

2015 DRAFTING REQUEST

Bill

Received: 12/19/2014 Received By: mshovers
Wanted: As time permits Same as LRB:
For: Administration-Budget 6-1923 By/Representing: Quinn
May Contact: Drafter: mshovers
Subject: Tax, Property - other Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email:
Carbon copy (CC) to: joseph.kreye@legis.wisconsin.gov
sbostatlanguage@webapps.wi.gov

Pre Topic:

DOA:.....Quinn, BB0317 -

Topic:

Change certification procedures for DOR assessors

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 12/19/2014			_____			
/1	mshovers 1/16/2015	eweiss 12/23/2014	jmurphy 12/26/2014	_____	mbarman 12/26/2014		State S&L
/2		jdyer 1/17/2015	jmurphy 1/18/2015	_____	lparisi 1/19/2015		State S&L

FE Sent For:

<END>

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/?	mshovers 12/19/2014	<i>2/17 jld</i>		_____			
/1		eweiss 12/23/2014	jmurphy 12/26/2014	_____	mbarman 12/26/2014		State S&L
	<i>1/2 MES 4/16/15</i>		<i>jm 1/18</i>	<i>jm 1/18</i>			

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1?	mshovers	1 emw 12/23/14	1 emw 12/23/14				
/IMES		12/19/14		Jim + EMW 12/26			

FE Sent For:

<END>

Kreye, Joseph

From: Hanaman, Cathlene
Sent: Thursday, December 18, 2014 2:09 PM
To: Kreye, Joseph; Shovers, Marc
Subject: FW: Statutory Language Drafting Request - BB0317
Attachments: Modernization of Assessor Standards.pdf

From: brian.quinn@wisconsin.gov [mailto:brian.quinn@wisconsin.gov]
Sent: Thursday, December 18, 2014 1:51 PM
To: Hanaman, Cathlene
Cc: Ziegler, Paul - DOA; Quinn, Brian D - DOA; Connor, Christopher B - DOA
Subject: Statutory Language Drafting Request - BB0317

Biennial Budget: 2015-17

Topic: Assessor Standards Reforms

Tracking Code: BB0317

SBO Team: TLGED

SBO Analyst: Quinn, Brian D - DOA
Phone: (608) 266-1923
E-mail: brian.quinn@wisconsin.gov

Agency Acronym: DOR

Agency Number: 566

Priority: Low

Intent:

1. Adjust licensure deadlines of DOR assessors to align with other probationary periods.
2. Create lesser penalties other than revocation for disciplining assessors
3. Eliminate exam exception to continuing education.

Attachments: True

Please send completed drafts to SBOSatlanguage@webapps.wi.gov



State of Wisconsin • DEPARTMENT OF REVENUE

2135 RIMROCK ROAD • Mail Stop 624A • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-6466 • FAX (608) 266-5718
<http://www.revenue.wi.gov>

Scott Walker
Governor

Richard G. Chandler
Secretary of Revenue

MEMORANDUM

DATE: November 5, 2014
TO: Michael Heifetz
State Budget Director
FROM: Richard G. Chandler
Secretary of Revenue
SUBJECT: Modernization of Assessor Standards

The Department of Revenue certifies a single occupation, assessors. The Department is also responsible for ongoing assessor training, assessor discipline for misconduct, and development and publication of the *Wisconsin Property Assessment Manual*.

While the practice of assessing continues to modernize and DOR has ushered in significant improvements, including electronic records and use of the standardized Municipal Assessment Report, statutes governing the practice have not kept pace.

Updating assessor certification laws, as outlined in this memo, is germane for budget consideration because the proposed changes either 1) affect DOR's current staffing and probation standards; 2) directly pertain to administering property tax laws; or 3) both.

Background

- In addition to licensing assessors, the Department of Revenue employs assessors. Statutes require DOR personnel to obtain certification within 100 days of appointment.
- The Secretary has the authority to revoke the certification of any assessor for fraud or deceit in obtaining certification or for any negligence, incompetence, or misconduct. The Secretary has no lesser methods of enforcement available by statute for minor infractions or to promote performance improvements.
- Assessors have two options in order to maintain certification. 1) Assessors must attend at least four of the previous five DOR annual training sessions either in person or via Internet and participate in continuing education, or 2) pass the basic certification exam.

Recommendation and Discussion

- Probationary periods at the Department are typically either six months or one year. The probationary period is much longer than the current 100 day threshold in statute for obtaining assessor certification. DOR-employed assessors could benefit

from on-the-job training to assist in their preparation for the assessor certification exam. The current 100 day threshold limits the ability to learn on the job by condensing the study period to end long before the probationary period does.

DOR recommends changing the certification threshold from 100 days to instead match the conclusion of the initial probationary employment period for new assessors.

- License revocation is the most severe penalty available against a person's occupation. The ability to revoke, but not to suspend or order training, presents the Secretary of Revenue with an all or nothing option. Revoking a license for a minor infraction is a disproportionate penalty, so the Department is left with little recourse other than to make recommendations for improvement. Similarly, the Department's goal is not to revoke licensure for underperforming assessors but rather to work with them to remedy weaknesses through training and continuing education. However, the Department can only encourage and not compel, which can transform correctable problems in the short term into growing deficiencies later on.

DOR recommends amending state law to provide DOR with the authority to order assessors to attend education, suspend certification, or order other corrective measures after a finding of fraud or deceit in obtaining certification, or any negligence, incompetence, or misconduct by the assessor.

- The option under current law that allows assessors to maintain licensure by either 1) attending DOR training and participating in continuing education, or 2) simply passing the basic certification exam allows weaker assessors who have limited interest in improving their performance the ability to keep their licensure.

State property tax laws change nearly every year by way of new exemptions or assessing standards. Similarly, the whole purpose of assessing is to determine property values in a dynamic economic environment. Since the economic environment constantly changes, assessing standards and techniques must also be continually updated and improved to reflect the market.

The current training and continuing education standard is necessary and certainly accommodating. Assessors can either attend DOR training in-person or participate any time via the Internet. The continuing education component is fairly minimal (averaging about 6 hours a year) and can occur in a wide variety of settings throughout the state, usually programs run by the Wisconsin Towns Association or the Wisconsin League of Municipalities. Assessors utilizing the alternative exam option skip development and use the exam as a way to keep licensure without keeping updated with the ever-changing assessing environment. The exam measures basic competencies and is appropriate for new assessors; it does not serve as an adequate tool to ensure continual growth and expertise of the profession.

DOR recommends amending state law to keep the current standard to require attendance at DOR's annual meetings, either in-person or anytime online, and participate in continuing education for re-certification. DOR recommends eliminating the exam as an alternative to the training and continuing education

standard. If an assessor does not attend training and participate in continuing education, the certification would be suspended for a period of one year before the individual could attend and take an exam to recertify.

Please feel free to contact me at 266-6466 with any questions that you may have.

Attachment A – Drafting Instructions

DRAFTING INSTRUCTIONS

1. Amend 73.09(2):

The requirements established for local assessment personnel under sub. (1) shall also apply to department of revenue assessment personnel commencing on January 1, 1981. The office of state employment relations with the assistance of the department of revenue shall determine the position classifications for which certification shall apply within the department of revenue. The first level of certification shall be obtained in a time frame consistent with the employment practices of the department 100 days of the employee's appointment. The department of revenue in consultation with the office of state employment relations shall establish requirements for obtaining higher levels of assessor certification.

2. Amend 73.09(7)(a):

The secretary of revenue or a designee may revoke or suspend the certification or order corrective action of any assessor, assessment personnel or expert appraiser for the practice of any fraud or deceit in obtaining certification, or any negligence, incompetence or misconduct, including making a fraudulent change in the assessment roll after it is opened for examination under s. 70.47 (3).

3. Amend 73.09(4)(b):

Persons may be recertified by passing an examination as provided in sub. (5) or by attending ~~ance~~ for 4 of the previous 5 years at annual meetings called by the department of revenue under s. 73.06 (1) and by meeting continuing education requirements determined by the department of revenue. A failure to attend more than one annual meeting or meet the continuing education requirements in any recertification cycle will result in a one year revocation of certification. The department may reinstate a revoked certification under this sec. if the person requests reinstatement after at least one year after the department's revocation of the certification if the person attends the next annual meeting under s. 73.06 (1) after the revocation, passes an examination as provided in sub. (5), and the department approves the request.



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-0992/7
MES.....

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RMR

DOA:.....Quinn, BB0317 - Change certification procedures for DOR assessors

FOR 2015-2017 BUDGET — NOT READY FOR INTRODUCTION

12/26

IN
12/19

do not gen

SA ✓
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1

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

Analysis by the Legislative Reference Bureau

TAXATION

PROPERTY TAXATION

Under current law, DOR certifies assessors and the secretary or designee may revoke an assessor's certification for a number of offenses, including fraud or deceit in obtaining certification, or any negligence, incompetence, or misconduct. The secretary or designee may also impose such a penalty on assessment personnel or an expert appraiser. Under the bill, the secretary or designee may also suspend the certification or order corrective action for such personnel for such offenses.

With regard to DOR assessment personnel, the department and the office of state employment relations determine the position classifications for which certification shall apply within DOR. Currently, the first level of certification must be obtained within 100 days of the employee's appointment. Under the bill, the first level of certification must be obtained in a time frame consistent with the employment practices of DOR.

Currently, assessors may be recertified by passing an examination or by attending ^{four} 4 of the previous ^{five} 5 annual meetings called by DOR to train assessment personnel and by meeting continuing education requirements as determined by DOR. Under the bill, the option to obtain recertification by passing an examination

* is repealed. Also under the bill, if a person fails to attend more than one annual meeting or comply with the continuing education requirements during any 5 year ^{five-year} recertification cycle, the person's certification will be revoked for one year. DOR may reinstate certification if the person requests reinstatement not sooner than the first day of the 13th month following revocation and if the person both attends the next annual meeting after his or her revocation and passes an examination given by DOR.

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:

^X
SECTION 1. 73.09 (2) of the statutes is amended to read:

73.09 (2) DEPARTMENT OF REVENUE ASSESSMENT PERSONNEL. The requirements established for local assessment personnel under sub. (1) shall also apply to department of revenue assessment personnel commencing on January 1, 1981. The office of state employment relations with the assistance of the department of revenue shall determine the position classifications for which certification shall apply within the department of revenue. The first level of certification shall be obtained ~~within 100 days of the employee's appointment in a time frame consistent with the employment practices of the department.~~ The department of revenue in consultation with the office of state employment relations shall establish requirements for obtaining higher levels of assessor certification.

History 1979 c. 221; 1981 c. 20 s. 1039; 1983 a. 27 ss. 1264v, 2200 (15); 1985 a. 120; 1991 a. 39, 316; 1997 a. 237; 2003 a. 33 ss. 1626, 1627, 9160; 2009 a. 234; 2013 a. 36.

* ^X
****NOTE: This subsection is drafted according to your instructions, but it seems to be a little vague. There is really no discernible standard as to what constitutes "a time frame consistent with the employment practices of the department." Do you want a ^{more} specific standard to apply? *

^X
SECTION 2. 73.09 (4) (b) of the statutes is renumbered 73.09 (4) (b) (intro.) and amended to read:

^{plain}
73.09 (4) (b) (intro.) Persons may be recertified by ~~passing an examination as provided in sub. (5) or by attendance for attending~~ 4 of the previous ^{years at} 5 annual ^{years at} annual

1 meetings called by the department of revenue under s. 73.06 (1) and by meeting
 2 continuing education requirements determined by the department of revenue. A
 3 failure to attend more than one annual meeting or meet the continuing education
 4 requirements in any 5⁼ⁿ year recertification cycle shall result in a one⁼ⁿ year revocation
 5 of certification. The department may reinstate a certification that is revoked under
 6 this section if the person requests reinstatement no sooner than the first day of the
 7 thirteenth^{13th} month beginning after the department's revocation of the certification
 8 and if all of the following apply:

History: 1979 c. 221; 1981 c. 20 s. 1039; 1983 a. 27 ss. 1264v, 2200 (15); 1985 a. 120; 1991 a. 39, 316; 1997 a. 237; 2003 a. 33 ss. 1626, 1627, 9160; 2009 a. 234; 2013 a. 36.

****NOTE: This intro. is drafted based on your instructions, but I'm not sure it works. The intro. seems to say that if an assessor fails to meet the standards within a 5ⁿ year period his or her certification is revoked for one year; this implies that that the revocation expires in one year. The next sentence, however, authorizes DOR to reinstate the certification if certain things occur. Isn't the oneⁿ year revocation actually permanent unless the person asks to be recertified, meets the necessary steps, and receives DOR approval? I'm not sure what the effect is of stating it's a oneⁿ year revocation if the person really can't be reinstated without meeting the state requirements.

****NOTE: In addition, your instructions refer to someone who is revoked "under this section"; do you mean "under this paragraph" or "subsection" as people may also be revoked under sub. (7)? If you do mean "under this section", there seems to be a conflict with the reinstatement provisions under sub. (7) (e).

9 SECTION 3. 73.09 (4) (b) 1. of the statutes is created to read:

10 73.09 (4) (b) 1. The person attends the next annual meeting under s. 73.06 (1) [✓]
 11 after the revocation.

12 SECTION 4. 73.09 (4) (b) 2. of the statutes is created to read:

13 73.09 (4) (b) 2. The person passes an examination as provided in sub. (5).

14 SECTION 5. 73.09 (4) (b) 3. of the statutes is created to read:

15 73.09 (4) (b) 3. The department approves the request.

****NOTE: ^{Subdivision} (Subd) 3 seems redundant as the intro. states "DOR may reinstate . . . if all of the following apply."

16 SECTION 6. 73.09 (7) (a) of the statutes is amended to read:

1 73.09 (7) (a) The secretary of revenue or a designee may revoke or suspend the
2 certification or order corrective action of any assessor, assessment personnel or
3 expert appraiser for the practice of any fraud or deceit in obtaining certification, or
4 any negligence, incompetence or misconduct, including making a fraudulent change
5 in the assessment roll after it is opened for examination under s. 70.47 (3).

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6

(END)

Shovers, Marc

From: Quinn, Brian D - DOA <Brian.Quinn@wisconsin.gov>
Sent: Thursday, January 15, 2015 9:16 PM
To: Shovers, Marc
Subject: Assessors Standard Draft Revisions- LRB 15-0992

Marc,

I'm just going to pass along the commentary from DOR on this draft.

- Question: This subsection is drafted according to your instructions, but it seems to be a little vague. There is really no discernible standard as to what constitutes "a time frame consistent with the employment practices of the department." Do you want a more specific standard to apply?

No. The language is intentional to reflect that certification deadlines vary for different DOR positions (upon appointment for supervisors and directors and 6 months for specialists and technicians).

- Question: This intro. is drafted based on your instructions, but I'm not sure it works. The intro. seems to say that if an assessor fails to meet the standards within a 5-year period his or her certification is revoked for one year; this implies that that the revocation expires in one year. The next sentence, however, authorizes DOR to reinstate the certification if certain things occur. Isn't the one-year revocation actually permanent unless the person asks to be recertified, meets the necessary steps, and receives DOR approval? I'm not sure what the effect is of stating it's a one-year revocation if the person really can't be reinstated without meeting the state requirements.

This does need clean-up. The revocation is indefinite, but not less than 1 year. We would ultimately prefer attendance at all 5 annual meetings instead of 4 of 5, but I'm not sure if there was a tolerance for that at the budget briefing. How about the following?

73.09 (4) (b) (intro.) Persons may be recertified by passing an examination as provided in sub. (5) or by attendance for attending 4 of the previous 5 years at annual meetings called by the department of revenue under s. 73.06 (1) and by meeting continuing education requirements determined by the department of revenue. A failure to attend more than one annual meeting or meet the continuing education requirements in any 5-year recertification cycle shall result in a one-year revocation of certification. The department may reinstate a certification that is revoked under this subsection if the person requests reinstatement no sooner than the first day of the 13th month beginning after the department's revocation of the certification and if all of the following apply:

- Question: In addition, your instructions refer to someone who is revoked "under this section"; do you mean "under this paragraph" or "subsection," as people may also be revoked under sub. (7)? If you do mean "under this section," there seems to be a conflict with the reinstatement provisions under sub. (7) (e).

Fixed in the above drafting correction.

- Question: Subdivision 3 seems redundant as the intro. states, "DOR may reinstate . . . if all of the following apply."

This was done to ensure that the "may" wasn't a de facto shall in 73.09 (4) (b). While I have hesitation in removing it, we can probably live with its deletion.

Let me know if you have questions on this.

Brian Quinn
Executive Policy and Budget Analyst - Senior
Wisconsin Department of Administration
Division of Executive Budget and Finance
(608)-266-1923
Brian.quinn@wisconsin.gov



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-0992/1
MES:emw:jm

due Tuesday, 1-20

JLD

DOA:.....Quinn, BB0317 - Change certification procedures for DOR assessors

FOR 2015-2017 BUDGET — NOT READY FOR INTRODUCTION

✓
1 AN ACT...; relating to: the budget. ✓
Not ready

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10 with the office of state employment relations shall establish requirements for
11 obtaining higher levels of assessor certification.

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 6 this ^{sub} section if the person requests reinstatement no sooner than the first day of the
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State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-0992/2
MES:emw:jm

DOA:.....Quinn, BB0317 - Change certification procedures for DOR assessors

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

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

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11 73.09 (4) (b) 2. The person passes an examination as provided in sub. (5).

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16 any negligence, incompetence or misconduct, including making a fraudulent change
17 in the assessment roll after it is opened for examination under s. 70.47 (3).

18 (END)