

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: 06/23/99

Received By: jkreye

Wanted: Soon

Identical to LRB:

For: Assembly Republican Caucus

By/Representing: Kratochwill

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Alt. Drafters:

Subject: Tax - property

Extra Copies:

Pre Topic:

ARC:.....Kratochwill - TP (10),

Topic:

Property tax exemption for air carriers with state terminal facilities

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 06/24/99	gilfokm 06/24/99		_____			
/1	jkreye 06/25/99	gilfokm 06/25/99	martykr 06/24/99	_____	lrb_docadmin 06/24/99		
/2			ismith 06/25/99	_____	lrb_docadmin 06/25/99		

FE Sent For:

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/?	jkreye 06/24/99	gilfokm 06/24/99		_____			
/1		12-6-25-99 KMG	martykr 06/24/99	IS 6/25	IS/KM 6/25	lrb_docadmin 06/24/99	

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1?	jkreye	1-6-24-99 tomg	smk 24	kt 24			

FE Sent For:

<END>

This provision would modify the farmland tax relief credit as proposed in the version of SB 114 passed by the Senate, but would increase the funding level for each year of the 1999-01 biennium from \$15 million to \$20 million. The average tax credit would increase from an estimated \$260 under SB 114 to \$347. Under current law, the average tax credit is estimated at \$184.

10. *Tax Exemption for Air Carriers with Hub Terminal Facilities.* Provide an exemption from Chapter 70 property taxes and from Chapter 76 state ad valorem taxes for all property owned by an air carrier that operates an air carrier hub terminal facility in Wisconsin, effective with property assessed as of January 1, 2000. Define air carrier hub terminal facility as a facility from which the air carrier operated at least 45 common carrier departing flights each weekday in the prior year, either to 15 or more nonstop destinations on which the general public may fly or to nonstop destinations for the purpose of transporting cargo and air freight. Require DOR to promulgate an administrative rule defining "nonstop" for purposes of this provision. Reduce estimated transportation fund revenue from air carriers by \$748,800 in 1999-00 and \$1,497,600 in 2000-01. Currently, the exemption would apply only to Midwest Express Airlines.

Create a new, transportation fund appropriation for the aeronautics assistance program and specify that all proceeds from the ad valorem tax on air carriers would be deposited in this appropriation. Estimate the amounts deposited in this appropriation at \$7,293,400 SEG in 1999-00 and \$6,349,600 SEG in 2000-01. Reduce the existing appropriation for aeronautics assistance by \$8,042,200 SEG in 1999-00 and \$7,847,200 SEG in 2000-01 to reflect the creation of the new appropriation. Total funding for aeronautics assistance would decrease by \$748,800 SEG in 1999-00 and \$1,497,600 SEG in 2000-01.

11. *Property Tax Exemption for Certain Motion Picture Theatre Equipment.* Provide a property tax exemption for projection equipment, sound systems and theatre screens owned and used by motion picture theatres, effective with property assessed as of January 1, 2000. Estimate decreased state forestry taxes at \$2,000 (SEG) in 2000-01. The value of the affected property is estimated at \$9.8 million, statewide. Assuming the property is taxed at the statewide average tax rate for cities, the gross taxes on the property are estimated at \$252,000. After deducting state property tax credits, the net taxes on the property are estimated at \$236,000. The proposal would shift the taxes on the property that would become exempt to property that remains taxable.

12. *Property Tax Exemption for Digital Broadcasting Equipment.* Provide a property tax exemption for digital broadcasting equipment owned and used by licensed television and radio stations, effective with property assessed as of January 1, 2000. Specify that the exemption does not extend to property of cable television systems. This provision would reduce state forestry tax revenues by an unknown amount and would shift taxes from the exempt property to other property that remains taxable. Based on information provided by local assessors and by broadcast industry sources, broadcasting equipment has a 1999 value estimated at \$165 million, but the portion of that value that is comprised of digital equipment is unknown. As digital equipment replaces analog equipment, the tax base would decline from \$165 million to \$0, but analog equipment will continue to be used until 2006, or later, under the Federal Communications Commission mandate requiring



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1167A

JKL
ping

ARC:.....Kratochwill – TP (10), Property tax exemption for air carriers with state terminal facilities

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

SOON

D-N

1 At the locations indicated, amend the substitute amendment as follows:

2 ✓ 1. Page 811, line 18: after that line insert:

3 "SECTION 1653f. 70.11 (40) of the statutes is created to read:

✓ 4 70.11 (40) HUB TERMINAL FACILITY. (a) In this subsection:

5 1. "Air carrier company" means any person engaged in the business of
6 ~~transportation in aircraft of persons or property~~ ^{keep transporting} for hire on regularly scheduled
7 flights.

8 2. "Hub terminal facility" means a facility at which an air carrier company
9 operates at least 45 common carrier departing flights each weekday and transports

1 passengers to at least 15 nonstop destinations or transports cargo to nonstop
2 destinations.

3 ~~3. "Nonstop destination" means a nonstop destination~~ as defined by rule by the
4 department of revenue.

5 (b) Property owned by an air carrier company that owns and operates a hub
6 terminal facility in this state."

7 ✓ **2.** Page 952, line 9: after that line insert:

8 "SECTION 1806m. 76.02 (1) of the statutes is amended to read:

9 76.02 (1) "Air carrier company" means any person engaged in the business of
10 transportation in aircraft of persons or property for hire on regularly scheduled
11 flights, except an air carrier company that owns and operates a hub terminal facility

12 as defined ~~under~~ ⁱⁿ s. 70.11 (40). In this subsection, "aircraft" means a completely
13 equipped operating unit, including spare flight equipment, used as a means of
14 conveyance in air commerce."

15 ✓ **3.** Page 958, line 14: after that line insert:

16 "SECTION 1818Le. 78.55 (1) of the statutes is amended to read:

17 78.55 (1) "Air carrier company" has the meaning given in s. ~~76.02 (1)~~ 70.11
18 (40)."

19 **4.** Page 1600, line 3: after that line insert:

20 "(22t) ^Y HUB TERMINAL FACILITY. The treatment of sections 70.11 (40), 76.02 (1)
21 and 78.55 (1) of the statutes first applies to the property tax assessments as of
22 January 1, 2000."

23 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1167¹dn

JK:.....
kmj

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.

Please note that the portion of item number 10 of motion 312 (the tax package) related to creating a new transportation fund appropriation will be drafted as a separate amendment.

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

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb1167/1dn
JK:kmg:km

June 24, 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.

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



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

Date: 24 June 1999

DELIVER TO:

Joe Grege

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3

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of Pages, Including Cover:

LRB Drafting

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R. Olin

From:

Message:

Joe -

Let's talk about the attached changes. I expected to see Sec 1806m as an amendment to s. 76.025, but I think it works the way you drafted it. Do you have any thoughts?

Rick
6-9916

1999 - 2000 LEGISLATURE

LRBb1167/1
JK:kmg:km

ARC:.....Kratochwill - TP (10), Property tax exemption for air carriers with state terminal facilities

FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 811, line 18: after that line insert:

3 "SECTION 1653f. 70.11 (40) of the statutes is created to read:

4 70.11 (40) HUB TERMINAL FACILITY. (a) In this subsection:

5 1. "Air carrier company" means any person engaged in the business of
6 transportation in aircraft of persons or property for hire on regularly scheduled
7 flights.

8 2. "Hub terminal facility" means a facility at which an air carrier company
9 operates at least 45 common carrier departing flights each weekday and transports

in the prior year

part terminal


1999 - 2000 Legislature

- 2 -

Mitchell Field is owned by Milw. County

LRBb1167/I JK:kmig:km

1 passengers to at least 15 nonstop destinations or transports cargo to nonstop
2 destinations, as defined by rule by the department of revenue.

3 (b) Property owned by an air carrier company that ~~owns and~~ operates a hub
4 terminal facility in this state." 

5 2. Page 952, line 9: after that line insert:

6 "SECTION 1806m. 76.02 (1) of the statutes is amended to read:

7 76.02 (1) "Air carrier company" means any person engaged in the business of
8 transportation in aircraft of persons or property for hire on regularly scheduled
9 flights, ~~except an air carrier company that owns and operates a hub terminal facility~~
10 as defined in s. 70.11 (40). In this subsection, "aircraft" means a completely equipped
11 operating unit, including spare flight equipment, used as a means of conveyance in
12 air commerce."

13 3. Page 958, line 14: after that line insert:

14 "SECTION 1818Le. 78.55 (1) of the statutes is amended to read:

15 78.55 (1) "Air carrier company" has the meaning given in s. ~~76.02 (1)~~ 70.11
16 (40)."

17 4. Page 1600, line 3: after that line insert:

18 "(22ty) HUB TERMINAL FACILITY. The treatment of sections 70.11 (40), 76.02 (1)
19 and 78.55 (1) of the statutes first applies to the property tax assessments as of
20 January 1, 2000."

21 (END)

remove from this section
+
add effective date provision
as of 1/1/2000 ?



in 6-25-99

ARC:.....Kratochwill - TP (10), Property tax exemption for air carriers with state terminal facilities

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

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18 “(22ty) HUB TERMINAL FACILITY. The treatment of sections 70.11 (40) ^{and} 76.02 (1)
19 ~~and 78.55 (1)~~ of the statutes first applies to the property tax assessments as of
20 January 1, 2000.”

21 (END)

*#. Page 1614, line 14: after that line insert:
“ (22ty) HUB TERMINAL FACILITY. ^{CS} the treatment of section
78.55(1) of the statutes takes effect on January 1, 2000.”*

offer date



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1167/2
JK:kmg:ijs

ARC:.....Kratochwill – TP (10), Property tax exemption for air carriers with
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21 **5.** Page 1614, line 14: after that line insert:

22 “(8x) HUB TERMINAL FACILITY. The treatment of section 78.55 (1) of the statutes
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24

(END)