

2001 ASSEMBLY BILL 755

January 28, 2002 – Introduced by Representatives TOWNSEND, LIPPERT, MUSSER, J. LEHMAN, HUNDERTMARK, OWENS, PETROWSKI and FREESE, cosponsored by Senators HANSEN, ROESSLER, GROBSCHMIDT, BRESKE, PLACHE and WELCH. Referred to Committee on Ways and Means.

1 **AN ACT to repeal** 70.05 (5) (f) and 73.08; **to renumber and amend** 70.365; **to**
2 **amend** 20.566 (2) (a), 70.05 (5) (a) 3., 70.05 (5) (d), 70.05 (5) (g), 70.36 (1m),
3 70.36 (2), 70.75 (1) (a) 1., 73.09 (4) (c), 75.521 (7) (a) 1., 75.521 (10), 75.521 (12)
4 (a), 75.521 (14a), 79.095 (3) and 79.095 (4); and **to create** 70.365 (2) of the
5 statutes; **relating to:** the notice of changed property tax assessments, the
6 monitoring of property tax assessments, the filing deadline for property tax
7 reassessment petitions, the recertification of local assessment personnel, the
8 procedure for challenging tax lien foreclosures on property that is exempt from
9 taxation, the administration of the property tax exemption for computers, and
10 providing a penalty.

Analysis by the Legislative Reference Bureau

PROPERTY TAX ASSESSMENTS

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

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

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

Under current law, owners of property that have an aggregate assessed value, for property tax purposes, of at least 5% of the assessed value of all the property in the taxation district in which the property is located may petition to review the assessment of the property. DOR may order a reassessment of the owners' property if it finds that the original assessment does not comply substantially with the law or if a reassessment would promote the public interest.

Under current law, there is no deadline for property owners to file a petition for reassessment. Under this bill, property owners must file a petition for reassessment that is postmarked by February 15 of the year following the year of the assessment that the property owners want to have reviewed by DOR.

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

Under this bill, if property is assessed, for property tax purposes, at a value that is different than the value of the property in the previous year, the property tax assessor shall not notify the property owner of that difference, if the changed

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assessment is made by the assessor with the property owner's consent and while the property tax assessment roll is available for public inspection.

LOCAL ASSESSMENT PERSONNEL

Under current law, DOR educates and certifies local property tax assessment employees. A local property tax assessment employee certification issued before January 1, 1981, is valid for ten years. A certification issued after December 31, 1980, but before August 15, 1991, expires on the sixth June 1 following the date of certification. A certification issued after August 14, 1991, expires five years from the date of certification.

Under current law, a local property tax assessment employee must apply for recertification by submitting a notarized application for renewal to DOR at least 60 days before the employee's current certification expires. For recertification, an employee must either pass a certification examination or attend at least four of the last five annual meetings for the conference and instruction of all local assessors.

Under this bill, a local property tax assessment employee's application for renewal of certification is not required to be notarized and may be submitted at any time prior to the expiration of the employee's current certification. Under the bill, a local property tax assessment employee may submit an application for renewal up to one year after the expiration of the employee's current certification, if the employee has attended at least four of the last five annual meetings for the conference and instruction of all local assessors.

FORECLOSURE

Under current law, a county may commence an action in court to foreclose a tax lien on property for which taxes are delinquent. A person who has an interest in such property may respond to the county's foreclosure action by alleging that the property was not subject to taxation at the time a tax was levied on the property; that the tax levied on the property was paid; or that the tax lien is barred by the statute of limitations.

Under the bill, a person who responds to the county's foreclosure action by alleging that the property was not subject to taxation at the time a tax was levied because the property was exempt from taxation must also establish that the person filed a claim with the taxation district in which the property is located alleging that the taxation district levied and collected an unlawful tax on the property. However, if the person alleges that the property was exempt from taxation because it was either exempt waste treatment facility property or exempt manufacturing property, the person is not required to establish that the person filed a claim for unlawful taxes.

COMPUTER EXEMPTION

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

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

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

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 20.566 (2) (a) of the statutes is amended to read:

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

6 **SECTION 2.** 70.05 (5) (a) 3. of the statutes is amended to read:

7 70.05 (5) (a) 3. “Major class of property” means any class of property that
8 includes more than 5% 15% of the full value of the taxation district.

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

10 70.05 (5) (d) If the department of revenue determines that the assessed value
11 of each major class of property of a taxation district, including 1st class cities, has not
12 been established within 10% of the full value of the same major class of property
13 during the same year at least once during the ~~4-year~~ 3-year period consisting of the
14 current year and the ~~3~~ 2 preceding years, the department shall notify the clerk of the
15 taxation district of its intention to proceed under par. (f) ~~(g)~~ if the taxation district's

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1 assessed value of each major class of property for the subsequent year is not within
2 10% of the full value of the same major class of property. The department's notice
3 shall be in writing and mailed to the clerk of the taxation district on or before
4 November 1 of the year of the determination.

5 **SECTION 4.** 70.05 (5) (f) of the statutes is repealed.

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

7 70.05 (5) (g) If, in both the year after the year in which ~~a~~ the clerk of a taxation
8 district's assessment staff participates in the program under s. 73.08 and in the next
9 year district receives notice from the department under par. (d), the department of
10 revenue determines that the assessed value of each major class of property is not
11 within 10% of the full value of the same major class of property, the department shall
12 order special supervision under s. 70.75 (3) for that taxation district for the
13 succeeding year's assessment. That order shall be in writing and shall be mailed to
14 the clerk of the taxation district on or before November 1 of the year of the
15 determination.

16 **SECTION 6.** 70.36 (1m) of the statutes, as affected by 2001 Wisconsin Act 16, is
17 amended to read:

18 70.36 (1m) Any person, firm or corporation that fails to include information on
19 property that is exempt under s. 70.11 (39) and (39m) on the report under s. 70.35
20 shall ~~forfeit~~ pay to the department of revenue \$10 for every \$100 \$1,000 or major
21 fraction thereof that is not reported.

22 **SECTION 7.** 70.36 (2) of the statutes is amended to read:

23 70.36 (2) It is hereby made the duty of the district attorney of any county, upon
24 complaint made to the district attorney by the assessor or by a member of the board
25 of review of the assessment district in which it is alleged that property has been so

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1 withheld from the knowledge of such assessor or board of review, or not included in
2 any return required by s. 70.35, to investigate the case forthwith and bring an action
3 in the name of the state against the person, firm, or corporation so complained of.
4 ~~All~~ Except as provided in sub. (1m), forfeitures collected under the provisions of this
5 section shall be paid into the treasury of the taxation district in which such property
6 had its situs for taxation.

7 **SECTION 8.** 70.365 of the statutes is renumbered 70.365 (1) and amended to
8 read:

9 70.365 (1) ~~When~~ Except as provided under sub. (2), when the assessor assesses
10 any taxable real property, or any improvements taxed as personal property under s.
11 77.84 (1), and arrives at a different total than the assessment of it for the previous
12 year, the assessor shall notify the person assessed if the address of the person is
13 known to the assessor, otherwise the occupant of the property. The notice shall be
14 in writing and shall be sent by ordinary mail at least 15 days before the meeting of
15 the board of review or before the meeting of the board of assessors in 1st class cities
16 and in 2nd class cities that have a board of assessors under s. 70.075 and shall
17 contain the amount of the changed assessment and the time, date, and place of the
18 meeting of the local board of review or of the board of assessors. However, if the
19 assessment roll is not complete, the notice shall be sent by ordinary mail at least 15
20 days prior to the date to which the board of review has adjourned. The assessor shall
21 attach to the assessment roll a statement that the notices required by this section
22 have been mailed, and failure to receive the notice shall not affect the validity of the
23 changed assessment, the resulting changed tax, the procedures of the board of review
24 or of the board of assessors, or the enforcement of delinquent taxes by statutory
25 means. The secretary of revenue shall by rule prescribe the form of the notice

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1 required under this section. The form shall include information notifying the
2 taxpayer of the procedures to be used to object to the assessment.

3 **SECTION 9.** 70.365 (2) of the statutes is created to read:

4 70.365 (2) An assessor shall not send a notice under sub. (1), if the change of
5 assessment is made by the assessor with the property owner's consent and while the
6 assessment roll is available for examination under s. 70.45.

7 **SECTION 10.** 70.75 (1) (a) 1. of the statutes is amended to read:

8 70.75 (1) (a) 1. The owners of taxable property in any taxation district, other
9 than an assessment district within the corporate limits of any 1st class city, whose
10 property has an aggregate assessed valuation of not less than 5% of the assessed
11 valuation of all of the property in the district according to the assessment that is
12 sought to be corrected, may submit to the department of revenue a written petition
13 concerning the assessed valuation of their property that is postmarked by February
14 15 of the year following the year of the assessment that is sought to be corrected.
15 Subject to subd. 2. and sub. (1m), if the department finds that the assessment of
16 property in the taxation district is not in substantial compliance with the law and
17 that the interest of the public will be promoted by a reassessment, the department
18 may order a reassessment of all or of any part of the taxable property in the district
19 to be made by one or more persons appointed for that purpose by the department.

20 **SECTION 11.** 73.08 of the statutes is repealed.

21 **SECTION 12.** 73.09 (4) (c) of the statutes is amended to read:

22 73.09 (4) (c) Recertification is contingent upon submission of ~~a notarized~~ an
23 application for renewal, at least 60 days before the expiration date of the current
24 certificate, attesting to the completion of the requirements specified in par. (b). The
25 department of revenue may, for good cause, accept an application for renewal up to

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1 one year after the expiration date of the current certificate, if the applicant has
2 satisfied the meeting-attendance requirements specified in par. (b). Persons
3 applying for renewal on the basis of attendance at the meetings called by the
4 department under s. 73.06 (1) and by meeting continuing education requirements
5 shall submit a \$20 recertification fee with their applications.

6 **SECTION 13.** 75.521 (7) (a) 1. of the statutes is amended to read:

7 75.521 (7) (a) 1. That the lands in which such person is interested, described
8 in such list of tax liens, were not liable to taxation, special assessment, special
9 charge, or special tax at the time the tax, special assessment, special charge, or
10 special tax for the nonpayment of which the tax lien arises, was levied and, for an
11 allegation that lands were exempt from taxation, except an allegation that the lands
12 were exempt under s. 70.11 (21) (a) or (27), that the person complied with s. 74.35
13 with respect to the lands.

14 **SECTION 14.** 75.521 (10) of the statutes is amended to read:

15 75.521 (10) CONTESTED ISSUES AND TRIAL THEREOF. If a duly verified answer is
16 served upon the county treasurer within the period mentioned in sub. (7), the court
17 shall hear and determine the issues raised by the petition and answer in the same
18 manner and under the same rules as it hears and determines civil actions, except as
19 in this section otherwise provided. Upon such trial, proof that such tax, special
20 assessment, special charge, or special tax, together with any interest or penalty
21 which may have been due was paid,; or that the property was not subject to tax,
22 special assessment, special charge, or special tax, and, for property that is alleged
23 to be exempt from taxation, except property that is alleged to be exempt under s.
24 70.11 (21) (a) or (27), that the answering defendant complied with s. 74.35 with
25 respect to the property; or that such tax lien is barred by the statute of limitations,

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1 shall constitute a complete defense. Whenever an answer is interposed as herein
2 provided, there shall be a severance of the proceeding as to any parcel or parcels of
3 land in which such answering defendant has any right, title, or interest as alleged
4 in his or her answer, and as to the other parcels in such list, the proceeding shall
5 proceed as provided in sub. (8).

6 **SECTION 15.** 75.521 (12) (a) of the statutes is amended to read:

7 75.521 (12) (a) The county need not plead or prove the various steps,
8 proceedings, and notices for the assessment and levy of the taxes, assessments, or
9 other lawful charges against the lands set forth in the list of tax liens and all such
10 taxes, assessments, or other lawful charges and the lien thereof shall be presumed
11 to be valid. A defendant alleging any jurisdictional defect or invalidity in the tax,
12 special assessment, special charge, or special tax, because of which said land was not
13 liable to taxation, special assessment, or other lawful charge, must particularly
14 specify in the defendant's answer such jurisdictional defect or invalidity and must
15 affirmatively establish such defense and, for a defendant alleging that lands are
16 exempt from taxation, except lands that are alleged to be exempt under s. 70.11 (21)
17 (a) or (27), must particularly specify such allegation and affirmatively establish
18 compliance with s. 74.35 with respect to the lands.

19 **SECTION 16.** 75.521 (14a) of the statutes is amended to read:

20 75.521 (14a) DAMAGES. Any person who was the owner of any right, title, or
21 interest in land which was lost by judgment of foreclosure as provided in this section
22 may within 2 years from the date of entry of such judgment, in the cases hereinafter
23 mentioned other than fraud and within 6 years in the case of fraud, commence an
24 action in the circuit court against the county to recover the fair market value of the
25 person's interest therein at the date of entry of said judgment of foreclosure in rem.

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1 If the court determines that such person's right, title, and interest in said land was
2 unjustly foreclosed and lost because said person's interest in such lands was not
3 subject to taxation, special assessment, special charge, or special tax at the time of
4 the levy of the tax, assessment, or charge, for nonpayment of which said lands were
5 foreclosed and, for lands that were exempt from taxation, except lands that were
6 exempt under s. 70.11 (21) (a) or (27), the person complied with s. 74.35 with respect
7 to the lands, or that in fact such tax, special assessment, special charge, or special
8 tax was paid by said owner, or that the tax lien upon which the judgment of
9 foreclosure in rem was based was barred by the statute of limitations, or if such
10 person lost said property through fraud without fault on his or her part, the court
11 shall determine the fair market value of said land or of said person's interest therein
12 as hereinabove set forth. The fair market value shall not exceed the amount arrived
13 at by dividing the assessed valuation of such lands in the year in which such
14 judgment in rem was entered by the percentage ratio of real estate assessments
15 prevailing for the taxing district in which the lands were located as set forth in the
16 equalization for state tax purposes of the same year. The court shall award judgment
17 to such plaintiff in such amount, together with reasonable attorney fees to be fixed
18 by the court, and the plaintiff's costs and disbursements of such action. The amount
19 awarded the plaintiff shall be reduced by the total amount due, as of the date of entry
20 of such judgment, for all current taxes and upon all tax certificates held by the county
21 on such date that the court shall find were valid. Upon payment of the judgment the
22 county may charge back as a tax to any taxing district the amount ~~which~~ that such
23 district received from the county in payment of taxes and interest on said land either
24 by distribution of proceeds of sale thereof by the county or through other payment
25 by the county to the extent that it exceeds the amount distributable to such district

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1 had the same been based upon the payment of the taxes and interest found by the
2 court to be properly payable at the time of the entry of the judgment of foreclosure
3 and applied in reduction of the amount awarded to the plaintiff hereunder.

4 **SECTION 17.** 79.095 (3) of the statutes, as affected by 2001 Wisconsin Act 16,
5 is amended to read:

6 79.095 (3) REVIEW BY DEPARTMENT. The department shall adjust each rate
7 reported under sub. (2) (b) to a full-value rate. The department shall review and
8 correct the information submitted under sub. (2) (a), shall determine the full value
9 of all of the property reported under sub. (2) (a) and of all the property under s. 70.995
10 (12r) and, on or before October 1, shall notify each taxing jurisdiction of the full value
11 of the property that is exempt under s. 70.11 (39) and (39m) and that is located in the
12 jurisdiction. To review and correct the information submitted under sub. (2) (a), the
13 department may audit returns that are submitted under s. 70.35 regarding property
14 that is exempt under s. 70.11 (39) and (39m). The department shall adjust the full
15 value that is reported to taxing jurisdictions under this subsection in the year after
16 an error occurs or a value has been changed due to an appeal. All disputes between
17 the department and municipalities about the value of the property reported under
18 sub. (2) (a) or of the property under s. 70.995 (12r) shall be resolved by using the
19 procedures under s. 70.995 (8).

20 **SECTION 18.** 79.095 (4) of the statutes, as affected by 2001 Wisconsin Act 16,
21 is amended to read:

22 79.095 (4) PAYMENT. The department shall calculate the payments due each
23 taxing jurisdiction under this section by multiplying the full value as of the January
24 1 of the preceding year of the property that is exempt under s. 70.11 (39) and (39m)
25 and that is located in the jurisdiction by the full-value gross tax rate of the

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1 jurisdiction for the preceding year. The department shall adjust the payments due
2 each taxing jurisdiction under this section to reflect the results of an audit under sub.
3 (3). The department shall certify the amount of the payment due each taxing
4 jurisdiction to the department of administration, which shall make the payments on
5 or before the first Monday in May.

6 **SECTION 19. Initial applicability.**

7 (1) The treatment of section 70.05 (5) (d) and (g) of the statutes first applies to
8 the property tax assessments as of January 1, 2004.

9 (2) The treatment of section 70.75 (1) (a) 1. of the statutes, the renumbering and
10 amending of section 70.365 of the statutes, and the creation of section 70.365 (2) of
11 the statutes first apply to the property tax assessments as of January 1, 2001.

12 (3) The treatment of section 73.09 (4) (c) of the statutes first applies to
13 certifications that expire on January 1, 2002.

14 (4) The treatment of section 75.521 (7) (a) 1., (10), (12) (a), and (14a) of the
15 statutes first applies to petitions that are filed on the effective date of this subsection.

16 (5) The treatment of sections 70.36 (1m) and (2) and 79.095 (3) and (4) of the
17 statutes first applies to the payments to taxing jurisdictions that are due on or before
18 the first Monday in May 2002.

19 (END)