



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

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STEPHEN R. MILLER  
CHIEF

February 29, 2012

## MEMORANDUM

**To:** Senator Grothman

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

**Subject:** Technical Memorandum to **2011 SB 527** (LRB-4184/1) by **DOR**

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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.

## MEMORANDUM

February 28, 2012

**TO:** Joseph Kreye  
Legislative Reference Bureau

**FROM:** Paul Ziegler  
Department of Revenue

**SUBJECT:** Technical memorandum on SB 527 - relating to sales and property tax exemptions for property used by commercial radio and television stations

The Department of Revenue has the following concerns with the bill:

1. The proposed sales and use tax exemption could be interpreted to apply to a very broad range of items such as office equipment, paper, janitorial supplies, meals, and items used on a one-time basis as props (including boats, furniture, and major appliances). If the intent of the author is to limit the sales and use tax exemption to a narrower set of items, the phrase "used in" on page 2, line 15 could be amended to read "used exclusively and directly in". Alternatively, the exemption language could be amended to specifically exclude certain items such as office equipment, janitorial supplies, food ready for immediate consumption, and props.
2. The property tax exemption applies to real and personal property. We therefore suggest that the proposed section be added at the end of sec. 70.11, the section for real property exemption. In addition, the proposed exemption applies to "property of a commercial radio or television station used" for the specified purposes. Most property tax exemptions require both ownership and exclusive use in order to qualify for an exemption. To handle both of these concerns, we suggest that the proposed section begin as follows: "Real and personal property owned by a commercial radio or television station that is exclusively used in the ..."
3. The phrase "transmissions that are free to receive", as written, could apply to programming beyond the intent of the bill. For example, it is unclear if premium video services provided for free to some customers as part of a promotional campaign or provided free on a temporary basis would satisfy the "free to receive" condition. The department suggests the phrase be amended to read "transmissions that are free to receive without subscription or service agreement".
4. It is unclear if the sales tax exemption for fuel or electricity only applies to the operation of equipment, or if the exemption extends to heating and powering a structure.
5. Current law, under s. 77.54(50), provides a sales and use tax exemption for digital goods that are exempt in tangible form. The proposed sales and use tax exemption includes tangible personal property, leased property affixed to real property, and

digital goods under s. 77.52(1)(d) used in the origination or integration of program material. Since digital goods used in the origination or integration of program material would automatically be exempt under s. 77.54(50) when the bill is effective, it is unnecessary to reference s. 77.52(1)(d) in the proposed exemption. In addition, the department recommends the reference to s. 77.52(1)(d) be deleted to maintain consistency among the sales and use tax exemptions.

6. The bill provides that the property tax exemption takes effect on January 1, 2012. This date creates problems since the deadline for requesting an exemption from property taxes for 2012 is March 1, 2012. The department will also need time to notify assessors of the law change and to provide materials so that the law change can be properly administered. We suggest that the proposed exemption take effect on January 1, 2013, so that the exemption can be accurately and consistently applied across the state.
7. The bill appears to be missing the word "sold" before the phrase "to a person" on page 2, line 13. The department recommends the bill be amended as follows:

"The sales price from the sales of and the storage, use, or other consumption of tangible personal property and property and goods under s. 77.52 (1) (c) or (d) sold to a person ..."

If you have questions regarding this technical memorandum, please contact Robert Schmidt at 608-267-9892 or [robertk1.schmidt@dor.wi.gov](mailto:robertk1.schmidt@dor.wi.gov)

CC: Senator Grothman