

# SENATE BILL REPORT

## SB 5336

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As of February 5, 2013

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

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

**Sponsors:** Senators Roach, Sheldon, Benton and Shin.

**Brief History:**

**Committee Activity:** Governmental Operations: 2/04/13.

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### SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

**Staff:** Sam Thompson (786-7413)

**Background:** Property in Washington is generally subject to a property tax based on assessed market value. County assessors determine the valuation of most property. The Department of Revenue (DOR) determines the valuation of some property, including property held by private utilities operating in multiple counties.

A property owner disputing the valuation of property may appeal to a county board of equalization, then to the state Board of Tax Appeals, then to superior court. Alternatively, a property owner may bypass administrative proceedings and bring a tax refund action directly in superior court.

In appeals, valuation determined by a county assessor or DOR is presumed to be correct. To rebut that presumption, a property owner must show that the valuation is incorrect by clear, cogent, and convincing evidence. Essentially, this requires the owner to show that it is highly probable that the valuation is incorrect. If a property owner meets that requirement, the valuation can be adjusted.

The preponderance of the evidence standard, which applies in many administrative and civil proceedings, requires a party to show that a proposition is more probably true than not true, a less rigorous standard than the clear, cogent, and convincing evidence standard.

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

**Summary of Bill:** To rebut the presumption that a property valuation is correct, a property owner must show that the valuation is incorrect by a preponderance of the evidence, rather than by clear, cogent, and convincing evidence.

This standard applies to taxes levied for collection in 2014 and thereafter.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: In an appeal, many taxpayers face frustrating difficulty in rebutting the presumption that valuation is correct. They may spend hundreds of hours compiling evidence to rebut the presumption. Other states currently enable valuation to be rebutted by a preponderance of the evidence. This standard is reasonable and should be adopted in Washington. This bill will not create higher costs for assessors. Some assessors are not complying with current requirements, and instead improperly use systems that simply multiply previous valuations. These improper valuations should not be accorded such a strong presumption of correctness. The clear, cogent, and convincing standard is the highest standard of proof in civil proceedings, equivalent to the beyond a reasonable doubt standard.

CON: A preponderance of the evidence standard may be appropriate for residential property, but not commercial property. Shifting the standard would give commercial and industrial entities an edge over an assessor in the appeals process. Assessors' offices cannot afford to hire attorneys and appraisers to do the level of work most large companies can do. Most of the time, an assessor cannot get income or financial data from businesses for the initial appraisal. If a distinction could be made between residential and commercial property, it would be to the residential taxpayer's advantage, but there may be a constitutional issue with treating the two classes of property differently. This bill would lead to more changes in valuation, create administrative burdens, and take away consistency and predictability.

**Persons Testifying:** PRO: Representative Smith; Tim Verschuyt, citizen.

CON: Dianne Dorey, Lewis County Assessor; Monty Cobb, WA Assn. of County Officials.