No. 89521-0

SUPREME COURT
STATE OF WASHINGTON

LEGACY PARTNERS RIVERPARK APARTMENTS BUILDINGS A/B LLC; LEGACY PARTNERS RIVERPARK APARTMENTS BUILDING E LLC, Delaware Limited Liability Corporations,

Petitioners,

vs.

KING COUNTY, WASHINGTON, a Municipal Corporation,

Respondent.

PETITION FOR REVIEW

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I. INTRODUCTION

This appeal presents two crucial questions: (1) Must administrative officers comply with statutory limits on the scope of their authority? and (2) Are assessors barred from retroactively revising assessed values after the assessment roll is closed and taxes have been levied and billed? This Court has consistently answered both of these questions in the affirmative, but Division I of the Court of Appeals reached the opposite result.

In 2009 and 2010 the King County Assessor failed to timely list the value of newly constructed improvements on two condominium parcels owned by petitioners. RCW 36.21.080 gives assessors "up to August 31" to list new construction at a special stepped-up July 31 value, rather than a regular January 1 value. The Court of Appeals disregarded the statutory August 31 deadline and upheld listings that were posted long after that deadline passed. That decision is contrary to the plain statutory language and long-standing precedent. It undermines the reliance interests of property owners and potential purchasers that the Legislature and this Court have long protected.

Buyers and sellers in the real estate market must be able to determine *with certainty* the tax obligations lodged against real property. They cannot be put at risk that properties they own or wish to buy are encumbered by inchoate and undisclosed back tax liabilities. The final tax

rolls have always provided this certainty. Assessors have never been allowed to revise values after the rolls are closed. Division I disregarded this long-standing rule. Its decision allows assessors to continue revising assessed values for three years after the rolls are closed. While it is understandable that Division I would want to allow the Assessor to correct his listing errors, its decision does far greater harm than good because it disregards plain statutory language and this Court's decisions and it undermines the finality of assessments.

II. IDENTITY OF PETITIONERS

Petitioners, Legacy Partners Riverpark Apartments Buildings A/B LLC and Legacy Partners Riverpark Apartments Building E LLC (hereinafter jointly referred to as "Legacy"), are the owners whose property was charged with the disputed taxes.

III. COURT OF APPEALS DECISION

Legacy seeks review of the unpublished opinion of Division I of the Court of Appeals filed on September 3, 2013. *See* Appendix A-1 through A-11. Legacy's motion to publish was denied on October 2, 2013. *See* Appendix A-12.

IV. ISSUES

1. May assessors disregard the August 31 time limit in RCW 36.21.080 for listing new construction value for assessment?

2. Does RCW 84.48.065(1) grant assessors a three-year extension to finalize the listing of new construction value?

3. Does a listing that is posted to the rolls on November 3, with notice to the taxpayer on November 10, substantially comply with the May 31 listing date for property that is not valued as new construction?

V. STATEMENT OF THE CASE

A. Facts

This case involves the 2009 and 2010 property tax assessments of two condominium parcels upon which Legacy completed newly constructed improvements in 2009 and 2010.

1. *Legacy's 2009 Assessments (for taxes payable in 2010)*

For 2009, the Assessor initially assessed Legacy's parcels as of January 1, 2009, with the improvements on each parcel valued at $1,000. CP 14, ¶¶ 4.11, 4.13; CP 20, ¶¶ 4.11, 4.13. On June 18, 2009, the Assessor mailed Legacy the 2009 Official Property Valuation Notices with these values.[1] In the meantime, a staff appraiser visited the site in

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[1] CP 57-58. The notices were mailed pursuant to RCW 84.40.045. Both the notices and the assessment listings separately state land value and improvement value. Division I referred to these as "*placeholder*" values, as though they were not real value estimates. *See* Op. at 2-5. But there is no such thing as placeholder values. The only values that assessors may list on the rolls are "true and fair value" Both the listings on the rolls and the valuation notices sent to Legacy represented the $1,000 improvement values as true and fair value, not as placeholder value. Those values are presumptively correct. *Hammond Lumber*

June to estimate the value of the new construction as of July 31, 2009, as authorized by RCW 36.21.080 (Appendix A-31). CP 126, 204-205. The appraiser calculated and entered proposed values for the new construction into the Assessor's internal computer system, but those values were not posted to the assessment roll because, by error or oversight, they were never reviewed and approved for posting by a senior appraiser, as office policy required.[2] Instead, the original $1,000 January 1 improvement values remained on the final 2009 roll. Taxes for 2010 were billed and first half taxes paid, all based on the $1,000 values. CP 60-61, 204-205.

The Assessor first learned that Legacy's new construction values for 2009 had not posted to the assessment roll in late April, 2010. The Assessor sought to then correct the error by reopening the tax roll and increasing the improvement values from $1,000 to the values previously proposed but not posted by the staff appraiser. CP 205-206.

2. *Legacy's 2010 Assessments (for taxes payable in 2011)*

For assessment year 2010, the Assessor again initially valued the improvements on Legacy's two parcels as of January 1, 2010 at $1,000,

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Co. v. Cowlitz County, 84 Wash. 462, 465, 147 P. 19 (1915); RCW 84.40.020; RCW 84.40.320.

[2] CP 158-160, 205. The staff appraiser estimated the value of the new improvements on parcel 733805-0010 as of July 31, 2009, at $16,129,600 and on parcel 733805-0040 at $14,135,900. CP 14, ¶ 4.17; CP 20, ¶ 4.17; CP 126.

and Official Property Valuation Notices with those values were mailed to Legacy on July 15, 2010. CP 73-74. On August 3, 2010, a staff member placed revised value estimates, with the improvements valued as of July 31, 2010, in "ready-to-post" status in the Assessor's internal computer system.[3] CP 127, 152. But rather than posting those values to the rolls and notifying Legacy within thirty days of the appraisal as directed by RCW 84.40.045, the new values were held in abeyance until November 3, 2010, when they were finally posted to the roll. Notice of these revisions was not mailed to Legacy until November 11, 2010. CP 76-77.

B. Procedure

Legacy paid the supplemental 2010 and 2011 taxes that were charged against the additional new improvement value under protest and filed this action under RCW 84.68 for a tax refund. On cross-motions for summary judgment, the trial court granted judgment to the County, upholding the taxes. Division I of the Court of Appeals affirmed.

VI. ARGUMENT FOR REVIEW

This appeal meets the criteria for review under RAP 13.4(b). The Court of Appeals decision conflicts with the decisions of this Court and

[3] The improvement values estimated for July 31, 2010 were $14,997,400 for Building A/B and $15,433,300 for Building E. Op. at 4, n. 5.

raises important questions of tax administration that have continuing statewide significance.

A. The Court of Appeals' Rejection of the August 31 Deadline for Listing New Construction is Contrary to the Plain Statutory Language and this Court's Decisions.

RCW 36.21.080 (Appendix A-31) authorizes assessors to assess new construction on a different basis than other real property. While other property is valued as of January 1, assessors value new construction as of July 31, so that the value added by construction up to that date can be included in the current year assessment. The Legislature, however, placed a clear time limit on the assessors' authority to list new construction at this special stepped-up basis. They have "up to August 31" to do so. *Id.*

The Legislature had good reason to limit the time within which assessors must list new construction value. New construction is not subject to the levy limitations imposed by RCW 84.55.010, so it increases the levy capacity of affected tax districts. For this benefit to be realized, however, the new construction value must be known to the taxing districts when they make their tax levies. The August 31 listing cutoff accomplishes this by assuring that new construction is listed *before* the equalized rolls are certified to the taxing districts under RCW 84.48.130. The decision below thwarts this legislative purpose.

Division I disregarded the August 31 deadline and instead gave assessors up to three years after the close of the rolls to list new construction. That disregard of plain statutory language is contrary to this Court's decisions. RCW 36.21.080 specifies the time within which assessors are authorized to list new construction at a July 31 value. When the Legislature specifies how and when a grant of authority is to be exercised, the terms are mandatory.[4] *Erection Co. v. Department of Labor and Industries*, 121 Wn.2d 513, 852 P.2d 288 (1993), confirms that jurisdictional time limits on a grant of authority are mandatory. *Id.* at 518-520.[5] Division I's decision conflicts with these decisions. In addition, it violates the principle that "[e]xceptions are, as a general rule, to be strictly construed and allowed to extend only so far as their language warrants." *State v. Wanrow*, 88 Wn.2d 221, 232, 559 P.2d 548 (1977).

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[4] "Powers conferred upon a public officer can be exercised only in the manner, and under the circumstances, prescribed by law, and any attempted exercise thereof in any other manner or under different circumstances is a nullity." *In re Elvigen's Estate*, 191 Wash. 614, 623, 71 P.2d 672 (1937); "Wherever the language gives a direction as to the manner of exercising a power, it was intended that the power should be exercised in the manner directed, and in no other manner." *State ex rel. Linn v. Superior Court for King County*, 20 Wn.2d 138, 153, 146 P.2d 543 (1944) (quoting *Varney v. Justice*, 6 S.W. 457).

[5] The Court in *Erection Co.* also noted that evidence of legislative concern for the adequacy of a statutory time period further indicates that the time period is mandatory. *Id.* at 522-523. Here, the original 1982 bill extending the time for listing new construction initially proposed a September 30 cutoff. *See* House Bill Report ESSB 3783 (1982) (Appendix A-13 – A-16). In the final enactment, it was moved back to August 31. Laws of 1982, 1st ex.sess., ch. 46 § 4 (Appendix A-17 – A-18). That legislative judgment is entitled to respect.

B. Neither RCW 84.48.065 nor *Niichel v. Lancaster* Excuse Compliance with the August 31 New Construction Listing Deadline.

Division I gave two reasons for disregarding the August 31 listing cutoff. First, it concluded that RCW 84.48.065 (Appendix A-31 – A-32) gives assessors three years to correct a failure to list new value, at least where the assessor's internal records contain proposed but unposted values. Op. at 6-7. Second, it concluded that, under *Niichel v. Lancaster*, 97 Wn.2d 620, 647 P.2d 1021 (1982), the August 31 cutoff date is merely directory. Op. at 10, n. 24. The court erred on both counts.

1. RCW 84.48.065 neither waives the August 31 new construction listing cutoff nor authorizes retroactive revisions to values listed on a closed assessment roll.

Division I failed to appreciate the overriding importance of finality and certainty in the tax rolls and failed to respect the express statutory limits on the authority of assessors to change assessed values after the rolls are closed. The tax roll is the official record of property tax obligations. It has always been the rule that owners and potential purchasers are entitled to rely on that official record to establish what tax obligations exist.[6] To preserve this certainty and finality, assessors are barred from

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[6] *Lewis v. Bishop*, 19 Wash. 312, 317, 53 P. 165 (1898); *Hammond Lumber Co. v. Cowlitz County*, 84 Wash. 462, 147 P. 19 (1915); *Ballard v. Wooster*, 182 Wash. 408, 412, 45 P.2d 511 (1935); *E. K. Wood Lumber Co. v. Whatcom County*, 5 Wn.2d 63, 72, 104 P.2d 752 (1940); *British Columbia Breweries Ltd. v. King County*, 17 Wn.2d 437, 443-444, 135 P.2d 870 (1943); *Tradewell Stores v. Snohomish County*, 69 Wn.2d 352, 355, 418 P.2d 466 (1966); *Tacoma*

revising values after the assessment rolls are closed. *See* cases cited in note 6, *supra*. This finality is crucial because if assessors could retroactively change values on a closed roll, owners and potential buyers would never know with certainty whether or not a back tax liability exists.

Division I ruled, in effect, that RCW 84.48.065 repeals this long standing rule of assessment finality. It held that the authority that statute gives to correct listing errors "*that do not involve revaluation of property*" grants authority to retroactively revise values if the revised value had been noted somewhere in the assessor's internal records during the assessment year. That interpretation patently misconstrues the statutory language and dangerously undermines the principle of assessment finality.

The authority to correct errors "*that do not involve revaluation of property*" refers to corrections that do not change or revise values.[7] It does not authorize assessors to retroactively "correct" improvement values after the rolls are closed. It does not matter whether the assessor's internal files contain a prior record of a "correct" value. The statutory concern is to maintain the integrity of the tax roll as the official record of tax

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Goodwill Industries Rehabilitation Center, Inc. v. Pierce County, 10 Wn.App. 197, 199, 518 P.2d 196, 197 (1973).

[7] A *revaluation* is a new or revised valuation. To *revise* means to look over again to correct error or make improvements. Webster's Third New International Dictionary. The revised assessments plainly *revalued* Legacy's improvements.

obligations upon which owners and *bona fide* parties are entitled to rely. They need not sift through the assessor's working files, searching for other value estimates that might generate a back tax obligation.

The Legislature and this Court have recognized the tax rolls as the official record of tax obligations and overriding importance of protecting the finality and certainty of that record for the benefit of owners and *bona fide* parties. *See* cases cited in note 6, *supra*. Division I's decision conflicts with those decisions and undermines assessment certainty. Here, for example, if Legacy had sold its two parcels in March 2010 – before the Assessor discovered the 2009 listing error – a title search would have shown taxes owing based upon the $1,000 improvement values for 2009. The purchaser would have had no reason to question those taxes. Yet Division I would allow the Assessor to subsequently revise the 2009 assessments and impose back taxes on that purchaser's newly acquired property.[8] RCW 84.48.065 does not sanction that result.

The phrase "*manifest errors in the listing of property which do not involve a revaluation of property*" originated in a 1915 statute specifying the errors that county *treasurers* were to identify and report for correction. Laws of 1915, ch. 122, § 2 (Appendix A-28). The language barred

[8] The real property tax obligation is enforced *only* as a lien against the property assessed. RCW 84.60.010 and 84.60.020.

treasurers from revaluing property, both because valuation is the province of assessors and because tax administrators cannot change values after the rolls close.[9] This language never granted treasurers license to infringe the valuation authority of assessors or revise assessed values. In 1988, the Legislature streamlined the assessment correction procedures, giving both assessors and treasurers the authority to make these treasurer corrections on their own.[10] But the scope of the correction authority did not change; it is still limited to the non-valuation errors that had previously been within the treasurers' sole authority to address.

This understanding is confirmed by the statute itself. It provides that: "Manifest errors that do not involve a revaluation of property include the assessment of property exempted by law from taxation or the failure to deduct the exemption allowed by law to the head of a family." These errors concern the tax status of property, not value. Correcting exempt status does not change value and works no prejudice to those who rely on

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[9] The valuation function belongs to assessor and cannot be transferred to treasurer. *Lockwood v. Roys,* 11 Wash. 697, 703, 40 P. 346, 348 (1895). "[I]t was not in the province of a county treasurer to make an assessment.... The county treasurer has no such authority under law." *Brewer v. Dunning,* 122 Wash. 358, 359, 210 Pac. 672 (1922).

[10] Laws 1988, ch. 222, § 25 (Appendix A-20 – A-21).

the finality of the values listed on the tax roll. These are the types of errors that the clause provides authority to correct, not valuation errors.[11]

This conclusion is further confirmed by fact that RCW 84.48.065 calls out one special circumstance in which a valuation error *can* be corrected – that is, where the assessed value is erroneous because it is based on an incorrect land use designation. *Id.* By specially authorizing revaluations in this single instance, it is presumed, under *expressio unius est exclusion alterius,* that other valuation corrections are *not* authorized.[12] The Court of Appeals erroneous reading of RCW 84.48.065 renders this special revaluation authorization utterly incongruous.

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[11] Under *ejusdem generis,* general terms are given meaning and effect only to the extent they suggest items similar to those designated by the specific terms. *Dean v. McFarland*, 81 Wn.2d 215, 221, 500 P.2d 1244 (1972); *See also, Hermance v. Ulster County Sup'rs,* 71 N.Y. 481 (1877). Although Division I did not rely on the Department of Revenue's definition of manifest error in WAC 458-14-005(14), the County likely will cite that definition as support for its position. The County will argue that, under that rule, a change in value is a "revaluation" only if it involves "appraisal judgment." But nothing in the text, purpose or history of the statute supports that view. Moreover, that theory has the same underlying flaw as the Court of Appeals' theory. Whether or not a change in value involves appraisal judgment is irrelevant to the statutory purpose. The statute assure finality and certainty so that owners and innocent third parties may rely on the taxes as listed on the rolls. This protects against undisclosed retroactive tax liens. Owners and innocent purchaser do not care whether or not a surprise *ex post facto* tax results from an error in appraisal judgment or something else. What matters is that buyers and sellers can rely on the certainty of tax obligation stated on the tax roll.

[12] *Wash. State Republican Party v. Wash. State Pub. Disclosure Comm'n*, 141 Wn.2d 245, 280, 4 P.3d 808 (2000).

2. The Court of Appeals' decision places RCW 84.48.065 in conflict with RCW 84.40.080 and this Court's decision in *Tradewell Stores, Inc. v. Snohomish County.*

The error in Legacy's 2009 assessments was that the Assessor failed to include the value of the new buildings in the assessed value of Legacy's improvements. But it is RCW 84.40.080 (Appendix A-31), not RCW 84.48.065, that determines when and how such omissions can be corrected. RCW 84.40.080 grants assessors the authority to assess omitted improvements, but only when the omission is evidenced by the assessment roll itself. It does not allow assessors to retroactively revise values.[13] In *Tradewell Stores, Inc. v. Snohomish County*, 69 Wn.2d 352, 418 P.2d 466 (1966), under facts that are virtually identical to the facts here, this Court ruled that RCW 84.40.080 prohibits omit assessments where some improvement value is initially listed because "[p]roperty owners who are taxed for 'improvements' on a piece of property and who pay the amount for which they are billed should be entitled to rely on the record thus made." *Id.* at 354-355. This rule preserves the finality and certainty of the tax rolls. RCW 84.48.065 must be construed in harmony with this longstanding rule. Division I declined to do so, choosing instead to

[13] "It has been consistently held that this statute does not authorize the assessor to recover omitted value, where property has been listed but erroneously undervalued on the tax rolls of prior years." *Tacoma Goodwill Industries Rehabilitation Center, Inc. v. Pierce County*, 10 Wn.App. 197, 199, 518 P.2d 196 (1973).

disregard *Tradewell* and to construe RCW 84.48.065 to override the limitations and protections in RCW 84.40.080. That was clear error.

Division I dismissed the conflict its decision creates with *Tradewell* and RCW 84.40.080, claiming that the limits on omit assessments do not apply to corrections made under RCW 84.48.065. Op. at 6, n.16. But disregarding RCW 84.40.080 does not harmonize the statutes. Harmonizing means construing the statutes to avoid rendering either superfluous or meaningless.[14] The Court of Appeals' reading of RCW 84.48.065 does not harmonize – it nullifies the restrictions that RCW 84.40.080 places on omit assessments and ignores *Tradewell.*

RCW 84.40.080 and RCW 84.48.065 are easily harmonized. RCW 84.40.080 bars retroactive revaluations to protect owners and innocent purchasers from unfair retroactive taxes. No such protections are needed in RCW84.48.065 because it was never intended as a vehicle for revising values. Division I's decision places these statutes in conflict, allowing assessors to make the very retroactive revaluations that are expressly barred by RCW 84.40.080.[15] That is absurd. Why would the Legislature go to great lengths to protect owners and *bona fide* parties

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[14] *AOL, LLC v. Washington State Dept. of Revenue*, 149 Wn.App. 533, 542, 205 P.3d 159 (2009).

[15] If RCW 84.40.080 and RCW 84.48.065 cannot be harmonized, then RCW 84.40.080 controls because it is the more specific statute. *Higbee v. Shorewood Osteopathic Hosp.*, 105 Wn.2d 33, 37, 711 P.2d 306 (1985).

from retroactive value changes in RCW 84.40.080, but then turn right around nullify those limits in RCW 84.48.065(1)? That makes no sense.

Division I was obviously troubled by the seeming unfairness of allowing the added value of Legacy's new improvements to escape taxation.[16] But as this Court made clear in *Tradewell*, that is an issue for the Legislature to resolve, not the courts. *Id.* at 356. The Legislature has declined to change this rule. In 1994, the Department proposed amending RCW 84.40.080 to partially overrule *Tradewell* and specifically authorize omit assessments where, as here, some improvement value had previously been listed on the roll. That proposal, however, did not pass.[17]

RCW 84.48.065(1) is not a backdoor way around the time limit for listing new construction, the requirements for omit assessments, this Court's decision in *Tradewell,* or the finality of closed tax rolls. It does not authorize assessors and treasurers to revise values after the rolls have closed. If an assessor fails to list new construction by August 31, the

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[16] The alleged unfairness of this result is rather overblown. Up until 1955, there was no special treatment of new construction. Until then, all real property was value as of January 1. *See* Laws of 1955, ch. 129, § 5 (Appendix A-29, A-30). That result is not so unfair that avoiding it justifies Division I's statutory contortions and abuse of precedent. Indeed, those who complain that the discriminatory treatment of new construction is unfair may have the better fairness argument. *See Fifteen-O-One Fourth Ave. P'ship v. Dep't of Revenue*, 49 Wn.App. 300, 742 P.2d 747 (1987).

[17] *See* SSB 5372, § 19, Senate Bill Report (1994) (Appendix A-23 – A-26).

special authorization in RCW 36.21.080 expires for that year, and the property is assessed at its value as of January 1, just like all other property.

3. *Niichel v. Lancaster* does not excuse a failure to timely list new construction.

Division I also concluded that, under *Niichel v. Lancaster, supra,* the August 31 deadline for listing new construction is merely directory. Op. at 10, n.24. But that ignores the clear differences in language and legislative intent between RCW 84.40.040 and RCW 36.21.080, and it fails to adhere to this Court's decision in *Erection Co., supra.*

The language and purpose of the August 31 cutoff for new construction listings is entirely different than the listing date for regular assessments that was addressed in *Niichel. Niichel* decided that the May 31 listing date for regular assessments was directory because it was only to guide the assessment process and, in itself, had no special significance. *Id.* at 626. But the Court recognized that the result is different where "the phraseology of the statute is such that the designation of time must be considered a limitation of the power of the officer." *Id.* at 623 (quoting 3 J. Sutherland, *Statutory Construction* § 5816, at 102 (3d ed. 1943)). Unlike RCW 84.40.040, RCW 36.21.080 is not just part of the directory timetable for tax assessments. It is a special, time-limited grant of power to assess new construction differently than other property. The August 31

deadline defines the period within which that authority may be exercised.[18]

In *Niichel,* the Court's concern was that strict enforcement of the timetable would "undermine the taxing system of the state," for no good reason because there was "no special significance" to the exact dates in the timetable. *Id.* at 626. Here, in contrast, the Legislature had good reason to set August 31 as a real deadline for listing new construction: it assures that levy officials know the value of new construction before making their levies. Enforcing that deadline provides a powerful incentive for assessors to timely list new construction, and there is no dire consequence to enforcing the statute as written.[19]

Moreover, the phraseology of RCW 36.21.080 does not allow the time limit to be construed as a mere guideline. RCW 36.21.080 grants authority to list new construction "*up to* August 31," not *after* August 31. The question here is not, as in *Niichel,* whether "shall" is to be construed as directory or mandatory. Rather, the question is whether "*up to*" can be

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[18] If the assessor misses the August 31 deadline, the new value can be added as such the following year. The benefit to the tax districts is not forever lost.

[19] The choice of August 31 as the new construction listing cutoff date in 1982 likely was based on former RCW 84.52.020 which at that time required levy officials to certify their tax levies in early October. Although the specific levy certification date has been removed, both the general timeframe for making tax levies and the specific time period for listing new construction remain unchanged.

construed to mean "*after*." It cannot. The phraseology and purpose of the statute does not allow that result. [20]

C. The November 2010 Revision to the Value of Legacy's Improvements Would Be Untimely Under *Niichel v. Lancaster* Even if It Were a Revised January 1 Valuation.

Division I posits that the August 31 deadline did not apply to Legacy's 2010 assessments because the November 3, 2010 value revisions were not made as new construction assessments. Op. at 8, n. 21. That is incorrect. The County's CR 30(b)(6) witness, Kent Walter, testified that "*without doubt*" the November 3, 2010 revised value was as of July 31, 2010, the new construction valuation date. CP 152. The County has not asserted otherwise.[21] Up until November 3, 2010, the official assessment roll listed $1,000 as the true and fair value of the improvements as of

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[20] *Cf. Philadelphia Gas Works v. Commonwealth,* 741 A.2d 841, 845 (1999) (authorization to seek a tax refund *within* 105 days of the fiscal year end cannot be construed to authorize refund request *after* 105 days).

[21] The County argued below that "[o]nly a portion of that 2010 improvement value is actually attributable to new construction occurring in 2010. The overwhelming majority of the property's improvement value already existed as of January 1, 2010." County Br. at 34, n.21. That correctly indicates that the 2010 assessment was based on a July 2010 appraisal of value, but notes that most of the value in that assessment would have existed on January 1, 2010. The relevant fact is that the November 3, 2010 revision was a belated exercise of authority to assess Legacy's improvements as of July 31, 2010 rather than an estimate of value as of January 1. The only evidence of improvement value as of January 1, 2010 is that contained in the original July 15, 2010 valuation notices, *i.e.,* $1,000 for each parcel. That value is presumptively correct. Division I also seemed to think that the revised 2009 improvement values issued in May 2010 somehow had been carried over onto the 2010 assessment roll. Op. at 8. That did not occur, and there is no evidence it did.

January 1, 2010. That was the true and fair value certified to Legacy on July 15, 2010. The November 3 revisions did not change that estimate, but rather, revalued the improvements as of July 31, 2010.

Moreover, even if the November 3 revisions were deemed to be a revised January 1 value for Legacy's improvements, they would nevertheless have been untimely under *Niichel*. *Niichel* requires, at a minimum, that assessments be "made in the year before the taxes are to be levied, *including an allowance for time in which to appeal*." *Id.* at 624 (emphasis added). RCW 84.40.038 and King County Code § 2.34.100, allow sixty days after a valuation change notice is mailed for a King County taxpayer to appeal. That appeal period expired on January 10, 2011, *after* the year end deadline specified in *Niichel*.[22]

Tax administrators and Division I seem to interpret *Niichel* as broadly abrogating all statutory time constraints on tax assessors. *Niichel* does not go so far. Even when deadlines are deemed directory, substantial compliance is still required. *Humphrey Industries, Ltd. v. Clay Street Associates, LLC*, 170 Wn.2d 495, 242 P.3d 846 (2010). That means that "[t]he party attempting to comply with the statute must make a '*bona fide*

[22] Legacy does not, as Division I asserts, argue that "there must be time to fully complete the appeal process in the year before the tax is levied." *See* Op. at 9. Rather, Legacy argues that the *allowance of time to file the appeal* must expire before year end.

attempt to comply with the law and must actually accomplish its purpose." *Id.* at 504 (*internal quotations and citations omitted*). At a minimum, the statutory assessment timetable requires that assessments be sufficiently timely to permit taxes to be properly levied and billed in an orderly and timely manner. Substantial compliance fails when proposed values are held in abeyance for months without explanation and entered on the rolls so late that the appeal period does not expire until after year end.

VII. CONCLUSION

This Court has long ruled that legislative authority must be exercised in conformance with statutory requirements. It has also consistently preserved assessment finality and certainty, barring assessors from revising values after the assessment rolls have closed. Division I disregarded these principles and the plain language of the applicable statutes. It did so to prevent a delay in taxing Legacy's new construction value. But disrupting the certainty and finality of the tax rolls and disregarding legislation and settled precedent present the greater danger. It is for the Legislature to decide whether to allow additional time to list new construction or to grant assessors the authority to retroactively correct assessed values. So far, it has declined to do so. Therefore, Legacy requests that the Court accept review, reverse Division I, and remand to the trial court with instructions to grant summary judgment to Legacy.

Respectfully submitted this 29th day of October, 2013.

WILLIAM C. SEVERSON PLLC

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DECLARATION OF SERVICE

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

That on the date below signed, I caused true and correct copies of the following:

- **PETITION FOR REVIEW**

to be served on counsel of record for defendant in the manner indicated below:

Michael J. Sinsky (mike.sinsky@kingcounty.gov)
W400 King County Courthouse
516 Third Avenue
Seattle, Washington 98104

Via U.S. Mail and email attachment

DATED AT SEATTLE, WASHINGTON, this 29th day of October, 2013

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

LEGACY PARTNERS RIVERPARK APARTMENTS BUILDINGS A/B LLC; and LEGACY PARTNERS RIVERPARK APARTMENTS BUILDING E LLC, Delaware Limited Liability Corporations,	)	No. 69073-6-I
Appellants,	)	
v.	)	
KING COUNTY, WASHINGTON, a Municipal Corporation,	)	UNPUBLISHED OPINION
Respondent.	)	FILED: September 3, 2013

VERELLEN, J. — The King County Assessor (Assessor) obtained summary judgment dismissing Legacy Partners' tax refund action. Legacy Partners appeals, challenging the Assessor's authority to correct erroneous property tax assessments in tax years 2010 (the 2009 assessment) and 2011 (the 2010 assessment). The Assessor had authority to correct the 2009 assessment of Legacy's new construction under the manifest error provision of RCW 84.48.065(1). The Assessor had authority to correct the 2010 assessment because the May 31, 2010 assessment finalization date provided under RCW 84.40.040 is directory rather than mandatory. We affirm.

FACTS

Legacy Partners Riverpark Apartments Building A/B LLC and Legacy Partners Riverpark Apartments Building E LLC (collectively Legacy) own two new residential condominium buildings in Redmond, Washington.[1] The Assessor was aware of the development, and appraisal staff visited the site in June 2009 to value the improvements on the parcels.[2]

Before development of the parcels, the appraisal records listed a "placeholder" improvement value of $1,000 on each parcel. The placeholder entry signaled that future development would require valuation once construction was complete. Through a series of errors with respect to assessment years 2009 and 2010, the Assessor initially listed both parcels at an assessed value of $1,000 instead of at the actual assessed value.

The 2009 Assessment (Payable in 2010)

In June 2009, after substantial completion of the condominium construction, the Assessor conducted a site inspection. The Assessor generated a new construction production report that recognized the improvement values for assessment year 2009. The appraisal staff determined the fair market value of the improvements on Building A/B was $16,129,600, and on Building E was $14,135,900.

The Assessor entered these assessed values for each parcel into the Assessor's appraisal value tracking system. When the Assessor's appraisal staff input the

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[1] Building A/B LLC owns parcel 733805-0010 and Building E LLC owns parcel 733805-0040.

[2] The certificate of occupancy for Building E was issued in August 2009, and the certificate of occupancy for Building A/B was issued in March 2010.

improvement values into its computer system, the software program placed an automatic hold on those improvements. The hold is designed to flag possibly erroneous assessed values, and places a hold on any assessed value increase of over 30 percent (or decreases of over 25 percent) from the previous year's value. A senior appraiser responsible for reviewing the holds failed to release the holds on these two parcels, so the 2009 assessment roll was finalized with the original $1,000 placeholder value for each parcel.

The Assessor learned of the mistake in late April or early May of 2010, at which point the Assessor's office had already billed the property taxes.[3] On April 29, 2010, and May 4, 2010, the Assessor requested corrections to the 2009 roll so the accurate improvement values that had initially failed to post would ultimately be included in the 2009 roll. The Assessor also sent notices to Legacy as required under RCW 84.48.065, explaining the value change was because of a "fail[ure] to post."[4] The Assessor issued corrected 2009 tax statements to Legacy on May 5, 2010.

The 2010 Assessment (Payable in 2011)

Because the Assessor did not learn of the assessment mistake until May 2010, the Assessor was not able to correct the $1,000 placeholder value before the initial 2010 assessments were issued early that year. The Assessor therefore sent initial assessment notices to Legacy that listed the erroneous $1,000 placeholder values. The placeholder values remained on the 2010 assessment roll until November 3, 2010, when the Assessor posted a correction to the 2010 roll. The Assessor sent updated

[3] The Assessor learned of the mistake from the owners of an adjacent parcel who received a notice listing the $1,000 improvement value placeholder.

[4] Clerk's Papers at 255, 257.

notices of value to Legacy on November 11, 2010.[5] The 2010 assessment roll was certified shortly thereafter, in December 2010, reflecting the accurate assessments for both parcels.

Procedural History

Legacy paid the corrected taxes for 2009 and 2010, and then challenged the revised 2009 and 2010 assessments in an appeal to the King County Board of Equalization, as well as in the instant action requesting a tax refund. In the instant action, the Assessor moved for summary judgment, and the court granted the motion. Legacy timely filed its notice of appeal.

DISCUSSION

Legacy challenges the revised tax assessments for years 2009 and 2010, contending the trial court erred in concluding the Assessor had authority to correct the placeholder values of $1,000 that were erroneously used in both assessment years. We review a trial court's summary judgment decision de novo.[6] We perform the same inquiry as the trial court, viewing all facts and reasonable inferences in the light most favorable to the nonmoving party.[7]

Our objective in analyzing a statute is to ascertain and carry out the legislature's intent.[8] We derive the plain meaning of a statute from the ordinary meaning of the language at issue, in the context of the statute in which that provision is found, as well

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[5] The 2010 improvement values shifted slightly from the 2009 values, with Building A/B valued at $14,997,400 and Building E valued at $15,433,300.

[6] Lybbert v. Grant County, 141 Wn.2d 29, 34, 1 P.3d 1124 (2000).

[7] Id.; CR 56(c).

[8] Dep't of Ecology v. Campbell & Gwinn LLC, 146 Wn.2d 1, 9-10, 43 P.3d 4 (2002).

as taking into consideration the statutory scheme as a whole.[9] If the meaning of a statute is plain on its face, then the court must give effect to that plain meaning as the expression of legislative intent.[10] It is well established that an unambiguous statute is not subject to the rules of statutory construction.[11]

Manifest Error—The 2009 Assessment

Legacy argues the Assessor lacked the authority under RCW 84.48.065(1) to correct the erroneous listing at the placeholder value of $1,000 for the 2009 assessment. RCW 84.48.065(1) provides the Assessor authority to correct erroneous assessments due to "manifest errors," provided the correction will not involve a revaluation of the property. The statute provides in pertinent part:

> The county assessor or treasurer may cancel or correct assessments on the assessment or tax rolls which are erroneous due to manifest errors in description, double assessments, clerical errors in extending the rolls, *and such manifest errors in the listing of the property which do not involve a revaluation of property* . . . . When the county assessor cancels or corrects an assessment, the assessor shall send a notice to the taxpayer in accordance with RCW 84.40.045, advising the taxpayer that the action has been taken and notifying the taxpayer of the right to appeal the cancellation or correction to the county board of equalization, in accordance with RCW 84.40.038. . . . No manifest error cancellation or correction . . . shall be made for any period more than three years preceding the year in which the error is discovered.[12]

Legacy argues that the Assessor ran afoul of RCW 84.48.065 when, in May 2010, it requested roll corrections to reflect the accurate improvement values for

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[9] Lake v. Woodcreek Homeowners Ass'n, 169 Wn.2d 516, 526, 243 P.3d 1283 (2010).

[10] Campbell & Gwinn, 146 Wn.2d at 9-10.

[11] Dep't. of Transp. v. James River Ins. Co., 176 Wn.2d 390, 396, 292 P.3d 118 (2013).

[12] RCW 84.48.065(1) (emphasis added).

assessment year 2009, and that the roll correction constituted a prohibited revaluation of the improvements.[13]

The Assessor relies on the plain language of the statute, arguing the manifest error "catch-all" in the statute, "errors in the listing of the property which do not involve a revaluation of property," includes this exact error. "Revaluation" is defined as "a revised or new valuation or estimate."[14], [15] The Assessor valued the properties once, in June 2009. The Assessor's correction of the error involved removal of the automatic hold the appraisal program had placed on the updated improvement values the appraisal staff had entered in June 2009. Correction of the error did not require the Assessor to revalue the property, as staff had already entered the accurate June 2009 improvement values.[16]

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[13] Legacy does not argue the Assessor failed to provide notice under the statute.

[14] WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 1942 (3d ed. 2002). The dictionary definition is consistent with the Department of Revenue's definition. See WAC 458-14-005(20) (defining "revaluation" as "a change in value of property based upon an exercise of appraisal judgment").

[15] The Assessor also relies on WAC 458-14-005(14), which defines "manifest error." The Department of Revenue has defined "manifest error" to mean "an error in listing or assessment, which does not involve a revaluation of property, including the following: . . . (b) A clerical or posting error; or . . . (j) Any other error which can be corrected by reference to the records and valuation methods applied to similarly situated properties, without exercising appraisal judgment." WAC 458-14-005(14). We find it unnecessary to rely on this section of the WAC because the plain language of the manifest error statute contemplates the type of mistake at issue in the case.

[16] Legacy also argues that the Assessor's correction of the assessments is inconsistent with the omit statute, RCW 84.40.080. The omit statute permits the Assessor to make a correction when improvements are omitted entirely from an assessment. RCW 84.40.080 ("Where improvements have not been valued and assessed as a part of the real estate upon which the same may be located, as evidenced by the assessment rolls, they may be separately valued and assessed as omitted property under this section."). The Assessor does not rely on RCW 84.40.080 to support its revised 2009 or 2010 assessments. RCW 84.40.080 applies only where

We affirm the trial court's determination that the Assessor had the authority to correct the erroneous 2009 assessment under RCW 84.48.065(1). The Assessor's actions fall squarely within the plain language of the statute. Further, the statute contemplates that correction of such errors may involve material changes to both the assessed value and the tax rolls.[17] As the Assessor highlights, if manifest errors such as this one were not correctable under RCW 84.48.065 (provided such correction took place within the three-year limitation provided in the statute), the statute would create a huge windfall to taxpayers whose property was mistakenly listed below the appraised value and would create a tax burden to taxpayers whose property was mistakenly listed above the appraised value.

Timeliness Requirements for Listing New Construction—RCW 36.21.080

Legacy argues the Assessor did not have authority to list Legacy's new construction on the assessment rolls after August 31 of either the 2009 or 2010 assessment years, relying upon RCW 36.21.080. RCW 36.21.080 provides authority to assessors to place new construction or significant renovation on the assessment roll up through August 31 of the assessment year. The statute provides:

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no value at all was placed on the improvements. Here, the Assessor did value the improvements (although the correct values were not initially accurate), and the placeholder values signified that future development would require valuation once construction was complete. The omit statute does not apply to these facts.

[17] See RCW 84.48.065(1) ("The county assessor or treasurer may cancel or correct assessments on the assessment or tax rolls."). We decline to examine the legislative history of RCW 84.48.065, which Legacy urges us to consider. Legacy has not demonstrated that the plain language of the statute is ambiguous. Examination of legislative history is only appropriate where the plain language does not dictate the outcome. Campbell & Gwinn, 146 Wn.2d at 12.

> The county assessor is authorized to place any property that is increased in value due to construction or alteration for which a building permit was issued . . . on the assessment rolls for the purposes of tax levy up to August 31st of each year. The assessed valuation of the property shall be considered as of July 31st of that year.[18]

In contrast to the July 31 valuation date for new construction in RCW 36.21.080, all other real property is assessed according to its value "on the first day of January of the year in which it is assessed."[19]

Legacy contends that because the Assessor did not enter the accurate assessed value of its improvements (i.e., the new construction) until after August 31, 2009 for the 2009 assessment and until after August 31, 2010 for the 2010 assessment, the July 31 valuation date of RCW 36.21.080 does not apply to either assessment year.[20] Accordingly, Legacy argues that its tax liability stems from the assessed value of its parcels on January 1, 2009 ($1,000) and January 1, 2010 ($1,000).

As to the 2010 assessment, the Assessor correctly observes that RCW 84.40.040 rather than RCW 36.21.080 applies.[21] RCW 84.40.040 provides that assessors shall complete the listing and valuation of existing properties (i.e., not new construction) by May 31 of each year: "The assessor shall also complete the duties of

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[18] RCW 36.21.080.

[19] RCW 84.40.020.

[20] For assessment year 2009, the parcels were placed into the system in June 2009, but due to the automatic hold, were not listed with the accurate improvement values until the May 2010 correction, after the August 31, 2009 deadline for listing new construction. For assessment year 2010, the parcels were listed on the assessment roll with the accurate improvement values by November 2010, after the May 31, 2010 deadline for listing existing construction.

[21] The Assessor had already placed Legacy's parcels on the 2009 rolls as new construction by May 2010. It is nonsensical to apply RCW 36.21.080 to a 2010 assessment of parcels that were no longer "new" and had already been placed "on the assessment rolls for the purposes of tax levy" in 2009 (albeit late). RCW 36.21.080.

listing and placing valuations on all property by May 31st of each year, except that the listing and valuation of construction and mobile homes under RCW 36.21.080 and 36.21.090 shall be completed by August 31st of each year."

As our Supreme Court held in Niichel v. Lancaster, the May 31 timeline set forth in RCW 84.40.040 is directory rather than mandatory.[22] The court reasoned:

> The statutes under consideration serve the purpose of prescribing the procedure to be followed in making assessments. They do not purport to limit the taxing power. The words are affirmative and relate to the manner in which the assessment power is to be exercised. The specified times for performance are not essential to the purpose of the statute. As long as the assessments are made in the year before the taxes are to be levied, including an allowance for time in which to appeal, the essential purpose of the statute is satisfied.[23]

Niichel is satisfied because the Assessor corrected the 2010 assessments before the 2010 tax roll closed, and in the year before the taxes were levied (2011). Further, Legacy had the time and ability to appeal the corrected 2010 assessment administratively. Legacy provides no authority that there must be time to fully complete the appeal process in the year before the tax is levied. Accordingly, the Assessor's November 3, 2010 revision to the parcels' value for the 2010 assessment year, although after the May 31 deadline, does not provide a basis for a refund.

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[22] 97 Wn.2d 620, 626-27, 647 P.2d 1021 (1982) (concluding that to read "shall also complete" in RCW 84.40.040 as mandatory would "gravely disserve the interests of this State and its people and would protect no right of any individual. The purpose of the taxing statute would be effectively thwarted."). In Niichel, the taxpayer challenged the assessor's authority to raise the assessed value on the subject properties because the steps in the assessment process were delayed. Id. at 622.

[23] Id. at 624.

We need not consider the applicability of RCW 36.21.080 to the 2009 assessment because the manifest error statute permitted the Assessor to correct the 2009 assessment.[24]

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[24] To the extent Legacy argues the manifest error statute would never extend to a late listing of new construction, it provides no authority for that proposition. Further, even if we applied RCW 36.21.080 to the 2009 assessment as Legacy urges us to do, we would reach the conclusion that the August 31 deadline is directory rather than mandatory. Niichel's rationale that the May 31 deadline in RCW 84.40.040 is directory rather than mandatory applies with equal force to RCW 36.21.080. As the Niichel court explained, "[T]he courts charge every owner with knowledge that his property is taxable every year . . . . Applying these principles to the question before us, we cannot conceive that the [l]egislature intended, in specifying the times at which assessment actions should be taken, to make the validity of the assessment depend upon strict compliance with those provisions." Niichel, 97 Wn.2d at 626. The Niichel court further reasoned that RCW 84.40.040 was a statute "'specifying a time within which a public officer is to perform an official act regarding the rights and duties of others'" rather than a statute limiting the power of the officer. Id. at 623 (quoting State v. Miller, 32 Wn.2d 149, 155, 201 P.2d 136 (1948)). Similar to RCW 84.40.040, RCW 36.21.080 specifies a time within which the Assessor must value new construction and place it on the assessment rolls. RCW 36.21.080 simply provides the Assessor more time to list and value new construction than it provides to value existing property, and provisions in regard to time or method are generally interpreted as directory only. Id. at 624. Both RCW 84.40.040 and RCW 36.21.080 prescribe the procedure for making assessments and do not limit the county's taxing authority. Id.

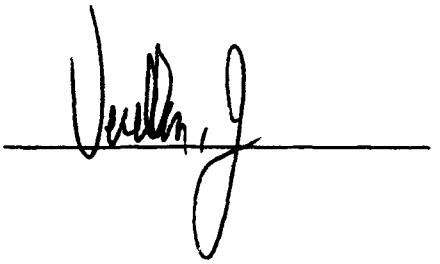
Legacy also contends the August 31 deadline of RCW 36.21.080 must be mandatory because the deadline "reflects a reasonable legislative judgment as to when new construction listing must be completed in order to permit property taxes to be calculated and imposed in the manner contemplated by law." Appellant's. Br. at 14. Legacy explains that because new construction increases the aggregate amount of tax that a district may levy, new construction listings must be timely completed to allow taxing districts to include that value in determining tax levies. Appellant's Br. at 14-16 (citing RCW 84.55.010). While Legacy's argument is technically correct, it cannot be reconciled with the manifest error statute, RCW 84.48.065(1), which specifically contemplates a retroactive adjustment to both assessments and to the tax rolls including errors over the past three years. The Niichel court did not consider the relationship between RCW 84.04.080 and the manifest error statute. For this reason, we are not concerned with the Niichel court's statement that assessments be completed in the year before the taxes are actually levied. Niichel, 97 Wn.2d at 624.

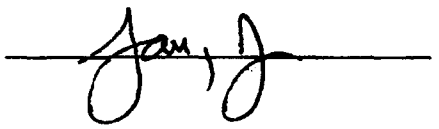
CONCLUSION

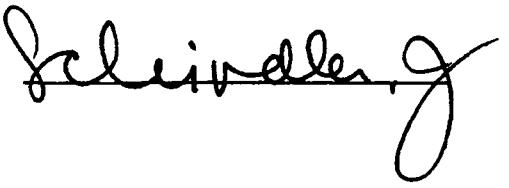
The Assessor's correction of the automatic hold on the 2009 valuation of the improvements did not involve any "revaluation," and RCW 84.48.065 applies to this manifest error in the 2009 assessment. The correction of the 2010 assessment after the May 31 deadline of RCW 84.40.040 was permissible because, under established case law, the deadline is directory and not mandatory. Legacy does not establish it is entitled to a refund.

Affirmed.

WE CONCUR:







IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

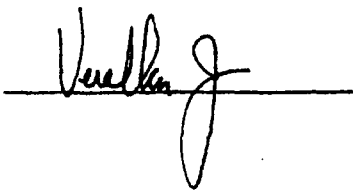
LEGACY PARTNERS RIVERPARK APARTMENTS BUILDINGS A/B LLC; and LEGACY PARTNERS RIVERPARK APARTMENTS BUILDING E LLC, Delaware Limited Liability Corporations, Appellants, v. KING COUNTY, WASHINGTON, a Municipal Corporation, Respondent.	)	No. 69073-6-I ORDER DENYING MOTION TO PUBLISH OPINION

Appellants filed a motion to publish the court's opinion entered September 3, 2013. Respondents filed a response on September 27, 2013. The panel has considered the motion and response and determined that the motion should be denied. Now therefore, it is hereby

ORDERED that appellant's motion to publish the opinion is denied.

Done this 2nd day of October, 2013.

FOR THE PANEL:



HOUSE OF REPRESENTATIVES
STATE OF WASHINGTON

Bill No.: ESSB 3783

BILL REPORT

(as passed by committee)

Date: March 22, 1982
Staff: Greg Pierce
Phone: 753-3962

1982 SPECIAL session

Companion Measure:

BILL BACK DESCRIPTION:	SPONSOR(S) (note agency; committee; executive request):
Authorizing the physical revaluation of property every six years if statistical adjustments are made	Committee on Ways and Means (Originally sponsored by Senators Craswell, Jones and Scott)

Reported by Committee on:	Recommendation:	Roll Call Vote:	
Revenue (13)	DPA (11)	11 Y	1 N

Majority Report signed by:	Minority Report signed by (if requested):
GREENGO, Flanagan, Rinehart, Bickham, Bond, Brown, Chandler, Galloway, Granlund, Hastings, Rust	None

ANALYSIS (background/summary/effect of amendments or substitute, as applicable):

BACKGROUND

Real property must be physically inspected and valued by the county assessor at least once every four years. If property within a county is revalued only once in four years, a tremendous increase in assessed valuation, often double, may result.

New construction must be valued by April 30th in order to be included in the tax roll for taxes due the following year. This property must be listed on the rolls by May 31st.

SUMMARY OF THE BILL

The Department of Revenue is authorized to allow assessors the choice of physical inspection and valuation at least once every six years, if annual adjustments are made to current true and fair value between inspections, using appropriate statistical data.

The deadline for valuing and listing new construction on the tax rolls is changed to September 30th.

EFFECT OF THE AMENDMENT

Eliminates the provision relating to appeals to the Board of Tax Appeals. This provision had stated that the board was limited by the valuation of the County Assessor and the Board of Equalization.

Provides technical changes.

Provides an emergency clause.

continued on reverse

FISCAL NOTE

REVISED

REQUEST NUMBER 104

Department of Revenue 140
Responding Agency Code No.

Bill No. SB 3783

March 1, 1982
Date Submitted

Description:

SB 3783 will permit the Department of Revenue to allow the county assessor to physically inspect and value real property every six years, but would require annual updating to current true and fair value by use of appropriate statistical data between physical inspections. The bill also extends the new construction valuation date from April 30 to September 30.

Under present law, the assessor is required to revalue taxable parcels at least once every four years and may annually update using appropriate statistical data between physical inspections.

The effect of SB 3783 would be to allow the assessors, with present staff size or less, to successfully comply with the physical inspection requirement and, at the same time, considerably increase equity by maintaining all properties at true and fair value each year.

The bill does not specify an effective date. Presumably, it would be effective for taxes due in 1983.

Revenue Impact:

There would be essentially a one-time change in total property tax revenue, as regular levies are governed by the 106 percent limitation and special levies are approved in dollar amounts. There would be an increase in the tax base, and decreases in tax rates, due to the annual updating requirement. There would also be a shift in burden the first year of the update to true and fair value. The state property tax levy would increase about $4.07 million and local regular levies would increase about $5.52 million for taxes due in 1983 due to the extended dates for new construction. There would be no change in special levy amounts.

Expenditure Impact:

Presently, five counties annually update their real property values and four others are nearly ready to do so. Together these nine counties contain about 1.12 million or 53 percent of the 2.10 million parcels in the state. It is estimated that the cost to implement annual revaluation for the remaining counties would be about $8 to $10 million. Most of this cost would be a one-time expenditure. Annual per parcel record maintenance costs would be about$1.50-$2.00. Most of the one-time cost would be recovered within the first few years following implementation in the form of lower ongoing operating costs for the assessor.

in accordance with a plan filed with and approved by the department of revenue. Such revaluation plan shal provide that a reasonable portion of all taxable real property within a county shall be revalued and these newly-determined values placed on th assessment rolls each year. If the revaluation plan provides for physical inspection at least once each four years, during the intervals between each physical inspection of real property, the valuation of such property may be adjusted to its current true and fai value, such adjustments to be based upon appropriate statistical data. If the revaluation plan provides for physical inspection less frequently than once each four years, during th intervals between each physical inspection of real property, the valuation of such property shall be adjusted to its current true and fai value, such adjustments to be made once each year and to be based upon appropriate statistical data.

The assessor may require property owners to submit pertinent data respecting taxable property in their control including data respecting any sale or purchase of said property within the past five years, the cost and characteristics of any improvement on the property and other facts necessary for appraisal of the property.

Sec. 3. Section 84.41.090,

chapter 15, Laws of 1961 as amended by section 200, chapter 278, Laws of 1975 1st ex. sess. and RCW 84.41.090 are each amended to read as follows:

The department of revenue shall by rule establish appropriate statistical methods for use by assessors in adjusting the valuation of property between physical inspections. The department of revenue shall make and publish such additional rules, regulations and guides which it determines are needed to supplement materials presently published by the department of revenue for the general guidance and assistance of county assessors. Each assessor is hereby directed and required to value property in accordance with the standards established by RCW 84.40.030 and in accordance with the applicable rules, regulations and valuation manuals published by the department of revenue.

Sec. 4. Section 36.21.080, chapter 4, Laws of 1963 as last amended by section 3, chapter 274, Laws of 1981 and RCW 36.21.080 are each amended to read as follows:

(1) The county assessor is authorized to place any property under the provisions of RCW 36.21.040 through 36.21.080 on the assessment rolls for the purposes of tax levy up to ((~~May 31st~~)) August 31st of each year. The assessed valuation of property under the provisions of RCW

36.21.040 through 36.21.080 shall be considered as of ((~~the April 30th immediately preceding the date that the property is placed on the assessment rolls~~)) July 31st of that year.

(2) If, on or before December 31 in any calendar year, any real or personal property placed upon the assessment roll of that year is destroyed in whole or in part, or is in an area that has been declared a disaster area by the governor and has been reduced in value by more than twenty percent as a result of a natural disaster, the true cash value of such property shall be reduced for that year by an amount determined as follows, without necessity of taxpayer application under chapter 84.70 RCW:

(a) First take the true cash value of such taxable property before destruction or reduction in value and deduct therefrom the true cash value of the remaining property after destruction or reduction in value.

(b) Then divide any amount remaining by twelve and multiply the quotient by the number of months or major fraction thereof remaining after the date of the destruction or reduction in value of the property.

Sec. 5. Section 84.40.040, chapter 15, Laws of 1961 as last amended by section 97, chapter 195, Laws of 1973 1st ex. sess. and RCW 84.40.040 are each amended to read as

follows:

The assessor shall begin the preliminary work for each assessment not later than the first day of December of each year in all counties in the state. He shall also complete the duties of listing and placing valuations on all property by May 31st of each year, except that the listing and valuation of construction under RCW 36.21.040 through 36.21.080 shall be completed by August 31st of each year, and in the following manner, to wit:

He shall actually determine as nearly as practicable the true and fair value of each tract or lot of land listed for taxation and of each improvement located thereon and shall enter one hundred percent of the value of such land and of the total value of such improvements, together with the total of such one hundred percent valuations, opposite each description of property on his assessment list and tax roll.

He shall make an alphabetical list of the names of all persons in his county liable to assessment of personal property, and require each person to make a correct list and statement of such property according to the standard form prescribed by the department of revenue, which statement and list shall include, if required by the form, the year of acquisition and total original cost of personal property in each category of the prescribed form, and shall be

NEW SECTION. Section 1. There is added to chapter 43.19 RCW a new section to read as follows:

(1) The director of general administration through the state purchasing and material control director shall develop a system for state agencies and departments to use credit cards or similar devices to make purchases. The director may contract with a financial institution or institutions in this state to administer the credit cards.

(2) The director of general administration through the state purchasing and material control director shall adopt rules for:

(a) The distribution of the credit cards;

(b) The authorization and control of the use of the credit cards;

(c) The credit limits available on the credit cards;

(d) Instructing users of gasoline credit cards to use self-service islands whenever possible;

(e) Payments of the bills; and

(f) Any other rule necessary to implement or administer the program under this section.

Passed the Senate April 10, 1982.
Passed the House April 10, 1982.
Approved by the Governor April 20, 1982.
Filed in Office of Secretary of State April 20, 1982.

CHAPTER 46

[Engrossed Substitute Senate Bill No. 3783]

TAXATION——REVALUATION OF PROPERTY——APPEALS

AN ACT Relating to revaluation of property; amending section 84.41.030, chapter 15, Laws of 1961 as amended by section 6, chapter 288, Laws of 1971 ex. sess. and RCW 84.41.030; amending section 2, chapter 131, Laws of 1974 ex. sess. as amended by section 9, chapter 214, Laws of 1979 ex. sess. and RCW 84.41.041; amending section 84.41.090, chapter 15, Laws of 1961 as amended by section 200, chapter 278, Laws of 1975 1st ex. sess. and RCW 84.41.090; amending section 36.21.080, chapter 4, Laws of 1963 as last amended by section 3, chapter 274, Laws of 1981 and RCW 36.21.080; amending section 84.40-.040, chapter 15, Laws of 1961 as last amended by section 97, chapter 195, Laws of 1973 1st ex. sess. and RCW 84.40.040; amending section 42, chapter 26, Laws of 1967 ex. sess. as amended by section 2, chapter 284, Laws of 1977 ex. sess. and RCW 82.03.130; amending section 3, chapter 284, Laws of 1977 ex. sess. and RCW 84.48.075; amending section 43, chapter 26, Laws of 1967 ex. sess. and RCW 82.03.140; amending section 47, chapter 26, Laws of 1967 ex. sess. and RCW 82.03.180; amending section 84.08.060, chapter 15, Laws of 1961 as amended by section 150, chapter 278, Laws of 1975 1st ex. sess. and RCW 84.08.060; adding a new section to chapter 84.40 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 84.41.030, chapter 15, Laws of 1961 as amended by section 6, chapter 288, Laws of 1971 ex. sess. and RCW 84.41.030 are each amended to read as follows:

Sec. 4. Section 36.21.080, chapter 4, Laws of 1963 as last amended by section 3, chapter 274, Laws of 1981 and RCW 36.21.080 are each amended to read as follows:

(1) The county assessor is authorized to place any property under the provisions of RCW 36.21.040 through 36.21.080 on the assessment rolls for the purposes of tax levy up to ((~~May 31st~~)) August 31st of each year. The assessed valuation of property under the provisions of RCW 36.21.040 through 36.21.080 shall be considered as of ((~~the April 30th immediately preceding the date that the property is placed on the assessment rolls~~)) July 31st of that year.

(2) If, on or before December 31 in any calendar year, any real or personal property placed upon the assessment roll of that year is destroyed in whole or in part, or is in an area that has been declared a disaster area by the governor and has been reduced in value by more than twenty percent as a result of a natural disaster, the true cash value of such property shall be reduced for that year by an amount determined as follows, without necessity of taxpayer application under chapter 84.70 RCW:

(a) First take the true cash value of such taxable property before destruction or reduction in value and deduct therefrom the true cash value of the remaining property after destruction or reduction in value.

(b) Then divide any amount remaining by twelve and multiply the quotient by the number of months or major fraction thereof remaining after the date of the destruction or reduction in value of the property.

Sec. 5. Section 84.40.040, chapter 15, Laws of 1961 as last amended by section 97, chapter 195, Laws of 1973 1st ex. sess. and RCW 84.40.040 are each amended to read as follows:

The assessor shall begin the preliminary work for each assessment not later than the first day of December of each year in all counties in the state. He shall also complete the duties of listing and placing valuations on all property by May 31st of each year, except that the listing and valuation of construction under RCW 36.21.040 through 36.21.080 shall be completed by August 31st of each year, and in the following manner, to wit:

He shall actually determine as nearly as practicable the true and fair value of each tract or lot of land listed for taxation and of each improvement located thereon and shall enter one hundred percent of the value of such land and of the total value of such improvements, together with the total of such one hundred percent valuations, opposite each description of property on his assessment list and tax roll.

He shall make an alphabetical list of the names of all persons in his county liable to assessment of personal property, and require each person to make a correct list and statement of such property according to the standard form prescribed by the department of revenue, which statement and list shall include, if required by the form, the year of acquisition and total original cost of personal property in each category of the prescribed form, and

home dated prior to August 1, 1984, and submitted to the department prior to January 1, 1988, the depreciation base of the nursing home shall not exceed the fair market value of the assets at the date of purchase as determined by the department of general administration through an appraisal procedure.

(c) Where depreciable assets are acquired from a related organization, the contractor's depreciation base shall not exceed the base the related organization had or would have had under a contract with the department.

(d) Where the depreciable asset is a donation or distribution between related organizations, the base shall be the lesser of (i) fair market value, less salvage value, or (ii) the depreciation base the related organization had or would have had for the asset under a contract with the department.

Passed the Senate March 7, 1988.
Passed the House March 5, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 222

[Substitute House Bill No. 1754]
TAX ADMINISTRATION REVISIONS

AN ACT Relating to tax administration; amending RCW 36.95.080, 82.03.070, 82.03.120, 82.03.140, 82.03.150, 82.03.160, 82.03.170, 84.08.130, 84.08.060, 84.36.385, 84.38.030, 84.38.100, 84.38.120, 84.40.030, 84.40.040, 84.40.060, 84.40.130, 84.40.320, 84.48.010, 84.48.014, 84.48.042, 84.48.075, 84.48.080, 84.52.020, 84.52.070, 84.52.080, 84.56.020, 84.69.050, 84.69.060, and 84.69.140; adding a new section to chapter 84.40 RCW; adding new sections to chapter 84.48 RCW; repealing RCW 84.52.090, 84.56.390, and 84.56.400; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 8, chapter 155, Laws of 1971 ex. sess. as amended by section 1, chapter 52, Laws of 1981 and RCW 36.95.080 are each amended to read as follows:

The board shall, on or before the first day of July of any given year, ascertain and prepare a list of all persons believed to own television sets within the district and deliver a copy of such list to the county ((~~assessor~~)) treasurer.

Sec. 2. Section 36, chapter 26, Laws of 1967 ex. sess. and RCW 82.03.070 are each amended to read as follows:

The board may appoint, discharge and fix the compensation of an executive ((~~secretary~~)) director, tax referees, a clerk, and such other clerical, professional and technical assistants as may be necessary. Tax referees shall not be subject to chapter 41.06 RCW.

Sec. 3. Section 41, chapter 26, Laws of 1967 ex. sess. and RCW 82.03.120 are each amended to read as follows:

Such classification may be on the basis of types of property, geographical areas, or both.

Second. The department shall keep a full record of its proceedings and the same shall be published annually by the department.

The department shall levy the state taxes authorized by law: PROVIDED, That the amount levied in any one year for general state purposes shall not exceed the lawful dollar rate on the dollar of the assessed value of the property of the entire state, which assessed value shall be one hundred percent of the true and fair value of such property in money. The department shall apportion the amount of tax for state purposes levied by the department, among the several counties, in proportion to the valuation of the taxable property of the county for the year as equalized by the department: PROVIDED, That for purposes of this apportionment, the department shall recompute the previous year's levy and the apportionment thereof to correct for changes and errors in taxable values reported to the department after October 1 of the preceding year and shall adjust the apportioned amount of the current year's state levy for each county by the difference between the apportioned amounts established by the original and revised levy computations for the previous year. For purposes of this section, changes in taxable values mean a final adjustment made by a county board of equalization, the state board of tax appeals, or a court of competent jurisdiction and shall include additions of omitted property, other additions or deletions from the assessment or tax rolls, or a change in the indicated ratio of a county. Errors in taxable values mean errors corrected by a final reviewing body.

The department shall have authority to adopt rules and regulations to enforce obedience to its orders in all matters in relation to the returns of county assessments, the equalization of values, and the apportionment of the state levy by the department.

After the completion of the duties hereinabove prescribed, the director of the department shall certify the record of the proceedings of the department under this section, the tax levies made for state purposes and the apportionment thereof among the counties, and the certification shall be available for public inspection.

NEW SECTION. Sec. 25. A new section is added to chapter 84.48 RCW to read as follows:

The county assessor or treasurer may cancel or correct assessments on the assessment or tax rolls which are erroneous due to manifest errors in description, double assessments, clerical errors in extending the rolls, and such manifest errors in the listing of the property which do not involve a revaluation of property, such as the assessment of property exempted by law from taxation or the failure to deduct the exemption allowed by law to the head of a family. When the county assessor cancels or corrects an assessment, the assessor shall send a notice to the taxpayer advising the taxpayer that the action of the county assessor is not final and shall be considered by

the county board of equalization, and that such notice shall constitute legal notice of such fact. When the county assessor or treasurer cancels or corrects an assessment, a record of such action shall be prepared and filed with the county board of equalization, setting forth therein the facts relating to the error.

The county board of equalization shall consider only such matters as appear in the record filed with it by the county assessor or treasurer and shall correct only such matters as are set forth in the record, but it shall have no power to change or alter the assessment of any person, or change the aggregate value of the taxable property of the county, except insofar as it is necessary to correct the errors mentioned in this section. If the county board of equalization finds that the action of the assessor was not correct, it shall issue a supplementary roll including such corrections as are necessary, and the assessment and levy shall have the same force and effect as if made in the first instance, and the county treasurer shall proceed to collect the taxes due on the supplementary roll. The board shall make findings of the facts upon which it bases its decision on all matters submitted to it, and when so made the assessment and levy shall have the same force as if made in the first instance, and the county treasurer shall proceed to collect the taxes due on the rolls as modified.

The county board of equalization shall convene on a day fixed by the board for the purpose of considering such matters as appear in the record filed by the county assessor or treasurer.

NEW SECTION. Sec. 26. A new section is added to chapter 84.48 RCW to read as follows:

The department of revenue shall make such rules consistent with this chapter as shall be necessary or desirable to permit its effective administration. The rules may provide for changes of venue for the various boards of equalization.

Sec. 27. Section 84.52.020, chapter 15, Laws of 1961 as last amended by section 33, chapter 118, Laws of 1975–'76 2nd ex. sess. and RCW 84-.52.020 are each amended to read as follows:

It shall be the duty of the city council or other governing body of cities of the first class, except cities having a population of three hundred thousand or more, the city councils or other governing bodies of cities of the second or third class, the board of directors of school districts of the first class, the superintendent of each educational service district for each constituent second class school district, commissioners of port districts, commissioners of metropolitan park districts, and of all officials or boards of taxing districts within or coextensive with any county required by law to certify to ((~~boards of county commissioners~~)) the county legislative authority, for the purpose of levying district taxes, budgets or estimates of the amounts to be raised by taxation on the assessed valuation of the property in the city or district, through their chairman and clerk, or secretary, to

[1994 Senate Sub Bill 5372] Sec. 19. RCW 84.40.080 and 1973 2nd ex.s. c 8 s 1 are each amended to read as follows:

((~~The~~)) An assessor((~~, upon his own motion, or upon the application of any taxpayer,~~)) shall enter ((~~in the detail and assessment list of the current~~)) on the assessment roll in any year any property shown to have been omitted from the assessment ((~~list~~)) roll of any preceding year, at the ((~~valuation of that~~)) value for the preceding year, or if not then valued, at such ((~~valuation~~)) value as the assessor shall determine ((~~from~~)) for the preceding year, and such ((~~valuation~~)) value shall be stated ((~~in a separate line~~)) separately from the ((~~valuation~~)) value of ((~~the current~~)) any other year. ((~~Where improvements have not been valued and assessed as a part of the real estate upon which the same may be located, as evidenced by the assessment rolls, they may be separately valued and assessed as omitted property under this section~~)) When any improvement has not been placed on an assessment roll as a part of the real estate upon which it is located, the improvement may, subject to RCW 84.40.085, be subsequently placed upon the assessment roll regardless of whether any other improvement on the real estate is listed on the assessment roll. For purposes of this section it is immaterial whether an assessment roll lists each improvement separately: PROVIDED, That no such assessment shall be made in any case where a bona fide purchaser((~~, encumbrancer,~~)) or contract buyer has acquired any interest in said property prior to the time such improvements are assessed. When such an omitted assessment is made, the taxes levied thereon may be paid within one year of the due date of the taxes for the year in which the assessment is made without penalty or interest: AND PROVIDED FURTHER, That in the assessment of personal property, the assessor shall assess the omitted value not reported by the taxpayer as evidenced by an inspection of either the property or the books and records of said taxpayer by the assessor.

Senate Bill Report Explanation: *"Omitted improvements to real property may be added to the tax rolls even if other improvements already exist. The assessment of omitted improvements is not precluded by an intervening encumbrancer."*

[1994 Senate Sub Bill 5372] Sec. 19. RCW 84.40.080 and 1973 2nd ex.s. c 8 s 1 are each amended to read as follows:

((~~The~~)) An assessor((~~, upon his own motion, or upon the application of any taxpayer,~~)) shall enter ((~~in the detail and assessment list of the current~~)) on the assessment roll in any year any property shown to have been omitted from the assessment ((~~list~~)) roll of any preceding year, at the ((~~valuation of that~~)) value for the preceding year, or if not then valued, at such ((~~valuation~~)) value as the assessor shall determine ((~~from~~)) for the preceding year, and such ((~~valuation~~)) value shall be stated ((~~in a separate line~~)) separately from the ((~~valuation~~)) value of ((~~the current~~)) any other year. ((~~Where improvements have not been valued and assessed as a part of the real estate upon which the same may be located, as evidenced by the assessment rolls, they may be separately valued and assessed as omitted property under this section~~)) When any improvement has not been placed on an assessment roll as a part of the real estate upon which it is located, the improvement may, subject to RCW 84.40.085, be subsequently placed upon the assessment roll regardless of whether any other improvement on the real estate is listed on the assessment roll. For purposes of this section it is immaterial whether an assessment roll lists each improvement separately: PROVIDED, That no such assessment shall be made in any case where a bona fide purchaser((~~, encumbrancer,~~)) or contract buyer has acquired any interest in said property prior to the time such improvements are assessed. When such an omitted assessment is made, the taxes levied thereon may be paid within one year of the due date of the taxes for the year in which the assessment is made without penalty or interest: AND PROVIDED FURTHER, That in the assessment of personal property, the assessor shall assess the omitted value not reported by the taxpayer as evidenced by an inspection of either the property or the books and records of said taxpayer by the assessor.

Senate Bill Report Explanation: *"Omitted improvements to real property may be added to the tax rolls even if other improvements already exist. The assessment of omitted improvements is not precluded by an intervening encumbrancer."*

SENATE BILL REPORT

2SSB 5372

AS PASSED SENATE, JANUARY 28, 1994

Brief Description: Changing multiple tax provisions.

SPONSORS: Senate Committee on Government Operations (originally sponsored by Senators Loveland and Winsley)

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

Majority Report: That Second Substitute Senate Bill No. 5372 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Haugen, Chairman; Drew, Vice Chairman; Loveland, Oke and Winsley.

Staff: Rod McAulay (786-7754)

Hearing Dates: February 12, 1993; February 19, 1993; January 19, 1994

HOUSE COMMITTEE ON LOCAL GOVERNMENT

HOUSE COMMITTEE ON REVENUE

BACKGROUND:

Existing statutory provisions governing the assessment and collection of various state and local taxes contain inconsistent procedures, time frames and obsolete references to agencies and other statutes. There is a need for general technical housekeeping legislation to reduce confusion and aid efficiency and fairness in the assessment and collection of taxes.

SUMMARY:

Delinquent gambling taxes become a lien on real and personal property in the same manner as other taxes.

Joint school district levies collected by a county treasurer must be remitted monthly rather than quarterly.

A requirement that counties send tax foreclosure summons to city treasurers is deleted.

It is illegal to reuse or transfer a mobile home movement decal.

At least ten days prior to a hearing before the state Board of Tax Appeals, both the county assessor and the taxpayer must provide each other with evidence of comparable sales they intend to present.

The requirement that a notice of appeal from a county board of equalization decision be filed with the county auditor is deleted. The notice is filed directly with the state Board of Tax Appeals. The state Board of Tax Appeals may enter a multi-year order.

The terms "adequate stocking" and "merchantable stand of timber" are defined by the Forest Practices Board.

It is made clear that conservation future levies are subject to the 1 percent constitutional limit.

The court shall determine any penalty, not to exceed $5,000, for the failure of a secured party listed on the tax rolls to provide to the assessor the name and address of the person making the mortgage or contract payments. The formula for establishing such a penalty is deleted.

Omitted improvements to real property may be added to the tax rolls even if other improvements already exist. The assessment of omitted improvements is not precluded by an intervening encumbrancer.

At the request of 80 percent of the owners, the county assessor may charge all owners the actual cost of surveying and platting an irregular subdivision. These charges, if unpaid, become a lien on the property and may be collected in the same manner as a property tax.

The abstract of the tax rolls shall be transmitted by the assessors to the department of revenue by the 18th of August.

If a county fails to provide the Department of Revenue an assessment return by December 1, the department may proceed in a manner it deems appropriate to estimate the value of each class of property in the county.

The county assessor must provide the taxpayer with any evidence of comparable sales at least 15 days prior to a board of equalization hearing. The taxpayer must provide the assessor with his or her evidence of comparable sales at least ten days prior to such hearing. The Board of Equalization may enter multi-year orders.

A property tax levy may include corrections for errors which occurred in the prior year. A correcting levy is not subject to the 106 percent limit.

Language is clarified that taxes paid as a result of mistake, inadvertence, or lack of knowledge of a public employee or taxpayer is the basis for a refund.

The provision authorizing payment of property taxes by credit card is repealed. Other obsolete references or terms are corrected or repealed.

Appropriation: none

Revenue: none

Fiscal Note: available

HOUSE AMENDMENT(S):

The House amendments make numerous technical changes, updating references and terminology. Numerous provisions are added which increase the responsibilities of county treasurers for fiscal matters of the county and special taxing districts within the county. The authority of county treasurers to invest funds is clarified. County treasurers are authorized to provide collection services to other county agencies and to serve as or designate a fiscal agent on local bond issues. The authority of special taxing districts to name a fiscal agent on bond issues is repealed.

The use of "debit cards" to pay court fines is authorized.

Terminology regarding the assessed valuation of utility assets and private car company assets is changed.

Statutes requiring salaried county officers to remit all fees collected to the county treasurer and requiring transient traders to notify the assessor when they come into the state to do business are repealed.

changes made by the said county board of equalization, he shall make duplicate abstracts of such corrected values, one copy of which shall be retained in his office, and one copy forwarded to the state auditor on or before the first Monday in September next following the meeting of the county board of equalization.

Duplicate abstracts of corrected values.

Filing with state auditor.

The county board of equalization may continue in session and adjourn from time to time during three weeks, and shall remain in session not less than three days, commencing on the first Monday in August: *Provided*, That no taxes, except special taxes, shall be extended upon the tax rolls until the property valuations are equalized by the state board of equalization for the purpose of raising the state revenue.

August session.

The county assessor shall make a record of all errors in descriptions, double assessments, or manifest errors in assessment appearing on the assessment list at the time of the extension of the rolls, and after duly verifying the same, file said record with the county board of equalization on the 3rd Monday in November next succeeding the annual meeting of the county board of equalization. The county board of equalization shall reconvene on such day for the sole purpose of considering such errors in description, double assessments, or manifest errors appearing on the assessment list at the time of the extension of the rolls, and shall proceed to correct the same, but said board shall have no authority to change the assessed valuation of the property of any person, or to reduce the aggregate amount of the assessed valuation of the taxable property of the county, except only in so far as the same may be affected by the corrections ordered based on the record submitted by the county assessor.

Record of errors in assessments.

November session of board for correction of rolls.

SEC. 2. That section 9238 of Remington & Ballinger's Annotated Codes and Statutes of Washington be amended to read as follows:

Section 9238. If the county treasurer has reason to believe or is informed that any person has given to the county assessor a false statement of his personal prop-

Fraud or omissions in returns.

erty, or that the county assessor has not returned the full amount of personal property required to be listed in his county, or has omitted or made erroneous return of any property which is by law subject to taxation, or if it shall come to his knowledge that there is personal property which has not been listed for taxation for the current year, he shall prepare a record setting out the facts with reference to the same and file such record with the county board of equalization at its meeting on the third Monday in April, and for this purpose it is authorized and empowered to issue compulsory process and to require the attendance of any person having knowledge of the articles or value of the property erroneously or fraudulently returned, and to examine such person on oath in relation to the statement [or] return of assessment, and the board of equalization shall in all such cases notify every such person affected before making a finding, so that such person may have an opportunity of showing that his statement or the return of the assessor is correct.

Duty of county treasurer.

Investigation by board at April session.

Compulsory process.

The county treasurer shall also make a record, setting forth the facts relating to such manifest errors in description, double assessments, clerical errors in extending the rolls, and such manifest errors in the listing of property which do not involve a re-valuation of property such as the assessment of property exempted by law from taxation or the failure to deduct the exemption allowed by law to the head of a family as shall come to his attention after the rolls shall have been turned to him for collection.

Treasurer to note errors in rolls.

The county board of equalization shall re-convene on the third Monday in April for the sole purpose of considering such matters as shall appear in the record filed with it by the county treasurer, and shall only correct such matters as set forth in such record, but it shall have no power to change or alter the assessment of any person, or change the aggregate value of the taxable property of the county, except insofar as it is necessary to correct the errors hereinbefore mentioned. The board shall make findings of the facts upon which it bases its decision on all

April session of board to correct errors.

CHAPTER 129.

[S. B. 228.]

TAXATION—NEW CONSTRUCTION—ASSESSMENT.

AN ACT relating to revenue and taxation and providing a method for assessment of new construction.

Be it enacted by the Legislature of the State of Washington:

"Issuer" defined.

SECTION 1. "Issuer" means any state, county, city, or town agency from which it is necessary to receive a permit before proceeding with construction of any building.

County building permits authorized.

SEC. 2. The county commissioners of every county shall provide for the issuance of a building permit for the construction or alteration of any building within the county, for which the value of the material exceeds five hundred dollars except that where any city within the county issues such permits for all buildings within its jurisdiction, it shall not be necessary for the county to issue building permits for the construction or alteration of buildings within any such city. Every application for [a] building permit as required herein shall contain a legal description of the property upon which the building is to be constructed or altered.

Application.

Assessor to receive copy of permit.

SEC. 3. Whenever any issuer issues a building permit for the construction of any building, such issuer shall immediately transmit a copy of the permit to the county assessor of the county in which such building is to be constructed.

Appraisal of buildings.

SEC. 4. Upon receipt of such copy, the county assessor shall, within six months of the date of issue of such permit, proceed to make a physical appraisal of the building or buildings covered by the permit.

Placing on assessment rolls.

SEC. 5. The county assessor is authorized to place any property under the provisions of this act on the assessment rolls for the purposes of tax levy up to

May 31st of each year. The assessed valuation of property under the provisions of this act shall be considered as of the April 30th immediately preceding the date that the property is placed on the assessment rolls.

Passed the Senate March 1, 1955.

Passed the House March 6, 1955.

Approved by the Governor March 14, 1955.

CHAPTER 130.

[S. B. 236.]

PUBLIC LANDS—SALE TO VARNEY-SUNNYSIDE PACKING COMPANY.

AN ACT relating to public lands and authorizing the department of public institutions to enter into a contract of sale, and conveyance by the governor.

Be it enacted by the Legislature of the State of Washington:

Department of public institutions authorized to contract for sale of state prison cannery No. 2.

SECTION 1. The department of public institutions is authorized to enter into a contract for the sale of certain public lands, buildings and equipment to the Varney-Sunnyside Packing Company, Inc., in consideration of the payment to the state treasurer of the sum of twenty-five thousand one hundred fifty dollars, being the highest bid on a call for sealed bids duly published in newspapers of general circulation in the state; such public lands being known as the State Prison Cannery No. 2, situated near the town of Buena, in the county of Yakima, and more particularly described as follows:

Legal description of parcel A.

PARCEL A:

A tract of land lying in the northwest quarter of the southeast quarter of Section 15, Township 11 North, Range 20 E.W.M., more particularly bounded and described as follows, to-wit:

RCW 36.21.080 New construction building permits — When property placed on assessment rolls.

The county assessor is authorized to place any property that is increased in value due to construction or alteration for which a building permit was issued, or should have been issued, under chapter 19.27, 19.27A, or 19.28 RCW or other laws providing for building permits on the assessment rolls for the purposes of tax levy up to August 31st of each year. The assessed valuation of the property shall be considered as of July 31st of that year.

RCW 84.40.080 Listing omitted property or improvements.

An assessor shall enter on the assessment roll in any year any property shown to have been omitted from the assessment roll of any preceding year, at the value for the preceding year, or if not then valued, at such value as the assessor shall determine for the preceding year, and such value shall be stated separately from the value of any other year. Where improvements have not been valued and assessed as a part of the real estate upon which the same may be located, as evidenced by the assessment rolls, they may be separately valued and assessed as omitted property under this section. No such assessment shall be made in any case where a bona fide purchaser, encumbrancer, or contract buyer has acquired any interest in said property prior to the time such improvements are assessed. When such an omitted assessment is made, the taxes levied thereon may be paid within one year of the due date of the taxes for the year in which the assessment is made without penalty or interest. In the assessment of personal property, the assessor shall assess the omitted value not reported by the taxpayer as evidenced by an inspection of either the property or the books and records of said taxpayer by the assessor.

RCW 84.48.065 Cancellation and correction of erroneous assessments and assessments on property on which land use designation is changed.

(1) The county assessor or treasurer may cancel or correct assessments on the assessment or tax rolls which are erroneous due to manifest errors in description, double assessments, clerical errors in extending the rolls, and such manifest errors in the listing of the property which do not involve a revaluation of property, except in the case that a taxpayer produces proof that an authorized land use authority has made a definitive change in the property's land use designation. In such a case, correction of the assessment or tax rolls may be made notwithstanding the fact that the action involves a revaluation of property. Manifest errors that do not involve a revaluation of property include the assessment of property exempted by law from taxation or the failure to deduct the exemption allowed by law to the head of a family. When the county assessor cancels or corrects an assessment, the assessor shall send a notice to the taxpayer in accordance with RCW 84.40.045, advising the taxpayer that the action has been taken and notifying the taxpayer of the right to appeal the cancellation or correction to the county board of equalization, in accordance with RCW 84.40.038. When the county assessor or treasurer cancels or corrects an assessment, a record of such action shall be prepared,

RCW 84.48.065 (cont.)

setting forth therein the facts relating to the error. The record shall also set forth by legal description all property belonging exclusively to the state, any county, or any municipal corporation whose property is exempt from taxation, upon which there remains, according to the tax roll, any unpaid taxes. No manifest error cancellation or correction, including a cancellation or correction made due to a definitive change of land use designation, shall be made for any period more than three years preceding the year in which the error is discovered.

(2)(a) In the case of a definitive change of land use designation, an assessor shall make corrections that involve a revaluation of property to the assessment roll when:

(i) The assessor and taxpayer have signed an agreement as to the true and fair value of the taxpayer's property setting forth in the agreement the valuation information upon which the agreement is based; and

(ii) The assessment roll has previously been certified in accordance with RCW 84.40.320.

(b) In all other cases, an assessor shall make corrections that involve a revaluation of property to the assessment roll when:

(i) The assessor and taxpayer have signed an agreement as to the true and fair value of the taxpayer's property setting forth in the agreement the valuation information upon which the agreement is based; and

(ii) The following conditions are met:

(A) The assessment roll has previously been certified in accordance with RCW 84.40.320;

(B) The taxpayer has timely filed a petition with the county board of equalization pursuant to RCW 84.40.038 for the current assessment year;

(C) The county board of equalization has not yet held a hearing on the merits of the taxpayer's petition.