



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #685

### **Assessment of Manufacturing Property (Shared Revenue and Tax Relief -- Property Taxation)**

[LFB 2003-05 Budget Summary: Page 370, #3 and Page 386, #1]

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#### **CURRENT LAW**

The Bureau of Manufacturing and Telco Assessment in the Division of State and Local Finance is responsible for assessing all taxable manufacturing and telephone company real and personal property. The Bureau also administers the property tax exemption for manufacturing machinery and equipment. The Bureau has base level funding of \$2,948,600 GPR and 46.0 GPR positions.

#### **GOVERNOR**

Delete \$2,277,000 GPR and 31.0 GPR positions annually to reflect the transfer of responsibility for assessing manufacturing property from the state to local governments, effective with property assessed as of January 1, 2004.

Transfer the responsibility for assessing manufacturing property from the Department of Revenue to taxation districts (municipalities) and counties, if the county has adopted a county assessor system, effective with property assessed as of January 1, 2004. Replace references to DOR with references to taxation districts or taxation district assessors with regard to current law provisions concerning: (a) the assessment of property as of January 1 of each year; (b) the calculation of manufacturing property values, including the value of exempt computers, cash registers, and fax machines; (c) notifying taxpayers of their assessed values; (d) extensions for filing manufacturing property report forms; and (e) penalties for filing manufacturing property report forms late. Remove references to "state" and "department of revenue" in current law provisions regarding: (a) the assessment of manufacturing property; (b) penalties for making

false statements; (c) the assessment of omitted property; and (d) tax bill increases for properties with values that were unreported or underreported.

Repeal current law provisions regarding: (a) DOR notice to taxation district and county assessors of properties to be assessed by the Department; (b) DOR performance of field investigations or on-site appraisals of every manufacturing property at least once every five years; (c) municipal appeals of manufacturing assessed values; (d) interest payments on taxes that were determined to be underpaid as the result of a municipal appeal; and (e) the meaning of the terms "local assessor" or "assessor" as they relate to DOR for purposes of manufacturing property assessment.

Modify the current law provision directing manufacturing property owners to file standard manufacturing property report forms prescribed by DOR by requiring the form to be filed with the taxation district rather than with DOR. Replace the current law provision granting DOR discretion in determining which properties, including those that are vacant, are subject to state assessment with provisions that direct DOR to establish standards and procedures for assessing manufacturing property and to publish those standards and procedures in the property tax assessment manual, which is required under current law for other property classes. Modify the current law provision directing DOR to develop a manufacturing assessment roll for each municipality by requiring taxation district assessors to notify DOR of all manufacturing properties and their values, so that the Department can develop the manufacturing assessment roll. Replace current law references to municipalities and counties that have adopted a county assessor system with references to taxation districts to achieve technical accuracy and reflect that assessments will be determined by taxation district assessors. Modify the current law provision regarding the state ad valorem tax on telephone companies to clarify that the property assessment methods employed by DOR are the same used by local assessors to assess manufacturing property.

## **DISCUSSION POINTS**

1. In 1974, the state assumed responsibility for assessing manufacturing real and personal property for local property tax purposes. The property tax exemption for manufacturing machinery and equipment was also enacted that year. The Manufacturing Assessment Section in the Bureau of Property Tax was created to perform manufacturing property assessments and administer the property tax exemption. In 1995, a separate Bureau of Manufacturing Assessment was created in the Division of State and Local Finance. The manufacturing property assessment function is performed as a service to local communities. Bureau staff annually establish the full market value of manufacturing property, equate the value to the local level of assessment to ensure manufacturing property is assessed at the aggregate level of all other property in the municipality, and deliver the manufacturing assessment roll to the municipality. Annually, the Bureau provides assessed values for over 12,000 parcels of manufacturing real estate and almost 11,000 personal property accounts. The taxes on that property are levied almost entirely by local governments.

2. In 1998, the state utility tax on telephone companies was changed from a gross revenues license fee to an ad valorem property tax. The Bureau was given responsibility for assessing the taxable property of telephone companies and renamed the Bureau of Manufacturing and Telco Assessment. Since the ad valorem property tax is imposed by the state, the Department of Revenue collects the tax directly from telephone companies and places the payments in the state's general fund. The Bureau's assessments on approximately 11,000 personal property accounts and almost 2,000 real estate parcels generate state taxes of about \$100 million annually.

3. The Bureau of Manufacturing and Telco Assessment has base level funding of \$2,948,600 GPR and 46.0 GPR positions. Under the Governor's proposal, \$2,277,000 GPR annually and 31.0 GPR positions would be deleted to transfer the manufacturing property assessment function to local governments. Positions that would be eliminated include: (a) 7.0 property assessment technicians; (b) 20.0 property assessment specialists; and (c) 4.0 property assessment supervisors.

4. The Bureau would continue to be provided annual funding (including standard budget adjustments) of \$643,400 GPR and 15.0 GPR positions. The remaining positions would include: (a) 1.0 administrative manager; (b) 2.0 property assessment supervisors; (c) 4.0 property assessment technicians; and (d) 8.0 property assessment specialists.

5. The Department charges fees for manufacturing assessment appeals, penalties for late filing of manufacturing property reports, and interest on penalty payments. These fee, penalty, and interest payments are transferred to the general fund as GPR-Earned. The Department estimates that \$409,100 in GPR-Earned will be generated in each year of the biennium from these payments. However, if the manufacturing assessment function is transferred to local governments, the payments will go to the local governments and not the state. As a result, GPR-Earned would be reduced by \$409,100 annually. The Governor's budget does not reflect this loss of revenue and GPR-Earned should be reestimated to account for the loss if the Committee decides to retain this provision.

6. In its budget request, DOR indicates that its primary mission is to collect tax revenue in order to provide funding for state and local government operations. According to the administration, the budget reduction measures in DOR's budget reflect a primary method of increasing government efficiency by focusing on the core mission of each agency. Under this method, any activity not part of the Department's core mission of collecting taxes should be reevaluated. The transfer of manufacturing assessment to local governments is a result of a reevaluation of functions. The manufacturing assessment function is not viewed as a core responsibility of DOR. As noted, the responsibility for assessing manufacturing property was first assigned to DOR in 1974 and was not part of the original functions of the Department. Based on an evaluation of local assessment practices and resources, the Department believes that responsibility for assessing manufacturing property should be transferred to local governments. From this view, restoring the manufacturing assessment function to DOR and requiring the Department to offset the restored funding and positions with significant funding and position reductions in other areas would reduce the Department's ability to effectively perform its core function of collecting state taxes.

Reducing the Department's collection of state taxes GPR appropriation by \$2.3 million would represent a 5.2% reduction in funding. Similarly, eliminating \$2.3 million from the enterprise services GPR appropriation would represent a 9.5% reduction in funding.

7. Although DOR's 1974 assumption of the manufacturing assessment function is generally acknowledged to have improved manufacturing assessments on a statewide basis, DOR maintains that this function can be returned to local governments today. At the time of the proposed transfer, local governments would acquire an accurate and comprehensive data base that has been compiled by DOR, which did not exist in 1974. Also, municipal assessors are better trained and educated today than in 1974 and employ more uniform standards and consistent assessment practices. Finally, technology exists today to assist in the assessment process that was not available in 1974.

8. Under the proposal, the Department would maintain staff in the Bureau of Manufacturing and Telco Assessment to continue to administer the state tax on telephone companies. In addition, DOR has indicated that it intends to provide assistance on manufacturing assessments to local assessors in the following ways: (a) consult with local assessors on issues related to classification of manufacturing property, administration of the machinery and equipment exemption, and appeals of manufacturing assessments; (b) maintain a statewide data base of sales of manufacturing real estate; (c) provide staffing for the state Board of Assessors to hear appeals on manufacturing assessments; and (d) provide education and training to local assessors on manufacturing valuation issues through DOR's annual assessor schools.

9. The Wisconsin Association of Assessing Officers (WAAO) has voted to oppose the proposal and cites several reasons in support of its position. The Wisconsin Manufacturers and Commerce (WMC) association and the Board of Directors of the Wisconsin Towns Association are also on record in opposition to the proposal. These organizations raised issues similar to those of WAAO, and all of their concerns are summarized in the following points. Also included in these points are testimony offered at the Joint Committee on Finance public hearings on SB 44 and comments solicited from several municipal assessors.

10. Higher Property Taxes. While the proposal would reduce state costs, these costs would be shifted to local governments and result in higher property taxes. Several individuals characterized the proposal as an "unfunded mandate" and indicated that it would be particularly burdensome when combined with SB 44's proposed shared revenue reduction.

11. Uniform Assessment Procedures. Under the current system, DOR is able to maintain a centralized level of control over procedures for classifying property, extending exemptions, and determining values. This is particularly important with regard to applying legal standards established in litigation. Because there are 1,352 municipalities that would become responsible for assessing manufacturing property (the remaining 498 municipalities do not currently contain any manufacturing property), the potential for non-uniform treatment may be considerable. This is a concern for businesses that operate from multiple locations. At a public hearing, a Kimberly-Clark Corporation representative indicated that the company maintains facilities at 35

locations in the Fox Valley. On the other hand, it can be argued that municipal assessment of manufacturing property will result in greater uniformity at the municipal level since all properties within each municipality will be valued by the same assessor. Also, this could result in greater access by the public to property information. Finally, it should be noted that manufacturers with multiple locations would be treated comparably to retailers, like Shopko or Walgreens, with operations throughout the state.

12. Assessment Accuracy and Equity. Under current procedures, DOR performs a field review of each manufacturer's property at least once every five years and updates its assessments in the intervening years based on reports filed by each manufacturer. This system results in new assessments for each manufacturing property every year. A recent survey by WAAO indicates that, among assessors responding, the median period between municipal reassessments is eight years. Less frequent reassessments will reduce the accuracy of manufacturing assessments as market conditions and the characteristics of properties change. Other related issues include a concern voiced by WMC related to local officials pressuring assessors to raise assessments on business properties, thereby providing "de facto" property tax relief to residential properties. Conversely, local assessors voiced the concern that local officials may pressure assessors to lower assessments on business properties out of fear that prominent employers might relocate to other communities. Because of the trend to appointed, rather than elected assessors, assessors may feel vulnerable to these pressures. Nonetheless, the assessment appeals process is intended to offer a safeguard against improper assessments.

13. Assessment Appeals. Manufacturers often contract with consultants for assessment appeals. Some contracts are based on contingency fees where payments are calculated from estimated tax savings. Consultants are able to specialize in manufacturing properties, where valuation issues are frequently complex. In addition to assessing manufacturing properties, local assessors will continue to be responsible for assessing residential and other types of properties. While the valuation issues for these types of properties may be less complex, the number of properties that must be assessed is time consuming. As a result, not all local assessors will have the ability to achieve a level of expertise in valuing manufacturing properties that is comparable to the consultants. Also, there is a concern that small municipalities may not have the budgetary capacity to effectively challenge assessment appeals of complex or large properties. Consequently, some have expressed a concern that an "unlevel playing field" may develop with regard to manufacturing assessment appeals. Under the current system, DOR's employment of assessors who specialize in manufacturing properties helps maintain a comparable level of expertise on both sides of assessment appeals.

14. Recruit, Train, and Retain Qualified Staff. Because many manufacturing properties were designed for specific purposes, valuing them is frequently a complex process. DOR has been able to develop a staff with considerable expertise because these individuals have been able to specialize in manufacturing assessment. This organization of activities allows DOR to realize economies of scale that may result in lower assessment costs than would occur if this function was decentralized. Although all of the assessors that the Legislative Fiscal Bureau contacted anticipate the need for additional staff, assessors in larger municipalities appear to be confident of their ability

to value manufacturing properties. The Milwaukee Assessment Commissioner points out that there are 21 commercial properties in Milwaukee that have assessed values higher than the largest manufacturing property in the City. Many assessors believe their staff is more "in tune" with local market conditions than DOR staff. However, staffing issues will probably be more volatile in smaller municipalities. These municipalities may resort to contracting for manufacturing assessment services with third parties, including larger municipalities, thereby increasing local costs. Also, assessors in some municipalities will have to upgrade their assessment certification to be eligible to assess manufacturing properties.

15. Timing of Implementation. Under the bill, municipalities would be responsible for assessing manufacturing property beginning with assessments as of January 1, 2004. Some believe that there is insufficient time for municipalities to prepare for this added responsibility, particularly among smaller municipalities. The Wisconsin Towns Association's Board of Directors adopted a secondary position on the manufacturing assessment issue. They recommend that if the proposal remains in the bill, its implementation be delayed.

16. Technical Modifications. The WAAO position on the proposal indicates that "there are mechanical errors in the statutory language" and "the proposed statutory language is unworkable in its present form." While the WAAO position paper does not specify these errors, DOR has requested a number of technical modifications to the proposal. These modifications would:

- clarify that in a cross-reference to the manufacturing assessment statute that the statute relates both to the assessment and appeal of manufacturing property;
- extend current law provisions regarding the level of assessment for major classes of property to manufacturing property;
- retain language related to determining the substantial use of property for purposes of classification, and transfer the authority for making that determination from DOR to local assessors;
- replace various references to DOR with references to local assessors;
- specify that local assessors notify manufacturers of their assessments by May 1;
- require local assessors to provide property assessment information to the state Board of Assessors (BOA);
- replace provisions requiring DOR to maintain a state manufacturing assessment roll with a provision requiring county tax listers to annually transfer assessment roll information to DOR;
- retain language requiring a field investigation of each manufacturing property once every five years;
- modify provisions relating to the BOA to clarify that the Board reviews, rather than

investigates, objections to values;

- delete a provision allowing local governments to employ appraisal personnel who are not DOR-certified;
- require the Tax Appeal Commission (replaced by the Office of the Commissioner of Tax Appeals under the bill) to specify when false or incomplete information is submitted in relation to an appeal and specify that any refunds resulting from such appeals do not bear interest; and
- clarify that municipalities and manufacturers are parties to appeals before the Tax Appeals Commission (Commissioner of Tax Appeals).

17. DOR has expressed a willingness to modify the provisions in SB 44 to address some of the concerns raised in the preceding material. The Department suggests that the transition to local assessment be extended to occur over two years. Under this proposal, manufacturing properties with less than 50,000 square feet would be locally assessed as of January 1, 2004. Manufacturing properties of 50,000 square feet, or more, would continue to be assessed by DOR for the 2004 assessment year, but would become locally assessed for the 2005 assessment year. Personal property would be assessed by the same jurisdiction that assesses the real estate where the personal property is located. DOR manufacturing staff would be reduced as proposed in the bill, and the "large property" assessments for 2004 would be accomplished by reallocating DOR staff on a one-time basis. In addition, municipalities willing to assume all manufacturing responsibilities in 2004 would be allowed to do so. Out of the 12,000 manufacturing real estate parcels, there are approximately 5,000 manufacturing real estate parcels containing facilities of 50,000 square feet or more.

18. Another option has been suggested by WAAO. Under that proposal, the Bureau of Manufacturing and Telco Assessment would be converted to a program revenue operation, where charges would be imposed on manufacturers to cover the Bureau's costs of operation. Charges would be based on each manufacturer's equalized value, as established by DOR. However, this would result in manufacturers being double-billed for assessment services. They would pay the proposed fee to DOR to cover the cost of their own assessment, and they would pay for the assessment of other properties through their property tax bill. If the courts construe the charges to be a tax, the courts may rule that the charges are unconstitutional under the uniformity clause because the charges would be imposed on manufacturing properties, but not on other types of properties that are otherwise taxable. Nonetheless, all acts of the Legislature are presumed to be constitutional until ruled otherwise.

19. Another option for converting the Bureau's manufacturing assessment function to a PR basis would be to charge municipalities for the assessment service, based on the equalized value of manufacturing property located in each municipality. This would avoid the uniformity issue raised relative to the WAAO proposal, but would allow DOR to recover its costs.

## ALTERNATIVES

1. Approve the Governor's recommendation to delete \$2,277,000 and 31.0 positions annually and to transfer the responsibility for assessing manufacturing property from the state to local governments, effective with property assessed as of January 1, 2004. Modify the Governor's recommendation to reflect the loss of \$409,100 annually in GPR-Earned from fees, penalties, and interest payments associated with the manufacturing assessment function. Make the technical modifications to the bill as recommended by DOR (see Point #16).

<b>Alternative 1</b>	<b>GPR</b>
2003-05 REVENUE (Change to Bill)	- \$818,200

2. Approve the Governor's recommendation to delete \$2,277,000 and 31.0 positions annually. Modify the Governor's recommendation to transfer the responsibility for assessing manufacturing property from the state to local governments, effective with property assessed as of January 1, 2004, by authorizing DOR to perform the assessments of manufacturing properties of 50,000 square feet, or larger, and the personal property located at those sites in 2004, if requested by the governing body of the municipality where the property is located. Modify the Governor's recommendation to reflect the loss of \$204,500 in 2003-04 and \$409,100 in 2004-05 in GPR-Earned from fees, penalties, and interest payments associated with the manufacturing assessment function. Make the technical modifications to the bill as recommended by DOR (see Point #16).

<b>Alternative 2</b>	<b>GPR</b>
2003-05 REVENUE (Change to Bill)	- \$613,600

3. Delete the Governor's recommendation, except for the \$2,277,000 annual GPR reduction, and, instead, convert 31.0 positions in the Bureau of Manufacturing and Telco Assessment to PR funding effective on July 1, 2003. Provide PR funding of \$2,277,000 annually through one of the following:

a. Authorize DOR to charge the owners of manufacturing property a fee based on each property's equalized value at a rate determined by DOR. Authorize DOR to set the fee at a rate sufficient to offset the Department's budgeted costs for the manufacturing assessment function.

b. Authorize DOR to annually impose a special charge on each municipality containing manufacturing property. Set the charge for each municipality at an amount equal to the municipality's equalized value of manufacturing property multiplied by a rate determined by DOR, which varies from year-to-year and generates sufficient revenues to offset the Department's budgeted costs for the manufacturing assessment function.



<u>Alternative 3</u>	<u>PR</u>
<b>2003-05 REVENUE</b> (Change to Bill)	\$4,554,000
<b>2003-05 FUNDING</b> (Change to Bill)	\$4,554,000
<b>2004-05 POSITIONS</b> (Change to Bill)	31.00

4. Delete provision.

<u>Alternative 4</u>	<u>GPR</u>
<b>2003-05 FUNDING</b> (Change to Bill)	\$4,554,000
<b>2004-05 POSITIONS</b> (Change to Bill)	31.00

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