

1999 DRAFTING REQUEST

Bill

Received: **01/26/99**

Received By: **jkreye**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Holden**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Alt. Drafters:

Subject: **Tax - miscellaneous**

Extra Copies:

Topic:

DOA:.....Holden - Appeals of county and taxation district assessments heard by department of revenue

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 01/28/99	jgeller 01/28/99		_____			S&L
/1			jfrantze 01/29/99	_____	gretskl 01/29/99		

FE Sent For:

<END>

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1?	jkreye	1/28 JLG	1/29 Jb	1/29 Jb / hh			

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DOA:.....Holden - Replace tax appeals commission with a tax court.

Instructions:

See Attached

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/?	jkreye			_____			

FE Sent For:

<END>



STATE OF WISCONSIN
 DEPARTMENT OF ADMINISTRATION
 101 East Wilson Street, Madison, Wisconsin

Mailing Address:
 Post Office Box 7864
 Madison, WI 53707-7864



TOMMY G. THOMPSON
 GOVERNOR
 MARK D. BUGHER
 SECRETARY

Date: January 26, 1999
To: Steve Miller
 Legislative Reference Bureau
From: Kerry Holden, SBO, 6-8593 *KH*
Subject: Draft for Governor's 1999-2001 Budget Bill - Creation of a Tax Court

Please draft the attached for inclusion in the Governor's 1999-2001 budget bill. This statutory language request will replace the Tax Appeals Commission with a Tax Court.

Please call me with any questions. Thank you.

- Qs - Art VII, S. 2 appears to prohibit a tax court -- unless it is a trial court*
- *S. 3 gives to Sup. Ct. superintending and administrative authority over all courts*
 - *Art VII sets the terms of judges and requires an election, except to fill a vacancy*
 - *Art VII, S. 12*
 - *Clerks of sup. + circuit courts are elected under Art VII*
 - *Art VII, S. 13 removal of judge is by "address" of both houses*

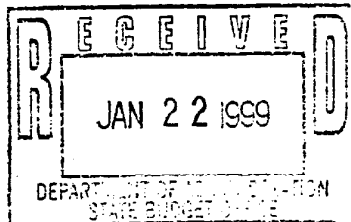
*Study of "equalized values" to 100%,
 implementation of 10.99 (2), re-determination
 of assessments or hearing
 re-assignment of 10.89
 jurisdiction to tax court*

Rick Chandra

CORRESPONDENCE / MEMORANDUM

State of Wisconsin
Office of Legal Services • Department of Revenue

cc JM DC
JK CD
SGH CA
PZ BC
KN



DATE: January 22, 1999

TO: Cate Zeuske
Secretary of Revenue

DRAFT

FROM: John R. Evans
Chief Counsel

SUBJECT: Tax Court Proposal

Please accept this memorandum proposing the creation of a tax court. The substantive changes are set forth herein and in a mark up of Chapter 73, which is attached.

As a point of departure, the proposal has three themes which are reduction of cost to the state and the taxpayer, reduction of time to resolution, and maintain or increase the quality of the decisions or other solutions.

The framework proposed broadens the small claims concept into a summary resolution procedure using alternate dispute resolution, limits appeals solely to the Supreme Court and adapts most of the procedures of circuit court for hearings. The proposal retains gubernatorial appointment of the judges and other existing procedures that are cost effective.

The changes that are proposed are as follows:

- 73.01(1) ✓ The definition section should be amended to reflect "Tax Court". All references to the tax appeals commission in the statutes would be amended similarly.
- 73.01(1)(b) ✓ "Small Claims" be changed to "Summary Proceeding". The amount be amended from \$2500 to \$100,000. The procedure for moving the case out of summary proceeding would be on the court's motion or by petition of either party that the matter is of statewide concern or involve a constitutional issue. The provision would provide that issues could be bifurcated.
- 73.01(2) ✓ Employes would remain classified state service employees. It may be noted that under the Wisconsin Constitution, the judges may be of the Supreme Court not the Executive Branch under Article VII, Section 3 and Section 4. This is discussed in a separate memorandum. *where is that?*

✓ 73.01(3) ✓ Revised statute to limit hearings to Milwaukee, Appleton, Wausau, Eau Claire and LaCrosse.

✓ 73.01(4)(b) ✓ Revise statute to provide that the judges decide cases, but that the court may sit en banc. *Many judges? One court*

73.01(4)(bm) Delete first sentence. *only (b) & (bn)*

✓ 73.01(4m)(b) Delete.

✓ 73.015(2) Revise to provide that cases are appealed to the Supreme Court. *const. change - Ct. of appeals out!*

✓ Add to 73.01(4) a provision that the court shall use the Circuit Court rules of civil procedure, *in chs. 802 & 804* and the rules of evidence except as inconsistent with the Chapter. *only (see draft)*

2 ✓ Add a provision that the relief under the Chapter shall not include equitable jurisdiction.

by petition to TAC
Changes to Other Sections

Provide review of § 70.85 determinations to certiorari to the tax court.

Provide review of § 70.75 determination to the tax court by certiorari.

Provide review of equalized value under § 70.64 shall be handled in the same manner as appeals under § 70.85 and reviews of the determinations shall be by certiorari to the tax court.

Provide review of the state board of assessors shall be by certiorari to the tax court.

Provide review of Chapter 76 appeals shall be to the tax court.

Define Procedure Under Summary Procedure

2 ✓ The statute shall provide that all cases under summary procedure shall be referred to the court's masters for ADR at the court's discretion. The masters are non-judge employes or law clerks.

non-judge employes - law clerks

*How do the 2 who
vets to 201
804 use
only
(see draft)
703 - Parties
807 - case, Telephone
proceedings,
interpreters,
entry of orders*

15.085 STRUCTURE OF THE EXECUTIVE BRANCH

sarily engaged in the performance of affiliated credentialing board duties. Each member of an affiliated credentialing board shall be reimbursed for the actual and necessary expenses incurred in the performance of affiliated credentialing board duties.

(8) **OFFICIAL OATH.** Every member of an affiliated credentialing board shall take and file the official oath prior to assuming office.

(9) **ANNUAL REPORTS.** Every affiliated credentialing board shall submit to the head of the department in which it is created, upon request of that person not more often than annually, a report on the operation of the affiliated credentialing board.

(10) **SEAL.** Every affiliated credentialing board may adopt a seal.

History: 1993 a. 107.

15.09 Councils. (1) **SELECTION OF MEMBERS.** (a) Unless otherwise provided by law, the governor shall appoint the members of councils for terms prescribed by law. Except as provided in par. (b), fixed terms shall expire on July 1 and shall, if the term is for an even number of years, expire in an odd-numbered year.

(b) The terms of the members of the council on recycling shall expire as specified under s. 15.347 (1) (c).

(2) **SELECTION OF OFFICERS.** Unless otherwise provided by law, at its first meeting in each year every council shall elect a chairperson, vice chairperson and secretary from among its members. Any officer may be reelected for successive terms. For any council created under the general authority of s. 15.04 (1) (c), the constitutional officer or secretary heading the department or the chief executive officer of the independent agency in which such council is created shall designate an employee of the department or independent agency to serve as secretary of the council and to be a voting member thereof.

(3) **LOCATION AND FREQUENCY OF MEETINGS.** Unless otherwise provided by law, every council shall meet at least annually and shall also meet on the call of the head of the department or independent agency in which it is created, and may meet at other times on the call of the chairperson or a majority of its members. A council shall meet at such locations as may be determined by it unless the constitutional officer or secretary heading the department or the chief executive officer of the independent agency in which it is created determines a specific meeting place.

(4) **QUORUM.** Except as otherwise expressly provided, a majority of the membership of a council constitutes a quorum to do business, and a majority of a quorum may act in any matter within the jurisdiction of the council.

(5) **POWERS AND DUTIES.** Unless otherwise provided by law, a council shall advise the head of the department or independent agency in which it is created and shall function on a continuing basis for the study, and recommendation of solutions and policy alternatives, of the problems arising in a specified functional area of state government.

(6) **REIMBURSEMENT FOR EXPENSES.** Members of a council shall not be compensated for their services, but members of councils created by statute shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties, such reimbursement in the case of an elective or appointive officer or employee of this state who represents an agency as a member of a council to be paid by the agency which pays his or her salary.

(7) **REPORTS.** Unless a different provision is made by law for transmittal or publication of a report, every council created in a department or independent agency shall submit to the head of the department or independent agency, upon request of that person not more often than annually, a report on the operation of the council.

OFFICIAL OATH. Each member of a council shall take and file the official oath prior to assuming office.

SUBCHAPTER II

DEPARTMENTS

15.10 Department of administration; creation. There is created a department of administration under the direction and supervision of the secretary of administration. The secretary of administration shall be appointed on the basis of recognized interest, administrative and executive ability, training and experience in and knowledge of problems and needs in the field of general administration.

15.103 Same; specified divisions. (1) **DIVISION OF HEARINGS AND APPEALS.** There is created a division of hearings and appeals which is attached to the department of administration under s. 15.03. The administrator of the division shall be appointed by the secretary of administration in the classified service. *because ch 15 re executive*

(2) **DIVISION OF HOUSING.** There is created in the department of administration a division of housing. The administrator of the division shall be appointed outside the classified service by the secretary of administration.

(3) **DIVISION OF INFORMATION TECHNOLOGY SERVICES.** There is created in the department of administration a division of information technology services.

(4) **DIVISION OF TRUST LANDS AND INVESTMENTS.** There is created a division of trust lands and investments which is attached to the department of administration under s. 15.03. This division is under the direction and supervision of the board of commissioners of public lands.

History: 1977 c. 170, 418; 1979 c. 361 s. 15; 1981 c. 121; 1983 a. 27; 1989 s. 107; 1991 a. 39; 1993 a. 16 s. 55m.

15.105 Same; attached boards, commissions and offices. (1) **TAX APPEALS COMMISSION.** There is created a tax appeals commission which is attached to the department of administration under s. 15.03. Members shall be appointed solely on the basis of fitness to perform the duties of their office, and shall be experienced in tax matters. The commission shall meet on the call of the chairperson or at the call of a majority of its members. *Terms, Number*
does not mention a ct.
The chairperson shall not serve on or under any committee or political party. The commission shall include but not be limited to a small claims division.

(2) **CLAIMS BOARD.** There is created a claims board, attached to the department of administration under s. 15.03, consisting of a representative of the office of the governor designated by the governor, a representative of the department of administration designated by the secretary of administration, a representative of the department of justice designated by the attorney general, and the chairpersons of the senate and assembly committees on finance or their designees appointed at the commencement of each legislative biennium from the membership of their respective committees on finance.

(3) **DEPOSITORY SELECTION BOARD.** There is created a depository selection board which is attached to the department of administration under s. 15.03. The depository selection board shall consist of the state treasurer, the secretary of administration, and the executive director of the investment board or their designees.

(4) **PUBLIC RECORDS AND FORMS BOARD.** There is created a public records and forms board which is attached to the department of administration under s. 15.03. The public records and forms board shall consist of the governor, the director of the historical society, the attorney general, the director of the office of the small business community appointed by the governor, a representative of a newspaper published in this state appointed by the governor, a representative of the permit information staff or their designated representative.

recertify the equalized value of the school district in which the property subject to taxation under s. 70.995 is located.

(3) In determining the value of agricultural land under sub. (1), the department shall fulfill the requirements under s. 70.32 (2r).

History: 1973 c. 90, 336; 1977 c. 29 ss. 761, 762, 1647 (12); 1977 c. 300 ss. 5, 8; 1981 c. 20; 1983 a. 372; 1985 a. 29, 54, 153, 246, 332, 399; 1991 a. 39; 1995 a. 27, 225.

Municipalities are not authorized by s. 70.57 (2), 1975 stats., to appeal for redetermination of tax assessment. Village of Silver Lake v. Department of Revenue, 87 W (2d) 463, 275 NW (2d) 119 (Cl. App. 1978).

Phrase in sub. (2), "taxation under s. 70.995", means "assessment under s. 70.995". 73 Atty. Gen. 119.

70.575 State assessment, time. The department, not later than August 15 in each year, shall total the assessments of counties made by the department of revenue under s. 70.57, and the total shall be known as the state assessment and shall be the full market value of all general property of the state liable to state, county and local taxes in the then present year. The department shall enter upon its records such state assessment.

History: 1977 c. 29 ss. 763, 1647 (17); 1977 c. 300 ss. 6, 8.

70.58 Forestation state tax. There is levied an annual tax of two-tenths of one mill for each dollar of the assessed valuation of the property of the state as determined by the department of revenue under s. 70.57, for the purpose of acquiring, preserving and developing the forests of the state and for the purpose of forest crop law and county forest law administration and aid payments, and for the acquisition, purchase and development of forests described under s. 25.29 (7) (a) and (b), the proceeds of the tax to be paid into the conservation fund. The tax shall not be levied in any year in which general funds are appropriated for the purposes specified in this section, equal to or in excess of the amount which the tax would produce.

History: 1975 c. 39 s. 734; 1977 c. 29, 418; 1979 c. 34; 1983 a. 27; 1989 a. 359.

70.60 Apportionment of state tax. (1) The department of administration shall compute the state tax chargeable against each county basing such computation upon the valuation of the taxable property of the county as determined by the department of revenue pursuant to s. 70.57. On or before the 4th Monday of August in each year the department of administration shall certify to the county clerk of each county the amount of the taxes apportioned to and levied upon the county, and all special charges which the county clerk is required by law to make in any year to any such county to be collected with the state tax. The county clerk shall then charge to each county the whole amount of such taxes and charges, and the same shall be paid into the state treasury as provided by law.

History: 1977 c. 29 s. 1647 (14); 1977 c. 273.

70.62 County tax rate. (1) COUNTY BOARD TO DETERMINE. The county board shall also, at such meeting, determine by resolution the amount of taxes to be levied in their county for the year.

(3) OMITTED TAX. Whenever the county board of any county shall fail to apportion against any town, city or village thereof in any year any state, county or school tax or any part thereof properly chargeable thereto, such county board shall, in any succeeding year, apportion such taxes against such town, city or village and add the proper amount thereof to the amount of the current annual tax then apportioned thereto.

History: 1973 c. 90, 333; 1975 c. 39, 80, 200, 224; 1977 c. 113 ss. 5, 6; 1977 c. 142; 1977 c. 418 ss. 482 to 487, 929 (42); 1979 c. 34, 122; 1979 c. 175 s. 51; 1979 c. 346 s. 15; 1981 c. 20, 61, 93; 1983 a. 27, 275; 1985 a. 29.

See note to art. XI, sec. 3, citing 63 Atty. Gen. 465.

70.63 Apportionment of county taxes. (1) BY COUNTY CLERK. The county clerk shall apportion the county tax and the whole amount of state taxes and charges levied upon the county, as certified by the department of administration, among the towns, cities and villages of the county, according and in proportion to the valuation thereof as determined by the department of revenue.

The county clerk shall carry out in the record book, opposite the name of each in separate columns, the amount of state taxes and charges and the amount of county taxes so apportioned thereto, and the amount of all other special taxes or charges apportioned or ordered, or which the clerk is required by law to make in any year to any town, city or village, to be collected with the annual taxes. The clerk shall certify to the clerk of and charge to each town, city and village, except in cities of the 1st class, the amount of all such taxes so apportioned to and levied upon it, and shall, at the same time, file with the county treasurer a certified copy of each apportionment.

(2) CITY OF FIRST CLASS. The county clerk shall certify in a similar manner to the commissioner of assessments of each city of the first class located within the limits of the county.

History: 1973 c. 90; 1981 c. 20; 1991 a. 156.

70.64 Review of equalized values. (1) BY TAX APPEALS COMMISSION. The assessment and determination of the relative value of taxable general property in any county or taxation district, made by the department of revenue under s. 70.57, may be reviewed, and a redetermination of the value of such property may be made by the tax appeals commission, upon appeal by the county or taxation district. The filing of such appeal in the manner provided in this section by any county or taxation district shall impose upon the commission the duty, under the powers conferred upon it by s. 73.03 (1) (a), to review the assessment complained of. If, in its judgment based upon the testimony, evidence and record made on the preliminary hearing of such appeal, the commission finds such assessment to be unequal and discriminatory, it shall determine to correct such assessment to bring it into substantial compliance with law. Except as provided in this section, the appeal shall be taken and such review and redetermination shall be made as provided in ss. 73.01 and 73.015 and under the rules governing the procedure of the commission.

(2) AUTHORIZATION OF APPEALS. To authorize such appeal an order or resolution directing the same to be taken shall be adopted by the governing body of the county or taxation district taking the appeal at a lawful meeting of the governing body. When an appeal shall have been authorized the prosecution of it shall be in charge of the chairperson of the county board or county administrator or of the chairperson, mayor or president of the taxation district taking the appeal unless otherwise directed by the governing body. The officers or committee in charge of the appeal may employ attorneys to conduct the appeal. After authorizing an appeal as provided in this subsection, any 2 or more taxation districts in the same county may join in taking and prosecuting an appeal.

(3) FORM OF APPEAL. To accomplish an appeal there shall be filed with the tax appeals commission on or before October 15 an appeal in writing setting forth:

(a) That the county or taxation district, naming the same, appeals to the tax appeals commission from the assessment made by the department of revenue under s. 70.57, specifying the date of such assessment.

(b) Whether the appeal is to obtain a review and redetermination of the assessment of all the taxation districts of the county or of particular districts only, therein specified.

(c) Whether review and redetermination is desired as to real estate, or personal property, or both.

(d) That the appeal has been authorized by an order or resolution of the county board or governing body of the taxation district in whose behalf the appeal is taken.

(e) A plain and concise statement, without unnecessary repetition, of the facts constituting the grievance sought to be remedied upon appeal, which shall specifically allege in what respects the assessment is in error.

(f) The appeal shall be verified by a member of the governing body of the county or taxation district authorizing the appeal in the manner that pleadings in courts of record are verified. When 2 or

dept decision
is appeal
dept
COURT
no
appeal
department
any county or taxation district approved by the redetermination may petition for restriction to the tax court.

more taxation districts join in taking such appeal the verification may be made by the proper officer of any one of them.

(4) CERTIFIED COPIES. Upon the filing of such appeal, the clerk of the county or taxation district, without delay, shall prepare certified copies of it, together with certified copies of the value established by the department of revenue from which the appeal is taken and a complete list showing the clerk of each taxation district within the county and the post-office address of each. The clerk shall mail by certified mail 4 sets of certified copies to the tax appeals commission and one set of the copies to the department of revenue, the county clerk and the clerk of each taxation district within the county.

(5) APPEARANCE. Not later than 30 days after the clerk of the county or taxation district has mailed the certified copies, unless the time is extended by order of the tax appeals commission, any county, town, city or village may cause an appearance to be entered in its behalf before the commission in support of the appeal and uniting with the appellant for the relief demanded; and by verified petition or statement showing grounds therefor may apply for other or further review and redetermination than that demanded in the appeal. Within the same time the county, town, city or village in the county may in the same manner have its appearance entered in opposition to the appeal and to the relief demanded. Such appearances shall be authorized in the manner for authorizing an appeal under sub. (2). When so authorized the interests of the county, town, city or village authorizing it shall be in the charge of the chairperson, mayor or president thereof unless otherwise directed by the body authorizing such appearance; and attorneys may be employed in that behalf. In such appearances any 2 or more of the towns, cities and villages of the county may join if united in support of or in opposition to the appeal. Four copies of each appearance, petition or statement mentioned in this subsection shall be filed in the offices of the tax appeals commission and a copy of each mailed by certified mail to the department of revenue, to the county clerk, and to the clerk of each town, city and village within the county, and a copy to the attorney authorized to appear on behalf of the county or any town, city or village within the county.

(6) HEARING. As soon as practicable, the commission shall set a time and place for preliminary hearing of such appeal. At least 10 days before the time set for such hearing, the commission shall cause notice thereof to be mailed by certified mail to the county clerk and to the attorney or the clerk of each town, city and village in whose behalf an appearance has been entered in the matter of such appeal, and to the clerk of each town, city or village which has not appeared, and mail a like notice to the clerk of the taxation district taking such appeal and to the department of revenue. The department of revenue shall be prepared to present to the commission at such time during the course of the hearings as the commission requires, the full value of all property subject to general property taxation in each town, village and city of the county, as determined by the department according to s. 70.57 (1) or in the case of a complaint by a taxation district under a county assessor such information as the department has in its possession. Said hearing may be adjourned, in the discretion of the tax appeals commission, as often and to such times and places as may be necessary in order to determine the facts. If satisfied that no substantial injustice has been done in the taxation district assessment appealed from, the commission in its discretion may dismiss such appeal. If satisfied that substantial injustice has been done in the taxation district assessment, the commission shall determine to revalue any or all of the taxation districts in the county, which it deems necessary, in a manner which in its judgment is best calculated to secure substantial justice.

(7) REDETERMINATION. The commission shall then proceed to redetermine the value of the taxable general property in such of the taxation districts in the county as it deems necessary. It may include in such redetermination other taxation districts than first determined upon and may include all of the taxation districts in

said county, if at any time during the progress of its investigations or revaluations it is satisfied that such course is necessary in order to accomplish substantial justice and to secure relative equality as between all the taxation districts in such county. It shall make careful investigation of the value of taxable general property in the several taxation districts to which such review and redetermination shall extend, in any manner which in its judgment is best calculated to obtain the fair, full value of such property. The commission may employ such experts and other assistants as may be necessary, and fix their compensation. In making such investigations the commission and all persons employed therein by the commission shall have all the authority possessed by assessors so far as applicable, including authority to administer oaths and to examine property owners and witnesses under oath as to the quantity and value of the property subject to assessment belonging to any person or within any taxation district to which the investigation shall extend.

(8) HEARING. The commission may at any time before its final determination appoint a time and place at which it will hear evidence and arguments relevant to the matters under consideration upon such appeal. The time to be devoted to such hearings may be limited as the commission directs. At least 10 days before the time fixed for such hearings, the commission shall cause notice thereof to be mailed by certified mail to the county clerk and to the attorney or other representative of each town, city and village in whose behalf an appearance has been entered in the matter of such appeal, and a like copy to the department of revenue.

(9) TESTIMONY. The tax appeals commission may take testimony. Witnesses summoned at the instance of said commission shall be compensated at the rates provided by law for witnesses in courts of record, the same to be audited and paid the same as other claims against the state, upon the certificate of said commission. If any property owner or other person makes any false statement to said commission or to any person employed by it upon any matter under investigation that person shall be subject to all the forfeitures and penalties imposed by law for false statements to assessors and boards of review.

(10) DETERMINATION. The tax appeals commission shall make its determination upon such appeal without unreasonable delay and shall file a copy thereof in the office of the county clerk and mail by certified mail a like copy to the department of revenue and to the clerk and attorney of the taxation district appealing, and a copy to the clerk and attorney of each taxation district having appeared. In such determination the commission shall set forth the relative value of the taxable general property in each town, city and village of such county as found by them, and what sum, if any, shall be added to or deducted from the aggregate value of taxable property in each such taxation district as fixed in the determination of the department of revenue from which such appeal was taken in order to produce a relatively just and equitable taxation district assessment. Such determination shall be final.

(11) COMPUTATION. The determination of the commission shall not affect the validity of taxes apportioned in accordance with the taxation district assessment from which such appeal was taken; but if it is determined upon such appeal that such taxation district assessment is relatively unequal, such inequality shall be remedied and compensated in the apportionment of state and county taxes in such county next following the determination of said commission in the following manner: Each town, city and village whose valuation in such taxation district assessment was determined by said commission to be relatively too high shall be credited a sum equal to the amount of taxes charged to it upon such unequal assessment in excess of the amount equitably chargeable thereto according to the determination of the commission, and each town, city and village whose valuation in such taxation district assessment was determined by said commission to be relatively too low shall be charged, in addition to all other taxes, a sum equal to the difference between the amount charged thereto upon such unequal assessment and the amount which should have been

charged thereto according to the determination of the commission. The department of revenue shall aid the county clerk in making proper computations.

(12) **EXPENSES.** The ^{Department} tax appeals commission shall transmit to the county clerk with its determination on such appeal a statement of all expenses incurred therein by or at the instance of the ^{Department} commission, which shall include the actual expenses of the ^{Department} commission and regular employes of the ^{Department} commission, the compensation and actual expenses of all other persons employed by it and the fees of officers employed and witnesses summoned at its instance. A duplicate of such statement shall be filed in the office of the department of administration. Such expenses shall be audited upon the certificate of the ^{Department} commission, and paid out of the state treasury, in the first instance, as other claims against the state are audited and paid. The amount of such expenses shall be a special charge against such county and shall be included in the next apportionment and certification of state taxes and charges, and collected from such county, as other special charges are certified and collected. Unless otherwise directed by the ^{Department} commission in its determination upon such appeal, the county clerk, in the next apportionment of state and county taxes, shall apportion the amount of such special charges to and among the towns, cities and villages in such county whose relative valuations were increased in the determination of the ^{Department} commission in proportion to the amount of such increase in each of them respectively. The apportionment of such expenses shall be set forth in the determination of the ^{Department} commission. The amount so apportioned to each such town, city and village shall be charged upon its tax roll and shall be collected and paid over to the county treasurer as other state taxes and special charges are collected and paid.

(13) **PROCEDURES.** The provisions of s. 73.01, insofar as consistent with this section, shall be applicable to proceedings under this section.

History: 1973 c. 90; 1981 c. 20; 1983 a. 275; 1989 a. 56 s. 258; 1991 a. 316.

70.65 Tax roll. (1) **CLERK TO PREPARE.** Annually the clerk of the taxation district shall prepare a tax roll. The clerk shall begin preparation of the tax roll at a time sufficient to permit timely delivery of the tax roll under s. 74.03.

(2) **CONTENT.** The tax roll shall do all of the following:

(a) As shown on the assessment roll:

1. Identify all the real property within the taxation district and, with respect to each description of real property, the name and address of the owner and the assessed value.

2. Identify the name and address of the owners of all taxable personal property within the taxation district and the assessed value of each owner's taxable personal property.

(b) With respect to each description of real property and each owner of taxable personal property:

1. Show the total amount of taxes levied against the property by all taxing jurisdictions to which the property is subject.

2. Show all other taxes, assessments and charges against the property which are authorized by law to be collected as are taxes levied against property.

(c) Set forth the taxes, assessments and charges against property in the tax roll in a manner sufficiently organized and apportioned to permit collection and settlement of the taxes, assessments and charges under ch. 74.

(d) Show the total amount of taxes, assessments and charges to be collected against property within the taxation district.

(e) Direct the treasurer of the taxation district and the county treasurer to collect, under s. 74.07, the amount of taxes, assessments and charges under par. (d).

(f) Set forth any other information required by law or determined necessary by the department of revenue.

(3) **CERTIFICATION OF CORRECTNESS.** The clerk of the taxation district shall certify, on the tax roll, that the information contained in the tax roll is accurate, to the clerk's best knowledge.

(4) **FORM.** The format of the tax roll shall be prescribed by the department of revenue under s. 70.09 (3).

(5) **DELIVERY.** The clerk of the taxation district shall transfer the tax roll under s. 74.03.

History: 1981 c. 20; 1983 a. 300, 532; 1985 a. 29; 1987 a. 27, 378.

70.67 Municipal treasurer's bond; substitute for.

(1) The treasurer of each town, city or village shall, unless exempted under sub. (2), execute and deliver to the county treasurer a bond, with sureties, to be approved, in case of a town treasurer, by the chairperson of the town, and in case of a city or village treasurer by the county treasurer, conditioned for the faithful performance of the duties of the office and that the treasurer will account for and pay over according to law all taxes of any kind which are received and which are required to be paid to the county treasurer. If such bond is executed, or the condition thereof guaranteed by personal sureties, the amount of the bonds shall be double the amount of state and county taxes apportioned to the town, village or city, provided that the amount of such bond shall not exceed the sum of \$500,000. When such bond is executed, or the condition thereof guaranteed, solely by a surety company as provided in s. 632.17 (2), such bond shall be in a sum equal to the amount of such state and county taxes, provided that the amount of such bond shall not exceed the sum of \$250,000. The county treasurer shall give to said town, city or village treasurer a receipt for said bond, and file and safely keep said bond in the office.

(2) The treasurer of any municipality shall not be required to give such bond if the governing body thereof shall by ordinance obligate such municipality to pay, in case the treasurer thereof shall fail so to do, all taxes of any kind required by law to be paid by such treasurer to the county treasurer. Such governing body is authorized to so obligate such municipality. If the governing body of the municipality has adopted an ordinance as specified in this subsection, it may demand from its treasurer, in addition to the official bond required of all municipal treasurers, a fidelity or surety bond in an amount and upon such terms as may be determined by the governing body. Such bond shall run to the town or village board or the city council, as the case may be, and shall be delivered to the clerk of the municipality. A certified copy of such ordinance filed with the county treasurer shall be accepted by the county treasurer in lieu of the bond required by sub. (1). Such ordinance shall remain in effect until a certified copy of its repeal shall be filed with the county clerk and the county treasurer. The official bond executed pursuant to s. 19.01, required of municipal treasurers, shall extend to and include the liability incurred by any town, city or village whose governing board shall adopt and certify to the county treasurer an ordinance in accordance with this subsection.

History: 1975 c. 375 s. 44; 1975 c. 421; 1989 a. 56 s. 258; 1991 a. 316.

For purposes of (2), the town board is the governing body of the town. 63 Atty. Gen. 10.

70.68 Collection of taxes. (1) **COLLECTION IN CERTAIN CITIES.** In cities authorized to act under s. 74.87, the chief of police shall collect all state, county, city, school and other taxes due on personal property as shall then remain unpaid, and the chief of police shall possess all the powers given by law to town treasurers for the collection of such taxes, and be subject to the liabilities and entitled to the same fees as town treasurers in such cases, but such fees shall be turned over to the city treasurer and become a part of the general fund.

(2) **BOND OF CHIEF OF POLICE.** The chief of police shall give a bond to the city, in such sum and with such sureties as the council may prescribe, for the payment to the city treasurer of all taxes collected by the chief of police.

History: 1985 a. 135; 1987 a. 378; 1991 a. 316.

70.71 Proceedings if roll not made. (1) Whenever any town, city or village clerk neglects or refuses to make and deliver the tax roll within the time required by law the county clerk shall, at any time after such neglect or refusal, demand and summarily obtain the assessment roll for such year, and make, in the same

such hearing testimony may be offered as to the equality of the assessment, whether or not the public may be promoted by a reassessment and as to such other matters as may be desired by the department. Notice of the hearing, including the time and place of the hearing shall be mailed to the clerk of the taxation district and the first signer of the application for reassessment, not less than 8 days before the time fixed for the hearing.

The department shall keep on file its order directing such reassessment and naming the persons appointed to make the reassessment. In addition, the department shall transmit a copy of the order to the clerk of the taxation district, to the supervisor of equalization of the county in which the district is located and to each of the persons appointed to make such reassessment and serve on the board of review of the reassessment. Service of a copy of the order shall be made by legal notice to these people of their appointment. No person may be authorized by the department to make a reassessment unless the department provides special supervision instead of reassessment unless the person is willing and able to use the assessment manual.

All assessment personnel appointed under this section in addition shall have passed an examination and have been certified by the department of revenue as qualified for performing the functions of the office to which appointed. Any person appointed under par. (a) or sub. (3) shall be certified as an assessor as provided in s. 70.055 (1).

(1m) **ADDITIONAL REQUIREMENTS.** The department may not proceed under sub. (1) (a) with respect to a petition filed by a property owner who owns more than 5% of the assessed valuation of the property in a taxation district if within the 3 years preceding the filing of the petition that person petitioned for reassessment and the department of revenue did not order a reassessment under sub. (3) or special supervision under sub. (3) unless, in addition to that person, an owner or owners of an additional 5% of the assessed valuation of the taxation district join in the petition. If a petition is denied under this subsection, the property owner who petitioned twice within a 3-year period shall pay 75% of the amount of revenue's costs in respect to that petition. Payments under this subsection shall be made to the department of revenue and deposited in the appropriation under s. 20.566 (2) (h).

(2) **PERSONS APPOINTED TO REASSESS. POWERS AND DUTIES.** The person or persons appointed under sub. (1) to make a reassessment, without delay, shall severally take and subscribe an oath or affirmation to support the constitution of the United States and of the State of Wisconsin and to faithfully perform the duties imposed on that person in respect to the reassessment to the best of that person's ability, and shall file the same with the department of revenue.

Thereupon the person or persons appointed to make the reassessment shall proceed with diligence to make a reassessment of the taxable property in the affected district. For that purpose the person or persons appointed to make the reassessment shall have all the power and authority given by law to assessors in the district and shall perform all the duties and be subject to all restrictions and penalties imposed by law upon assessors in the district. The person or persons appointed to make the reassessment shall have access to all public records and files which may be necessary and useful in the performance of the reassessment, and while engaged therein shall be entitled to have custody and possession of the assessment roll containing the original assessment in the district and all other statements and memoranda relating thereto. An assessment roll and all property statements and other blank forms necessary for the purposes of the reassessment shall be furnished by the county clerk at the expense of the county upon the request of the department of revenue.

SPECIAL SUPERVISION INSTEAD OF REASSESSMENT. Whenever the department determines, after the hearing provided for in sub. (1) or in the determination under s. 70.05 (5) (d), that the assessment complained of was not made in substantial compliance with law but that the interests of all the taxpayers of such district will best be promoted by special supervision of succeeding assessments to the end that the assessment of such district shall

thereafter be lawfully made, it may proceed as follows: It may designate one or more employes of the department or appoint one or more other qualified persons to assist the local assessor in making the assessments to be thereafter made in such district. Any person so appointed may give all or such part of that person's time to such supervision as, in the judgment of the department, is necessary to complete such assessment in substantial compliance with the law, and in performing such task shall have all the powers given by law to any person designated to make a reassessment and together with the assessor shall constitute an assessment board as defined in s. 70.055.

(4) **COSTS.** Except as provided in sub. (1m), all costs of the department of revenue in connection with reassessment or special supervision under this section shall be borne by the taxation district. These receipts shall be credited to the appropriation under s. 20.566 (2) (h). Past due accounts shall be certified on or before the 4th Monday of August of each year and included in the next apportionment of state special charges to local units of government.

(5) **DEFINITIONS.** In this section, for those taxation districts that are under a county assessor system, the terms "local assessor" and "board of review" include the county assessor and the county board of review, respectively.

History: 1973 c. 90; 1977 c. 29; 1981 c. 20; 1983 a. 27, 241; 1983 a. 275 s. 15 (1), (3); 1991 a. 316.

(6) *Review of redetermination of the department shall be referred to the court.*

70.76 Board of correction. (1) **NOTICE. PROOF.** (a) In the order for reassessment the department of revenue shall designate 3 persons to serve as a board for the correction and review of the reassessment. As soon as practicable the person making the reassessment shall inform the clerk of the district of the date on which the reassessment will be ready for the consideration of the board. The information shall be given in time to enable the clerk to give the notice required in this subsection.

(b) The clerk shall give notice that the board will meet on the date at the place provided by law for the meeting of the regular board of review of the district, specifying the place. The clerk shall record the notice in the record book of proceedings of the board of review of the district after first recording the order for reassessment. The clerk shall post the notice in 3 conspicuous public places in the district and shall also serve a copy of the notice upon each of the persons named to act as the board and upon the department of revenue if the reassessment is not made by the department. The posting and service shall be at least one week before the day designated for the meeting.

(c) In case of the failure or refusal of the clerk to give and serve the notice in the manner prescribed within 5 days after being requested to do so by the person making the reassessment, the department of revenue may give and serve the notice with the same force and effect as if given and served by the clerk. The service may be by personal delivery to the person to be served or by leaving the copy at the person's usual place of abode or by mailing it in a sealed envelope postpaid and directed to the person at the person's post-office address.

(d) A memorandum stating the time and place of posting and the time and manner of service shall be entered by the clerk in the record. The memorandum, authenticated by the signature of the clerk, is presumptive evidence of the facts stated. The fact, time and manner of posting and service may be proved by any person having knowledge of the facts even though no entry of a memorandum is made.

(2) **HEARING.** The persons designated to serve as a board to review the reassessment shall attend at the time and place specified in the notice. A majority of them constitutes a quorum. Before proceeding in the review they shall be sworn by the clerk or by some other person authorized by law to administer oaths, to faithfully and impartially perform their duties in respect to the reassessment. The clerk of the district shall attend and serve as the clerk of the board at all its sessions and shall perform all the duties required of clerks at meetings of the regular board of review of the

venue, or its authorized agent, shall at any time have the assessment and tax rolls herein referred to for the purpose of revising the local clerk and in order that the results of the assessment may be carried into effect.

70.85 Review of assessment by department of revenue.

COMPLAINT. A taxpayer may file a written complaint with the department of revenue alleging that the assessment of one or more items or parcels of property in the taxation district the value of which, as determined under s. 70.47, does not exceed \$300 is radically out of proportion to the general level of assessment of all other property in the district.

BOARD OF REVIEW; TIMING. A complaint under this section shall be filed only if the taxpayer has contested the assessment of the property for that year under s. 70.47. The complaint shall be filed with the department of revenue within 20 days after receipt of the board of review's determination or within 30 days after the date specified on the affidavit under s. 70.47 (12) if there is no receipt.

A taxpayer filing a complaint under this section shall pay a filing fee of \$100 to the department of revenue, which shall be credited to the appropriation under s. 20.566 (2) (h).

REVALUATION. (a) In this subsection, "the property" means the items or parcels of property which are the subject of the written complaint filed under sub. (1).

(b) The department of revenue may revalue the property and adjust the assessment of the property to the assessment ratio of other property within the taxation district, if the department of revenue determines that:

(1) The assessment of the property is not within 10% of the general level of assessment of all other property in the taxation district.

(2) The revaluation of the property can be satisfactorily completed without a reassessment of all property within the taxation district.

(3) The revaluation can be accomplished before November 1 of the year in which the assessment is made or within 60 days of the receipt of the written complaint, whichever is later.

(c) Appeal of the determination of the department of revenue shall be by an action for certiorari in the circuit court of the county in which the property is located. *tax court.*

(5) **OTHER PROPERTY.** In determining whether to revalue property under sub. (4), the department of revenue may examine the valuation of other property in the taxation district which is owned by the person filing the complaint.

(6) **TAX COMPUTED ON REVALUED AMOUNT.** The valuation fixed by the department of revenue under this section shall be substituted for the assessed value of the property shown on the tax roll, and the tax shall be computed on the amount of the valuation determined by the department of revenue.

(7) **DELAY IN REVALUATION.** (a) If the department of revenue is not completed the revaluation prior to the time established by the taxation district for fixing its tax rate, the taxation district shall use its tax rate on the total value of property contained in the assessment roll, including property whose valuation is contested under this section.

(b) If the department of revenue has not completed the revaluation prior to the time of the tax levy, the tax upon property with respect to which the revaluation has not been completed shall be computed on the basis of the contested value of the property. The taxpayer shall pay in full the tax based upon the contested valuation. If the department of revenue reduces the valuation of the property, the taxpayer may file a claim under s. 70.511 (2) (b) for refund of taxes resulting from the reduction in value.

(8) **COSTS.** If the department of revenue determines that no change in the assessment of the property is required, the costs related to the department's determination shall be paid by the department. If the department of revenue changes the property

assessment, costs related to the department's determination that the assessment of that property should be changed, but not more than \$300, shall be paid by the taxation district and shall be credited to the appropriation under s. 20.566 (2) (h). Past due accounts for costs shall be certified by the department of revenue on or before the 4th Monday of August of each year and included in the next apportionment of state special charges to local units of government.

(9) **COUNTY ASSESSOR SYSTEM.** In this section, for those taxation districts that are under a county assessor system, the term "local assessor" includes the county assessor and the term "board of review" includes the county board of review.

History: 1987 a. 27, 378; 1991 a. 39; 1995 a. 408.

Wisconsin's Property Tax Assessment Appeal System, Arden. Wis. Law. March 1995.

70.86 Descriptions, simplified system. The governing body of any city, village or town may at its option adopt a simplified system of describing real property in either the assessment roll or the tax roll or in both the assessment roll and tax roll of such city, village or town, and may from time to time amend or change such simplified system. Descriptions in property tax bills shall be as provided under s. 74.09 (3) (a).

History: 1987 a. 378; 1993 a. 246.

70.99 County assessor. (1) A county assessor system may be established for any county by passage of a resolution or ordinance adopting such a system by an approving vote of 60% of the entire membership of the county board. After passage of this enabling resolution or ordinance by the county board, the county executive, or the county administrator, or the chairperson of the county board with the approval of the county board, shall appoint a county assessor from a list of candidates provided by the department of revenue who have passed an examination and have been certified by the department of revenue as qualified for performing the functions of the office. Certification shall be granted to all persons demonstrating proficiency by passing an examination administered by the department. The persons selected for listing shall first have been given a comprehensive examination, approved by the department of revenue, relating to the work of county assessor. A person appointed as county assessor shall thereafter have permanent tenure, after successfully serving the probationary period in effect in the county, and may be removed or suspended only for the reasons named in s. 17.14 (1) or for such cause as would sustain the suspension or removal of a state employe under state civil service rules. If employes of a county are under a county civil service program, the county assessor may, and any person appointed as a member of his or her staff shall, be incorporated into the county civil service program but tenure is dependent on the foregoing provision.

(1m) Upon request of a county that is considering the creation of an assessment system under this section, the department of revenue may study the feasibility of that creation. The county shall reimburse the department for the costs of the study.

(3) (a) The state department of employment relations shall recommend a reasonable salary range for the county assessor for each county based upon pay for comparable work or qualifications in such county. If by contractual agreement under s. 66.30 two or more counties join to employ one county assessor with the approval of the secretary of revenue, the department of employment relations shall recommend a reasonable salary range for the county assessor under such agreement. The department of revenue shall assist the county in establishing the budget for county assessor's offices, including the number of personnel and their qualifications, based on the anticipated workload.

(b) The department of revenue shall establish levels of proficiency for all appraisal personnel to be employed in offices of county assessors.

Wis. Stats.

(1) If no timely petition for redetermination is filed with the department, its determination shall be final and conclusive.

71.89 Appeal procedures. (1) If the taxpayer requests a hearing, the additional tax or overpayment shall not become due and payable until after hearing and determination of the tax by the tax appeals commission or disposition of the appeal pursuant to the order and order under ss. 73.01 (4) (a) and 73.03 (25).

(2) No person against whom an assessment of income or franchise tax has been made shall be allowed in any action either as plaintiff or defendant or in any other proceeding to question such assessment unless the requirements of ss. 71.88 and 71.90 (1) shall first have been complied with, and unless such person shall have made full disclosure under oath at the hearing before the tax appeals commission of any and all income that the person received. The requirement of full disclosure under this subsection may be waived by the department of revenue.

(3) As soon as the appellant shall have filed a petition with the tax appeals commission, all collection proceedings, except proceedings under s. 71.74 (14), shall be stayed until final determination of the appeal and any review thereof.

(4) Any person who contests an assessment before the tax appeals commission or in court shall state in his or her petition or notice of appeal what portion if any of the tax is admitted to be legally assessable and correct. Within 5 days after notice by the department, the appellant shall pay to the department the whole amount of the admitted tax and such tax shall be appropriated in accordance with s. 25.20. Any such payment shall be considered an admission of the legality of the tax thus paid, and such tax so paid cannot be recovered in the pending appeal or in any other action or proceeding.

(5) After final decision or other disposition, the record shall be returned to the department of revenue, and the department shall proceed to collect the taxes in the same manner as other income or franchise taxes are collected.

History: 1987 a. 312; 1989 a. 31; 1991 a. 39; 1995 a. 27, 404.

71.90 Depositing contested amounts. (1) DEPOSIT WITH THE DEPARTMENT. The department shall notify any person who files a petition for redetermination that the person may deposit the amount of an additional assessment, including any interest or penalty, with the department at any time before the department makes its redetermination. The department shall notify spouses jointly except that, if the spouses have different addresses and if either spouse notifies the department in writing of those addresses, the

department shall serve a duplicate of the original notice on the spouse who has the address other than the address to which the original notice was sent. Amounts deposited under this subsection shall be subject to the interest provided by s. 71.82 only to the extent of the interest accrued prior to the first day of the month succeeding the date of deposit. Any deposited amount which is refunded shall bear interest at the rate of 9% per year during the time the funds were on deposit. A person may also pay any portion of an assessment which is admitted to be correct and the payment shall be considered an admission of the validity of that portion of the assessment and may not be recovered in an appeal or in any other action or proceeding.

(2) DEPOSIT WITH THE STATE TREASURER. At any time while the petition is pending before the tax appeals commission or an appeal in regard to that petition is pending in a court, the taxpayer may offer to deposit the entire amount of the additional taxes, together with interest, with the state treasurer. If an offer to deposit is made, the department of revenue shall issue a certificate to the state treasurer authorizing the treasurer to accept payment of such taxes together with interest to the first day of the succeeding month and to give a receipt. A copy of the certificate shall be mailed to the taxpayer who shall pay the taxes and interest to the treasurer within 30 days. A copy of the receipt of the state treasurer shall be filed with the department. The department shall, upon final determination of the appeal, certify to the state treasurer the amount of the taxes as finally determined and direct the state treasurer to refund to the appellant any portion of such payment which has been found to have been improperly assessed, including interest. The state treasurer shall make the refunds directed by the certificate within 30 days after receipt. Taxes paid to the state treasurer under this subsection shall be subject to the interest provided by ss. 71.82 and 71.91 (1) (c) only to the extent of the interest accrued on the taxes prior to the first day of the month succeeding the application for hearing. Any portion of the amount deposited with the state treasurer which is refunded to the taxpayer shall bear interest at the rate of 9% per year during the time that the funds are on deposit.

History: 1987 a. 312; 1989 a. 31; 1991 a. 39; 1995 a. 27, 404.

department shall serve a duplicate of the original notice on the spouse who has the address other than the address to which the original notice was sent. Amounts deposited under this subsection shall be subject to the interest provided by s. 71.82 only to the extent of the interest accrued prior to the first day of the month succeeding the date of deposit. Any deposited amount which is refunded shall bear interest at the rate of 9% per year during the time the funds were on deposit. A person may also pay any portion of an assessment which is admitted to be correct and the payment shall be considered an admission of the validity of that portion of the assessment and may not be recovered in an appeal or in any other action or proceeding.

(2) DEPOSIT WITH THE STATE TREASURER. At any time while the petition is pending before the tax appeals commission or an appeal in regard to that petition is pending in a court, the taxpayer may offer to deposit the entire amount of the additional taxes, together with interest, with the state treasurer. If an offer to deposit is made, the department of revenue shall issue a certificate to the state treasurer authorizing the treasurer to accept payment of such taxes together with interest to the first day of the succeeding month and to give a receipt. A copy of the certificate shall be mailed to the taxpayer who shall pay the taxes and interest to the treasurer within 30 days. A copy of the receipt of the state treasurer shall be filed with the department. The department shall, upon final determination of the appeal, certify to the state treasurer the amount of the taxes as finally determined and direct the state treasurer to refund to the appellant any portion of such payment which has been found to have been improperly assessed, including interest. The state treasurer shall make the refunds directed by the certificate within 30 days after receipt. Taxes paid to the state treasurer under this subsection shall be subject to the interest provided by ss. 71.82 and 71.91 (1) (c) only to the extent of the interest accrued on the taxes prior to the first day of the month succeeding the application for hearing. Any portion of the amount deposited with the state treasurer which is refunded to the taxpayer shall bear interest at the rate of 9% per year during the time that the funds are on deposit.

History: 1987 a. 312.

SUBCHAPTER XV

COLLECTION OF DELINQUENT TAXES AND STATE AGENCY DEBTS

71.91 Collection provisions. (1) TIME TAXES BECOME DELINQUENT. (a) *Income and franchise taxes.* Income and franchise taxes shall become delinquent if not paid when due under s. 71.03 (8) (b) and (c), 71.24 (9) or 71.44 (4) (b), and the department shall immediately proceed to collect the same. For the purpose of such collection the department or its duly authorized agent shall have the same powers as conferred by law upon the county treasurer, county clerk, sheriff and district attorney.

(b) *Withholding.* Any amount not deposited or paid over to the department within the time required shall be deemed delinquent and deposit reports or withholding reports filed after the due date shall be deemed late. In the case of a timely filed deposit or withholding report, withheld taxes shall become delinquent if not deposited or paid over on or before the due date of the report. In the case of no report filed or a report filed late, withheld taxes shall become delinquent if not deposited or paid over by the due date of the report. In the case of an assessment under s. 71.83 (1) (b) 2., the amount assessed shall become delinquent if not paid on or before the due date specified in the notice of deficiency, but if the assessment is contested before the tax appeals commission or in the courts, it shall become delinquent on the 30th day following the date on which the order or judgment representing final determination becomes final.

(c) *Contested income and franchise tax assessments.* Any additional income or franchise tax assessment contested before the tax appeals commission or in the courts, which is finally deter-

CHAPTER 73

TAX APPEALS COMMISSION AND DEPARTMENT OF REVENUE

Table listing sections 73.01 through 73.12 with their respective titles such as 'Tax appeals commission', 'Hearings, witnesses', and 'Set off of payments to vendors'.

73.01 Tax appeals commission. (1) DEFINITIONS. In this section: *Court*

(a) "Commission" means the tax ^{*court*} appeals commission.
(b) "Small claims" is a matter in which the amount in controversy, including any penalty, after the department of revenue takes its final action on the petition for redetermination is less than \$2,500 unless the ^{*court*} commission on its own motion determines that the case not be heard as a small claims case or unless the department of revenue determines that the case has statewide significance. *or the party petitions the court alleging a constitutional issue.*
(2) EMPLOYEES. The chairperson of the ^{*court*} commission may appoint, under the classified service, such employees for the commission as are necessary.

(3) HEARINGS AND REPORTS. (a) The time and place of meetings and hearings of the ^{*court*} commission shall be designated by the chairperson. Rooms for hearings outside the city of Madison shall be provided under s. 73.07. All hearings held in Milwaukee shall be held in the southeast district office of the department of natural resources. The ^{*court*} commission shall maintain permanent hearing rooms in Madison.

(b) The ^{*court*} commission shall provide for the publication of such of its reports, decisions and opinions as are of public interest in such form as it deems best adapted for public convenience and use. Such publications shall constitute the official reports of the commission and shall be made available for sale and distribution to the public under ch. 35. In addition to any report submitted under s. 15.06 (7), the ^{*court*} commission shall make additional reports to the governor or the legislature as they request. The ^{*court*} commission shall submit a report requested by the legislature to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2).

(4) POWERS AND DUTIES DEFINED. (a) Subject to the provisions for judicial review contained in s. 73.015, the ^{*court*} commission shall be the final authority for the hearing and determination of all questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss. 70.11 (21), 70.38 (4) (a), 70.397, 70.64, 70.995 (8), 76.38 (12) (a), 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22, 78.40, 78.555, 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76 and 139.78, subch. XIV of ch. 71 and subch. VII of ch. 77. Whenever with respect to a pending appeal there is filed with the ^{*court*} commission a stipulation signed by the department of revenue and the adverse party, under s. 73.03 (25), agreeing to an affirmation, modification or reversal of the department's position with respect to some or all of the issues raised in the appeal, the ^{*court*} commission shall enter an order affirming or modifying in whole or in part, or canceling the assessment appealed from, or allowing in whole or in part or denying the petitioner's refund claim, as the case may be, pursuant to and in accordance with the stipulation filed. No responsibility shall devolve upon the ^{*court*} commission, respecting the signing of an order of dismissal as to any pending appeal settled by the department without the approval of the ^{*court*} commission.

(a) Subject to the provisions for judicial review contained in s. 73.015, the commission shall be the final authority for the hearing and determination of all questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss. 70.11 (21), 70.38 (4) (a), 70.397, 70.64 and 70.995 (8), s. 76.38 (12) (a), 1993 stats., ss. 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22, 78.40, 78.555, 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76 and 139.78, subch. XIV of ch. 71 and subch. VII of ch. 77. Whenever with respect to a pending appeal there is filed with the commission a stipulation signed by the department of revenue and the adverse party, under s. 73.03 (25), agreeing to an affirmation, modification or reversal of the department's position with respect to some or all of the issues raised in the appeal, the commission shall enter an order affirming or modifying in whole or in part, or canceling the assessment appealed from, or allowing in whole or in part or denying the petitioner's refund claim, as the case may be, pursuant to and in accordance with the stipulation filed. No responsibility shall devolve upon the commission, respecting the signing of an order of dismissal as to any pending appeal settled by the department without the approval of the commission.

(am) Whenever it appears to the ^{*court*} commission or, in respect to hearings conducted by one commissioner, to that commissioner that proceedings have been instituted or maintained by the taxpayer primarily for delay or that the taxpayer's position in those proceedings is frivolous or groundless, the ^{*court*} commission or commissioner may assess the taxpayer an amount not to exceed \$1,000 at the same time that the deficiency is assessed. Those damages shall be paid upon notice from the department of revenue and shall be collected as a part of the tax.

(b) Any matter required to be heard by the ^{*court*} commission may be heard by any member of the ^{*court*} commission or its hearing examiner and reported to the commission, and hearings of matters pending before it shall be assigned to members of the commission or its hearing examiner by the chairperson. Unless a majority of the ^{*court*} commission decides that the full commission should decide a case, cases other than small claims cases shall be decided by a panel of 3 members assigned by the chairperson prior to the hearing. If the parties have agreed to an oral decision, the member or members conducting the hearing may render an oral decision. Hearings shall be open to the public and all proceedings shall be conducted in accordance with rules of practice and procedure prescribed by the ^{*court*} commission. Small claims cases shall be decided by one commissioner assigned by the chairperson prior to the hearing.

(bn) The parties to any matter required to be heard and decided by the ^{*court*} commission, except appeals arising under s. 70.64 or ch. 76, may consent in writing that the chairperson or any member of the ^{*court*} commission assigned to hear the matter may render an oral decision, and that the parties waive the right to appeal such decision. Such oral decision shall not be binding upon the department, as to statutory construction, in a subsequent matter. Provisions of this section, s. 73.015 or ch. 227 in conflict herewith shall not apply to decisions rendered under this paragraph.

(c) The ^{*court*} commission shall, upon the request of any party to a matter pending before it or of any officer of the state government or upon its own motion order that all proceedings in a matter pending before it be recorded, and the expense thereof shall be paid by the state out of the appropriation for the commission. The ^{*court*} commission may supply copies of the transcript of those recordings to anyone requesting them, at the expense of the person making such

Handwritten notes on the right margin: 'by any employee in the case of the summary settlement proceedings.', 'set forth in chapters 802 and 804 or as prescribed by the court.', '(or) all cases under summary proceeding shall be subject to s. 802.12'

NOTE: Par. (a) is repealed and recreated eff. 5-15-98 by 1995 Wis. Act 351

and shall review by certain determinations under ss. 70.04, 70.15, 70.25 and 70.995(2), 73.04, 73.06, 73.03(45) and 73.0A

request. All moneys received by the ^{court} commission from the sale of transcripts of those recordings shall be paid into the state treasury within one week after receipt. ^{court} If no party to a matter pending before the commission requests that the proceedings held with respect thereto be recorded, and the commission does not so order upon its own motion, all parties shall be deemed to have waived all rights of appeal to the courts upon questions as to the admission or exclusion of evidence or as to whether a finding of the ^{court} commission is warranted by the evidence. The right of appeal upon questions of law raised by the pleadings or by facts stipulated or shown by the findings of the ^{court} commission is not waived.

(d) Any member of the ^{court} commission or any employee of the ^{court} commission, designated in writing for the purpose by the chairperson, may administer oaths, and any member of the commission may summon and examine witnesses and require by subpoena the production of all returns, books, papers, documents, correspondence and other evidence pertaining to the matter under inquiry, at any designated place of hearing and may require the taking of a deposition before any person competent to administer oaths, either within or without the state, upon notice to the interested party in like manner that depositions of witnesses are taken in civil actions pending in the circuit court. Any party to a matter pending before the ^{court} commission may summon witnesses or require the production of papers in the same manner as witnesses are summoned or papers required to be produced in civil actions in the circuit court. Any person summoned or whose deposition is taken shall receive the same fees and mileage as would be allowed in a civil action pending in the circuit court, and the expense thereof shall be paid by the person summoning such witness or causing the deposition to be taken.

(dn) In connection with the hearing of any matter required to be heard and decided by the ^{court} commission, except appeals arising under s. 70.64 or ch. 76, the chairperson or any member of the commission assigned to hear the matter may, ^{court} with the consent of the parties, render an oral decision. In ^{court} small claims cases, the presiding ^{court} commissioner may, without consent of the parties, either render an oral decision at the close of the hearing or provide a written decision to all parties within 2 weeks after the hearing. Decisions in small claims cases are not precedents. Any party may appeal such oral decision as provided in s. 73.015. Oral decisions constitute notice for purposes of determining the time in which appeals may be taken. Provisions of this section or ch. 227 in conflict with this paragraph do not apply to decisions rendered under this paragraph.

(e) Except as provided in par. (dn), the ^{court} commission in each case heard by it shall, irrespective of ch. 227, make a decision in writing accompanied by findings of fact and conclusions of law. The ^{court} commission may issue an opinion in writing in addition to its findings of fact and decision. The decision or order of the ^{court} commission shall become final and shall be binding upon the petitioner and upon the department of revenue for that case unless an appeal is taken from the decision or order of the ^{court} commission under s. 73.015. Except in respect to ^{court} small claims decisions, if the commission construes a statute adversely to the contention of the department of revenue:

1. Except as provided in subd. 2., the department shall be deemed to acquiesce in the construction so adopted unless the department seeks review of the order or decision of the ^{court} commission so construing the statute. For purposes of this subdivision, the department has sought review of the order or decision if it seeks review and later settles the case or withdraws its petition for review or if the merits of the case are for other reasons not determined by judicial review. The construction so acquiesced in shall thereafter be followed by the department.

2. The department may choose not to appeal and to nonacquiesce in the decision or order by sending a notice of nonacquiescence to the clerk of the ^{court} commission, to the revisor of statutes for publication in the Wisconsin administrative register and to the taxpayer or the taxpayer's representative before the time expires for seeking a review of the decision or order under s. 73.015. The

effect of this action is that, although the decision or order is binding on the parties for the instant case, the ^{court} commission's conclusions of law, the rationale and construction of statutes in the instant case are not binding upon or required to be followed by the department in other cases.

(f) All reports, findings, decisions and opinions of the ^{court} commission, and all evidence received by the ^{court} commission, including a transcript of any report of the proceedings, shall be open to the inspection of the public, except that the originals of books, documents, records, labels, diagrams, and other exhibits introduced in evidence before the ^{court} commission, may be withdrawn from the custody of the commission in such manner and upon such terms as the commission may, in its discretion, prescribe.

(g) The ^{court} commission shall, in manufacturing property redeterminations under s. 70.995 for which a refund is due a taxpayer because of a reduction in value by the ^{court} commission, include in its determination a finding of whether the reduction was due to false or incomplete information supplied by the taxpayer.

(h) The ^{court} commission may extend any of its deadlines for persons designated in section 7508 (a) of the internal revenue code for the length of time specified in that section.

(i) If the department of revenue assesses under s. 71.74 (9), the ^{court} commission shall consolidate the appeals of that assessment.

(4m) DEADLINE FOR DECISIONS. (a) The final decision or order of the commission shall be issued within 90 days after the date on which the last document necessary to the decision of the matter is received or the date on which a hearing is closed, whichever is later, unless good cause is shown or unless the parties and the ^{court} commission agree to an extension.

(b) ~~No member of the commission, including the chairperson or its hearing examiner may receive any salary unless he or she first executes an affidavit at the end of each salary period stating that he or she has complied with the deadlines in par. (a). The affidavit shall be presented to and filed with every official who certifies, in whole or in part, the salary.~~

(c) If a member of the ^{court} commission, including the chairperson or its hearing examiner is unable to comply with the deadline under par. (a), that person shall so certify in the record, and the period is then extended for one additional period not to exceed 90 days.

(5) APPEALS TO COMMISSION. (a) Any person who is aggrieved by a determination of the state board of assessors under s. 70.995 (8) or by the department of revenue under s. 70.11 (21) or who has filed a petition for redetermination with the department of revenue and who is aggrieved by the redetermination of the department may, within 60 days of the determination of the state board of assessors or of the department or, in all other cases, within 60 days after the redetermination but not thereafter, file with the ^{court} clerk of the ^{court} commission a petition for review of the action of the department and the number of copies of the petition required by rule adopted by the ^{court} commission. If a municipality appeals, its appeal shall set forth that the appeal has been authorized by an order or resolution of its governing body and the appeal shall be verified by a member of that governing body as ^{court} pleadings in courts of record are verified. The clerk of the ^{court} commission shall transmit one copy to the department of revenue and to each party. In the case of appeals from manufacturing property assessments, the person assessed shall be a party to a proceeding initiated by a municipality. At the time of filing the petition, the petitioner shall pay to the ^{court} commission a \$5 filing fee, which the ^{court} commission shall deposit in the general fund. Within 30 days after such transmission the department, except for petitions objecting to manufacturing property assessments, shall file with the ^{court} clerk of the ^{court} commission an original and the number of copies of an answer to the petition required by rule adopted by the ^{court} commission and shall serve one copy on the petitioner or the petitioner's attorney or agent. Within 30 days after service of the answer, the petitioner may file and serve a reply in the same manner as the petition is filed. Any person entitled to be heard by the ^{court} commission under

s. 76.38 (12) (a), 76.39 (4) (c), 76.48 or 76.91 may file a petition with the commission within the time and in the manner provided for the filing of petitions in income or franchise tax cases. Such papers may be served as a circuit court summons is served or by certified mail. For the purposes of this subsection, a petition for review is considered timely filed if mailed by certified mail in a properly addressed envelope, with postage duly prepaid, which envelope is postmarked before midnight of the last day for filing.

NOTE: Par. (a) is repealed and recreated eff. 5-15-98 by 1995 Wis. Act 351 to read:

(a) Any person who is aggrieved by a determination of the state board of assessors under s. 70.995 (8) or by the department of revenue under s. 70.11 (21) or who has filed a petition for redetermination with the department of revenue and who is aggrieved by the redetermination of the department may, within 60 days of the determination of the state board of assessors or of the department or, in all other cases, within 60 days after the redetermination but not thereafter, file with the clerk of the commission a petition for review of the action of the department and the number of copies of the petition required by rule adopted by the commission. If a municipality appeals, its appeal shall set forth that the appeal has been authorized by an order or resolution of its governing body and the appeal shall be verified by a member of that governing body as pleadings in courts of record are verified. The clerk of the commission shall transmit one copy to the department of revenue and to each party. In the case of appeals from manufacturing property assessments, the person assessed shall be a party to a proceeding initiated by a municipality. At the time of filing the petition, the petitioner shall pay to the commission a \$5 filing fee, which the commission shall deposit in the general fund. Within 30 days after such transmission the department, except for petitions objecting to manufacturing property assessments, shall file with the clerk of the commission an original and the number of copies of an answer to the petition required by rule adopted by the commission and shall serve one copy on the petitioner or the petitioner's attorney or agent. Within 30 days after service of the answer, the petitioner may file and serve a reply in the same manner as the petition is filed. Any person entitled to be heard by the commission under s. 76.38 (12) (a), 1993 stats., or s. 76.39 (4) (c), 76.48 or 76.91 may file a petition with the commission within the time and in the manner provided for the filing of petitions in income or franchise tax cases. Such papers may be served as a circuit court summons is served or by certified mail. For the purposes of this subsection, a petition for review is considered timely filed if mailed by certified mail in a properly addressed envelope, with postage duly prepaid, which envelope is postmarked before midnight of the last day for filing.

(b) The petition shall set forth specifically the facts upon which the petitioner relies, together with a statement of the propositions of law involved, and shall be in such form as the commission by rule designates. After an answer is filed as provided in par. (a), the matter shall be regarded as at issue and the commission shall set it for hearing. At all times while said appeal is pending before the commission, the petitioner shall keep the commission informed as to the petitioner's residence. Upon the petitioner's failure to do so, the mailing by the commission of a notice of hearing, decision and order or other papers by registered mail to the petitioner's attorney or to the petitioner's last-known address shall constitute good and sufficient service. Petitions and answers may be amended under rules to be prescribed by the commission.

1973 c. 90; 1975 c. 39, 199; 1977 c. 29; 1979 c. 177 s. 85; 1979 c. 221; 1980 c. 317; 1983 a. 27, 277; 1985 a. 29 ss. 1403 to 1411, 3202 (56) (d); 1987 a. 27 ss. 1543m, 3202 (47) (a); 1987 a. 142, 186, 198, 312, 399, 403; 1989 a. 58 s. 259; 1989 a. 335; 1991 a. 39, 262, 315, 316; 1993 a. 134, 213; 1995

subpoena duces tecum need not show on its face the factual basis for its issuance to prove lawful purpose and relevancy. The commission properly took testimony even though it was deciding a question of law. Neu v. Supply Line v. Dept. of Revenue, 52 W (2d) 386, 190 NW (2d) 213.

See also 73.03, citing Hogan v. Musolf, 163 W (2d) 1, 471 NW (2d) 216 (1991).

Rule 47 (4d) does not prohibit petitions for rehearing oral decisions. DOR v. Hogan, 198 W (2d) 792, 543 NW (2d) 825 (Cl. App. 1995).

Rule 47 (b) does not grant the commission the authority to certify a class in a class action which seeks income tax refunds. DOR v. Hogan, 198 W (2d) 792, 543 NW (2d) 825 (Cl. App. 1995).

See also 73.03, citing Hogan v. Musolf, 163 W (2d) 1, 471 NW (2d) 216 (1991).

See also 73.03, citing Hogan v. Musolf, 163 W (2d) 1, 471 NW (2d) 216 (1991).

73.02 Review of determination of tax appeals commission.

(1) This section shall provide the sole and exclusive remedy for review of any decision or order of the tax appeals commission and no person may contest, in any action or proceeding, any decision or order of the commission unless such person has appealed himself or herself of a hearing before the commission or has cross-appealed under s. 70.995 (8) (a).

Any adverse determination of the tax appeals commission shall be reviewable in the manner provided in ch. 227, if the circuit court construes a statute adversely to the contention of the department of revenue, the department shall be deemed to acquiesce in the construction so adopted unless an appeal to the court of appeals is taken, and the construction so acquiesced in shall thereafter be followed by the department.

History: 1977 c. 29, 187; 1985 a. 29; 1987 a. 399.

73.02 Distribution of money; income tax coordinator.

(1) The department of revenue shall, on the certification of the program agencies that all requirements of the applicable laws have been complied with, perform the mechanical operation of the distribution of all moneys which the state distributes to political subdivisions.

(2) The secretary shall designate or appoint under the classified service, within the department of revenue, an income tax coordinator, whose duties shall include the setting up and operation of a coordination program with the internal revenue service to facilitate the reporting of federal adjustments to the department and the interchange of information with respect to examination of returns, adjustments to income, extension of limitations, furnishing copies of returns and other activities essential to an integrated and effective coordination program with the internal revenue service.

73.028 Levy rate limits and debt conditions; rules. The department may promulgate rules to implement and administer the levy rate limits and debt issuance conditions under ss. 66.77 and 67.045.

History: 1993 a. 16.

73.03 Powers and duties defined. It shall be the duty of the department of revenue, and it shall have power and authority:

(1) To have and exercise general supervision over the administration of the assessment and tax laws of the state, over assessors, boards of review, supervisors of equalization, and assessors of incomes, and over the county boards in the performance of their duties in making the taxation district assessment, to the end that all assessments of property be made relatively just and equal at full value and that all assessments of income may be legally and accurately made in substantial compliance with law.

(2) (a) To confer with, advise and direct assessors, boards of review and county boards of assessment as to their duties under the statutes.

(2a) To prepare, have published and distribute to each county having a county assessor system under s. 70.99 and to each town, city and village in the state for the use of assessors, assessment personnel and the public detailed assessment manuals, except that if an assessor is hired by more than one county, town, city or village the department shall provide that assessor with only one cost component of the manual rather than providing the cost component of the manual to each county, town, city or village that hires that assessor. The manual shall discuss and illustrate accepted assessment methods, techniques and practices with a view to more nearly uniform and more consistent assessments of property at the local level. The manual shall be amended by the department from time to time to reflect advances in the science of assessment, court decisions concerning assessment practices, costs, and statistical and other information deemed valuable to local assessors by the department. The manual shall incorporate standards for the assessment of all types of renewable energy resource systems used in this state as soon as such systems are used in sufficient numbers and sufficient data exists to allow the formulation of valid guidelines. The manual shall incorporate standards, which the department of revenue and the state historical society of Wisconsin shall develop, for the assessment of nonhistoric property in historic districts and for the assessment of historic property, including but not limited to property that is being preserved or restored; property that is subject to a protective easement, covenant or other restriction for historic preservation purposes; property that is listed in the national register of historic places in Wisconsin or in this state's register of historic places and property that

court
by the Supreme court

ation under subd. 3. by the full market value of property everywhere.

companies. For pipeline companies except

the gross cost of line of pipe owned or rented by the company in the operation of the company's business

the gross cost of line of pipe owned or rented by the company in the operation of the company's business

amount under subd. 1. by the amount under

the fraction under subd. 3. by 3.

the fraction under subd. 4. by 4.

the barrel miles transported in this state.

the barrel miles transported everywhere.

the amount under subd. 6. by the amount under

the fraction under subd. 8. by 5.

determine the number of barrels received and delivered

determine the number of barrels received and delivered

the amount under subd. 10. by the amount under

the fraction under subd. 12. by 20.

Determine the gross cost of line of pipe everywhere.

Determine the gross cost of all property owned or rented by the company and used in the company's business everywhere.

Divide the amount under subd. 14. by the amount under

the fractions under subds. 5., 9. and 13. and multiply the result by the fraction under subd. 16.

Determine the gross cost of property owned or rented by the company and used in the operation of the company's business other than pipe in this state.

Determine the gross cost of all property owned or rented by the company and used in the operation of the company's business everywhere.

Divide the amount under subd. 18. by the amount under

the fraction under subd. 17. to the fraction under

the fraction under subd. 21. by the full market value of the company's property everywhere.

ADJUSTMENT OF FACTORS. In making the determinations under sub. (4g), the department may adjust any factor or use any factor in order to reflect more accurately the company's property in this state if in the department's judgment the factor or combination of factors does not produce a substantially just and equitable determination or if during the 12 months preceding the assessment date any of the following conditions applies:

The company began operating in this state and the results of its operations during the first year materially distort the allocation of property to this state.

The company's service was interrupted so that the allocation of property to this state is materially distorted.

The company acquired or disposed of assets having a substantial value that are situated so as materially to distort the allocation of property to this state.

Another event occurred which materially distorted the allocation of property to this state.

FULL MARKET VALUE. (a) The full market value of the operating property of a company listed in s. 76.01 shall be determined by applying recognized appraisal methods, which may include, but are not limited to, the capitalized income, cost, and stock and

debt indicators of value, regardless of the method of accounting for legitimate business purposes used by the taxpayer. The department shall give due consideration to generally accepted accounting principles and regulated accounting practices.

(b) The department shall promulgate rules relating to the general principles of the indicators of value under par. (a).

History: 1971 c. 23; 1981 c. 20; 1983 a. 27; 1985 a. 29; 1987 a. 399; 1989 a. 31; 1991 a. 39; 1993 a. 205, 490; 1995 a. 351.

Railroad's working capital was properly assessed as operating property. Valuation of railroads discussed. *Soo Line R. Co. v. Department of Revenue*, 97 W (2d) 56, 292 NW (2d) 869 (1980).

76.075 Adjustments of assessments. Within 4 years after the due date, or extended due date, of the report under s. 76.04, any person subject to taxation under this subchapter may request the department to make, or the department may make, an adjustment to the data under s. 76.07 (4g) or (4r) submitted by the person. If an adjustment under this section results in an increase in the tax due under this subchapter, the person shall pay the amount of the tax increase plus interest on that amount at the rate of 1% per month from the due date or extended due date of the report under s. 76.04 until the date of final determination and interest at the rate of 1.5% per month from the date of final determination until the date of payment. If an adjustment under this section results in a decrease in the tax due under this subchapter, the department shall refund the appropriate amount plus interest at the rate of 0.75% per month from the due date or extended due date under s. 76.04 until the date of refund. Sections 71.74 (1) and (2) and 71.75 (6) and (7), as they apply to income and franchise tax adjustments, apply to adjustments under this section. Review of the adjustments is as stated in s. 76.08.

History: 1989 a. 31.

76.08 Review of assessment. (1) Notice of the assessments determined under s. 76.07 and of adjustments under s. 76.075 shall be given by certified mail to each company the property of which has been assessed, and the notice of assessment shall be mailed on or before the assessment date specified in s. 76.07 (1). Any company aggrieved by the assessment or adjustment of its property thus made may have its assessment or adjustment redetermined by the Dane county circuit court if within 30 days after notice of assessment or adjustment is mailed to the company under s. 76.07 (3) an action for the redetermination is commenced by filing a summons and complaint with that court, and service of authenticated copies of the summons and complaint is made upon the department of revenue. No answer need be filed by the department and the allegations of the complaint in opposition to the assessment or adjustment shall be deemed denied. Upon the filing of the summons and complaint the court shall set the matter for hearing without a jury. If the plaintiff fails to file the summons and complaint within 5 days of service upon the department, the department may file a copy thereof with the court in lieu of the original. The department may be named as the defendant in any such action and shall appear and be represented by its counsel in all proceedings connected with the action but, on the request of the secretary of revenue, the attorney general may participate with or serve in lieu of departmental counsel. In an action for redetermination of an adjustment, only the issues raised in the department's adjustment under s. 76.075 may be raised.

(2) If as the result of an action pursuant to sub. (1) the assessment as found by the department is increased by the court, any resulting increase in the tax shall be collected upon final determination of the action as other taxes levied and assessed under ss. 76.01 to 76.26 are collected.

History: 1971 c. 125 s. 521; Sup. Ct. Order, 67 W (2d) 585, 751 (1975); 1977 c. 449; 1989 a. 31.

Judicial Council Committee Note, 1974: Sub. (1) amended to conform to the new mode of commencement of action under s. 301.02. As amended, this section would require both the filing and the service on the department within 30 days after the mailing of the notice of assessment. [Re Order effective Jan. 1, 1976]

76.09 Assessment of omitted property. Any property subject to assessment under this subchapter which has been

Thursday AM - 1-28-99

Bob Nelson spoke with Kerry Holder re
draft and potential constitutional
problems with creating tax court

(see Bob's notes and
DOA memo)

Kerry → draft change to appeal
given so DOR hears
appeal of assessments

→ do not make commission a court

→ make change to 73.01 re
summary proceedings



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
101 East Wilson Street, Madison, Wisconsin

TOMMY G. THOMPSON
GOVERNOR
MARK D. BUGHER
SECRETARY

Mailing Address:
Post Office Box 7864
Madison, WI 53707-7864



Date: January 26, 1999
To: Steve Miller
Legislative Reference Bureau
From: Kerry Holden, SBO, 6-8593 *KH*
Subject: Draft for Governor's 1999-2001 Budget Bill - Creation of a Tax Court

*LM 1/27
1/28*

Please draft the attached for inclusion in the Governor's 1999-2001 budget bill. This statutory language request will replace the Tax Appeals Commission with a Tax Court.

Please call me with any questions. Thank you.

Qs - Art VII, S. 2 appears to prohibit a tax court - unless it is a trial court

Bob's Copy

gives to Sup. Ct. superintending & administrative authority over courts

*John Evans
H
6-2845*

II sets the terms of es and requires an election, it to fill a vacancy

S. 12 of sup. & circuit courts are exercised under Art VII

- Art VII, S. 13 removal of judge is by "address" of both houses

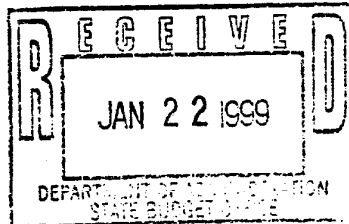
Study Implementation (creation) Leg. necessary
Review of "equalized values" to DOR, (2004), but under 2009 (2), redetermination of assessments or hearing re: overpayment (01.89) go directly to tax court

Reek Chand

CORRESPONDENCE / MEMORANDUM

State of Wisconsin

Office of Legal Services • Department of Revenue



cc JM
UK
SGH
PR
KN
DC
CO
CD
BC

DATE: January 22, 1999

TO: Cate Zeuske
Secretary of Revenue

DRAFT

FROM: John R. Evans
Chief Counsel

SUBJECT: Tax Court Proposal

Please accept this memorandum proposing the creation of a tax court. The substantive changes are set forth herein and in a mark up of Chapter 73, which is attached.

As a point of departure, the proposal has three themes which are reduction of cost to the state and the taxpayer, reduction of time to resolution, and maintain or increase the quality of the decisions or other solutions.

The framework proposed broadens the small claims concept into a summary resolution procedure using alternate dispute resolution, limits appeals solely to the Supreme Court and adapts most of the procedures of circuit court for hearings. The proposal retains gubernatorial appointment of the judges and other existing procedures that are cost effective.

The changes that are proposed are as follows:

- 73.01(1) The definition section should be amended to reflect "Tax Court". All references to the tax appeals commission in the statutes would be amended similarly.
- 73.01(1)(b) "Small Claims" be changed to "Summary Proceeding". The amount be amended from \$2500 to \$100,000. The procedure for moving the case out of summary proceeding would be on the court's motion or by petition of either party that the matter is of statewide concern or involve a constitutional issue. The provision would provide that issues could be bifurcated. ?
- 73.01(2) Employes would remain classified state service employees. It may be noted that under the Wisconsin Constitution, the judges may be of the Supreme Court not the Executive Branch under Article VII, Section 3 and Section 4. This is discussed in a separate memorandum. *where is that?*

- 73.01(3) Revised statute to limit hearings to Milwaukee, Appleton, Wausau, Eau Claire and LaCrosse.
- 73.01(4)(b) Revise statute to provide that the judges decide cases, but that the court may sit en banc. *Many judges? One court*
- 73.01(4)(bm) Delete first sentence.
- 73.01(4m)(b) Delete.
- 73.015(2) Revise to provide that cases are appealed to the Supreme Court. *How do that w/o*

const. change - Ct. of appeals out!

Add to 73.01(4) a provision that the court shall use the Circuit Court rules of civil procedure, *in chs. 802 & 804* ~~except for Chapter~~ and the rules of evidence except as inconsistent with the Chapter. *only (see draft)*

Add a provision that the relief under the Chapter shall not include equitable jurisdiction. *(see draft)*

Changes to Other Sections

- Provide review of § 70.85 determinations to certiorari to the tax court. *no witnesses on record beats*
- Provide review of § 70.75 determination to the tax court by certiorari.
- Provide review of equalized value under § 70.64 shall be handled in the same manner as appeals under § 70.85 and reviews of the determinations shall be by certiorari to the tax court.
- Provide review of the state board of assessors shall be by certiorari to the tax court.
- Provide review of Chapter 76 appeals shall be to the tax court?

803 - Parties
805 - Trial, inc. subpoenas, motions after verdict, mistrial
806 - Judgment
807 - Misc; telephone proceedings, interpreters, entry of orders

Define Procedure Under Summary Procedure

The statute shall provide that all cases under summary procedure shall be referred to the court's masters for ADR at the court's discretion. The masters are non-judge employes or law clerks.

Any employe - bailiff, clerk, typist,

15.065 STRUCTURE OF THE EXECUTIVE BRANCH

SUBCHAPTER II

DEPARTMENTS

sarily engaged in the performance of affiliated credentialing board duties. Each member of an affiliated credentialing board shall be reimbursed for the actual and necessary expenses incurred in the performance of affiliated credentialing board duties.

(8) OFFICIAL OATH. Every member of an affiliated credentialing board shall take and file the official oath prior to assuming office.

(9) ANNUAL REPORTS. Every affiliated credentialing board shall submit to the head of the department in which it is created, upon request of that person not more often than annually, a report on the operation of the affiliated credentialing board.

(10) SEAL. Every affiliated credentialing board may adopt a seal.

History: 1993 a. 107.

15.09 Councils. (1) SELECTION OF MEMBERS. (a) Unless otherwise provided by law, the governor shall appoint the members of councils for terms prescribed by law. Except as provided in par. (b), fixed terms shall expire on July 1 and shall, if the term is for an even number of years, expire in an odd-numbered year.

(b) The terms of the members of the council on recycling shall expire as specified under s. 15.347 (17) (c).

(2) SELECTION OF OFFICERS. Unless otherwise provided by law, at its first meeting in each year every council shall elect a chairperson, vice chairperson and secretary from among its members. Any officer may be reelected for successive terms. For any council created under the general authority of s. 15.04 (1) (c), the constitutional officer or secretary heading the department or the chief executive officer of the independent agency in which such council is created shall designate an employe of the department or independent agency to serve as secretary of the council and to be a voting member thereof.

(3) LOCATION AND FREQUENCY OF MEETINGS. Unless otherwise provided by law, every council shall meet at least annually and shall also meet on the call of the head of the department or independent agency in which it is created, and may meet at other times on the call of the chairperson or a majority of its members. A council shall meet at such locations as may be determined by it unless the constitutional officer or secretary heading the department or the chief executive officer of the independent agency in which it is created determines a specific meeting place.

(4) QUORUM. Except as otherwise expressly provided, a majority of the membership of a council constitutes a quorum to do business, and a majority of a quorum may act in any manner within the jurisdiction of the council.

(5) POWERS AND DUTIES. Unless otherwise provided by law, a council shall advise the head of the department or independent agency in which it is created and shall function on a continuing basis for the study, and recommendation of solutions and policy alternatives, of the problems arising in a specified functional area of state government.

(6) REIMBURSEMENT FOR EXPENSES. Members of a council shall not be compensated for their services, but members of councils created by statute shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties, such as reimbursement in the case of an elective or appointive officer or employe of this state who represents an agency as a member of a council to be paid by the agency which pays his or her salary.

(7) REPORTS. Unless a different provision is made by law for transmittal or publication of a report, every council created in a department or independent agency shall submit to the head of the department or independent agency, upon request of that person not more often than annually, a report on the operation of the council.

(8) OFFICIAL OATH. Each member of a council shall take and file the official oath prior to assuming office.

15.10 Department of administration; creation. There is created a department of administration under the direction and supervision of the secretary of administration. The secretary of administration shall be appointed on the basis of recognized interest, administrative and executive ability, training and experience in and knowledge of problems and needs in the field of general administration.

15.103 Same; specified divisions. (1) DIVISION OF HEARINGS AND APPEALS. There is created a division of hearings and appeals which is attached to the department of administration under s. 15.03. The administrator of the division shall be appointed by the secretary of administration in the classified service.

(2) DIVISION OF HOUSING. There is created in the department of administration a division of housing. The administrator of the division shall be appointed outside the classified service by the secretary of administration.

(3) DIVISION OF INFORMATION TECHNOLOGY SERVICES. There is created in the department of administration a division of information technology services.

(4) DIVISION OF TRUST LANDS AND INVESTMENTS. There is created a division of trust lands and investments which is attached to the department of administration under s. 15.03. This division is under the direction and supervision of the board of commissioners of public lands.

History: 1977 c. 170, 418; 1979 c. 361 s. 15; 1981 c. 121; 1983 a. 27; 1989 a. 107; 1991 a. 39; 1993 a. 16 s. 53m.

15.105 Same; attached boards, commissions and offices. (1) TAX APPEALS COMMISSION. There is created a tax appeals commission which is attached to the department of administration under s. 15.03. Members shall be appointed solely on the basis of fitness to perform the duties of their office, and shall be experienced in tax matters. The commission shall meet at the call of the chairperson or at the call of a majority of its members. The chairperson shall not serve on or under any committee of a political party. The commission shall include but not be limited to a small claims division.

(2) CLAIMS BOARD. There is created a claims board, attached to the department of administration under s. 15.03, consisting of a representative of the office of the governor designated by the governor, a representative of the department of administration designated by the secretary of administration, a representative of the department of justice designated by the attorney general, the chairpersons of the senate and assembly committees on finance or their designees appointed at the commencement of each legislative biennium from the membership of their respective committees on finance.

(3) DEPOSITORY SELECTION BOARD. There is created a depository selection board which is attached to the department of administration under s. 15.03. The depository selection board shall consist of the state treasurer, the secretary of administration, the executive director of the investment board or their designees.

(4) PUBLIC RECORDS AND FORMS BOARD. There is created a public records and forms board which is attached to the department of administration under s. 15.03. The public records and forms board shall consist of the governor, the director of historical society, the attorney general, the state auditor, a representative of the small business community appointed by the governor, a representative of the permit information board appointed by the secretary of development and the director of legislative council staff or their designated representative.

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recertify the equalized value of the school district in which the property subject to taxation under s. 70.995 is located.

(3) In determining the value of agricultural land under sub. (1), the department shall fulfill the requirements under s. 70.32 (2r).

History: 1973 c. 90, 336; 1977 c. 29 ss. 761, 762, 1647 (12); 1977 c. 300 ss. 5, 8; 1981 c. 20; 1983 a. 372; 1985 a. 29, 54, 153, 246, 332, 399; 1991 a. 39; 1995 a. 27, 225.

Municipalities are not authorized by s. 70.57 (2), 1975 stats., to appeal for redetermination of tax assessment. Village of Silver Lake v. Department of Revenue, 87 W (2d) 463, 275 NW (2d) 119 (Cl. App. 1978).

Phrase in sub. (2), "taxation under s. 70.995", means "assessment under s. 70.995". 73 Atty. Gen. 119.

70.575 State assessment, time. The department, not later than August 15 in each year, shall total the assessments of counties made by the department of revenue under s. 70.57, and the total shall be known as the state assessment and shall be the full market value of all general property of the state liable to state, county and local taxes in the then present year. The department shall enter upon its records such state assessment.

History: 1977 c. 29 ss. 763, 1647 (17); 1977 c. 300 ss. 6, 8.

70.58 Forestation state tax. There is levied an annual tax of two-tenths of one mill for each dollar of the assessed valuation of the property of the state as determined by the department of revenue under s. 70.57, for the purpose of acquiring, preserving and developing the forests of the state and for the purpose of forest crop law and county forest law administration and aid payments, and for the acquisition, purchase and development of forests described under s. 25.29 (7) (a) and (b), the proceeds of the tax to be paid into the conservation fund. The tax shall not be levied in any year in which general funds are appropriated for the purposes specified in this section, equal to or in excess of the amount which the tax would produce.

History: 1975 c. 39 s. 734; 1977 c. 29, 418; 1979 c. 34; 1983 a. 27; 1989 a. 359.

70.60 Apportionment of state tax. (1) The department of administration shall compute the state tax chargeable against each county basing such computation upon the valuation of the taxable property of the county as determined by the department of revenue pursuant to s. 70.57. On or before the 4th Monday of August in each year the department of administration shall certify to the county clerk of each county the amount of the taxes apportioned to and levied upon the county, and all special charges which the county clerk is required by law to make in any year to any such county to be collected with the state tax. The county clerk shall then charge to each county the whole amount of such taxes and charges, and the same shall be paid into the state treasury as provided by law.

History: 1977 c. 29 s. 1647 (14); 1977 c. 273.

70.62 County tax rate. (1) COUNTY BOARD TO DETERMINE. The county board shall also, at such meeting, determine by resolution the amount of taxes to be levied in their county for the year.

(3) OMITTED TAX. Whenever the county board of any county shall fail to apportion against any town, city or village thereof in any year any state, county or school tax or any part thereof properly chargeable thereto, such county board shall, in any succeeding year, apportion such taxes against such town, city or village and add the proper amount thereof to the amount of the current annual tax then apportioned thereto.

History: 1973 c. 90, 333; 1975 c. 39, 80, 200, 224; 1977 c. 113 ss. 5, 6; 1977 c. 142; 1977 c. 418 ss. 482 to 487, 929 (42); 1979 c. 34, 122; 1979 c. 175 s. 51; 1979 c. 346 s. 15; 1981 c. 20, 61, 93; 1983 a. 27, 275; 1985 a. 29.

See note to art. XI, sec. 3, citing 63 Atty. Gen. 465.

70.63 Apportionment of county taxes. (1) BY COUNTY CLERK. The county clerk shall apportion the county tax and the whole amount of state taxes and charges levied upon the county, as certified by the department of administration, among the towns, cities and villages of the county, according and in proportion to the valuation thereof as determined by the department of revenue.

The county clerk shall carry out in the record book, opposite the name of each in separate columns, the amount of state taxes and charges and the amount of county taxes so apportioned thereto, and the amount of all other special taxes or charges apportioned or ordered, or which the clerk is required by law to make in any year to any town, city or village, to be collected with the annual taxes. The clerk shall certify to the clerk of and charge to each town, city and village, except in cities of the 1st class, the amount of all such taxes so apportioned to and levied upon it, and shall, at the same time, file with the county treasurer a certified copy of each apportionment.

(2) CITY OF FIRST CLASS. The county clerk shall certify in a similar manner to the commissioner of assessments of each city of the first class located within the limits of the county.

History: 1973 c. 90; 1981 c. 20; 1991 a. 156.

70.64 Review of equalized values. (1) BY TAX APPEALS COMMISSION. The assessment and determination of the relative value of taxable general property in any county or taxation district, made by the department of revenue under s. 70.57, may be reviewed, and a redetermination of the value of such property may be made by the tax appeals commission, upon appeal by the county or taxation district. The filing of such appeal in the manner provided in this section by any county or taxation district shall impose upon the commission the duty, under the powers conferred upon it by s. 73.01 (1) (c), to review the assessment complained of. If, in its judgment based upon the testimony, evidence and record made on the preliminary hearing of such appeal, the commission finds such assessment to be unequal and discriminatory, it shall determine to correct such assessment to bring it into substantial compliance with law. Except as provided in this section, the appeal shall be taken and such review and redetermination shall be made as provided in ss. 73.01 and 73.015 and under the rules governing the procedure of the commission.

(2) AUTHORIZATION OF APPEALS. To authorize such appeal an order or resolution directing the same to be taken shall be adopted by the governing body of the county or taxation district taking the appeal at a lawful meeting of the governing body. When an appeal shall have been authorized the prosecution of it shall be in charge of the chairperson of the county board or county administrator or of the chairperson, mayor or president of the taxation district taking the appeal unless otherwise directed by the governing body. The officers or committee in charge of the appeal may employ attorneys to conduct the appeal. After authorizing an appeal as provided in this subsection, any 2 or more taxation districts in the same county may join in taking and prosecuting an appeal.

(3) FORM OF APPEAL. To accomplish an appeal there shall be filed with the tax appeals commission on or before October 15 an appeal in writing setting forth:

(a) That the county or taxation district, naming the same, appeals to the tax appeals commission from the assessment made by the department of revenue under s. 70.57, specifying the date of such assessment.

(b) Whether the appeal is to obtain a review and redetermination of the assessment of all the taxation districts of the county or of particular districts only, therein specified.

(c) Whether review and redetermination is desired as to real estate, or personal property, or both.

(d) That the appeal has been authorized by an order or resolution of the county board or governing body of the taxation district in whose behalf the appeal is taken.

(e) A plain and concise statement, without unnecessary repetition, of the facts constituting the grievance sought to be remedied upon appeal, which shall specifically allege in what respects the assessment is in error.

(f) The appeal shall be verified by a member of the governing body of the county or taxation district authorizing the appeal in the manner that pleadings in courts of record are verified. When 2 or

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more taxation districts join in taking such appeal the verification may be made by the proper officer of any one of them.

(4) CERTIFIED COPIES. Upon the filing of such appeal, the clerk of the county or taxation district, without delay, shall prepare certified copies of it, together with certified copies of the value established by the department of revenue from which the appeal is taken and a complete list showing the clerk of each taxation district within the county and the post-office address of each. The clerk shall mail by certified mail 4 sets of certified copies to the ~~tax appeals commission and one set of the copies to the department of revenue~~, the county clerk and the clerk of each taxation district within the county.

(5) APPEARANCE. Not later than 30 days after the clerk of the county or taxation district has mailed the certified copies, unless the time is extended by order of the tax appeals commission, any county, town, city or village may cause an appearance to be entered in its behalf before the ~~commission~~ in support of the appeal and uniting with the appellant for the relief demanded; and by verified petition or statement showing grounds therefor may apply for other or further review and redetermination than that demanded in the appeal. Within the same time the county, town, city or village in the county may in the same manner have its appearance entered in opposition to the appeal and to the relief demanded. Such appearances shall be authorized in the manner for authorizing an appeal under sub. (2). When so authorized the interests of the county, town, city or village authorizing it shall be in the charge of the chairperson, mayor or president thereof unless otherwise directed by the body authorizing such appearance; and attorneys may be employed in that behalf. In such appearances any 2 or more of the towns, cities and villages of the county may join if united in support of or in opposition to the appeal. Four copies of each appearance, petition or statement mentioned in this subsection shall be filed in the offices of the ~~tax appeals commission and a copy of each mailed by certified mail to the department of revenue~~, to the county clerk, and to the clerk of each town, city and village within the county, and a copy to the attorney authorized to appear on behalf of the county or any town, city or village within the county.

(6) HEARING. As soon as practicable, the ~~commission~~ shall set a time and place for ~~preliminary~~ hearing of such appeal. At least 10 days before the time set for such hearing, the ~~commission~~ shall cause notice thereof to be mailed by certified mail to the county clerk and to the attorney or the clerk of each town, city and village in whose behalf an appearance has been entered in the matter of such appeal, and to the clerk of each town, city or village which has not appeared, and mail a like notice to the clerk of the taxation district taking such appeal and to the department of revenue. ~~The department of revenue shall be prepared to present to the commission at such time during the course of the hearings as the commission requires, the full value of all property subject to general property taxation in each town, village and city of the county, as determined by the department according to s. 70.57 (1) or in the case of a complaint by a taxation district under a county assessor such information as the department has in its possession.~~ Said hearing may be adjourned, in the discretion of the ~~tax appeals commission~~, as often and to such times and places as may be necessary in order to determine the facts. If satisfied that no substantial injustice has been done in the taxation district assessment appealed from, the ~~commission~~ in its discretion may dismiss such appeal. If satisfied that substantial injustice has been done in the taxation district assessment, the ~~commission~~ shall determine to revalue any or all of the taxation districts in the county, which it deems necessary, in a manner which in its judgment is best calculated to secure substantial justice.

(7) REDETERMINATION. The ~~commission~~ shall then proceed to redetermine the value of the taxable general property in such of the taxation districts in the county as it deems necessary. It may include in such redetermination other taxation districts than first determined upon and may include all of the taxation districts in

said county, if at any time during the progress of its investigations or revaluations it is satisfied that such course is necessary in order to accomplish substantial justice and to secure relative equality as between all the taxation districts in such county. It shall make careful investigation of the value of taxable general property in the several taxation districts to which such review and redetermination shall extend, in any manner which in its judgment is best calculated to obtain the fair, full value of such property. The ~~commission~~ may employ such experts and other assistants as may be necessary, and fix their compensation. In making such investigations the ~~commission~~ and all persons employed therein by the ~~commission~~ shall have all the authority possessed by assessors so far as applicable, including authority to administer oaths and to examine property owners and witnesses under oath as to the quantity and value of the property subject to assessment belonging to any person or within any taxation district to which the investigation shall extend.

~~(8) HEARING. The commission may at any time before its final determination appoint a time and place at which it will hear evidence and arguments relevant to the matters under consideration upon such appeal. The time to be devoted to such hearings may be limited as the commission directs. At least 10 days before the time fixed for such hearings, the commission shall cause notice thereof to be mailed by certified mail to the county clerk and to the attorney or other representative of each town, city and village in whose behalf an appearance has been entered in the matter of such appeal, and a like copy to the department of revenue.~~

(9) TESTIMONY. The ~~tax appeals commission~~ may take testimony. Witnesses summoned at the instance of said commission shall be compensated at the rates provided by law for witnesses in courts of record, the same to be audited and paid the same as other claims against the state, upon the certificate of said commission. If any property owner or other person makes any false statement to said ~~commission~~ or to any person employed by it upon any matter under investigation that person shall be subject to all the forfeitures and penalties imposed by law for false statements to assessors and boards of review.

(10) DETERMINATION. The ~~tax appeals commission~~ shall make its determination upon such appeal without unreasonable delay and shall file a copy thereof in the office of the county clerk and mail by certified mail a like copy to the department of revenue and to the clerk and attorney of the taxation district appealing, and a copy to the clerk and attorney of each taxation district having appeared. In such determination the ~~commission~~ shall set forth the relative value of the taxable general property in each town, city and village of such county as found by them, and what sum, if any, shall be added to or deducted from the aggregate value of taxable property in each such taxation district as fixed in the determination of the department of revenue from which such appeal was taken in order to produce a relatively just and equitable taxation district assessment. Such determination shall be final.

(11) COMPUTATION. The determination of the ~~commission~~ shall not affect the validity of taxes apportioned in accordance with the taxation district assessment from which such appeal was taken; but if it is determined upon such appeal that such taxation district assessment is relatively unequal, such inequality shall be remedied and compensated in the apportionment of state and county taxes in such county next following the determination of said commission in the following manner: Each town, city and village whose valuation in such taxation district assessment was determined by said commission to be relatively too high shall be credited a sum equal to the amount of taxes charged to it upon such unequal assessment in excess of the amount equitably chargeable thereto according to the determination of the ~~commission~~; and each town, city and village whose valuation in such taxation district assessment was determined by said ~~commission~~ to be relatively too low shall be charged, in addition to all other taxes, a sum equal to the difference between the amount charged thereto upon such unequal assessment and the amount which should have been

charged thereto according to the determination of the commission. The department of revenue shall aid the county clerk in making proper computations.

(12) **EXPENSES.** The ~~tax appeals commission~~ ^{Department} shall transmit to the county clerk with its determination on such appeal a statement of all expenses incurred therein by or at the instance of the ~~commission~~ ^{Department}, which shall include the actual expenses of the ~~commission~~ ^{Department} and regular employees of the ~~commission~~ ^{Department}, the compensation and actual expenses of all other persons employed by it and the fees of officers employed and witnesses summoned at its instance. A duplicate of such statement shall be filed in the office of the department of administration. Such expenses shall be audited upon the certificate of the ~~commission~~ ^{Department}, and paid out of the state treasury, in the first instance, as other claims against the state are audited and paid. The amount of such expenses shall be a special charge against such county and shall be included in the next apportionment and certification of state taxes and charges, and collected from such county, as other special charges are certified and collected. Unless otherwise directed by the ~~commission~~ ^{Department} in its determination upon such appeal, the county clerk, in the next apportionment of state and county taxes, shall apportion the amount of such special charges to and among the towns, cities and villages in such county whose relative valuations were increased in the determination of the ~~commission~~ ^{Department} in proportion to the amount of such increase in each of them respectively. The apportionment of such expenses shall be set forth in the determination of the ~~commission~~ ^{Department}. The amount so apportioned to each such town, city and village shall be charged upon its tax roll and shall be collected and paid over to the county treasurer as other state taxes and special charges are collected and paid.

(13) **PROCEDURES.** The provisions of s. 73.01, insofar as consistent with this section, shall be applicable to proceedings under this section.

History: 1973 c. 90; 1981 c. 20; 1983 a. 275; 1989 a. 56 s. 258; 1991 a. 316.

70.65 Tax roll. (1) **CLERK TO PREPARE.** Annually the clerk of the taxation district shall prepare a tax roll. The clerk shall begin preparation of the tax roll at a time sufficient to permit timely delivery of the tax roll under s. 74.03.

(2) **CONTENT.** The tax roll shall do all of the following:

(a) As shown on the assessment roll:

1. Identify all the real property within the taxation district and, with respect to each description of real property, the name and address of the owner and the assessed value.

2. Identify the name and address of the owners of all taxable personal property within the taxation district and the assessed value of each owner's taxable personal property.

(b) With respect to each description of real property and each owner of taxable personal property:

1. Show the total amount of taxes levied against the property by all taxing jurisdictions to which the property is subject.

2. Show all other taxes, assessments and charges against the property which are authorized by law to be collected as are taxes levied against property.

(c) Set forth the taxes, assessments and charges against property in the tax roll in a manner sufficiently organized and apportioned to permit collection and settlement of the taxes, assessments and charges under ch. 74.

(d) Show the total amount of taxes, assessments and charges to be collected against property within the taxation district.

(e) Direct the treasurer of the taxation district and the county treasurer to collect, under s. 74.07, the amount of taxes, assessments and charges under par. (d).

(f) Set forth any other information required by law or determined necessary by the department of revenue.

(3) **CERTIFICATION OF CORRECTNESS.** The clerk of the taxation district shall certify, on the tax roll, that the information contained in the tax roll is accurate, to the clerk's best knowledge.

(4) **FORM.** The format of the tax roll shall be prescribed by the department of revenue under s. 70.09 (3).

(5) **DELIVERY.** The clerk of the taxation district shall transfer the tax roll under s. 74.03.

History: 1981 c. 20; 1983 a. 300, 532; 1985 a. 29; 1987 a. 27, 378.

70.67 Municipal treasurer's bond; substitute for.

(1) The treasurer of each town, city or village shall, unless exempted under sub. (2), execute and deliver to the county treasurer a bond, with sureties, to be approved, in case of a town treasurer, by the chairperson of the town, and in case of a city or village treasurer by the county treasurer, conditioned for the faithful performance of the duties of the office and that the treasurer will account for and pay over according to law all taxes of any kind which are received and which are required to be paid to the county treasurer. If such bond is executed, or the condition thereof guaranteed by personal sureties, the amount of the bonds shall be double the amount of state and county taxes apportioned to the town, village or city, provided that the amount of such bond shall not exceed the sum of \$500,000. When such bond is executed, or the condition thereof guaranteed, solely by a surety company as provided in s. 632.17 (2), such bond shall be in a sum equal to the amount of such state and county taxes, provided that the amount of such bond shall not exceed the sum of \$250,000. The county treasurer shall give to said town, city or village treasurer a receipt for said bond, and file and safely keep said bond in the office.

(2) The treasurer of any municipality shall not be required to give such bond if the governing body thereof shall by ordinance obligate such municipality to pay, in case the treasurer thereof shall fail so to do, all taxes of any kind required by law to be paid by such treasurer to the county treasurer. Such governing body is authorized to so obligate such municipality. If the governing body of the municipality has adopted an ordinance as specified in this subsection, it may demand from its treasurer, in addition to the official bond required of all municipal treasurers, a fidelity or surety bond in an amount and upon such terms as may be determined by the governing body. Such bond shall run to the town or village board or the city council, as the case may be, and shall be delivered to the clerk of the municipality. A certified copy of such ordinance filed with the county treasurer shall be accepted by the county treasurer in lieu of the bond required by sub. (1). Such ordinance shall remain in effect until a certified copy of its repeal shall be filed with the county clerk and the county treasurer. The official bond executed pursuant to s. 19.01, required of municipal treasurers, shall extend to and include the liability incurred by any town, city or village whose governing board shall adopt and certify to the county treasurer an ordinance in accordance with this subsection.

History: 1975 c. 375 s. 44; 1975 c. 421; 1989 a. 56 s. 258; 1991 a. 316.

For purposes of (2), the town board is the governing body of the town. 63 Atty. Gen. 10.

70.68 Collection of taxes. (1) **COLLECTION IN CERTAIN CITIES.** In cities authorized to act under s. 74.87, the chief of police shall collect all state, county, city, school and other taxes due on personal property as shall then remain unpaid, and the chief of police shall possess all the powers given by law to town treasurers for the collection of such taxes, and be subject to the liabilities and entitled to the same fees as town treasurers in such cases, but such fees shall be turned over to the city treasurer and become a part of the general fund.

(2) **BOND OF CHIEF OF POLICE.** The chief of police shall give a bond to the city, in such sum and with such sureties as the council may prescribe, for the payment to the city treasurer of all taxes collected by the chief of police.

History: 1985 a. 135; 1987 a. 378; 1991 a. 316.

70.71 Proceedings if roll not made. (1) Whenever any town, city or village clerk neglects or refuses to make and deliver the tax roll within the time required by law the county clerk shall, at any time after such neglect or refusal, demand and summarily obtain the assessment roll for such year, and make, in the same

such hearing testimony may be offered as to the equality of the assessment, whether or not the public may be promoted by a reassessment and as to such other matters as may be desired by the department. Notice of the hearing, showing the time and place of the hearing shall be mailed to the clerk of the taxation district and the first signer of the application for reassessment, not less than 8 days before the time fixed for the hearing.

The department shall keep on file its order directing such reassessment and naming the persons appointed to make the reassessment. In addition, the department shall transmit a copy of the order to the clerk of the taxation district, to the supervisor of equalization of the county in which the district is located and to each of the persons appointed to make such reassessment and serve on the board of review of the reassessment. Service of a copy of the order shall constitute legal notice to these people of their appointment. No person shall be authorized by the department to make a reassessment or to provide special supervision instead of reassessment unless the person is willing and able to use the assessment manual.

All assessment personnel appointed under this section in any year shall have passed an examination and have been certified by the department of revenue as qualified for performing the functions of the office to which appointed. Any person appointed under par. (a) or sub. (3) shall be certified as an assessor as provided in s. 70.055 (1).

(m) **ADDITIONAL REQUIREMENTS.** The department may not order under sub. (1) (a) with respect to a petition filed by a property owner who owns more than 5% of the assessed valuation of the property in a taxation district if within the 3 years preceding the filing of the petition that person petitioned for reassessment and the department of revenue did not order a reassessment under sub. (3) or special supervision under sub. (3) unless, in addition to that person, a city owner, an owner or owners of an additional 5% of the assessed valuation of the taxation district join in the petition. If a petition is denied under this subsection, the property owner who petitioned twice within a 3-year period shall pay 75% of the payment of revenue's costs in respect to that petition. Payments under this subsection shall be made to the department of revenue in a lump sum or in installments as provided in s. 20.566 (2) (h).

(n) **PERSONS APPOINTED TO REASSESS, POWERS AND DUTIES.** The department or persons appointed under sub. (1) to make a reassessment, without delay, shall severally take and subscribe an oath or affirmation to support the constitution of the United States and of the State of Wisconsin and to faithfully perform the duties imposed by law on that person in respect to the reassessment to the best of that person's ability, and shall file the same with the department of revenue.

Thereupon the person or persons appointed to make the reassessment shall proceed with diligence to make a reassessment of the taxable property in the affected district. For that purpose the person or persons appointed to make the reassessment shall have all the power and authority given by law to assessors in the district and shall perform all the duties and be subject to all restrictions and penalties imposed by law upon assessors in the district. The person or persons appointed to make the reassessment shall have access to all public records and files which may be necessary and useful in the performance of the reassessment, and while engaged therein shall be entitled to have custody and possession of the assessment roll containing the original assessment in the district and all other statements and memoranda relating thereto. A copy of the assessment roll and all property statements and other blank forms necessary for the purposes of the reassessment shall be furnished by the county clerk at the expense of the county upon the application of the department of revenue.

SPECIAL SUPERVISION INSTEAD OF REASSESSMENT. When the department determines, after the hearing provided for in sub. (1) or in the determination under s. 70.05 (5) (d), that the assessment complained of was not made in substantial compliance with law but that the interests of all the taxpayers of such district will best be promoted by special supervision of succeeding assessments to the end that the assessment of such district shall

thereafter be lawfully made, it may proceed as follows: It may designate one or more employes of the department or appoint one or more other qualified persons to assist the local assessor in making the assessments to be thereafter made in such district. Any person so appointed may give all or such part of that person's time to such supervision as, in the judgment of the department, is necessary to complete such assessment in substantial compliance with the law, and in performing such task shall have all the powers given by law to any person designated to make a reassessment and together with the assessor shall constitute an assessment board as defined in s. 70.055.

(4) **COSTS.** Except as provided in sub. (1m), all costs of the department of revenue in connection with reassessment or special supervision under this section shall be borne by the taxation district. These receipts shall be credited to the appropriation under s. 20.566 (2) (h). Past due accounts shall be certified on or before the 4th Monday of August of each year and included in the next apportionment of state special charges to local units of government.

(5) **DEFINITIONS.** In this section, for those taxation districts that are under a county assessor system, the terms "local assessor" and "board of review" include the county assessor and the county board of review, respectively.

History: 1973 c. 90; 1977 c. 29; 1981 c. 20; 1983 a. 27, 241; 1983 a. 275 s. 15 (1), (3); 1991 a. 316.

(6) *Review of redetermination of the department shall be referred to the State Tax Court.*

70.76 **Board of correction.** (1) **NOTICE, PROOF.** (a) In the order for reassessment the department of revenue shall designate 3 persons to serve as a board for the correction and review of the reassessment. As soon as practicable the person making the reassessment shall inform the clerk of the district of the date on which the reassessment will be ready for the consideration of the board. The information shall be given in time to enable the clerk to give the notice required in this subsection.

(b) The clerk shall give notice that the board will meet on the date at the place provided by law for the meeting of the regular board of review of the district, specifying the place. The clerk shall record the notice in the record book of proceedings of the board of review of the district after first recording the order for reassessment. The clerk shall post the notice in 3 conspicuous public places in the district and shall also serve a copy of the notice upon each of the persons named to act as the board and upon the department of revenue if the reassessment is not made by the department. The posting and service shall be at least one week before the day designated for the meeting.

(c) In case of the failure or refusal of the clerk to give and serve the notice in the manner prescribed within 5 days after being requested to do so by the person making the reassessment, the department of revenue may give and serve the notice with the same force and effect as if given and served by the clerk. The service may be by personal delivery to the person to be served or by leaving the copy at the person's usual place of abode or by mailing it in a sealed envelope postpaid and directed to the person at the person's post-office address.

(d) A memorandum stating the time and place of posting and the time and manner of service shall be entered by the clerk in the record. The memorandum, authenticated by the signature of the clerk, is presumptive evidence of the facts stated. The fact, time and manner of posting and service may be proved by any person having knowledge of the facts even though no entry of a memorandum is made.

(2) **HEARING.** The persons designated to serve as a board to review the reassessment shall attend at the time and place specified in the notice. A majority of them constitutes a quorum. Before proceeding in the review they shall be sworn by the clerk or by some other person authorized by law to administer oaths, to faithfully and impartially perform their duties in respect to the reassessment. The clerk of the district shall attend and serve as the clerk of the board at all its sessions and shall perform all the duties required of clerks at meetings of the regular board of review of the

venue, or its authorized agent, shall at any time have the assessment and tax rolls herein referred to for the purpose of presenting the local clerk and in order that the results of the assessment may be carried into effect.

Review of assessment by department of revenue

COMPLAINT. A taxpayer may file a written complaint with the department of revenue alleging that the assessment of one or more items or parcels of property in the taxation district the value of which, as determined under s. 70.47, does not exceed \$300 is radically out of proportion to the general level of assessment of all other property in the district.

BOARD OF REVIEW; TIMING. A complaint under this section may be filed only if the taxpayer has contested the assessment of the property for that year under s. 70.47. The complaint shall be filed with the department of revenue within 20 days after receipt of the board of review's determination or within 30 days after the date specified on the affidavit under s. 70.47 (12) if there is no receipt.

FEE. A taxpayer filing a complaint under this section shall pay a fee of \$100 to the department of revenue, which shall be credited to the appropriation under s. 20.566 (2) (h).

REVALUATION. (a) In this subsection, "the property" means the items or parcels of property which are the subject of the written complaint filed under sub. (1).

(b) The department of revenue may revalue the property and adjust the assessment of the property to the assessment ratio of other property within the taxation district, if the department of revenue determines that:

1. The assessment of the property is not within 10% of the general level of assessment of all other property in the taxation district.

2. The revaluation of the property can be satisfactorily completed without a reassessment of all property within the taxation district.

3. The revaluation can be accomplished before November 1 of the year in which the assessment is made or within 60 days of the receipt of the written complaint, whichever is later.

(c) Appeal of the determination of the department of revenue shall be by an action for certiorari in the circuit court of the county in which the property is located. *tax court.*

(5) **OTHER PROPERTY.** In determining whether to revalue property under sub. (4), the department of revenue may examine the valuation of other property in the taxation district which is owned by the person filing the complaint.

(6) **TAX COMPUTED ON REVALUED AMOUNT.** The valuation fixed by the department of revenue under this section shall be substituted for the assessed value of the property shown on the tax roll, and the tax shall be computed on the amount of the valuation determined by the department of revenue.

(7) **DELAY IN REVALUATION.** (a) If the department of revenue has not completed the revaluation prior to the time established by the taxation district for fixing its tax rate, the taxation district shall use its tax rate on the total value of property contained in the assessment roll, including property whose valuation is contested under this section.

(b) If the department of revenue has not completed the revaluation prior to the time of the tax levy, the tax upon property with respect to which the revaluation has not been completed shall be computed on the basis of the contested value of the property. The taxpayer shall pay in full the tax based upon the contested valuation. If the department of revenue reduces the valuation of the property, the taxpayer may file a claim under s. 70.511 (2) (b) for refund of taxes resulting from the reduction in value.

(8) **COSTS.** If the department of revenue determines that no change in the assessment of the property is required, the costs related to the department's determination shall be paid by the department. If the department of revenue changes the property

assessment, costs related to the department's determination that the assessment of that property should be changed, but not more than \$300, shall be paid by the taxation district and shall be credited to the appropriation under s. 20.566 (2) (h). Past due accounts for costs shall be certified by the department of revenue on or before the 4th Monday of August of each year and included in the next apportionment of state special charges to local units of government.

(9) **COUNTY ASSESSOR SYSTEM.** In this section, for those taxation districts that are under a county assessor system, the term "local assessor" includes the county assessor and the term "board of review" includes the county board of review.

History: 1987 a. 27, 378; 1991 a. 39; 1995 a. 408.

Wisconsin's Property Tax Assessment Appeal System. Arden. Wis. Law. March 1995.

70.86 Descriptions, simplified system. The governing body of any city, village or town may at its option adopt a simplified system of describing real property in either the assessment roll or the tax roll or in both the assessment roll and tax roll of such city, village or town, and may from time to time amend or change such simplified system. Descriptions in property tax bills shall be as provided under s. 74.09 (3) (a).

History: 1987 a. 378; 1993 a. 246.

70.99 County assessor. (1) A county assessor system may be established for any county by passage of a resolution or ordinance adopting such a system by an approving vote of 60% of the entire membership of the county board. After passage of this enabling resolution or ordinance by the county board, the county executive, or the county administrator, or the chairperson of the county board with the approval of the county board, shall appoint a county assessor from a list of candidates provided by the department of revenue who have passed an examination and have been certified by the department of revenue as qualified for performing the functions of the office. Certification shall be granted to all persons demonstrating proficiency by passing an examination administered by the department. The persons selected for listing shall first have been given a comprehensive examination, approved by the department of revenue, relating to the work of county assessor. A person appointed as county assessor shall thereafter have permanent tenure, after successfully serving the probationary period in effect in the county, and may be removed or suspended only for the reasons named in s. 17.14 (1) or for such cause as would sustain the suspension or removal of a state employe under state civil service rules. If employes of a county are under a county civil service program, the county assessor may, and any person appointed as a member of his or her staff shall, be incorporated into the county civil service program but tenure is dependent on the foregoing provision.

(1m) Upon request of a county that is considering the creation of an assessment system under this section, the department of revenue may study the feasibility of that creation. The county shall reimburse the department for the costs of the study.

(3) (a) The state department of employment relations shall recommend a reasonable salary range for the county assessor for each county based upon pay for comparable work or qualifications in such county. If by contractual agreement under s. 66.30 two or more counties join to employ one county assessor with the approval of the secretary of revenue, the department of employment relations shall recommend a reasonable salary range for the county assessor under such agreement. The department of revenue shall assist the county in establishing the budget for county assessor's offices, including the number of personnel and their qualifications, based on the anticipated workload.

(b) The department of revenue shall establish levels of proficiency for all appraisal personnel to be employed in offices of county assessors.

Wis. Stats.

(1) If no timely petition for redetermination is filed with the department, its determination shall be final and conclusive.

THE WISCONSIN TAX APPEALS COMMISSION. (a) A person feeling aggrieved by the department's determination may appeal to the tax appeals commission by filing a petition with the clerk of the commission as provided by law and the practice promulgated by the commission. If a petition is filed with the commission within the time provided in s. 71.75 (5), if no petition for redetermination is made within the time provided the assessment, and the amount of refund shall be final and conclusive.

Appeal of department's redetermination of credits. Any person aggrieved by the department of revenue's redetermination under s. 71.07 (3m) or (6), 71.28 (1) or (2m) or 71.47 (3) or such VIII or IX, except when the denial is based on a finding of claim for credit or is based upon a redetermination under s. 71.55 (8) of rent constituting property taxes accrued for a certain length, may appeal the redetermination to the tax appeals commission by filing a petition with the commission within 30 days after the redetermination, as provided under s. 71.75 (5). With respect to income or franchise tax cases, and review of the commission's decision may be had under s. 73.015. For purposes brought under this paragraph, the filing fee required under s. 73.015 (a) does not apply.

History: 1987 a. 312; 1989 a. 31; 1991 a. 39; 1995 a. 27, 404.

Appeal procedures. (1) If the taxpayer requests a hearing, the additional tax or overpayment shall not become due and payable until after hearing and determination of the tax by the tax appeals commission or disposition of the appeal pursuant to the commission and order under ss. 73.01 (4) (a) and 73.03 (25).

(2) No person against whom an assessment of income or franchise tax has been made shall be allowed in any action either as plaintiff or defendant or in any other proceeding to question such assessment unless the requirements of ss. 71.88 and 71.90 (1) shall first have been complied with, and unless such person shall have made full disclosure under oath at the hearing before the tax appeals commission of any and all income that the person received. The requirement of full disclosure under this subsection may be waived by the department of revenue.

(3) As soon as the appellant shall have filed a petition with the tax appeals commission, all collection proceedings, except proceedings under s. 71.74 (14), shall be stayed until final determination of the appeal and any review thereof.

(4) Any person who contests an assessment before the tax appeals commission or in court shall state in his or her petition or notice of appeal what portion if any of the tax is admitted to be legally assessable and correct. Within 5 days after notice by the department, the appellant shall pay to the department the whole amount of the admitted tax and such tax shall be appropriated in accordance with s. 25.20. Any such payment shall be considered an admission of the legality of the tax thus paid, and such tax so paid cannot be recovered in the pending appeal or in any other action or proceeding.

(5) After final decision or other disposition, the record shall be returned to the department of revenue, and the department shall proceed to collect the taxes in the same manner as other income or franchise taxes are collected.

History: 1987 a. 312; 1991 a. 39.

71.90 Depositing contested amounts. (1) **DEPOSIT WITH THE DEPARTMENT.** The department shall notify any person who files a petition for redetermination that the person may deposit the amount of an additional assessment, including any interest or penalty, with the department at any time before the department makes its redetermination. The department shall notify spouses jointly except that, if the spouses have different addresses and if either spouse notifies the department in writing of those addresses, the

department shall serve a duplicate of the original notice on the spouse who has the address other than the address to which the original notice was sent. Amounts deposited under this subsection shall be subject to the interest provided by s. 71.82 only to the extent of the interest accrued prior to the first day of the month succeeding the date of deposit. Any deposited amount which is refunded shall bear interest at the rate of 9% per year during the time the funds were on deposit. A person may also pay any portion of an assessment which is admitted to be correct and the payment shall be considered an admission of the validity of that portion of the assessment and may not be recovered in an appeal or in any other action or proceeding.

(2) **DEPOSIT WITH THE STATE TREASURER.** At any time while the petition is pending before the tax appeals commission or an appeal in regard to that petition is pending in a court, the taxpayer may offer to deposit the entire amount of the additional taxes, together with interest, with the state treasurer. If an offer to deposit is made, the department of revenue shall issue a certificate to the state treasurer authorizing the treasurer to accept payment of such taxes together with interest to the first day of the succeeding month and to give a receipt. A copy of the certificate shall be mailed to the taxpayer who shall pay the taxes and interest to the treasurer within 30 days. A copy of the receipt of the state treasurer shall be filed with the department. The department shall, upon final determination of the appeal, certify to the state treasurer the amount of the taxes as finally determined and direct the state treasurer to refund to the appellant any portion of such payment which has been found to have been improperly assessed, including interest. The state treasurer shall make the refunds directed by the certificate within 30 days after receipt. Taxes paid to the state treasurer under this subsection shall be subject to the interest provided by ss. 71.82 and 71.91 (1) (c) only to the extent of the interest accrued on the taxes prior to the first day of the month succeeding the application for hearing. Any portion of the amount deposited with the state treasurer which is refunded to the taxpayer shall bear interest at the rate of 9% per year during the time that the funds are on deposit.

History: 1987 a. 312.

SUBCHAPTER XV

COLLECTION OF DELINQUENT TAXES AND STATE AGENCY DEBTS

71.91 Collection provisions. (1) **TIME TAXES BECOME DELINQUENT.** (a) *Income and franchise taxes.* Income and franchise taxes shall become delinquent if not paid when due under s. 71.03 (8) (b) and (c), 71.24 (9) or 71.44 (4) (b), and the department shall immediately proceed to collect the same. For the purpose of such collection the department or its duly authorized agent shall have the same powers as conferred by law upon the county treasurer, county clerk, sheriff and district attorney.

(b) *Withholding.* Any amount not deposited or paid over to the department within the time required shall be deemed delinquent and deposit reports or withholding reports filed after the due date shall be deemed late. In the case of a timely filed deposit or withholding report, withheld taxes shall become delinquent if not deposited or paid over on or before the due date of the report. In the case of no report filed or a report filed late, withheld taxes shall become delinquent if not deposited or paid over by the due date of the report. In the case of an assessment under s. 71.83 (1) (b) 2., the amount assessed shall become delinquent if not paid on or before the due date specified in the notice of deficiency, but if the assessment is contested before the tax appeals commission or in the courts, it shall become delinquent on the 30th day following the date on which the order or judgment representing final determination becomes final.

(c) *Contested income and franchise tax assessments.* Any additional income or franchise tax assessment contested before the tax appeals commission or in the courts, which is finally deter-

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CHAPTER 73

TAX APPEALS COMMISSION AND DEPARTMENT OF REVENUE

73.01	Tax appeals commission.	73.04	Hearings, witnesses.
73.015	Review of determination of tax appeals commission.	73.05	Assessment districts: supervisors; duties.
73.02	Distribution of money; income tax coordinator.	73.06	Supervision of assessments; supervisors; appointments and duties.
73.028	Levy rate limits and debt conditions; rules.	73.07	District offices, supplies, expenses.
73.03	Powers and duties defined.	73.08	Educational program.
73.0305	Revenue limits calculations.	73.09	Assessor certification.
73.031	Arrest powers.	73.10	Municipal finance.
73.035	Private letter rulings.	73.12	Set off of payments to vendors.

73.01 Tax appeals commission. (1) DEFINITIONS. In this section:

(a) "Commission" means the tax appeals commission.

(b) "Small claims" is a matter in which the amount in controversy, including any penalty, after the department of revenue takes its final action on the petition for redetermination is less than \$2,500 unless the commission on its own motion determines that the case not be heard as a small claims case or unless the department of revenue determines that the case has statewide significance.

(2) EMPLOYEES. The chairperson of the commission may appoint, under the classified service, such employees for the commission as are necessary.

(3) HEARINGS AND REPORTS. (a) The time and place of meetings and hearings of the commission shall be designated by the chairperson. Rooms for hearings outside the city of Madison shall be provided under s. 73.07. All hearings held in Milwaukee shall be held in the southeast district office of the department of natural resources. The commission shall maintain permanent hearing rooms in Madison.

(b) The commission shall provide for the publication of such of its reports, decisions and opinions as are of public interest in such form as it deems best adapted for public convenience and use. Such publications shall constitute the official reports of the commission and shall be made available for sale and distribution to the public under ch. 35. In addition to any report submitted under s. 15.06 (7), the commission shall make additional reports to the governor or the legislature as they request. The commission shall submit a report requested by the legislature to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2).

(4) POWERS AND DUTIES DEFINED. (a) Subject to the provisions for judicial review contained in s. 73.015, the commission shall be the final authority for the hearing and determination of all questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss. 70.11 (21), 70.38 (4) (a), 70.397, 70.64, 70.995 (8), 76.38 (12) (a), 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22, 78.40, 78.555, 139.02, 139.03, 139.06, 139.31, 139.33, 139.76 and 139.78, subch. XIV of ch. 71 and subch. VII of ch. 77. Whenever with respect to a pending appeal there is filed with the commission a stipulation signed by the department of revenue and the adverse party, under s. 73.03 (25), agreeing to an affirmance, modification or reversal of the department's position with respect to some or all of the issues raised in the appeal, the commission shall enter an order affirming or modifying in whole or in part, or canceling the assessment appealed from, or allowing in whole or in part or denying the petitioner's refund claim, as the case may be, pursuant to and in accordance with the stipulation filed. No responsibility shall devolve upon the commission, respecting the signing of an order of dismissal as to any pending appeal settled by the department without the approval of the commission.

(a) Subject to the provisions for judicial review contained in s. 73.015, the commission shall be the final authority for the hearing and determination of all questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss. 70.11 (21), 70.38 (4) (a), 70.397, 70.64 and 70.995 (8), s. 76.38 (12) (a), 1993 stats., ss. 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22, 78.40, 78.555, 139.02, 139.03, 139.06, 139.31, 139.33, 139.76 and 139.78, subch. XIV of ch. 71 and subch. VII of ch. 77. Whenever with respect to a pending appeal there is filed with the commission a stipulation signed by the department of revenue and the adverse party, under s. 73.03 (25), agreeing to an affirmance, modification or reversal of the department's position with respect to some or all of the issues raised in the appeal, the commission shall enter an order affirming or modifying in whole or in part, or canceling the assessment appealed from, or allowing in whole or in part or denying the petitioner's refund claim, as the case may be, pursuant to and in accordance with the stipulation filed. No responsibility shall devolve upon the commission, respecting the signing of an order of dismissal as to any pending appeal settled by the department without the approval of the commission.

(am) Whenever it appears to the commission or, in respect to hearings conducted by one commissioner, to that commissioner that proceedings have been instituted or maintained by the taxpayer primarily for delay or that the taxpayer's position in those proceedings is frivolous or groundless, the commission or commissioner may assess the taxpayer an amount not to exceed \$1,000 at the same time that the deficiency is assessed. Those damages shall be paid upon notice from the department of revenue and shall be collected as a part of the tax.

(b) Any matter required to be heard by the commission may be heard by any member of the commission or its hearing examiner and reported to the commission, and hearings of matters pending before it shall be assigned to members of the commission or its hearing examiner by the chairperson. Unless a majority of the commission decides that the full commission should decide a case, cases other than small claims cases shall be decided by a panel of 3 members assigned by the chairperson prior to the hearing. If the parties have agreed to an oral decision, the member or members conducting the hearing may render an oral decision. Hearings shall be open to the public and all proceedings shall be conducted in accordance with rules of practice and procedure prescribed by the commission. Small claims cases shall be decided by one commissioner assigned by the chairperson prior to the hearing.

(bn) The parties to any matter required to be heard and decided by the commission, except appeals arising under s. 70.64 or ch. 76, may consent in writing that the chairperson or any member of the commission assigned to hear the matter may render an oral decision, and that the parties waive the right to appeal such decision. Such oral decision shall not be binding upon the department, as to statutory construction, in a subsequent matter. Provisions of this section, s. 73.015 or ch. 227 in conflict herewith shall not apply to decisions rendered under this paragraph.

(c) The commission shall, upon the request of any party to a matter pending before it or of any officer of the state government or upon its own motion order that all proceedings in a matter pending before it be recorded, and the expense thereof shall be paid by the state out of the appropriation for the commission. The commission may supply copies of the transcript of those recordings to anyone requesting them, at the expense of the person making such

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by any employe in the case of the summary settlement proceedings.

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set forth in chapters 802 and 804 was prescribed by the court.

(or) all cases under summary proceeding shall be subject to s. 802.12

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Par. (a) is repealed and recreated eff. 5-15-98 by 1995 Wis. Act 351

and shall survive by certain determinations under ss. 70.04, 70.15, 70.25 and 70.995(8), 73.04, 73.06, 73.03(45) and 73.09.

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 request. All moneys received by the ^{court} commission from the sale of transcripts of those recordings shall be paid into the state treasury within one week after receipt. ^{of the amount of the court} If no party to a matter pending before the commission requests that the proceedings held with respect thereto be recorded, and the ^{court} commission does not so order upon its own motion, all parties shall be deemed to have waived all rights of appeal to the courts upon questions as to the admission or exclusion of evidence or as to whether a finding of the ^{court} commission is warranted by the evidence. The right of appeal upon questions of law raised by the pleadings or by facts stipulated or shown by the findings of the ^{court} commission is not waived.

^{court} (d) Any member of the ^{court} commission or any employee of the commission, designated in writing for the purpose by the chairperson, may administer oaths, and any member of the commission may summon and examine witnesses and require by subpoena the production of all returns, books, papers, documents, correspondence and other evidence pertaining to the matter under inquiry, at any designated place of hearing and may require the taking of a deposition before any person competent to administer oaths, either within or without the state, upon notice to the interested party in like manner that depositions of witnesses are taken in civil actions pending in the circuit court. Any party to a matter pending before the ^{court} commission may summon witnesses or require the production of papers in the same manner as witnesses are summoned or papers required to be produced in civil actions in the circuit court. Any person summoned or whose deposition is taken shall receive the same fees and mileage as would be allowed in a civil action pending in the circuit court, and the expense thereof shall be paid by the person summoning such witness or causing the deposition to be taken.

(dn) In connection with the hearing of any matter required to be heard and decided by the ^{court} commission, except appeals arising under s. 70.64 or ch. 76, the chairperson or any member of the commission assigned to hear the matter may, ^{with the consent of the parties, render an oral decision. In small claims cases, the presiding commissioner may, without consent of the parties, either render an oral decision at the close of the hearing or provide a written decision to all parties within 2 weeks after the hearing. Decisions in small claims cases are not precedents. Any party may appeal such oral decision as provided in s. 73.015. Oral decisions constitute notice for purposes of determining the time in which appeals may be taken. Provisions of this section or ch. 227 in conflict with this paragraph do not apply to decisions rendered under this paragraph.}

^{court} (e) Except as provided in par. (dn), the ^{court} commission in each case heard by it shall, irrespective of ch. 227, make a decision in writing accompanied by findings of fact and conclusions of law. The ^{court} commission may issue an opinion in writing in addition to its findings of fact and decision. The decision or order of the ^{court} commission shall become final and shall be binding upon the petitioner and upon the department of revenue for that case unless an appeal is taken from the decision or order of the ^{court} commission under s. 73.015. Except in respect to ^{summary proceedings} small claims decisions, if the commission construes a statute adversely to the contention of the department of revenue:

^{court} 1. Except as provided in subd. 2., the department shall be deemed to acquiesce in the construction so adopted unless the department seeks review of the order or decision of the ^{court} commission so construing the statute. For purposes of this subdivision, the department has sought review of the order or decision if it seeks review and later settles the case or withdraws its petition for review or if the merits of the case are for other reasons not determined by judicial review. The construction so acquiesced in shall thereafter be followed by the department.

2. The department may choose not to appeal and to nonacquiesce in the decision or order by sending a notice of nonacquiescence to the clerk of the ^{court} commission, to the revisor of statutes for publication in the Wisconsin administrative register and to the taxpayer or the taxpayer's representative before the time expires for seeking a review of the decision or order under s. 73.015. The

effect of this action is that, although the decision or order is binding on the parties for the instant case, the ^{court's} commission's conclusions of law, the rationale and construction of statutes in the instant case are not binding upon or required to be followed by the department in other cases.

(f) All reports, findings, decisions and opinions of the ^{court} commission, and all evidence received by the ^{court} commission, including a transcript of any report of the proceedings, shall be open to the inspection of the public, except that the originals of books, documents, records, labels, diagrams, and other exhibits introduced in evidence before the ^{court} commission, may be withdrawn from the custody of the commission in such manner and upon such terms as the commission may, in its discretion, prescribe.

(g) The ^{court} commission shall, in manufacturing property redeterminations under s. 70.995 for which a refund is due a taxpayer because of a reduction in value by the ^{court} commission, include in its determination a finding of whether the reduction was due to false or incomplete information supplied by the taxpayer.

(h) The ^{court} commission may extend any of its deadlines for persons designated in section 7508 (a) of the internal revenue code for the length of time specified in that section.

(i) If the department of revenue assesses under s. 71.74 (9), the ^{court} commission shall consolidate the appeals of that assessment.

(4m) DEADLINE FOR DECISIONS. (a) The final decision or order of the commission shall be issued within 90 days after the date on which the last document necessary to the decision of the matter is received or the date on which a hearing is closed, whichever is later, unless good cause is shown or unless the parties and the ^{court} commission agree to an extension.

(b) No member of the commission, including the chairperson or its hearing examiner may receive any salary unless he or she first executes an affidavit at the end of each salary period stating that he or she has complied with the deadlines in par. (a). The affidavit shall be presented to and filed with every official who certifies, in whole or in part, the salary.

(c) If a member of the ^{court} commission, including the chairperson or its hearing examiner is unable to comply with the deadline under par. (a), that person shall so certify in the record, and the period is then extended for one additional period not to exceed 90 days.

^{TAX COURT} (5) APPEALS TO COMMISSION. (a) Any person who is aggrieved by a determination of the state board of assessors under s. 70.995 (8) or by the department of revenue under s. 70.11 (21) or who has filed a petition for redetermination with the department of revenue and who is aggrieved by the redetermination of the department may, within 60 days of the determination of the state board of assessors or of the department or, in all other cases, within 60 days after the redetermination but not thereafter, file with the clerk of the ^{court} commission a petition for review of the action of the department and the number of copies of the petition required by rule adopted by the ^{court} commission. If a municipality appeals, its appeal shall set forth that the appeal has been authorized by an order or resolution of its governing body and the appeal shall be verified by a member of that governing body as pleadings in courts of record are verified. The clerk of the ^{court} commission shall transmit one copy to the department of revenue and to each party. In the case of appeals from manufacturing property assessments, the person assessed shall be a party to a proceeding initiated by a municipality. At the time of filing the petition, the petitioner shall pay to the ^{court} commission a \$5 filing fee, which the ^{court} commission shall deposit in the general fund. Within 30 days after such transmission the department, except for petitions objecting to manufacturing property assessments, shall file with the clerk of the ^{court} commission an original and the number of copies of an answer to the petition required by rule adopted by the ^{court} commission and shall serve one copy on the petitioner or the petitioner's attorney or agent. Within 30 days after service of the answer, the petitioner may file and serve a reply in the same manner as the petition is filed. Any person entitled to be heard by the ^{court} commission under

Stats.

any books, papers, records or memoranda of a limited liability company, partnership or individual, the collection of any delinquent taxes and may require the attendance of the officials of any corporation or limited liability company or of any other person having knowledge in the case. The department may take testimony and require proof material for any matter that they deem of value for the collection of delinquent taxes. The department may also perform other duties and adopt other actions that may be necessary to carry out this subsection and may institute proceedings, actions and prosecutions to enforce the collection of delinquent taxes of any person. For this end, the department of justice shall, upon the request of the department of revenue, conduct such actions, prosecutions or assist the local town, city, village or ward in their prosecution or assist the district attorneys.

The department may appear by its counsel and represent the state in all matters before the tax appeals commission. Except as provided in ch. 78, the department of justice shall provide legal representation for the department in all courts, but with the consent of the attorney general a member of the staff of the department may appear for the department.

The department shall administer and enforce chs. 125 and 139.

The department shall settle and dispose of tax cases or issues pending before the tax appeals commission when, in the judgment of the department of revenue, such action is warranted in the best interests of the state and, with the approval of the attorney general, to settle and dispose of tax cases or issues pending in the courts.

(26) To enter into reciprocal agreements with the appropriate authorities in any other state having a similar law relating to information obtained from returns as authorized by s. 71.78 (3).

(27) To write off from the records of the department income, franchise, sales, use, withholding, motor fuel, gift, beverage and cigarette tax and recycling surcharge liabilities, following a determination by the secretary of revenue that they are not collectible, as hereinafter provided:

(a) When discharged under the federal bankruptcy act.

(b) When the amount is \$10 or less, at any time after 3 years of delinquency.

(c) Accounts of deceased persons at any time 3 years after the closing of their estates or 3 years after their demise if there is no estate to probate.

(d) Accounts of dissolved corporations at any time 3 years after their dissolution or forfeiture of rights.

(e) When delinquent 10 years or more, or when delinquent 6 years or more in the case of a default or an estimated assessment.

(28) To enter into contracts to collect delinquent Wisconsin taxes. The department shall allocate a portion of the amounts collected under ch. 78 through those contracts to the appropriation under s. 20.566 (1) (hm) to pay contract and court costs. The department shall allocate the remainder of those collections to the transportation fund under s. 25.40. The department shall allocate a portion of the amount collected under chs. 71, 72, 77 and 139 through those contracts to the appropriation under s. 20.566 (1) (hm) to pay contract and court costs. The department shall allocate the remainder of those collections to the general fund.

(28g) To certify to the department of regulation and licensing, at the request of the department of regulation and licensing under s. 440.08 (2r), whether a person who holds a credential issued under chs. 440 to 480 is liable for delinquent taxes, as defined under s. 440.01 (2) (cm).

(28m) To enter into contracts for database and data processing services for audits of occasional sales of motor vehicles.

(29) To provide on income tax forms a place for taxpayers to indicate the school district in which they reside and information that will assist persons in identifying the correct school district.

(30) To analyze the data provided under sub. (29), after consultation with the department of education and the legislative fis-

cal bureau, and to notify the presiding officers of the houses of the legislature and the cochairpersons of the joint committee on finance of the results of the analysis.

(31) To compile and to furnish to the clerks of all taxation districts the information required under s. 74.09.

(33m) To collect, as taxes under ch. 71 are collected, from each person who owes to the department of revenue delinquent taxes, fees, interest or penalties, a fee for each delinquent account equal to \$35 or 6.5% of the taxes, fees, interest and penalties owed as of the due date specified in the assessment, notice of amount due or notice of redetermination on that account, whichever is greater.

(34) To extend any deadline in regard to the taxes it administers for persons designated in section 7508 (a) of the internal revenue code for the length of time specified in that section.

(35) To deny a portion of a credit claimed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dl), (2dr) or (2ds), 71.28 (1dd), (1de), (1di), (1dj), (1dl), (1ds) or (4) (am) or 71.47 (1dd), (1de), (1di), (1dj), (1dl), (1ds) or (4) (am) if granting the full amount claimed would violate the requirement under s. 560.75 (9) or 560.797 (4) (e) or would bring the total of the credits granted to that claimant under s. 560.75 (9) or 560.797 (4) (e), or the total of the credits granted to that claimant under all of those subsections, over the limit for that claimant under s. 560.768, 560.795 (2) (b) or 560.797 (5) (b).

(36) To estimate revenues under subch. VII of ch. 77 and submit to the governor, the joint committee on finance and the chief clerk of each house of the legislature for distribution under s. 13.172 (2), not later than November 20 of each even-numbered year, a report of its estimate of those revenues for the current biennium and the following biennium.

(37) To make refunds in connection with motor vehicles returned to the manufacturers by a consumer, as provided under s. 218.015 (2) (e) and (f).

(38) To require each operator of a swap meet, flea market, craft fair or similar event, as defined by rule, to report to the department the name, address, social security number and, if available, the seller's permit number of each vendor selling merchandise at the swap meet, flea market, craft fair or similar event that he or she operates. If any operator fails to comply with the requirements under this subsection, the department of revenue, after notifying that operator of its intent to do so, shall impose a penalty of \$200 for the first failure and \$500 for each subsequent failure. The department shall assess and collect the penalties under this subsection as it assesses and collects additional income and franchise taxes.

(40m) To include on the form on which a homestead credit is claimed information about the property tax deferral program.

(45) To direct the assessor of any taxation district to deny specific claims for property tax exemption or to terminate specific existing property tax exemptions prospectively. After receiving such direction, the assessor shall enter the property on the next assessment roll.

(46) In each school year, to determine and certify to the secretary of education the rate for determining the secondary ceiling cost per member under s. 121.07 (6) (d). The rate for any school year is the average percentage change in the consumer price index for all urban consumers, U.S. city average, for the calendar year ending on the 2nd preceding December 31, as computed by the federal department of labor.

NOTE: Sub. (46) is shown as amended eff. 1-1-96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95-2168-OA. Prior to Act 27 it read:

(46) In each school year, to determine and certify to the state superintendent of public instruction the rate for determining the secondary ceiling cost per member under s. 121.07 (6) (d). The rate for any school year is the average percentage change in the consumer price index for all urban consumers, U.S. city average, for the calendar year ending on the 2nd preceding December 31, as computed by the federal department of labor.

(47) To absolve a taxpayer of liability for interest and penalties if the taxpayer shows that the liability resulted because he or she relied on an erroneous, written statement made by an employe

under subd. 3. by the full market value of property everywhere.

companies. For pipeline companies except

gross cost of line of pipe owned or rented by in the operation of the company's business

gross cost of line of pipe owned or rented by in the operation of the company's business

amount under subd. 1. by the amount under

fraction under subd. 3. by 3.

fraction under subd. 4. by 4.

the barrel miles transported in this state.

the barrel miles transported everywhere.

the amount under subd. 6. by the amount under

fraction under subd. 8. by 5.

determine the number of barrels received and delivered

determine the number of barrels received and delivered

the amount under subd. 10. by the amount under

Divide the fraction under subd. 12. by 20.

Determine the gross cost of line of pipe everywhere.

Determine the gross cost of all property owned or rented by the company and used in the company's business everywhere.

Divide the amount under subd. 14. by the amount under

the fractions under subds. 5., 9. and 13. and multiply the result by the fraction under subd. 16.

Determine the gross cost of property owned or rented by the company and used in the operation of the company's business other than pipe in this state.

Determine the gross cost of all property owned or rented by the company and used in the operation of the company's business everywhere.

Divide the amount under subd. 18. by the amount under subd. 19.

Add the fraction under subd. 17. to the fraction under subd. 20.

Multiply the fraction under subd. 21. by the full market value of the company's property everywhere.

(4) ADJUSTMENT OF FACTORS. In making the determinations under sub. (4g), the department may adjust any factor or use any other factor in order to reflect more accurately the company's property in this state if in the department's judgment the factor or combination of factors does not produce a substantially just and correct determination or if during the 12 months preceding the assessment date any of the following conditions applies:

(a) The company began operating in this state and the results of its operations during the first year materially distort the allocation of property to this state.

(b) The company's service was interrupted so that the allocation of property to this state is materially distorted.

(c) The company acquired or disposed of assets having a substantial value that are situated so as materially to distort the allocation of property to this state.

(d) Another event occurred which materially distorted the allocation of property to this state.

(5) FULL MARKET VALUE. (a) The full market value of the operating property of a company listed in s. 76.01 shall be determined by applying recognized appraisal methods, which may include, but are not limited to, the capitalized income, cost, and stock and

debt indicators of value, regardless of the method of accounting for legitimate business purposes used by the taxpayer. The department shall give due consideration to generally accepted accounting principles and regulated accounting practices.

(b) The department shall promulgate rules relating to the general principles of the indicators of value under par. (a).

History: 1971 c. 23; 1981 c. 20; 1983 a. 27; 1985 a. 29; 1987 a. 399; 1989 a. 31; 1991 a. 39; 1993 a. 205, 490; 1995 a. 351.

Railroad's working capital was properly assessed as operating property. Valuation of railroads discussed. *Soo Line R. Co. v. Department of Revenue*, 97 W (2d) 56, 292 NW (2d) 869 (1980).

76.075 Adjustments of assessments. Within 4 years after the due date, or extended due date, of the report under s. 76.04, any person subject to taxation under this subchapter may request the department to make, or the department may make, an adjustment to the data under s. 76.07 (4g) or (4r) submitted by the person. If an adjustment under this section results in an increase in the tax due under this subchapter, the person shall pay the amount of the tax increase plus interest on that amount at the rate of 1% per month from the due date or extended due date of the report under s. 76.04 until the date of final determination and interest at the rate of 1.5% per month from the date of final determination until the date of payment. If an adjustment under this section results in a decrease in the tax due under this subchapter, the department shall refund the appropriate amount plus interest at the rate of 0.75% per month from the due date or extended due date under s. 76.04 until the date of refund. Sections 71.74 (1) and (2) and 71.75 (6) and (7), as they apply to income and franchise tax adjustments, apply to adjustments under this section. Review of the adjustments is as stated in s. 76.08.

History: 1989 a. 31.

76.08 Review of assessment. (1) Notice of the assessments determined under s. 76.07 and of adjustments under s. 76.075 shall be given by certified mail to each company the property of which has been assessed, and the notice of assessment shall be mailed on or before the assessment date specified in s. 76.07 (1). Any company aggrieved by the assessment or adjustment of its property thus made may have its assessment or adjustment redetermined by the Dane county circuit court if within 30 days after notice of assessment or adjustment is mailed to the company under s. 76.07 (3) an action for the redetermination is commenced by filing a summons and complaint with that court, and service of authenticated copies of the summons and complaint is made upon the department of revenue. No answer need be filed by the department and the allegations of the complaint in opposition to the assessment or adjustment shall be deemed denied. Upon the filing of the summons and complaint the court shall set the matter for hearing without a jury. If the plaintiff fails to file the summons and complaint within 5 days of service upon the department, the department may file a copy thereof with the court in lieu of the original. The department may be named as the defendant in any such action and shall appear and be represented by its counsel in all proceedings connected with the action but, on the request of the secretary of revenue, the attorney general may participate with or serve in lieu of departmental counsel. In an action for redetermination of an adjustment, only the issues raised in the department's adjustment under s. 76.075 may be raised.

(2) If as the result of an action pursuant to sub. (1) the assessment as found by the department is increased by the court, any resulting increase in the tax shall be collected upon final determination of the action as other taxes levied and assessed under ss. 76.01 to 76.26 are collected.

History: 1971 c. 125 s. 521; Sup. Ct. Order. 67 W (2d) 585, 751 (1975); 1977 c. 449; 1989 a. 31.

Judicial Council Committee Note, 1974: Sub. (1) amended to conform to the new mode of commencement of action under s. 301.02. As amended, this section would require both the filing and the service on the department within 30 days after the mailing of the notice of assessment. [Re Order effective Jan. 1, 1976]

76.09 Assessment of omitted property. Any property subject to assessment under this subchapter which has been



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2023/1

JK:.....

JG

FRI (SOON)

DOA:.....Holden - Appeals of county and taxation district assessments heard by department of revenue

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

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1 AN ACT ...; relating to: the budget

Analysis by the Legislative Reference Bureau

TAXATION

PROPERTY TAXATION

Under current law, the department of revenue (DOR) assesses the value of taxable property in a county or taxation district. A county or taxation district may appeal DOR's assessment of the property in the county or taxation district by filing an appeal with the tax appeals commission. If the tax appeals commission determines on appeal that DOR incorrectly assessed the taxable property in a county or taxation district, the tax appeals commission may redetermine the assessment. The tax appeals commission is authorized to hear appeals of tax matters, at times and places designated by the commission, including tax matters that are small claims cases where the amount in controversy is less than \$2,500. The tax appeals commission may impose a \$1,000 penalty on a taxpayer who pursues a frivolous appeal.

Under this bill, a county or taxation district may appeal DOR's assessment of the property of the county or taxation district by filing an appeal with DOR. DOR hears the appeal and, if DOR determines that the appealed assessment is incorrect, DOR redetermines the assessment. DOR's decision on appeal may be appealed to the tax appeals commission.

Under this bill, the tax appeals commission may submit a case to summary proceedings (an alternative dispute resolution proceeding) if the amount in controversy is less than \$100,000. The bill also increases the penalty for pursuing a frivolous appeal to \$5,000 and provides that the commission may only hold hearings in any of the following places: Appleton, Eau Claire, LaCrosse, Madison, Milwaukee and Wausau.

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. 15.105 (1) of the statutes is amended to read:

2 15.105 (1) TAX APPEALS COMMISSION. There is created a tax appeals commission
3 which is attached to the department of administration under s. 15.03. Members shall
4 be appointed solely on the basis of fitness to perform the duties of their office, and
5 shall be experienced in tax matters. The commission shall meet at the call of the
6 chairperson or at the call of a majority of its members. The chairperson shall not
7 serve on or under any committee of a political party. The commission shall include
8 but not be limited to a ~~small claims~~ summary proceedings division.

9 SECTION 2. ~~70.64~~ (1) of the statutes is amended to read:

10 ~~70.64~~ (title) BY TAX APPEALS COMMISSION THE DEPARTMENT (1) The assessment
11 and determination of the relative value of taxable general property in any county or
12 taxation district, made by the department of revenue under s. 70.57, may be
13 reviewed, and a redetermination of the value of such property may be made by the
14 tax appeals commission department, upon appeal by the county or taxation district.
15 The filing of such appeal in the manner provided in this section by any county or
16 taxation district shall impose upon the commission department the duty, under the
17 powers conferred upon it by s. 73.01 (4) (a) 73.03, to review the assessment
18 complained of. If, in its judgment based upon the testimony, evidence and record

*This section means
"department"
the Department
of revenue.*

insert 2-9

1 made on the preliminary hearing of such appeal, the ~~commission department~~ finds
 2 such an assessment to be unequal and discriminatory, it shall determine to correct
 3 such the assessment to bring it into substantial compliance with law. Except as
 4 provided in this section, the appeal shall be taken and such review and
 5 redetermination shall be made as provided in ss. 73.01 and 73.015 and under the
 6 rules governing the procedure of the commission. *Apply this section to Department of Revenue*

7 SECTION 3. 70.64 (2) of the statutes is amended to read:

8 70.64 (2) AUTHORIZATION OF APPEALS. To authorize such an appeal to the
 9 department, an order or resolution directing the same to be taken shall be adopted
 10 by the governing body of the county or taxation district taking the appeal at a lawful
 11 meeting of the governing body. ~~When~~ After an appeal shall have been is authorized
 12 ~~the prosecution of it shall be in charge of~~ by the governing body of a county or taxation
 13 district, the chairperson of the county board or the county administrator, or of the
 14 chairperson, mayor or president of the taxation district taking the appeal shall
 15 prosecute the appeal unless otherwise directed by the governing body of the county
 16 or taxation district taking the appeal. The officers or committee in charge of the
 17 appeal may employ attorneys to conduct the appeal. After authorizing an appeal as
 18 provided in this subsection, any 2 or more taxation districts in the same county or
 19 any 2 or more school districts located in whole or in part in the same county may join
 20 in taking and prosecuting an appeal.

21 SECTION 4. 70.64 (3) (intro.) of the statutes is amended to read:

22 70.64 (3) FORM OF APPEAL. (intro.) To accomplish an appeal there shall be filed
 23 with the tax appeals ~~commission~~ department on or before October 15 an appeal in
 24 writing setting forth:

25 SECTION 5. 70.64 (3) (a) of the statutes is amended to read:

1 70.64 (3) (a) That the county or taxation district, naming the same, appeals to
2 the ~~tax appeals commission~~ department from the assessment made by the
3 department of revenue[✓] under s. 70.57, specifying the date of such assessment.

4 **SECTION 6.** 70.64 (4) of the statutes is amended to read:

5 70.64 (4) CERTIFIED COPIES. Upon the filing of such an appeal, the clerk of the
6 county or taxation district, without delay, shall prepare certified copies of ~~it~~ the
7 appeal, together with certified copies of the value established by the department of
8 ~~revenue~~ from which the appeal is taken and a complete list showing the clerk of each
9 taxation district within the county and the post-office address of each. The clerk
10 shall mail by certified mail 4 sets of certified copies ~~to the tax appeals commission~~
11 ~~and one set of the copies to the department of revenue, and one set each to the county~~
12 clerk and the clerk of each taxation district within the county.

13 **SECTION 7.** 70.64 (5) of the statutes is amended to read:

14 70.64 (5) APPEARANCE. ~~Not later than~~ Within 30 days after the clerk of the
15 county or taxation district has mailed the certified copies under sub. (4)[✓], unless the
16 time is extended by order of the ~~tax appeals commission~~ department, any county,
17 town, city or village ~~may cause an appearance to be entered in its behalf before the~~
18 ~~commission in support of~~ or municipality may file a verified petition with the
19 department under sub. (3)[✓] and have the department enter an appearance on its
20 behalf supporting the appeal and uniting with the appellant for the relief demanded;
21 and by ~~verified petition or statement showing grounds therefor.~~ Any county or
22 municipality may apply for other or further review and redetermination than that
23 demand in the appeal by filing a verified petition with the department under sub.
24 (3)[✓] that specifies the grounds for other or further review and redetermination.
25 Within the same time the 30 days from ~~when~~ ^{the date on which} the clerk of a county or taxation district

1 has mailed certified copies under sub. (4), a county, town, city or village in the county
 2 may in the same manner have its appearance entered in opposition to or
 3 municipality may file a verified petition with the department under sub. (3) and have
 4 the department enter an appearance in its behalf opposing the appeal and to the
 5 relief demanded. Such Petitions and appearances under this subsection shall be
 6 authorized in the manner for authorizing an appeal as provided under sub. (2). When
 7 so authorized the interests of the county, town, city or village authorizing it shall be
 8 in the charge of After a petition or appearance is authorized under sub. (2), the
 9 chairperson, administrator, mayor or president thereof of the county or municipality
 10 that made the authorization under sub. (2) shall protect the the county's or
 11 municipality's interests in the appeal and may employ an attorney to protect the
 12 county's or municipality's interests unless otherwise directed by the governing body
 13 authorizing such a petition or appearance; and attorneys may be employed in that
 14 behalf under sub. (2). In such appearances any Any 2 or more of the towns, cities and
 15 villages municipalities of the a county may join in a petition or appearance if united
 16 in support of or in opposition to the supporting or opposing an appeal. Four copies
 17 of each appearance, or petition or statement mentioned in under this subsection
 18 shall be filed in the offices of the tax appeals commission and a copy of each mailed
 19 by certified mail to with the department of revenue, and a copy of each appearance
 20 or petition shall be sent by certified mail to the county clerk, and to the clerk of each
 21 town, city and village municipality within the county, and a copy to the attorney
 22 authorized to appear on behalf of the county or any town, city or village on behalf of
 23 any municipality within the county.

24 SECTION 8. 70.64 (6) of the statutes is amended to read:

1 70.64 (6) HEARING. As soon as practicable, the ~~commission~~ department shall
2 set a time and place for ~~preliminary~~ the hearing of such an appeal. At least 10 days
3 before the time set for such a hearing, the ~~commission~~ department shall cause send
4 notice ~~thereof to be mailed~~ of the hearing by certified mail to the county clerk and to
5 the attorney or the clerk of each ~~town, city and village~~ municipality in whose behalf
6 an appearance has been entered in the ~~matter of such~~ appeal, and to the clerk of each
7 interested town, city or village ~~which~~ that has not appeared, and ~~mail a like notice~~
8 to the clerk of the taxation district taking such the appeal and to the department of
9 revenue. ~~The department of revenue shall be prepared to present to the commission~~
10 ~~at such time during the course of the hearings as the commission requires, the full~~
11 ~~value of all property subject to general property taxation in each town, village and~~
12 ~~city of the county, as determined by the department according to s. 70.57 (1) or in the~~
13 ~~case of a complaint by a taxation district under a county assessor such information~~
14 ~~as the department has in its possession. Said. The department may adjourn and~~
15 ~~reschedule the hearing~~ of an appeal ~~may be adjourned, in the discretion of the tax~~
16 ~~appeals commission, as often and to such times and places as may be necessary in~~
17 ~~order to determine the facts. If satisfied that no substantial injustice has been done~~
18 ~~in the~~ appealed taxation district assessment ~~appealed from,~~ the ~~commission~~
19 ~~department~~ in its discretion may dismiss such the appeal. If satisfied that
20 substantial injustice has been done in the appealed taxation district assessment, the
21 ~~commission~~ department shall ~~determine to~~ revalue any or all of the taxation districts
22 in the county, ~~which it deems~~ as necessary, in a manner which in its judgment is best
23 ~~calculated~~ to secure substantial justice.

24 **SECTION 9.** 70.64 (7) of the statutes is amended to read:

1 70.64 (7) REDETERMINATION. ~~The commission~~ After a hearing under sub. [✓](6), the
2 department shall ~~then proceed to~~ redetermine the value of the taxable general
3 property in such any of the taxation districts in the county as it ~~deems~~ necessary. ~~It~~
4 ~~may include in such redetermination other taxation districts than first determined~~
5 ~~upon and may include all of the taxation districts in said county, if at any time during~~
6 ~~the progress of its investigations or revaluations it is satisfied that such course is~~
7 ~~necessary in order to accomplish substantial justice and to secure the~~ relative
8 equality as ~~between of the value of the taxable general property in all of the taxation~~
9 districts in such the county. ~~It~~ The department shall ~~make careful investigation of~~
10 ~~redetermine~~ the value of the taxable general property in the ~~several a~~ taxation
11 districts (district) ~~to which such review and redetermination shall extend, in any~~
12 ~~manner which in its judgment is best calculated~~ to obtain the fair, full value of such
13 the property. ~~The commission~~ department may employ such and fix the
14 compensation of experts and other assistants as ~~may be~~ that are necessary, ~~and fix~~
15 ~~their compensation for a redetermination of the value of taxable general property~~
16 under this subsection. In ~~making such investigations redetermining the value of~~
17 taxable general property under this subsection, the ~~commission~~ department and all
18 persons employed ~~therein by the commission~~ department shall have all the authority
19 possessed by of assessors ~~so far as applicable,~~ including the authority to administer
20 oaths and to examine property owners and witnesses under oath as to the quantity
21 and value of the property subject to assessment ~~belonging to any person or within~~
22 ~~any taxation district to which the investigation shall extend~~ redetermination under
23 this subsection. [✓]

24 SECTION 10. 70.64 (8) [✓] of the statutes is repealed.

25 SECTION 11. 70.64 (9) of the statutes is amended to read:

SECTION 11

1 70.64 (9) TESTIMONY. The ~~tax appeals commission~~ department may take
2 testimony under subs. (6) and (7). Witnesses summoned at the instance of said
3 ~~commission by the department~~ shall be compensated at the rates provided by law for
4 witnesses in courts of record, the same to be audited and paid the same as other
5 claims against the state, upon the certificate of said ~~commission~~ the department. If
6 any property owner or other ~~any~~ person makes any false statement who testifies
7 falsely to said ~~commission~~ the department or to any person employed by it upon the
8 department about any matter under investigation under this section that person
9 shall be subject to all the forfeitures and penalties imposed by law for false
10 ~~statements to assessors and boards of review~~ under s. 70.36.

11 SECTION 12. 70.64 (10) of the statutes is amended to read:

12 70.64 (10) DETERMINATION. The ~~tax appeals commission~~ department shall
13 make ~~its~~ a determination upon such an appeal without unreasonable delay and shall
14 file a copy thereof of its determination in the office of the county clerk and mail by
15 certified mail a like copy ~~to the department of revenue and of its determination~~ to the
16 clerk and attorney of the taxation district appealing, and a copy to the clerk and
17 attorney of each taxation district ~~having that appeared at the hearing of the appeal~~.
18 In such its determination the ~~commission~~ department shall set forth the relative
19 value of the taxable general property in each ~~town, city and village~~ municipality of
20 such the county as found by them, and what the sum, if any, that shall be added to
21 or deducted from the aggregate value of taxable property in each such taxation
22 district ~~as fixed in the determination of the department of revenue from which such~~
23 ~~appeal was taken in order to produce a relatively just and equitable taxation district~~
24 ~~assessment. Such determination shall be final.~~ A determination by the department
25 under this section may be appealed to the tax appeals commission under s. 73.01 (5).

plain

1 **SECTION 13.** 70.64 (11) of the statutes is amended to read:

2 70.64 (11) COMPUTATION. The department's determination of the ~~commission~~
3 under sub. (10) shall not affect the validity of taxes apportioned in accordance with
4 according to the appealed taxation district assessment ~~from which such appeal was~~
5 ~~taken; but if it is determined.~~ If the department determines upon such appeal that
6 such a taxation district assessment is relatively unequal, ~~such inequality shall be~~
7 ~~remedied and compensated~~ the department shall remedy the inequality in the
8 apportionment of state and county taxes in such the county of the taxation district
9 in the next apportionment following the department's determination of said
10 ~~commission in the following manner;~~ under sub. (10). Each town, city and village
11 whose municipality where the department determined that a valuation in such a
12 taxation district assessment was ~~determined by said commission to be~~ relatively too
13 high shall be credited a sum equal to the amount of taxes charged to it ~~upon such~~
14 based on the unequal assessment in excess of the amount ~~equitably chargeable~~
15 ~~thereto of taxes charged to it~~ according to the department's determination of the
16 ~~commission; and each town, city and village whose~~ under sub. (10). Each
17 municipality where the department determined that a valuation in such a taxation
18 district assessment was ~~determined by said commission to be~~ relatively too low shall
19 be charged, in addition to all other taxes, a sum equal to the difference between the
20 amount of taxes charged thereto upon such to it based on the unequal assessment
21 and the amount ~~which should have been~~ of taxes charged ~~thereto to it~~ according to
22 the department's determination of the ~~commission~~ under sub. (10). The department
23 of revenue shall aid the county clerk in making the proper computations.

24 **SECTION 14.** 70.64 (12) of the statutes is amended to read:

1 70.64 (12) EXPENSES. The ~~tax appeals commission department~~ shall transmit
2 to the county clerk of the county where an appeal under this section originated, with
3 its determination ~~on such appeal~~ under sub. (10), a statement of all expenses
4 incurred therein by ~~or at the instance of the commission, which the department to~~
5 hear and investigate an appeal under this section. The statement shall include the
6 actual expenses of the ~~commission department~~ and of the regular employees of the
7 ~~commission department~~, the compensation and actual expenses of all other persons
8 employed by it the department under sub. (7) and the fees of officers employed and
9 witnesses summoned ~~at its instance. A~~ by the department. The department shall
10 file a duplicate of such the statement shall be filed in the office of submitted under
11 this subsection with the department of administration. ~~Such~~ The expenses contained
12 in a statement under this subsection shall be audited upon the certificate of the
13 ~~commission department~~, ^{of revenue} and paid out of the state treasury, in the first instance, as
14 other claims against the state are audited and paid. The amount of such the expenses
15 shall be a special charge against ~~such the~~ county where an appeal under this section
16 originated and shall be included in the next apportionment and certification of state
17 taxes and charges, and collected from ~~such the~~ county, as other special charges are ^{of revenue}
18 certified and collected. Unless otherwise directed by the ~~commission department~~ in
19 its determination upon such appeal, the county clerk, in the next apportionment of
20 state and county taxes, shall apportion the amount of such special charges to and
21 among the towns, cities and villages in such the municipalities in the county whose
22 where relative valuations were increased in the ~~department~~ ^{of revenue's} determination of the
23 ~~commission~~ under sub. (10) in proportion to the amount of such the increase in each
24 of them respectively. The apportionment of such expenses included in the statement
25 under this subsection shall be set forth in the ~~department~~ ^{of revenue's} determination of the

Handwritten annotations:
- A checkmark (✓) is placed above the word "revenue" in the phrase "of revenue" on line 13.
- A checkmark (✓) is placed above the word "revenue" in the phrase "of revenue's" on line 22.
- A circled "S" is written next to the word "whose" on line 21.
- A circled "S" is written next to the word "determination" on line 22.
- A checkmark (✓) is placed above the word "revenue" in the phrase "of revenue's" on line 25.

1 ~~commission under sub. (10).~~ The amount ~~so~~ of expenses apportioned to each such
2 ~~town, city and village municipality~~ shall be charged upon its tax roll and shall be
3 collected and paid over to the county treasurer as other state taxes and special
4 charges are collected and paid.

5 SECTION 15. 70.75 (6) of the statutes is created to read:

6 70.75 (6) REVIEW. ✓ Review of the reassessments of the department under this
7 section shall be by appeal to the tax appeals commission under s. 73.01 (5). ✓

8 SECTION 16. 70.85 (4) (c) of the statutes is amended to read:

9 ✓ 70.85 (4) (c) Appeal of the determination of the department of revenue shall be
10 by an ~~action for certiorari in the circuit court of the county in which the property is~~
11 ~~located~~ appeal to the tax appeals commission under s. 73.01 (5). ✓ *plain*

12 SECTION 17. 73.01 (1) (b) of the statutes is amended to read:

13 73.01 (1) (b) "~~Small claims~~" is a matter in which "Summary proceeding" ✓ means
14 a matter in which the amount in controversy, including any penalty, after the
15 department of revenue takes its final action on the petition for redetermination is
16 less than ~~\$2,500~~ \$100,000 ✓ unless the commission on its own motion determines that
17 the case not be heard as a ~~small claims case~~ summary proceeding, or unless the
18 department of revenue ~~determines or a party petitioning for review alleges that the~~
19 case involves a constitutional issue or alleges that the case has statewide
20 significance.

21 SECTION 18. 73.01 (3) (a) of the statutes is amended to read:

22 (22) 73.01 (3) ~~HEARINGS AND REPORTS~~ (a) ~~The time and place of meetings and~~
23 ~~hearings~~ Hearings of the commission shall be at times designated by the chairperson
24 and held in any of the following cities: ✓ Appleton, ✓ Eau Claire, ✓ LaCrosse, ✓ Madison,
25 Milwaukee and Wausau. ✓ Rooms for hearings outside the city of Madison shall be

1 provided under s. 73.07. All hearings held in Milwaukee shall be held in the
2 southeast district office of the department of natural resources. The commission
3 shall maintain permanent hearing rooms in Madison.

4 **SECTION 19.** 73.01 (4) (a) of the statutes is amended to read:

5 73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015,
6 the commission shall be the final authority for the hearing and determination of all
7 questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss.
8 70.11 (21), 70.38 (4) (a), 70.397, 70.64, 70.75✓, 70.85✓ and 70.995 (8), s. 76.38 (12) (a),
9 1993 stats., ss. 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22,
10 78.40, 78.555, 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76 and 139.78,
11 subch. XIV of ch. 71 and subch. VII of ch. 77. Whenever with respect to a pending
12 appeal there is filed with the commission a stipulation signed by the department of
13 revenue and the adverse party, under s. 73.03 (25), agreeing to an affirmance,
14 modification or reversal of the department's position with respect to some or all of the
15 issues raised in the appeal, the commission shall enter an order affirming or
16 modifying in whole or in part, or canceling the assessment appealed from, or allowing
17 in whole or in part or denying the petitioner's refund claim, as the case may be,
18 pursuant to and in accordance with the stipulation filed. No responsibility shall
19 devolve upon the commission, respecting the signing of an order of dismissal as to
20 any pending appeal settled by the department without the approval of the
21 commission.

22 **SECTION 20.** 73.01 (4) (am) of the statutes is amended to read:

23 73.01 (4) (am) Whenever it appears to the commission or, in respect to hearings
24 conducted by one commissioner, to that commissioner that proceedings have been
25 instituted or maintained by the taxpayer primarily for delay or that the taxpayer's

1 position in those proceedings is frivolous or groundless, the commission or
2 commissioner may assess the taxpayer an amount not to exceed \$1,000 ~~\$5,000~~ ✓ at the
3 same time that the deficiency is assessed. Those damages shall be paid upon notice
4 from the department of revenue and shall be collected as a part of the tax.

5 **SECTION 21.** 73.01 (4) (b) of the statutes is amended to read:

6 73.01 (4) (b) Any matter required to be heard by the commission may be heard
7 by any member of the commission or its hearing examiner and reported to the
8 commission, and hearings of matters pending before it shall be assigned to members
9 of the commission or its hearing examiner by the chairperson. Unless a majority of
10 the commission decides that the full commission should decide a case, cases other
11 than ~~small claims cases~~ ✓ summary proceedings shall be decided by a panel of 3
12 members assigned by the chairperson prior to the hearing. If the parties have agreed
13 to an oral decision, the member or members conducting the hearing may render an
14 oral decision. Hearings shall be open to the public and all proceedings shall be
15 conducted in accordance with rules of practice and procedure prescribed by the
16 commission. ~~Small claims cases, except a commissioner hearing a summary~~
17 proceeding shall have the same discretion as a judge under s. 802.12 (2) ✓ to order the
18 parties to select a settlement alternative as provided in s. 802.12 (1). ✓ Summary
19 proceedings shall be decided by one commissioner assigned by the chairperson prior
20 to the hearing.

21 **SECTION 22.** 73.01 (4) (dn) of the statutes is amended to read:

22 73.01 (4) (dn) In connection with the hearing of any matter required to be heard
23 and decided by the commission, except appeals arising under s. 70.64 or ch. 76, the
24 chairperson or any member of the commission assigned to hear the matter may, ~~with~~
25 ~~the consent of the parties,~~ render an oral decision. In ~~small claims cases~~ summary

1 ~~proceedings~~, the presiding commissioner, ~~without consent of the parties~~, either
 2 render an oral decision at the close of the hearing or provide a written decision to all
 3 parties within 2 weeks after the hearing. Decisions in ~~small claims cases~~ summary
 4 proceedings are not precedents. Any party may appeal such oral decision as provided
 5 in s. 73.015. Oral decisions constitute notice for purposes of determining the time
 6 in which appeals may be taken. Provisions of this section or ch. 227 in conflict with
 7 this paragraph do not apply to decisions rendered under this paragraph.

8 SECTION 23. 73.01 (4) (e) (intro) of the statutes is amended to read:

9 73.01 (4) (e) (intro) Except as provided in par. (dn), the commission in each case
 10 heard by it shall, irrespective of ch. 227, make a decision in writing accompanied by
 11 findings of fact and conclusions of law. The commission may issue an opinion in
 12 writing in addition to its findings of fact and decision. The decision or order of the
 13 commission shall become final and shall be binding upon the petitioner and upon the
 14 department of revenue for that case unless an appeal is taken from the decision or
 15 order of the commission under s. 73.015. Except in respect to ~~small claims~~ summary
 16 proceedings decisions, if the commission construes a statute adversely to the
 17 contention of the department of revenue:

18 SECTION 9343. Initial applicability; revenue.

19 (1) APPEALS TO THE DEPARTMENT OF REVENUE. The treatment of sections 70.64
 20 (title) and (1) to (3) (a) and (5) to (12) and 70.85 (4) (c) of the statutes and the creation
 21 of 70.75 (6) of the statutes first applies to appeals of assessments as of January 1,
 22 2000.

23 SECTION 9343. Initial applicability; revenue.

1
2
3
4

~~(1)~~ TAX APPEALS COMMISSION. The treatment of sections 73.01 (1) (b), (3) (a) and
(4) (a), (am), (b), (dn) and (e) (intro) of the statutes first applies to appeals filed for
taxable years beginning on the January 1, 2000.

(END)

D-note



DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2023/1¹dn

JK:.....

JLg

Kerry Holden

Based on your conversation with legislative attorney Robert Nelson regarding the constitutional difficulties of creating a tax court under the auspices of the department of administration, we have not created a tax court, as per your instructions. This bill does authorize the department of revenue to hear an appeal of its reassessment of taxable property in a county or taxation district. I have also amended s. 73.01 of the statutes to define "summary proceedings," to increase the penalty for ~~making~~ a frivolous appeal, and to limit the places where the tax appeals commission may hear an appeal, as per your instructions. If you have any further questions, please to not hesitate to contact me or attorney Nelson.

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

pursuing summary

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2023/?ins
JK:.....

Insert 2-9

1 SECTION 1. 70.64 (1) (title) of the statutes is amended to read:

2 70.64 (1) (title) BY ~~TAX APPEALS COMMISSION~~ THE DEPARTMENT ✓

3 SECTION 2. 70.64 (1) (a) of the statutes is created to read:

4 70.64 (1) (a) ✓ In this section, "department" means the department of revenue. ✓

5 SECTION 3. 70.64 (1) of the statutes is renumbered 70.64 (1) (b) ✓ and amended
6 to read:

7 70.64 (1) (b) The assessment and determination of the relative value of taxable
8 general property in any county or taxation district, made by the department of
9 revenue ✓ under s. 70.57, may be reviewed, and a redetermination of the value of such
10 property may be made by the ~~tax appeals commission~~ department ✓, upon appeal by
11 the county or taxation district. The filing of ~~such~~ ^{an} appeal in the manner provided in
12 this section by any county or taxation district shall impose upon the ~~commission~~
13 department the duty, under the powers conferred upon it by s. ~~73.01 (4) (a)~~ ^{73.03} ✓, to
14 review the assessment complained of. If, in its judgment based upon the testimony,
15 evidence and record made on ~~the preliminary hearing of such~~ appeal, the ~~commission~~
16 department finds ~~such~~ ^{an} assessment to be unequal and discriminatory, it shall
17 determine to correct ~~such~~ ^{the} assessment to bring it into substantial compliance with
18 law. ~~Except as provided in this section, the appeal shall be taken and such review~~
19 ~~and redetermination shall be made as provided in ss. 73.01 and 73.015 and under the~~
20 ~~rules governing the procedure of the commission.~~ ↓

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

LRB-2023/1dn
JK:jl:gjf

January 29, 1999

Kerry Holden

Based on your conversation with legislative attorney Robert Nelson regarding the constitutional difficulties of creating a tax court under the auspices of the department of administration, we have not created a tax court, as per your instructions. This bill does authorize the department of revenue to hear an appeal of its reassessment of taxable property in a county or taxation district. I have also amended s. 73.01 of the statutes to define "summary proceedings," to increase the penalty for pursuing a frivolous appeal, and to limit the places where the tax appeals commission may hear an appeal, as per your instructions. If you have any further questions, please to not hesitate to contact me or attorney Nelson.

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



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2023/1

JK:jlj:jf

DOA:.....Holden – Appeals of county and taxation district assessments heard
by department of revenue

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

TAXATION

PROPERTY TAXATION

Under current law, the department of revenue (DOR) assesses the value of taxable property in a county or taxation district. A county or taxation district may appeal DOR's assessment of the property in the county or taxation district by filing an appeal with the tax appeals commission. If the tax appeals commission determines on appeal that DOR incorrectly assessed the taxable property in a county or taxation district, the tax appeals commission may redetermine the assessment. The tax appeals commission is authorized to hear appeals of tax matters, at times and places designated by the commission, including tax matters that are small claims cases where the amount in controversy is less than \$2,500. The tax appeals commission may impose a \$1,000 penalty on a taxpayer who pursues a frivolous appeal.

Under this bill, a county or taxation district may appeal DOR's assessment of the property of the county or taxation district by filing an appeal with DOR. DOR hears the appeal and, if DOR determines that the appealed assessment is incorrect, DOR redetermines the assessment. DOR's decision on appeal may be appealed to the tax appeals commission.

Under this bill, the tax appeals commission may submit a case to summary proceedings (an alternative dispute resolution proceeding) if the amount in controversy is less than \$100,000. The bill also increases the penalty for pursuing a frivolous appeal to \$5,000 and provides that the commission may only hold hearings in any of the following places: Appleton, Eau Claire, LaCrosse, Madison, Milwaukee and Wausau.

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.** 15.105 (1) of the statutes is amended to read:

2 15.105 (1) TAX APPEALS COMMISSION. There is created a tax appeals commission
3 which is attached to the department of administration under s. 15.03. Members shall
4 be appointed solely on the basis of fitness to perform the duties of their office, and
5 shall be experienced in tax matters. The commission shall meet at the call of the
6 chairperson or at the call of a majority of its members. The chairperson shall not
7 serve on or under any committee of a political party. The commission shall include
8 but not be limited to a ~~small claims summary proceedings~~ division.

9 **SECTION 2.** 70.64 (1) (title) of the statutes is amended to read:

10 70.64 (1) (title) BY ~~TAX APPEALS COMMISSION~~ THE DEPARTMENT

11 **SECTION 3.** 70.64 (1) of the statutes is renumbered 70.64 (1) (b) and amended
12 to read:

13 70.64 (1) (b) The assessment and determination of the relative value of taxable
14 general property in any county or taxation district, made by the department of
15 ~~revenue~~ under s. 70.57, may be reviewed, and a redetermination of the value of such
16 property may be made by the ~~tax appeals commission~~ department, upon appeal by
17 the county or taxation district. The filing of such ~~an~~ appeal in the manner provided
18 in this section by any county or taxation district shall impose upon the ~~commission~~

1 ~~department~~ the duty, under the powers conferred upon it by s. 73.01 (4) (a) 73.03, to
2 review the assessment complained of. If, in its judgment based upon the testimony,
3 evidence and record made on ~~the preliminary hearing of such~~ appeal, the ~~commission~~
4 ~~department~~ finds ~~such~~ an assessment to be unequal and discriminatory, it shall
5 determine to correct ~~such~~ the assessment to bring it into substantial compliance with
6 law. ~~Except as provided in this section, the appeal shall be taken and such review~~
7 ~~and redetermination shall be made as provided in ss. 73.01 and 73.015 and under the~~
8 ~~rules governing the procedure of the commission.~~

9 SECTION 4. 70.64 (1) (a) of the statutes is created to read:

10 70.64 (1) (a) In this section, “department” means the department of revenue.

11 SECTION 5. 70.64 (2) of the statutes is amended to read:

12 70.64 (2) AUTHORIZATION OF APPEALS. To authorize ~~such~~ an appeal to the
13 department, an order or resolution directing the same to be taken shall be adopted
14 by the governing body of the county or taxation district taking the appeal at a lawful
15 meeting of the governing body. ~~When~~ After an appeal shall have been is authorized
16 ~~the prosecution of it shall be in charge of by the governing body of a county or taxation~~
17 district, the chairperson of the county board or the county administrator, or of the
18 chairperson, mayor or president of the taxation district taking the appeal shall
19 prosecute the appeal unless otherwise directed by the governing body of the county
20 or taxation district taking the appeal. The officers or committee in charge of the
21 appeal may employ attorneys to conduct the appeal. After authorizing an appeal as
22 provided in this subsection, any 2 or more taxation districts in the same county or
23 any 2 or more school districts located in whole or in part in the same county may join
24 in taking and prosecuting an appeal.

25 SECTION 6. 70.64 (3) (intro.) of the statutes is amended to read:

1 70.64 (3) FORM OF APPEAL. (intro.) To accomplish an appeal there shall be filed
2 with the ~~tax appeals commission~~ department on or before October 15 an appeal in
3 writing setting forth:

4 **SECTION 7.** 70.64 (3) (a) of the statutes is amended to read:

5 70.64 (3) (a) That the county or taxation district, naming the same, appeals to
6 the ~~tax appeals commission~~ department from the assessment made by the
7 department of revenue under s. 70.57, specifying the date of such assessment.

8 **SECTION 8.** 70.64 (4) of the statutes is amended to read:

9 70.64 (4) CERTIFIED COPIES. Upon the filing of such an appeal, the clerk of the
10 county or taxation district, without delay, shall prepare certified copies of ~~it~~ the
11 appeal, together with certified copies of the value established by the department of
12 revenue from which the appeal is taken and a complete list showing the clerk of each
13 taxation district within the county and the post-office address of each. The clerk
14 shall mail by certified mail 4 sets of certified copies ~~to the tax appeals commission~~
15 ~~and one set of the copies to the department of revenue,~~ and one set each to the county
16 clerk and the clerk of each taxation district within the county.

17 **SECTION 9.** 70.64 (5) of the statutes is amended to read:

18 70.64 (5) APPEARANCE. ~~Not later than~~ Within 30 days after the clerk of the
19 county or taxation district has mailed the certified copies under sub. (4), unless the
20 time is extended by order of the ~~tax appeals commission~~ department, any county,
21 ~~town, city or village may cause an appearance to be entered in its behalf before the~~
22 ~~commission in support of~~ or municipality may file a verified petition with the
23 department under sub. (3) and have the department enter an appearance on its
24 behalf supporting the appeal and uniting with the appellant for the relief demanded;
25 ~~and by verified petition or statement showing grounds therefor.~~ Any county or

1 municipality may apply for other or further review and redetermination than that
2 demanded in the appeal by filing a verified petition with the department under sub.
3 (3) that specifies the grounds for other or further review and redetermination.
4 ~~Within the same time the 30 days from the date on which the clerk of a county or~~
5 ~~taxation district mailed certified copies under sub. (4), a county, town, city or village~~
6 ~~in the county may in the same manner have its appearance entered in opposition to~~
7 ~~or municipality may file a verified petition with the department under sub. (3) and~~
8 ~~have the department enter an appearance in its behalf opposing the appeal and to~~
9 ~~the relief demanded. Such Petitions and appearances under this subsection shall be~~
10 ~~authorized in the manner for authorizing an appeal as provided under sub. (2). When~~
11 ~~so authorized the interests of the county, town, city or village authorizing it shall be~~
12 ~~in the charge of~~ After a petition or appearance is authorized under sub. (2), the
13 chairperson, administrator, mayor or president thereof of the county or municipality
14 that made the authorization under sub. (2) shall protect the county's or
15 municipality's interests in the appeal and may employ an attorney to protect the
16 county's or municipality's interests unless otherwise directed by the governing body
17 authorizing such a petition or appearance; and attorneys may be employed in that
18 behalf. In such appearances any under sub. (2). Any 2 or more of the towns, cities
19 and villages municipalities of the a county may join in a petition or appearance if
20 united in support of or in opposition to the supporting or opposing an appeal. Four
21 copies of each appearance, or petition or statement mentioned in under this
22 subsection shall be filed in the offices of the tax appeals commission and a copy of
23 each mailed by certified mail to with the department of revenue, , and a copy of each
24 appearance or petition shall be sent by certified mail to the county clerk, and to the
25 clerk of each town, city and village municipality within the county, and a copy to the

1 attorney authorized to appear on behalf of the county or ~~any town, city or village on~~
2 behalf of any municipality within the county.

3 **SECTION 10.** 70.64 (6) of the statutes is amended to read:

4 70.64 (6) HEARING. As soon as practicable, the ~~commission~~ department shall
5 set a time and place for ~~preliminary the~~ hearing of ~~such an~~ appeal. At least 10 days
6 before the time set for ~~such a~~ hearing, the ~~commission~~ department shall ~~cause send~~
7 notice thereof ~~to be mailed~~ of the hearing by certified mail to the county clerk and to
8 the attorney or the clerk of each ~~town, city and village~~ municipality in whose behalf
9 an appearance has been entered in the ~~matter of such~~ appeal, and to the clerk of each
10 interested town, city or village ~~which that~~ has not appeared, and ~~mail a like notice~~
11 to the clerk of the taxation district taking ~~such the~~ appeal and to the department of
12 revenue. ~~The department of revenue shall be prepared to present to the commission~~
13 ~~at such time during the course of the hearings as the commission requires, the full~~
14 ~~value of all property subject to general property taxation in each town, village and~~
15 ~~city of the county, as determined by the department according to s. 70.57 (1) or in the~~
16 ~~case of a complaint by a taxation district under a county assessor such information~~
17 ~~as the department has in its possession. Said. The department may adjourn and~~
18 reschedule the hearing ~~may be adjourned, in the discretion of the tax appeals~~
19 ~~commission of an appeal, as often and to such times and places as may be necessary~~
20 ~~in order to determine the facts. If satisfied that no substantial injustice has been~~
21 ~~done in the~~ appealed taxation district assessment ~~appealed from, the commission~~
22 department in its discretion may dismiss ~~such the~~ appeal. If satisfied that
23 substantial injustice has been done in the appealed taxation district assessment, the
24 ~~commission~~ department shall ~~determine to~~ revalue any or all of the taxation districts

1 in the county, which it deems as necessary, in a manner which in its judgment is best
2 calculated to secure substantial justice.

3 **SECTION 11.** 70.64 (7) of the statutes is amended to read:

4 70.64 (7) REDETERMINATION. ~~The commission~~ After a hearing under sub. (6), the
5 department shall then ~~proceed to~~ redetermine the value of the taxable general
6 property in such any of the taxation districts in the county as it deems necessary. ~~It~~
7 ~~may include in such redetermination other taxation districts than first determined~~
8 ~~upon and may include all of the taxation districts in said county, if at any time during~~
9 ~~the progress of its investigations or revaluations it is satisfied that such course is~~
10 ~~necessary in order to accomplish substantial justice and to secure~~ the relative
11 equality as ~~between~~ of the value of the taxable general property in all of the taxation
12 districts in such the county. ~~It~~ The department shall ~~make careful investigation of~~
13 ~~redetermine~~ the value of the taxable general property in ~~the several a~~ taxation
14 districts to which such review and redetermination shall extend, in any manner
15 which in its judgment is best calculated district to obtain the fair, full value of such
16 the property. ~~The commission~~ department may employ such and fix the
17 compensation of experts and other assistants as ~~may be~~ that are necessary, and ~~fix~~
18 ~~their compensation for a redetermination of the value of taxable general property~~
19 under this subsection. In ~~making such investigations redetermining the value of~~
20 taxable general property under this subsection, the ~~commission~~ department and all
21 persons employed therein by the ~~commission~~ department shall have all the authority
22 possessed by of assessors so far as applicable, including the authority to administer
23 oaths and to examine property owners and witnesses under oath as to the quantity
24 and value of the property subject to assessment ~~belonging to any person or within~~

1 ~~any taxation district to which the investigation shall extend~~ redetermination under
2 this subsection.

3 **SECTION 12.** 70.64 (8) of the statutes is repealed.

4 **SECTION 13.** 70.64 (9) of the statutes is amended to read:

5 70.64 (9) TESTIMONY. The ~~tax appeals commission~~ department may take
6 testimony under subs. (6) and (7). Witnesses summoned ~~at the instance of said~~
7 ~~commission by the department~~ shall be compensated at the rates provided by law for
8 witnesses in courts of record, the same to be audited and paid the same as other
9 claims against the state, upon the certificate of ~~said commission.~~ ~~If any property~~
10 ~~owner or other~~ the department. ~~Any person makes any false statement~~ who testifies
11 falsely to said commission the department or to any person employed by it ~~upon the~~
12 ~~department about~~ any matter under investigation ~~that person~~ under this section
13 shall be subject to all the forfeitures and penalties imposed ~~by law for false~~
14 ~~statements to assessors and boards of review~~ under s. 70.36.

15 **SECTION 14.** 70.64 (10) of the statutes is amended to read:

16 70.64 (10) DETERMINATION. The ~~tax appeals commission~~ department shall
17 make ~~its~~ a determination upon ~~such~~ an appeal without unreasonable delay and shall
18 file a copy ~~thereof~~ of its determination in the office of the county clerk and mail by
19 certified mail a ~~like~~ copy to ~~the department of revenue and~~ of its determination to the
20 clerk and attorney of the taxation district appealing, and a copy to the clerk and
21 attorney of each taxation district ~~having that~~ appeared at the hearing of the appeal.
22 In ~~such~~ its determination the ~~commission~~ department shall set forth the relative
23 value of the taxable general property in each ~~town, city and village~~ municipality of
24 ~~such~~ the county ~~as found by them,~~ and ~~what~~ the sum, if any, that shall be added to
25 or deducted from the aggregate value of taxable property in each ~~such~~ taxation

1 district as fixed in the determination of the department of revenue from which such
2 appeal was taken in order to produce a relatively just and equitable taxation district
3 assessment. ~~Such determination shall be final~~ A determination by the department
4 under this section may be appealed to the tax appeals commission under s. 73.01 (5).

5 **SECTION 15.** 70.64 (11) of the statutes is amended to read:

6 70.64 (11) COMPUTATION. The ~~department's~~ department's determination of the commission
7 under sub. (10) shall not affect the validity of taxes apportioned ~~in accordance with~~
8 according to the appealed taxation district assessment ~~from which such appeal was~~
9 taken; but if it is determined. ~~If the department determines upon such appeal that~~
10 such a taxation district assessment is relatively unequal, ~~such inequality shall be~~
11 remedied and compensated ~~the department shall remedy the inequality in the~~
12 apportionment of state and county taxes in such the county of the taxation district
13 in the next apportionment following the ~~department's~~ department's determination of ~~said~~
14 commission in the following manner: under sub. (10). Each town, city and village
15 whose municipality where the department determined that a valuation in such a
16 taxation district assessment was determined by said commission to be relatively too
17 high shall be credited a sum equal to the amount of taxes charged to it upon such
18 based on the unequal assessment in excess of the amount equitably chargeable
19 thereto of taxes charged to it according to the ~~department's~~ department's determination of the
20 ~~commission; and each town, city and village whose~~ under sub. (10). Each
21 municipality where the department determined that a valuation in such a taxation
22 ~~district assessment was determined by said commission to be relatively too low shall~~
23 be charged, in addition to all other taxes, a sum equal to the difference between the
24 amount of taxes charged thereto upon such to it based on the unequal assessment
25 and the amount which should have been of taxes charged thereto to it according to

1 the ~~department's~~ determination of the ~~commission~~ under sub. (10). The department
2 of revenue shall aid the county clerk in making the proper computations.

3 **SECTION 16.** 70.64 (12) of the statutes is amended to read:

4 70.64 (12) EXPENSES. The ~~tax appeals commission~~ department shall transmit
5 to the county clerk of the county where an appeal under this section originated, with
6 its determination ~~on such appeal~~ under sub. (10), a statement of all expenses
7 incurred ~~therein by or at the instance of the commission, which~~ the department to
8 hear and investigate an appeal under this section. The statement shall include the
9 actual expenses of the ~~commission~~ department and of the regular employes of the
10 ~~commission~~ department, the compensation and actual expenses of all other persons
11 employed by ~~it~~ the department under sub. (7) and the fees of officers employed and
12 witnesses summoned ~~at its instance.~~ A by the department. The department shall
13 file a duplicate of such the statement shall be filed in the office of submitted under
14 this subsection with the department of administration. ~~Such~~ The expenses
15 contained in a statement under this subsection shall be audited upon the certificate
16 of the ~~commission~~ department of revenue, and paid out of the state treasury, in the
17 first instance, as other claims against the state are audited and paid. The amount
18 of ~~such~~ the expenses shall be a special charge against ~~such~~ the county where an
19 appeal under this section originated and shall be included in the next apportionment
20 and certification of state taxes and charges, and collected from ~~such~~ the county, as
21 other special charges are certified and collected. Unless otherwise directed by the
22 ~~commission~~ department of revenue in its determination upon ~~such~~ appeal, the
23 county clerk, in the next apportionment of state and county taxes, shall apportion the
24 amount of ~~such~~ special charges to ~~and among the towns, cities and villages in such~~
25 the municipalities in the county whose where relative valuations were increased in

1 the department of revenue's determination of ~~the commission~~ under sub. (10) in
2 proportion to the amount of such ~~the~~ increase in each of them respectively. The
3 apportionment of ~~such~~ expenses included in the statement under this subsection
4 shall be set forth in the department of revenue's determination of ~~the commission~~
5 under sub. (10). The amount ~~se~~ of expenses apportioned to each ~~such town, city and~~
6 village municipality shall be charged upon its tax roll and shall be collected and paid
7 over to the county treasurer as other state taxes and special charges are collected and
8 paid.

9 **SECTION 17.** 70.75 (6) of the statutes is created to read:

10 70.75 (6) REVIEW. Review of the reassessments of the department under this
11 section shall be by appeal to the tax appeals commission under s. 73.01 (5).

12 **SECTION 18.** 70.85 (4) (c) of the statutes is amended to read:

13 70.85 (4) (c) Appeal of the determination of the department of revenue shall be
14 by an ~~action for certiorari in the circuit court of the county in which the property is~~
15 located appeal to the tax appeals commission under s. 73.01 (5).

16 **SECTION 19.** 73.01 (1) (b) of the statutes is amended to read:

17 73.01 (1) (b) "~~Small claims~~" is a matter in which "Summary proceeding" means
18 a matter in which the amount in controversy, including any penalty, after the
19 department of revenue takes its final action on the petition for redetermination is
20 less than ~~\$2,500~~ \$100,000 unless the commission on its own motion determines that
21 the case not be heard as a ~~small claims case~~ summary proceeding, or unless the
22 department of revenue determines or a party petitioning for review alleges that the
23 case involves a constitutional issue or alleges that the case has statewide
24 significance.

25 **SECTION 20.** 73.01 (3) (a) of the statutes is amended to read:

1 73.01 (3) (a) ~~The time and place of meetings and hearings~~ Hearings of the
2 commission shall be at times designated by the chairperson ~~and held in any of the~~
3 following cities: Appleton, Eau Claire, LaCrosse, Madison, Milwaukee and Wausau.
4 Rooms for hearings outside the city of Madison shall be provided under s. 73.07. All
5 hearings held in Milwaukee shall be held in the southeast district office of the
6 department of natural resources. The commission shall maintain permanent
7 hearing rooms in Madison.

8 **SECTION 21.** 73.01 (4) (a) of the statutes is amended to read:

9 73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015,
10 the commission shall be the final authority for the hearing and determination of all
11 questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss.
12 70.11 (21), 70.38 (4) (a), 70.397, 70.64, 70.75, 70.85 and 70.995 (8), s. 76.38 (12) (a),
13 1993 stats., ss. 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22,
14 78.40, 78.555, 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76 and 139.78,
15 subch. XIV of ch. 71 and subch. VII of ch. 77. Whenever with respect to a pending
16 appeal there is filed with the commission a stipulation signed by the department of
17 revenue and the adverse party, under s. 73.03 (25), agreeing to an affirmance,
18 modification or reversal of the department's position with respect to some or all of the
19 issues raised in the appeal, the commission shall enter an order affirming or
20 modifying in whole or in part, or canceling the assessment appealed from, or allowing
21 in whole or in part or denying the petitioner's refund claim, as the case may be,
22 pursuant to and in accordance with the stipulation filed. No responsibility shall
23 devolve upon the commission, respecting the signing of an order of dismissal as to
24 any pending appeal settled by the department without the approval of the
25 commission.

1 **SECTION 22.** 73.01 (4) (am) of the statutes is amended to read:

2 73.01 (4) (am) Whenever it appears to the commission or, in respect to hearings
3 conducted by one commissioner, to that commissioner that proceedings have been
4 instituted or maintained by the taxpayer primarily for delay or that the taxpayer's
5 position in those proceedings is frivolous or groundless, the commission or
6 commissioner may assess the taxpayer an amount not to exceed \$1,000 \$5,000 at the
7 same time that the deficiency is assessed. Those damages shall be paid upon notice
8 from the department of revenue and shall be collected as a part of the tax.

9 **SECTION 23.** 73.01 (4) (b) of the statutes is amended to read:

10 73.01 (4) (b) Any matter required to be heard by the commission may be heard
11 by any member of the commission or its hearing examiner and reported to the
12 commission, and hearings of matters pending before it shall be assigned to members
13 of the commission or its hearing examiner by the chairperson. Unless a majority of
14 the commission decides that the full commission should decide a case, cases other
15 than ~~small claims cases~~ summary proceedings shall be decided by a panel of 3
16 members assigned by the chairperson prior to the hearing. If the parties have agreed
17 to an oral decision, the member or members conducting the hearing may render an
18 oral decision. Hearings shall be open to the public and all proceedings shall be
19 conducted in accordance with rules of practice and procedure prescribed by the
20 commission. ~~Small claims cases, except a commissioner hearing a summary~~
21 proceeding shall have the same discretion as a judge under s. 802.12 (2) to order the
22 parties to select a settlement alternative as provided in s. 802.12 (1). Summary
23 proceedings shall be decided by one commissioner assigned by the chairperson prior
24 to the hearing.

25 **SECTION 24.** 73.01 (4) (dn) of the statutes is amended to read:

1 73.01 (4) (dn) In connection with the hearing of any matter required to be heard
2 and decided by the commission, except appeals arising under s. 70.64 or ch. 76, the
3 chairperson or any member of the commission assigned to hear the matter may, ~~with~~
4 ~~the consent of the parties,~~ render an oral decision. In ~~small claims cases~~ summary
5 proceedings, the presiding commissioner, ~~without consent of the parties,~~ either
6 render an oral decision at the close of the hearing or provide a written decision to all
7 parties within 2 weeks after the hearing. Decisions in ~~small claims cases~~ summary
8 proceedings are not precedents. Any party may appeal such oral decision as provided
9 in s. 73.015. Oral decisions constitute notice for purposes of determining the time
10 in which appeals may be taken. Provisions of this section or ch. 227 in conflict with
11 this paragraph do not apply to decisions rendered under this paragraph.

12 **SECTION 25.** 73.01 (4) (e) (intro.) of the statutes is amended to read:

13 73.01 (4) (e) (intro.) Except as provided in par. (dn), the commission in each case
14 heard by it shall, irrespective of ch. 227, make a decision in writing accompanied by
15 findings of fact and conclusions of law. The commission may issue an opinion in
16 writing in addition to its findings of fact and decision. The decision or order of the
17 commission shall become final and shall be binding upon the petitioner and upon the
18 department of revenue for that case unless an appeal is taken from the decision or
19 order of the commission under s. 73.015. Except in respect to ~~small claims~~ summary
20 proceedings decisions, if the commission construes a statute adversely to the
21 contention of the department of revenue:

22 **SECTION 9343. Initial applicability; revenue.**

23 (1) APPEALS TO THE DEPARTMENT OF REVENUE. The treatment of sections 70.64
24 (title), (1) to (3) (a) and (5) to (12), 70.75 (6) and 70.85 (4) (c) of the statutes first applies
25 to appeals of assessments as of January 1, 2000.

