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## WISCONSIN LEGISLATIVE COUNCIL

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### TAX EXEMPTIONS FOR RESIDENTIAL PROPERTY (COLUMBUS PARK)

Room 225 Northwest, State Capitol  
Madison, Wisconsin

December 20, 2004  
10:00 a.m. – 3:00 p.m.

[The following is a summary of the December 20, 2004 meeting of the Special Committee on Tax Exemptions for Residential Property (Columbus Park). The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc/2004studies.htm>.]

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#### Call to Order and Roll Call

Chair Fitzgerald called the meeting to order. The roll was called and it was determined that a quorum was present.

COMMITTEE MEMBERS PRESENT: Rep. Jeff Fitzgerald, Chair; Sen. Julie Lassa; Reps. Terese Berceau and Mark Gottlieb; and Public Members Gregg Hagopian, Paul Hoffman, Robert Jones, Frederic Mohs, Tim Radelet, Mary Reavey, Fritz Ruf, John Sauer, and Earl Thayer.

COMMITTEE MEMBERS ABSENT Sen. Cathy Stepp; and Reps. Ann Nischke and Leah Vukmir.

COUNCIL STAFF PRESENT: Laura Rose, Deputy Director; and Mary Matthias, Senior Staff Attorney.

APPEARANCES: Kathee Isleb, Assessor, City of Wauwatosa; and Jenny Katzner-Wyssling, representing the Wisconsin Association of Assessing Officers (WAAO).

#### Approval of the Minutes of the September 28, 2004 Meeting of the Special Committee

*Mr. Ruf moved, seconded by Mr. Hoffman, to approve the minutes of the committee's November 8, 2004 meeting. The motion carried on a unanimous voice vote.*

### **Presentation by Invited Speaker**

**Kathee Isleb, Assessor, City of Wauwatosa, and member of the WAAO Executive Board, and Jenny Katzner-Wyssling**, distributed a written statement describing a proposal developed by the WAAO at the request of Mark Bugher, a former Secretary of the Department of Revenue. The proposal, entitled *The Board of Tax Exemption (BOTE) Proposal*, consists of the following components:

1. Develop a timetable, with a March 1 deadline, for submission of application for property tax exemption.
2. Estimate a reasonable frequency for reconsideration of property tax exemption applications.
3. Require taxpayer to notify assessor of any change in property use, status, or ownership.
4. Create a penalty for nonnotification.
5. Require full disclosure by taxpayer of relevant information that may affect exemption status.
6. Develop, and require use of, a standardized application form and exemption notification form.
7. Develop a statewide authority to review tax exemption decisions.
8. Promote legislative changes to clarify statutory terms such as benevolent, charitable, not for profit, educational, religious, and other terms.
9. Establish an exemption test for benevolent, charitable, not for profit, educational, religious, and other types of institutions.

Ms. Isleb stated that legislation and procedures have been enacted to implement items 1., 3., 5., and 6.

Some committee members question whether the BOTE would be making policy-level decisions. Ms. Isleb responded that the role of the BOTE would be to create a consistent statewide interpretation of property tax exemption statutes, rather than a county-by-county patchwork. Some members commented that as an alternative, the Legislature could attempt to make the statutory exemptions more clear, in order to foster consistent interpretation across counties.

### **Description of Materials Distributed**

- **WLC: 0076/P1, relating to requests for exemption from the property tax by benevolent associations.**

Ms. Matthias explained WLC: 0076/P1. Some of the points made in subsequent committee discussion of this draft included: whether all of the information that the draft requires to be included in an application for property tax exemption would be useful to gather; how often appraisals should be required; whether additional information should be gathered that is not specified in the draft, such as whether tax exempt entities are paying municipal service fees or payments in lieu of taxes; whether

providers of low-income housing should be subject to the requirements of the draft; whether an assessment should be required instead of an appraisal; and whether the application fee is reasonable.

- **WLC: 0077/P1, relating to payment for municipal services.**

Committee members discussed WLC: 0077/P1, and made several comments for improvements to the draft. Mr. Ruf suggested adding other units of government, such as sanitary sewer districts to those included under the definition of “municipality.”

Representative Gottlieb suggested that municipal debt service costs should be added to listed services for which payments would be required. Mr. Sauer suggested that, because the proposal falls under the tax exemptions statute, this makes it more subject to constitutional attack. He suggested placing it in ch. 66, Stats., instead. Ms. Matthias responded that she is not sure that the proposal could withstand a challenge, but added that several states currently require payments in lieu of taxes and have not been challenged. Mr. Hagopian stated that these payments do not seem to be that objectionable. Mr. Sauer agreed, saying many entities are paying service fees now, but that there are issues about bringing entities into the service fee structure who are not currently paying the fees. Mr. Radelet commented that many of the terms listed on page 5, lines 16 to 17, were undefined. He added that the viability of requiring these payments from various entities depended on the ability of some of the entities to pay, such as low-income housing projects that have no federal subsidies.

Mr. Mohs stated that he dislikes the idea of requiring payments for municipal services instead of requiring the payment of property taxes because no municipal service payments are required to be made.

- **WLC: 0078/P1, relating to rent use.**

Ms. Matthias explained WLC: 0078/P1. She said that this draft does not exempt all residential housing from the rent use requirement, but rather exempts residential care apartment complexes, community-based residential facilities, nursing homes, continuing care retirement communities, low-income housing, housing for older persons, qualified residential projects, and special housing, such as homeless shelters, domestic violence shelters, or transitional housing facilities.

Committee members discussed the advisability of including references to Internal Revenue Service (IRS) revenue rulings and procedures as well as U.S. Code and Code of Federal Regulation. The committee agreed that the most problematic cross-references were those to revenue rulings, which are similar to case law, but that IRS procedures are commonly referred to and are understood by the low-income provider community. Staff also noted that it is common to cross-reference the U.S. Code and the Code of Federal Regulations in the state statutes.

Ms. Reavey commented that by focusing on activities of a property owner, the draft gets away from the central purpose of the property tax, which is the cost of providing services to the property, which must be provided regardless of the use to which the property is put. She commented also that property tax exemptions tend to force taxpayers, in essence, to make donations to organizations they do not necessarily agree with.

Mr. Thayer commented that prohibiting continuing care retirement communities (CCRCs) from using some of the rent money for care costs, would erode the CCRC model. Mr. Mohs commented that

providing relief to residents through an increased homestead tax credit would be a much more targeted way than the current property tax exemption to provide assistance to needy persons.

Representative Gottlieb said that the committee should be focusing on whether a tax exemption advances a good public policy. He said that the committee should focus on selecting a definition of benevolent; agreeing that payments in lieu of taxes should be required, at an adequate level; and correcting the rent use problem. He commented that the committee should not continue to argue about the advisability of specific exemptions.

- **WLC: 0082/P1, relating to defining benevolent retirement home for the aged.**

Ms. Rose described WLC: 0082/P1. Mr. Hoffman commented that alternative 1 seemed too vague to be useful and said that alternative 2 is more preferable. He added that the 10-acre limitation should also be eliminated from current law.

The committee discussed the 10-acre limitation, how it is implemented in various parts of the state, and the pros and cons of the requirement.

Mr. Hoffman stated that he disliked alternative 3. Mr. Hagopian commented that at least the alternative had an income limit and would achieve some fairness for low-income single-family homeowners. Mr. Radelet commented that an individual homeowner's wealth stays with that person who owns their own home but that it is not true in the case of a person entering some type of retirement community.

Mr. Hagopian noted the West Virginia case which held that an entity that conducts financial screening which screens out lower income people from an association's activities could not be determined to be benevolent.

Ms. Reavey commented that she preferred alternative 1, but would modify it by inserting the requirement from alternative 3 that 50% of the residents of a facility would have to be homestead credit-eligible. Mr. Ruf commented that this type of formula would leave out a lot of lower income housing for the elderly from the property tax exemption.

The committee then discussed the feasibility of assessing each unit in a multi-family housing entity separately based on the income level of the resident of the unit.

The committee agreed that a fourth option should be developed in defining benevolent, in order to eliminate the outliers, such as Attic Angels Prairie Point Development, from the property tax exemption.

### **Plans for Future Meetings**

The next meeting of the Special Committee is scheduled for ***Friday, January 14, 2005, at 10:00 a.m., in Room 225 Northwest, State Capitol, Madison.***

### **Adjournment**

The meeting was adjourned at 3:00 p.m.

LR:ksm:rv;tlu