

GENERAL FUND TAXES

Tax Appeals Commission

[LFB Paper #352]

Motion:

Move to delete the Governor's proposal to eliminate the Tax Appeals Commission (TAC) and replace it with the Office of the Commissioner of Tax Appeals (OCTA). Instead, retain the TAC but eliminate one FTE support position and include a non-statutory moratorium on appointing a commissioner to fill a current vacancy (for the term ending on March 1, 2009) until July 1, 2005. In addition, amend current law to specify that: (a) if only two commissioners are available to participate in a decision on a case requiring the concurrence of the majority of the TAC and if they cannot reach an agreement, then the chairperson, or, if the chairperson is not participating in the decision, the Commissioner with the most seniority, would be authorized to make the decision; and (b) in the event that only one commissioner is available to participate in a decision requiring the concurrence of a majority of the TAC, that commissioner would be authorized to make the decision. Compared to the bill, restore \$158,800 GPR annually.

Note:

The Tax Appeals Commission is an independent, quasi-judicial state agency, whose primary function is to determine disputes between taxpayers and the Department of Revenue (DOR) and, to a lesser extent, the Department of Transportation. The TAC is the final administrative authority for the hearing and determination of most tax-related matters arising in Wisconsin.

The TAC has three commissioners, attorneys who are appointed outside the classified service, who must be experienced in tax matters. The commissioners are nominated by the Governor and appointed with the advice and consent of the Senate for staggered, six-year terms expiring on March 1 of odd-numbered years. The Governor designates one commissioner to serve as the TAC Chairperson. The TAC has a support staff consisting of 3.0 classified FTE positions, and is attached to the Department of Administration (DOA) for administrative purposes. In addition to tax appeals, the TAC also decides appeals of state assessments of manufacturing property and equalized values of taxation districts.

Currently, the Chairperson initially assigns each appeal to a commissioner. The assigned commissioner handles scheduling, rules on pretrial motions, and presides if a hearing is scheduled. After receipt of post-hearing briefs filed by the disputing parties, the assigned commissioner issues a written decision resolving the dispute. If the amount at issue is more than \$2,500, then two of the three commissioners must generally agree and sign the decision. In the event that a party to a tax appeals case disagrees with the TAC's decision, the party may request a rehearing with the TAC or appeal the decision to Circuit Court.

The bill would eliminate the TAC and replace it with OCTA. In addition, the bill would: (a) decrease funding by \$317,700 GPR in each year; (b) reduce the number of unclassified commissioner positions from 3.0 to 1.0; and (c) decrease the number of classified support positions from 3.0 to 1.0.

The motion would delete the Governor's provision and do the following: (a) specify that the third commissioner position, which is currently vacant, would remain unfilled until July 1, 2005; (b) delete one FTE support position; (c) modify the requirements that a majority of the Commission be in agreement with respect to certain decisions to authorize the Chairperson or, in the absence of the Chairperson, the most senior member of the Commission, to make the decision; and (d) reduce funding, compared to current law, by \$158,900 in each year.

Compared to the bill, the motion would: (a) restore position authority for 3.0 FTE, but place a moratorium on filling the vacant commissioner position until July 1, 2005; and (b) increase funding by \$158,800 GPR in each year.

[Change to Bill: \$317,600 GPR and 3.0 GPR positions]