



State of Wisconsin

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STEPHEN R. MILLER
CHIEF

January 28, 2005

MEMORANDUM

To: Representative Ainsworth

From: Joseph T. Kreye, Legislative Attorney, (608) 266-2263

Subject: Technical Memorandum to **2005 un-introduced** (LRB 05-0820/2)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

Barman, Mike

From: Barman, Mike
Sent: Friday, January 28, 2005 9:43 AM
To: Rep.Ainsworth
Cc: Redell, Carol
Subject: LRB 05-0820/2 (Tech. Memo by DOR - attached - for your review)



Tech_Memo_Ainsworth.PDF

MEMORANDUM

January 21, 2005

TO: Joseph Kreye
Legislative Reference Bureau

FROM: Blair Kruger
Department of Revenue

SUBJECT: Technical Memorandum on LRB 0820/02, Relating to Expanding Sales and Use Tax Exemption for Tangible Personal Property Used in the Business of Farming

The Department of Revenue has several concerns related to language of the bill.

1. It is unclear whether the insertion of the phrase on page 2, lines 4-5, "or are consumed or lose their identities" removes the exclusive and direct use requirement for tractors, machines or other tangible personal property. For example, a tool used to repair a tractor is not used directly in farming, and does not qualify for exemption under current law. It is not clear under the bill whether such a tool is "consumed" in farming and so qualifies for exemption. If the intention is to remove the direct use requirement, it would be preferable to delete "and directly" from sec. 77.54 (3) (a) rather than adding "or are consumed or lose their identities" to prevent the uncertainty described above.
2. The term "husbandry activities" is too broad and may be unnecessary. The definition of "farming" under sec. Tax 11.12 (2) (f) includes the breeding and raising of many animals, although it does not include breeding or raising dogs, cats, other pets or animals intended for use in laboratories. Unless the intent is to expand the exemption to include these activities, this insertion is unnecessary.
3. The term "aquaculture" is unnecessary if the intent of the bill is to include, among the exempt activities, the commercial raising of fish for food because sec. Tax 11.12 (2) (f) currently defines "farming" to include the commercial raising of fish for food.
4. The bill may unintentionally repeal the exemption for fuel and electricity used in farming, to the extent that the fuel or electricity is used or consumed in the alteration, repair, or improvement of real property, which would include plowing farm fields. The exemptions currently provided in sec. 77.54 (30) (a) 3. and 5., do not exclude from exemption personal property that is used or consumed in the alteration, repair, or improvement of real property.

If you have questions regarding this technical memorandum, please contact Blair Kruger at (608) 266-1310 or bkruger@dor.state.wi.us.