

SENATE BILL REPORT

SB 5342

As Reported by Senate Committee On:
Government Operations, Tribal Relations & Elections, February 15, 2011

Title: An act relating to the standard of evidence for appeals of valuation of property for purposes of taxation.

Brief Description: Concerning the standard of evidence for appeals of valuation of property for purposes of taxation.

Sponsors: Senators Haugen, Fain, Murray, Harper and Shin.

Brief History:

Committee Activity: Government Operations, Tribal Relations & Elections: 2/03/11, 2/15/11 [DPS].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS, TRIBAL RELATIONS & ELECTIONS

Majority Report: That Substitute Senate Bill No. 5342 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pridemore, Chair; Swecker, Ranking Minority Member; Benton, Chase, Nelson and Roach.

Staff: Diane Smith (786-7410)

Background: The valuation of property for purposes of property tax assessments is based on 100 percent of the true and fair value of the property when at its highest and best use, with some exceptions, as determined by the county assessor.

All taxable real property must be listed and assessed every year. Each county assessor must maintain a revaluation schedule. This schedule must result in revaluation of all taxable real property in the county at least once every four years, and physical inspection at least once every six years. If requested to do so by a property owner, the county may disregard the schedule and change a valuation upon receipt of a notice of decision by planning or zoning jurisdiction.

Some counties are not on an annual revaluation cycle. If these counties receive the necessary guidance and financial assistance from the Department of Revenue in order for them to

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convert, then they must have done so by January 1, 2014. By that date, all taxable property must be revalued annually and physically inspected at least once each six years.

If a property owner disagrees with the county assessor over the assessed valuation of the property, there is an appeals process. The first step is the county Board of Equalization, followed by the state Board of Tax appeals and then Superior Court. At all these levels, the assessor's determination is presumed to be correct. The tax payer must prove by clear, cogent and convincing evidence that the assessor's determination is not correct.

Summary of Bill (Recommended Substitute): The taxpayer must prove by a preponderance of the evidence that the county assessor's valuation is incorrect when challenging the assessed valuation at the county Boards of Equalization and at the state Board of Tax Appeals.

EFFECT OF CHANGES MADE BY GOVERNMENT OPERATIONS, TRIBAL RELATIONS & ELECTIONS COMMITTEE (Recommended Substitute): The preponderance standard is applied to appeals before the county Boards of Equalization and the state Board of Tax Appeals. The current statutory standard of clear, cogent, and convincing is retained for appeals into court.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: This is a citizen's bill. The Board of Equalization should be a place where citizens can go and get a fair and balanced hearing. This high standard is almost impossible for the average citizen to overcome. Clear, cogent, and convincing is the civil counterpart to beyond a reasonable doubt. No other states in our part of the country use this high of a standard. High property taxes have a negative effect on low-income housing. Challenging the assessment is a David versus Goliath setting. Assessed value is based on previous trends and there has been a precipitous fall in rental rates as well as other means of determining fair market value. There are fewer comparative value sales occurring now. Property owners are put off by the process; it needs to be more simple and fair and something the average citizen can afford. The preponderance standard was used in judicial appeals for tax refunds, not for valuation.

CON: Why should this standard be challenged at all? The bill will unleash a parade of experts challenging assessments and create havoc. The county auditors' basic processes and methods are audited by the state and supervised by the Department of Revenue. Wealthy tax payers will challenge, not the average homeowner. Mistakes made by assessors can be corrected with a phone call. According to a 1995 court case, the preponderance standard is already in use. The county assessors are not funded for, and do not have the money to spend on, legal challenges. The top ten taxpayers in the county are wealthy and would be expected to challenge with teams of highly priced attorneys. Their paying less tax shifts that tax

burden on the rest of the taxpayers. Clear, cogent, and convincing only means highly probable.

Persons Testifying: PRO: Senator Haugen, prime sponsor; Joe Puckett, Council for Affordable and Rural Housing, Washington Affordable Housing, Washington Multi Family Housing; Arminda L. Alexander, Housing Resources Group; Chris Robinson, Affordable Housing Management Association; John Lowmon, Sterling Real Estate Group; Arthur West, citizen.

CON: Dianne Dorey, Lewis County Assessor; James P. Richmond, Washington Association of Assessors.