

2007 ASSEMBLY BILL 580

November 13, 2007 – Introduced by Representatives GOTTLIEB, SINICKI, BIES, FIELDS, HAHN, JESKEWITZ, A. OTT, RICHARDS, TAUCHEN, TURNER, A. WILLIAMS and ZEPNICK, cosponsored by Senators COGGS, PLALE, BRESKE, COWLES and OLSEN. Referred to Committee on Urban and Local Affairs.

1 **AN ACT to amend** 70.47 (13), 70.47 (16) (a), 73.03 (2a), 74.37 (4) (c) and 74.37 (5);
2 **and to create** 70.47 (7) (c), 70.47 (8) (j), 70.47 (16) (c) and 74.37 (4) (d) of the
3 statutes; **relating to:** objecting to property tax assessments.

Analysis by the Legislative Reference Bureau

Under current law, if a taxation district assessor assesses any property at a value that is different from the property's value in the previous year, the assessor must notify the property owner of the changed assessment, in writing, at least 15 days before the first meeting of the taxation district board of review (board). Any taxpayer who receives a notice of changed assessment may challenge the assessment by submitting an objection to the board. The board then holds a hearing on the objection and, ultimately, decides whether the assessor's assessment is correct or whether the assessment should be changed based on the taxpayer's objection. If the taxpayer does not agree with the decision of the board, the taxpayer may appeal the decision to the circuit court (court). If the court finds any error in the board's proceedings that renders the assessment or the proceedings void, the court remands the assessment to the board for further proceedings, in accordance with the court's order.

Under this bill, the board must grant a taxpayer a 60-day extension for a hearing of the taxpayer's objection to a changed assessment, if the taxation district has enacted an ordinance authorizing such extensions and if the taxpayer submits a request for the extension along with the objection and payment of a \$100 fee. In addition, if the taxation district has enacted an ordinance authorizing extensions,

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each taxpayer who submits an objection, regardless of whether the taxpayer has requested an extension, and the assessor must present to the board all evidence, as specified by the Department of Revenue in its assessment manual, to support their respective positions related to the assessment. At least 10 days before the hearing on the objection, the taxpayer and the assessor must simultaneously exchange all evidence that each one will present at the hearing.

Under the bill, if the taxpayer appeals the board's decision to the court and the court finds an error in the board's proceedings that void the assessment, the court shall remand the assessment to the board to determine the assessment based on the court's order.

Under the bill, if the taxpayer challenges the board's value determination, the court presumes that the board's valuation is correct, except that the presumption may be rebutted by a sufficient showing by the taxpayer that the valuation is incorrect. If the presumption is rebutted, the court determines the assessment based on the record before the board, except that the court may consider evidence that was not available at the time of the hearing before the board or that the board refused to consider. Finally, in the event that an objection to an assessment has not been resolved, the parties may agree that the previous year's assessment will apply to the current year's assessment.

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

1 **SECTION 1.** 70.47 (7) (c) of the statutes is created to read:

2 70.47 (7) (c) The board of review shall grant a taxpayer a 60-day extension for
3 a hearing related to the taxpayer's objection submitted under this section, if the
4 taxation district enacts an ordinance authorizing such extensions and if the taxpayer
5 submits with the objection a request to the board for an extension and pays the
6 taxation district a \$100 fee. If a taxation district enacts an ordinance under this
7 paragraph, each taxpayer who submits an objection under this section, regardless
8 of whether the taxpayer requests an extension, and the assessor shall present to the
9 board of review all evidence, as specified in the manual under s. 73.03 (2a) to support
10 their respective positions. If the taxpayer receives an extension under this
11 paragraph, at least 10 days before the scheduled board of review hearing, the
12 taxpayer and the assessor shall simultaneously exchange all reports, documents,

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1 and exhibits that the taxpayer and assessor will present at the hearing. At least 60
2 days prior to the first day on which the board of review hears objections, each
3 taxation district that enacts an ordinance under this paragraph shall publish on its
4 Internet site the last day on which a taxpayer may submit an objection under this
5 paragraph. At least 15 days prior to the first day on which the board of review hears
6 objections, each taxation district that enacts an ordinance under this paragraph
7 shall include with the notice under s. 70.365 information to inform the taxpayer of
8 the last day on which a taxpayer may submit an objection under this section.

9 **SECTION 2.** 70.47 (8) (j) of the statutes is created to read:

10 70.47 (8) (j) The board shall allow a reasonable amount of time for a hearing
11 under this paragraph.

12 **SECTION 3.** 70.47 (13) of the statutes is amended to read:

13 70.47 (13) CERTIORARI. Except as provided in s. 70.85, appeal from the
14 determination of the board of review shall be by an action for certiorari commenced
15 within 90 days after the taxpayer receives the notice under sub. (12). The action shall
16 be given preference. If the court on the appeal finds any error in the proceedings of
17 the board which renders the assessment or the proceedings void, it shall remand the
18 assessment to the board for further proceedings in accordance with the court's
19 determination and retain jurisdiction of the matter until the board has determined
20 an assessment in accordance with the court's order. For this purpose, if final
21 adjournment of the board occurs prior to the court's decision on the appeal, the court
22 may order the governing body of the assessing authority to reconvene the board. If
23 the objector challenges the board's value determination, the court shall presume that
24 the board's valuation is correct, except that the presumption may be rebutted by a
25 sufficient showing by the objector that the valuation is incorrect. If the presumption

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1 is rebutted, the court shall determine the assessment based on the record before the
2 board of review, except that the court may consider evidence that was not available
3 at the time of the hearing before the board or that the board refused to consider. In
4 the event that an objection to the previous year's assessment has not been resolved,
5 the parties may agree that the assessment for the previous year shall also apply for
6 the current year.

7 **SECTION 4.** 70.47 (16) (a) of the statutes is amended to read:

8 70.47 **(16)** (a) In 1st class cities all objections to the amount or valuation of real
9 or personal property shall be first made in writing and filed with the commissioner
10 of assessments on or before the 3rd Monday in May. No person may, in any action
11 or proceeding, question the amount or valuation of real or personal property in the
12 assessment rolls of the city unless objections have been so filed. The board may not
13 waive the requirement that objections be in writing. Persons who own land and
14 improvements to that land may object to the aggregate valuation of that land and
15 improvements to that land, but no person who owns land and improvements to that
16 land may object only to the valuation of that land or only to the valuation of
17 improvements to that land. If the objections have been investigated by a committee
18 of the board of assessors under s. 70.07 (6), the board of review may adopt the
19 recommendation of the committee unless the objector requests or the board orders
20 a hearing. At least 2 days' notice of the time fixed for the hearing shall be given to
21 the objector or attorney and to the city attorney of the city. The provisions of the
22 statutes relating to boards of review not inconsistent with this subsection apply to
23 proceedings before the boards of review of 1st class cities, except that the board need
24 not adjourn until the assessment roll is completed by the commissioner of
25 assessments, as required in s. 70.07 (6), but may immediately hold hearings on

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1 objections filed with the commissioner of assessments, and the changes, corrections
2 and determinations made by the board acting within its powers shall be prima facie
3 correct. Appeal from the determination shall be by an action for certiorari
4 commenced within 90 days after the taxpayer receives the notice under sub. (12).
5 The action shall be given preference. If the court on the appeal finds any error in the
6 proceedings of the board that renders the assessment or the proceedings void, it shall
7 remand the assessment to the board for further proceedings in accordance with the
8 court's determination and retain jurisdiction of the matter until the board has
9 determined an assessment in accordance with the court's order. If the objector
10 challenges the board's value determination, the court shall presume that the board's
11 valuation is correct, except that the presumption may be rebutted by a sufficient
12 showing by the objector that the valuation is incorrect. If the presumption is
13 rebutted, the court shall determine the assessment based on the record before the
14 board of review, except that the court may consider evidence that was not available
15 at the time of the hearing before the board or that the board refused to consider. In
16 the event that an objection to the previous year's assessment has not been resolved,
17 the parties may agree that the assessment for the previous year shall also apply for
18 the current year.

19 **SECTION 5.** 70.47 (16) (c) of the statutes is created to read:

20 70.47 (16) (c) The board of review shall grant a taxpayer a 60-day extension
21 for a hearing related to the taxpayer's objection submitted under this section, if the
22 1st class city enacts an ordinance authorizing such extensions and if the taxpayer
23 submits with the objection a request to the board for an extension and pays the city
24 a \$100 fee. If a 1st class city enacts an ordinance under this paragraph, each
25 taxpayer who submits an objection under this section, regardless of whether the

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1 taxpayer requests an extension, and the assessor shall present to the board of review
2 all evidence, as specified in the manual under s. 73.03 (2a), to support their
3 respective positions. If the taxpayer receives an extension under this paragraph, at
4 least 10 days before the scheduled board of review hearing, the taxpayer and the
5 assessor shall simultaneously exchange all reports, documents, and exhibits that the
6 taxpayer and assessor will present at the hearing. At least 60 days prior to the first
7 day on which the board of review hears objections, each 1st class city that enacts an
8 ordinance under this paragraph shall publish on its Internet site the last day on
9 which a taxpayer may submit an objection under this section. At least 15 days prior
10 to the first day on which the board of review hears objections, each 1st class city that
11 enacts an ordinance under this paragraph shall include with the notice under s.
12 70.365 information to inform the taxpayer of the last day on which a taxpayer may
13 submit an objection under this section.

14 **SECTION 6.** 73.03 (2a) of the statutes is amended to read:

15 73.03 (2a) To prepare, have published and distribute to each property tax
16 assessor and to others who so request assessment manuals. The manual shall
17 discuss and illustrate accepted assessment methods, techniques and practices with
18 a view to more nearly uniform and more consistent assessments of property at the
19 local level. The manual shall be amended by the department from time to time to
20 reflect advances in the science of assessment, court decisions concerning assessment
21 practices, costs, and statistical and other information considered valuable to local
22 assessors by the department. The manual shall incorporate standards for the
23 assessment of all types of renewable energy resource systems used in this state as
24 soon as such systems are used in sufficient numbers and sufficient data exists to
25 allow the formulation of valid guidelines. The manual shall incorporate standards,

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1 which the department of revenue and the state historical society of Wisconsin shall
2 develop, for the assessment of nonhistoric property in historic districts and for the
3 assessment of historic property, including but not limited to property that is being
4 preserved or restored; property that is subject to a protective easement, covenant or
5 other restriction for historic preservation purposes; property that is listed in the
6 national register of historic places in Wisconsin or in this state's register of historic
7 places and property that is designated as a historic landmark and is subject to
8 restrictions imposed by a municipality or by a landmarks commission. The manual
9 shall incorporate general guidelines about ways to determine whether property is
10 taxable in part under s. 70.1105 and examples of the ways that s. 70.1105 applies in
11 specific situations. The manual shall state that assessors are required to comply with
12 s. 70.32 (1g) and shall suggest procedures for doing so. The manual or a supplement
13 to it shall specify per acre value guidelines for each municipality for various
14 categories of agricultural land based on the income that could be generated from its
15 estimated rental for agricultural use, as defined by rule, and capitalization rates
16 established by rule. The manual shall include guidelines for classifying land as
17 agricultural land, as defined in s. 70.32 (2) (c) 1g., and guidelines for distinguishing
18 between land and improvements to land. The manual shall specify the evidence to
19 be exchanged under s. 70.47 (7) (c) and (16) (c). The cost of the development,
20 preparation, publication and distribution of the manual and of revisions and
21 amendments to it shall be borne by the assessors and requesters at an individual
22 volume cost or a subscription cost as determined by the department. All receipts
23 shall be credited to the appropriation under s. 20.566 (2) (hi). The department may
24 provide free assessment manuals to other state agencies or exchange them at no cost

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1 with agencies of other states or of the federal government for similar information or
2 publications.

3 **SECTION 7.** 74.37 (4) (c) of the statutes is amended to read:

4 74.37 (4) (c) No claim or action for an excessive assessment may be brought or
5 maintained under this section if the assessment of the property for the same year is
6 contested under s. 70.47 (7) (c), (13), or (16) (c) or 70.85. No assessment may be
7 contested under s. 70.47 (7) (c), (13), or (16) (c) or 70.85 if a claim is brought and
8 maintained under this section based on the same assessment.

9 **SECTION 8.** 74.37 (4) (d) of the statutes is created to read:

10 74.37 (4) (d) No claim or action for an excessive assessment may be brought or
11 maintained under this section if the taxation district in which the property is located
12 enacts an ordinance under s. 70.47 (7) (c) or if the 1st class city in which the property
13 is located enacts an ordinance under s. 70.47 (16) (c), except that this paragraph does
14 not apply if the taxation district or the 1st class city did not comply with s. 70.365.

15 **SECTION 9.** 74.37 (5) of the statutes is amended to read:

16 74.37 (5) INTEREST. The amount of a claim filed under sub. (2) or an action
17 commenced under sub. (3) may include interest ~~computed from the date of filing the~~
18 ~~claim against the taxation district, at the rate of 0.8% per month~~ at the average
19 annual discount rate determined by the last auction of 6-month U.S. treasury bills
20 before the objection per day for the period of time between the time when the tax was
21 due and the date that the claim was paid.

22 **SECTION 10. Initial applicability.**

23 (1) This act first applies to the property tax assessments as of January 1, 2008.

24

(END)