

1991 Assembly Bill 485

Date of enactment: July 18, 1991
Date of publication: August 1, 1991

1991 Wisconsin Act 37 (Vetoed in Part)

AN ACT to repeal 234.65 (1) (cm); to amend 20.490 (1) (title), 20.835 (4) (g), ~~77.52 (2) (a) &~~ 77.76 (3), 77.76 (4), 234.65 (1) (d), 234.65 (1) (gm), 234.65 (1) (gp), 234.65 (3) (d), 234.65 (3) (e) and 560.036 (2) (a); and to create 19.451, 70.11 (36), 71.05 (1) (c), 71.26 (1) (g), 71.45 (1m), 77.54 (41), 234.01 (4n) (d), 234.65 (6), 234.65 (7) and ~~234.65 (8)~~ of the statutes, relating to providing that the Wisconsin housing and economic development authority may issue bonds and notes for loans to finance construction, renovation and development of property to be used primarily as a sports and entertainment home stadium and imposing conditions on such a loan; providing a property tax exemption and sales tax exemptions related to certain stadiums; the administrative costs of the county sales tax; an income and franchise tax exemption; and prohibiting certain discounts on admissions to certain stadiums.

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The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Findings of public purpose and statewide interest. With respect to the purposes of sections 20.490 (1) (title), 20.835 (4) (g), 70.11 (36), 71.05 (1) (c), 71.26 (1) (g), 71.45 (1m), 77.51 (4) (b) 7 and (15) (b) 6, 77.54 (41), 77.76 (3) and (4), 234.01 (4n) (d) and 234.65 (1) (cm), (d), (gm) and (gp), (3) (d) and (e) and (6) of the statutes, as affected by this act, it is found and declared as follows:

(1) It is in the best public and statewide interests of the state to promote the home presence of professional athletic teams that regularly participate in league competition on a multistate basis. Those teams are a substantial attraction for tourism in the state, thereby contributing significantly to the economy of the state and creating job opportunities for residents of the state. The job creation and other economic results are related to the participation of those teams in league competition on a multistate basis, because those teams attract the substantial attendance, media interest and advertising revenues that generate beneficial economic activity.

(2) Teams in professional athletics, as contrasted to those in individual sports and amateur team sports, are typically organized as for-profit enterprises and are mobile as to their home base of operations. The costs related to the provision and operation of the stadiums in which professional teams play their home contests are substantial. The economics of professional athletics are such that teams have a tremendous incentive to locate their home base of operations in states where modern sports and entertainment home stadiums are made available to them at affordable costs.

(3) State and local government units outside this state have constructed, or heavily subsidized the construction of, modern sports and entertainment home stadiums and have made them available at little or no

cost to professional athletic teams willing to locate or remain there.

(4) The economics of professional sports are particularly difficult in this state because of its relatively small media market, thereby making the availability of modern sports and entertainment home stadiums that include revenue-producing amenities such as luxury boxes, premium seating and food and entertainment facilities all the more important to the attraction and retention of professional athletic teams in this state.

(5) Providing economic incentives for the private construction, renovation, development and operation of modern sports and entertainment home stadiums is necessary to make the state and its local governmental units competitive with other states and their local governmental units in their efforts to attract and retain professional athletic teams.

SECTION 1d. 19.451 of the statutes is created to read:

19.451 Discounts at certain stadiums. No person serving in a national, state or local office, as defined in s. 5.02, may accept any discount on the price of admission or parking charged to members of the general public, including any discount on the use of a sky box or private luxury box, at a stadium that is exempt from general property taxes under s. 70.11 (36).

SECTION 2. 20.490 (1) (title) of the statutes is amended to read:

20.490 (1) (title) FACILITATION OF CONSTRUCTION.

SECTION 3. 20.835 (4) (g) of the statutes is amended to read:

20.835 (4) (g) *County taxes.* All moneys received from the taxes imposed under subch. V of ch. 77 for distribution to the counties that enact an ordinance imposing taxes under that subchapter and for interest payments on refunds under s. 77.76 (3), except that ~~3%~~ 1.5% of those tax revenues collected under that subchapter shall be credited to the appropriation under s. 20.566 (1) (g).

SECTION 4. 70.11 (36) of the statutes is created to read:

70.11 (36) PROFESSIONAL SPORTS AND ENTERTAINMENT HOME STADIUMS. Property consisting of or contained in a sports and entertainment home stadium; including but not limited to parking lots, garages, restaurants, parks, concession facilities, entertainment facilities, transportation facilities, and other functionally related or auxiliary facilities and structures; including those facilities and structures while they are being built; constructed by, leased to or primarily used by a professional athletic team that is a member of a league that includes teams that have home stadiums in other states, and the land on which that stadium and those structures and facilities are located. Leasing or subleasing the property; regardless of the lessee, the sublessee and the use of the leasehold income; does not render the property taxable.

SECTION 5. 71.05 (1) (c) of the statutes is created to read:

71.05 (1) (c) *Certain interest income.* Interest received on bonds or notes issued by the Wisconsin housing and economic development authority under s. 234.65 to fund an economic development loan to finance construction, renovation or development of property that would be exempt under s. 70.11 (36).

SECTION 6. 71.26 (1) (g) of the statutes is created to read:

71.26 (1) (g) *Certain interest income.* Interest received on bonds or notes issued by the Wisconsin housing and economic development authority under s. 234.65 to fund an economic development loan to finance construction, renovation or development of property that would be exempt under s. 70.11 (36).

SECTION 7. 71.45 (1m) of the statutes is created to read:

71.45 (1m) CERTAIN INTEREST INCOME EXCLUDED. Interest received on bonds or notes issued by the Wisconsin housing and economic development authority under s. 234.65 to fund an economic development loan to finance construction, renovation or development of property that would be exempt under s. 70.11 (36) is exempt from taxation under this subchapter.

SECTION 8m. 77.52 (2) (a) 2 of the statutes is amended to read:

77.52 (2) (a) 2. The sale of admissions to amusement, athletic, entertainment or recreational events or places, including the lease of sky boxes or private luxury boxes by professional sports teams, the sale, rental or use of regular bingo cards, extra regular cards, special bingo cards and the sale of bingo supplies to players and the furnishing, for dues, fees or other considerations, the privilege of access to clubs or the privilege of having access to or the use of amusement, entertainment, athletic or recreational devices or facilities, including, in connection with the sale or use of time-share property, as defined in s. 707.02 (32), the sale or furnishing of use of recreational facilities on a periodic basis or other recreational rights, including

~~but not limited to membership rights, vacation services and club memberships.~~

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SECTION 10. 77.54 (41) of the statutes is created to read:

77.54 (41) The gross receipts from the sale of building materials, supplies and equipment to; and the storage, use or other consumption of those kinds of property by; owners, contractors, subcontractors or builders if that property is acquired solely for or used solely in, the construction, renovation or development of property that would be exempt under s. 70.11 (36).

SECTION 11. 77.76 (3) of the statutes is amended to read:

77.76 (3) From the appropriation under s. 20.835 (4) (g) the department shall distribute 97% 98.5% of the county taxes reported for each enacting county, minus the county portion of the retailers' discounts, to the county and shall indicate the taxes reported by each taxpayer, no later than the end of the 3rd month following the end of the calendar quarter in which such amounts were reported. In this subsection, the "county portion of the retailers' discount" is the amount determined by multiplying the total retailers' discount by a fraction the numerator of which is the gross county sales and use taxes payable and the denominator of which is the sum of the gross state and county sales and use taxes payable. The county taxes distributed shall be increased or decreased to reflect subsequent refunds, audit adjustments and all other adjustments of the county taxes previously distributed. Interest paid on refunds of county sales and use taxes shall be paid from the appropriation under s. 20.835 (4) (g) at the rate paid by this state under s. 77.60 (1) (a). The county may retain the amount it receives or it may distribute all or a portion of the amount it receives to the towns, villages, cities and school districts in the county. Any county receiving a report under this subsection is subject to the duties of confidentiality to which the department of revenue is subject under s. 77.61 (5).

SECTION 12. 77.76 (4) of the statutes is amended to read:

77.76 (4) There shall be retained by the state ~~3%~~ 1.5% of the taxes collected under this subchapter to cover costs incurred by the state in administering, enforcing and collecting the tax. All interest and penalties collected shall be deposited and retained by this state in the general fund.

SECTION 13. 234.01 (4n) (d) of the statutes is created to read:

234.01 (4n) (d) Property to be used primarily as a sports and entertainment home stadium, including but not limited to parking lots, garages, restaurants, parks, concession facilities, entertainment facilities and transportation facilities, and other functionally related or auxiliary facilities or structures.

SECTION 14. 234.65 (1) (cm) of the statutes is repealed.

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SECTION 15. 234.65 (1) (d) of the statutes is amended to read:

234.65 (1) (d) ~~This state is not morally or legally liable on and~~ Except as provided in sub. (6), s. 234.15 (4) does not apply to bonds or notes issued under this section, ~~and all bonds or notes issued under this section shall contain on the face thereof a statement to that effect.~~

SECTION 16. 234.65 (1) (gm) of the statutes is amended to read:

234.65 (1) (gm) The authority may not grant a loan in an amount greater than 4% of the amount of bonds and notes authorized under par. (c) for the benefit of a business that, together with all of its affiliates and subsidiaries and its parent company, has current gross annual sales in excess of \$5,000,000. This paragraph does not apply to an economic development loan to finance a project described in s. 234.01 (4n) (d).

SECTION 17. 234.65 (1) (gp) of the statutes is amended to read:

234.65 (1) (gp) The authority may not refinance a loan to a business which has been a participant in a tax incremental financing district. This paragraph does not apply to an economic development loan to finance a project described in s. 234.01 (4n) (d).

SECTION 18. 234.65 (3) (d) of the statutes is amended to read:

234.65 (3) (d) The business receiving the benefits of the loan proceeds, together with all of its affiliates and subsidiaries and its parent company, has current gross annual sales of \$35,000,000 or less. This paragraph does not apply to an economic development loan to finance a project described in s. 234.01 (4n) (d).

SECTION 19. 234.65 (3) (e) of the statutes is amended to read:

234.65 (3) (e) The economic development loan will not be used to refinance existing debt, unless it is in conjunction with an expansion of the business or job creation. This paragraph does not apply to an economic development loan to finance an economic development project described under s. 234.01 (4n) (c) or (d).

SECTION 20. 234.65 (6) of the statutes is created to read:

234.65 (6) (a) In this subsection:

1. "Minority business" has the meaning given in s. 66.905 (1) (a).
2. "Minority group member" has the meaning given under s. 560.036 (1) (f).
3. "Small business" means an independently owned and operated business which is not dominant in its field and has had less than \$2,500,000 in gross annual sales for each of the 2 previous calendar years or has 25 or fewer employees.
4. "Women's business" means a sole proprietorship, partnership, joint venture or corporation that is at least 51% owned and controlled by women.

(am) The authority may elect to secure a particular issue of bonds or notes issued to fund economic development loans to finance or refinance projects described in s. 234.01 (4n) (d) with a capital reserve fund under s. 234.15. The election, if made, shall be made in the resolution authorizing the issue.

(b) The authority may issue bonds and notes secured by a capital reserve fund pursuant to par. (am) in an aggregate principal amount not exceeding \$35,000,000 plus such additional amount as the authority considers necessary or desirable to fund a deposit into the capital reserve fund.

(c) The borrower of an economic development loan that is made by the authority to finance or refinance a project described in s. 234.01 (4n) (d) shall agree as a condition to receiving the economic development loan that the borrower and the borrower's successors in interest shall not transfer its operations from this state, or voluntarily cease its operations in this state, as a professional athletic team during the duration that the economic development loan is outstanding.

(d) The borrower of an economic development loan that is made by the authority to finance or refinance a project described in s. 234.01 (4n) (d) shall agree as a condition to receiving the economic development loan to work toward a goal that at least 20% of the employes hired to construct and operate the facilities described under s. 234.01 (4n) (d) be minority group members, and that at least 20% of the contracts awarded to construct and operate the facilities described under s. 234.01 (4n) (d) be awarded to minority businesses that are certified under s. 560.036 (2). The borrower shall also make good faith efforts to award contracts to construct and operate the facilities described under s. 234.01 (4n) (d) to small businesses and women's businesses.

SECTION 20m. 234.65 (7) of the statutes is created to read:

234.65 (7) The authority shall not grant an economic development loan for a project described in s. 234.01 (4n) (d) unless the borrower's agreement under sub. (6) (d) relating to achieving minority hiring and contracting goals is first approved by the department of administration and the joint committee on finance.

SECTION 20p. 234.65 (8) of the statutes is created to read:

234.65 (8) The authority shall not grant an economic development loan for a project described in s. 234.01 (4n) (d) unless the loan is first approved by the joint committee on finance.

SECTION 20r. 560.036 (2) (a) of the statutes is amended to read:

560.036 (2) (a) For the purposes of ss. 16.75 (3m), 16.855 (10m), 16.87 (2), 18.16, 18.64, 18.77, 25.185, 119.495 (2), 231.27, 234.65 (6) and 234.85, the department shall establish and periodically update a list of certified minority businesses, minority financial advisers and minority investment firms. Any business, financial adviser or investment firm may apply to the

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department for certification. For purposes of this paragraph, unless the context otherwise requires, a "business" includes a financial adviser or investment firm.

SECTION 21. Initial applicability. (1) COUNTY SALES TAX REVENUE. The treatment of sections 20.835 (4) (g) and 77.76 (3) and (4) of the statutes first applies to the distribution of county sales tax revenue to counties on February 22, 1992.

SECTION 22. Effective dates. This act takes effect on the day after publication, except as follows:

(1) SKY BOXES. The treatment of section 77.54 (41) of the statutes takes effect on the first day of the 2nd month beginning after publication.

(2) PROFESSIONAL SPORTS AND ENTERTAINMENT HOME STADIUMS. The treatment of section 70.11 (36) of the statutes takes effect on January 1, 1992.
