



**SENATE SUBSTITUTE AMENDMENT 1,
TO 1995 SENATE BILL 104**

June 13, 1995 – Offered by JOINT COMMITTEE ON FINANCE.

1 **AN ACT** *to repeal* 70.32 (1r), 70.32 (2) (b) and 70.32 (2m); *to amend* 38.27 (2) (b),
2 70.05 (5) (a) 1m., 70.32 (2) (a) (intro.), 70.47 (7) (a), 73.03 (2a), 76.125 (1), chapter
3 77 (title), 77.84 (2) (c), 452.05 (1m) (a) 2. and 895.52 (6) (d) 3.; *to repeal and*
4 *recreate* 70.32 (2) (c) 1. and 70.57 (3); and *to create* 38.27 (1m), 38.27 (2) (g),
5 70.32 (2) (a) 5. to 7., 70.32 (2) (c) 1m., 70.32 (2r), 73.03 (49), 77.22 (2) (em), 77.22
6 (2) (er), 77.22 (2m) and subchapter X of chapter 77 [precedes 77.994] of the
7 statutes; **relating to:** the assessment of agricultural land, the property tax
8 limit for technical college districts and granting rule-making authority.

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

9 **SECTION 1.** 38.27 (1m) of the statutes is created to read:

10 38.27 **(1m)** Notwithstanding sub. (1) (intro.) but subject to sub. (2m) (a), the
11 board shall award a grant under sub. (1) (e) to any district board that applies and that
12 is levying a tax under s. 38.16 at a rate of 1.5 mills. The amount of the grant shall
13 be determined as follows:

1 (a) Subtract the equalized value of the district in the current year from the
2 equalized value of the district in 1996.

3 (b) If the result under par. (a) is a positive number, multiply the result under
4 par. (a) by the district's tax levy rate for operations.

5 **SECTION 2.** 38.27 (2) (b) of the statutes is amended to read:

6 38.27 (2) (b) The board shall review the applications submitted under par. (a)
7 according to procedures and criteria established by the board. ~~Prior~~ Except for
8 grants awarded under sub. (1m) for the purpose of sub. (1) (e), prior to awarding a
9 grant for the purpose of sub. (1) (e), the board shall consider the principle of
10 comparable budgetary support for similar programs and ensure that the program
11 being considered for a grant is efficient and cost-effective. The board shall notify the
12 applicant whether its application has been approved and, if approved, of the amount
13 and the conditions of the grant to be awarded.

14 **SECTION 3.** 38.27 (2) (g) of the statutes is created to read:

15 38.27 (2) (g) The board shall ensure that the amount appropriated under s.
16 20.292 (1) (dc) in each fiscal year is first allocated to awarding grants under sub. (1m).

17 **SECTION 4.** 70.05 (5) (a) 1m. of the statutes is amended to read:

18 70.05 (5) (a) 1m. "Class of property" means residential under s. 70.32 (2) (a) 1.
19 ~~or (b) 1.~~; commercial under s. 70.32 (2) (a) 2. ~~or (b) 2.~~; personal property; or the sum
20 of agricultural under s. 70.32 (2) (a) 4. ~~or (b) 4.~~, swamp or waste under s. 70.32 (2)
21 ~~(b) (a) 5. and,~~ productive forest land under s. 70.32 (2) ~~(b) (a) 6. and other under s.~~
22 70.32 (2) (a) 7.

23 **SECTION 5.** 70.32 (1r) of the statutes is repealed.

24 **SECTION 6.** 70.32 (2) (a) (intro.) of the statutes is amended to read:

1 70.32 (2) (a) (intro.) ~~In cities and villages, the~~ The assessor shall segregate into
2 the following classes on the basis of use and set down separately in proper columns
3 the values of the land, exclusive of improvements, and, except for subds. 5. and 6.,
4 the improvements in each class:

5 **SECTION 7.** 70.32 (2) (a) 5. to 7. of the statutes are created to read:

6 70.32 (2) (a) 5. Swamp or waste.

7 6. Productive forest land.

8 7. Other.

9 **SECTION 8.** 70.32 (2) (b) of the statutes is repealed.

10 **SECTION 9.** 70.32 (2) (c) 1. of the statutes is repealed and recreated to read:

11 70.32 (2) (c) 1. “Agricultural land” means land, exclusive of buildings and
12 improvements, that is devoted primarily to agricultural use, as defined in s. 91.01
13 (1), and that either consists of at least 50 acres owned by the same person, produced
14 gross receipts from farming of at least \$50,000 during the previous year or produced
15 gross receipts from farming of at least \$120,000 during the 3 previous years.

16 **SECTION 10.** 70.32 (2) (c) 1m. of the statutes is created to read:

17 70.32 (2) (c) 1m. “Gross receipts from farming” means gross receipts, excluding
18 rent, from agricultural use, as defined in s. 91.01 (1), including the fair market value
19 at the time of disposition of payments in kind for placing land in federal programs
20 or payments from the federal dairy termination program under 7 USC 1446 (d), less
21 the cost or other basis of livestock or other items purchased for resale which are sold
22 or otherwise disposed of during the taxable year.

23 **SECTION 11.** 70.32 (2m) of the statutes is repealed.

24 **SECTION 12.** 70.32 (2r) of the statutes is created to read:

1 70.32 (2r) Notwithstanding sub. (1), agricultural land shall be valued based
2 on the income that could be generated from its rental for agricultural use, as defined
3 in s. 91.01 (1), according to the guidelines in the assessment manual under s. 73.03
4 (2a). Improvements to agricultural land shall be valued under sub. (1).

5 **SECTION 13.** 70.47 (7) (a) of the statutes is amended to read:

6 70.47 (7) (a) Objections to the amount or valuation of property shall first be
7 made in writing and filed with the clerk of the board of review prior to adjournment
8 of public hearings by the board. Objections to the valuation of property may be made
9 based on a claim that the property is agricultural land, as defined in s. 70.32 (2) (c)
10 1., but that the property was not assessed as agricultural land under s. 70.32 (2r).

11 If the board is in session 5 days, including its first meeting and any adjourned
12 meetings, all objections shall be filed within such time unless failure to file within
13 such time is waived by the board upon a showing of good cause for such failure. The
14 board may require such objections to be submitted on forms approved by the
15 department of revenue. Persons who own land, other than agricultural land that is
16 assessed according to its use, and improvements to that land may object to the
17 aggregate valuation of that land and improvements to that land, but no person who
18 owns land, other than agricultural land that is assessed according to its use, and
19 improvements to that land may object only to the valuation of that land or only to the
20 valuation of improvements to that land. No person shall be allowed in any action or
21 proceedings to question the amount or valuation of property unless such written
22 objection has been filed and such person in good faith presented evidence to such
23 board in support of such objections and made full disclosure before said board, under
24 oath of all of that person's property liable to assessment in such district and the value

1 thereof. The requirement that it be in writing may be waived by express action of
2 the board.

3 **SECTION 14.** 70.57 (3) of the statutes is repealed and recreated to read:

4 70.57 (3) In determining the value of agricultural land under sub. (1), the
5 department shall fulfill the requirements under s. 70.32 (2r).

6 **SECTION 15.** 73.03 (2a) of the statutes is amended to read:

7 73.03 (2a) To prepare, have published and distribute to each county having a
8 county assessor system under s. 70.99 and to each town, city and village in the state
9 for the use of assessors, assessment personnel and the public detailed assessment
10 manuals, except that if an assessor is hired by more than one county, town, city or
11 village the department shall provide that assessor with only one cost component of
12 the manual rather than providing the cost component of the manual to each county,
13 town, city or village that hires that assessor. The manual shall discuss and illustrate
14 accepted assessment methods, techniques and practices with a view to more nearly
15 uniform and more consistent assessments of property at the local level. The manual
16 shall be amended by the department from time to time to reflect advances in the
17 science of assessment, court decisions concerning assessment practices, costs, and
18 statistical and other information deemed valuable to local assessors by the
19 department. The manual shall incorporate standards for the assessment of all types
20 of renewable energy resource systems used in this state as soon as such systems are
21 used in sufficient numbers and sufficient data exists to allow the formulation of valid
22 guidelines. The manual shall incorporate standards, which the department of
23 revenue and the state historical society of Wisconsin shall develop, for the
24 assessment of nonhistoric property in historic districts and for the assessment of
25 historic property, including but not limited to property that is being preserved or

1 restored; property that is subject to a protective easement, covenant or other
2 restriction for historic preservation purposes; property that is listed in the national
3 register of historic places in Wisconsin or in this state's register of historic places and
4 property that is designated as a historic landmark and is subject to restrictions
5 imposed by a municipality or by a landmarks commission. The manual shall
6 incorporate general guidelines about ways to determine whether property is taxable
7 in part under s. 70.11 (8) and examples of the ways that s. 70.11 (8) applies in specific
8 situations. The manual shall state that assessors are required to comply with s.
9 70.32 (1g) and shall suggest procedures for doing so. The manual or a supplement
10 to it shall specify per acre value guidelines for each municipality for various
11 categories of agricultural land based on the income that could be generated from its
12 rental for agricultural use, as defined in s. 91.01 (1), and the capitalization rates
13 established under s. 73.03 (49). The manual shall include guidelines for classifying
14 land as agricultural land, as defined in s. 70.32 (2) (c) 1. and guidelines for
15 distinguishing between land and improvements to land. The cost of the
16 development, preparation, publication and distribution of the manual and of
17 revisions and amendments to it shall be borne by the assessment districts and
18 requesters at an individual volume cost or a subscription cost as determined by the
19 department. All receipts shall be credited to the appropriation under s. 20.566 (2)
20 (hi). The department shall, on the 4th Monday in August, certify past-due accounts
21 and include them in the next apportionment of state special charges to counties and
22 municipalities under s. 70.60. If the department provides an assessment manual to
23 an assessor who is hired by more than one unit of government, those units of
24 government shall each pay an equal share of the cost of that manual. The
25 department may provide free assessment manuals to other state agencies or

1 exchange them at no cost with agencies of other states or of the federal government
2 for similar information or publications.

3 **SECTION 16.** 73.03 (49) of the statutes is created to read:

4 73.03 (**49**) For the use value assessment of agricultural land, to calculate
5 capitalization rates for each municipality by adding to the 5-year average of federal
6 land bank short-term adjustable rate mortgages for this state's agricultural
7 marketplace the municipality's net property tax rate for the previous year.

8 **SECTION 17.** 76.125 (1) of the statutes is amended to read:

9 76.125 (**1**) Using the statement of assessments under s. 70.53 and the
10 statement of taxes under s. 69.61, the department shall determine the net rate of
11 taxation of commercial property under s. 70.32 (2) (a) 2. ~~and (b) 2.~~, of manufacturing
12 property under s. 70.32 (2) (a) 3. ~~and (b) 3.~~ and of personal property under s. 70.30
13 as provided in subs. (2) to (6). The department shall enter that rate on the records
14 of the department.

15 **SECTION 18.** Chapter 77 (title) of the statutes is amended to read:

16 **CHAPTER 77**

17 **TAXATION OF FOREST CROPLANDS;**

18 **REAL ESTATE TRANSFER FEES;**

19 **SALES AND USE TAXES; COUNTY**

20 **SALES AND USE TAXES; MANAGED**

21 **FOREST LAND; TEMPORARY**

22 **RECYCLING SURCHARGE; LOCAL**

23 **FOOD AND BEVERAGE TAX; LOCAL**

24 **RENTAL CAR TAX; PENALTY ON SALES**

25 **OF CERTAIN AGRICULTURAL LAND**

SECTION 19. 77.22 (2) (em) of the statutes is created to read:

77.22 (2) (em) Whether the property conveyed is or contains agricultural land, as defined in s. 70.32 (2) (c) 1.

SECTION 20. 77.22 (2) (er) of the statutes is created to read:

77.22 (2) (er) If the property conveyed is or contains agricultural land, the number of years that that land was assessed under s. 70.32 (2r).

SECTION 21. 77.22 (2m) of the statutes is created to read:

77.22 (2m) If the property conveyed is or contains agricultural land, the register of deeds shall provide to the person who submits the return notice of the amount of the penalty under s. 74.48 that will be due because of the sale and of the time by which that penalty is required to be paid.

SECTION 22. 77.84 (2) (c) of the statutes is amended to read:

77.84 (2) (c) In 1992 and each 5th year thereafter, the department of revenue shall adjust the amounts under pars. (a) and (b) by multiplying the amount specified by a ratio using as the denominator the department of revenue's estimate of the average statewide tax per acre of property classes under s. 70.32 (2) (b) 4., 1993 stats., s. 70.32 (2) (b) 5., 1993 stats., and s. 70.32 (2) (b) 6., 1993 stats., for 1986 and, as the numerator, the department of revenue's estimate of the average tax per acre for the same classes of property for the year in which the adjustment is made.

SECTION 23. Subchapter X of chapter 77 [precedes 77.994] of the statutes is created to read:

CHAPTER 77

SUBCHAPTER X

PENALTY ON SALES OF CERTAIN

AGRICULTURAL LAND

1 **77.994 Penalty for change in use. (1)** Except as provided in sub. (1m), if
2 land that has been assessed under s. 70.32 (2r) while owned by the seller is sold, there
3 is imposed on the seller a penalty, which shall be calculated as follows:

4 (a) Multiply the number of acres previously subject to assessment under s.
5 70.32 (2r) that are included in the sale by the per-acre value guidelines for the
6 category of agricultural land to which the land that is sold belongs, as determined
7 by the department of revenue under s. 73.03 (2a) for the year that the property was
8 last subject to assessment under s. 70.32 (2r).

9 (b) Divide the assessed value of the improvements sold for the most recent year
10 before the sale by the average level of assessment in the taxation district, as shown
11 on the property tax bill under s. 74.09.

12 (c) Subtract the amount under par. (b) from the sales price, as shown on the
13 return under s. 77.22.

14 (d) Subtract the amount under par. (a) from the amount under par. (c).

15 (e) If the amount under par. (d) is a positive number, multiply that amount by
16 0.02 if the land was assessed under s. 70.32 (2r) for one year after acquisition by the
17 seller, by 0.04 if the land was assessed under s. 70.32 (2r) for 2 years after acquisition
18 by the seller, by 0.06 if the land was assessed under s. 70.32 (2r) for 3 years after
19 acquisition by the seller, by 0.08 if the land was assessed under s. 70.32 (2r) for 4
20 years after acquisition by the seller and by 0.1 if the land was assessed under s. 70.32
21 (2r) for at least 5 years after acquisition by the seller.

22 **(1m)** The penalty under sub. (1) does not apply if the seller sells the land to a
23 lineal descendent of the seller.

1 **(1r)** If the seller has owned the property less than 5 years and acquired the
2 property from a seller who was exempt under sub. (1m) from the penalty under sub.
3 (1), the penalty is calculated as if the current seller were the previous owner.

4 **(2)** Any person who is subject to the penalty under sub. (1) shall complete and
5 submit to the department of revenue, along with the payment under sub. (3), a form
6 prescribed by that department.

7 **(3)** Any amount due under sub. (1) shall be paid to the department of revenue
8 along with the next payment of taxes under ch. 71 by the person who owes the
9 penalty. If taxes under ch. 71 on the gain on the sale that results in the penalty may
10 be paid in instalments, the person who owes the penalty may pay it in the same
11 number of instalments.

12 **(4)** Sections 71.82 (1) (a) and (2) (a) and 71.83 (1) (a) 1. and 2. and (b) 1. and 2.,
13 as they apply to the taxes under ch. 71, apply to the penalty and form under this
14 section.

15 **(5)** If the department of revenue believes that a sale was made at a price below
16 market value and if the land is resold shortly thereafter, the department may adjust
17 the amount under sub. (1) (c) to reflect the land's market value.

18 **(6)** The department of revenue shall administer the penalty under this section.

19 **SECTION 24.** 452.05 (1m) (a) 2. of the statutes is amended to read:

20 452.05 **(1m)** (a) 2. “Commercial real property” means real property that is
21 classified as commercial under s. 70.32 (2) (a) 2. ~~or (b) 2.~~

22 **SECTION 25.** 895.52 (6) (d) 3. of the statutes is amended to read:

23 895.52 **(6)** (d) 3. Property within 300 feet of a building or structure on land that
24 is classified as mereantile commercial or manufacturing under s. 70.32 (2) ~~(b)~~ (a) 2.
25 or 3.

SECTION 26. Nonstatutory provisions; public instruction.

(1) EQUALIZED VALUATION OF SCHOOL DISTRICTS. Notwithstanding section 121.004 (2) of the statutes, the computation of general equalization aid payable to each school district in the 1997-98 school year under section 121.08 of the statutes shall be based on the equalized valuation of the school district in 1997.

SECTION 27. Nonstatutory provisions; revenue.

(1) RULES. On or before January 1, 1997, the department of revenue shall submit to the legislative council staff under section 227.15 (1) of the statutes proposed rules to implement use value assessment of agricultural land. The rules shall designate categories of agricultural land based upon agricultural use, soil productivity and location. The rules shall also include guidelines to be used by property tax assessors in classifying land as agricultural land, including guidelines on ways to distinguish, particularly with respect to small acreage parcels, land devoted primarily to agricultural use from land devoted primarily to residential, recreational or commercial use. The rules shall specify methods for calculating the per-acre values based on the income that could be generated from renting for agricultural use of each category of land. After they are promulgated, the rules shall be incorporated into the assessment manual under section 73.03 (2a) of the statutes.

(2) REPORT ON ESTIMATES. On or before June 15, 1997, the department of revenue shall provide to the department of public instruction estimates of the values under section 70.57 of the statutes for the purpose of complying with the general aid estimates required under section 121.15 (4) of the statutes.

(3) SHARED REVENUE MAXIMUM PAYMENTS. For 1998 shared revenue calculations, a municipality or county is excluded from the maximum payment provisions of section 79.06 (2) of the statutes if the reduction in value between 1996 and 1997 due

1 to the valuation methods under section 70.32 (2r) of the statutes, as created by this
2 act, exceeds 10% of the municipality's or county's equalized value for 1996.

3 (4) NONSEVERABILITY. Notwithstanding section 990.001 (11) of the statutes, if
4 it is finally adjudicated that any provision of this act is unconstitutional, the entire
5 act is void.

6 (5) LEGISLATIVE INTENT. Article VIII, section 1, of the Wisconsin Constitution
7 authorizes the legislature to define by law a classification of agricultural land that
8 may be taxed in a manner that is not uniform with the taxation of other property.
9 The legislature intends that land devoted primarily to agricultural use, but not other
10 uses, shall be valued for property tax purposes based on the income that can be
11 generated from its use for agricultural purposes. To accomplish this intent, the
12 legislature finds that it is necessary and is consistent with article VIII, section 1, to
13 include within the definition of agricultural land a minimum acreage requirement
14 and, for smaller parcels, a gross profits requirement.

15 **SECTION 28. Effective dates.** This act takes effect on the day after
16 publication, except as follows:

17 (1) The treatment of sections 70.05 (5) (a) 1m., 70.32 (1r), (2) (a) (intro.) and 5.
18 to 7., (b) and (c) 1. and 1m., (2m) and (2r), 70.47 (7) (a), 70.57 (3), 73.03 (2a) and (49),
19 76.125 (1), 77.22 (2) (em) and (er) and (2m), 77.84 (2) (c), 452.05 (1m) (a) 2. and 895.52
20 (6) (d) 3., chapter 77 (title) and subchapter X of chapter 77 of the statutes takes effect
21 on January 1, 1997.

22 (2) The treatment of section 38.27 (1m) and (2) (b) and (g) of the statutes takes
23 effect on July 1, 1997.

24
25 (END)