections to a change from assessment
6 under this section to assessment under s. 70.32 (1) must be filed within ~~60~~ 50 days
7 after receipt of the notice, that the fee under par. (c) or (d) must be paid and that the
8 objection is not filed until the fee is paid. A statement shall be attached to the
9 assessment roll indicating that the notices required by this section have been mailed
10 and failure to receive the notice does not affect the validity of the assessments, the
11 resulting tax on real or personal property, the procedures of the tax appeals
12 commission or of the state board of assessors or the enforcement of delinquent taxes
13 by statutory means.

14 **SECTION 8.** 70.995 (8) (c) of the statutes is amended to read:

15 70.995 **(8)** (c) All objections to the amount, valuation, taxability or change from
16 assessment under this section to assessment under s. 70.32 (1) of property shall be
17 first made in writing on a form prescribed by the department of revenue and shall
18 be filed with the state board of assessors within the time prescribed in par. (b). A \$45
19 fee shall be paid when the objection is filed unless a fee has been paid in respect to
20 the same piece of property and that appeal has not been finally adjudicated. The
21 objection is not filed until the fee is paid. Neither the state board of assessors nor the
22 tax appeals commission may waive the requirement that objections be in writing.
23 The objection shall specify the reasons for the objection, the property owner's
24 estimate of the correct assessment and the basis, under s. 70.32 (1), for the property
25 owner's estimated assessment. The state board of assessors or the tax appeals

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1 commission may deny an assessment redetermination if a property owner's objection
2 does not comply with the requirements of this paragraph. Persons who own land and
3 improvements to that land may object to the aggregate value of that land and
4 improvements to that land, but no person who owns land and improvements to that
5 land may object only to the valuation of that land or only to the valuation of
6 improvements to that land.

7 **SECTION 9.** 70.995 (8) (d) of the statutes is amended to read:

8 70.995 **(8)** (d) A municipality may file an objection with the state board of
9 assessors to the amount, valuation or taxability under this section or to the change
10 from assessment under this section to assessment under s. 70.32 (1) of a specific
11 property having a situs in the municipality, whether or not the owner of the specific
12 property in question has filed an objection. Objection shall be made on a form
13 prescribed by the department and filed with the board within ~~60~~ 50 days of the date
14 of the issuance of the assessment in question, except that, if the person assessed files
15 an objection and the municipality affected does not file an objection, the municipality
16 affected, within 15 days after the person's objection is filed, may file an appeal. A \$45
17 filing fee shall be paid when the objection is filed unless a fee has been paid in respect
18 to the same piece of property and that appeal has not been finally adjudicated. The
19 objection is not filed until the fee is paid. The board shall forthwith notify the person
20 assessed of the objection filed by the municipality.

21 **SECTION 10.** 70.995 (12) (a) of the statutes is amended to read:

22 70.995 **(12)** (a) The department of revenue shall prescribe a standard
23 manufacturing property report form that shall be submitted annually for each real
24 estate parcel and each personal property account on or before March 1 by all
25 manufacturers whose property is assessed under this section. The report form shall

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1 contain all information deemed necessary by the department and shall include,
2 without limitation, income and operating statements, fixed asset schedules and a
3 report of new construction or demolition. Failure to submit the report shall result
4 in denial of any right of redetermination by the state board of assessors or the tax
5 appeals commission. If any property is omitted or understated in the assessment roll
6 in any of the next 5 previous years, the assessor shall enter the value of the omitted
7 or understated property once for each previous year of the omission or
8 understatement. ~~The assessor shall designate each additional entry as omitted or~~
9 ~~understated for the year [...]~~ of omission or understatement. The assessor shall affix
10 a just valuation to each entry for a former year as it should have been assessed
11 according to the assessor's best judgment. Taxes shall be apportioned and collected
12 on the tax roll for each entry, on the basis of the net tax rate for the year of the
13 omission, taking into account credits under s. 79.10, ~~and.~~ In the case of omitted
14 property, interest shall be added at the rate of 0.0267% per day for the period of time
15 between the date when the form is required to be submitted and the date when the
16 assessor affixes the just valuation. In the case of underpayments determined after
17 an objection under s. 70.995 (8) (d), interest shall be added at the average annual
18 discount interest rate determined by the last auction of 6-month U.S. treasury bills
19 before the objection, between the date when the tax was due and the date when it is
20 is paid.

21 **SECTION 11.** 70.995 (12) (b) of the statutes is amended to read:

22 70.995 (12) (b) The department of revenue shall allow an extension ~~to April 1~~
23 ~~of the due date~~ of 30 days for filing the report forms required under par. (a) if a written
24 application for an extension, stating the reason for the request, is filed with the
25 department on or before March 1.

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1 **SECTION 12.** 70.995 (12) (c) of the statutes is amended to read:

2 70.995 **(12)** (c) Unless the taxpayer shows that the failure is due to reasonable
3 cause, if a taxpayer fails to file any form required under par. (a) for property that the
4 department of revenue assessed during the previous year by the due date or by any
5 extension of the due date that has been granted, the taxpayer shall pay to the
6 department of revenue a penalty of ~~the greater of \$10 or 0.05% of the previous year's~~
7 ~~full value assessment not to exceed \$1,000. If the form required under par. (a) for~~
8 ~~property that the department of revenue assessed during the previous year is not~~
9 ~~filed within 30 days after the due date or within 30 days after any extension, the~~
10 ~~taxpayer shall pay to the department of revenue a 2nd penalty of the greater of \$10~~
11 ~~or 0.05% of the previous year's full value assessment not to exceed \$1,000~~ \$50 if the
12 form is filed 1 to 10 days late; \$50 or 0.05% of the previous year's assessment,
13 whichever is greater, but not more than \$250, if the form is filed 11 to 30 days late;
14 and \$100 or 0.1% of the previous year's assessment, whichever is greater, but not
15 more than \$500, if the form is filed more than 30 days late. Penalties are due 30 days
16 after they are assessed and are delinquent if not paid on or before that date. The
17 department may refund all or part of any penalty it assesses under this paragraph
18 if it finds reasonable grounds for late filing.

19 **SECTION 13.** 74.23 (1) (a) 5. of the statutes is created to read:

20 74.23 **(1)** (a) 5. Pay to each taxing jurisdiction within the district its
21 proportionate share of the taxes and interest under s. 70.995 (12) (a).

22 **SECTION 14.** 74.25 (1) (a) 4m. of the statutes is created to read:

23 74.25 **(1)** (a) 4m. Pay to each taxing jurisdiction within the district its
24 proportionate share of the taxes and interest under s. 70.995 (12) (a).

25 **SECTION 15.** 74.30 (1) (dm) of the statutes is created to read:

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1 74.30 (1) (dm) Pay to each taxing jurisdiction within the district its
2 proportionate share of the taxes and interest under s. 70.995 (12) (a).

3 **SECTION 16.** 74.35 (3) (c) of the statutes is amended to read:

4 74.35 (3) (c) If the governing body of the taxation district determines that an
5 unlawful tax has been paid and that the claim for recovery of the unlawful tax has
6 complied with all legal requirements, the governing body shall allow the claim. ~~The~~
7 Except as provided in par. (cm), the taxation district treasurer shall pay the claim
8 not later than 90 days after the claim is allowed.

9 **SECTION 17.** 74.35 (3) (cm) of the statutes is created to read:

10 74.35 (3) (cm) A municipality may pay a refund under par. (c) of the taxes on
11 property that is assessed under s. 70.995 in 5 annual instalments, each of which
12 except the last is equal to at least 20% of the sum of the refund and the interest on
13 the refund, beginning in the year of the determination, if all of the following
14 conditions exist:

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

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

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

20 **SECTION 18.** 74.37 (3) (c) of the statutes is amended to read:

21 74.37 (3) (c) If the governing body of the taxation district or county that has a
22 county assessor system determines that a tax has been paid which was based on an
23 excessive assessment, and that the claim for an excessive assessment has complied
24 with all legal requirements, the governing body shall allow the claim. ~~The~~ Except

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1 as provided in par. (cm), the taxation district or county treasurer shall pay the claim
2 not later than 90 days after the claim is allowed.

3 **SECTION 19.** 74.37 (3) (cm) of the statutes is created to read:

4 74.37 (3) (cm) A municipality may pay a refund under par. (c) of the taxes on
5 property that is assessed under s. 70.995 in 5 annual instalments, each of which
6 except the last is equal to at least 20% of the sum of the refund and interest on the
7 refund, beginning in the year of the determination, if all of the following conditions
8 exist:

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

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

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

14 **SECTION 20. Initial applicability.**

15 (1) REFUNDS. The treatment of sections 70.511 (2) (b) and (bm), 74.35 (3) (c) and
16 (cm) and 74.37 (3) (c) and (cm) of the statutes first applies to refunds of taxes that
17 were collected based on the assessment as of January 1, 2000.

18 (2) OBJECTIONS. The treatment of section 70.995 (8) (c) of the statutes first
19 applies to objections to the state board of assessors that are filed on the first day of
20 the 3rd month beginning after the effective date of this subsection.

21 (3) SETTLEMENT OF TAXES. The treatment of sections 74.23 (1) (a) 5., 74.25 (1)
22 (a) 4m. and 74.30 (1) (dm) of the statutes first applies to taxes based on the
23 assessment as of January 1, 2000.

