

## 1999 ASSEMBLY BILL 136

1     **AN ACT** *to renumber* 85.013 (2) and 341.43; *to amend* 73.01 (4) (a), 73.01 (4) (e)  
2           1., 73.01 (4) (e) 2., 73.01 (5) (a) and 341.43 (title); and *to create* 85.013 (2) (b)  
3           and 341.43 (2) of the statutes; **relating to:** transferring appeals of certain  
4           determinations of the department of transportation from the division of  
5           hearings and appeals to the tax appeals commission.

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*Analysis by the Legislative Reference Bureau*

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

6           **SECTION 1.** 73.01 (4) (a) of the statutes is amended to read:  
7           73.01 **(4)** (a) Subject to the provisions for judicial review contained in s. 73.015,  
8           the commission shall be the final authority for the hearing and determination of all  
9           questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss.  
10          70.11 (21), 70.38 (4) (a), 70.397, 70.64 and 70.995 (8), s. 76.38 (12) (a), 1993 stats., ss.

**ASSEMBLY BILL 136****SECTION 1**

1 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22, 78.40, 78.555,  
2 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76 and, 139.78, 341.405 and  
3 341.45, subch. XIV of ch. 71 and subch. VII of ch. 77. Whenever with respect to a  
4 pending appeal there is filed with the commission a stipulation signed by the  
5 department of revenue and the adverse party, under s. 73.03 (25), or the department  
6 of transportation and the adverse party agreeing to an affirmance, modification or  
7 reversal of the department's department of revenue's or department of  
8 transportation's position with respect to some or all of the issues raised in the appeal,  
9 the commission shall enter an order affirming or modifying in whole or in part, or  
10 canceling the assessment appealed from, or allowing in whole or in part or denying  
11 the petitioner's refund claim, as the case may be, pursuant to and in accordance with  
12 the stipulation filed. No responsibility shall devolve upon the commission,  
13 respecting the signing of an order of dismissal as to any pending appeal settled by  
14 the department of revenue or the department of transportation without the approval  
15 of the commission.

16 **SECTION 2.** 73.01 (4) (e) 1. of the statutes is amended to read:

17 73.01 (4) (e) 1. Except for hearings on ss. 341.405 and 341.45 and except as  
18 provided in subd. 2., the department of revenue shall be deemed to acquiesce in the  
19 construction so adopted unless the department of revenue seeks review of the order  
20 or decision of the commission so construing the statute. For purposes of this  
21 subdivision, the department of revenue has sought review of the order or decision if  
22 it seeks review and later settles the case or withdraws its petition for review or if the  
23 merits of the case are for other reasons not determined by judicial review. The  
24 construction so acquiesced in shall thereafter be followed by the department of  
25 revenue.

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1           **SECTION 3.** 73.01 (4) (e) 2. of the statutes is amended to read:

2           73.01 **(4)** (e) 2. The Except for hearings on ss. 341.405 and 341.45, the  
3 department of revenue may choose not to appeal and to nonacquiesce in the decision  
4 or order by sending a notice of nonacquiescence to the clerk of the commission, to the  
5 revisor of statutes for publication in the Wisconsin administrative register and to the  
6 taxpayer or the taxpayer's representative before the time expires for seeking a  
7 review of the decision or order under s. 73.015. The effect of this action is that,  
8 although the decision or order is binding on the parties for the instant case, the  
9 commission's conclusions of law, the rationale and construction of statutes in the  
10 instant case are not binding upon or required to be followed by the department of  
11 revenue in other cases.

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

13           73.01 **(5)** (a) Any person who is aggrieved by a determination of the state board  
14 of assessors under s. 70.995 (8) or by the department of revenue under s. 70.11 (21)  
15 or who has filed a petition for redetermination with the department of revenue and  
16 who is aggrieved by the redetermination of the department of revenue may, within  
17 60 days of the determination of the state board of assessors or of the department of  
18 revenue or, in all other cases, within 60 days after the redetermination but not  
19 thereafter, file with the clerk of the commission a petition for review of the action of  
20 the department of revenue and the number of copies of the petition required by rule  
21 adopted by the commission. Any person who is aggrieved by a determination of the  
22 department of transportation under s. 341.405 or 341.45 may, within 30 days after  
23 the determination of the department of transportation, file with the clerk of the  
24 commission a petition for review of the action of the department of transportation  
25 and the number of copies of the petition required by rule adopted by the commission.

**ASSEMBLY BILL 136****SECTION 4**

1 If a municipality appeals, its appeal shall set forth that the appeal has been  
2 authorized by an order or resolution of its governing body and the appeal shall be  
3 verified by a member of that governing body as pleadings in courts of record are  
4 verified. The clerk of the commission shall transmit one copy to the department of  
5 revenue, or to the department of transportation, and to each party. In the case of  
6 appeals from manufacturing property assessments, the person assessed shall be a  
7 party to a proceeding initiated by a municipality. At the time of filing the petition,  
8 the petitioner shall pay to the commission a \$25 filing fee. The commission shall  
9 deposit the fee in the general fund. Within 30 days after such transmission the  
10 department of revenue, except for petitions objecting to manufacturing property  
11 assessments, or the department of transportation, shall file with the clerk of the  
12 commission an original and the number of copies of an answer to the petition  
13 required by rule adopted by the commission and shall serve one copy on the petitioner  
14 or the petitioner's attorney or agent. Within 30 days after service of the answer, the  
15 petitioner may file and serve a reply in the same manner as the petition is filed. Any  
16 person entitled to be heard by the commission under s. 76.38 (12) (a), 1993 stats., or  
17 s. 76.39 (4) (c), 76.48 or 76.91 may file a petition with the commission within the time  
18 and in the manner provided for the filing of petitions in income or franchise tax cases.  
19 Such papers may be served as a circuit court summons is served or by certified mail.  
20 For the purposes of this subsection, a petition for review is considered timely filed  
21 if mailed by certified mail in a properly addressed envelope, with postage duly  
22 prepaid, which envelope is postmarked before midnight of the last day for filing.

23 **SECTION 5.** 85.013 (2) of the statutes is renumbered 85.013 (2) (a).

24 **SECTION 6.** 85.013 (2) (b) of the statutes is created to read:

