

(3) The members of such board, except members who are full time employees or officers of the town, village or city, shall receive such compensation as shall be fixed by resolution or ordinance of the town board, village board or common council.

(4) No board of review may be constituted unless it includes at least one voting member who, within 2 years of the board's first meeting, has attended a training session under s. 73.03 (55) and unless that member is the municipality's chief executive officer or that officer's designee. The municipal clerk shall provide an affidavit to the department of revenue stating whether the requirement under this subsection has been fulfilled.

History: 1971 c. 180; 1973 c. 90; 1975 c. 427; 1979 c. 58; 1991 a. 156, 316; 1995 a. 34; 1997 a. 237; 1999 a. 32.

Prejudice of a board of review is not shown by the fact that the members are taxpayers. *Berg Equipment Corp. v. Spencer Board of Review*, 53 Wis. 2d 233, 191 N.W.2d 892 (1971).

A town clerk's compensation may be increased for service on the board of review if the clerk has been designated part-time by the town meeting. 79 Atty. Gen. 176.

70.47 Board of review proceedings. (1) TIME AND PLACE OF MEETING. The board of review shall meet annually at any time during the 30-day period beginning on the 2nd Monday of May. In towns and villages the board shall meet at the town or village hall or some place designated by the town or village board. If there is no such hall, it shall meet at the clerk's office, or in towns at the place where the last annual town meeting was held. In cities the board shall meet at the council chamber or some place designated by the council and in cities of the 1st class in some place designated by the commissioner of assessments of such cities. A majority shall constitute a quorum except that 2 members may hold any hearing of the evidence required to be held by such board under subs. (8) and (10), if the requirements of sub. (9) are met.

(2) NOTICE. At least 15 days before the first session of the board of review, or at least 30 days before the first session of the board of review in any year in which the taxation district conducts a revaluation under s. 70.05, the clerk of the board shall publish a class 1 notice, place a notice in at least 3 public places and place a notice on the door of the town hall, of the village hall, of the council chambers or of the city hall of the time and place of the first meeting of the board under sub. (3) and of the requirements under sub. (7) (aa) and (ac) to (af). A taxpayer who shows that the clerk failed to publish the notice under this subsection may file a claim under s. 74.37.

(2m) OPEN MEETINGS. All meetings of the board of review shall be publicly held and open to all citizens at all times. No formal action of any kind shall be introduced, deliberated upon or adopted at any closed session or meeting of a board of review.

(3) SESSIONS. (a) At its first meeting, the board of review:

1. Shall receive the assessment roll and sworn statements from the clerk.

2. Shall be in session at least 2 hours for taxpayers to appear and examine the assessment roll and other assessment data.

3. Shall schedule for hearing each written objection that it receives during the first 2 hours of the meeting or that it received prior to the first meeting.

4. Shall grant a waiver of the 48-hour notice of an intent to file a written or oral objection if a property owner who does not meet the notice requirement appears before the board during the first 2 hours of the meeting, shows good cause for failure to meet the 48-hour notice requirement and files a written objection.

5. May hear any written objections if the board gave notice of the hearing to the property owner and the assessor at least 48 hours before the beginning of the scheduled meeting or if both the property owner and the assessor waive the 48-hour notice requirement.

(ag) The assessor shall be present at the first meeting of the board of review.

(ah) For each properly filed written objection that the board receives and schedules during its first meeting, but does not hear at the first meeting, the board shall notify each objector and the

assessor, at least 48 hours before an objection is to be heard, of the time of that hearing. If, during any meeting, the board determines that it cannot hear some of the written objections at the time scheduled for them, it shall create a new schedule, and it shall notify each objector who has been rescheduled, at least 48 hours before the objection is to be heard, of the new time of the hearing.

(ak) If an objector fails to provide written or oral notice of an intent to object 48 hours before the first scheduled meeting, fails to request a waiver of the notice requirement under par. (a) 4., appears before the board at any time up to the end of the 5th day of the session or up to the end of the final day of the session if the session is less than 5 days, files a written objection and provides evidence of extraordinary circumstances; the board of review may waive all notice requirements and hear the objection.

(al) If the assessment roll is not completed at the time of the first meeting, the board shall adjourn for the time necessary to complete the roll, and shall post a written notice on the outer door of the place of meeting stating the time to which the meeting is adjourned.

(ar) With respect to the assessment rolls of taxing districts prepared by a county assessor, the board of review as constituted under s. 70.99 (10) shall schedule a meeting in each taxing jurisdiction on specific dates and shall comply with the provisions of this subsection and sub. (2) in each taxing district.

(b) The municipal governing body may by ordinance or resolution designate hours, other than those set forth in par. (a), during which the board shall hold its first meeting, but not fewer than 2 hours on the first meeting day between 8 a.m. and midnight. Such change in the time shall not become effective unless notice thereof is published in the official newspaper if in a city, or posted in not less than 3 public places if in any other municipality, at least 15 days before such first meeting.

(4) ADJOURNMENT. The board may adjourn from time to time until its business is completed. If an adjournment be had for more than one day, a written notice shall be posted on the outer door of the place of meeting, stating to what time said meeting is adjourned.

(5) RECORDS. The clerk shall keep a record in the minute book of all proceedings of the board.

(6) BOARD'S DUTY. The board shall carefully examine the roll or rolls and correct all apparent errors in description or computation, and shall add all omitted property as provided in sub. (10). The board shall not raise or lower the assessment of any property except after hearing as provided in subs. (8) and (10).

(6m) REMOVAL OF A MEMBER. (a) A municipality, except a 1st class city or a 2nd class city, shall remove, for the hearing on an objection, a member of the board of review if any of the following conditions applies:

1. A person who is objecting to a valuation, at the time that the person provides written or oral notice of an intent to file an objection and at least 48 hours before the first scheduled session of the board of review or at least 48 hours before the objection is heard if the objection is allowed under sub. (3) (a), requests the removal, except that no more than one member of the board of review may be removed under this subdivision.

2. A member of the board of review has a conflict of interest under an ordinance of the municipality in regard to the objection.

3. A member of the board of review has a bias in regard to the objection and, if a party requests the removal of a member for a bias, the party submits with the request an affidavit stating that the party believes that the member has a personal bias or prejudice against the party and stating the nature of that bias or prejudice.

(b) A member of a board of review who would violate s. 19.59 by hearing an objection shall recuse himself or herself from that hearing. The municipal clerk shall provide to the department of revenue an affidavit declaring whether the requirement under this paragraph is fulfilled.

(c) If a member or members are removed under par. (a) or are recused under par. (b), the board may replace the member or members or its remaining members may hear the objection, except that no fewer than 3 members may hear the objection.

(6r) COMMENTS. Any person may provide to the municipal clerk written comments about valuations, assessment practices and the performance of an assessor. The clerk shall provide all of those comments to the appropriate municipal officer.

(7) OBJECTIONS TO VALUATIONS. (a) The board of review may not hear an objection to the amount or valuation of property unless, at least 48 hours before the board's first scheduled meeting, the objector provides to the board's clerk written or oral notice of an intent to file an objection, except that, upon a showing of good cause and the submission of a written objection, the board shall waive that requirement during the first 2 hours of the board's first scheduled meeting, and the board may waive that requirement up to the end of the 5th day of the session or up to the end of the final day of the session if the session is less than 5 days with proof of extraordinary circumstances for failure to meet the 48-hour notice requirement and failure to appear before the board of review during the first 2 hours of the first scheduled meeting. Objections to the amount or valuation of property shall first be made in writing and filed with the clerk of the board of review within the first 2 hours of the board's first scheduled meeting, except that, upon evidence of extraordinary circumstances, the board may waive that requirement up to the end of the 5th day of the session or up to the end of the final day of the session if the session is less than 5 days. The board may require such objections to be submitted on forms approved by the department of revenue, and the board shall require that any forms include stated valuations of the property in question. Persons who own land and improvements to that land may object to the aggregate valuation of that land and improvements to that land, but no person who owns land and improvements to that land may object only to the valuation of that land or only to the valuation of improvements to that land. No person shall be allowed in any action or proceedings to question the amount or valuation of property unless such written objection has been filed and such person in good faith presented evidence to such board in support of such objections and made full disclosure before said board, under oath of all of that person's property liable to assessment in such district and the value thereof. The requirement that it be in writing may be waived by express action of the board.

(aa) No person shall be allowed to appear before the board of review, to testify to the board by telephone or to contest the amount of any assessment of real or personal property if the person has refused a reasonable written request by certified mail of the assessor to view such property.

(ab) For the purpose of this section, the managing entity, as defined in s. 707.02 (15), or its designees, may be considered the taxpayer as an agent for the time-share owner, as defined in s. 707.02 (31), and may file one objection and make one appearance before the board of review concerning all objections relating to a particular real property improvement and the land associated with it. A time-share owner may file one objection and make one appearance before the board of review concerning the assessment of the building unit in which he or she owns a time share.

(ac) After the first meeting of the board of review and before the board's final adjournment, no person who is scheduled to appear before the board of review may contact, or provide information to, a member of the board about that person's objection except at a session of the board.

(ad) No person may appear before the board of review, testify to the board by telephone or contest the amount of any assessment unless, at least 48 hours before the first meeting of the board or at least 48 hours before the objection is heard if the objection is allowed under sub. (3) (a), that person provides to the clerk of the board of review notice as to whether the person will ask for removal under sub. (6m) (a) and if so which member will be

removed and the person's reasonable estimate of the length of time that the hearing will take.

(ae) When appearing before the board, the person shall specify, in writing, the person's estimate of the value of the land and of the improvements that are the subject of the person's objection and specify the information that the person used to arrive at that estimate.

(af) No person may appear before the board of review, testify to the board by telephone or object to a valuation; if that valuation was made by the assessor or the objector using the income method; unless the person supplies to the assessor all of the information about income and expenses, as specified in the manual under s. 73.03 (2a), that the assessor requests. The municipality or county shall provide by ordinance for the confidentiality of information about income and expenses that is provided to the assessor under this paragraph and shall provide exceptions for persons using the information in the discharge of duties imposed by law or of the duties of their office or by order of a court. The information that is provided under this paragraph, unless a court determines that it is inaccurate, is not subject to the right of inspection and copying under s. 19.35 (1).

(bb) Upon receipt of an objection with respect to the assessment rolls of taxation districts prepared by a county assessor the board of review as constituted under s. 70.99 (10) may direct such objection to be investigated by the county board of assessors if such board has been established under s. 70.99 (10m). If such objection has been investigated by the county board of assessors as provided by s. 70.99 (10m), the county board of review may adopt the determination of county board of assessors unless the objector requests or the board of review orders a hearing. At least 2 days' notice of the time fixed for such hearing shall be given to the objector or the objector's attorney and to the corporation counsel. If the county board of review adopts the determination of the county board of assessors and no further hearing is held, the clerk of the board of review shall record the adoption in the minutes of the board and shall correct the assessment roll as provided by s. 70.48.

(c) The board of review shall grant a taxpayer a 60-day extension for a hearing related to the taxpayer's objection submitted under this section, if the taxation district enacts an ordinance authorizing such extensions and if the taxpayer submits with the objection a request to the board for an extension and pays the taxation district a \$100 fee. A request for an extension under this paragraph shall not stop the accrual of interest, notwithstanding s. 70.511 (2) (b). The 60-day extension period under this paragraph may be further extended, if the taxpayer shows good cause. If a taxation district enacts an ordinance under this paragraph, each taxpayer who submits an objection under this section, regardless of whether the taxpayer requests an extension, and the assessor shall present to the board of review all evidence, as specified in the manual under s. 73.03 (2a), on which they rely to support their respective positions and any additional evidence that the taxpayer or the assessor believes is relevant to determining the correct assessment. If the taxpayer receives an extension under this paragraph, at least 10 days before the scheduled board of review hearing, the taxpayer and the assessor shall simultaneously exchange all reports, documents, and exhibits that the taxpayer and assessor will present at the hearing. At least 60 days prior to the first day on which the board of review hears objections, each taxation district that enacts an ordinance under this paragraph shall publish on its Internet site the last day on which a taxpayer may submit an objection under this section. At least 15 days prior to the first day on which the board of review hears objections, each taxation district that enacts an ordinance under this paragraph shall include with the notice under s. 70.365 information to inform the taxpayer of the last day on which a taxpayer may submit an objection under this section.

NOTE: The supreme court in *Metropolitan Associates v. City of Milwaukee*, 2011 WI 20, held the creation of par. (c) by 2007 Wis. Act 86 to be unconstitutional and severed from the remainder of the statute.

(8) HEARING. The board shall hear upon oath all persons who appear before it in relation to the assessment. Instead of appearing in person at the hearing, the board may allow the property owner, or the property owner's representative, at the request of either person, to appear before the board, under oath, by telephone or to submit written statements, under oath, to the board. The board shall hear upon oath, by telephone, all ill or disabled persons who present to the board a letter from a physician, osteopath, physician assistant, as defined in s. 448.01 (6), or advanced practice nurse prescriber certified under s. 441.16 (2) that confirms their illness or disability. At the request of the property owner or the property owner's representative, the board may postpone and reschedule a hearing under this subsection, but may not postpone and reschedule a hearing more than once during the same session for the same property. The board at such hearing shall proceed as follows:

(a) The clerk shall swear all persons testifying before it or by telephone in relation to the assessment.

(b) The owner or the owner's representatives and the owner's witnesses shall first be heard.

(c) The board may examine under oath such persons as it believes have knowledge of the value of such property.

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

NOTE: The supreme court in *Metropolitan Associates v. City of Milwaukee*, 2011 WI 20, held the amendment of par. (d) by 2007 Wis. Act 86 to be unconstitutional and severed from the remainder of the statute. Prior to the amendment by Act 86, par. (d) read:

(d) It may and upon request of the assessor shall compel the attendance of witnesses, except objectors who may testify by telephone, and the production of all books, inventories, appraisals, documents and other data which may throw light upon the value of property.

(e) All proceedings shall be taken in full by a stenographer or by a recording device, the expense thereof to be paid by the district. The board may order that the notes be transcribed, and in case of an appeal or other court proceedings they shall be transcribed. If the proceedings are taken by a recording device, the clerk shall keep a list of persons speaking in the order in which they speak.

(f) The clerk's notes, written objections and all other material submitted to the board of review, tape recordings of the proceedings and any other transcript of proceedings shall be retained for at least 7 years, shall be available for public inspection and copies of these items shall be supplied promptly at a reasonable time and place to anyone requesting them at the requester's expense.

(g) All determinations of objections shall be by roll call vote.

(h) The assessor shall provide to the board specific information about the validity of the valuation to which objection is made and shall provide to the board the information that the assessor used to determine that valuation.

(i) The board shall presume that the assessor's valuation is correct. That presumption may be rebutted by a sufficient showing by the objector that the valuation is incorrect.

(j) The board shall allow a sufficient amount of time for a hearing under this subsection to permit the taxpayer and assessor to present their evidence.

NOTE: The supreme court in *Metropolitan Associates v. City of Milwaukee*, 2011 WI 20, held the creation of par. (j) by 2007 Wis. Act 86 to be unconstitutional and severed from the remainder of the statute.

(8m) HEARING WAIVER. The board may, at the request of the taxpayer or assessor, or at its own discretion, waive the hearing of an objection under sub. (8) or, in a 1st class city, under sub. (16) and allow the taxpayer to have the taxpayer's assessment reviewed under sub. (13). For purposes of this subsection, the board shall submit the notice of decision under sub. (12) using the amount of the taxpayer's assessment as the finalized amount. For

purposes of this subsection, if the board waives the hearing, the waiver disallows the taxpayer's claim on excessive assessment under s. 74.37 (3) and, notwithstanding the time period under s. 74.37 (3) (d), the taxpayer has 60 days from the notice of the hearing waiver in which to commence an action under s. 74.37 (3) (d).

(9) CORRECTION OF ASSESSMENTS. (a) From the evidence before it the board shall determine whether the assessor's assessment is correct. If the assessment is too high or too low, the board shall raise or lower the assessment accordingly and shall state on the record the correct assessment and that that assessment is reasonable in light of all of the relevant evidence that the board received. A majority of the members of the board present at the meeting to make the determination shall constitute a quorum for purposes of making such determination, and a majority vote of the quorum shall constitute the determination. In the event there is a tie vote, the assessment shall be sustained.

(b) A board member may not be counted in determining a quorum and may not vote concerning any determination unless, concerning such determination, such member:

1. Attended the hearing of the evidence; or
2. Received the transcript of the hearing no less than 5 days prior to the meeting and read such transcript; or
3. Received a mechanical recording of the evidence no less than 5 days prior to the meeting and listened to such recording; or
4. Received a copy of a summary and all exceptions thereto no less than 5 days prior to the meeting and read such summary and exceptions. In this subdivision "summary" means a written summary of the evidence prepared by one or more board members attending the hearing of evidence, which summary shall be distributed to all board members and all parties to the contested assessment and "exceptions" means written exceptions to the summary of evidence filed by parties to the contested assessment.

(10) ASSESSMENT BY BOARD. If the board has reason to believe, upon examination of the roll and other pertinent information, that other property, the assessment of which is not complained of, is assessed above or below the general average of the assessment of the taxation district, or is omitted, the board shall:

(a) Notify the owner, agent or possessor of such property of its intention to review such assessment or place it on the assessment roll and of the time and place fixed for such hearing in time to be heard before the board in relation thereto, provided the residence of such owner, agent or possessor be known to any member of the board or the assessor.

(b) Fix the day, hour and place at which such matter will be heard.

(c) Subpoena such witnesses, except objectors who may testify by telephone, as it deems necessary to testify concerning the value of such property and, except in the case of an assessment made by a county assessor pursuant to s. 70.99, the expense incurred shall be a charge against the district.

(d) At the time appointed proceed to review the matter as provided in sub. (8).

(11) PARTIES. In all proceedings before the board the taxation district shall be a party in interest to secure or sustain an equitable assessment of all the property in the taxation district.

(12) NOTICE OF DECISION. Prior to final adjournment, the board of review shall provide the objector, or the appropriate party under sub. (10), notice by personal delivery or by mail, return receipt required, of the amount of the assessment as finalized by the board and an explanation of appeal rights and procedures under sub. (13) and ss. 70.85, 74.35 and 74.37. Upon delivering or mailing the notice under this subsection, the clerk of the board of review shall prepare an affidavit specifying the date when that notice was delivered or mailed.

(13) REVIEW. Except as provided in this subsection and in ss. 70.85 and 74.37, appeal from the determination of the board of review shall be by an action for certiorari commenced within 90 days after the taxpayer receives the notice under sub. (12). The action shall be given preference. If the court on the appeal finds

any error in the proceedings of the board which renders the assessment or the proceedings void, or if the court determines that the board lacked good cause to deny a request for a deposition subpoena, it shall remand the assessment to the board for further proceedings in accordance with the court's determination and retain jurisdiction of the matter until the board has determined an assessment in accordance with the court's order. For this purpose, if final adjournment of the board occurs prior to the court's decision on the appeal, the court may order the governing body of the assessing authority to reconvene the board. If the appellant challenges the value determination that the board made at a proceeding under sub. (7) (c), the court shall presume that the board's valuation is correct, except that the presumption may be rebutted by a sufficient showing by the appellant that the valuation is incorrect. If the presumption is rebutted, the court shall determine the assessment without deference to the board of review and based on the record before the board of review, except that the court may consider evidence that was not available at the time of the hearing before the board, that the board refused to consider, or that the court otherwise determines should be considered in order to determine the correct assessment. In the event that an objection to the previous year's assessment has not been resolved, the parties may agree that the assessment for the previous year shall also apply for the current year and shall be included in the court's review of the prior year's assessment without an additional hearing by the board.

NOTE: The supreme court in *Metropolitan Associates v. City of Milwaukee*, 2011 WI 20, held the amendment of sub. (13) by 2007 Wis. Act 86 to be unconstitutional and severed from the remainder of the statute. Prior to the amendment by Act 86, sub. (13) read:

(13) **Certiorari.** Except as provided in s. 70.85, appeal from the determination of the board of review shall be by an action for certiorari commenced within 90 days after the taxpayer receives the notice under sub. (12). The action shall be given preference. If the court on the appeal finds any error in the proceedings of the board which renders the assessment or the proceedings void, it shall remand the assessment to the board for further proceedings in accordance with the court's determination and retain jurisdiction of the matter until the board has determined an assessment in accordance with the court's order. For this purpose, if final adjournment of the board occurs prior to the court's decision on the appeal, the court may order the governing body of the assessing authority to reconvene the board.

(14) **TAX PAYMENTS.** In the event the board of review has not completed its review or heard an objection to an assessment on real or personal property prior to the date the taxes predicated upon such assessment are due, or in the event there is an appeal as provided in sub. (13) and s. 74.37 from the correction of the board of review to the court, the time for payment of such taxes as levied is the same as provided in ch. 74 and if not paid in the time prescribed, such taxes are delinquent and subject to the same provisions as other delinquent taxes.

(15) **SAVING CLAUSE.** Nothing herein contained shall be construed to alter or repeal any of the provisions of s. 70.35.

(16) **FIRST CLASS CITY, FILING OBJECTIONS, PROCEEDINGS, APPEAL.** (a) In 1st class cities all objections to the amount or valuation of real or personal property shall be first made in writing and filed with the commissioner of assessments on or before the 3rd Monday in May. No person may, in any action or proceeding, question the amount or valuation of real or personal property in the assessment rolls of the city unless objections have been so filed. The board may not waive the requirement that objections be in writing. Persons who own land and improvements to that land may object to the aggregate valuation of that land and improvements to that land, but no person who owns land and improvements to that land may object only to the valuation of that land or only to the valuation of improvements to that land. If the objections have been investigated by a committee of the board of assessors under s. 70.07 (6), the board of review may adopt the recommendation of the committee unless the objector requests or the board orders a hearing. At least 2 days' notice of the time fixed for the hearing shall be given to the objector or attorney and to the city attorney of the city. The provisions of the statutes relating to boards of review not inconsistent with this subsection apply to proceedings before the boards of review of 1st class cities, except

that the board need not adjourn until the assessment roll is completed by the commissioner of assessments, as required in s. 70.07 (6), but may immediately hold hearings on objections filed with the commissioner of assessments, and the changes, corrections and determinations made by the board acting within its powers shall be prima facie correct. Appeal from the determination shall be by an action under sub. (13) commenced within 90 days after the taxpayer receives the notice under sub. (12). The action shall be given preference. If the court on the appeal finds any error in the proceedings of the board that renders the assessment or the proceedings void or, with regard to an objection that is subject to par. (c), if the court determines that the board lacked good cause to deny a request for a deposition subpoena, it shall remand the assessment to the board for further proceedings in accordance with the court's determination and retain jurisdiction of the matter until the board has determined an assessment in accordance with the court's order. If the appellant challenges the value determination that the board made at a proceeding under sub. (16) (c), the court shall presume that the board's valuation is correct, except that the presumption may be rebutted by a sufficient showing by the appellant that the valuation is incorrect. If the presumption is rebutted, the court shall determine the assessment without deference to the board of review and based on the record before the board of review, 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, or that the court otherwise determines should be considered in order to determine the correct assessment. In the event that an objection to the previous year's assessment has not been resolved, the parties may agree that the assessment for the previous year shall also apply for the current year and shall be included in the court's review of the prior year's assessment without an additional hearing by the board.

NOTE: The supreme court in *Metropolitan Associates v. City of Milwaukee*, 2011 WI 20, held the amendment of par. (a) by 2007 Wis. Act 86 to be unconstitutional and severed from the remainder of the statute. Prior to the amendment by Act 86, par. (a) read:

(a) In 1st class cities all objections to the amount or valuation of real or personal property shall be first made in writing and filed with the commissioner of assessments on or before the 3rd Monday in May. No person may, in any action or proceeding, question the amount or valuation of real or personal property in the assessment rolls of the city unless objections have been so filed. The board may not waive the requirement that objections be in writing. Persons who own land and improvements to that land may object to the aggregate valuation of that land and improvements to that land, but no person who owns land and improvements to that land may object only to the valuation of that land or only to the valuation of improvements to that land. If the objections have been investigated by a committee of the board of assessors under s. 70.07 (6), the board of review may adopt the recommendation of the committee unless the objector requests or the board orders a hearing. At least 2 days' notice of the time fixed for the hearing shall be given to the objector or attorney and to the city attorney of the city. The provisions of the statutes relating to boards of review not inconsistent with this subsection apply to proceedings before the boards of review of 1st class cities, except that the board need not adjourn until the assessment roll is completed by the commissioner of assessments, as required in s. 70.07 (6), but may immediately hold hearings on objections filed with the commissioner of assessments, and the changes, corrections and determinations made by the board acting within its powers shall be prima facie correct. Appeal from the determination shall be by an action for certiorari commenced within 90 days after the taxpayer receives the notice under sub. (12). The action shall be given preference.

(b) In 1st class cities if an assessment valuation for taxes based on the value of real property is the same for the current year as for the preceding year and ownership of the property is unchanged, and if an objection had been filed to the assessment valuation for the preceding year and the assessed valuation by the assessor was sustained by the board of review or the courts, an objection filed under sub. (7) to the assessment valuation on the same property for the current year shall be subject to a fee not to exceed \$10 payable to the city at the time of filing the objection or within 3 days thereafter, and the fee shall be a condition for the hearing of the objection before the board of review.

(c) The board of review shall grant a taxpayer a 60-day extension for a hearing related to the taxpayer's objection submitted under this section, if the 1st class city enacts an ordinance authorizing such extensions and if the taxpayer submits with the objection a request to the board for an extension and pays the city a \$100

fee. A request for an extension under this paragraph shall not stop the accrual of interest, notwithstanding s. 70.511 (2) (b). The 60-day extension period under this paragraph may be further extended, if the taxpayer shows good cause. If a 1st class city enacts an ordinance under this paragraph, each taxpayer who submits an objection under this section, regardless of whether the taxpayer requests an extension, and the assessor shall present to the board of review all evidence, as specified in the manual under s. 73.03 (2a), on which they rely to support their respective positions and any additional evidence that the taxpayer or the assessor believes is relevant to determining the correct assessment. If the taxpayer receives an extension under this paragraph, at least 10 days before the scheduled board of review hearing, the taxpayer and the assessor shall simultaneously exchange all reports, documents, and exhibits that the taxpayer and assessor will present at the hearing. At least 60 days prior to the first day on which the board of review hears objections, each 1st class city that enacts an ordinance under this paragraph shall publish on its Internet site the last day on which a taxpayer may submit an objection under this section. At least 15 days prior to the first day on which the board of review hears objections, each 1st class city that enacts an ordinance under this paragraph shall include with the notice under s. 70.365 information to inform the taxpayer of the last day on which a taxpayer may submit an objection under this section.

NOTE: The supreme court in *Metropolitan Associates v. City of Milwaukee*, 2011 WI 20, held the creation of par. (c) by 2007 Wis. Act 86 to be unconstitutional and severed from the remainder of the statute.

(17) SUMMARY OF PROCEEDINGS. After the board of review has completed its determinations, the clerk shall prepare a summary of the proceedings and determinations, on forms prescribed by the department of revenue, which shall include the following information:

- (a) Name of taxpayer;
- (b) Description or designation of the property subject to the objection;
- (c) Amount of the assessment about which taxpayer objected;
- (d) Names of any persons who appeared on behalf of taxpayer; and
- (e) Board's determination on taxpayer's objection.

(18) TAMPERING WITH RECORDS. (a) Whoever with intent to injure or defraud alters, damages, removes or conceals any of the items specified under subs. (8) (f) and (17) is guilty of a Class I felony.

(b) Whoever intentionally alters, damages, removes or conceals any public notice, posted as required by sub. (2), before the expiration of the time for which the notice was posted, may be fined not more than \$200 or imprisoned not more than 6 months or both.

History: 1973 c. 90; 1975 c. 151, 199, 427; 1977 c. 29 ss. 755, 1647 (8); 1977 c. 273; 1977 c. 300 ss. 2, 8; 1977 c. 414; 1979 c. 34 ss. 878 to 880, 2102 (46) (b); 1979 c. 95, 110, 355; 1981 c. 20, 289; 1983 a. 192, 219, 432; 1985 a. 39; 1985 a. 120 ss. 155, 3202 (46); 1985 a. 188 s. 16; 1987 a. 27, 139, 254, 378, 399; 1989 a. 31; 1991 a. 39, 156, 218, 315, 316; 1993 a. 82, 307; 1997 a. 237, 252, 283; 2001 a. 109; 2005 a. 187; 2007 a. 86; 2011 a. 161; 2013 a. 228.

Judicial Council Note, 1981: References in subs. (13) and (16) (a) to "writs" of certiorari have been removed because that remedy is now available in an ordinary action. See s. 781.01, stats., and the note thereto. [Bill 613–A]

A board of review may deny a taxpayer a hearing if the taxpayer's objections are not stated on an approved form; the board is not required to accept information submitted in a different form. Certiorari review under this section is limited to the action of the board. *Bitters v. Newbold*, 51 Wis. 2d 493, 187 N.W.2d 339 (1971).

Board of review consideration of testimony by the village assessor at an executive session subsequent to the presentation of evidence by the taxpayer was contrary to the open meeting law, s. 66.77 [now ss. 19.81 to 19.98]. Although it was permissible for the board to convene a closed session for the purpose of deliberating after a quasi-judicial hearing, the proceedings did not constitute mere deliberations but were a continuation of the hearing without the presence of or notice to the objecting taxpayer. *Dolphin v. Butler Board of Review*, 70 Wis. 2d 403, 234 N.W.2d 277 (1975).

A circuit court's retained jurisdiction in board of review certiorari actions under s. 70.47 (13) does not affect the finality of an order for appeal purposes. *Steenberg v. Town of Oakfield*, 157 Wis. 2d 674, 461 N.W.2d 148 (Ct. App. 1990).

On certiorari review of a board of review decision only whether the board acted: 1) within its jurisdiction; 2) according to law; 3) arbitrarily, oppressively, or unreasonably; or 4) without evidence to make the order or determination in question is considered. *Metropolitan Holding Co. v. Milwaukee Board of Review*, 173 Wis. 2d 626, 495 N.W.2d 314 (1993).

When a board disregards uncontroverted evidence, its determination must be set aside. *Campbell v. Town of Delavan*, 210 Wis. 2d 239, 565 N.W.2d 209 (Ct. App. 1997), 96–1291.

Approving an increased assessment for only one property, despite evidence that it and other properties had recent sales at a price above prior assessments, violated the law; its approval by the board of review was arbitrary. *Noah's Ark Family Park v. Village of Lake Delton*, 210 Wis. 2d 301, 565 N.W.2d 230 (Ct. App. 1997), 96–1074. *Affirmed*. 216 Wis. 2d 387, 573 N.W.2d 852 (1998), 96–1074.

A board's across the board 3% assessment reduction of all lots in a developer's subdivision was not arbitrary and capricious when the board was presented with conflicting credible evidence. *Whitecaps Homes v. Kenosha County Board of Review*, 212 Wis. 2d 714, 569 N.W.2d 714 (Ct. App. 1997), 96–1913.

Sections 70.47 (13), 70.85, and 74.37 provide the exclusive methods to challenge a municipality's bases for assessment of individual parcels. All require appeal to the board of review prior to court action. There is no alternative procedure to challenge an assessment's compliance with the uniformity clause. *Hermann v. Town of Delavan*, 215 Wis. 2d 370, 572 N.W.2d 855 (1998), 96–0171.

It was not improper for an assessor to testify as a witness and also to ask questions of other witnesses at a board of review hearing. *Rite-Hite Corp. v. Brown Deer Board of Review*, 216 Wis. 2d 189, 575 N.W.2d 721 (Ct. App. 1997), 96–3178.

A landowner who has in the immediately previous year already objected to the board regarding an unchanged assessment is relieved from filing another objection to the current assessment prior to commencing an action. *Duesterbeck v. Town of Koshkonong*, 2000 WI App 6, 232 Wis. 2d 16, 605 N.W.2d 904, 98–3048.

When after hearing a taxpayer's complaint the board approved the assessor's valuation by giving notice affirming the assessment under sub. (1), the board waived the requirement under sub. (7) (a) that the taxpayer's objection be in writing. *Fee v. Town of Florence Board of Review*, 2003 WI App 17, 259 Wis. 2d 868, 657 N.W.2d 112, 02–1758.

Neither sub. (7) nor *Hermann* stand for the proposition that a property owner may not raise any issue with the trial court that was not fully argued before the board of review. Rather, *Hermann* explains that under sub. (7) any property owner wishing to challenge a property tax assessment, whether via certiorari review, written complaint to the department of revenue, or a claim filed under s. 74.37, must first file an objection before the board of review. *U.S. Oil Co., Inc. v. City of Milwaukee*, 2011 WI App 4, 331 Wis. 2d 407, 794 N.W.2d 904, 09–2260.

Hermann makes clear that exhaustion of remedies before the board of review is required unless the property taxed is exempt or lies outside of the taxing district. An assertion that a city's assessment process was flawed and unconstitutional, if true, would make the levy merely voidable, not void *ab initio*. *Clear Channel Outdoor, Inc. v. City of Milwaukee*, 2011 WI App 117, 336 Wis. 2d 707, 805 N.W.2d 582, 10–1809.

The taxpayer challenging an assessment and classification has the burden of proving at the board hearing that the assessment and classification of property are erroneous; that the taxpayer did not meet his burden of proof; and that the board's determination to maintain the assessment is supported by a reasonable view of the evidence. *Sausen v. Town of Black Creek Board of Review*, 2014 WI 9, 352 Wis. 2d 576, 843 N.W.2d 39, 10–3015.

A property owner is absolved from complying with sub. (7)'s objection requirements when: 1) the property owner has filed a procedurally correct sub. (7) objection to the property's assessment in the prior year; 2) the assessment has not changed between the prior year and the current year; and 3) the prior year's objection is still unresolved as of the date of the first meeting of the board of review for the current year's assessments. *Walgreen Co. v. City of Oshkosh*, 2014 WI App 54, 354 Wis. 2d 17, ___ N.W.2d ___, 13–1610.

Boards of review cannot rely on exemptions in s. 19.85 (1) to close any meeting in view of explicit requirements in s. 70.47 (2m). 65 Atty. Gen. 162.

Wisconsin's Property Tax Assessment Appeal System. *Ardern*. Wis. Law. March 1996.

Over Assessed? Appealing Home Tax Assessments. *McAdams*. Wis. Law. July 2011.

70.48 Assessor to attend board of review. The assessor or the assessor's authorized representative shall attend without order or subpoena all hearings before the board of review and under oath submit to examination and fully disclose to the board such information as the assessor may have touching the assessment and any other matters pertinent to the inquiry being made. All part-time assessors shall receive the same compensation for such attendance as is allowed to the members of the board but no county assessor or member of a county assessor's staff shall receive any compensation other than that person's regular salary for attendance at a board of review. The clerk shall make all corrections to the assessment roll ordered by the board of review, including all changes in the valuation of real property. When any valuation of real property is changed the clerk shall enter the valuation fixed by the board in red ink in the proper class above the figures of the assessor, and the figures of the assessor shall be crossed out with red ink. The clerk shall also enter upon the assessment roll, in the proper place, the names of all persons found liable to taxation on personal property by the board of review, setting opposite such names respectively the aggregate valuation of such property as determined by the assessor, after deducting exemptions and making such corrections as the board has ordered. All

changes in valuation of personal property made by the board of review shall be made in the same manner as changes in real estate.

History: 1991 a. 316.

70.49 Affidavit of assessor. (1) Before the meeting of the board of review, the assessor shall attach to the completed assessment roll an affidavit in a form prescribed by the department of revenue.

(2) The value of all real and personal property entered into the assessment roll to which such affidavit is attached by the assessor shall, in all actions and proceedings involving such values, be presumptive evidence that all such properties have been justly and equitably assessed in proper relationship to each other.

(3) No assessor shall be allowed in any court or place by oath or testimony to contradict or impeach any affidavit or certificate made or signed by the assessor as assessor.

(4) In this section “assessor” means an assessor or any person appointed or designated under s. 70.055 or 70.75.

History: 1991 a. 316; 1993 a. 307.

70.50 Delivery of roll. Except in counties that have a county assessment system under s. 70.99 and in cities of the 1st class and in 2nd class cities that have a board of assessors under s. 70.075 the assessor shall, on or before the first Monday in May, deliver the completed assessment roll and all the sworn statements and valuations of personal property to the clerk of the town, city or village, who shall file and preserve them in the clerk’s office. On or before the first Monday in April, a county assessor under s. 70.99 shall deliver the completed assessment roll and all sworn statements and valuations of personal property to the clerks of the towns, cities and villages in the county, who shall file and preserve them in the clerk’s office.

History: 1977 c. 29; 1977 c. 300 ss. 3, 8; 1981 c. 20; 1987 a. 139.

70.501 Fraudulent valuations by assessor. Any assessor, or person appointed or designated under s. 70.055 or 70.75, who intentionally fixes the value of any property assessed by that person at less or more than the true value thereof prescribed by law for the valuation of the same, or intentionally omits from assessment any property liable to taxation in the assessment district, or otherwise intentionally violates or fails to perform any duty imposed upon that person by law relating to the assessment of property for taxation, shall forfeit to the state not less than \$50 nor more than \$250.

History: 1991 a. 316.

70.502 Fraud by member of board of review. Any member of the board of review of any assessment district who shall intentionally fix the value of any property assessed in such district, or shall intentionally agree with any other member of such board to fix the value of any of such property at less or more than the true value thereof prescribed by law for the valuation of the same, or shall intentionally omit or agree to omit from assessment, any property liable to taxation in such assessment district, or shall otherwise intentionally violate or fail to perform any duty imposed upon the member by law relating to the assessment of property for taxation, shall forfeit to the state not less than \$50 nor more than \$250.

History: 1991 a. 316.

70.503 Civil liability of assessor or member of board of review. If any assessor, or person appointed or designated under s. 70.055 or 70.75, or any member of the board of review of any assessment district is guilty of any violation or omission of duty as specified in ss. 70.501 and 70.502, such persons shall be liable in damages to any person who may sustain loss or injury thereby, to the amount of such loss or injury; and any person sustaining such loss or injury shall be entitled to all the remedies given by law in actions for damages for tortious or wrongful acts. This section does not apply to the department of revenue or its employees when appointed or designated under s. 70.055 or 70.75.

History: 1977 c. 29.

70.51 Assessment review and tax roll in first class cities. (1) The board of review in all 1st class cities, after they have examined, corrected and completed the assessment roll of said city and not later than the first Monday in November, shall deliver the same to the commissioner of assessments, who shall thereupon reexamine and perfect the same and make out therefrom a complete tax roll in the manner and form provided by law. All laws applicable to any such city relating to the making of such tax rolls shall apply to the making of the tax roll by said commissioner of assessments, except that the work of making said rolls shall be performed by the assessors and such other employees in the commissioner of assessments’ office as the commissioner of assessments shall designate. After the completion of said tax roll in the manner provided by law, the commissioner of assessments shall deliver the tax roll to the city treasurer of such city on the 3rd Monday of December in each year.

(1a) If the board of review has not completed its work within the time limited by the first Monday in November, it shall nevertheless deliver the assessment roll to the commissioner of assessments as therein required, and the commissioner of assessments shall thereupon perfect the same as though the board of review had fully completed its work thereon. In any case wherein the board of review alters the assessment after the first Monday of November and before the treasurer is required to make the return of delinquent taxes, the assessment roll and the tax roll may be corrected accordingly in the manner provided in s. 74.05, except that the consent of the treasurer shall not be required.

(2) The county clerk of any county having a population of 500,000 or more and containing a city of the 1st class shall deliver the county clerk’s certificates of apportionment of taxes to the commissioner of assessments instead of the city clerk of such city.

History: 1975 c. 39, 199; 1977 c. 29 s. 1647 (19); 1977 c. 273; 1983 a. 192, 220; 1987 a. 378; 1991 a. 39, 156, 189, 315, 316.

70.511 Delayed action of reviewing authority.

(1) **VALUE TO BE USED IN SETTING TAX RATE.** If the reviewing authority has not completed its work prior to the time set by a municipality for establishing its current tax rate, the municipality shall use the total value, including contested values, shown in the assessment roll in setting its tax rate.

(2) **TAX LEVIES, REFUNDS.** (a) If the reviewing authority has not made a determination prior to the time of the tax levy with respect to a particular objection to the amount, valuation or taxability of property, the tax levy on the property or person shall be based on the contested assessed value of the property. A tax bill shall be sent to, and paid by, the person subject to the tax levy as though there had been no objection filed, except that the payment shall be considered to be made under protest. The entire tax bill shall be paid when due under s. 74.11, 74.12 or 74.87 even though the reviewing authority has reduced the assessment prior to the time for full payment of the tax billed.

(b) If the reviewing authority reduces the value of the property in question, or determines that manufacturing property is exempt, the taxpayer may file a claim for refund of taxes resulting from the reduction in value or determination that the property is exempt. If claim for refund is filed with the clerk of the municipality on or before the November 1 following the decision of the reviewing authority, the claim shall be payable to the taxpayer from the municipality no later than January 31 of the succeeding year. A claim filed after November 1 shall be paid to the taxpayer by the municipality no later than the 2nd January 31 after the claim is filed. Interest on the claim shall be paid to the taxpayer when the claim is paid at the average annual discount rate determined by the last auction of 6-month U.S. treasury bills before the objection per day for the period of time between the time when the tax was due and the date that the claim was paid. If the taxpayer requests a postponement of proceedings before the reviewing authority, interest on the claim shall permanently stop accruing at the date of the request. If the hearing is postponed at the request of the taxpayer, the reviewing authority shall hold a hearing on the appeal within 30 days after the postponement is requested unless the tax-

payer agrees to a longer delay. If the reviewing authority postpones the hearing without a request by the taxpayer, interest on the claim shall continue to accrue. No interest may be paid if the reviewing authority determines under s. 70.995 (8) (a) that the value of the property was reduced because the taxpayer supplied false or incomplete information. If taxes are refunded, the municipality may proceed under s. 74.41.

(bm) No later than July 1 of each year, each municipality that pays a refund under par. (b) for property that is assessed under s. 70.995 shall notify the department of administration of the amount of all such refunds paid by the municipality in the previous fiscal year. Annually, no later than the 3rd Monday in November, from the appropriation account under s. 20.835 (2) (br), the department of administration shall pay to each municipality that pays a refund under par. (b) for property that is assessed under s. 70.995 an amount that is equal to 20 percent of the interest on such refunds paid by the municipality in the previous fiscal year and that has accrued up to the date of the determination by the tax appeals commission of the municipality's obligation.

(c) If the reviewing authority increases the value of the property in question, the increase in value shall in the case of manufacturing property assessed by the department of revenue under s. 70.995 be assessed as omitted property as prescribed under s. 70.995 (12). In the case of all other property s. 70.44 shall apply.

History: 1975 c. 39; 1977 c. 29; 1979 c. 34, 221; 1981 c. 20, 132, 391; 1983 a. 27, 300; 1987 a. 378, 399, 403; 1989 a. 104; 1991 a. 39; 2005 a. 405; 2007 a. 96.

70.52 Clerks to examine and correct rolls. Each city, village, and town clerk upon receipt of the assessment roll shall carefully examine the roll. The clerk shall correct all double assessments, imperfect descriptions and other errors apparent upon the face of the roll, and strike off all parcels of real property not liable to taxation. The clerk shall add to the roll any parcel of real property or item of personal property omitted by the assessors and immediately notify the assessors of the omissions. The assessors shall immediately view and value the omitted property and certify the valuation to the clerk. The clerk shall enter the valuation upon the roll, and the valuation shall be final. To enable the clerk to properly correct defective descriptions, the clerk may request aid, when necessary, from the county surveyor, whose fees for the services rendered shall be paid by the city, village, or town.

History: 1977 c. 29, 203, 273; 2001 a. 107.

A municipality is entitled to rely on the address provided on the transfer tax return until it is provided with information reasonably calculated to inform of a new address. *Pocius v. Kenosha County*, 231 Wis. 2d 596, 605 N.W.2d 915 (Ct. App. 1999), 98–3176.

70.53 Statement of assessment and exemptions.

(1) Upon the correction of the assessment roll under s. 70.52, each city, village, and town clerk shall prepare and, on or before the 2nd Monday in June, transmit to the department of revenue all of the following:

(a) A detailed statement of the aggregate of each of the several items of taxable property specified in s. 70.30.

(b) A detailed statement of each of the several classes of taxable real estate, entering land and improvements separately, as prescribed in s. 70.32 (2).

(c) A detailed statement of the aggregate of all taxable property by elementary and high school district and by technical college district.

(d) A detailed statement of the aggregate of each of the several items of exempt real property as specified by the department of revenue, entering land and improvements separately.

(2) The city, village, or town clerk shall make available to the department of revenue at its request a copy of the corrected assessment roll from which the statements required under sub. (1) are prepared. Failure to comply with this section subjects the taxation district to the penalty provisions under s. 73.03 (6). The department of revenue shall review and correct the statements.

(3) Every county clerk shall, at the expense of the county, annually procure and furnish to each city, village, and town clerk

forms for the statements required under sub. (1), the form of which shall be prescribed by the department of revenue.

History: 1971 c. 65, 215; 1973 c. 61, 90, 243; 1977 c. 29 s. 1647 (9); 1977 c. 300 ss. 4, 8; 1979 c. 34, 216, 221; 1983 a. 275 ss. 6, 16; 1987 a. 399; 1993 a. 399; 2001 a. 107.

70.55 Special messenger. Whenever any town, city or village clerk shall have failed to transmit any such statement within the time fixed as aforesaid, the county treasurer or the department of revenue shall send a messenger therefor, who shall be paid and the expenses charged back as provided in s. 69.67 or 73.03 (6), respectively; and whenever any county treasurer shall have failed to transmit any such statement, within the time fixed as aforesaid, the department of revenue may send a messenger therefor, who shall be paid and the expenses therefor charged back to the county.

History: 1975 c. 295 s. 9; 1991 a. 39.

70.555 Provisions directory. The directions herein given for the assessing of lands and personal property and levying and collecting taxes shall be deemed directory only, and no error or informality in the proceedings of any of the officers entrusted with the same, not affecting the substantial justice of the tax, shall vitiate or in anywise affect the validity of such tax or assessment.

70.56 Lost roll. (1) NEW ASSESSMENT. Whenever the assessment roll of any assessment district shall be lost or destroyed before the second Monday of October in any year and before the tax roll therefrom has been completed the assessor of such district shall immediately prepare a new roll and as soon thereafter as practicable make a new assessment of the property in the assessor's district. If the board of review for such district shall have adjourned without day before such new assessment is completed such board shall again meet at a time fixed by the clerk of the town, city or village, not later than the fourth Monday in October, and like proceedings shall be had, as near as may be, in reference to such new assessment and assessment roll as in case of other assessments, and such clerk shall give notice of the time and place of such meeting of the board of review as is provided in s. 70.47 (2). Such new assessment and assessment roll shall be deemed the assessment and assessment roll of such assessment district to all intents and purposes. In case the assessor shall fail to make such new assessment or the board of review shall fail to meet and review the same, or any assessment roll is lost or destroyed after the second Monday in October in any year and before the tax roll therefrom is completed, or both the assessment roll and tax roll are lost or destroyed, then the county clerk shall make out and deliver a tax roll in the manner and with like effect as provided in s. 70.71.

(2) SAME. Whenever a tax roll in any town, city or village shall be lost or destroyed before it has been returned by the treasurer or sheriff holding the same, a new roll shall be prepared in like manner as the first, and delivered to such treasurer or sheriff, who shall complete the collection of the taxes and return such new tax roll in the manner provided for the original tax roll.

History: 1977 c. 29 s. 1647 (19); 1987 a. 378; 1991 a. 316.

70.57 Assessment of counties and taxation districts by department. (1)

(a) The department of revenue before August 15 of each year shall complete the valuation of the property of each county and taxation district of the state. From all the sources of information accessible to it the department shall determine and assess by class the value of all property subject to general property taxation in each county and taxation district. If the department is satisfied that the assessment by a county assessor under s. 70.99 is at full value, it may adopt that value as the state's full value.

(b) The department shall set down a list of all the counties and taxation districts and opposite to the name of each county and taxation district the valuation determined by the department, which shall be the full value according to its best judgment.

(c) There shall also be prepared a list of all the counties of the state with the valuation determined for each county listed opposite the name of the county. The list shall be certified by the secretary