



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1997 ASSEMBLY BILL 460**

February 25, 1998 – Offered by COMMITTEE ON WAYS AND MEANS.

1 **AN ACT** *to amend* 70.511 (2) (b), 70.995 (5), 70.995 (6), 70.995 (8) (a), 70.995 (8)
2 (b), 70.995 (8) (d), 70.995 (12) (a), 70.995 (12) (b), 70.995 (12) (c), 74.35 (3) (c),
3 74.37 (3) (c) and 74.41 (4) (b); and **to create** 20.835 (2) (bm), 70.511 (2) (bm),
4 70.511 (2) (br), 74.23 (1) (a) 5., 74.25 (1) (a) 4m., 74.30 (1) (dm), 74.35 (3) (cm)
5 and 74.37 (3) (cm) of the statutes; **relating to:** instalment payments of refunds
6 of taxes on manufacturing property, appeals of manufacturing property taxes
7 distribution of taxes on manufacturing property and the interest on refunded
8 and additional taxes on manufacturing property, the deadline for classification
9 of property as manufacturing, manufacturers' reports and making an
10 appropriation.

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

11 **SECTION 1.** 20.835 (2) (bm) of the statutes is created to read:

1 20.835 (2) (bm) *Payments of interest on overassessments of manufacturing*
2 *property. A sum sufficient to make the payments under s. 70.511 (2) (br).*

3 **SECTION 2.** 70.511 (2) (b) of the statutes is amended to read:

4 70.511 (2) (b) If the reviewing authority reduces the value of the property in
5 question, or determines that manufacturing property is exempt, the taxpayer may
6 file a claim for refund of taxes resulting from the reduction in value or determination
7 that the property is exempt. If Except as provided in par. (bm), if a claim for refund
8 is filed with the clerk of the municipality on or before the November 1 following the
9 decision of the reviewing authority, the claim shall be payable to the taxpayer from
10 the municipality no later than January 31 of the succeeding year. A Except as
11 provided in par. (bm), a claim filed after November 1 shall be paid to the taxpayer by
12 the municipality no later than the 2nd January 31 after the claim is filed. Interest
13 on the claim at the rate of 0.8% per month; or for property assessed under s. 70.995
14 at the average annual discount interest rate determined by the last auction of
15 6-month U.S. treasury bills before the appeal or objection is filed or 10% per year,
16 whichever is less; shall be paid to the taxpayer when the claim is paid. If the taxpayer
17 requests a postponement of proceedings before the reviewing authority, interest on
18 the claim shall permanently stop accruing at the date of the request. If the hearing
19 is postponed at the request of the taxpayer, the reviewing authority shall hold a
20 hearing on the appeal within 30 days after the postponement is requested unless the
21 taxpayer agrees to a longer delay. If the reviewing authority postpones the hearing
22 without a request by the taxpayer, interest on the claim shall continue to accrue. No
23 interest may be paid if the reviewing authority determines under s. 70.995 (8) (a) that
24 the value of the property was reduced because the taxpayer supplied false or

1 incomplete information. If taxes are refunded, the municipality may proceed under
2 s. 74.41.

3 **SECTION 3.** 70.511 (2) (bm) of the statutes is created to read:

4 70.511 (2) (bm) A municipality may pay a refund under par. (b) of the taxes on
5 property that is assessed under s. 70.995 in 5 annual instalments, each of which
6 except the last is equal to at least 20% of the sum of the refund and the interest on
7 the refund that is due, beginning on the date under par. (b), if all of the following
8 conditions exist:

9 1. The municipality's property tax levy for its general operations for the year
10 for which the taxes to be refunded are due is less than \$100,000,000.

11 2. The refund is at least 0.0025 of the municipality's levy for its general
12 operations for the year for which the taxes to be refunded are due.

13 3. The refund is more than \$10,000.

14 **SECTION 4.** 70.511 (2) (br) of the statutes is created to read:

15 70.511 (2) (br) From the appropriation under s. 20.835 (2) (bm), the department
16 of administration shall pay to each municipality that pays a refund under par. (b) for
17 property that is assessed under s. 70.995 or that pays a refund under par. (bm) an
18 amount equal to the interest that is paid by the municipality in the previous
19 biennium and that has accrued up to the date of the determination by the tax appeals
20 commission of the municipality's obligation.

21 **SECTION 5.** 70.995 (5) of the statutes is amended to read:

22 70.995 (5) ~~Commencing January 1, 1974, and annually thereafter, the~~ The
23 department of revenue shall assess all property of manufacturing establishments
24 included under subs. (1) and (2) as of the close of January 1 of each year, if on or before
25 March 1 of that year either the department has classified the property as

1 manufacturing or the owner of the property has requested, in writing, the
2 department to make such a classification and the department later does so. A change
3 in ownership, location or name does not necessitate a new request. In assessing
4 lands from which metalliferous minerals are being extracted and valued for purposes
5 of the tax under s. 70.375, the value of the metalliferous mineral content of such
6 lands shall be excluded.

7 **SECTION 6.** 70.995 (6) of the statutes is amended to read:

8 70.995 (6) Prior to February 15 of each year the department of revenue shall
9 notify each municipal assessor of the manufacturing property within the taxation
10 district that, as of that date, will be assessed by the department during the current
11 assessment year.

12 **SECTION 7.** 70.995 (8) (a) of the statutes is amended to read:

13 70.995 (8) (a) The secretary of revenue shall establish a state board of
14 assessors, which shall be comprised of the members of the department of revenue
15 whom the secretary designates. The state board of assessors shall investigate any
16 objection filed under par. (c) or (d) if the fee under that paragraph is paid. The state
17 board of assessors, after having made the investigation, shall notify the person
18 assessed or the person's agent and the appropriate municipality of its determination
19 by 1st class mail. Beginning with objections filed in 1989, the state board of assessors
20 shall make its determination on or before April 1 of the year after the filing. If the
21 determination results in a refund of property taxes paid, the state board of assessors
22 shall include in the determination a finding of whether the refund is due to false or
23 incomplete information supplied by the person assessed. The person assessed or the
24 municipality having been notified of the determination of the state board of assessors
25 shall be deemed to have accepted the determination unless the person or

1 municipality files a petition for review with the clerk of the tax appeals commission
2 as provided in s. 73.01 (5) and the rules of practice promulgated by the commission.
3 If an assessment is reduced by the state board of assessors, the municipality affected
4 may file an appeal seeking review of the reduction, or may, within 30 days after the
5 person assessed files a petition for review, file a cross-appeal, before the tax appeals
6 commission even though the municipality did not file an objection to the assessment
7 with the board. If the board does not overrule a change from assessment under this
8 section to assessment under s. 70.32 (1), the affected municipality may file an appeal
9 before the tax appeals commission. If an assessment is increased by the board, the
10 person assessed may file an appeal seeking review of the increase, or may, within 30
11 days after the municipality files a petition for review, file a cross-appeal, before the
12 commission even though the person did not file an objection to the assessment with
13 the board. If the person assessed has filed an objection to the assessment with the
14 board of assessors, the person may not raise issues or present evidence during the
15 appeal or cross-appeal to the tax appeals commission unless the person raised the
16 issue with, or presented the evidence to, the board of assessors.

17 **SECTION 8.** 70.995 (8) (b) of the statutes is amended to read:

18 70.995 (8) (b) The department of revenue shall annually notify each
19 manufacturer assessed under this section and the municipality in which the
20 manufacturing property is located of the full value of all real and personal property
21 owned by the manufacturer. The notice shall be in writing and shall be sent by 1st
22 class mail. In addition, the notice shall specify that objections to valuation, amount
23 or taxability must be filed with the state board of assessors within ~~60~~ 30 days of
24 issuance of the notice of assessment, that objections to a change from assessment
25 under this section to assessment under s. 70.32 (1) must be filed within ~~60~~ 30 days

1 after receipt of the notice, that the fee under par. (c) or (d) must be paid and that the
2 objection is not filed until the fee is paid. A statement shall be attached to the
3 assessment roll indicating that the notices required by this section have been mailed
4 and failure to receive the notice does not affect the validity of the assessments, the
5 resulting tax on real or personal property, the procedures of the tax appeals
6 commission or of the state board of assessors or the enforcement of delinquent taxes
7 by statutory means.

8 **SECTION 9.** 70.995 (8) (d) of the statutes is amended to read:

9 70.995 (8) (d) A municipality may file an objection with the state board of
10 assessors to the amount, valuation or taxability under this section or to the change
11 from assessment under this section to assessment under s. 70.32 (1) of a specific
12 property having a situs in the municipality, whether or not the owner of the specific
13 property in question has filed an objection. Objection shall be made on a form
14 prescribed by the department and filed with the board within ~~60~~ 30 days of the date
15 of the issuance of the assessment in question, except that, if the person assessed files
16 an objection and the municipality affected does not file an objection, the municipality
17 affected, within 30 days after the person's objection is filed, may file an appeal. A \$45
18 filing fee shall be paid when the objection is filed unless a fee has been paid in respect
19 to the same piece of property and that appeal has not been finally adjudicated. The
20 objection is not filed until the fee is paid. The board shall forthwith notify the person
21 assessed of the objection filed by the municipality.

22 **SECTION 10.** 70.995 (12) (a) of the statutes, as affected by 1997 Wisconsin Act
23 35, is amended to read:

24 70.995 (12) (a) The department of revenue shall prescribe a standard
25 manufacturing property report form that shall be submitted annually for each real

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

23 **SECTION 11.** 70.995 (12) (b) of the statutes is amended to read:

24 70.995 (12) (b) The department of revenue shall allow an extension to April 1
25 of the due date of 30 days for filing the report forms required under par. (a) if a written

1 application for an extension, stating the reason for the request, is filed with the
2 department on or before March 1.

3 **SECTION 12.** 70.995 (12) (c) of the statutes is amended to read:

4 70.995 (12) (c) ~~Unless the taxpayer shows that the failure is due to reasonable~~
5 ~~cause, if~~ If a taxpayer fails to file any form required under par. (a) for property that
6 the department of revenue assessed during the previous year by the due date or by
7 any extension of the due date that has been granted, the taxpayer shall pay to the
8 department of revenue a penalty of ~~the greater of \$10 or 0.05% of the previous year's~~
9 ~~full value assessment not to exceed \$1,000. If the form required under par. (a) for~~
10 ~~property that the department of revenue assessed during the previous year is not~~
11 ~~filed within 30 days after the due date or within 30 days after any extension, the~~
12 ~~taxpayer shall pay to the department of revenue a 2nd penalty of the greater of \$10~~
13 ~~or 0.05% of the previous year's full value assessment not to exceed \$1,000~~ \$50 if the
14 form is filed 1 to 10 days late; \$50 or 0.05% of the previous year's assessment,
15 whichever is greater, but not more than \$250, if the form is filed 11 to 30 days late;
16 and \$100 or 0.1% of the previous year's assessment, whichever is greater, but not
17 more than \$500, if the form is filed more than 30 days late. Penalties are due 30 days
18 after they are assessed and are delinquent if not paid on or before that date. The
19 department may refund all or part of any penalty it assesses under this paragraph
20 if it finds ~~reasonable grounds for late filing.~~

21 **SECTION 13.** 74.23 (1) (a) 5. of the statutes is created to read:

22 74.23 (1) (a) 5. Pay to each taxing jurisdiction within the district its
23 proportionate share of the taxes and interest under s. 70.995 (12) (a).

24 **SECTION 14.** 74.25 (1) (a) 4m. of the statutes is created to read:

1 74.25 (1) (a) 4m. Pay to each taxing jurisdiction within the district its
2 proportionate share of the taxes and interest under s. 70.995 (12) (a).

3 **SECTION 15.** 74.30 (1) (dm) of the statutes is created to read:

4 74.30 (1) (dm) Pay to each taxing jurisdiction within the district its
5 proportionate share of the taxes and interest under s. 70.995 (12) (a).

6 **SECTION 16.** 74.35 (3) (c) of the statutes is amended to read:

7 74.35 (3) (c) If the governing body of the taxation district determines that an
8 unlawful tax has been paid and that the claim for recovery of the unlawful tax has
9 complied with all legal requirements, the governing body shall allow the claim. ~~The~~
10 Except as provided in par. (cm), the taxation district treasurer shall pay the claim
11 not later than 90 days after the claim is allowed.

12 **SECTION 17.** 74.35 (3) (cm) of the statutes is created to read:

13 74.35 (3) (cm) A municipality may pay a refund under par. (c) of the taxes on
14 property that is assessed under s. 70.995 in 5 annual instalments, each of which
15 except the last is equal to at least 20% of the sum of the refund and the interest on
16 the refund, beginning in the year of the determination, if all of the following
17 conditions exist:

18 1. The municipality's property tax levy for its general operations for the year
19 for which the taxes to be refunded are due is less than \$100,000,000.

20 2. The refund is at least 0.0025 of the municipality's levy for its general
21 operations for the year for which the taxes to be refunded are due.

22 3. The refund is more than \$10,000.

23 **SECTION 18.** 74.37 (3) (c) of the statutes is amended to read:

24 74.37 (3) (c) If the governing body of the taxation district or county that has a
25 county assessor system determines that a tax has been paid which was based on an

1 excessive assessment, and that the claim for an excessive assessment has complied
2 with all legal requirements, the governing body shall allow the claim. The Except
3 as provided in par. (cm), the taxation district or county treasurer shall pay the claim
4 not later than 90 days after the claim is allowed.

5 **SECTION 19.** 74.37 (3) (cm) of the statutes is created to read:

6 74.37 (3) (cm) A municipality may pay a refund under par. (c) of the taxes on
7 property that is assessed under s. 70.995 in 5 annual instalments, each of which
8 except the last is equal to at least 20% of the sum of the refund and interest on the
9 refund, beginning in the year of the determination, if all of the following conditions
10 exist:

11 1. The municipality's property tax levy for its general operations for the year
12 for which the taxes to be refunded are due is less than \$100,000,000.

13 2. The refund is at least 0.0025 of the municipality's levy for its general
14 operations for the year for which the taxes to be refunded are due.

15 3. The refund is more than \$10,000.

16 **SECTION 20.** 74.41 (4) (b) of the statutes is amended to read:

17 74.41 (4) (b) Determine the amount of rescinded or refunded taxes and the
18 interest paid on those taxes to taxpayers that are to be charged back to, and collected
19 from, each taxing jurisdiction for which taxes were collected by the taxation district,
20 and determine the amount of taxes collected under s. 74.33 to be shared with each
21 taxing jurisdiction for which taxes were collected by the taxation district. The
22 amount determined may not include any interest, except the interest that has been
23 paid to taxpayers.

24 **SECTION 21. Initial applicability.**

1 (1) REFUNDS. The treatment of sections 70.511 (2) (b) and (bm), 74.35 (3) (c) and
2 (cm), 74.37 (3) (c) and (cm) and 74.41 (4) (b) of the statutes first applies to refunds
3 of taxes that were collected based on the assessment as of January 1, 1999.

4 (2) APPEALS. The treatment of section 70.995 (8) (a) of the statutes first applies
5 to appeals to the tax appeals commission that are filed on the first day of the 3rd
6 month beginning after the effective date of this subsection.

7 (3) SETTLEMENT OF TAXES. The treatment of sections 74.23 (1) (a) 5., 74.25 (1)
8 (a) 4m. and 74.30 (1) (dm) of the statutes first applies to taxes based on the
9 assessment as of January 1, 1999.

10 (4) INTEREST. The treatment of sections 70.995 (12) (a) of the statutes first
11 applies to entries made on the property tax roll on the effective date of this
12 subsection.

13 (5) DEADLINE FOR CLASSIFYING PROPERTY. The treatment of section 70.995 (5) and
14 (6) of the statutes first applies to assessments as of the January 1 after publication.

15 (6) MANUFACTURERS' REPORTS. The treatment of section 70.995 (12) (b) and (c)
16 of the statutes first applies to reports required to be filed on the March 1 after
17 publication.

18 (END)