

*Senate*

**RECORD OF COMMITTEE PROCEEDINGS**

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**Senate Bill 442**

Relating to: authorizing the creation of a local cultural arts district; granting a property tax exemption for the district's property; granting a sales tax and use tax exemption for tangible personal property and services purchased by the district; giving a local cultural arts district the authority to issue bonds and granting income tax exemptions for interest income on bonds issued by the district; authorizing certain local cultural arts districts to acquire property by condemnation; and authorizing the Wisconsin Health and Educational Facilities Authority to issue bonds to finance certain cultural arts facilities.

By Representatives Underheim and Miller; cosponsored by Senator Risser.

March 7, 2000 Report of Joint Survey Committee on Tax Exemptions requested.

March 16, 2000      **PUBLIC HEARING HELD**

Present            (9)      Senators Decker, Breske and Huelsman  
Representatives Hahn, Lehman and Hebl  
Secretary of Revenue Cate Zeuske, Mr. Alan  
Lee and Mr. Paul Vrakas.

Absent            (0)      None.

Appearances for

- Senator Fred Risser
- George Austin, Overture Foundation
- Mayor Sue Bauman, City of Madison

Appearance against

- None

Appearances for information only

- None

Registrations for

- Mark Miller
- Peter Christianson, Overture Foundation

March 16, 2000      **EXECUTIVE SESSION**

Present (9) Senators Decker, Breske and Huelsman  
Representatives Hahn, Lehman and Hebl  
Secretary of Revenue Cate Zeuske, Mr. Alan  
Lee and Mr. Paul Vrakas.

Absent (0) None.

Moved by Senator Decker, Seconded by Representative Hahn that Senate  
Bill 442 be recommended as good public policy.

Ayes (9) Senators Decker, Breske and Huelsman  
Representatives Hahn, Lehman and Hebl  
Secretary of Revenue Cate Zeuske, Mr. Alan  
Lee and Mr. Paul Vrakas.

Noes (0) None

Absent (0) None

GOOD PUBLIC POLICY RECOMMENDED Ayes 9, Noes 0, Absent 0



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Patrick Walsh  
Committee Clerk

*Senate*

**Committee Report**

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The joint committee on **Tax Exemptions**, reports and recommends:

**Senate Bill 442**

Relating to: authorizing the creation of a local cultural arts district; granting a property tax exemption for the district's property; granting a sales tax and use tax exemption for tangible personal property and services purchased by the district; giving a local cultural arts district the authority to issue bonds and granting income tax exemptions for interest income on bonds issued by the district; authorizing certain local cultural arts districts to acquire property by condemnation; and authorizing the Wisconsin Health and Educational Facilities Authority to issue bonds to finance certain cultural arts facilities.

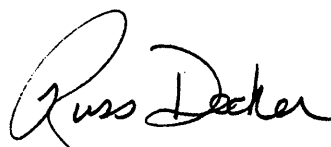
By Representatives Underheim and Miller; cosponsored by Senator Risser.

GOOD PUBLIC POLICY RECOMMENDED, Ayes 9, Noes 0, Absent 0

Ayes (9) Senators Decker, Breske and Huelsman  
Representatives Hahn, Lehman and Hebl  
Secretary of Revenue Cate Zeuske, Mr. Alan  
Lee and Mr. Paul Vrakas.

Noes (0) None.

Absent (0) None.



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Senator Russell Decker  
Co-Chair

Senate

COMMITTEE HEARINGS

Joint survey committee on Tax Exemptions

The committee will hold a public hearing on the following items at the time specified below:

Thursday, January 6, 2000  
10:00 am  
201SE  
State Capitol

**Assembly Bill 442**

Relating to: the amount of the exemption from income tax withholding requirements for employes of a county fair association.

By Representatives Gunderson, Jensen, Ladwig, Porter, Spillner, Kedzie, Albers, Olsen, Kestell, Staskunas, M. Lehman, Pettis, F. Lasee, Ainsworth, Musser, Klusman, Stone, Goetsch, Hahn, Plouff, J. Lehman, Jeskewitz, Grothman, Hasenohrl and Seratti; cosponsored by Senators Farrow, Schultz, Huelsman, Roessler, Cowles and Drzewiecki.

**Assembly Bill 456**

*reduce individual income taxes revenue by 4/1 mill.*

Relating to: creating an individual income tax subtract modification for amounts spent on medical insurance premiums by certain individuals.

By Representatives Hahn, Kestell, Rhoades, Ladwig, Hundertmark, Reynolds, Pettis, Lassa, Kelso, Waukau, Skindrud, Freese, Sykora, Hasenohrl, Urban, Stone, Musser, Plouff, F. Lasee, Kedzie, Plale, Owens, Gunderson, Seratti, Klusman, Goetsch, Olsen, Colon, Ainsworth, Petrowski, Nass, Staskunas, Ryba, Brandemuehl, Jeskewitz, Underheim, Huebsch, Meyerhofer and Jensen; cosponsored by Senators Drzewiecki, Wirch, Darling, Plache, Huelsman, Lazich, Schultz, Roessler and Welch.

**Senate Bill 152**

*y* *n*  
*XXXX*

Relating to: the tax exemption for occasional sales.

By Senators A. Lasee, Huelsman and Drzewiecki; cosponsored by Representatives Grothman, Gronemus, Sykora and Powers.

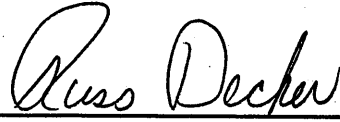
**Senate Bill 276**

Relating to: exempting from taxation a tax rebate for individuals.

By Senators Farrow, Ellis, Rude and Drzewiecki.

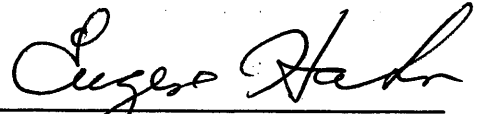
*y* *n*  
*XXXX*

**An EXECUTIVE SESSION will be held on Assembly Bill 442, Assembly Bill 456, Senate Bill 152, and Senate Bill 276 immediately following the public hearing.**



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Senator Russell Decker  
Co-Chair



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Representative Eugene Hahn  
Co-Chair

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3-16-00  
BILL NO. AB 853/SB442  
OR  
SUBJECT \_\_\_\_\_

Peter C. Christanson  
(NAME)  
1 S. Pinckney Suite 600  
(Street Address or Route Number)  
MSW, WI 53701-2113  
(City and Zip Code)  
Overture foundation  
(Representing)

Speaking in Favor:   
Speaking Against:   
Registering in Favor:   
but not speaking:  
Registering Against:   
but not speaking:  
Speaking for information only:   
only; Neither for nor against:

Please return this slip to a messenger **PROMPTLY**.  
Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O. Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 16 March 2000  
BILL NO. AB 853/SB442  
OR  
SUBJECT \_\_\_\_\_  
Senator Fred Rissler  
(Name)  
220 South, Capitol  
(Street Address or Route Number)  
\_\_\_\_\_  
(City and Zip Code)  
\_\_\_\_\_  
(Representing)

Speaking in Favor:   
Speaking Against:   
Registering in Favor:   
Registering Against:   
Speaking for information only;  
Neither for nor against:

Please return this slip to a messenger **PROMPTLY**.

Senate Sergeant at Arms  
Room 204-S  
State Capitol  
Madison, Wisconsin 53702

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3-16-00

BILL NO. AB 853 / SB442

OF  
SUBJECT \_\_\_\_\_

George E. Austin  
(NAME)

1 South Pinckney St  
(Street Address or Route Number)

Madison 53703  
(City and Zip Code)

Overture Project  
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:  
but not speaking:

Registering Against:  
but not speaking:

Speaking for information  
only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O. Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3/16/00

BILL NO. SB 442 / AB 853

OF  
SUBJECT Cultural Arts District  
1116

Mayor Sue Bauman  
(NAME)

210 Martin Luther King Jr Blvd  
(Street Address or Route Number)

Madison  
(City and Zip Code)

City of Madison  
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:  
but not speaking:

Registering Against:  
but not speaking:

Speaking for information  
only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O. Box 7882  
Madison, WI 53707-7882

# **SB 442 AND AB 853 SUMMARY** **CULTURAL ARTS DISTRICT**

## **OVERVIEW**

SB 442 and AB 853 grant to cities, with populations greater than 150,000, the authority to create a local cultural arts district. The district would be created pursuant to specified actions taken by a city's mayor and its common council. A cultural arts district would be a local unit of government separate and distinct from both the sponsoring city and the state.

A cultural arts district would be governed by a 13-member board of directors. Its members would serve 4-year terms and be required to live within 25 miles of the city. The mayor of the sponsoring city, the county executive of the county within which the sponsoring city is located, and the governor would be ex-officio board members. In addition, the mayor would appoint six board members, the governor would appoint three members, and the county executive would appoint one.

## **PURPOSE**

This legislation is sought by the City of Madison and the Overture Foundation. The Overture Foundation is a private, non-profit organization which was created in 1996, with the primary purpose of supporting the arts and culture in Madison and Dane County. It allows the city to create a public entity that will own and operate a regional arts facility in downtown Madison, made possible by a private donation of approximately \$100 million. Passage of the proposed legislation in this session is necessary to keep the project on schedule.

This governance structure accomplishes a number of important goals. It enhances prospects for the project's operating stability and long term success. In recognition of the fact that the cultural arts facilities will produce regional benefits, it provides for regional representation on the governing board. It establishes that the cultural arts district, and not taxpayers, will be responsible for fiscal and operating liabilities associated with the facilities. It provides for and maintains a level of public accountability and input to the operation of these facilities that would not exist if they were privately managed. It provides the mechanism necessary to convey federal tax benefits associated with the gift which was made for the project.

## **POWERS GRANTED TO A CULTURAL ARTS DISTRICT**

A cultural arts district would have powers necessary to carry out the acquisition, construction, and operation of cultural arts facilities. These would include the power to acquire real property, including by condemnation; to sue and be sued; to construct, equip, maintain, improve, manage, and operate cultural arts facilities; to employ personnel; to enter into contracts; and to collect fees with respect to use of cultural arts facilities.



## CONDEMNATION AUTHORITY

The granting of condemnation authority is needed to satisfy federal tax code requirements. Its presence preserves the favorable tax treatment afforded the current donation and any future donations under federal tax law. In doing so, it establishes the framework for a governance structure that limits public exposure to liability associated with operating cultural arts facilities while providing a far higher level of public accountability.

A cultural arts district would have the authority to acquire property by condemnation. **This authority, however, is confined only to the specific geographic area prescribed by the sponsoring city in its authorizing resolution.** The city, if it chooses, could modify this geographic area in a subsequent resolution. Condemnation authority is not available in a first class city.

## TAX EXEMPTIONS

The cultural arts district will receive tax advantages associated with its status as a local government entity. Property of a cultural arts district would be exempt from property taxes. This exemption does not apply, however, to property used for a for-profit restaurant or retail business that is not part of the physical structure of the cultural arts district. The exemption also does not apply to parking facilities that are not used to support the operation of a cultural arts district. The sponsoring city is authorized to collect a payment in lieu of property taxes from the district.

The income of a cultural arts district is exempt from state income taxes and the income and interest from the district's obligations are exempt from state and federal income taxes. Goods and services purchased by a cultural arts district are exempt from the state sales tax.

## STATE ADMINISTRATIVE AND EMPLOYMENT PROVISIONS

Cultural arts districts would be subject to open meetings and public records requirements of state law.

Cultural arts districts would be subject to state fair employment laws, federal wage and hour labor relation laws, and municipal equal employment opportunity ordinances.

Cultural arts districts would be subject to audit by the Legislative Audit Bureau and by the sponsoring city.

**Jim O'Keefe**  
City Lobbyist

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City of  
Madison



**Office of the Mayor**  
City-County Building, Room 403  
210 Martin Luther King, Jr. Boulevard  
Madison, Wisconsin 53709  
608 266 4611 PH  
608 267 8671 FAX  
608 266 4443 TDD  
E-mail: [jokeefe@ci.madison.wi.us](mailto:jokeefe@ci.madison.wi.us)

5B 442  
**LRB-4065/P2****Executive Summary**

(02-22-00)

The Overture Foundation has proposed the creation of a Madison "cultural arts district" to which Overture (or its support trust) would donate cash and/or property totaling approximately \$100 million. The Madison cultural arts district would acquire, construct and operate cultural arts facilities for the benefit of the citizens of the state, including particularly residents of Madison and Dane County. Following is a summary of the principal provisions of the proposed legislation.

**1. Creation, Nature and Governance.**

- \* **Creation.** A cultural arts district may be created upon the written proclamation of a mayor of a populous city (i.e., greater than 150,000 residents), approved by resolution of such city's common council and delivered to the governor. A cultural arts district is a local unit of government separate and distinct from both the state and the sponsoring city. Any debt of the authority would not be the debt of the state or the sponsoring city.
- \* **Board of Directors.** Thirteen directors would be appointed to the authority's governing board. The directors, all of whom must live within 25 miles of the city, would serve staggered 4 year terms. The governor, the mayor of the sponsoring city and the county executive of the county in which the sponsoring city is located, or their respective designees, would serve ex officio. In addition, the governor would appoint three directors, including one nominated by the U.W. Board of Regents, the mayor would appoint six directors, including one nominated by the sponsoring city's school district, and the county executive would appoint one director. The composition of the board of a district created by a city of the first class (currently just Milwaukee) is left open. The common council may establish an appointment process for the mayoral appointments. All appointments are to be made with a view toward achieving diversity on the board.

**2. Powers of Cultural Arts District and its Sponsoring City.**

- \* **General Powers.** A cultural arts district would have typical powers necessary for it to carry out the acquisition, construction and operation of cultural arts facilities, such as the powers: to acquire real property, including by condemnation (except by cities of the first class); to sue and be sued; to construct, equip, maintain, improve, operate and manage the cultural arts facilities; to lease as lessor or lessee; to enter into contracts; to mortgage its real property; to employ personnel; and to collect fees with respect to use of cultural facilities. The condemnation power is crucial to enable the district to acquire property in a cohesive downtown district for the public good, and to ensure that the authority is considered a governmental entity for federal tax purposes relating to the deductibility of contributions made by private persons or entities such as the Overture Foundation. The district's condemnation power could be exercised only in a geographic area described in the common council's resolution creating the authority, as expanded by subsequent resolution. No taxing authority would be granted in this legislation.

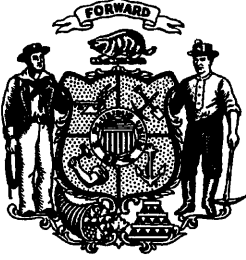
- \* **Gifts, Grants and Loans.** Cultural arts districts could receive gifts and donations from public and private groups or individuals. Districts could also grant property to public and private groups that are qualified under certain federal tax provisions (such as 501(c)(3) organizations) for the purpose of supporting cultural arts activities or facilities or to other individuals or groups for such purposes pursuant to the objectives of a program adopted by the district board.

### 3. Bonding Authority and Tax Exemptions:

- \* **Bonding Authority.** A cultural arts district has authority to finance cultural arts facilities through bonds issued by the Wisconsin Health and Educational Finance Authority (WHEFA) or by issuance of revenue bonds of the district. Interest on such bonds and other debt of cultural arts districts would be exempt from state taxes.
- \* **Tax Exemption on Property and Income.** Certain real estate owned by, and income of, a cultural arts district would be exempt from state and local taxes. The property tax exemption would not apply to any property used as a for-profit restaurant or retail business that is not part of the physical structure of the district; nor would the exemption apply to a parking structure that does not support the operation of a cultural arts facility. A district may make payments in lieu of taxes to the sponsoring city.

### 4. State Administrative and Employment Provisions:

- \* **Public Records and Open Meetings Laws.** Cultural arts districts would be subject to open meetings and public records requirements of state law.
- \* **Employment Relations.** Cultural arts districts would not be subject to state or municipal civil service or employment relations provisions that apply to state or municipal employees, but would be subject to state employment peace and fair employment laws, as well as other laws applicable to local government units and equal employment opportunity ordinances.
- \* **Audit by State Legislative Audit Bureau.** A cultural arts district would be subject to audit by the State Legislative Audit Bureau and the comptroller or other agent of the sponsoring municipality.



# *Wisconsin Legislature*

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March 7, 2000

Senator Decker and Representative Hahn  
Joint Survey committee on Tax Exemptions  
323 South  
State Capitol  
Madison, WI

Dear Senator Decker:

Pursuant to Senate Rule 36 (2)(c) and section 13.52 (6), Wisconsin Statutes, the Co-Chairs of the Joint Survey Committee on Tax Exemptions shall prepare and submit a report in writing setting forth an opinion on the desirability of Senate Bill 442 as a matter of public policy.

Sincerely,

Senator Fred A. Risser  
President

## **STATE OF WISCONSIN**

### **REPORT OF THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS**

#### **1999 SENATE BILL 442**

[Introduced by Senator Risser; cosponsored by Representatives Underheim and Miller.]

#### **General Nature of Proposal**

The bill authorizes the creation of a local cultural arts district by a city with a population of more than 150,000. The bill grants the district certain powers, including bonding authority, condemnation authority and other authority necessary for the creation and operation of a cultural arts district. The provisions of the bill affecting tax exemptions are more fully described below:

The bill creates a property tax exemption for the property of a local cultural arts district. However, under the bill, the property tax exemption does not apply to the property of a local cultural arts district that is not part of the physical structure of a cultural arts facility, if that property is used for a retail business or a restaurant, unless the retail business or restaurant is operated by the local cultural arts district or by a nonprofit corporation, organization or association. Under the bill, the exemption also does not apply to parking lots or parking structures that are not used to support the operation of a local cultural arts district. In addition, under the bill, a city sponsoring a local cultural arts district is authorized to annually collect a sum, in lieu of property taxes, from the district. However, the sum may not exceed the amount that would be levied by the city as a property tax on the exempt property of the district.

Under the bill, the income of a local cultural arts district is exempt from the income tax and the franchise tax and the income and interest from the district's obligations are exempt from the income tax. In addition, the income and interest from bonds that are issued by the Wisconsin Health and Educational Facilities Authority with respect to a local cultural arts district are exempt from the income tax. Finally, under the bill, goods and services purchased by a local cultural arts district are exempt from the sales and use tax.

#### **Legality Involved**

There are no questions of legality involved in the above-described provisions.

#### **Fiscal Effect Upon the State and Its Subdivisions**

The Department of Revenue estimates the fiscal effect of the bill as follows:

The bill provides for creation of a local cultural arts district in cities with population of more than 150,000, and is intended to allow the creation of such a district in Madison.

### State Fiscal Effect

The bill provides a corporate income and franchise tax exemption for income earned by such districts, and a sales and use tax exemption for sales to or purchases by such districts. These districts would be exempt from corporate and sales taxes under current law as a government entity, so the exemptions have no fiscal effect.

Income of bonds issued by a local cultural arts district would be exempt from the individual and corporate income tax. Information on the amount of bonds issued by the proposed Madison district or other potential districts is not available. Assuming a 6.25% interest rate and a 6.5% marginal tax rate, every \$10,000,000 in outstanding bonds would result in an annual revenue loss of approximately \$40,000 ( $\$10,000,000 \times 0.0625 \times 0.065$ ), if all the bonds were held by individuals subject to the Wisconsin income tax.

SEG state forestry taxes would decrease by \$20 for each \$100,000 of exempt property under the bill.

### Local Fiscal Effect

The bill exempts from property tax the cultural arts facilities of a cultural arts district, with two exceptions:

- property that is not part of a cultural arts facility if the property is used for a retail business or restaurant that is not exempt from property tax, unless the business or retail is operated by the cultural arts district or certain nonprofit associations, and
- parking lots or parking structures that are not used to support the operation of a cultural arts district.

At a tax rate of \$26 per \$1,000 of value, for each \$100,000 of exempt property of a cultural arts district that would be taxable in the absence of the bill, \$2,600 ( $\$100,000 \times 0.026$ ) in property taxes are shifted from a cultural arts district to owners of other taxable property.

Also under the bill, a sponsoring city of a cultural arts district may fix and collect a sum to be paid annually in lieu of the amount of property taxes that would be levied by the city on the property that is exempt. If a sponsoring city fixes such a payment at a rate of \$9 per \$1,000 of value, revenue of the sponsoring municipality would increase by \$900 for each \$100,000 of value ( $\$100,000 \times 0.009$ ).

**Public Policy Involved**

The provisions of the bill affecting tax exemptions are good public policy. However, the committee recommends that the standing committees that subsequently review the bill carefully scrutinize any potential unfair competitive advantages that a business that might be operated by a cultural arts district, such as a restaurant, may receive over competing private sector businesses not operated by such a district due to the tax exemptions provided to the district in the bill.