

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4043/1dn

JK:cjs:jf

December 15, 1999

This drafter's note is meant to alert you to the possibility that the property tax exemption under this amendment could be challenged as a violation of the uniformity clause of article VIII, section 1, of the Wisconsin Constitution. The uniformity clause requires that the taxation of property be uniform. A 1974 amendment to the uniformity clause exempts agricultural land from the uniformity requirement.

A classification of property for property tax purposes must be reasonable and all property included in the classification must be either uniformly taxed or wholly exempt. See *Gottlieb v. City of Milwaukee*, 33 Wis.2d 408. A court could find that the exemption created in the amendment violates the uniformity clause because the distinction between a hub terminal facility and some other terminal facility, for property tax purposes, is an unreasonable classification of property.

The property tax exemption under this amendment could also be challenged as a violation of the commerce clause of article I, section 8, of the U.S. Constitution which prohibits the states from enacting laws which discriminate against interstate commerce. See *Boston Stock Exchange v. State Tax Commission*, 429 U.S. 318, 97 S. Ct. 599 (1977). A court could find that the exemption created in the amendment discriminates against interstate commerce, which violates the commerce clause, because it gives a tax preference to in-state businesses.

While I am not at all certain how a court would rule on a constitutional challenge to the property tax exemption created in the amendment, should it become law, you should be aware of possible challenges to the exemption.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: Joseph.Kreye@legis.state.wi.us