

SENATE BILL REPORT

SB 5407

As of January 24, 2023

Title: An act relating to the administration of property taxes.

Brief Description: Concerning the administration of property taxes.

Sponsors: Senator Robinson; by request of Department of Revenue.

Brief History:

Committee Activity: Ways & Means: 1/24/23.

Brief Summary of Bill

- Allows the Department of Revenue to convert certain informal tax appeals to a formal appeal under certain additional circumstances.
- Aligns the valuation date for government-owned property that loses its tax exempt status with that provided under current law for real property.
- Provides that a correction of a levy error may exceed the levy's statutory maximum levy rate when the error is not the fault of the taxing district.
- Makes changes to a taxing district's authority to restore a levy and the highest levy amount for merged taxing districts.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Alia Kennedy (786-7405)

Background: Board of Tax Appeals. The Board of Tax Appeals (BTA) is a state agency responsible for resolving tax appeals. The BTA hears tax appeals from decisions of County Boards of Equalization and the Department of Revenue (DOR). It is the only state-level administrative forum available for citizens and businesses to inquire about the correctness and legality of their tax liabilities.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Generally, when a party files an informal property tax appeal to the BTA rather than a formal appeal, the BTA decision is not appealable to superior court. Unlike excise tax appeals, DOR has little authority to convert informal property tax appeals to formal appeals. As a result, when DOR disagrees with a BTA decision in an informal property tax appeal that cannot be appealed to a court, DOR must decide whether it will accept the BTA decision. If DOR does not accept the BTA decision, then DOR will not apply the BTA decision to other taxpayers or to the taxpayer who prevailed in the appeal for future time periods.

Circumstances in which a BTA appeal may be converted from an informal appeal to formal appeal are the following:

- appeals by a taxpayer or county assessor from a decision by a county Board of Equalization—these disputes typically involve the assessor’s determination of the assessed value of the taxpayer’s property;
- appeals by a taxpayer of a DOR determination in an excise tax case; and
- appeals by a county assessor or taxpayer of DOR's determination of a county’s indicated ratio, which measures the statistical ratio between the average assessed value of property within a county and the actual market value of property within the county.

Property Tax. All real and personal property in the state is subject to property tax each year based on its value, unless a specific exemption is provided by law. The Washington Constitution limits regular property tax levies to a maximum of 1 percent of the property's value. Excess levies are not subject to this constitutional limit and require voter approval. There are statutory rate maximums for individual taxing districts and aggregate rate maximums to keep the total tax rate of regular property taxes within the constitutional limit.

All regular levies, except the state levies, are subject to a statutory revenue growth limit. If the taxing authority has a population of 10,000 or more, the revenue growth limit is the lesser of inflation or 1 percent plus the valuation of new construction. If the taxing authority has a population of less than 10,000, the revenue growth limit is 1 percent plus the value of new construction.

Valuation Date for Property Losing Tax-Exempt Status. Except for exempt government-owned property, county assessors must enter the description of all exempt real property on the tax rolls, which includes valuing and listing the exempt property in the same manner as other taxable property. When real property loses its exempt status, the county assessor must value and list the property with reference to its value on the date the property’s exempt status changed unless the property has been previously listed and assessed.

For government-owned real property that loses its exempt status, the county assessor must list and assess the real property with reference to its value on January 1st of the year the property loses its exempt status.

Correcting Levy Errors. There are specific statutory maximum levy rates for most individual regular property tax levies. Cultural access and local school district enrichment levies are not subject to a statutory maximum levy rate. The statutory maximum levy rate for an individual levy cannot be exceeded, even when a levy error correction is being made and the error occurred through no fault of the taxing district.

Restoration of Property Tax Levy. When a taxing district that has not levied since 1985 decides to restore its property tax levy, the first restored levy is calculated based on the levy amount last levied by the district multiplied by the limit factor, plus additional amounts resulting from the following add-ons for:

- new construction;
- construction of wind turbine, solar, biomass, and geothermal facilities;
- improvements to property; and
- increased value of state-assessed property.

Merged Taxing Districts and Highest Levy. The first levy for a taxing district created from consolidation of similar taxing districts must be set so that the regular property taxes payable in the following year do not exceed the limit factor multiplied by the sum of the amount of regular property taxes lawfully levied for each taxing district in the highest of the three most recent years in which such taxes were levied for such district, plus any additional dollar amounts calculated by multiplying the regular property tax rate of each district for the preceding year by the increase in assessed value in each district resulting from applicable add-ons.

Summary of Bill: Tax Appeals. DOR has the option to convert an informal BTA appeal to a formal appeal within ten days of the date of the appeal in the following circumstances:

- appeals by an assessor or landowner from DOR's general supervisory orders and boards of equalization reconvene orders;
- appeals by an assessor or owner of an intercounty utility or private car company from DOR's determination of the assessed valuation of the taxpayer's operating property or the amount of assessed value apportioned to the county;
- appeals of interest rates determined by DOR for use in valuing farmland;
- appeals from revisions to stumpage value tables by DOR used to determine timber value; and
- appeals from DOR's denial of a property tax exemption application.

Valuation Date for Property Losing Tax-Exempt Status. The valuation date when government-owned property loses its exempt status is January 1st of the year in which the status changed.

Correcting Levy Errors. A correction of a levy error may exceed the levy's statutory maximum levy rate when the error is not the fault of the taxing district. If the correction of the levy error exceeds the statutory maximum levy rate of the levy if corrected in one year,

then the correction must be made in a proportional basis over a period of three years to minimize the impact to taxpayers.

Restoration of Property Tax Levy. A taxing district that has not levied in the last seven calendar years or longer, and wants to restore a regular property tax levy, may levy its first restored levy up to the amount resulting in a tax rate that does not exceed the levy's statutory maximum rate limit. The tax rate for the restored levy remains subject to aggregate limitations on regular property taxes provided in statute. The first restored levy is treated as if it is a first-time levy with regards to the 101 percent revenue growth limitation. Levies after the first year of the restored levy are subject to any applicable revenue growth limitations in statute.

A taxing district that has not levied in the last six calendar years or less and wants to restore a regular property tax levy may levy its first restored levy in an amount that does not exceed the maximum levy amount that the district could have levied under the levy limits in statute as if the district had never ceased to levy.

Merged Taxing Districts and Highest Levy. The first levy for a merged taxing district must be set so that the regular property taxes payable in the following year do not exceed the limit factor multiplied by the sum of the amount of regular property taxes each component taxing district could have levied since 1985, rather than the highest lawful levy of the three most recent years, plus the add-on amounts.

A new amount add-on is calculated by multiplying the regular property tax rate of each component district for the preceding year by the increase in assessed value in each component district resulting from any increase in the assessed value of real property within a designated increment area.

The above provisions with respect to property taxes take effect beginning with property taxes levied for collection in 2024 and thereafter.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony: PRO: This bill is comprised of administrative fixes to the state property tax code. The bill will help county assessors do their job.

OTHER: A bill with similar provisions was also introduced this session and conflicts with this bill. Any conflicting or duplicative sections should be removed from this bill.

Otherwise, the changes in this bill provide necessary support and clarity to county assessors.

Persons Testifying: PRO: Steve Ewing, Department of Revenue; Miki Gearhart, Department of Revenue.

OTHER: Amber Carter, Port of Vancouver USA; Chris Herman, Washington Public Ports Association.

Persons Signed In To Testify But Not Testifying: No one.