



2009 ASSEMBLY BILL 134

March 9, 2009 - Introduced by Representatives VUKMIR, KRAMER, TOWNSEND, NASS and MURTHA, cosponsored by Senator LAZICH. Referred to Committee on Urban and Local Affairs.

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

Analysis by the Legislative Reference Bureau

Under current law, pursuant to 2007 Wisconsin Act 86, a taxation district board of review (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, 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 ten 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 current law, 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. 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

ASSEMBLY BILL 134

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.

In January 2009, a Milwaukee County court held that the ordinance and objection provisions of 2007 Wisconsin Act 86 were unconstitutional because those provisions prevented some property owners from getting a full court review of disputed assessments. This bill eliminates the changes made by 2007 Wisconsin Act 86 related to objecting to property tax assessments.

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 repealed.

2 **SECTION 2.** 70.47 (8) (d) of the statutes is amended to read:

3 70.47 (8) (d) It may and upon request of either the assessor ~~or the objector~~ shall
4 compel the attendance of witnesses ~~for hearing~~, except objectors who may testify by
5 telephone, and the production of all books, inventories, appraisals, documents and
6 other data which may throw light upon the value of property, ~~and, with regard to an~~
7 ~~objection that is subject to sub. (7) (c) or (16) (c), may, on a showing of good cause,~~
8 ~~compel the attendance of witnesses for depositions.~~

9 **SECTION 3.** 70.47 (8) (j) of the statutes is repealed.

10 **SECTION 4.** 70.47 (13) of the statutes is amended to read:

11 70.47 (13) ~~REVIEW CERTIORARI.~~ Except as provided in ~~this subsection and in ss.~~
12 s. 70.85 and 74.37, appeal from the determination of the board of review shall be by
13 an action for certiorari commenced within 90 days after the taxpayer receives the
14 notice under sub. (12). The action shall be given preference. If the court on the appeal
15 finds any error in the proceedings of the board which renders the assessment or the
16 proceedings void, ~~or if the court determines that the board lacked good cause to deny~~
17 ~~a request for a deposition subpoena~~, it shall remand the assessment to the board for

ASSEMBLY BILL 134

1 further proceedings in accordance with the court's determination and retain
2 jurisdiction of the matter until the board has determined an assessment in
3 accordance with the court's order. For this purpose, if final adjournment of the board
4 occurs prior to the court's decision on the appeal, the court may order the governing
5 body of the assessing authority to reconvene the board. If the appellant challenges
6 the value determination that the board made at a proceeding under sub. (7) (c), the
7 court shall presume that the board's valuation is correct, except that the
8 presumption may be rebutted by a sufficient showing by the appellant that the
9 valuation is incorrect. If the presumption is rebutted, the court shall determine the
10 assessment without deference to the board of review and based on the record before
11 the board of review, except that the court may consider evidence that was not
12 available at the time of the hearing before the board, that the board refused to
13 consider, or that the court otherwise determines should be considered in order to
14 determine the correct assessment. In the event that an objection to the previous
15 year's assessment has not been resolved, the parties may agree that the assessment
16 for the previous year shall also apply for the current year and shall be included in
17 the court's review of the prior year's assessment without an additional hearing by the
18 board.

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

20 70.47 (16) (a) In 1st class cities all objections to the amount or valuation of real
21 or personal property shall be first made in writing and filed with the commissioner
22 of assessments on or before the 3rd Monday in May. No person may, in any action
23 or proceeding, question the amount or valuation of real or personal property in the
24 assessment rolls of the city unless objections have been so filed. The board may not
25 waive the requirement that objections be in writing. Persons who own land and

ASSEMBLY BILL 134**SECTION 5**

1 improvements to that land may object to the aggregate valuation of that land and
2 improvements to that land, but no person who owns land and improvements to that
3 land may object only to the valuation of that land or only to the valuation of
4 improvements to that land. If the objections have been investigated by a committee
5 of the board of assessors under s. 70.07 (6), the board of review may adopt the
6 recommendation of the committee unless the objector requests or the board orders
7 a hearing. At least 2 days' notice of the time fixed for the hearing shall be given to
8 the objector or attorney and to the city attorney of the city. The provisions of the
9 statutes relating to boards of review not inconsistent with this subsection apply to
10 proceedings before the boards of review of 1st class cities, except that the board need
11 not adjourn until the assessment roll is completed by the commissioner of
12 assessments, as required in s. 70.07 (6), but may immediately hold hearings on
13 objections filed with the commissioner of assessments, and the changes, corrections
14 and determinations made by the board acting within its powers shall be prima facie
15 correct. Appeal from the determination shall be by an action under ~~sub. (13)~~ for
16 certiorari commenced within 90 days after the taxpayer receives the notice under
17 sub. (12). The action shall be given preference. ~~If the court on the appeal finds any~~
18 ~~error in the proceedings of the board that renders the assessment or the proceedings~~
19 ~~void or, with regard to an objection that is subject to par. (c), if the court determines~~
20 ~~that the board lacked good cause to deny a request for a deposition subpoena, it shall~~
21 ~~remand the assessment to the board for further proceedings in accordance with the~~
22 ~~court's determination and retain jurisdiction of the matter until the board has~~
23 ~~determined an assessment in accordance with the court's order. If the appellant~~
24 ~~challenges the value determination that the board made at a proceeding under sub.~~
25 ~~(16) (c), the court shall presume that the board's valuation is correct, except that the~~

ASSEMBLY BILL 134

1 ~~presumption may be rebutted by a sufficient showing by the appellant that the~~
2 ~~valuation is incorrect. If the presumption is rebutted, the court shall determine the~~
3 ~~assessment without deference to the board of review and based on the record before~~
4 ~~the board of review, except that the court may consider evidence that was not~~
5 ~~available at the time of the hearing before the board or that the board refused to~~
6 ~~consider, or that the court otherwise determines should be considered in order to~~
7 ~~determine the correct assessment. In the event that an objection to the previous~~
8 ~~year's assessment has not been resolved, the parties may agree that the assessment~~
9 ~~for the previous year shall also apply for the current year and shall be included in~~
10 ~~the court's review of the prior year's assessment without an additional hearing by the~~
11 ~~board.~~

12 **SECTION 6.** 70.47 (16) (c) of the statutes is repealed.

13 **SECTION 7.** 73.03 (2a) of the statutes is amended to read:

14 **73.03 (2a)** To prepare and publish, in electronic form and on the Internet,
15 assessment manuals. The manual shall discuss and illustrate accepted assessment
16 methods, techniques and practices with a view to more nearly uniform and more
17 consistent assessments of property at the local level. The manual shall be amended
18 by the department from time to time to reflect advances in the science of assessment,
19 court decisions concerning assessment practices, costs, and statistical and other
20 information considered valuable to local assessors by the department. The manual
21 shall incorporate standards for the assessment of all types of renewable energy
22 resource systems used in this state as soon as such systems are used in sufficient
23 numbers and sufficient data exists to allow the formulation of valid guidelines. The
24 manual shall incorporate standards, which the department of revenue and the state
25 historical society of Wisconsin shall develop, for the assessment of nonhistoric

ASSEMBLY BILL 134**SECTION 7**

1 property in historic districts and for the assessment of historic property, including
2 but not limited to property that is being preserved or restored; property that is
3 subject to a protective easement, covenant or other restriction for historic
4 preservation purposes; property that is listed in the national register of historic
5 places in Wisconsin or in this state's register of historic places and property that is
6 designated as a historic landmark and is subject to restrictions imposed by a
7 municipality or by a landmarks commission. The manual shall incorporate general
8 guidelines about ways to determine whether property is taxable in part under s.
9 70.1105 and examples of the ways that s. 70.1105 applies in specific situations. The
10 manual shall state that assessors are required to comply with s. 70.32 (1g) and shall
11 suggest procedures for doing so. The manual or a supplement to it shall specify per
12 acre value guidelines for each municipality for various categories of agricultural land
13 based on the income that could be generated from its estimated rental for
14 agricultural use, as defined by rule, and capitalization rates established by rule. The
15 manual shall include guidelines for classifying land as agricultural land, as defined
16 in s. 70.32 (2) (c) 1g., and guidelines for distinguishing between land and
17 improvements to land. ~~The manual shall specify the evidence to be exchanged under~~
18 ~~s. 70.47 (7) (e) and (16) (e).~~ The cost of the development, preparation, and Internet
19 publication of the manual and of revisions and amendments to it shall be paid from
20 the appropriation under s. 20.566 (2) (b).

21 **SECTION 8.** 74.37 (4) (c) of the statutes is amended to read:

22 74.37 (4) (c) No claim or action for an excessive assessment may be brought or
23 maintained under this section if the assessment of the property for the same year is
24 contested under s. 70.47 ~~(7) (e), (13), or (16) (e)~~ or 70.85. No assessment may be

ASSEMBLY BILL 134

1 contested under s. 70.47 (7) (e), (13), ~~or (16) (e)~~ or 70.85 if a claim is brought and
2 maintained under this section based on the same assessment.

3 **SECTION 9.** 74.37 (4) (d) of the statutes is repealed.

4 **SECTION 10.** 74.37 (5) of the statutes is amended to read:

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

11 **SECTION 11. Initial applicability.**

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

14 **SECTION 12. Effective date.**

15 (1) This act takes effect retroactively to January 1, 2008.

16 (END)