



WISCONSIN LEGISLATIVE COUNCIL

MEETING MINUTES

STUDY COMMITTEE ON PROPERTY TAX ASSESSMENT PRACTICES

Legislative Council Large Conference Room
One East Main St., Ste. 401
Madison, WI

October 9, 2018
10:00 a.m. – 2:30 p.m.

Call to Order and Roll Call

Chair Olsen called the meeting to order. The roll was called, and a quorum was present.

COMMITTEE MEMBERS
PRESENT:

Chair Luther Olsen; Vice Chair Scott Allen; Reps. Dave Considine and Rick Gundrum; Sens. Robert Cowles (via phone) and Janis Ringhand; and Public Members Ed Catani, Jeff Hoffman, Don Millis, Jeff Nooyen, Amy Seibel, and Rocco Vita.

LEGISLATIVE COUNCIL STAFF
PRESENT:

Anna Henning, Senior Staff Attorney, and Scott Grosz, Principal Attorney.

Approval of the Minutes from the September 6, 2018 Meeting

Mr. Hoffman moved, seconded by Representative Gundrum, to approve the minutes of the committee's September 6, 2018 meeting. The committee approved the motion by unanimous consent.

Description of Materials Distributed

Legislative Council Principal Attorney Scott Grosz summarized material distributed to committee members in advance of the meeting, including several bill drafts and a memorandum prepared by the Legislative Council staff.

Mr. Grosz also noted several documents that were placed at members' seats, including: (1) International Association of Assessing Officers, *Commercial Big-Box Retail: A Guide to Market-*

Based Valuation (September 2017), distributed at the request of Chair Olsen; (2) a memorandum submitted to the committee by the Aggregate Producers of Wisconsin and the Wisconsin Industrial Sand Association; (3) a set of tables, entitled “Conformance with Bonstores Decision,” distributed at the request of Ms. Siebel; and (4) Assembly Substitute Amendment 1 to 2017 Assembly Bill 386, relating to comparable sales of property.

Discussion of Committee Assignment

Chair Olsen and Legislative Council staff facilitated a discussion regarding several options summarized in a study committee memorandum, *Options for Committee Discussion* (revised October 4, 2018), and corresponding bill drafts. First, the committee discussed the option of shifting commercial and manufacturing assessments to the county level. Following a summary of the topic and corresponding bill draft LRB-0336/P1, members observed that the primary obstacle to similar proposals offered in the past – cost – remains a concern. Mr. Vita noted that personnel costs would make county valuations more expensive. Senator Ringhand and Mr. Nooyen expressed concerns regarding counties’ increased costs. Regarding a provision of the bill draft authorizing counties to charge certain costs to municipalities, Ms. Siebel noted that it may be difficult to determine the amount municipalities had spent on commercial assessments in particular. Mr. Millis suggested that a multi-year average may be preferable to a single-year benchmark for municipal contributions. Vice Chair Allen commented that an advantage to county assessment would be more precise valuations for very difficult properties. Mr. Nooyen posited that county assessment would not address the substantive questions regarding commercial property assessments. Chair Olsen suggested setting aside the county assessment proposal until further discussion.

Second, Legislative Council staff summarized an option to incentivize certain disclosures from taxpayers. Chair Olsen provided background information regarding the option. Committee members compared and contrasted the option, as set forth in bill draft LRB-0394/P1, with the current requirement to provide information regarding income and expenses during the board of review process under s. 70.47 (7) (af), Stats. Ms. Siebel noted several practical limitations of the requirement under current law, including that some documents are typically not obtained without a subpoena. Mr. Millis stated that he was not opposed to the concept of the bill draft, but he would like to refine the list of documents included in the bill draft and strengthen the confidentiality provision to extend through the board of review process. Mr. Hoffman asked whether the bill binds a tenant taxpayer if an owner fails to produce the required documents and noted that some large business owners may be reticent to provide documents. In response to a question from Chair Olsen, Ms. Siebel agreed that requiring disclosure of more information would result in better assessments and could help to avoid litigation in some circumstances. Following a robust discussion, it appeared that there was general consensus that the committee would like to see a revised bill draft on this issue. In addition, committee members expressed support for modifying the “incentive” provision in the bill draft to be more similar to the incentive under s. 70.47 (7) (af), Stats. – i.e., to generally remove the opportunity to object to an assessment rather than remove a particular legal argument as a result of the failure to provide information.

Next, the committee discussed options regarding the process of challenging a property tax assessment, including a proposal suggested by Vice Chair Allen to require arbitration and a

proposal by Mr. Hoffman to require tax payments to be escrowed while a challenge is pending. Members raised practical concerns relating to both proposals. However, committee members expressed general support for a suggestion that certain timelines to challenge property tax assessments could be shortened.

The committee then discussed an option to recommend legislation similar to 2017 Assembly Bill 386 and 2017 Senate Bill 292, companion bills sometimes referred to as the “comparable sales” or “dark store” bills. For purposes of discussion, Legislative Council staff summarized the differences between two proposed alternatives to the introduced bills, including a draft shared by Mr. Millis and Assembly Substitute Amendment 1. Members addressed concerns with specific wording or phrases in the various proposals. Ms. Siebel argued that, by omitting certain key terms and provisions, the draft shared by Mr. Millis would have the possible effect of refuting key case law and resulting in legal uncertainty. She stated that she would rather have no statutory change than that compromise proposal. There was general agreement that current case law provides an adequate legal foundation for assessment, and that a significant aspect of the “dark store” “problem” is that some taxpayers challenge assessments based on arguably spurious comparable property claims. Committee members noted that, as a result of such challenges, municipalities often settle for lower than market assessments to avoid litigation costs.

After significant discussion of those and related concerns, there was general consensus in favor of having a bill draft prepared that would provide for cost sharing across affected taxing jurisdictions for both hiring expert assistance with complex assessments and defending assessments that are challenged. The committee discussed that a joint assessment board, similar to a joint review board for purposes of tax incremental financing, could be created, and that a majority of the members of such a board would need to vote in favor of hiring expert assistance and defending assessments.

Finally, the committee briefly discussed options relating to assessor training and certification. Mr. Vita noted that there are currently different levels of certification, with a more rigorous test required to be certified to assess commercial properties. Mr. Hoffman and Mr. Vita noted that there is already a national shortage of qualified assessors and appraisers.

Chair Olsen thanked the committee for the good discussion and said that he thought the committee had made good progress and did not need to discuss the remaining options in the memorandum.

Legislative Council staff clarified that they would have three items prepared based on the discussion: (1) a revised draft of LRB-0394/P1; (2) a new bill draft providing for cost sharing among affected taxing jurisdictions; and (3) a bill draft to shorten certain deadlines for challenging a property tax assessment.

Other Business

There was no other business brought before the committee.

Plans for Future Meetings

Chair Olsen noted the committee will meet next on December 11, 2018.

Adjournment

The committee adjourned at 2:30 p.m.

AH:SG:ty

[The preceding is a summary of the October 9, 2018 meeting of the Study Committee on Property Tax Assessment Practices, which was recorded by WisconsinEye. The video recording will be available in the WisconsinEye archives at <http://www.wiseye.org/Video-Archive>.]