

1999 ASSEMBLY BILL 726

February 8, 2000 – Introduced by Representatives TOWNSEND, PORTER, MUSSER, J. LEHMAN, SPILLNER, HUNDERTMARK, OWENS, GOETSCH, PETROWSKI and FREESE, cosponsored by Senators BRESKE, ROESSLER, PLACHE and WELCH. Referred to Committee on Ways and Means.

1 **AN ACT to repeal** 70.05 (5) (f), 70.11 (21) (e) and 73.08; **to renumber and amend**
2 70.365; **to amend** 20.566 (2) (a), 70.05 (5) (a) 1m., 70.05 (5) (a) 3., 70.05 (5) (d),
3 70.05 (5) (g), 70.11 (21) (a), 70.11 (21) (c) and (d), 70.11 (21) (f), 70.36 (1m), 70.36
4 (2), 71.05 (11) (b), 73.01 (4) (a), 73.01 (5) (a), 79.095 (3) and 79.095 (4); and **to**
5 **create** 70.365 (2) of the statutes; **relating to:** the monitoring of property tax
6 assessments, discontinuing the requirement that owners of treatment plant
7 and pollution abatement equipment, except utilities and certain insurers,
8 apply for their property tax exemptions, the notice of changed property tax
9 assessments, the administration of the property tax exemption for computers
10 and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the department of revenue (DOR) monitors the property tax assessments in all taxation districts. Under current law, a major class of property is property with an assessed value representing more than 5% of the total assessed value of all property in the taxation district in which the major class of property is located. If DOR determines that a major class of property in a taxation district has

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not been assessed at a value that is within 10% of the full value of such property at least once during the most recent four years, DOR notifies the taxation district that the assessment staff in that district must participate in an assessment education program. Under current law, if DOR determines that a major class of property in the taxation district has not been assessed at a value that is within 10% of the full value of such property in the year that the taxation district's assessment staff participated in an assessment education program and in the following year, DOR must supervise the taxation district's next property tax assessment. Under current law, a class of property includes residential property, commercial property, swampland and productive forest land.

Under this bill, a class of property also includes agricultural property. Under the bill, a major class of property is property with an assessed value representing more than 15% of the total assessed value of all property in the taxation district in which the major class of property is located. Under the bill, if DOR determines that a major class of property in a taxation district has not been assessed at a value that is within 10% of the full value of such property at least once during the most recent three years, DOR notifies the taxation district that DOR may supervise a subsequent taxation district assessment. If DOR determines that a major class of property in the taxation district has not been assessed at a value that is within 10% of the full value of such property in the year after the taxation district receives such notice, DOR must supervise the taxation district's next property tax assessment. Under the bill, the assessment staff of the taxation district does not participate in an assessment education program prior to DOR's supervision of the taxation district assessment.

Under current law, if property is assessed, for property tax purposes, at a value that is different than the value of the property in the previous year, the property tax assessor must notify the property owner of that difference at least 15 days before the meeting of the taxation district's board of review or board of assessors. After the taxation district assessor has completed the property tax assessment roll, which specifies the assessments of all property located in the taxation district, the property tax assessment roll is available for public inspection.

Under this bill, if property is assessed, for property tax purposes, at a value that is different than the value of the property in the previous year, the property tax assessor shall not notify the property owner of that difference, if the changed assessment is made by the assessor with the property owner's consent and while the property tax assessment roll is available for public inspection.

Under current law, computer equipment is exempt from the tax on personal property, if the property owner files a return with the taxation district assessor that provides information about the computer equipment, including the equipment's fair market value. If a person who is required to file a return fails to report information about any exempt computer equipment owned by the person, the person is subject to a penalty of \$10 for every \$100 of value of such equipment and the taxation district collects the penalty.

Under current law, the state compensates a taxation district for the tax revenue that the district loses as a result of exempting computer equipment from the tax on personal property.

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Under this bill, if a person who is required to file a return fails to report information about any exempt computer equipment owned by the person, the person is subject to a penalty of \$10 for every \$1,000 of value of such equipment and the department of revenue (DOR) collects the penalty. Under the bill, DOR may audit returns that are related to exempt computer equipment and, as the result of such an audit, adjust the payments made to taxation districts to compensate for the tax revenue that the district loses as a result of exempting computer equipment from the tax on personal property.

Under current law, all owners of treatment plant and pollution abatement equipment must apply for their property tax exemptions. Under this bill, only utilities and certain insurers will be required to do so.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

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.** 20.566 (2) (a) of the statutes is amended to read:

2 20.566 **(2)** (a) *General program operations.* The amounts in the schedule for
3 administration of property tax laws, public utility tax laws ~~and~~, distribution of state
4 taxes, and administration of general program operations under s. 73.10 ~~and~~
5 ~~administration of the assessor educational program under s. 73.08.~~

6 **SECTION 2.** 70.05 (5) (a) 1m. of the statutes is amended to read:

7 70.05 **(5)** (a) 1m. “Class of property” means residential under s. 70.32 (2) (a) 1.;
8 commercial under s. 70.32 (2) (a) 2.; agricultural under s. 70.32 (2) (a) 4.; personal
9 property; or the sum of swamp or waste under s. 70.32 (2) (a) 5., productive forest land
10 under s. 70.32 (2) (a) 6. and other under s. 70.32 (2) (a) 7.

11 **SECTION 3.** 70.05 (5) (a) 3. of the statutes is amended to read:

12 70.05 **(5)** (a) 3. “Major class of property” means any class of property that
13 includes more than 5% 15% of the full value of the taxation district.

14 **SECTION 4.** 70.05 (5) (d) of the statutes is amended to read:

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1 70.05 (5) (d) If the department of revenue determines that the assessed value
2 of each major class of property of a taxation district, including 1st class cities, has not
3 been established within 10% of the full value of the same major class of property
4 during the same year at least once during the 4-year 3-year period consisting of the
5 current year and the 3 2 preceding years, the department shall notify the clerk of the
6 taxation district of its intention to proceed under par. (f) (g) if the taxation district's
7 assessed value of each major class of property for the subsequent year is not within
8 10% of the full value of the same major class of property. The department's notice
9 shall be in writing and mailed to the clerk of the taxation district on or before
10 November 1 of the year of the determination.

11 **SECTION 5.** 70.05 (5) (f) of the statutes is repealed.

12 **SECTION 6.** 70.05 (5) (g) of the statutes is amended to read:

13 70.05 (5) (g) If, in ~~both~~ the year after the year in which a the clerk of a taxation
14 ~~district's assessment staff participates in the program under s. 73.08 and in the next~~
15 ~~year~~ district receives notice from the department of revenue under par. (d), the
16 department of revenue determines that the assessed value of each major class of
17 property is not within 10% of the full value of the same major class of property, the
18 department shall order special supervision under s. 70.75 (3) for that taxation
19 district for the succeeding year's assessment. That order shall be in writing and shall
20 be mailed to the clerk of the taxation district on or before November 1 of the year of
21 the determination.

22 **SECTION 7.** 70.11 (21) (a) of the statutes is amended to read:

23 70.11 (21) (a) All property purchased or constructed as a waste treatment
24 facility used for the treatment of industrial wastes as defined in s. 281.01 (5) or air
25 contaminants as defined in s. 285.01 (1) but not for other wastes as defined in s

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1 281.01 (7) ~~and approved by the department of revenue for the purpose of abating or~~
2 eliminating pollution of surface waters, the air or waters of the state if that property
3 is not used to grow agricultural products for sale and, if the property's owner is taxed
4 under ch. 76, if the property is approved by the department of revenue. For the
5 purposes of this subsection "industrial waste" also includes wood chips, sawdust and
6 other wood residue from the paper and wood products manufacturing process that
7 can be used as fuel and would otherwise be considered superfluous, discarded or
8 fugitive material. The department of natural resources and department of health
9 and family services shall make recommendations upon request to the department of
10 revenue regarding such property. All property purchased or upon which
11 construction began prior to July 31, 1975, shall be subject to s. 70.11 (21), 1973 stats.

12 **SECTION 8.** 70.11 (21) (c) and (d) of the statutes are amended to read:

13 70.11 (21) (c) A prerequisite to exemption under this subsection for owners who
14 are taxed under ch. 76 is the filing of a statement on forms prescribed by the
15 department of revenue with the department of revenue. This statement shall be filed
16 not later than January 15 of the year in which a new exemption is requested or in
17 which a waste treatment facility that has been granted an exemption is retired,
18 replaced, disposed of, moved to a new location or sold.

19 (d) The department of revenue shall allow an extension to ~~February 15; or, if~~
20 ~~the owner is subject to tax under ch. 76, to a date determined by the department by~~
21 ~~rule; of the due date for filing the report form required under par. (c) if a written~~
22 application for an extension, stating the reason for the request, is filed with the
23 department of revenue before January 15.

24 **SECTION 9.** 70.11 (21) (e) of the statutes is repealed.

25 **SECTION 10.** 70.11 (21) (f) of the statutes is amended to read:

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1 70.11 **(21)** (f) If property about which a statement has been filed under par. (c)
2 is determined to be taxable, the owner may appeal that determination ~~to the tax~~
3 ~~appeals commission under s. 73.01 (5) (a), except that assessments under s. 76.07~~
4 ~~shall be appealed under s. 76.08 and except that assessments under s. 70.995 (5)~~
5 ~~shall be appealed under s. 70.995 (8).~~

6 **SECTION 11.** 70.36 (1m) of the statutes is amended to read:

7 70.36 **(1m)** Any person, firm or corporation that fails to include information on
8 property that is exempt under s. 70.11 (39) on the report under s. 70.35 shall forfeit
9 pay to the department of revenue a penalty of \$10 for every \$100 \$1,000 or major
10 fraction thereof that is not reported.

11 **SECTION 12.** 70.36 (2) of the statutes is amended to read:

12 70.36 **(2)** It is hereby made the duty of the district attorney of any county, upon
13 complaint made to the district attorney by the assessor or by a member of the board
14 of review of the assessment district in which it is alleged that property has been so
15 withheld from the knowledge of such assessor or board of review, or not included in
16 any return required by s. 70.35, to investigate the case forthwith and bring an action
17 in the name of the state against the person, firm or corporation so complained of. All
18 Except as provided in sub. (1m), forfeitures collected under the provisions of this
19 section shall be paid into the treasury of the taxation district in which such property
20 had its situs for taxation.

21 **SECTION 13.** 70.365 of the statutes is renumbered 70.365 (1) and amended to
22 read:

23 70.365 **(1)** ~~When~~ Except as provided under sub. (2), when the assessor assesses
24 any taxable real property, or any improvements taxed as personal property under s.
25 77.84 (1), and arrives at a different total than the assessment of it for the previous

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1 year, the assessor shall notify the person assessed if the address of the person is
2 known to the assessor, otherwise the occupant of the property. The notice shall be
3 in writing and shall be sent by ordinary mail at least 15 days before the meeting of
4 the board of review or before the meeting of the board of assessors in 1st class cities
5 and in 2nd class cities that have a board of assessors under s. 70.075 and shall
6 contain the amount of the changed assessment and the time, date and place of the
7 meeting of the local board of review or of the board of assessors. However, if the
8 assessment roll is not complete, the notice shall be sent by ordinary mail at least 15
9 days prior to the date to which the board of review has adjourned. The assessor shall
10 attach to the assessment roll a statement that the notices required by this section
11 have been mailed and failure to receive the notice shall not affect the validity of the
12 changed assessment, the resulting changed tax, the procedures of the board of review
13 or of the board of assessors or the enforcement of delinquent taxes by statutory
14 means. The secretary of revenue shall by rule prescribe the form of the notice
15 required under this section. The form shall include information notifying the
16 taxpayer of the procedures to be used to object to the assessment.

17 **SECTION 14.** 70.365 (2) of the statutes is created to read:

18 70.365 (2) An assessor shall not send a notice under sub. (1), if the change of
19 assessment is made by the assessor with the property owner's consent and while the
20 assessment roll is available for examination under s. 70.45.

21 **SECTION 15.** 71.05 (11) (b) of the statutes is amended to read:

22 71.05 (11) (b) The cost of the following described property, less any federal
23 depreciation or amortization taken, may be deducted as a subtraction modification
24 or as subtraction modifications in the year or years in which paid or accrued,
25 dependent on the method of accounting employed: All property purchased or

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1 constructed as a waste treatment facility utilized for the treatment of industrial
2 wastes as defined in s. 281.01 (5), or air contaminants as defined in s. 285.01 (1) but
3 not for other wastes as defined in s. 281.01 (7) ~~and approved by the department of~~
4 ~~revenue under s. 70.11 (21) (a) for the purpose of abating or eliminating pollution of~~
5 surface waters, the air or waters of the state and, if the property's owner is taxed
6 under ch. 76, if the property is approved by the department of revenue. In case of
7 such election, appropriate add modifications shall be made in subsequent years to
8 reverse federal depreciation or amortization or to correct gain or loss on disposition.
9 This paragraph is intended to apply only to depreciable property except that where
10 wastes are disposed of through a lagoon process, lagooning costs and the cost of land
11 containing such lagoons may be treated as depreciable property for purposes of this
12 paragraph. In no event may any amount in excess of cost be deducted. Paragraph
13 (a) applies to all property purchased prior to July 31, 1975, or purchased and
14 constructed in fulfillment of a written construction contract or formal written bid,
15 which contract was entered into or which bid was made prior to July 31, 1975.

16 **SECTION 16.** 73.01 (4) (a) of the statutes is amended to read:

17 73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015,
18 the commission shall be the final authority for the hearing and determination of all
19 questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss.
20 ~~70.11 (21),~~ 70.38 (4) (a), 70.397, 70.64 and 70.995 (8), s. 76.38 (12) (a), 1993 stats., ss.
21 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22, 78.40, 78.555,
22 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76 and 139.78, subch. XIV of ch.
23 71 and subch. VII of ch. 77. Whenever with respect to a pending appeal there is filed
24 with the commission a stipulation signed by the department of revenue and the
25 adverse party, under s. 73.03 (25), agreeing to an affirmance, modification or reversal

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

8 **SECTION 17.** 73.01 (5) (a) of the statutes is amended to read:

9 73.01 (5) (a) Any person who is aggrieved by a determination of the state board
10 of assessors under s. 70.995 (8) ~~or by the department of revenue under s. 70.11 (21)~~
11 or who has filed a petition for redetermination with the department of revenue and
12 who is aggrieved by the redetermination of the department may, within 60 days of
13 the determination of the state board of assessors or of the department or, in all other
14 cases, within 60 days after the redetermination but not thereafter, file with the clerk
15 of the commission a petition for review of the action of the department and the
16 number of copies of the petition required by rule adopted by the commission. If a
17 municipality appeals, its appeal shall set forth that the appeal has been authorized
18 by an order or resolution of its governing body and the appeal shall be verified by a
19 member of that governing body as pleadings in courts of record are verified. The clerk
20 of the commission shall transmit one copy to the department of revenue and to each
21 party. In the case of appeals from manufacturing property assessments, the person
22 assessed shall be a party to a proceeding initiated by a municipality. At the time of
23 filing the petition, the petitioner shall pay to the commission a \$25 filing fee. The
24 commission shall deposit the fee in the general fund. Within 30 days after such
25 transmission the department, except for petitions objecting to manufacturing

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1 property assessments, shall file with the clerk of the commission an original and the
2 number of copies of an answer to the petition required by rule adopted by the
3 commission and shall serve one copy on the petitioner or the petitioner's attorney or
4 agent. Within 30 days after service of the answer, the petitioner may file and serve
5 a reply in the same manner as the petition is filed. Any person entitled to be heard
6 by the commission under s. 76.38 (12) (a), 1993 stats., or s. 76.39 (4) (c), 76.48 or 76.91
7 may file a petition with the commission within the time and in the manner provided
8 for the filing of petitions in income or franchise tax cases. Such papers may be served
9 as a circuit court summons is served or by certified mail. For the purposes of this
10 subsection, a petition for review is considered timely filed if mailed by certified mail
11 in a properly addressed envelope, with postage duly prepaid, which envelope is
12 postmarked before midnight of the last day for filing.

13 **SECTION 18.** 73.08 of the statutes is repealed.

14 **SECTION 19.** 79.095 (3) of the statutes is amended to read:

15 79.095 (3) REVIEW BY DEPARTMENT. The department shall adjust each rate
16 reported under sub. (2) (b) to a full-value rate. The department shall review and
17 correct the information submitted under sub. (2) (a), shall determine the full value
18 of all of the computers reported under sub. (2) (a) and of all the computers under s.
19 70.995 (12r) and, on or before October 1, shall notify each taxing jurisdiction of the
20 full value of the computers that are exempt under s. 70.11 (39) and that are located
21 in the jurisdiction. To review and correct the information submitted under sub. (2)
22 (a), the department may audit reports that are submitted under s. 70.35 regarding
23 computers that are exempt under s. 70.11 (39). The department shall adjust the full
24 value that is reported to taxing jurisdictions under this subsection in the year after
25 an error occurs or a value has been changed due to an appeal. All disputes between

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1 the department and municipalities about the value of the property reported under
2 sub. (2) (a) or of the property under s. 70.995 (12r) shall be resolved by using the
3 procedures under s. 70.995 (8).

4 **SECTION 20.** 79.095 (4) of the statutes is amended to read:

5 79.095 (4) PAYMENT. The department shall calculate the payments due each
6 taxing jurisdiction under this section by multiplying the full value as of the January
7 1 of the preceding year of the computers that are exempt under s. 70.11 (39) and that
8 are located in the jurisdiction by the full-value gross tax rate of the jurisdiction for
9 the preceding year. The department shall adjust the payments due each taxing
10 jurisdiction under this section to reflect the results of an audit under sub. (3). The
11 department shall certify the amount of the payment due each taxing jurisdiction to
12 the department of administration, which shall make the payments on or before the
13 first Monday in May.

14 **SECTION 21. Initial applicability.**

15 (1) MONITORING PROPERTY TAX ASSESSMENTS. The treatment of section 70.05 (5)
16 (d) and (g) of the statutes first applies to the property tax assessments as of January
17 1, 2003.

18 (2) NOTICE OF CHANGED ASSESSMENT. The renumbering of section 70.365 of the
19 statutes and the creation of section 70.365 (2) of the statutes first apply to the
20 property tax assessments as of January 1, 2000.

21 (3) PROPERTY TAX EXEMPTION FOR COMPUTERS. The treatment of sections 70.36
22 (1m) and (2) and 79.095 (3) and (4) of the statutes first applies to the payments that
23 are due on or before the first Monday in May, 2000.

24 **SECTION 22. Effective dates.** This act takes effect on the day after publication,
25 except as follows:

