

1999 DRAFTING REQUEST

Bill

Received: **12/28/1998**

Received By: **nelsorpl**

Wanted: **As time permits**

Identical to LRB:

For: **Sheryl Albers (608) 266-8531**

By/Representing:

This file may be shown to any legislator: NO

Drafter: **nelsorpl**

May Contact:

Alt. Drafters: **jkreye**

Subject: **Courts - miscellaneous
Tax - property**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Actions to recover real estate value lost as the result of ordinance change and adjustment of property taxation on land for property affected by law change


Instructions:

See 1997 **AB 757** (-4302)

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>
/1	nelsorp 1 12/30/1998 jkreye 12/30/1998	gilfokm 12/30/1998	hhagen 01/05/1999	_____	lrb-docadmin 01/05/1999		S&L Tax
/2	nelsorp 1 02/04/1999 jkreye 02/05/1999 nelsorp 1 02/05/1999 jkreye	gilfokm 02/06/1999 gilfokm 03/09/1999	lpaasch 02/08/1999	_____	lrb-docadmin 02/08/1999		S&L Tax

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	03/09/1999			_____			
/3	jkreye 01/1 1/2000	gilfokm 01/12/2000	jfrantze 03/10/1999	_____	lrb_docadmin 03/10/1999		S&L Tax
/4	jkreye 01/13/2000	gilfokm 01/13/2000	martykr 01/12/2000	_____	lrb-docadmin 01/12/2000		S&L Tax
/5	jkreye 01/31/2000	gilfokm 01/31/2000	jfrantze 01/13/2000	_____	lrb-docadmin 01/13/2000	lrb_docadmin 0 1/25/2000	S&L Tax
/6			martykr 02/01/2000	_____	lrb-docadmin 02/01/2000	lrb_docadmin 0210 1/2000	S&L Tax

FE Sent For:
 02-10-00

<END>

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For: **Sheryl Albers (608) 26643531**

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		16-1-31-2000 King		_____			

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Handwritten signatures and dates:
JL 1/13 J/K 1/13

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typist</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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For: **Sheryl Albers (608) 266-8531**

By/Representing:

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Drafter: **nelsorp1**

May Contact:

Alt. Drafters: **jkreye**

Subject: **Courts - miscellaneous
Tax - property**

Extra Copies:

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/2	nelsorp 1 02/4/99 jkreye 02/5/99 nelsorp 1 02/5/99	gilfokm 02/6/99 <i>13-3-99 Kmg.</i>	lpaasch 02/8/99	_____	lrb-docadmin 02/8/99		S&L Tax

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3/10 *3/10*
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Tax - property

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Instructions:

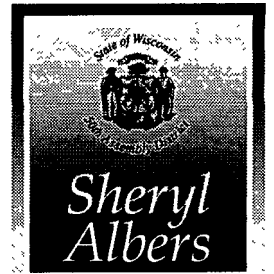
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1?	nelsorp 1	1-12-30 KMP	HA/S	HA/KM/S			

FE Sent For:

<END>



To: LRB Drafting
From: Representative Sheryl K. Albers

Date: December 23, 1998
Subject: Drafting of Legislation

Please reconstitute the following pieces of legislation for the 1999 session:

AB 757

~~Assembly Substitute Amendment 1 to AB 807~~

Neither bill will require any changes. Thank you.

The following information was obtained from the records of the Department of the Interior, Bureau of Land Management, regarding the land parcels listed below. The information is provided for informational purposes only and does not constitute a guarantee of accuracy or completeness. The information is based on the records as of the date of this report and is subject to change without notice.

The parcels are located in the State of California, County of [County Name], and are identified by their Assessor's Parcel Number (APN) and Section/Range/Township (S/R/T) coordinates. The parcels are listed in the following table:

APN	S/R/T	Area (Acres)	Owner
123456789	12N 34E 12S	10.5	John Doe
987654321	34E 12S 12N	5.2	Jane Smith
234567890	12N 34E 12S	15.8	ABC Company
345678901	34E 12S 12N	8.1	DEF Corporation
456789012	12N 34E 12S	12.3	GHI LLC
567890123	34E 12S 12N	7.6	JKL Partners
678901234	12N 34E 12S	11.9	MNO Enterprises
789012345	34E 12S 12N	9.4	PQR Holdings
890123456	12N 34E 12S	13.7	STU Investments
901234567	34E 12S 12N	6.5	VWX Capital

The parcels are situated in the [County Name] area, which is known for its diverse natural resources and scenic views. The parcels are currently being used for [purpose], and the owner(s) are seeking to [action]. The parcels are located in the [area] of the [county], and are situated in the [range] and [township] of the [county]. The parcels are situated in the [area] of the [county], and are situated in the [range] and [township] of the [county].

The parcels are situated in the [area] of the [county], and are situated in the [range] and [township] of the [county]. The parcels are situated in the [area] of the [county], and are situated in the [range] and [township] of the [county].

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(Sorry - I
forgot to scan
& redraft
maker)!

1997 ASSEMBLY BILL 757

February 3, 1998. - Introduced by Representatives ALBERS, JOHNSRUD, SERATTI, KEDZIE, WARD, MUSSER, FREESE, F. LASEE and HARS DORF, cosponsored by Senators DRZEWIECKI and DARLING. Referred to Joint survey committee on Tax Exemptions.

4

Gen. Cat.

~~40~~

1 AN ACT to amend 70.05 (5) (a) 1m.; and to create 16.25, 70.097, 70.11 (28) and
2 ~~(29)~~ and 799.015 of the statutes; relating to: property taxation of land adjusted
3 in value by state or local laws, small claims actions to recover property taxes
4 paid and lists of easements granted with respect to real property.

Analysis by the Legislative Reference Bureau

This bill requires parcels of property that include property that has no economically viable use because of restrictions on the use of the property that are imposed by state or local laws to be entered on the property tax assessment roll separately from the rest of the original parcel. The bill exempts from the property tax those parcels that are not economically viable and also certain wetlands.

The bill also requires the department of administration (DOA) to keep a list of easements and requires the register of deeds of each county to report to DOA all of the information that DOA needs to compile that list.

This bill allows the owner of real property to commence an action in small claims court for damages to the value of real property resulting from the adoption of an ordinance or resolution. The plaintiff under this bill, is required to submit an appraisal of the real property to the court. The court may order the county or municipality to submit an appraisal of the real property. Under the bill, the action is dismissed if the plaintiff fails to provide the appraisal. The bill requires the court to order the payment of the amount demanded by the plaintiff if the county or municipality fails to provide the appraisal. If the court determines that the county or municipality fails to demonstrate that the adopted ordinance or resolution

ordered

ASSEMBLY BILL 757

Three

provides a public benefit, the bill requires the court to determine the value of the real property involved in the action. The bill requires the court to determine the taxes due on the real property based on the court's valuation of the property, compare those taxes to the taxes the plaintiff paid and issue a judgment. If the court issues a judgment for the plaintiff, and the county or municipality fails to pay the judgment within 45 days after the court order is final, the bill requires the court to order the county or municipality to pay ~~the~~ ^{three} times the amount of the original judgment.

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:

SECTION 1. 16.25 of the statutes is created to read:

16.25 Record of governmental easements. The department, in cooperation with the department of revenue, shall annually compile a list of all easements created during the previous year that are held by a governmental unit, that impose a restriction on land use and that have been recorded in the office of the county register of deeds. The list shall categorize the governmental unit holding the easement, the class of property, as defined in s. 70.05 (5) (a) 1m., that is subject to the easement, the rights acquired under the easement, the amount of property subject to the easement and the amount paid for the easement. The department of administration shall require the register of deeds of each county to annually report all information required under this section with respect to easements granted and recorded in the county. The department shall sell the list for the cost of copying it to any person requesting a copy of the list.

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

70.05 (5) (a) 1m. "Class of property" means residential under s. 70.32 (2) (a) 1.; commercial under s. 70.32 (2) (a) 2.; personal property; or the sum of swamp or waste

Proof of 5/17/95
↓

ASSEMBLY BILL 757

(41)

1 under s. 70.32 (2) (a) 5., productive forest land under s. 70.32 (2) (a) 6., property that
2 is exempt under s. 70.11 ~~(40)~~ and other under s. 70.32 (2) (a) 7.

3 SECTION 3. 70.097 of the statutes is created to read:

4 **70.097 Division of parcels on roll.** If a portion of a parcel of taxable property
5 has no economically viable use because of restrictions on its use that are imposed by
6 state ^{law ordinance or resolution} or local ~~laws~~, that portion and the remainder of the original parcel shall be
7 entered separately on the assessment roll.

8 SECTION 4. 70.11 ⁴⁰ ~~(38)~~ and ⁴¹ ~~(39)~~ of the statutes are created to read:

9 70.11 ⁴⁰ ~~(38)~~ WETLANDS. Wetlands subject to ordinances adopted under s. 59.692,
10 61.351 or 62.231.

11 ⁴¹ ~~(39)~~ ECONOMICALLY UNVAILABLE PROPERTY. A parcel of property that, under s.
12 70.097, is entered separately on the assessment roll because it has no economically
13 viable use because of restrictions on the use of the property that are imposed by state ^{law}
14 or local ~~laws~~. ^{ordinance or resolution}

15 SECTION 5. 799.015 of the statutes is created to read:

16 **799.015 Action for change in the value of real property. (1)** In this
17 section:

18 (a) "Certified appraisal" means an appraisal conducted by an appraiser
19 certified under s. 458.06.

20 (b) "Municipality" means a city, village or town.

21 (2) The owner of private real property may commence an action under this
22 chapter against a county or municipality to determine if the adoption of an ordinance
23 or resolution by that county or municipality affects the use of the real property and
24 changes the value of the real property

ASSEMBLY BILL 757

1 (3) An action under this section shall be commenced within 120 days after the
2 complainant knew or should have known that the ordinance or resolution changed
3 the value of the real property, or be barred. The methods by which the county or
4 municipality gives notice and the information provided in the notice regarding the
5 adoption of an ordinance or resolution are evidence of the complainant's knowledge
6 or opportunity to know of the effect of the ordinance or resolution.

7 (4) This section may be used only with respect to a whole parcel of land as
8 assessed for the purpose of property taxation. However, if the taxation district has
9 combined separate parcels of land into a single parcel of land for purposes of property
10 taxation within 5 years prior to the date on which a complaint is filed, this section
11 may be used with respect to any single parcel of land that existed during that 5-year
12 period.

13 (5) A plaintiff in an action under this section shall present evidence, including
14 a certified appraisal of the real property affected by the ordinance or resolution,
15 showing that the ordinance or resolution affects the use of the real property and has
16 changed the value of the real property. The certified appraisal, to be admissible,
17 must have been conducted before or within 90 days after the action is commenced.
18 If the plaintiff does not submit the certified appraisal to the court as required, the
19 court shall dismiss the action.

20 (6) The court may order the county or municipality to obtain an additional
21 appraisal of the real property involved in an action under this section. If the county
22 or municipality does not submit the ordered appraisal to the court within 30 days
23 after being ordered to do so, the court shall order the county or municipality to pay
24 the plaintiff the amount of damages specified in the complaint, including interest
25 calculated from the effective date of the ordinance or resolution. The county or

ASSEMBLY BILL 757

1 municipality shall have the appraisal completed in the manner specified in the
2 Wisconsin property assessment manual distributed under s. 73.03 (2a).

3 (7) If the court determines that ~~the county or municipality adopted the~~
4 ~~ordinance or resolution involved in the action in order to provide a public benefit, but~~
5 ~~that the county or municipality has failed to demonstrate to the court that the~~
6 ordinance or resolution involved in the action will provide ~~that~~ ^{the intended} public benefit, the
7 court shall determine the value of the real property. Any findings of fact, statements
8 of intent, legislative history or documents related to and contemporaneous with the
9 adoption of the ordinance or resolution are evidence of the public benefit intended
10 by the ordinance or resolution.

11 (8) The court shall adjust the value of the real property determined under sub.
12 (7) to reflect the most current assessment ratio of the taxation district for the class
13 of property which includes the real property involved in the action. The court shall
14 compute the amount of property tax that would have been levied on this adjusted
15 value of the real property, as determined by the net tax rate of the county or
16 municipality that was in effect for the year during which the ordinance or resolution
17 was adopted. If the amount computed is less than the amount of tax the plaintiff
18 paid, the court shall render judgment for the plaintiff in the amount of the difference,
19 including interest and any penalty computed at the rate under s. 74.47 and shall
20 order the county or municipality to pay the judgment within 45 days after the court
21 order is final. If the amount computed is greater than the amount of tax the plaintiff
22 paid, the court shall render judgment for the county or municipality in the amount
23 of the difference. If the county or municipality is required to make a payment to the
24 plaintiff and does not do so within 45 days after the court order is final, the court,

ASSEMBLY BILL 757

SECTION 5

1 upon the plaintiff's motion, shall order the county or municipality to pay the plaintiff
2 3 times the amount of the original judgment.

3 (9) The county or municipal assessor shall consider any judgment entered
4 under sub. (8) in the next subsequent assessment of the real property under s. 70.10
5 conducted after the assessment is entered. The plaintiff may submit a complaint to
6 the department of revenue if an assessor fails to comply with this subsection. The
7 department of revenue may file a complaint under s. 73.06 (4) if it determines that
8 an assessor has failed to comply with this subsection.

9 **SECTION 6. Initial applicability.**

10 (1) The treatment of section 16.25 of the statutes first applies to easements,
11 created 6 months after the effective date of this subsection.

12 **SECTION 7. Effective dates.** This act takes effect on the day after publication,
13 except as follows:

14 (1) PROPERTY TAX ASSESSMENT. The treatment of sections 70.05 (5) (a) Im.,
15 70.097[✓] and 70.11 (~~3~~)[✓] and (~~9~~)[✓] of the statutes takes effect on the January 1 after
16 publication.

17 (END)

40

41

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 1/5/99

To: Representative Albers

Relating to LRB drafting number: LRB- 1455

Topic


Actions to recover real estate value lost as the result of ordinance change and adjustment of property taxation on land for property affected by law change

Subject(s)

Courts - miscellaneous, Tax - property

1. **JACKET** the draft for introduction _____

in the Senate ____ or **the Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached  _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-356 1. If you have any questions relating to the attached draft, please feel free to call me.

Robert P. Nelson, Senior Legislative Attorney
Telephone: (608) 267-75 11



1999 BILL

1 **AN ACT** to amend 70.05 (5) (a) 1m.; and **to create** 16.25, 70.097, 70.11 (40) and
 2 (41) and 799.015 of the statutes; **relating** to: property taxation of land adjusted
 3 in value by state laws or local ordinances or resolutions, small claims actions
 4 to recover property taxes paid and lists of easements granted with respect to
 5 real property.

Analysis by the Legislative Reference Bureau

This bill requires parcels of property that include property that has no economically viable use because of restrictions on the use of the property that are imposed by state laws or local ordinances or resolutions to be entered on the property tax assessment roll separately from the rest of the original parcel. The bill exempts from the property tax those parcels that are not economically viable and also certain wetlands.

The bill also requires the ~~department of administration (DOA)~~ ^{DFI Financial Institutions} to keep a list of easements and requires the register of deeds of each county to report to ~~DOA~~ ^{DFI} all of the information that ~~DOA~~ needs to compile that list.

This bill allows the owner of real property to commence an action in small claims court for damages to the value of real property resulting from the adoption of an ordinance or resolution. The plaintiff, under this bill, is required to submit an appraisal of the real property to the court. The court may order the county or municipality to submit an appraisal of the real property. Under the bill, the action is dismissed if the plaintiff fails to provide the appraisal. The bill requires the court

Reg. of Deeds

→ and a copy of appraisal of variance by the county
 UCC / or other computer information
 → only after request for variance has been denied.

at the request of
 landowner
 must be submitted
 to Co. Reg. of
 deeds July 1st
 in year
 and
 bill

BILL

County to
have 15 days
to respond in
addition to the
20 day usual
response time

Substantial ~~and proven~~ ^{and proven} recognized

to order the payment of the amount demanded by the plaintiff if the county or municipality fails to provide the ordered appraisal. If the court determines that the county or municipality fails to demonstrate that the adopted ordinance or resolution provides a public benefit, the bill requires the court to determine the value of the real property involved in the action. The bill requires the court to determine the taxes due on the real property based on the court's valuation of the property, compare those taxes to the taxes the plaintiff paid and issue a judgment. If the court issues a judgment for the plaintiff, and the county or municipality fails to pay the judgment within 45 days after the court order is final, the bill requires the court to order the county or municipality to pay three times the amount of the original judgment.

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. 16.25 of the statutes is created to read:

2 **16.25 Record of governmental easements.** The department, in cooperation
3 with the department of revenue, shall annually compile a list of all easements
4 created during the previous year that are held by a governmental unit, that impose
5 a restriction on land use and that have been recorded in the office of the county
6 register of deeds. The list shall categorize the governmental unit holding the
7 easement, the class of property, as defined in s. 70.05 (5) (a) lm., that is subject to
8 the easement, the rights acquired under the easement, the amount of property
9 subject to the easement and the amount paid for the easement. The department of
10 administration shall require the register of deeds of each county to annually report
11 all information required under this section with respect to easements granted and
12 recorded in the county. The department shall sell the list for the cost of copying it
13 to any person requesting a copy of the list.

14 SECTION 2. 70.05 (5) (a) lm. of the statutes is amended to read:

BILL

1 70.05 (5) (a) **1m.** "Class of property" means residential under s. 70.32 (2) (a) 1.;
2 commercial under s. 70.32 (2) (a) 2.; personal property; or the sum of swamp or waste
3 under s. 70.32 (2) (a) 5., productive forest land under s. 70.32 (2) (a) 6., ~~property that~~
4 is exempt under s. 70.11(41) and other under s. 70.32 (2) (a) 7.

5 **SECTION 3.** 70.097 of the statutes is created to read:

6 **70.097 Division of parcels on roll.** If a portion of a parcel of taxable property
7 has no economically viable use because of restrictions on its use that are imposed by
8 state law or local ordinance or resolution, that portion and the remainder of the
9 original parcel shall be entered separately on the assessment roll.

10 **SECTION 4.** 70.11 (40) and (41) of the statutes are created to read:

11 **70.11 (40) WETLANDS.** Wetlands subject to ordinances adopted under s. 59.692,
12 61.351 or 62.231.

13 **(41) ECONOMICALLY UNVIABLE PROPERTY.** A parcel of property that, under s.
14 70.097, is entered separately on the assessment roll because it has no economically
15 viable use because of restrictions on the use of the property that are imposed by state
16 law or local ordinance or resolution.

17 **SECTION 5.** 799.015 of the statutes is created to read:

18 **799.015 Action for change in the value of real property. (1)** In this
19 section:

20 (a) "Certified appraisal" means an appraisal conducted by an appraiser
21 certified under s. 458.06.

22 (b) "Municipality" means a city, village or town.

23 (2) The owner of private real property may commence an action under this
24 chapter against a county or municipality to determine if the adoption of an ordinance

BILL

1 or resolution by that county or municipality affects the use of the real property and
2 changes the value of the real property.

3 (3) An action under this section shall be commenced within 120 days after the
4 complainant knew or should have known that the ordinance or resolution changed
5 the value of the real property, or be barred. The methods by which the county or
6 municipality gives notice and the information provided in the notice regarding the
7 adoption of an ordinance or resolution are evidence of the complainant's knowledge
8 or opportunity to know of the effect of the ordinance or resolution.

9 (4) This section may be used only with respect to a whole parcel of land as
10 assessed for the purpose of property taxation. However, if the taxation district has
11 combined separate parcels of land into a single parcel of land for purposes of property
12 taxation within 5 years prior to the date on which a complaint is tiled, this section
13 may be used with respect to any single parcel of land that existed during that 5-year
14 period.

15 (5) A plaintiff in an action under this section shall present evidence, including
16 a certified appraisal of the real property affected by the ordinance or resolution,
17 showing that the ordinance or resolution affects the use of the real property and has
18 changed the value of the real property. The certified appraisal, to be admissible,
19 must have been conducted before or within 90 days after the action is commenced.
20 If the plaintiff does not submit the certified appraisal to the court as required, the
21 court shall dismiss the action.

22 (6) The court may order the county or municipality to obtain an additional
23 appraisal of the real property involved in an action under this section. If the county
24 or municipality does not submit the ordered appraisal to the court within 30 days
25 after being ordered to do so, the court shall order the county or municipality to pay

BILL

not to exceed actual values
malum non appraisat
What if it withrows? reasonably based on appraised calculated

SECTION 5

1 the plaintiff the amount of ~~damages~~ specified in the complaint, including interest
2 calculated from the effective date of the ordinance or resolution. The county or
3 municipality shall have the appraisal completed in the manner specified in the
4 Wisconsin property assessment manual distributed under s. 73.03 (2a).

5 (7) If the court determines that the county or municipality has failed to
6 demonstrate to the court that the ordinance or resolution involved in the action will
7 provide the intended public benefit, the court shall determine the value of the real
8 property. Any findings of fact, statements of intent, legislative history or documents
9 related to and contemporaneous with the adoption of the ordinance or resolution are
10 evidence of the public benefit intended by the ordinance or resolution.

11 (8) The court shall adjust the value of the real property determined under sub.
12 (7) to reflect the most current assessment ratio of the taxation district for the class
13 of property which includes the real property involved in the action. The court shall
14 compute the amount of property tax that would have been levied on this adjusted
15 value of the real property, as determined by the net tax rate of the county or
16 municipality that was in effect for the year during which the ordinance or resolution
17 was adopted. If the amount computed is less than the amount of tax the plaintiff
18 paid, the court shall render judgment for the plaintiff in the amount of the difference,
19 including interest and any penalty computed at the rate under s. 74.47 and shall
20 order the county or municipality to pay the judgment within 45 days after the court
21 order is final. If the amount computed is greater than the amount of tax the plaintiff
22 paid, the court shall render judgment for the county or municipality in the amount
23 of the difference. If the county or municipality is required to make a payment to the
24 plaintiff and does not do so within 45 days after the court order is final, the court,

BILL

1 upon the plaintiff's motion, shall order the county or municipality to pay the plaintiff
2 3 times the amount of the original judgment.

3 (9) The county or municipal assessor shall consider any judgment entered
4 under sub. (8) in the next subsequent assessment of the real property under s. 70.10
5 conducted after the assessment is entered. The plaintiff may submit a complaint to
6 the department of revenue if an assessor fails to comply with this subsection. The
7 department of revenue may file a complaint under s. 73.06 (4) if it determines that
8 an assessor has failed to comply with this subsection.

9 **SECTION 6. Initial applicability.**

10 (1) The treatment of section 16.25 of the statutes first applies to easements
11 created 6 months after the effective date of this subsection.

12 **SECTION 7. Effective dates.** This act takes effect on the day after publication,
13 except as follows:

14 (1) **PROPERTY TAX ASSESSMENT.** The treatment of sections **70.05 (5)** (a) 1m.,
15 70.097 and 70.11 (40) and (41) of the statutes takes effect on the January 1 after
16 publication.

17 **(END)**



D-Note

1999 BILL

regenerate cal.

1 AN ACT to amend 70.05, (5) (a) 1m.; and to create 16.25, 70.097, 70.11 (40) and
 2 (41) and 799.015 of the statutes; relating to: property taxation of land adjusted
 3 in value by state laws or local ordinances or resolutions, small claims actions
 4 to recover property taxes paid and lists of easements granted with respect to
 real property.

computerized

Analysis by the Legislative Reference Bureau

This bill requires parcels of property that include property that has no economically viable use because of restrictions on the use of the property that are imposed by state laws or local ordinances or resolutions to be entered on the property tax assessment roll separately from the rest of the original parcel. The bill exempts from the property tax those parcels that are not economically viable and also certain wetlands.

The bill also requires the department of administration (DOA) to keep a list of easements and requires the register of deeds of each county to report to DOA all of the information that DOA needs to compile that list.

The bill allows the owner of real property to commence an action in small claims court for damages to the value of real property resulting from the adoption of an ordinance or resolution. The plaintiff, under this bill, is required to submit an appraisal of the real property to the court. The court may order the county or municipality to submit an appraisal of the real property. Under the bill, the action is dismissed if the plaintiff fails to provide the appraisal. The bill requires the court

if his or her request for a variance to eliminate the effects of the ordinance or resolution is denied

and a copy of the bill of the legislature

financial institutions (DFI)

DFI

and variance denial

BILL

to order the payment of the amount demanded by the plaintiff if the county or municipality fails to provide the ordered appraisal. If the court determines that the county or municipality fails to demonstrate that the adopted ordinance or resolution provides a public benefit, the bill requires the court to determine the value of the real property involved in the action. The bill requires the court to determine the taxes due on the real property based on the court's valuation of the property, compare those taxes to the taxes the plaintiff paid and issue a judgment. If the court issues a judgment for the plaintiff, and the county or municipality fails to pay the judgment within 45 days after the court order is final, the bill requires the court to order the county or municipality to pay three times the amount of the original judgment.

✓ up to the amount of loss in the value of the property,

prove

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:

^{224.30(3)}
SECTION 1. ~~Part~~ of the statutes is created to read:

Insert 3-16 ↑

^{224.30(3)(B)}
~~16.25~~ **Record of governmental easements.** The department, in cooperation

with the department of revenue, shall annually compile a ^{computerized} list of all easements created during the previous year that are held by a governmental unit, that impose a restriction on land use and that have been recorded in the office of the county register of deeds. The list shall categorize the governmental unit holding the easement, the class of property, as defined in s. 70.05 (5) (a) 1m., that is subject to the easement, the rights acquired under the easement, the amount of property subject to the easement and the amount paid for the easement. The department ~~of~~ ^{shall} administration shall require the register of deeds of each county to annually report ^{to the department} all information required under this ~~section~~ ^{subsection} with respect to easements granted and recorded in the county. The department shall sell the list for the cost of copying it to any person requesting a copy of the list.

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

move to p 9, after line 16
SECRET DRAFT
3
4
5
6
7
8
9
10
11
12
13 ↓

↓

BILL

plain period a comma

1 70.05 (5) (a) 1m. "Class of property" means residential under s. 70.32 (2) (a) 1.;
2 commercial under s. 70.32 (2) (a) 2.; personal property; ~~or the sum of~~ *plain* swamp or waste
3 under s. 70.32 (2) (a) 5; productive forest land under s. 70.32 (2) (a) 6; property that
4 is exempt under s. 70.11 (41) and other under s. 70.32 (2) (a) 7.

5 SECTION 3. 70.097 of the statutes is created to read:

6 70.097 'Division of parcels on roll. If a portion of a parcel of taxable property
7 has no economically viable use because of restrictions on its use that are imposed by
8 state law *local* local ordinance or resolution, that portion and the remainder of the
9 original parcel shall be entered separately on the assessment roll.

10 SECTION 4. 70.11 (40) and (41) of the statutes are created to read:

11 70.11 (40) WETLANDS. Wetlands subject to ordinances adopted under s. 59.692,
12 61.351 or 62.231.

13 (41) ECONOMICALLY UNVIALE PROPERTY. A parcel of property that, under s.
14 70.097, is entered separately on the assessment roll be cause it has no economically
15 viable use because of restrictions on the use of the property that are imposed by state
16 law or local ordinance or resolution.

17 SECTION 5. 799.015 of the statutes is created to read:

18 799.015 Action for change in the value of real property. (1) In this
19 section:

20 (a) "Certified appraisal" means an appraisal conducted by an appraiser
21 certified under s. 458.06.

22 (b) "Municipality" means a city, village or town.

23 (2) The owner of private real property may ~~commence~~ *bring* an action under this
24 chapter against a county or municipality to determine if the adoption of an ordinance

*Insert 3-16
(from p. 2)*

*by the
taxation
district
clerk
at the
property owner's
request*

*A property owner shall submit a written request
under this section to the taxation district clerk no later
than July 1 of the taxable year.*

12

13

14

BILL

SECTION 5

if the owner's request for a zoning variance to eliminate the effects of the ordinance or resolution is denied

1 or resolution by that county or municipality) affects the use of the real property and
2 changes the value of the real property.

Section 893.80 does not apply to actions brought under this section.

3 (3) An action under this section shall be commenced within 120 days after the
4 complainant knew or should have known that the ordinance or resolution changed
5 the value of the real property) or be barred. The methods by which the county or
6 municipality gives notice and the information provided in the notice regarding the
7 adoption of an ordinance or resolution are evidence of the complainant's knowledge
8 or opportunity to know of the effect of the ordinance or resolution.

is denied, whichever is later,

9 (4) This section may be used only with respect to a whole parcel of land as
10 assessed for the purpose of property taxation. However, if the taxation district has
11 combined separate parcels of land into a single parcel of land for purposes of property
12 taxation within 5 years prior to the date on which a complaint is filed, this section
13 may be used with respect to any single parcel of land that existed during that 5-year
14 period.

15 (5) A plaintiff in an action under this section shall present evidence, including
16 a certified appraisal of the real property affected by the ordinance or resolution,
17 showing that the ordinance or resolution affects the use of the real property and has
18 changed the value of the real property. The certified appraisal, to be admissible,
19 must have been conducted before or within 90 days after the action is commenced.
20 If the plaintiff does not submit the certified appraisal) to the court as required, the
21 court shall dismiss the action.

and denial

22 (6) The court may order the county or municipality to obtain an additional
23 appraisal of the real property involved in an action under this section. If the county
24 or municipality does not submit the ordered appraisal to the court within 30 days
25 after being ordered to do so, the court shall order the county or municipality to pay

and a copy of the denial of the zoning variance requested to eliminate the effects of the ordinance or resolution

BILL

but not to exceed the loss incurred in the value of the property resulting from the ordinance or resolution

1 the plaintiff the amount of damages specified in the complaint, including interest
2 calculated from the effective date of the ordinance or resolution. The county or
3 municipality shall have the appraisal completed in the manner specified in the
4 Wisconsin property assessment manual distributed under s. 73.03 (2a).

fails

5 (7) If the court determines that the county or municipality has failed to
6 demonstrate to the court that the ordinance or resolution involved in the action will
7 provide the intended public benefit, the court shall determine the value of the real
8 property. Any findings of fact, statements of intent, legislative history or documents
9 related to and contemporaneous with the adoption of the ordinance or resolution are
10 evidence of the public benefit intended by the ordinance or resolution.

11 (8) The court shall adjust the value of the real property determined under sub.
12 (7) to reflect the most current assessment ratio of the taxation district for the class
13 of property which includes the real property involved in the action. The court shall
14 compute the amount of property tax that would have been levied on this adjusted
15 value of the real property, as determined by the net tax rate of the county or
16 municipality that was in effect for the year during which the ordinance or resolution
17 was adopted. If the amount computed is less than the amount of tax the plaintiff
18 paid, the court shall render judgment for the plaintiff in the amount of the difference,
19 including interest and any penalty computed at the rate under s. 74.47 and shall
20 order the county or municipality to pay the judgment within 45 days after the court
21 order is final. If the amount computed is greater than the amount of tax the plaintiff
22 paid, the court shall render judgment for the county or municipality in the amount
23 of the difference. If the county or municipality is required to make a payment to the
24 plaintiff and does not do so within 45 days after the court order is final, the court,

prove

a substantially recognized

based on the appraisals received from the parties

BILL

1 upon the plaintiff's motion, shall order the county or municipality to pay the plaintiff
2 3 times the amount of the original judgment.

3 (9) The county or municipal assessor shall consider any judgment entered
4 under sub. (8) in the next subsequent assessment of the real property under s. 70.10
5 conducted after the assessment is entered. The plaintiff may submit a complaint to
6 the department of revenue if an assessor fails to comply with this subsection. The
7 department of revenue may file a complaint under s. 73.06 (4) if it determines that
8 an assessor has failed to comply with this subsection.

SECTION 6. Initial applicability.

224.30(3) ✓

9 (1) The treatment of section ~~16.25~~ of the statutes first applies to easements
10 created ~~6 months~~ *on the January 1* after the effective date of this subsection.
11

SECTION 7. Effective dates. This act takes effect on the day after publication,

12 except as follows:

13 (1) **PROPERTY TAX ASSESSMENT.** The treatment of sections 70.05 (5) (a) Im.,
14 70.097 ✓ and 70.11 (40) ✓ and (41) ✓ of the statutes takes effect on the January 1 after
15 publication.
16

17 (END)

Please Review this draft carefully to see if it fulfills your intent. Under section 70.097 of the statutes, who decides that a parcel of taxable property has no economically viable use, other than the taxpayer? Do you want that section to refer to determinations made under section 799.05 of the statutes?

*→ RPN
→ JK*

2/4
Joe:

I took my
best shot at
what Albers
wanted (see
notes in analysis)
in my areas.
Make any changes
you need &
send on to
editing. In your
in-box. Bob

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

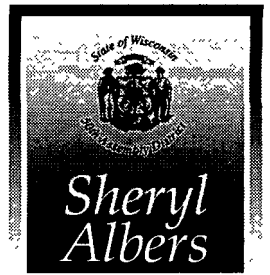
LRB-1455/2dn
RPN&JK:kg:lp

February 8, 1999

Please review this draft carefully to see if it fulfills your intent. Under section 70.097 of the statutes, who decides that a parcel of taxable property tax has no economically viable use, other than the taxpayer? Do you want that section to refer to the determinations made under section 799.015 of the statutes?

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: Joseph.Kreye@legis.state.wi.us



To: Bob Nelson, Senior Legislative Attorney
Joseph T. Kreye, Legislative Attorney

From: Attorney Scott Harold Southworth, Research Assistant *SHS*

Date: February 19, 1999

Subject: LRB 1455/2

Bob and Joe:

We received LRB 1455/2 and - more importantly - the drafter's notes. Specifically, you asked the following two questions:

Under section 70.097 of the statutes, who decides that a parcel of taxable property has no economically viable use, other than the taxpayer? Do you want that section to refer to the determinations made under section 799.015 of the statutes?

I drafted some notes to Representative Albers regarding these questions, then met with her to discuss options. The following represents her direction:

(1) The bill will define "economically viable" in the following manner:

"Economically viable property" means any property which a property owner

- (a) can use to place or construct a structure with more than \$1,000 in value; or
- (b) is using, or has used in the year prior, for tilling or pasturable agricultural use; or
- (c) is using, or has used in the year prior, for recreational or educational purposes, and derives or derived over \$1,000 in profit from such use.

this is not a 20% rule =

how in the year prior relevant?

overweight based on January 1 of taxable year

(2) The procedural steps for exempting the property will progress, as follows:

1. The property owner files a signed and notarized affidavit with the clerk of the governmental unit, noting that the property in question is not economically viable, per the definition of "economically viable" in the statutes.
2. The clerk presents the affidavit to the governmental body's Board of Review (BOR), if within 60 days of their next scheduled meeting, or the governmental body's elected body (e.g. city council).
3. The BOR or the elected body determines whether or not the statutory criteria are met; if met, the BOR or elected body *must/shall* declare that the property "economically unviable" and *must/shall* remove the property from the tax roll.
4. If the BOR or elected body determine that the statutory criteria are not met (and subsequently refuse to take the property off of the tax roll), the property owner may appeal to the circuit court in the county in which the property is located.

this should simply go in the exemption language

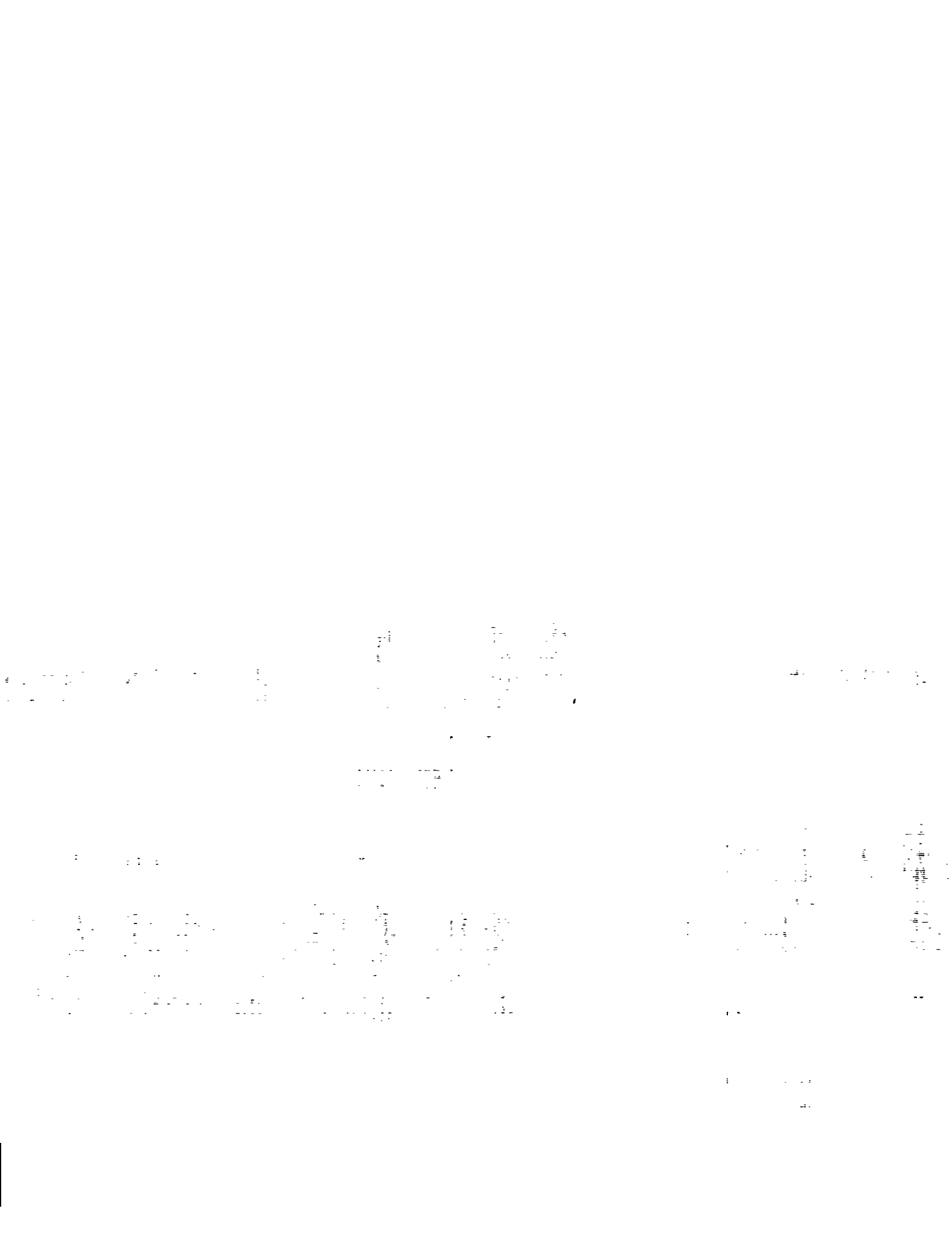
this isn't necessary in create an exemption

NOTE may need to add a definition of "economically unviable," which we would define as not meeting the definition of "economically viable."

Please, call with any questions, or to discuss these additions further. Thank you!

mechanism already in place (see 74.35) (2 70.47)

Office: P.O. Box 8952 . State Capitol . Madison, WI 53708-8952 . (808) 266-8531
Home: S6896 Seeley Creek Road . Loganville, WI 53943 . (608) 727-5084



2-29-97
LRB-1455/2

Spoke with Scott in Rep Alberi's office

▷ memo still refers to a "portion"

intent = ex) part of property zoned for use

as part of Ice Age scenic trail

— because of zoning, property

owner can't do anything with that part

agreed:

- 1) exemption's definition needs to be narrower
- 2) memo definition would exempt even reasonable, usual setback requirements — not the intent

OK to draft all the pertinent language from § (1) of the memo into exemption under 70.11(41) & use existing mechanism for review and appeal

Scott will confer with Rep Alberi re this conversation

Scott at Alber's office

4:15pm

2-24-99

use the definition given

... except, for setbacks and ordinances

~~after~~ ^{before} ~~the~~ ^{legislation?}

(may prevent uniformity
cause problems)

doesn't want the answer to make the decision

— like the affidavit idea — put the
onus on the taxpayer

do it was requested

understands that the end result will be
adjusting the mill rate



JK
D-N

1999 BILL

1 **AN ACT to amend** 70.05 (5) (a) 1m.; and **to create** 16.25, 70.097, 70.11 (40) and
 2 (41) and 799.015 of the statutes; **relating to:** property taxation of land adjusted
 3 in value by state laws or local ordinances or resolutions, small claims actions
 4 to recover property taxes paid and lists of easements granted with respect to
 5 real property.

Gen. Cat.
local
local

Analysis by the Legislative Reference Bureau

This bill requires parcels of property that ~~include property that~~ has no economically viable use because of restrictions on the use of the property that are imposed by state laws or local ordinances or resolutions ~~to~~ be entered on the property tax assessment roll separately from the rest of the original parcel. The bill exempts from the property tax those parcels that are not economically viable and also certain wetlands.

The bill also requires the department of financial institutions (DFI) to keep a computerized list of easements and requires the register of deeds of each county to report to DFI all of the information that DFI needs to compile that list.

The bill allows the owner of real property to bring an action in small claims court for damages to the value of real property resulting from the adoption of an ordinance or resolution if his or her request for a zoning variance to eliminate the effects of the ordinance or resolution is denied. The plaintiff, -under this bill, is required to submit an appraisal of the real property and a copy of the variance denial to the court. The court may order the county or municipality to submit an appraisal

that a portion of a
local
that

✓

BILL

of the real property. Under the bill, the action is dismissed if the plaintiff fails to provide the appraisal and variance denial. The bill requires the court to order the payment of the amount demanded by the plaintiff, up to the amount of loss in the value of the property, if the county or municipality fails to provide the ordered appraisal. If the county or municipality fails to prove that the adopted ordinance or resolution provides a public benefit, the bill requires the court to determine the value of the real property involved in the action. The bill requires the court to determine the taxes due on the real property based on the court's valuation of the property, compare those taxes to the taxes the plaintiff paid and issue a judgment. If the court issues a judgment for the plaintiff, and the county or municipality fails to pay the judgment within 45 days after the court order is final, the bill requires the court to order the county or municipality to pay three times the amount of the original judgment.

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.** 70.05 (5) (a) lm. of the statutes is amended to read:

2 70.05 (5) (a) lm. "Class of property" means residential under s. 70.32 (2) (a) 1.;
3 commercial under s. 70.32 (2) (a) 2.; personal property; or the sum of swamp or waste
4 under s. 70.32 (2) (a) 5., productive forest land under s. 70.32 (2) (a) 6., property that
5 is exempt under s. 70.11 (41) and other under s. 70.32 (2) (a) 7.

6 **SECTION 2.** 70.097 of the statutes is created to read:

7 **70.097 Division of parcels on roll.** If a portion of a parcel of taxable property
8 has ^{no} economically viable ^{use} ⁱⁿ ^{the} ^{property} because of restrictions on its use that are imposed by
9 state law, local ordinance or local resolution, that portion and the remainder of the
10 original parcel shall be entered separately on the assessment roll by the taxation
11 district clerk, at the property owner's request. A property owner shall submit a
12 written request under this section to the taxation district clerk no later than July 1
13 of the taxable year.

INSERT 2-6 ✓

BILL

1 **SECTION 3.** 70.11 (40) and (41) of the statutes are created to read:

2 **70.11 (40) WETLANDS.** Wetlands subject to ordinances adopted under s. 59.692,
3 61.351 or 62.231.

4 **(41) ECONOMICALLY UNVIABLE PROPERTY.** A ^{portion of a} parcel of ^{is economically unviable} property that, under s.
5 70.097, ~~is entered separately on the assessment roll because it has no economically~~ ^{real}
6 ~~viable use because of restrictions on the use of the property that are imposed by state~~
7 ~~law or local ordinance or resolution.~~ ^{property}

8 **SECTION 4.** 224.30 of the statutes is created to read:

9 224.30 (3) The department, in cooperation with the department of revenue,
10 shall annually compile a computerized list of all easements created during the
11 previous year that are held by a governmental unit, that impose a restriction on land
12 use and that have been recorded in the office of the county register of deeds. The list
13 shall categorize the governmental unit holding the easement, the class of property,
14 as defined in s. 70.05 (5) (a) lm., that is subject to the easement, the rights acquired
15 under the easement, the amount of property subject to the easement and the amount
16 paid for the easement. The register of deeds of each county shall annually report to
17 the department all information required under this subsection with respect to
18 easements granted and recorded in the county. The department shall sell the list for
19 the cost of copying it to any person requesting a copy of the list.

20 **SECTION 5.** 799.015 of the statutes is created to read:

21 **799.015 Action for change in the value of real property. (1)** In this
22 section:

23 (a) "Certified appraisal" means an appraisal conducted by an appraiser
24 certified under s. 458.06.

25 (b) "Municipality" means a city, village or town.

BILL**SECTION 5**

1 (2) The owner of private real property may bring an action under this chapter
2 against a county or municipality to determine if the adoption of an ordinance or
3 resolution by that county or municipality affects the use of the real property and
4 changes the value of the real property if the owner's request for a zoning variance to
5 eliminate the effects of the ordinance or resolution is denied. Section 893.80 does not
6 apply to actions brought under this section.

7 (3) An action under this section shall be commenced within 120 days after the
8 complainant knew or should have known that the ordinance or resolution changed
9 the value of the real property, or within 120 days after the owner's request for a
10 zoning variance is denied, whichever is later, or be barred. The methods by which
11 the county or municipality gives notice and the information provided in the notice
12 regarding the adoption of an ordinance or resolution are evidence of the
13 complainant's knowledge or opportunity to know of the effect of the ordinance or
14 resolution.

15 (4) This section may be used only with respect to a whole parcel of land as
16 assessed for the purpose of property taxation. However, if the taxation district has
17 combined separate parcels of land into a single parcel of land for purposes of property
18 taxation within 5 years prior to the date on which a complaint is filed, this section
19 may be used with respect to any single parcel of land that existed during that 5-year
20 period.

21 (5) A plaintiff in an action under this section shall present evidence, including
22 a certified appraisal of the real property affected by the ordinance or resolution,
23 showing that the ordinance or resolution affects the use of the real property and has
24 changed the value of the real property and a copy of the denial of the zoning variance
25 requested to eliminate the effects of the ordinance or resolution. The certified

BILL

1 appraisal, to be admissible, must have been conducted before or within 90 days after
2 the action is commenced. If the plaintiff does not submit the certified appraisal and
3 denial to the court as required, the court shall dismiss the action.

4 (6) The court may order the county or municipality to obtain an additional
5 appraisal of the real property involved in an action under this section. If the county
6 or municipality does not submit the ordered appraisal to the court within 30 days
7 after being ordered to do so, the court shall order the county or municipality to pay
8 the plaintiff the amount of damages specified in the complaint, but not to exceed the
9 loss incurred on the value of the property resulting from the ordinance or resolution,
10 including interest calculated from the effective date of the ordinance or resolution.
11 The county or municipality shall have the appraisal completed in the manner
12 specified in the Wisconsin property assessment manual distributed under s. 73.03
13 (2a).

14 (7) If the county or municipality fails to prove to the court that the ordinance
15 or resolution involved in the action will provide a substantial, recognized public
16 benefit, the court shall determine the value of the real property, based on the
17 appraisals received from the parties. Any findings of fact, statements of intent,
18 legislative history or documents related to and contemporaneous with the adoption
19 of the ordinance or resolution are evidence of the public benefit intended by the
20 ordinance or resolution.

21 (8) The court shall adjust the value of the real property determined under sub.
22 (7) to reflect the most current assessment ratio of the taxation district for the class
23 of property which includes the real property involved in the action. The court shall
24 compute the amount of property tax that would have been levied on this adjusted
25 value of the real property, as determined by the net tax rate of the county or

BILL

1 municipality that was in effect for the year during which the ordinance or resolution
2 was adopted. If the amount computed is less than the amount of tax the plaintiff
3 paid, the court shall render judgment for the plaintiff in the amount of the difference,
4 including interest and any penalty computed at the rate under s. 74.47 and shall
5 order the county or municipality to pay the judgment within 45 days after the court
6 order is final. If the amount computed is greater than the amount of tax the plaintiff
7 paid, the court shall render judgment for the county or municipality in the amount
8 of the difference. If the county or municipality is required to make a payment to the
9 plaintiff and does not do so within 45 days after the court order is final, the court,
10 upon the plaintiff's motion, shall order the county or municipality to pay the plaintiff
11 3 times the amount of the original judgment.

12 (9) The county or municipal assessor shall consider any judgment entered
13 under sub. (8) in the next subsequent assessment of the real property under s. 70.10
14 conducted after the assessment is entered. The plaintiff may submit a complaint to
15 the department of revenue if an assessor fails to comply with this subsection. The
16 department of revenue may file a complaint under s. 73.06 (4) if it determines that
17 an assessor has failed to comply with this subsection.

SECTION 6. Initial applicability.

18 (1) The treatment of section 224.30 (3) of the statutes first applies to
19 easements created on the January 1 after the effective date of this subsection.
20

21 ~~SECTION 7. Effective dates. This act takes effect on the day after publication,~~
22 ~~except as follows:~~

BILL

~~(1) PROPERTY TAX ASSESSMENT~~

1
2
3
4

The treatment of sections 70.05 (5) (a) Im.,
70.097 and 70.11 (40) and (41) of the statutes takes effect on the January 1 after
publication.

(END) first applies to the
property tax assessment, as of
January 1, 2000

wro:
change component
to initial app.

Insert 2 - 6 ✓

1 SECTION 1. 70.097 of the statutes is created to read:

2 70.097 Economically unviable property. (1) ~~(initial)~~ In this section,
3 “economically unviable property” means a portion of a parcel of real property that,
4 because of use restrictions imposed ~~after December 31, 1999,~~ by state law, local
5 ordinance or local resolution, cannot be used for any of the following:

6 (a) To build or place a structure that has a value of at least \$1,000.

7 (b) Agricultural purposes under s. 70.32 (2) (c) 1. ✓

8 (c) Recreational or educational purposes that ~~result in~~ ^{generate} over \$1,000 a year in
9 profit ~~to the property owner~~

10 (2) (a) An owner of economically unviable property may submit an affidavit to
11 the clerk of the taxation district where the property is located that identifies the
12 economically unviable property and that specifies why the property is economically
13 unviable property under sub. (1). ✓ ✓ ✓

14 (b) ^{within 60 days from the receipt of an affidavit under par. (a),} The clerk of the taxation district shall submit the affidavit ~~under par. (a)~~
15 to the taxation district's board of review or board of assessors, or, if the taxation
16 district's governing body meets before the taxation district's board of review or board
17 of assessors, to the ~~the~~ taxation district's governing body. ✓ ✓

18 (c) The taxation district's board of review, board of assessors or governing body
19 shall consider the affidavit submitted under par. (b) at its next scheduled meeting
20 and shall determine whether the property identified in the affidavit is economically
21 unviable property. If the taxation district's board of review, board of assessors or
22 governing body determines that the portion of the parcel of real property specified
23 in the affidavit ~~under par. (a)~~ is economically unviable property under sub. (1), the ✓ ✓ ✓

1 clerk of the taxation district shall enter the economically unviable property and the
2 remainder of the parcel of real property separately on the assessment roll for the
3 current taxable year, and the economically unviable property shall be exempt from
4 property taxes under s. 70.11 (41).

5 (d) The clerk of the taxation district shall notify the property owner, by certified
6 mail, of the determination under par. (c) within 15 days from the date of that
7 determination. A property owner aggrieved by a determination under par. (c) may
8 appeal that determination under s. 74.35.

D-N

Please review this bill carefully to ensure that it complies with your intent. The phrase "recreational or educational purposes" is not defined and, therefore, could be the subject of litigation. Do you want to define that phrase? Also, what is the rationale for applying a profit test to property used for educational purposes? Do you mean profits or gross receipts?
As I discussed with Scott Southworth, it is likely that almost every property owner in this state owns economically unviable property under this bill. Also, as I discussed with Scott, as a result of this bill, a taxation district will probably just adjust the mill rate on all taxable real property in the district to compensate for lost property tax revenue. If you have any further questions, please do not hesitate to contact me.

JK

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

LRB-1455/3dn
JK:kg:jf

March 10, 1999

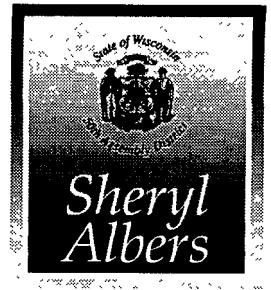
Please review this bill carefully to ensure that it complies with your intent. The phrase "recreational or educational purposes" is not defined and, therefore, could be the subject of litigation. Do you want to define that phrase? Also, what is the rationale for applying a profit test to property used for educational purposes? Do you mean profits or gross receipts?

As I discussed with Scott Southworth, it is likely that almost every property owner in this state owns economically unviable property under this bill. Also, as I discussed with Scott, as a result of this bill, a taxation district will probably just adjust the mill rate on all taxable real property in the district to compensate for lost property tax revenue. If you have any further questions, please do not hesitate to contact me.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: Joseph.Kreye@legis.state.wi.us

To: Attorney Joe Kreye, LRB Drafting
From: Attorney Scott Harold Southworth, Research Assistant *SHS*

Date: January 10, 2000
Subject: LRB 1455 - Economically Unviable Property



Joe,

Thank you for sending a copy of revision 3 of the LRB. I've reviewed the draft with the other attorney in our office and with Sheryl, and would like to make the following changes:

Section 2

- Page 2, line 7: Define “economically unviable property” as follows:

“Economically unviable property” means a portion of a parcel of real property that meets all of the following conditions:

- (a) Cannot be used to build or place a structure that has a value of more than \$1,000 due to use restrictions imposed by state law, local ordinance or local resolution.
 - (b) Cannot be used for agricultural purposes under s. 70.32 (2) (c) 1., except for pasturing, due to use restrictions imposed by state law, local ordinance or local resolution.
 - (c) Is not being used, nor has been used in the previous taxable year, for recreational or educational purposes that generate any income.
- Page 3, line 7: Sub (2) (b) should read as follows:
Within 10 days from the receipt of an affidavit under par. (a), the clerk of the taxation district shall submit the affidavit to the taxation district's board of review or board of assessors. If the board of review or board of assessors is unable to meet within 60 days from the date the affidavit was received by the clerk, the clerk shall submit the affidavit to the taxation district's governing body.

Section 4

DELETE COMPLETELY.

Section 5

DELETE COMPLETELY.

Section 6

Should read as follows:

The treatment of sections 70.05 (5) (a) 1m., 70.097 and 70.11 (40) and (41) of the statutes first applies to the property tax assessment as of January 1, 2001.

Office: P.O. Box 8952 . State Capitol . Madison, WI 53708-8952 . (608) 266-8531
Home: S6696 Seeley Creek Road . Loganville, WI 53943 . (606) 727-5084





1999 BILL

1-11-2000
SOON
re gen

1 AN **ACT** to **amend** 70.05 (5) (a) 1m.; and to create 70.097, 70.11 (40) and (41),
 2 224.30 and 799.015 of the statutes; **relating to:** property taxation of land
 3 adjusted in value by state laws or local ordinances or local resolutions&\$\$@
 4 ~~claims actions to recover property taxes paid and lists of easements granted~~
 5 ~~with respect to real property.~~

Analysis by the Legislative Reference Bureau

This bill requires that a portion of a parcel of property that has no economically viable use because of restrictions on the use of that property that are imposed by state laws or local ordinances or local resolutions be entered on the property tax assessment roll separately from the rest of the original parcel. The bill exempts from the property tax those portions of parcels that are not economically viable and also certain wetlands.

~~The bill also requires the department of financial institutions (DFI) to keep a computerized list of easements and requires the register of deeds of each county to report to DFI all of the information that DFI needs to compile that list.~~

~~The bill allows the owner of real property to bring an action in small claims court for damages to the value of real property resulting from the adoption of an ordinance or resolution if his or her request for a zoning variance to eliminate the effects of the ordinance or resolution is denied. The plaintiff, under this bill, is required to submit an appraisal of the real property and a copy of the variance denial to the court. The court may order the county or municipality to submit an appraisal~~

BILL

of the real property. Under the bill, the action is dismissed if the plaintiff fails to provide the appraisal and variance denial. The bill requires the court to order the payment of the amount demanded by the plaintiff, up to the amount of loss in the value of the property, if the county or municipality fails to provide the ordered appraisal. If the county or municipality fails to prove that the adopted ordinance or resolution provides a public benefit, the bill requires the court to determine the value of the real property involved in the action. The bill requires the court to determine the taxes due on the real property based on the court's valuation of the property, compare those taxes to the taxes the plaintiff paid and issue a judgment. If the court issues a judgment for the plaintiff, and the county or municipality fails to pay the judgment within 45 days after the court order is final, the bill requires the court to order the county or municipality to pay three times the amount of the original judgment.

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:

SECTION 1. 70.05 (5) (a) lm. of the statutes is amended to read:

70.05 (5) (a) lm. "Class of property" means residential under s. 70.32 (2) (a) 1.; commercial under s. 70.32 (2) (a) 2.; personal property; or the sum of swamp or waste under s. 70.32 (2) (a) 5., productive forest land under s. 70.32 (2) (a) 6., property that is exemnt under s. 70.11 (41) and other under s. 70.32 (2) (a) 7.

SECTION 2. 70.097 of the statutes is created to read:

70.097 Economically unviable property. (1) In this section, "economically unviable property" means a portion of a parcel of real property that, ~~because of use~~

~~restrictions imposed by state law, local ordinance or local resolution, cannot be used~~

~~for any~~ ^{meets all} of the following conditions

(a) ^{it cannot be used} To build or place a structure that has a value of at least \$1,000.

(b) ^{it cannot be used for} Agricultural purposes under s. 70.32 (2) (c) 1. ^{except as} pasture land, ^{because of use restrictions imposed by state law, local ordinance or local resolution.}

because of use restrictions imposed by state law, local ordinance or local resolution

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BILL

It cannot be used, and has not been used in the previous taxable year, for

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(c) Recreational or educational purposes that generate over \$1,000 a year in

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profit. income

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(2) (a) An owner of economically unviable property may submit an affidavit to

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the clerk of the taxation district where the property is located that identifies the

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economically unviable property and that specifies why the property is economically

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unviable property under sub. (1).

7

(b) Within ~~60~~¹⁰ days from the receipt of an affidavit under par. (a), the clerk of

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the taxation district shall submit the affidavit to the taxation district's board of

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review or board of assessors, ~~or if the taxation district's governing body meets before~~

10

~~the taxation district's board of review or board of assessors,~~ to the taxation district's

11

governing body

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(c) The taxation district's board of review, board of assessors or governing body

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shall consider the affidavit submitted under par. (b) at its next scheduled meeting

14

and shall determine whether the property identified in the affidavit is economically

15

unviable property. If the taxation district's board of review, board of assessors or

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governing body determines that the portion of the parcel of real property specified

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in the affidavit is economically unviable property under sub. (1), the clerk of the

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taxation district shall enter the economically unviable property and the remainder

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of the parcel of real property separately on the assessment roll for the current taxable

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year, and the economically unviable property shall be exempt from property taxes

21

under s. 70.11 (41).

22

(d) The clerk of the taxation district shall notify the property owner, by certified

23

mail, of the determination under par. (c) within 15 days from the date of that

24

determination. A property owner aggrieved by a determination under par. (c) may

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appeal that determination under s. 74.35.

is unable to meet within 60 days from the date that the clerk receives the affidavit, the clerk shall submit the affidavit

BILL

1 **SECTION 3.** 70.11 (40) and (41) of the statutes are created to read:

2 70.11 ~~(40)~~ **WETLANDS.** Wetlands subject to ordinances adopted under s. 59.692,
3 61.351 or 62.231.

4 **(41) ECONOMICALLY UNVIABLE PROPERTY.** A portion of a parcel of real property
5 that is economically unviable property under s. 70.097.

6 ~~**SECTION 4.** 224.30 of the statutes is created to read:~~

7 ~~224.30 **(3)** The department, in cooperation with the department of revenue,~~
8 ~~shall annually compile a computerized list of all easements created during the~~
9 ~~previous year that are held by a governmental unit, that impose a restriction on land~~
10 ~~use and that have been recorded in the office of the county register of deeds. The list~~
11 ~~shall categorize the governmental unit holding the easement, the class of property,~~
12 ~~as defined in s. 70.05 (5) (a) Im., that is subject to the easement, the rights acquired~~
13 ~~under the easement, the amount of property subject to the easement and the amount~~
14 ~~paid for the easement. The register of deeds of each county shall annually report to~~
15 ~~the department all information required under this subsection with respect to~~
16 ~~easements granted and recorded in the county. The department shall sell the list for~~
17 ~~the cost of copying it to any person requesting a copy of the list.~~

18 ~~**SECTION 5.** 799.015 of the statutes is created to read:~~

19 ~~**799.015 Action for change in the value of real property.** (1) In this~~
20 ~~section:~~

21 ~~(a) "Certified appraisal" means an appraisal conducted by an appraiser~~
22 ~~certified under s. 458.06.~~

23 ~~(b) "Municipality" means a city, village or town.~~

24 ~~**(2)** The owner of private real property may bring an action under this chapter~~
25 ~~against a county or municipality to determine if the adoption of an ordinance or~~

BILL

1 resolution by that county or municipality affects the use of the real property and
2 changes the value of the real property if the owner's request for a zoning variance to
3 eliminate the effects of the ordinance or resolution is denied. Section 893.80 does not
4 apply to actions brought under this section.

5 (3) An action under this section shall be commenced within 120 days after the
6 complainant knew or should have known that the ordinance or resolution changed
7 the value of the real property, or within 120 days after the owner's request for a
8 zoning variance is denied, whichever is later, or be barred. The methods by which
9 the county or municipality gives notice and the information provided in the notice
10 regarding the adoption of an ordinance or resolution are evidence of the
11 complainant's knowledge or opportunity to know of the effect of the ordinance or
12 resolution.

13 (4) This section may be used only with respect to a whole parcel of land as
14 assessed for the purpose of property taxation. However, if the taxation district has
15 combined separate parcels of land into a single parcel of land for purposes of property
16 taxation within 5 years prior to the date on which a complaint is filed, this section
17 may be used with respect to any single parcel of land that existed during that 5-year
18 period.

19 (5) A plaintiff in an action under this section shall present evidence, including
20 a certified appraisal of the real property affected by the ordinance or resolution,
21 showing that the ordinance or resolution affects the use of the real property and has
22 changed the value of the real property and a copy of the denial of the zoning variance
23 requested to eliminate the effects of the ordinance or resolution. The certified
24 appraisal, to be admissible, must have been conducted before or within 90 days after

BILL

1 the action is commenced. If the plaintiff does not submit the certified appraisal and
2 denial to the court as required, the court shall dismiss the action.

3 (6) The court may order the county or municipality to obtain an additional
4 appraisal of the real property involved in an action under this section. If the county
5 or municipality does not submit the ordered appraisal to the court within 30 days
6 after being ordered to do so, the court shall order the county or municipality to pay
7 the plaintiff the amount of damages specified in the complaint, but not to exceed the
8 loss incurred on the value of the property resulting from the ordinance or resolution,
9 including interest calculated from the effective date of the ordinance or resolution.
10 The county or municipality shall have the appraisal completed in the manner
11 specified in the Wisconsin property assessment manual distributed under s. 73.03
12 (2a).

13 (7) If the county or municipality fails to prove to the court that the ordinance
14 or resolution involved in the action will provide a substantial, recognized public
15 benefit, the court shall determine the value of the real property, based on the
16 appraisals received from the parties. Any findings of fact, statements of intent,
17 legislative history or documents related to and contemporaneous with the adoption
18 of the ordinance or resolution are evidence of the public benefit intended by the
19 ordinance or resolution.

20 (8) The court shall adjust the value of the real property determined under sub.
21 (7) to reflect the most current assessment ratio of the taxation district for the class
22 of property which includes the real property involved in the action. The court shall
23 compute the amount of property tax that would have been levied on this adjusted
24 value of the real property, as determined by the net tax rate of the county or
25 municipality that was in effect for the year during which the ordinance or resolution

BILL

1 was adopted. If the amount computed is less than the amount of tax the plaintiff
 2 paid, the court shall render judgment for the plaintiff in the amount of the difference,
 3 including interest and any penalty computed at the rate under s. 74.47 and shall
 4 order the county or municipality to pay the judgment within 45 days after the court
 5 order is final. If the amount computed is greater than the amount of tax the plaintiff
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 7 of the difference. If the county or municipality is required to make a payment to the
 8 plaintiff and does not do so within 45 days after the court order is final, the court,
 9 upon the plaintiff's motion, shall order the county or municipality to pay the plaintiff
 10 3 times the amount of the original judgment.

11 (9) The county or municipal assessor shall consider any judgment entered
 12 under sub. (8) in the next subsequent assessment of the real property under s. 70.10
 13 conducted after the assessment is entered. The plaintiff may submit a complaint to
 14 the department of revenue if an assessor fails to comply with this subsection. The
 15 department of revenue may file a complaint under s. 73.06 (4) if it determines that
 16 an assessor has failed to comply with this subsection.

17 **SECTION 6. Initial applicability.**

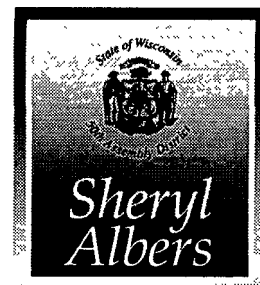
18 ~~(1) The treatment of section 224.30 (3) of the statutes first applies to easements~~
 19 ~~created on the January 1 after the effective date of this subsection.~~

20 ~~(2) The treatment of sections 70.05 (5) (a) 1m., 70.097 and 70.11 (40) and (41)~~
 21 ~~of the statutes first applies to the property tax assessment as of January 1, 2000.~~

(END)

This act

1



To: Attorney Joe Kreye, LRB
From: Attorney Scott Harold Southworth **SHS**

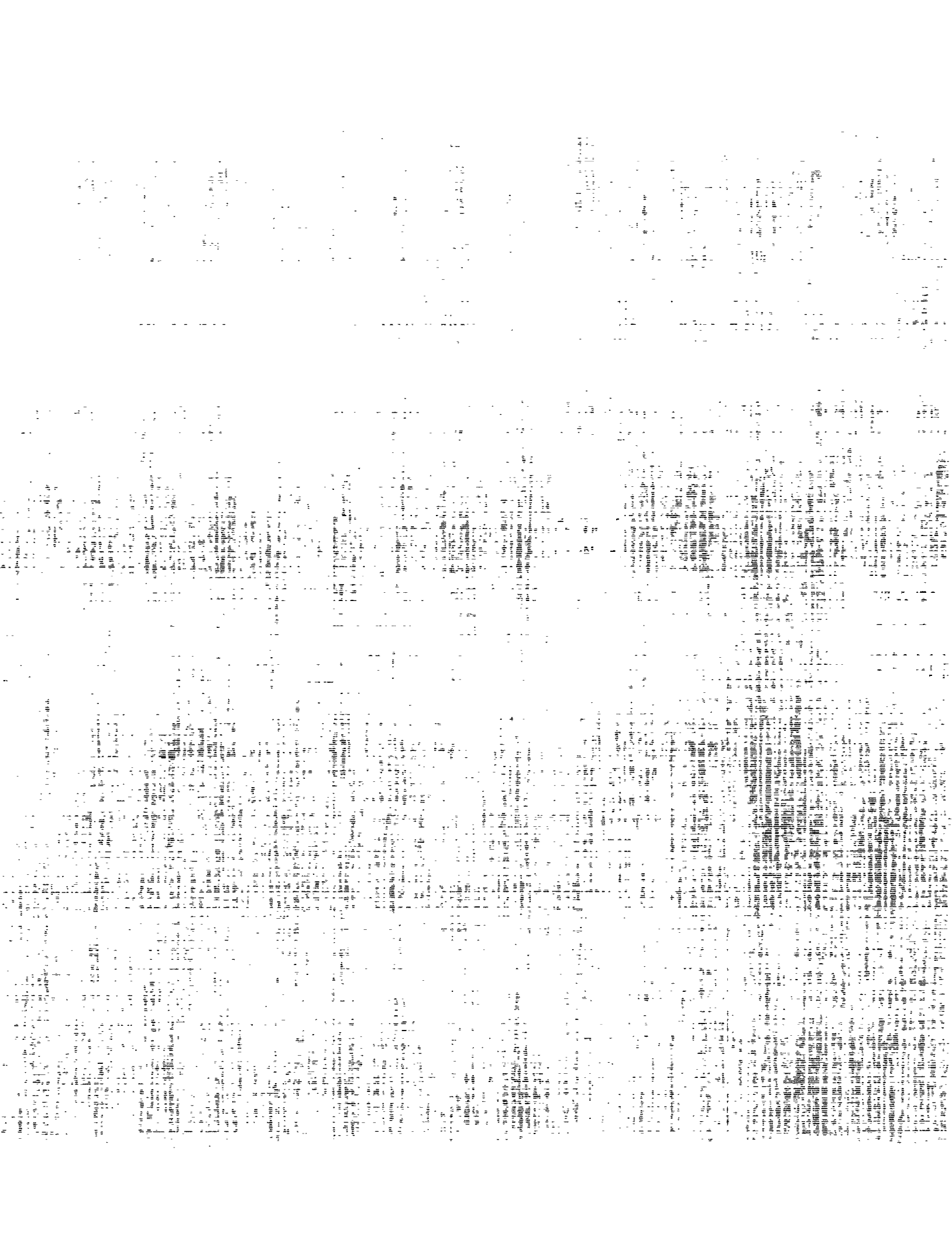
Date: January 12, 2000
Subject: LRB 1455/4

Joe,

Thanks for your quick response to my 10 Jan 00 memo. The following changes are needed:

- 1) Page 2, line 7: Sheryl wants the threshold to be more than \$1,000, not at \$1,000. Therefore, “at least” needs to be changed to “more than.”
- 2) Page 2, line 13: “It cannot be used” is not our intent. There may be property that *could* be used for recreational purposes, but the owner chooses not use it for that in the current taxable year, and made the same decision in the year prior. We want to provide those individuals with the opportunity to apply for a property tax exemption. We only include recreational or educational use in the bill because we understand that some property owners may be use the property exclusively for these purposes, and make a pretty sound living doing so. Therefore, “It cannot be used” needs to be changed to “It is not being used.”

Give me a call if you have any other questions on the bill. Thanks again for getting to this right away - we should have this one introduced within two weeks.





LRB-1455/A
RPN&JK:kg:km

1999 BILL

in 1-13-2000

SOON

1 **AN ACT** to amend 70.05 (5) (a) Im.; and to create 70.097 and 70.11 (40) and (41)
2 of the statutes; relating to: property taxation of land adjusted in value by state
3 laws or local ordinances or local resolutions.

Analysis by the Legislative Reference Bureau

This bill requires that a portion of a parcel of property that has no economically viable use because of restrictions on the use of that property that are imposed by state laws or local ordinances or local resolutions be entered on the property tax assessment roll separately from the rest of the original parcel. The bill exempts from the property tax those portions of parcels that are not economically viable and also certain wetlands.

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:

4 **SECTION 1.** 70.05 (5) (a) Im. of the statutes is amended to read:
5 70.05 (5) (a) Im. "Class of property" means residential under s. 70.32 (2) (a) 1.;
6 commercial under s. 70.32 (2) (a) 2.; personal property; or the sum of swamp or waste

BILL

1 under s. 70.32 (2) (a) 5., productive forest land under s. 70.32 (2) (a) 6., property that
 2 is exempt under s. 70.11 (41) and other under s. 70.32 (2) (a) 7.

3 **SECTION 2.** 70.097 of the statutes is created to read:

4 **70.097 Economically unviable property. (1)** In this section, “economically
 5 unviable property” means a portion of a parcel of real property that meets all of the
 6 following conditions:

7 (a) It cannot be used to build or place a structure that has a value ^{greater than} ~~of at least~~
 8 \$1,000 because of use restrictions imposed by state law, local ordinance or local
 9 resolution.

10 (b) It cannot be used for agricultural purposes under s. 70.32 (2) (c) 1., except
 11 as pasture land, because of use restrictions imposed by state law, local ordinance or
 12 local resolution.

13 (c) It ~~cannot be~~ ^{is} used, and has not been used in the previous taxable year, for
 14 recreational or educational purposes that generate income.

15 (2) (a) An owner of economically unviable property may submit an affidavit to
 16 the clerk of the taxation district where the property is located that identifies the
 17 economically unviable property and that specifies why the property is economically
 18 unviable property under sub. (1).

19 (b) Within 10 days from the receipt of an affidavit under par. (a), the clerk of
 20 the taxation district shall submit the affidavit to the taxation district’s board of
 21 review or board of assessors. If the taxation district’s board of review or board of
 22 assessors is unable to meet within 60 days from the date that the clerk receives the
 23 affidavit, the clerk shall submit the affidavit to the taxation district’s governing body.

24 (c) The taxation district’s board of review, board of assessors or governing body
 25 shall consider the affidavit submitted under par. (b) at its next scheduled meeting

BILL

1 and shall determine whether the property identified in the affidavit is economically
2 unviable property. If the taxation district's board of review, board of assessors or
3 governing body determines that the portion of the parcel of real property specified
4 in the affidavit is economically unviable property under sub. (1), the clerk of the
5 taxation district shall enter the economically unviable property and the remainder
6 of the parcel of real property separately on the assessment roll for the current taxable
7 year, and the economically unviable property shall be exempt from property taxes
8 under s. 70.11 (41).

9 (d) The clerk of the taxation district shall notify the property owner, by certified
10 mail, of the determination under par. (c) within 15 days from the date of that
11 determination. A property owner aggrieved by a determination under par. (c) may
12 appeal that determination under s. 74.35.

13 **SECTION 3.** 70.11 (40) and (41) of the statutes are created to read:

14 **70.11 (40) WETLANDS.** Wetlands subject to ordinances adopted under s. 59.692,
15 61.351 or 62.231.

16 **(41) ECONOMICALLY UNVIABLE PROPERTY.** A portion of a parcel of real property
17 that is economically unviable property under s. 70.097.

18 **SECTION 4. Initial applicability.**

19 (1) This act first applies to the property tax assessment as of January 1, 2001.

20 **(END)**

**SUBMITTAL
-FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 01/13/2000

To: Representative Albers

Relating to LRB drafting number: LRB-1455

Topic

Actions to recover real estate value lost as the result of ordinance change and adjustment of property taxation on land for property affected by law change

Subject(s)

Courts - miscellaneous, Tax - property

1. JACKET the draft for introduction

SA

25 Jan 00

in the Senate or the Assembly X (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

REDRAFT. See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Robert P. Nelson, Senior Legislative Attorney
Telephone: (608) 267-75 11



99-1455/5

Scott — Rep Albers

§ 3 & 13-15 — delete

redraft as 16 with deletion of
section 3

Scott is sending the joint book



1999 BILL

in 1-31-2000
DUE
Tues 2-1

1 **AN ACT to amend** 70.05 (5) (a) Im.; and to create 70.097 and 70.11 (40) and (41)
2 of the statutes; **relating to:** property taxation of land adjusted in value by state
3 laws or local ordinances or local resolutions.

re gen

Analysis by the Legislative Reference Bureau

This bill requires that a portion of a parcel of property that has no economically viable use because of restrictions on the use of that property that are imposed by state laws or local ordinances or local resolutions be entered on the property tax assessment roll separately from the rest of the original parcel. The bill exempts from the property tax those portions of parcels that are not economically viable ~~and also~~ *certain wetlands.*

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:

4 **SECTION 1.** 70.05 (5) (a) Im. of the statutes is amended to read:
5 70.05 (5) (a) Im. "Class of property" means residential under s. 70.32 (2) (a) 1.;
6 commercial under s. 70.32 (2) (a) 2.; personal property; or the sum of swamp or waste

BILL

1 under s. 70.32 (2) (a) 5., productive forest land under s. 70.32 (2) (a) 6., property that
2 is exempt under s. 70.11 (41) and other under s. 70.32 (2) (a) 7.

3 **SECTION 2.** 70.097 of the statutes is created to read:

4 **70.097 Economically unviable property. (1)** In this section, “economically
5 unviable property” means a portion of a parcel of real property that meets all of the
6 following conditions:

7 (a) It cannot be used to build or place a structure that has a value greater than
8 \$1,000 because of use restrictions imposed by state law, local ordinance or local
9 resolution.

10 (b) It cannot be used for agricultural purposes under s. 70.32 (2) (c) 1., except
11 as pasture land, because of use restrictions imposed by state law, local ordinance or
12 local resolution.

13 (c) It is not being used, and has not been used in the previous taxable year, for
14 recreational or educational purposes that generate income.

15 (2) (a) An owner of economically unviable property may submit an affidavit to
16 the clerk of the taxation district where the property is located that identifies the
17 economically unviable property and that specifies why the property is economically
18 unviable property under sub. (1).

19 (b) Within 10 days from the receipt of an affidavit under par. (a), the clerk of
20 the taxation district shall submit the affidavit to the taxation district’s board of
21 review or board of assessors. If the taxation district’s board of review or board of
22 assessors is unable to meet within 60 days from the date that the clerk receives the
23 affidavit, the clerk shall submit the affidavit to the taxation district’s governing body.

24 (c) The taxation district’s board of review, board of assessors or governing body
25 shall consider the affidavit submitted under par. (b) at its next scheduled meeting

BILL

1 and shall determine whether the property identified in the **affidavit** is economically
 2 unviable, property. If the taxation district's board of review, board of assessors or
 3 governing body determines that the portion of the parcel of real property specified
 4 in the **affidavit** is economically unviable property under sub. (1), the clerk of the
 5 taxation district shall enter the economically unviable property and the remainder
 6 of the parcel of real property separately on the assessment roll for the current taxable
 7 year, and the economically unviable property shall be exempt from property taxes
 8 under s. 70.11 (41). ✓

9 (d) The clerk of the taxation district shall notify the property owner, by certified
 10 mail, of the determination under par. (c) within 15 days from the date of that
 11 determination. A property owner aggrieved by a determination under par. (c) may
 12 appeal that determination under s. 74.35. s - f - d -

13 **SECTION 3. 70.11 (40) and (41) of the statutes are created to read:**
 14 **70.11 (40) WETLANDS.** Wetlands subject to ordinances adopted under s. 59.692,
 15 61.351 or 62.231.

16 **(41) ECONOMICALLY UNVIALE PROPERTY** A portion of a parcel of real property
 17 that is economically unviable property under s. 70.097.

SECTION 4. Initial applicability.

(1) This act first applies to the property tax assessment as of January 1, 2001.

(END)