

Focus: The Board of Review in Uncertain Times

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What do wild asparagus, blooming bulbs, and Board of Review¹ have in common? They are all sure signs that it is spring in Wisconsin. Wisconsin municipalities that assess taxes locally² must have a Board of Review (BOR or board) that is responsible for correcting any errors in assessment that have been made by the local assessor. The board of review's primary duties, set forth in Wis. Stat. § 70.47(6), include the following:

- examining the assessment roll for omitted property and double assessments,
- correcting any errors or omissions in the descriptions or computations found in the assessment roll, and
- adjusting assessments when they have been proven incorrect by sworn oral testimony.

Boards of Review are a springtime staple. State law requires BORs to meet annually any time during the 45-day period beginning on the 4th Monday of April, but no sooner than 7 days after the last day of the Open Book (that period of time during which the assessment roll is open for examination by the public).³ In 2020, that means the BOR must meet between April 27 and June 10. Although BOR is supposed to conduct its business during this window, Boards may find it necessary to proceed differently this year because of the COVID-19 pandemic.

As this magazine was heading to print,⁴ there was a lot of uncertainty. Wisconsin had 3,455 confirmed cases of COVID-19, with cases in 65 of Wisconsin's 72 counties.⁵ It was unknown whether Governor Evers would extend his Safer at Home order⁶ through May 10 and whether the Wisconsin legislature would extend it after that. It is unlikely the threat to public health will have dissipated by the time the BOR would typically be held. If it has not, Boards of Review will need to consider whether to adjourn to a later time or figure out how to proceed while taking necessary measures to keep their members and the public safe.

Under Governor Evers' Safer at Home Order, local governments must, to the greatest extent possible, follow guidelines established by the Wisconsin Department of Health Services and the U.S. Center for Disease Control for mitigating risk. They must meet Social Distancing Requirements between all individuals on the premises to the extent possible and must, to the greatest extent possible, use technology to avoid meeting in person, including virtual meetings, and teleconference. At the same time, BOR must follow the Wisconsin Department of Justice's Office of Open Government's advisories for complying with the Open Meetings law.

Current state statutes authorize the BOR to meet within the statutory time frame and then adjourn if the roll is incomplete.⁷ As the magazine was heading to print, the legislature was meeting to consider enacting a measure that would authorize the BOR to publish a notice within the statutory time frame adjourning the BOR to a later time regardless of whether the 2020 assessment roll is complete. If this passes, the BOR will have the option of simply adjourning to a later time. Boards may also opt to hold the BOR virtually. This will entail figuring out logistics for things such as taking evidence, swearing in witnesses, and preserving the record. The Wisconsin Department of Revenue has proposed a guidance document (submitted to Legislative Reference Bureau for publication and public comment) which is available at <https://www.revenue.wi.gov/Documents/Property-Assessment-and-Taxation-Information.pdf>

Taxation 1060

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1. For a more comprehensive explanation of Board of Review see Taxation 1026 R1 (2014) and the Guide for Board of Review Members published by the Wisconsin Department of Revenue (DOR) and available online at <www.revenue.wi.gov/pubs/slf/pb056.pdf>

2. The only municipalities that do not assess locally are those located in counties that have adopted a county assessor system under Wis. Stat. § 70.99. However, no counties currently operate under that system.

3. Wisconsin Statute § 70.47(1).

4. April 14, 2020.

5. Wisconsin Department of Health Services <https://www.dhs.wisconsin.gov/covid-19/county.htm>

6. Governor Evers' Emergency Order #12, Safer at Home, issued March 24 and effective through April 24.

7. Wis. Stat. 70.47(3).