

3



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1767/2
JK:wlj:jf

3
RM not Run

DOA:.....Dombrowski – BB0441, Eliminate the tax appeals commission;
create office of tax appeals commissioner

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

m 2-5-03

DIN

DO NOT GEN

1

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

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

OTHER STATE GOVERNMENT

Under current law, the tax appeals commission is the final administrative authority for the hearing and determination of most tax-related matters arising in this state. The tax appeals commission consists of three members who are appointed by the governor to serve staggered six-year terms. The members of the tax appeals commission must be experienced in tax matters.

This bill eliminates the tax appeals commission and replaces it with the office of the commissioner of tax appeals. The tax appeals commissioner is appointed by the governor to serve a six-year term and must be experienced in tax matters.

For further information see the *state* 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:

2

SECTION 1. 15.06 (1) (bm) of the statutes is created to read:

1 15.06 (1) (bm) The tax appeals commissioner shall be nominated by the
2 governor, and with the advice and consent of the senate, appointed for a 6-year term
3 expiring on March 1 of an odd-numbered year.

4 **SECTION 2.** 15.105 (1) of the statutes is repealed.

5 **SECTION 3.** 15.105 (1m) of the statutes is created to read:

6 15.105 (1m) OFFICE OF COMMISSIONER OF TAX APPEALS. There is created an office
7 of the commissioner of tax appeals which is attached to the department of
8 administration under s. 15.03. The tax appeals commissioner shall be experienced
9 in tax matters. The commissioner may not serve on or under any committee of a
10 political party. The commissioner shall hold office until a successor is appointed and
11 qualified.

12 **SECTION 4.** 19.45 (7) (a) 4. of the statutes is amended to read:

13 19.45 (7) (a) 4. In a matter before the department of revenue or the office of the
14 commissioner of tax appeals ~~commission~~ that involves the representation of a client
15 in connection with a tax matter.

16 **SECTION 5.** 20.923 (4) (d) 1. of the statutes is amended to read:

17 20.923 (4) (d) 1. Administration, department of; office of the commissioner of
18 tax appeals ~~commission; chairperson and members. The chairperson of the~~
19 ~~commission and the governor, at the time a new member is appointed, shall jointly~~
20 ~~determine the salary of the new member within the range for this group;~~
21 commissioner.

22 **SECTION 6.** 60.24 (3) (L) of the statutes is amended to read:

23 60.24 (3) (L) If authorized by the town board, represent the interests of the
24 town in connection with appearances before the state office of the commissioner of
25 tax appeals ~~commission~~ under s. 70.64 (5).

1 **SECTION 7.** 70.38 (4) of the statutes is amended to read:

2 70.38 (4) APPEALS. (a) Any person feeling aggrieved by the assessment notice
3 shall, within 60 days after the receipt of the notice, file with the department a
4 petition for redetermination setting forth the person's objections to the assessment.
5 The person may request an informal conference with representatives of the
6 department prior to September 15. The request shall be indicated in the petition.
7 The secretary shall act on the petition on or before October 1. On or before November
8 1, the person shall pay the amount determined by the secretary pursuant to the
9 secretary's action on the petition. If the person is aggrieved by the secretary's denial
10 of the petition the person may appeal to the office of the commissioner of tax appeals
11 ~~commission~~ if the appeal is filed with the ~~commission~~ office of the commissioner on
12 or before December 1.

13 (b) Determinations of the office of the commissioner of tax appeals ~~commission~~
14 shall be subject to judicial review under ch. 227.

15 **SECTION 8.** 70.39 (2) of the statutes is amended to read:

16 70.39 (2) Any part of an assessment which is contested before the office of the
17 commissioner of tax appeals ~~commission~~ or the courts, which after hearing shall be
18 ordered to be paid, shall be considered as a delinquent tax if unpaid on the 10th day
19 following the date of the final order and shall be subject to the penalty and interest
20 provisions under sub. (1).

21 **SECTION 9.** 70.397 (3) (c) of the statutes is amended to read:

22 70.397 (3) (c) Any person feeling aggrieved by an assessment notice under this
23 section may, within 60 days after receipt of the notice, file with the department a
24 petition for redetermination setting forth the person's objections to the assessment.
25 In the petition, the person may request an informal conference with representatives

1 of the department. The secretary of revenue shall act on the petition within 90 days
2 after receipt of the petition for redetermination. If the person is aggrieved by the
3 secretary's denial of the petition, the person may appeal to the office of the
4 commissioner of tax appeals ~~commission~~ if the appeal is filed with the ~~commission~~
5 office of the commissioner within 30 days after the petition is denied.

6 **SECTION 10.** 70.57 (2) of the statutes is amended to read:

7 **70.57 (2)** If the state board of assessors, the office of the commissioner of tax
8 appeals ~~commission~~ or a court makes a final redetermination on the assessment of
9 property subject to taxation under s. 70.995 that is higher or lower than the previous
10 assessment, the department of revenue shall recertify the equalized value of the
11 school district in which the property subject to taxation under s. 70.995 is located.

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

13 **70.64 (1)** ~~BY THE OFFICE OF THE COMMISSIONER OF TAX APPEALS COMMISSION.~~ The
14 assessment and determination of the relative value of taxable general property in
15 any county or taxation district, made by the department of revenue under s. 70.57,
16 may be reviewed, and a redetermination of the value of such property may be made
17 by the office of the commissioner of tax appeals ~~commission~~, upon appeal by the
18 county or taxation district. The filing of such appeal in the manner provided in this
19 section by any county or taxation district shall impose upon the ~~commission~~ office of
20 the commissioner of tax appeals the duty, under the powers conferred upon it by s.
21 73.01 (4) (a), to review the assessment complained of. If, in its judgment based upon
22 the testimony, evidence and record made on the preliminary hearing of such appeal,
23 the ~~commission~~ office of the commissioner of tax appeals finds such assessment to
24 be unequal and discriminatory, it shall determine to correct such assessment to bring
25 it into substantial compliance with law. Except as provided in this section, the appeal

1 shall be taken and such review and redetermination shall be made as provided in ss.
2 73.01 and 73.015 and under the rules governing the procedure of the ~~commission~~
3 office of the commissioner of tax appeals.

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

5 70.64 (3) FORM OF APPEAL. (intro.) To accomplish an appeal there shall be filed
6 with the office of the commissioner of tax appeals ~~commission~~ on or before October
7 15 an appeal in writing setting forth:

8 **SECTION 13.** 70.64 (3) (a) of the statutes is amended to read:

9 70.64 (3) (a) That the county or taxation district, naming the same, appeals to
10 the office of the commissioner of tax appeals ~~commission~~ from the assessment made
11 by the department of revenue under s. 70.57, specifying the date of such assessment.

12 **SECTION 14.** 70.64 (4) of the statutes is amended to read:

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

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

22 70.64 (5) APPEARANCE. Not later than 30 days after the clerk of the county or
23 taxation district has mailed the certified copies, unless the time is extended by order
24 of the office of the commissioner of tax appeals ~~commission~~, any county, town, city
25 or village may cause an appearance to be entered in its behalf before the ~~commission~~

1 office of the commissioner in support of the appeal and uniting with the appellant for
2 the relief demanded; and by verified petition or statement showing grounds therefor
3 may apply for other or further review and redetermination than that demanded in
4 the appeal. Within the same time the county, town, city or village in the county may
5 in the same manner have its appearance entered in opposition to the appeal and to
6 the relief demanded. Such appearances shall be authorized in the manner for
7 authorizing an appeal under sub. (2). When so authorized the interests of the county,
8 town, city or village authorizing it shall be in the charge of the chairperson, mayor
9 or president thereof unless otherwise directed by the body authorizing such
10 appearance; and attorneys may be employed in that behalf. In such appearances any
11 2 or more of the towns, cities and villages of the county may join if united in support
12 of or in opposition to the appeal. Four copies of each appearance, petition or
13 statement mentioned in this subsection shall be filed in ~~the offices of the~~ office of the
14 commissioner of tax appeals ~~commission~~ and a copy of each mailed by certified mail
15 to the department of revenue, to the county clerk, and to the clerk of each town, city
16 and village within the county, and a copy to the attorney authorized to appear on
17 behalf of the county or any town, city or village within the county.

18 **SECTION 16.** 70.64 (6) of the statutes is amended to read:

19 70.64 (6) HEARING. As soon as practicable, the ~~commission~~ office of the
20 commissioner of tax appeals shall set a time and place for preliminary hearing of
21 such appeal. At least 10 days before the time set for such hearing, the ~~commission~~
22 office of the commissioner of tax appeals shall cause notice thereof to be mailed by
23 certified mail to the county clerk and to the attorney or the clerk of each town, city
24 and village in whose behalf an appearance has been entered in the matter of such
25 appeal, and to the clerk of each town, city or village which has not appeared, and mail

1 a like notice to the clerk of the taxation district taking such appeal and to the
2 department of revenue. The department of revenue shall be prepared to present to
3 the ~~commission~~ office of the commissioner of tax appeals at such time during the
4 course of the hearings as the ~~commission~~ office requires, the full value of all property
5 subject to general property taxation in each town, village and city of the county, as
6 determined by the department according to s. 70.57 (1) or in the case of a complaint
7 by a taxation district under a county assessor such information as the department
8 has in its possession. Said hearing may be adjourned, in the discretion of the office
9 of the commissioner of tax appeals ~~commission~~, as often and to such times and places
10 as may be necessary in order to determine the facts. If satisfied that no substantial
11 injustice has been done in the taxation district assessment appealed from, the
12 ~~commission~~ office of the commissioner of tax appeals in its discretion may dismiss
13 such appeal. If satisfied that substantial injustice has been done in the taxation
14 district assessment, the ~~commission~~ office of the commissioner of tax appeals shall
15 determine to revalue any or all of the taxation districts in the county, which it deems
16 necessary, in a manner which in its judgment is best calculated to secure substantial
17 justice.

18 **SECTION 17.** 70.64 (7) of the statutes is amended to read:

19 70.64 (7) REDETERMINATION. The ~~commission~~ office of the commissioner of tax
20 appeals shall then proceed to redetermine the value of the taxable general property
21 in such of the taxation districts in the county as it deems necessary. It may include
22 in such redetermination other taxation districts than first determined upon and may
23 include all of the taxation districts in said county, if at any time during the progress
24 of its investigations or revaluations it is satisfied that such course is necessary in
25 order to accomplish substantial justice and to secure relative equality as between all

1 the taxation districts in such county. It shall make careful investigation of the value
2 of taxable general property in the several taxation districts to which such review and
3 redetermination shall extend, in any manner which in its judgment is best calculated
4 to obtain the fair, full value of such property. The ~~commission~~ office of the
5 commissioner of tax appeals may employ such experts and other assistants as may
6 be necessary, and fix their compensation. In making such investigations the
7 ~~commission~~ office of the commissioner of tax appeals and all persons employed
8 therein by the ~~commission~~ office shall have all the authority possessed by assessors
9 so far as applicable, including authority to administer oaths and to examine property
10 owners and witnesses under oath as to the quantity and value of the property subject
11 to assessment belonging to any person or within any taxation district to which the
12 investigation shall extend.

13 **SECTION 18.** 70.64 (8) of the statutes is amended to read:

14 70.64 (8) HEARING. The ~~commission~~ office of the commissioner of tax appeals
15 may at any time before its final determination appoint a time and place at which it
16 will hear evidence and arguments relevant to the matters under consideration upon
17 such appeal. The time to be devoted to such hearings may be limited as the
18 ~~commission~~ office of the commissioner of tax appeals directs. At least 10 days before
19 the time fixed for such hearings, the ~~commission~~ office of the commissioner of tax
20 appeals shall cause notice thereof to be mailed by certified mail to the county clerk
21 and to the attorney or other representative of each town, city and village in whose
22 behalf an appearance has been entered in the matter of such appeal, and a like copy
23 to the department of revenue.

24 **SECTION 19.** 70.64 (9) of the statutes is amended to read:

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

11 **SECTION 20.** 70.64 (10) of the statutes is amended to read:

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

25 **SECTION 21.** 70.64 (11) of the statutes is amended to read:

1 70.64 (11) COMPUTATION. The determination of the ~~commission~~ office of the
2 commissioner of tax appeals shall not affect the validity of taxes apportioned in
3 accordance with the taxation district assessment from which such appeal was taken;
4 but if it is determined upon such appeal that such taxation district assessment is
5 relatively unequal, such inequality shall be remedied and compensated in the
6 apportionment of state and county taxes in such county next following the
7 determination of ~~said commission~~ the office of the commissioner of tax appeals in the
8 following manner: Each town, city and village whose valuation in such taxation
9 district assessment was determined by ~~said commission~~ the office of the
10 commissioner of tax appeals to be relatively too high shall be credited a sum equal
11 to the amount of taxes charged to it upon such unequal assessment in excess of the
12 amount equitably chargeable thereto according to the determination of the
13 ~~commission~~ office of the commissioner of tax appeals; and each town, city and village
14 whose valuation in such taxation district assessment was determined by ~~said~~
15 ~~commission~~ the office of the commissioner of tax appeals to be relatively too low shall
16 be charged, in addition to all other taxes, a sum equal to the difference between the
17 amount charged thereto upon such unequal assessment and the amount which
18 should have been charged thereto according to the determination of the ~~commission~~
19 office of the commissioner of tax appeals. The department of revenue shall aid the
20 county clerk in making proper computations.

21 **SECTION 22.** 70.64 (12) of the statutes is amended to read:

22 70.64 (12) EXPENSES. The office of the commissioner of tax appeals ~~commission~~
23 shall transmit to the county clerk with its determination on such appeal a statement
24 of all expenses incurred therein by or at the instance of the ~~commission~~ office of the
25 commissioner of tax appeals, which shall include the actual expenses of the

1 ~~commission~~ office of the commissioner of tax appeals and regular employees of the
2 ~~commission~~ office, the compensation and actual expenses of all other persons
3 employed by it and the fees of officers employed and witnesses summoned at its
4 instance. A duplicate of such statement shall be filed in the office of the department
5 of administration. Such expenses shall be audited upon the certificate of the
6 ~~commission~~ office of the commissioner of tax appeals, and paid out of the state
7 treasury, in the first instance, as other claims against the state are audited and paid.
8 The amount of such expenses shall be a special charge against such county and shall
9 be included in the next apportionment and certification of state taxes and charges,
10 and collected from such county, as other special charges are certified and collected.
11 Unless otherwise directed by the ~~commission~~ office of the commissioner of tax
12 appeals in its determination upon such appeal, the county clerk, in the next
13 apportionment of state and county taxes, shall apportion the amount of such special
14 charges to and among the towns, cities and villages in such county whose relative
15 valuations were increased in the determination of the ~~commission~~ office of the
16 commissioner of tax appeals in proportion to the amount of such increase in each of
17 them respectively. The apportionment of such expenses shall be set forth in the
18 determination of the ~~commission~~ office of the commissioner of tax appeals. The
19 amount so apportioned to each such town, city and village shall be charged upon its
20 tax roll and shall be collected and paid over to the county treasurer as other state
21 taxes and special charges are collected and paid.

22 **SECTION 23.** 70.995 (8) (a) of the statutes is amended to read:

23 70.995 (8) (a) The secretary of revenue shall establish a state board of
24 assessors, which shall be comprised of the members of the department of revenue
25 whom the secretary designates. The state board of assessors shall investigate any



1 objection filed under par. (c) ~~or (d)~~ if the fee under that paragraph is paid. The state
 2 board of assessors, after having made the investigation, shall notify the person
 3 assessed or the person's agent and the appropriate municipality of its determination
 4 by 1st class mail or electronic mail. Beginning with objections filed in 1989, the state
 5 board of assessors shall make its determination on or before April 1 of the year after
 6 the filing. If the determination results in a refund of property taxes paid, the state
 7 board of assessors shall include in the determination a finding of whether the refund
 8 is due to false or incomplete information supplied by the person assessed. The person
 9 assessed or the municipality having been notified of the determination of the state
 10 board of assessors shall be deemed to have accepted the determination unless the
 11 person or municipality files a petition for review with the clerk of the office of the
 12 commissioner of tax appeals ~~commission~~ as provided in s. 73.01 (5) and the rules of
 13 practice promulgated by the ~~commission~~ office of the commissioner of tax appeals.
 14 If an assessment is reduced by the state board of assessors, the municipality affected
 15 may file an appeal seeking review of the reduction, or may, within 30 days after the
 16 person assessed files a petition for review, file a cross-appeal, before the office of the
 17 commissioner of tax appeals ~~commission~~ even though the municipality did not file
 18 ~~an objection to the assessment with the board. If the board does not overrule a~~
 19 ~~change from assessment under this section to assessment under s. 70.32 (1), the~~
 20 ~~affected municipality may file an appeal before the~~ office of the commissioner of tax
 21 ~~appeals commission.~~ If an assessment is increased by the board, the person assessed
 22 may file an appeal seeking review of the increase, or may, within 30 days after the
 23 municipality files a petition for review, file a cross-appeal, before the ~~commission~~
 24 office of the commissioner of tax appeals even though the person did not file an
 25 objection to the assessment with the board.

*** NOTE: ^(CS) This is reconciled s. 70.995(8)(a) [✓] This section has been affected by LRB-1767/2 and LRB-1680/10

1 SECTION 24. 70.995 (8) (b) 1. of the statutes is amended to read:

2 70.995 (8) (b) 1. The department of revenue shall annually notify each
3 manufacturer assessed under this section and the municipality in which the
4 manufacturing property is located of the full value of all real and personal property
5 owned by the manufacturer. The notice shall be in writing and shall be sent by 1st
6 class mail or electronic mail. In addition, the notice shall specify that objections to
7 valuation, amount, or taxability must be filed with the state board of assessors
8 within 60 days of issuance of the notice of assessment, that objections to a change
9 from assessment under this section to assessment under s. 70.32 (1) must be filed
10 within 60 days after receipt of the notice, that the fee under par. (c) 1. or (d) must be
11 paid and that the objection is not filed until the fee is paid. A statement shall be
12 attached to the assessment roll indicating that the notices required by this section
13 have been mailed and failure to receive the notice does not affect the validity of the
14 assessments, the resulting tax on real or personal property, the procedures of the
15 office of the commissioner of tax appeals commission or of the state board of
16 assessors, or the enforcement of delinquent taxes by statutory means.

17 SECTION 25. 70.995 (8) (c) 1. of the statutes is amended to read:

18 70.995 (8) (c) 1. All objections to the amount, valuation, taxability, or change
19 from assessment under this section to assessment under s. 70.32 (1) of property shall
20 be first made in writing on a form prescribed by the department of revenue that
21 specifies that the objector shall set forth the reasons for the objection, the objector's
22 estimate of the correct assessment, and the basis under s. 70.32 (1) for the objector's
23 estimate of the correct assessment. An objection shall be filed with the state board
24 of assessors within the time prescribed in par. (b) 1. A \$45 fee shall be paid when the
25 objection is filed unless a fee has been paid in respect to the same piece of property

~~1 and that appeal has not been finally adjudicated. The objection is not filed until the
2 fee is paid. Neither the state board of assessors nor the office of the commissioner
3 of tax appeals ~~commission~~ may waive the requirement that objections be in writing.
4 Persons who own land and improvements to that land may object to the aggregate
5 value of that land and improvements to that land, but no person who owns land and
6 improvements to that land may object only to the valuation of that land or only to the
7 valuation of improvements to that land.~~

8 SECTION 26. 70.995 (8) (e) of the statutes is amended to read:

9 70.995 (8) (e) Upon completion of and review by the office of the commissioner
10 of tax appeals ~~commission~~ and receipt of the statement of assessments required
11 under s. 70.53, the department of revenue shall be responsible for equating all
12 full-value manufacturing property assessments entered in the manufacturing
13 property assessment roll to the general level of assessment of all other property
14 within the individual taxation district. Thereafter, the manufacturing property
15 assessment roll shall be delivered to the municipal clerk and annexed to the
16 municipal assessment roll containing all other property.

17 SECTION 27. 70.995 (9) of the statutes is amended to read:

18 70.995 (9) Any aggrieved party may appeal a determination by the office of the
19 commissioner of tax appeals ~~commission~~ under sub. (8) to the circuit court for Dane
20 County under s. 73.015.

~~21 SECTION 28. 70.995 (12) (a) of the statutes is amended to read:~~

~~22 70.995 (12) (a) The department of revenue shall prescribe a standard
23 manufacturing property report form that shall be submitted annually for each real
24 estate parcel and each personal property account on or before March 1 by all
25 manufacturers whose property is assessed under this section. The report form shall~~

1 contain all information considered necessary by the department and shall include,
2 without limitation, income and operating statements, fixed asset schedules and a
3 report of new construction or demolition. Failure to submit the report shall result
4 in denial of any right of redetermination by the state board of assessors or the office
5 of the commissioner of tax appeals commission. If any property is omitted or
6 understated in the assessment roll in any of the next 5 previous years, the assessor
7 shall enter the value of the omitted or understated property once for each previous
8 year of the omission or understatement. The assessor shall affix a just valuation to
9 each entry for a former year as it should have been assessed according to the
10 assessor's best judgment. Taxes shall be apportioned and collected on the tax roll for
11 each entry, on the basis of the net tax rate for the year of the omission, taking into
12 account credits under s. 79.10. In the case of omitted property, interest shall be added
13 at the rate of 0.0267% per day for the period of time between the date when the form
14 is required to be submitted and the date when the assessor affixes the just valuation.
15 In the case of underpayments determined after an objection under s. 70.995 (8) (d),
16 interest shall be added at the average annual discount interest rate determined by
17 the last auction of 6-month U.S. treasury bills before the objection per day for the
18 period of time between the date when the tax was due and the date when it is paid.

19 **SECTION 29.** 71.82 (2) (d) of the statutes is amended to read:

20 71.82 (2) (d) *Withholding tax.* Of the amounts required to be withheld any
21 amount not deposited or paid over to the department within the time required shall
22 be deemed delinquent and deposit reports or withholding reports filed after the due
23 date shall be deemed late. Delinquent deposits or payments shall bear interest at
24 the rate of 1.5% per month from the date deposits or payments are required under
25 this section until deposited or paid over to the department. The department shall

1 provide by rule for reduction of interest on delinquent deposits to 12% per year in
2 stated instances wherein the secretary of revenue determines reduction fair and
3 equitable. In the case of a timely filed deposit or withholding report, withheld taxes
4 shall become delinquent if not deposited or paid over on or before the due date of the
5 report. In the case of no report filed or a report filed late, withheld taxes shall become
6 delinquent if not deposited or paid over by the due date of the report. In the case of
7 an assessment under s. 71.83 (1) (b) 2., the amount assessed shall become delinquent
8 if not paid on or before the first day of the calendar month following the calendar
9 month in which the assessment becomes final, but if the assessment is contested
10 before the office of the commissioner of tax appeals ~~commission~~ or in the courts, it
11 shall become delinquent on the 30th day following the date on which the order or
12 judgment representing final determination becomes final.

13 SECTION 30. 71.88 (2) (title) of the statutes is amended to read:

14 71.88 (2) (title) APPEAL TO THE ~~WISCONSIN~~ OFFICE OF THE COMMISSIONER OF TAX
15 APPEALS COMMISSION.

16 SECTION 31. 71.88 (2) (a) of the statutes is amended to read:

17 71.88 (2) (a) *Appeal of the department's redetermination of assessments and*
18 *claims for refund.* A person feeling aggrieved by the department's redetermination
19 may appeal to the office of the commissioner of tax appeals ~~commission~~ by filing a
20 petition with the clerk of the ~~commission~~ office of the commissioner of tax appeals
21 as provided by law and the rules of practice promulgated by the ~~commission~~ office
22 of the commissioner of tax appeals. If a petition is not filed with the ~~commission~~ office
23 of the commissioner of tax appeals within the time provided in s. 73.01 or, except as
24 provided in s. 71.75 (5), if no petition for redetermination is made within the time
25 provided the assessment, refund, or denial of refund shall be final and conclusive.

1 **SECTION 32.** 71.88 (2) (b) of the statutes is amended to read:

2 71.88 (2) (b) *Appeal of department's redetermination of credits.* Any person
3 aggrieved by the department of revenue's redetermination of a credit under s. 71.07
4 (3m) or (6), 71.28 (1) or (2m) or 71.47 (1) or (2m) or subch. VIII or IX, except when the
5 denial is based upon late filing of claim for credit or is based upon a redetermination
6 under s. 71.55 (8) of rent constituting property taxes accrued as at arm's length, may
7 appeal the redetermination to the office of the commissioner of tax appeals
8 ~~commission~~ by filing a petition with the ~~commission~~ office of the commissioner of tax
9 appeals within 60 days after the redetermination, as provided under s. 73.01 (5) with
10 respect to income or franchise tax cases, and review of the ~~commission's~~ decision of
11 the office of the commissioner of tax appeals may be had under s. 73.015. For appeals
12 brought under this paragraph, the filing fee required under s. 73.01 (5) (a) does not
13 apply.

14 **SECTION 33.** 71.89 (1) of the statutes is amended to read:

15 71.89 (1) If the taxpayer requests a hearing, the additional tax or overpayment
16 shall not become due and payable until after hearing and determination of the tax
17 by the office of the commissioner of tax appeals ~~commission~~ or disposition of the
18 appeal pursuant to stipulation and order under ss. 73.01 (4) (a) and 73.03 (25).

19 **SECTION 34.** 71.89 (2) of the statutes is amended to read:

20 71.89 (2) No person against whom an assessment of income or franchise tax has
21 been made shall be allowed in any action either as plaintiff or defendant or in any
22 other proceeding to question such assessment unless the requirements of ss. 71.88
23 and 71.90 (1) shall first have been complied with, and unless such person shall have
24 made full disclosure under oath at the hearing before the office of the commissioner
25 of tax appeals ~~commission~~ of any and all income that the person received. The

1 requirement of full disclosure under this subsection may be waived by the
2 department of revenue.

3 **SECTION 35.** 71.89 (3) of the statutes is amended to read:

4 71.89 (3) As soon as the appellant shall have filed a petition with the office of
5 the commissioner of tax appeals ~~commission~~, all collection proceedings, except
6 proceedings under s. 71.74 (14), shall be stayed until final determination of the
7 appeal and any review thereof.

8 **SECTION 36.** 71.89 (4) of the statutes is amended to read:

9 71.89 (4) Any person who contests an assessment before the office of the
10 commissioner of tax appeals ~~commission~~ or in court shall state in his or her petition
11 or notice of appeal what portion if any of the tax is admitted to be legally assessable
12 and correct. Within 5 days after notice by the department, the appellant shall pay
13 to the department the whole amount of the admitted tax and such tax shall be
14 appropriated in accordance with s. 25.20. Any such payment shall be considered an
15 admission of the legality of the tax thus paid, and such tax so paid cannot be
16 recovered in the pending appeal or in any other action or proceeding.

17 **SECTION 37.** 71.90 (2) of the statutes is amended to read:

18 71.90 (2) DEPOSIT WITH THE STATE TREASURER. At any time while the petition is
19 pending before the office of the commissioner of tax appeals ~~commission~~ or an appeal
20 in regard to that petition is pending in a court, the taxpayer may offer to deposit the
21 entire amount of the additional taxes, together with interest, with the state
22 treasurer. If an offer to deposit is made, the department of revenue shall issue a
23 certificate to the state treasurer authorizing the treasurer to accept payment of such
24 taxes together with interest to the first day of the succeeding month and to give a
25 receipt. A copy of the certificate shall be mailed to the taxpayer who shall pay the

1 taxes and interest to the treasurer within 30 days. A copy of the receipt of the state
2 treasurer shall be filed with the department. The department shall, upon final
3 determination of the appeal, certify to the state treasurer the amount of the taxes as
4 finally determined and direct the state treasurer to refund to the appellant any
5 portion of such payment which has been found to have been improperly assessed,
6 including interest. The state treasurer shall make the refunds directed by the
7 certificate within 30 days after receipt. Taxes paid to the state treasurer under this
8 subsection shall be subject to the interest provided by ss. 71.82 and 71.91 (1) (c) only
9 to the extent of the interest accrued on the taxes prior to the first day of the month
10 succeeding the application for hearing. Any portion of the amount deposited with the
11 state treasurer which is refunded to the taxpayer shall bear interest at the rate of
12 9% per year during the time that the funds are on deposit.

13 **SECTION 38.** 71.91 (1) (b) of the statutes is amended to read:

14 71.91 (1) (b) *Withholding.* Any amount not deposited or paid over to the
15 department, or to the person that the department prescribes, within the time
16 required shall be deemed delinquent and deposit reports or withholding reports filed
17 after the due date shall be deemed late. In the case of a timely filed deposit or
18 withholding report, withheld taxes shall become delinquent if not deposited or paid
19 over on or before the due date of the report. In the case of no report filed or a report
20 filed late, withheld taxes shall become delinquent if not deposited or paid over by the
21 due date of the report. In the case of an assessment under s. 71.83 (1) (b) 2., the
22 amount assessed shall become delinquent if not paid on or before the due date
23 specified in the notice of deficiency, but if the assessment is contested before the office
24 of the commissioner of tax appeals commission or in the courts, it shall become

1 delinquent on the 30th day following the date on which the order or judgment
2 representing final determination becomes final.

3 **SECTION 39.** 71.91 (1) (c) of the statutes is amended to read:

4 71.91 (1) (c) *Contested income and franchise tax assessments.* Any additional
5 income or franchise tax assessment contested before the office of the commissioner
6 of tax appeals commission or in the courts, which is finally determined to be correct,
7 shall become delinquent if not paid on or before the 30th day following the date on
8 which the order or judgment representing such final determination becomes final
9 and conclusive. Any additional income or franchise tax assessment so contested
10 shall be subject to s. 71.74 (14).

11 **SECTION 40.** Chapter 73 (title) of the statutes is amended to read:

12 **CHAPTER 73**

13 **OFFICE OF THE COMMISSIONER**

14 **OF TAX APPEALS COMMISSION**

15 **AND DEPARTMENT OF REVENUE**

16 **SECTION 41.** 73.01 (title) of the statutes is amended to read:

17 **73.01 (title) Tax Office of the commissioner of tax appeals commission.**

18 **SECTION 42.** 73.01 (1) (a) of the statutes is repealed.

19 **SECTION 43.** 73.01 (1) (bm) of the statutes is created to read:

20 73.01 (1) (bm) “Tax appeals commissioner” means the commissioner of the
21 office of the commissioner of tax appeals, as appointed under ss. 15.06 (1) (bm) and
22 15.105 (1m).

23 **SECTION 44.** 73.01 (2) of the statutes is amended to read:

1 73.01 (2) EMPLOYEES. The ~~chairperson of the commission~~ tax appeals
2 commissioner may appoint, under the classified service, such employees for the
3 ~~commission~~ office of the commissioner of tax appeals as are necessary.

4 **SECTION 45.** 73.01 (3) of the statutes is amended to read:

5 73.01 (3) HEARINGS AND REPORTS. (a) The time and place of meetings and
6 hearings of the ~~commission~~ office of the commissioner of tax appeals shall be
7 designated by the ~~chairperson~~ tax appeals commissioner. Rooms for hearings
8 outside the city of Madison shall be provided under s. 73.07. All hearings held in
9 Milwaukee shall be held in the southeast district office of the department of natural
10 resources. The ~~commission~~ office of the commissioner of tax appeals shall maintain
11 permanent hearing rooms in Madison.

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

23 **SECTION 46.** 73.01 (4) of the statutes is amended to read:

24 73.01 (4) POWERS AND DUTIES DEFINED. (a) Subject to the provisions for judicial
25 review contained in s. 73.015, the ~~commission~~ office of the commissioner of tax

1 appeals shall be the final authority for the hearing and determination of all questions
2 of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss. 70.38 (4)
3 (a), 70.397, 70.64, and 70.995 (8), s. 76.38 (12) (a), 1993 stats., ss. 76.39 (4) (c), 76.48
4 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22, 78.40, 78.555, 139.02, 139.03, 139.06,
5 139.31, 139.315, 139.33, 139.76, 139.78, 341.405, and 341.45, subch. XIV of ch. 71,
6 and subch. VII of ch. 77. Whenever with respect to a pending appeal there is filed
7 with the ~~commission~~ office of the commissioner of tax appeals a stipulation signed
8 by the department of revenue and the adverse party, under s. 73.03 (25), or the
9 department of transportation and the adverse party agreeing to an affirmance,
10 modification, or reversal of the department of revenue's or department of
11 transportation's position with respect to some or all of the issues raised in the appeal,
12 the ~~commission~~ office of the commissioner of tax appeals shall enter an order
13 affirming or modifying in whole or in part, or canceling the assessment appealed
14 from, or allowing in whole or in part or denying the petitioner's refund claim, as the
15 case may be, pursuant to and in accordance with the stipulation filed. No
16 responsibility shall devolve upon the ~~commission~~ office of the commissioner of tax
17 appeals, respecting the signing of an order of dismissal as to any pending appeal
18 settled by the department of revenue or the department of transportation without
19 the approval of the ~~commission~~ office of the commissioner of tax appeals.

20 (am) Whenever it appears to the ~~commission~~ office of the commissioner of tax
21 appeals or, ~~in respect to hearings conducted by one commissioner, to that~~
22 ~~commissioner~~ to a person assigned to hear a matter under this section that
23 proceedings have been instituted or maintained by the taxpayer primarily for delay
24 or that the taxpayer's position in those proceedings is frivolous or groundless, the
25 ~~commission or commissioner~~ office of the commissioner of tax appeals or the tax

1 appeals commissioner may assess the taxpayer an amount not to exceed \$1,000 at
2 the same time that the deficiency is assessed. Those damages shall be paid upon
3 notice from the department of revenue and shall be collected as a part of the tax.

4 (b) Any matter required to be heard by the ~~commission~~ office of the
5 commissioner of tax appeals may be heard by ~~any member of the commission or its~~
6 the tax appeals commissioner or by a hearing examiner and reported to the office of
7 the commissioner of tax appeals, and hearings of matters pending before it shall be
8 assigned to ~~members of the commission or its~~ the tax appeals commissioner or to a
9 hearing examiner by the ~~chairperson~~ tax appeals commissioner. Unless a majority
10 of the ~~commission~~ decides that the full commission should decide a case, cases other
11 than small claims cases shall be decided by a panel of 3 members assigned by the
12 ~~chairperson~~ prior to the hearing. If the parties have agreed to an oral decision, the
13 ~~member or members~~ person conducting the hearing may render an oral decision.
14 Hearings shall be open to the public and all proceedings shall be conducted in
15 accordance with rules of practice and procedure prescribed by the ~~commission~~ office
16 of the commissioner of tax appeals. Small claims cases shall be decided by ~~one~~
17 ~~commissioner~~ the tax appeals commissioner or by a hearing examiner, as assigned
18 by the ~~chairperson~~ tax appeals commissioner prior to the hearing.

19 (bn) The parties to any matter required to be heard and decided by the
20 ~~commission~~ office of the commissioner of tax appeals, except appeals arising under
21 s. 70.64 or ch. 76, may consent in writing that the ~~chairperson or any member of the~~
22 ~~commission~~ person assigned to hear the matter may render an oral decision, and that
23 the parties waive the right to appeal such decision. Such oral decision shall not be
24 binding upon the department, as to statutory construction, in a subsequent matter.

1 Provisions of this section, s. 73.015 or ch. 227 in conflict herewith shall not apply to
2 decisions rendered under this paragraph.

3 (c) ~~The commission~~ office of the commissioner of tax appeals shall, upon the
4 request of any party to a matter pending before it or of any officer of the state
5 government or upon its own motion order that all proceedings in a matter pending
6 before it be recorded, and the expense thereof shall be paid by the state out of the
7 appropriation for the ~~commission~~ office of the commissioner of tax appeals. The
8 ~~commission~~ office of the commissioner of tax appeals may supply copies of the
9 transcript of those recordings to anyone requesting them, at the expense of the
10 person making such request. All moneys received by the ~~commission~~ office of the
11 commissioner of tax appeals from the sale of transcripts of those recordings shall be
12 paid into the state treasury within one week after receipt. If no party to a matter
13 pending before the ~~commission~~ office of the commissioner of tax appeals requests
14 that the proceedings held with respect thereto be recorded, and the ~~commission~~ office
15 of the commissioner of tax appeals does not so order upon its own motion, all parties
16 shall be deemed to have waived all rights of appeal to the courts upon questions as
17 to the admission or exclusion of evidence or as to whether a finding of the ~~commission~~
18 office of the commissioner of tax appeals is warranted by the evidence. The right of
19 appeal upon questions of law raised by the pleadings or by facts stipulated or shown
20 by the findings of the ~~commission~~ office of the commissioner of tax appeals is not
21 waived.

22 (d) ~~Any member of the commission~~ The tax appeals commissioner or any
23 employee of the ~~commission~~ office of the commissioner of tax appeals, designated in
24 writing for the purpose by the ~~chairperson~~ tax appeals commissioner, may
25 administer oaths, and ~~any member of the commission~~ the tax appeals commissioner

1 or any hearing examiner designated by the tax appeals commissioner may summon
2 and examine witnesses and require by subpoena the production of all returns, books,
3 papers, documents, correspondence and other evidence pertaining to the matter
4 under inquiry, at any designated place of hearing and may require the taking of a
5 deposition before any person competent to administer oaths, either within or without
6 the state, upon notice to the interested party in like manner that depositions of
7 witnesses are taken in civil actions pending in the circuit court. Any party to a matter
8 pending before the commission office of the commissioner of tax appeals may
9 summon witnesses or require the production of papers in the same manner as
10 witnesses are summoned or papers required to be produced in civil actions in the
11 circuit court. Any person summoned or whose deposition is taken shall receive the
12 same fees and mileage as would be allowed in a civil action pending in the circuit
13 court, and the expense thereof shall be paid by the person summoning such witness
14 or causing the deposition to be taken.

15 (dn) In connection with the hearing of any matter required to be heard and
16 decided by the commission office of the commissioner of tax appeals, except appeals
17 arising under s. 70.64 or ch. 76, ~~the chairperson or any member of the commission~~
18 person assigned to hear the matter may, with the consent of the parties, render an
19 oral decision. In small claims cases, ~~the presiding commissioner~~ person assigned to
20 hear the matter may, without consent of the parties, either render an oral decision
21 at the close of the hearing or provide a written decision to all parties within 2 weeks
22 after the hearing. Decisions in small claims cases are not precedents. Any party may
23 appeal such oral decision as provided in s. 73.015. Oral decisions constitute notice
24 for purposes of determining the time in which appeals may be taken. Provisions of

1 this section or ch. 227 in conflict with this paragraph do not apply to decisions
2 rendered under this paragraph.

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

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

23 2. Except for hearings on ss. 341.405 and 341.45, the department of revenue
24 may choose not to appeal and to nonacquiesce in the decision or order by sending a
25 notice of nonacquiescence to the clerk of the ~~commission~~ office of the commissioner

1 of tax appeals, to the revisor of statutes for publication in the Wisconsin
2 administrative register and to the taxpayer or the taxpayer's representative before
3 the time expires for seeking a review of the decision or order under s. 73.015. The
4 effect of this action is that, although the decision or order is binding on the parties
5 for the instant case, the ~~commission's~~ conclusions of law, the rationale, and the
6 construction of statutes in the instant case, as determined by the office of the
7 commissioner of tax appeals, are not binding upon or required to be followed by the
8 department of revenue in other cases.

9 (f) All reports, findings, decisions and opinions of the ~~commission~~ office of the
10 commissioner of tax appeals, and all evidence received by the ~~commission~~ office of
11 the commissioner of tax appeals, including a transcript of any report of the
12 proceedings, shall be open to the inspection of the public, except that the originals
13 of books, documents, records, labels, diagrams, and other exhibits introduced in
14 evidence before the ~~commission~~ office of the commissioner of tax appeals, may be
15 withdrawn from the custody of the ~~commission~~ office of the commissioner of tax
16 appeals in such manner and upon such terms as the ~~commission~~ office of the
17 commissioner of tax appeals may, in its discretion, prescribe.

18 (g) The ~~commission~~ office of the commissioner of tax appeals shall, in
19 manufacturing property redeterminations under s. 70.995 for which a refund is due
20 a taxpayer because of a reduction in value by the ~~commission~~ office of the
21 commissioner of tax appeals, include in its determination a finding of whether the
22 reduction was due to false or incomplete information supplied by the taxpayer.

23 (h) The ~~commission~~ office of the commissioner of tax appeals may extend any
24 of its deadlines for persons designated in section 7508 (a) of the internal revenue code
25 for the length of time specified in that section.

1 (i) If the department of revenue assesses under s. 71.74 (9), the ~~commission~~
2 office of the commissioner of tax appeals shall consolidate the appeals of that
3 assessment.

4 SECTION 47. 73.01 (4m) of the statutes is amended to read:

5 73.01 (4m) DEADLINE FOR DECISIONS. (a) The final decision or order of the
6 ~~commission office of the commissioner of tax appeals~~ shall be issued within 90 days
7 after the date on which the last document necessary to the decision of the matter is
8 received or the date on which a hearing is closed, whichever is later, unless good
9 cause is shown or unless the parties and the ~~commission~~ office of the commissioner
10 of tax appeals agree to an extension.

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

16 (c) If a ~~member of the commission, including the chairperson, or its~~ hearing
17 ~~examiner~~ or the tax appeals commissioner is unable to comply with the deadline
18 under par. (a), that person shall so certify in the record, and the period is then
19 extended for one additional period not to exceed 90 days.

20 SECTION 48. 73.01 (5) of the statutes is amended to read:

21 73.01 (5) APPEALS TO ~~COMMISSION~~ THE OFFICE OF THE COMMISSIONER OF TAX
22 APPEALS. (a) Any person who is aggrieved by a determination of the state board of
23 assessors under s. 70.995 (8) or who has filed a petition for redetermination with the
24 department of revenue and who is aggrieved by the redetermination of the
25 department of revenue may, within 60 days of the determination of the state board

1 of assessors or of the department of revenue or, in all other cases, within 60 days after
2 the redetermination but not thereafter, file with the clerk of the ~~commission~~ office
3 of the commissioner of tax appeals a petition for review of the action of the
4 department of revenue and the number of copies of the petition required by rule
5 adopted by the ~~commission~~ office of the commissioner of tax appeals. Any person who
6 is aggrieved by a determination of the department of transportation under s. 341.405
7 or 341.45 may, within 30 days after the determination of the department of
8 transportation, file with the clerk of the ~~commission~~ office of the commissioner of tax
9 appeals a petition for review of the action of the department of transportation and
10 the number of copies of the petition required by rule adopted by the ~~commission~~ office
11 of the commissioner of tax appeals. If a municipality appeals, its appeal shall set
12 forth that the appeal has been authorized by an order or resolution of its governing
13 body and the appeal shall be verified by a member of that governing body as
14 pleadings in courts of record are verified. The clerk of the ~~commission~~ office of the
15 commissioner of tax appeals shall transmit one copy to the department of revenue,
16 or to the department of transportation, and to each party. In the case of appeals from
17 manufacturing property assessments, the person assessed shall be a party to a
18 proceeding initiated by a municipality. At the time of filing the petition, the
19 petitioner shall pay to the ~~commission~~ office of the commissioner of tax appeals a \$25
20 filing fee. The ~~commission~~ office of the commissioner of tax appeals shall deposit the
21 fee in the general fund. Within 30 days after such transmission the department of
22 revenue, except for petitions objecting to manufacturing property assessments, or
23 the department of transportation, shall file with the clerk of the ~~commission~~ office
24 of the commissioner of tax appeals an original and the number of copies of an answer
25 to the petition required by rule adopted by the ~~commission~~ office of the commissioner

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

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

1 **SECTION 49.** 73.015 (title) of the statutes is amended to read:

2 **73.015 (title) Review of determination of the office of the commissioner**
3 **of tax appeals commission.**

4 **SECTION 50.** 73.015 (1) of the statutes is amended to read:

5 73.015 (1) This section shall provide the sole and exclusive remedy for review
6 of any decision or order of the office of the commissioner of tax appeals commission
7 and no person may contest, in any action or proceeding, any matter reviewable by
8 the ~~commission~~ office of the commissioner of tax appeals unless such person has first
9 availed himself or herself of a hearing before the ~~commission~~ office of the
10 commissioner of tax appeals under s. 73.01 or has cross–appealed under s. 70.995 (8)
11 (a).

12 **SECTION 51.** 73.015 (2) of the statutes is amended to read:

13 73.015 (2) Any adverse determination of the office of the commissioner of tax
14 appeals commission is subject to review in the manner provided in ch. 227. If the
15 circuit court construes a statute adversely to the contention of the department of
16 revenue, the department shall be deemed to acquiesce in the construction so adopted
17 unless an appeal to the court of appeals is taken, and the construction so acquiesced
18 in shall thereafter be followed by the department.

19 **SECTION 52.** 73.03 (22) of the statutes is amended to read:

20 73.03 (22) To appear by its counsel and represent the state in all matters before
21 the office of the commissioner of tax appeals commission. Except as provided in ch.
22 72 and in s. 76.08 (1), the department of justice shall provide legal counsel to appear
23 for the department in all courts, but with the consent of the attorney general a
24 member of the staff of the department may appear for the department.

25 **SECTION 53.** 73.03 (25) of the statutes is amended to read:

1 73.03 (25) To settle and dispose of tax cases or issues pending before the office
2 of the commissioner of tax appeals ~~commission~~ when, in the judgment of the
3 department of revenue, such action is warranted in the best interests of the state;
4 and, with the approval of the attorney general, to settle and dispose of tax cases or
5 issues pending in the courts.

6 **SECTION 54.** 73.04 (1) of the statutes is amended to read:

7 73.04 (1) CONTEMPTS. If any person unlawfully fails to obey any subpoena to
8 appear before the department of revenue or before the office of the commissioner of
9 tax appeals ~~commission~~, or unlawfully refuses to testify, such failure or refusal shall
10 be reported to the attorney general and the department of justice shall institute
11 contempt proceedings against such person.

12 **SECTION 55.** 73.07 (3) of the statutes is amended to read:

13 73.07 (3) The county board of any county shall provide rooms for the use of the
14 office of the commissioner of tax appeals ~~commission~~ upon the request of the
15 ~~chairperson of the commission~~ tax appeals commissioner. Hearings of the
16 ~~commission~~ office of the commissioner of tax appeals may also be held in the
17 department's district income tax office when the ~~chairperson of the commission~~ tax
18 appeals commissioner deems it advisable.

19 **SECTION 56.** 76.28 (4) (a) of the statutes is amended to read:

20 76.28 (4) (a) If after filing the reports specified in sub. (7) and after the
21 department's computation and assessment of license fees under sub. (2) it is
22 determined that the amount of gross revenues reported is in error, the department
23 shall compute the additional license fee to be paid or the amount of the overpayment
24 of license fee to be refunded, as the case may be. If an additional license fee is due,
25 the department shall give notice to the light, heat and power company against whom

1 the license fee is to be levied. All such additional assessments and claims for refunds
2 for excess license fees paid are subject to the same procedure for review and final
3 determination as additional income or franchise tax assessments and claims for
4 refunds under ch. 71 as far as the same may be applicable, except that appeals of
5 denials of claims for refunds shall be made directly to the office of the commissioner
6 of tax appeals ~~commission~~ and except that the additional license fees shall become
7 delinquent 60 days after notice provided in this subsection or, if review proceedings
8 are held, 60 days following final determination of the review proceedings. All
9 additional license fees shall bear interest at the rate of 12% per year from the time
10 they should have been paid to the date on which the additional fees shall become
11 delinquent if unpaid.

12 **SECTION 57.** 76.39 (4) (c) of the statutes is amended to read:

13 76.39 (4) (c) All additional assessments and claims for refund shall be subject
14 to the same procedure for review and final determination as is provided with respect
15 to additional assessments and refunds of income or franchise taxes in chs. 71 and 73,
16 except that appeals of denials of claims for refunds shall be made directly to the office
17 of the commissioner of tax appeals ~~commission~~ and except as the same may conflict
18 with this section. Delinquent taxes shall be subject to interest at the rate of 1.5% per
19 month until paid.

20 **SECTION 58.** 76.48 (6) of the statutes is amended to read:

21 76.48 (6) All additional assessments and claims for refund shall be subject to
22 the same procedure for review and final determination as is provided with respect
23 to additional assessments and refunds of income or franchise taxes under chs. 71 and
24 73, except that appeals of denials of claims for refunds shall be made directly to the

1 office of the commissioner of tax appeals ~~commission~~ and except as such procedure
2 conflicts with this section.

3 **SECTION 59.** 77.59 (6) (b) of the statutes is amended to read:

4 77.59 (6) (b) Appeals from the department's redeterminations shall be
5 governed by the statutes applicable to income or franchise tax appeals but all appeals
6 from decisions of the office of the commissioner of tax appeals ~~commission~~ with
7 respect to the taxes imposed by this subchapter shall be appealed to the circuit court
8 for Dane County.

9 **SECTION 60.** 77.60 (2) (c) of the statutes is amended to read:

10 77.60 (2) (c) In the case of deficiency determinations, on or before the due date
11 specified in the notice of deficiency, except that if the determination is contested
12 before the office of the commissioner of tax appeals ~~commission~~ or in the courts, on
13 or before the 30th day following the date on which the order or judgment
14 representing the final determination becomes final.

15 **SECTION 61.** 85.013 (2) (b) (intro.) of the statutes is amended to read:

16 85.013 (2) (b) (intro.) Any hearing under s. 227.42 shall be held before the office
17 of the commissioner of tax appeals ~~commission~~ under s. 73.01 if the hearing concerns
18 an additional assessment, refund or denial of refund under any of the following:

19 **SECTION 62.** 121.09 (1) of the statutes is amended to read:

20 121.09 (1) If, on or after July 1, 1980, the office of the commissioner of tax
21 appeals ~~commission~~ or a court makes a final redetermination on the assessment of
22 property subject to taxation under s. 70.995 that is lower than the previous
23 assessment, or if, on or after January 1, 1982, the state board of assessors makes a
24 final redetermination on the assessment of property subject to taxation under s.
25 70.995 that is lower than the previous assessment, the school board of the school

1 district in which the property is located may, within 4 years after the date of the
2 determination, decision, or judgment, file the determination of the state board of
3 assessors, the decision of the office of the commissioner of tax appeals ~~commission~~,
4 or the judgment of the court with the state superintendent, requesting an
5 adjustment in state aid to the school district. If the state superintendent determines
6 that the determination, decision, or judgment is final and that it has been filed
7 within the 4-year period, the state shall pay to the school district in the subsequent
8 fiscal year, from the appropriation under s. 20.255 (2) (ac), an amount equal to the
9 difference between the state aid computed under s. 121.08 for the school year
10 commencing after the year subject to the valuation recertification, using the school
11 district's equalized valuation as originally certified, and the state aid computed
12 under s. 121.08 for that school year using the school district's equalized valuation as
13 recertified under s. 70.57 (2).

14 **SECTION 63.** 121.09 (2) of the statutes is amended to read:

15 121.09 (2) If, on or after May 3, 1984, the state board of assessors, the office of
16 the commissioner of tax appeals ~~commission~~ or a court makes a final
17 redetermination on the assessment of property subject to taxation under s. 70.995
18 that is higher than the previous assessment, the state superintendent shall notify
19 the school district in which the property is located of the recertification by the
20 department of revenue under s. 70.57 (2). The state superintendent shall, in the
21 subsequent fiscal year, withhold from the school district's state aid entitlement
22 under s. 121.08 an amount equal to the difference between the state aid computed
23 under s. 121.08 for the school year commencing after the year subject to the valuation
24 recertification, using the school district's equalized valuation as originally certified,

1 and the state aid computed under s. 121.08 for that school year, using the school
2 district's equalized valuation as recertified under s. 70.57 (2).

3 ~~SECTION 64. 227.53 (1) (a) 1. of the statutes is amended to read:~~
4 ~~227.53 (1) (a) 1. Proceedings for review shall be instituted by serving a petition~~
5 ~~therefor personally or by certified mail upon the agency or one of its officials, and~~
6 ~~filing the petition in the office of the clerk of the circuit court for the county where~~
7 ~~the judicial review proceedings are to be held. If the agency whose decision is sought~~
8 ~~to be reviewed is the office of the commissioner of tax appeals commission, the~~
9 ~~banking review board, the credit union review board, the savings and loan review~~
10 ~~board or the savings bank review board, the petition shall be served upon both the~~
11 ~~agency whose decision is sought to be reviewed and the corresponding named~~
12 ~~respondent, as specified under par. (b) 1. to 5.~~

13 SECTION 65. 227.53 (1) (b) 1. of the statutes is amended to read:
14 227.53 (1) (b) 1. The office of the commissioner of tax appeals commission, the
15 department of revenue.

16 ~~SECTION 66. 227.53 (1) (d) of the statutes is amended to read:~~
17 ~~227.53 (1) (d) Except in the case of the office of the commissioner of tax appeals~~
18 ~~commission, the banking review board, the credit union review board, the savings~~
19 ~~and loan review board and the savings bank review board, the agency and all parties~~
20 ~~to the proceeding before it, shall have the right to participate in the proceedings for~~
21 ~~review. The court may permit other interested persons to intervene. Any person~~
22 ~~petitioning the court to intervene shall serve a copy of the petition on each party who~~
23 ~~appeared before the agency and any additional parties to the judicial review at least~~
24 ~~5 days prior to the date set for hearing on the petition.~~

25 SECTION 67. 341.43 (2) of the statutes is amended to read:

1 341.43 (2) Any person feeling aggrieved by a notice under this section of
2 additional assessment, refund or denial of refund may, within 30 days after the
3 receipt of the notice, petition the department for a redetermination. A person feeling
4 aggrieved by a redetermination may appeal to the office of the commissioner of tax
5 ~~appeals commission~~ in the manner provided for appeals of tax determinations under
6 s. 73.01 (5). If an appeal of a redetermination is not filed within the time period
7 provided under s. 73.01 (5), the redetermination is final and conclusive.

8 **SECTION 9145. Nonstatutory provisions; revenue.**

9 (1) TAX APPEALS COMMISSIONER. All of the following apply to the tax appeals
10 commission under section 15.105 (1) of the statutes, as affected by this act, and the
11 office of the commissioner of tax appeals under section 15.105 (1m) of the statutes,
12 as created by this act:

13 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
14 liabilities of the tax appeals commission shall become the assets and liabilities of the
15 office of the commissioner of tax appeals.

16 (b) *Employee transfers.* All incumbent employees holding positions in the tax
17 appeals commission are transferred on the effective date of this paragraph to the
18 office of the commissioner of tax appeals.

19 (c) *Employee status.* Employees transferred under paragraph (b) have all the
20 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
21 statutes in the office of the commissioner of tax appeals that they enjoyed in the tax
22 appeals commission immediately before the transfer. Notwithstanding section
23 230.28 (4) of the statutes, no employee so transferred who has attained permanent
24 status in class is required to serve a probationary period.

1767/3 dv
jlc

D-N

↑

This draft reconciles LRB-1767/2 and LRB-1680/10 Both

LRB-1767 and LRB-1680 should continue to appear in

the compiled bills

jlc

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1767/3dn
JK:wlj:rs

February 5, 2003

This draft reconciles LRB-1767/2 and LRB-1680/1. Both LRB-1767 and LRB-1680 should continue to appear in the compiled bill.

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