



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-0387/P1
EKL:cdc

DOA:.....Ziegler, BB0090 - Eliminate requirement ad valorem utility tax assessments be delivered by certified mail

FOR 2021-2023 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

TAXATION

GENERAL TAXATION

Providing notices for public utility taxes

Under current law, public utility companies, including railroads and air carriers, are exempt from local property taxes and instead subject to special state taxes. Current law requires DOR to send certain notices regarding these taxes by certified mail. Under this bill, DOR must still provide the notices but is no longer required to send them by certified mail.

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:

SECTION 1. 76.07 (3) of the statutes is amended to read:

76.07 (3) ASSESSMENT. For the purpose of determining the full market value of the property of each company appearing on the assessment roll, the department may

view and inspect the property of ~~such~~ the company and shall consider the reports filed in compliance with s. 76.04 and the reports and returns of the company filed in the office of any officer of this state, and other evidence or information bearing upon the full market value of the property of the company assessed. ~~In case of~~ For companies ~~which~~ that own or use property lying partly within and partly without the state, the department shall value and assess only the property within this state, using the methods under subs. (4g) and (4r). When the full market value of the property of a company within this state has been determined, the amount shall be entered upon the assessment roll opposite the name of the company and shall be the assessment of the entire property of ~~such~~ the company within this state for the levy of taxes thereon, subject to review and correction. The department shall thereupon give notice ~~by certified mail~~ to each company assessed of the amount of its assessment as entered upon ~~such~~ the roll.

SECTION 2. 76.08 (1) of the statutes is amended to read:

76.08 (1) Notice of the assessments determined under s. 76.07 and of adjustments under s. 76.075 shall be given ~~by certified mail~~ to each company the property of which has been assessed, and the notice of assessment shall be ~~mailed~~ provided on or before the assessment date specified in s. 76.07 (1). Any company aggrieved by the assessment or adjustment of its property thus made may have its assessment or adjustment redetermined by the Dane County circuit court if, within 30 days after notice of assessment or adjustment is ~~mailed~~ provided to the company under s. 76.07 (3), an action for the redetermination is commenced by filing a summons and complaint with that court, and service of authenticated copies of the summons and complaint is made upon the department of revenue. No answer need be filed by the department and the allegations of the complaint in opposition to the

assessment or adjustment shall be deemed denied. Upon the filing of the summons and complaint, the court shall set the matter for hearing without a jury. If the plaintiff fails to file the summons and complaint within 5 days of service upon the department, the department may file a copy thereof with the court in lieu of the original. The department may be named as the defendant in any such action and shall appear and be represented by its counsel in all proceedings connected with the action but, on the request of the secretary of revenue, the attorney general may participate with or serve in lieu of departmental counsel. In an action for redetermination of an adjustment, only the issues raised in the department's adjustment under s. 76.075 may be raised.

SECTION 3. 76.10 (1) of the statutes is amended to read:

76.10 (1) Every company defined in s. 76.02 shall, on or before October 1 in each year, be entitled, on its own motion, to present evidence before the department relating to the state assessment made in the preceding year pursuant to s. 70.575. On written request, ~~in writing~~, for such hearing or presentation, the department shall fix a time therefor within 60 days after ~~such~~ the application is filed, the same to be conducted in such manner as the department directs. Notice of ~~such~~ the hearing shall be ~~mailed~~ provided to any company requesting a hearing and shall be published in the official state paper. Within 30 days after the conclusion of ~~such~~ the hearing, the department shall enter an order either affirming the state assessment or ordering correction thereof as provided in sub. (2). A copy of ~~such~~ the order shall be ~~sent by certified mail~~ provided to the company or companies requesting ~~such~~ the hearing and to any interested party who has made an appearance in ~~such~~ the proceeding. The department may, on its own motion, correct ~~such~~ the state assessment. Any company having filed application for review of the state

assessment pursuant to this section, or any other interested party participating in such the hearing, if aggrieved by the order entered by the department, may bring an action in the circuit court for Dane County within 30 days after the entry of such the order to have said order set aside and a redetermination made of the state assessment. In any such action or in any hearing before the department pursuant to this section, any interested party may appear and be heard. An interested party includes any division of government whose revenues would be affected by any adjustment of the state assessment.

SECTION 4. 76.13 (2) of the statutes is amended to read:

76.13 (2) Every tax roll upon completion shall be delivered to the secretary of administration. The department shall notify, ~~by certified mail,~~ all companies listed on the tax roll of the amount of tax due, which shall be paid to the department. The payment dates provided for in sub. (2a) shall apply. The payment of one-fourth of the tax of any company may, if the company has brought an action in the Dane County circuit court under s. 76.08, be made without delinquent interest as provided in s. 76.14 any time prior to the date upon which the appeal becomes final, but any part of the tax ultimately required to be paid shall bear interest from the original due date to the date the appeal became final at the rate of 12 percent per year and at 1.5 percent per month thereafter until paid. The taxes extended against any company after the same become due, with interest, shall be a lien upon all the property of the company prior to all other liens, claims, and demands ~~whatsoever,~~ except as provided in ss. 292.31 (8) (i) and 292.81, ~~which~~ and the lien may be enforced in an action in the name of the state in any court of competent jurisdiction against the property of the company within the state as an entirety.

SECTION 5. 76.15 (2) of the statutes is amended to read:

76.15 (2) The power to reassess the property of any company defined in s. 76.02 and the general property of the state, and to redetermine the average rate of taxation, may be exercised under sub. (1) as often as ~~may be~~ necessary until the amount of taxes legally due from any such company for any year under ss. 76.01 to 76.26 has been finally and definitely determined. Whenever any sum or part thereof, levied upon any property subject to taxation under ss. 76.01 to 76.26 so set aside has been paid and not refunded, the payment ~~so made~~ shall be applied upon the reassessment upon the property, and the reassessment of taxes to that extent shall be deemed to be satisfied. When the tax roll on the reassessment is completed and delivered to the secretary of administration, the department shall immediately notify ~~by certified mail~~ each of the several companies taxed to pay the amount of the taxes extended on the tax roll within 30 days.

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