



John Nygren

WISCONSIN STATE REPRESENTATIVE ★ 89TH ASSEMBLY DISTRICT

**Assembly Bill 576 – Objecting to Property Tax Assessments
Assembly Committee on Ways and Means
Testimony by State Rep. John Nygren
January 23, 2014**

Thank you, Chairman Marklein and members of the Committee on Ways and Means for holding a public hearing on Assembly Bill 576 today.

Assembly Bill 576 will change the current property tax assessment appeal process to be more equitable and streamlined. This bill will provide Wisconsin property owners with more flexibility in the appeals process.

Under current law, a notice of a changed assessment must be sent within 15 days of a board of review meeting. In many cases, however, 15 days isn't enough time for a proper review. This bill would extend the requirement from 15 days. This extension will allow for a more accurate, well thought-out review process.

Currently, property owners who want to testify in front of a Board of Review must appear in person. This legislation will give greater flexibility to the property owner by providing them with the opportunity to submit written testimony under oath.

The current process doesn't give any leeway for interpretation, which has potential to negatively affect the assessment of a property. This is because under current law, the Board of Review must presume that the property assessor's assessment is correct. Assembly Bill 576 will change this standard and give the property owner the opportunity to present evidence to the Board in the form of a rebuttal to prove that an assessor's property assessment is incorrect.

Lastly, Assembly Bill 576 changes the current process relative to claims for excessive assessment. Currently, a property owner may commence an action in the circuit court in order to recover the amount of a disallowed claim. Alternatively, this bill provides the property owner with the option to commence an action with the tax appeals commission rather than the circuit court if the assessment exceeds \$1 million.

We continue to work with stakeholders on possible improvements regarding concerns raised by local government officials. Thank you for the opportunity to testify. I am happy to answer any questions the committee may have.

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Scott Walker
Governor

Richard G. Chandler
Secretary of Revenue

January 23, 2014

DOR Testimony on Assembly Bill 576
Assembly Committee on Ways and Means

Thank you for the opportunity to provide comment on Assembly Bill (AB) 576, which makes several changes to the board of review process.

In my testimony, I will describe the current timeline for the assessment process and identify how the changes proposed in AB 576 would fit in to that process.

Under the current statutory requirements, assessors assign a value to property based on the condition of the property as of January 1. All assessors are required to abide by state law and the standards of DOR's annually published Wisconsin Property Assessment Manual. Since assessing an entire municipality's property is a considerable undertaking, assessors take several months to complete their work.

Assessors begin the process in January by collecting sales data from the prior year. Statements of personal property are due on March 1. Assessment must be completed by the first Monday in April. After assessments are completed notices of changed assessments are sent to property owners. In late May and early June, municipalities hold an "open book" where property owners are able to review the assessor's work and ask questions.

The Board of Review is required by statute to meet during the 30 day period following the second Monday in May. Fifteen days prior to the first meeting the Board of Review must notice the hearing. The Board of Review must be in session for two hours to allow taxpayers to review the assessment roll and make objections. The Board of Review then schedules a hearing for each objection. Hearings on objections before the Board of Review provides taxpayers the opportunity to appeal assessments before the assessor's cumulative report, or assessment roll, is final. Once the Board of Review has finalized its hearings on objections, the assessor can finalize the assessment report.

The assessor transmits a report to DOR around the statutory deadline of the second Monday in June. However, some assessors may not be able to complete an assessment by that time because the Board of Review work is not completed, so they send DOR a preliminary report (Municipal Assessment Report). In order to meet DOR's statutory deadline of August 15 for equalized values, DOR must rely on the reports filed by the second Monday in June.

State law requires DOR to publish equalized values for all 1,851 municipalities on August 15 each year. Once DOR publishes those values, they are final and cannot be amended. If changes are necessary because of new information from the municipality, errors in reporting from the local assessor, or any other reason, such as Board of Review decisions made after the second Monday in June, adjustments are made in the following year through the 70.57 process.

Wisconsin is unique in its approach to assessment. In Wisconsin, assessment is done at the local level, as opposed to the county level, which is the case in most states. This provides more local control and accountability to the assessment process. However, this also means that the timeline on the process varies greatly across the state. Accounting for this unique approach is important when considering changes to the assessment process.

The proposal to move the notice requirement from 15 days to 60 days will likely disrupt the assessment and Board of Review process. For assessments completed near the deadline of the first Monday in April, the Board of Review could be held no earlier than the first Monday in June (60 days later). This would only give the Board of Review one week to complete the hearings on objections before the assessor would be required to file the preliminary report to DOR. Most likely, the Board of Review would not be finalized and an amended report would trigger 70.57 corrections on the subsequent year's tax bill.

This past November, there were still nearly 300 boards of review that had not finalized their review for 2013. If 45 days had been added to their timelines this year, they would have been unable to complete their review before tax bills were due in the second week of December. Based on DOR experience, any change to the notice requirement must take into consideration the administrative challenges for the local boards of review. To accommodate the proposed change, assessors would be forced to complete their work in a shorter time or the Board of Review would meet later. In either instance, the June report to DOR, upon which equalized values are based, would be more likely to not include final numbers because the Board of Review hearings would not be completed. Lacking final numbers, a subsequent amended report would be filed from the assessor, which would result in more 70.57 corrections.

Allowing assessments greater than \$1 million to be appealed to the Tax Appeals Commission (TAC) would overburden the TAC. Currently, the TAC hears numerous types of tax appeals, but only hears property tax appeals from manufacturing property assessed by the state. The commissioners do not have experience reviewing local assessments of residential or commercial property. Furthermore, the TAC is already overburdened with appeals, and the added caseload proposed by this bill would need to include additional appropriations for the TAC and at least one additional commissioner. With the additional local property tax appeals, the TAC appeals process will likely take longer than appealing in the circuit court.

Lastly, any changes to the assessment process could not reasonably be implemented and go into effect until the 2016 assessment year.

Thank you again for the opportunity to discuss AB 576.

January 23, 2014

Assembly Committee on Ways and Means
Wisconsin State Capitol
Room 328 Northwest
Madison, WI 53707

RE: Target Corporation Testimony for AB 576

Mr. Chairman and Members of the Committee:

My name is Chris Peterson, and I am a Senior Group Manager of Tax for Target. I oversee Target's real estate tax function. As a member of the Alliance of Wisconsin Retailers, we support Assembly Bill 576. I appreciate the opportunity to provide Target's perspective on the property tax process in Wisconsin.

By way of background, Target has had a presence in Wisconsin for over forty years – with our first Wisconsin store in Wauwatosa. Today, Target operates 39 stores and a distribution center in the state, employing over 7,000 team members. Target remains committed to providing a superior guest and team member experience in Wisconsin.

We are not seeking a special tax credit or appropriation – we support some important improvements to Wisconsin's property tax process. This bill is not intended to provide tax relief, but instead it is intended to make the process more efficient for not only taxpayers, but also local jurisdictions. Target has stores in 49 states, and we experience different property tax assessment procedures in each state we operate. I am involved with the Council on State Taxation's (COST) property tax committee, where we provide recommendations on best practices for property taxation. My goal is to provide you with some perspective on best practices and where improvements could make Wisconsin an even better state in which to do business.

We support AB 576 and are working to find a consensus with you and local government authorities to improve the current assessment process for both the taxpayer and the assessor community. We are committed to being a resource for you as you deliberate this proposal.

Notice Period

As a multistate taxpayer with multiple locations throughout Wisconsin, the current assessment process provides challenges we typically do not see in other states. The most significant challenge relates to the short period of time where we can appeal an assessment after receiving an assessment notice. Under Wisconsin law, while Boards of Review must meet in May, many jurisdictions adjourn the Board of Review until the assessment is completed. Presently, it is difficult to understand exactly when we will receive an assessment notice.

Once we receive an assessment notice, we have 15 days in which to appeal the assessment. A 15-day period is simply not enough time for us to review and prepare sufficient evidence for the assessor. This period is also frenzied and burdensome for the assessor, as the assessor is preparing for the Board of Review. The process is further complicated when many jurisdictions issue assessment notices at different, unpredictable times of the year.

We have a couple of examples to illustrate where the current process breaks down.

1. We received an assessment notice from one jurisdiction on July 18 that was dated July 11. The Board of Review was scheduled for July 24 – giving us fewer than four days to review the assessment, engage in a dialogue with the assessor, and timely file a notice of intent to file to the board of review. In cases like this, our immediate reaction is to quickly file the required notice of intent which may later be withdrawn – which would unnecessarily burden the assessor and Clerk’s office to schedule our hearing.
2. In another example, we received an assessment notice on September 13, dated August 24, where the first objection hearing was on September 12. Under Wisconsin law, we forfeited our appeal rights.

There may be occasions where the notice is delayed in the mailing process or in the intake process at the taxpayer’s location. It is important to mention that in the cases outlined above we date stamp all mail that comes to our mailstop. Nevertheless, the above situations may occur with all taxpayers, including residential taxpayers who may be traveling for business or pleasure. We believe the situations illustrated above would not occur if the notice period were longer. We believe that a longer notice period would assist both the taxpayer and the assessor in allowing additional time for dialogue. I am not here today to say that AB 576 provides a perfect solution – but it provides a framework for a needed improvement. The proposed 60-day notice period is consistent with the COST’s best practices for property tax assessment procedures. According to COST, taxpayers seeking to file a property tax appeal should have at least 60 days from the formal written notice of the assessed value of the disputed property. Currently, COST gives Wisconsin an “F” grade for the current 15-day notice period. Most states provide at least 30 days and sometimes 90 days for appealing property tax assessments.

You may hear concerns today about extending the notice period and other changes to the Board of Review process. The changes proposed in this legislation are not intended to upend the state’s property tax system. We understand concerns about the extended notice period, and in particular, challenges this could place on the current interactions between the assessors and Department of Revenue. We are happy to explore alternatives to address this concern, and since the Senate hearing last week, we have engaged in meaningful dialogue with stakeholders on reasonable alternatives.

Tax Appeals Commission

While the best case scenario involves a settlement between the taxpayer and assessor informally, there are times where the taxpayer and assessor agree to disagree about the proposed value. This leads to another proposal in AB 576 that we support.

In today’s world, Wisconsin law allows for taxpayers to obtain a fresh review only by filing an unlawful assessment claim in circuit court. We support the ability to have a fresh review after the Board of Review – and this is considered good practice by COST. However, most surrounding states have an alternative to circuit court. Wisconsin’s neighboring states have separate tax or property tax tribunals. Because of the inherent expertise, hearings can be much more efficient than in county circuit courts. For surrounding states, we have found that hearings can be completed in a matter of hours when they are truly needed. In contrast, we have seen at least one Wisconsin matter in circuit court that has

progressed for over eight days. I think we can all agree that this does not present the most efficient use of time and resources.

We support AB 576 providing certain taxpayers an option to go to the Tax Appeals Commission (TAC) rather than Circuit Court. Today, the TAC already has jurisdiction over centrally assessed manufacturing property. While we agree there is potential for an increase to the TAC workload under this option, we believe that the overall court workload, when one combines the TAC and circuit court workload with property tax matters would decrease because the TAC would be more efficient. As a result, we believe that both taxpayers and the assessing jurisdictions would win with reduced costs and time. Additionally, we believe that by extending the notice period, we may not even get to this level. Allowing certain property tax cases to be appealed to the TAC would also be consistent with COST's best practices.

Senate Hearing

Last week, the Senate Committee on Workforce Development, Forestry, Mining, and Revenue heard testimony on the companion bill introduced in the Senate. Since this hearing, the Alliance of Wisconsin Retailers has engaged in dialogue with the municipalities and assessors on improvements to the legislation. In particular, there are specific proposals that AWR has discussed with the League of Wisconsin Municipalities and the City of Milwaukee that show great promise. We are increasingly confident that an agreement can be achieved.

Thank you for your consideration on this important legislation. Target is committed to finding a common ground solution to improve the current process. As previously mentioned, we are committed to being a resource to you, and we are happy to answer any additional inquiries you may have.

Chris Peterson
Senior Group Manager, Tax
Target