

No. 73, S.]

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CHAPTER 77.

AN ACT to amend 76.08, 76.10 (1), 76.13 (2) and (3), 76.18, 76.19 and 227.22 of the statutes, relating to review of special property assessments and of the state assessment.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 76.08 of the statutes is amended to read:

76.08 (1) Notice of the assessments determined as provided in section 76.07 shall be given by registered mail to each company the property of which has been assessed, and such notice shall be mailed on or before the assessment date specified in section 76.07 (1). Any company aggrieved by the assessment of its property thus made may have *its assessment reviewed* in a hearing before the board of tax appeals if a petition is filed with the board within * * * 15 days after notice of assessment has been mailed to the company as provided in section 76.07 (3). No answer need be filed by the department of taxation, but upon the filing of the petition the board shall forthwith set the matter for hearing. All matters thus brought before the board shall be heard and decided by it within * * * *a reasonable period of time following the filing of the petition for review.*

(2) No action to * * * *redetermine an assessment made by the department of taxation* under the provisions of sections 76.01 to 76.29 shall be brought unless the company shall first have been heard by the board of tax appeals under this section. The right of review herein provided shall not be prejudiced by the payment of all or any part of the tax levied upon such assessment.

(3) The petitioner or the department of taxation, if aggrieved by any order or decision of the board upon any matter brought before it under this section, may bring an action in the circuit court for Dane County to redetermine the assessment. If as the result of * * * such action the * * * *assessment* as found by the board of tax appeals shall be increased * * * *any resulting increase in the tax* shall be collected upon final determination of the action as other taxes levied and assessed under the provisions of sections 76.01 to 76.29 are collected.

SECTION 2. 76.10 (1) is amended to read:

76.10 (1) Every company defined in section 76.02 shall, on or before the first day of

October in each year, be entitled, on its own motion, to present evidence before the department relating to the state assessment made in the preceding year pursuant to section 70.575. On request, in writing, for such hearing or presentation, the department shall * * * fix a time therefor within * * * 60 days after such application is filed, the same to be conducted in such manner as the department shall direct. *Notice of such hearing shall be mailed to any company requesting a hearing and shall be published in the official state paper. Within 30 days after the conclusion of such hearing the department shall enter an order either affirming said state assessment or ordering correction thereof as provided in subsection (2) of this section. A copy of such order shall be sent by registered mail to the company or companies requesting such hearing and to any interested party who has made an appearance in such proceeding. Such hearing shall not impair or affect the right to * * * review of the assessment of any company's property by the board of tax appeals as provided for in section 76.08. The department may, * * * on its own motion, correct such state assessment. Any company having filed application for review of the state assessment pursuant to the provisions of this section, or any other interested party participating in such hearing, if aggrieved by the order entered by the department, may bring an action in the circuit court for Dane county within 30 days after the entry of such order to have said order set aside and a re-determination made of the state assessment. In any such action or in any hearing before the department of taxation pursuant to this section, any interested party may appear and be heard. An interested party includes any division of government whose revenues would be affected by any adjustment of the state assessment.*

SECTION 3. 76.13 (2) and (3) of the statutes are amended to read:

76.13 (2) Every tax roll shall thereupon forthwith be delivered to the state treasurer, who shall immediately notify, by registered mail, the several companies taxed therein to pay the tax extended thereon to the state treasurer, as follows: In the case of companies assessed on or before June 1, not less than one-half of the amount of such tax on or before June 25 and the remainder on or before October 15 of the same year; and in the case of all other companies on or before December 1 of the same year; *provided, however, that the payment of one-half of the second installment in the case of a company assessed on or before June 1 and the payment of one-fourth of the tax in the case of any other company may, in the event that said company has filed a petition with the board under section 76.08, be made without penalty any time within 15 days after entry of the decision of the board.* The taxes extended against any company after the same * * * become due, with interest, shall be a lien upon all the property of such company prior to all other liens, claims and demands whatsoever, which lien may be enforced in an action in the name of the state in any court of competent jurisdiction against the property of such company within the state as an entirety.

(3) In the event the board of tax appeals, after such roll has been delivered to the state treasurer, shall increase or decrease the assessment of any company, the * * * department of taxation shall forthwith redetermine the tax of such company on the basis of such revised assessment, and shall certify and deliver the same to the state treasurer as a revision of the tax roll. *In case the amount of tax upon the assessment as determined by the board of tax appeals shall be less than the amount paid by the company, the excess shall be refunded to such company upon the certification of the re-determined tax and for that purpose the director of budget and accounts, upon the certification and delivery of the revised tax roll, shall draw a warrant upon the state treasurer for the amount to be so refunded.*

SECTION 4. 76.18 of the statutes is amended to read:

76.18 The proceedings of the department shall be presumed to be regular and the determination of the department shall not be impaired, vitiated or set aside *by the board of tax appeals or the courts* upon any grounds not affecting the substantial justice of the tax. The provisions in this chapter prescribing a date or period at or within which an act shall be performed or determination shall be made by the department shall be deemed directory only, and no failure to perform any such act or make such determination at or within the time prescribed therefor shall affect the validity of such act or of any determination made by the department, unless it shall appear that substantial injustice has resulted therefrom. *Nothing herein contained shall be construed as precluding the board of tax appeals in any proceeding before it under section 76.08 from redetermining the assessment of the property of any company defined in section 76.02 when in the board's judgment the assessment should be substantially less or more than the assessment as determined by the department of taxation.*

SECTION 5. 76.19 of the statutes is amended to read:

76.19 In any action, suit or proceeding brought by any company defined in section

76.02 in the state court to set aside, restrain or postpone the payment or collection of any tax levied upon *or to determine an assessment of* the property of such company, no injunction, order or writ to enjoin or restrain the payment or collection of the tax shall issue, or be continued in force, unless said company shall pay to the state treasurer for the use of the state the amount of taxes which the court shall determine primarily to be justly and equitably due from such company. Such primary determination shall be made by the state court in which the action, suit or proceeding is pending, upon motion, summarily and without delay. In case the amount of tax justly and equitably due from any company shall be finally determined * * * by the court to be less than the amount so paid, the excess shall be refunded to such company by direction of the court * * *, and for that purpose the director of budget and accounts, upon the filing in his office of a certified copy of such final determination, shall draw a warrant upon the state treasurer for the amount to be so refunded. *In case the amount of tax justly and equitably due from any company shall be finally determined by the court to be more than the amount theretofore paid, the tax roll shall be accordingly corrected by the department of taxation and such excess shall be collected in the manner provided in section 76.15.*

SECTION 6. 227.22 of the statutes is amended to read:

227.22 This chapter shall not apply to assessments made under chapter 76 or to decisions of the board of tax appeals upon the review of such assessments, *nor to any decision made by the department of taxation pursuant to a hearing under the provisions of section 76.10 (1).*

Approved May 5, 1949.
