# *2013 DRAFTING REQUEST*

## Bill

| | | | |
|---|---|---|---|
| Received: | **8/19/2013** | Received By: | **jkreye** |
| Wanted: | **As time permits** | Same as LRB: | **-1901** |
| For: | **Garey Bies (608) 266-5350** | By/Representing: | **cory** |
| May Contact: | | Drafter: | **jkreye** |
| Subject: | **Local Gov't - room tax** | Addl. Drafters: | |
| | | Extra Copies: | **EVM** |

Submit via email: **YES**
Requester's email: **Rep.Bies@legis.wisconsin.gov**
Carbon copy (CC) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Modifications to the local room tax

**Instructions:**

See attached. Redraft 2011 SB 438 with attached changes

**Drafting History:**

| Vers. | Drafted | Reviewed | Typed | Proofed | Submitted | Jacketed | Required |
|---|---|---|---|---|---|---|---|
| /1 | jkreye 8/19/2013 | jdyer 8/20/2013 | phenry 8/20/2013 | _____ _____ | sbasford 8/20/2013 | sbasford 8/20/2013 | State S&L |

FE Sent For:

at intro
9/23

**<END>**

# *2013 DRAFTING REQUEST*

## Bill

| | | | |
|---|---|---|---|
| Received: | **8/19/2013** | Received By: | **jkreye** |
| Wanted: | **As time permits** | Same as LRB: | **-1901** |
| For: | **Garey Bies (608) 266-5350** | By/Representing: | **cory** |
| May Contact: | | Drafter: | **jkreye** |
| Subject: | **Local Gov't - room tax** | Addl. Drafters: | |
| | | Extra Copies: | **EVM** |

Submit via email: **YES**
Requester's email: **Rep.Bies@legis.wisconsin.gov**
Carbon copy (CC) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Modifications to the local room tax

**Instructions:**

See attached. Redraft 2011 SB 438 with attached changes

**Drafting History:**

| Vers. | Drafted | Reviewed | Typed | Proofed | Submitted | Jacketed | Required |
|---|---|---|---|---|---|---|---|
| /1 | jkreye 8/19/2013 | jdyer 8/20/2013 | phenry 8/20/2013 | _____ _____ | sbasford 8/20/2013 | | State S&L |

FE Sent For:

**<END>**

# *2013 DRAFTING REQUEST*

## Bill

| | | | |
|---|---|---|---|
| Received: | **8/19/2013** | Received By: | **jkreye** |
| Wanted: | **As time permits** | Same as LRB: | **-1901** |
| For: | **Garey Bies (608) 266-5350** | By/Representing: | **cory** |
| May Contact: | | Drafter: | **jkreye** |
| Subject: | **Local Gov't - room tax** | Addl. Drafters: | |
| | | Extra Copies: | **EVM** |

YES

Please jacket start 1 Joe

Submit via email: **YES**
Requester's email: **Rep.Bies@legis.wisconsin.gov**
Carbon copy (CC) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Modifications to the local room tax

**Instructions:**

See attached. Redraft 2011 SB 438 with attached changes

**Drafting History:**

| Vers. | Drafted | Reviewed | Typed | Proofed | Submitted | Jacketed | Required |
|---|---|---|---|---|---|---|---|
| /1 | jkreye | 1 8/20 jld | 8/20 pn | | | | State S&L |

FE Sent For:

**<END>**

# State of Wisconsin
**2013 – 2014 LEGISLATURE**

LRB–1901/2
MES:jld:ph

Keep

2963/1

# 2013 BILL

due Tues 8-20

Regen

1 AN ACT ***to amend*** 66.0615 (1) (a), 66.0615 (1) (f), 66.0615 (1) (fm) (intro.), 66.0615
2 (1m) (a), 66.0615 (1m) (c) 1., 66.0615 (1m) (c) 2. a., 66.0615 (1m) (d) 1., 66.0615
3 (1m) (d) 2., 66.0615 (1m) (d) 3. and 66.0615 (1m) (d) 7.; and ***to create*** 66.0615
4 (1) (fi), 66.0615 (1m) (d) 8., 66.0615 (1m) (d) 9., 66.0615 (1m) (dm) and 66.0615
5 (4) and (5) of the statutes; **relating to:** changes to the local room tax.

---

### *Analysis by the Legislative Reference Bureau*

Under current law, a city, village, or town (municipality) and a local exposition district may impose a room tax. The room tax is a tax on the privilege of furnishing, at retail, rooms or lodging to transients by hotelkeepers, motel operators, and other persons who furnish accommodations that are available to the public, irrespective of whether membership is required for use of the accommodations.

Generally, the maximum room tax that a municipality may impose is 8 percent. A single municipality that imposes a room tax may create a commission, which is defined as an entity to coordinate tourism promotion and tourism development (tourism). If two or more municipalities in a zone impose a room tax, they must create a commission. Current law defines a zone as an area made up of two or more municipalities that, those municipalities agree, is a single destination as perceived by the traveling public.

Current law requires a commission to contract with an organization to provide staff, development, or promotional services for the tourism industry in a municipality if a tourism entity does not exist in that municipality. A tourism entity

is defined under current law as a nonprofit organization that existed before January 1, 1992, and provides staff, development, or promotional services for the tourism industry in a municipality. The bill changes the definition of tourism entity to be a nonprofit organization that spends at least 51 percent of its revenue on tourism promotion and development and provides destination marketing staff and services for the tourism industry in a municipality. Also, under the bill, a tourism entity must have come into existence before January 1, 2013, unless such an entity does not exist in the municipality on January 1, 2013.

Under the bill, the majority of the members of a commission, and the majority of the members of the governing body of a tourism entity that spends between 51 percent and 70 percent of its revenue on tourism promotion and tourism development, must be owners or operators of restaurants, tourist attractions, or lodging facilities that collect the room tax and that are located in the municipality for which the room tax is collected, except that this membership requirement for a tourism entity does not generally apply to an entity that receives room tax revenue solely under contract with a commission. Also under the bill, the governing body of a tourism entity must include at least one owner or operator of a lodging facility in the municipality for which the room tax is collected.

Under current law, a municipality that first imposes a room tax after May 13, 1994, must spend at least 70 percent of the amount collected on tourism; the expenditure may be spent directly by the municipality or forwarded to the commission for its municipality or zone. The 30 percent or less of the room tax revenue that is not spent on tourism may be retained by the municipality and used for any other purpose. If a municipality collected a room tax on May 13, 1994, it may retain up to the same percentage of the room tax that it retained on that date, even if that percentage is more than 30 percent.

Under this bill, any revenue that is not retained by the municipality must be forwarded to a tourism entity or a commission, although the person collecting the room tax may retain 3 percent of the tax collected, or a higher percentage if authorized by the municipality, to cover the person's processing fees if the person pays the tax to the municipality as prescribed by the municipality. Also under the bill, a municipality that retains more than 30 percent of the room tax must reduce the amount that it retains to no more than 30 percent. The reduction must be made in equal amounts over a six–year period beginning on January 1, 2015.

The bill requires municipalities annually to certify and report to the Department of Revenue (DOR) the amount of room tax revenue collected, and the room tax rate imposed, by the municipality in the previous year as well as a detailed accounting of amounts that were forwarded to a commission or tourism entity and such an accounting for amounts of at least $1,000 expended by a commission or tourism entity. DOR is required to collect the reports and make them available to the public. In addition, the report must identify the members of a commission or tourism entity, and their business or employment affiliation, if any.

This bill authorizes a tourism entity or tourism organization to file a written complaint with a municipality alleging that the municipality is not allocating or

using room tax revenue as required by the statutes. A municipality that receives such a complaint must reply in writing within 60 days of receipt of the complaint.

If the complainant is unsatisfied by the reply, or if the municipality fails to reply, the complainant may submit to the municipality a written request for mediation. If both parties agree to mediation, they may jointly choose the mediator or agree that one party shall pick the mediator. The cost of the mediator is paid by the party that picks the mediator or, if the parties jointly pick the mediator, the municipality pays if the mediator finds that the municipality is not complying with the room tax statute and the complainant pays if the mediator finds that the municipality is in compliance. If the mediator is unable to determine compliance, the parties split the cost of mediation.

The mediator must provide both parties with a written decision on the allegations alleged in the complaint within 60 days of the end of the mediation. If the mediator finds that the municipality is not complying with the room tax statute, he or she must recommend actions the municipality may take to be in compliance. The mediator's decision and findings are not binding on the parties.

If the parties follow the mediator's decision, the complainant may not file suit against the municipality alleging the same issues raised in the complaint during the municipality's fiscal year in which the decision is provided to the parties. If the municipality does not agree to mediation, or does not follow the mediator's recommendations on how to comply with the room tax statute, the complainant may file a suit against the municipality to enforce compliance with the room tax statute.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1 **SECTION 1.** 66.0615 (1) (a) of the statutes is amended to read:

2 66.0615 **(1)** (a) "Commission" means an entity created by one municipality or
3 by 2 or more municipalities in a zone, to coordinate tourism promotion and <u>tourism</u>
4 development for the zone.

5 **SECTION 2.** 66.0615 (1) (f) of the statutes is amended to read:

6 66.0615 **(1)** (f) "Tourism entity" means a nonprofit organization that came into
7 existence before January 1, ~~1992, and provides staff, development or promotional~~
8 <u>2013, spends at least 51 percent of its revenues on tourism promotion and tourism</u>
9 <u>development, and provides destination marketing staff and</u> services for the tourism

industry in a municipality, except that if no such organization exists in a municipality on January 1, 2013, a municipality may contract with such an organization if one is created in the municipality.

**SECTION 3.** 66.0615 (1) (fi) of the statutes is created to read:

66.0615 **(1)** (fi) "Tourism organization" means a statewide organization that represents any of the following:

1. Tourism entities.

2. The lodging industry.

3. An owner or operator, or a group of owners or operators, of a lodging facility that collects a room tax.

4. Tourism businesses.

**SECTION 4.** 66.0615 (1) (fm) (intro.) of the statutes is amended to read:

66.0615 **(1)** (fm) (intro.) "Tourism promotion and tourism development" means any of the following that are significantly used by transient tourists and reasonably likely to generate paid overnight stays at more than one establishment on which a tax under sub. (1m) (a) may be imposed, that are owned by different persons and located within a municipality in which a tax under this section is in effect; or, if the municipality has only one such establishment, reasonably likely to generate paid overnight stays in that establishment:

**SECTION 5.** 66.0615 (1m) (a) of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

66.0615 **(1m)** (a) The governing body of a municipality may enact an ordinance, and a district, under par. (e), may adopt a resolution, imposing a tax on the privilege of furnishing, at retail, except sales for resale, rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations that

are available to the public, irrespective of whether membership is required for use of the accommodations. A tax imposed under this paragraph may be collected from the consumer or user, but may not be imposed on sales to the federal government and persons listed under s. 77.54 (9a). A tax imposed under this paragraph by a municipality shall be paid to the municipality within a time frame prescribed by the municipality and ~~may~~, with regard to any tax revenue that may not be retained by the municipality, shall be forwarded to a tourism entity or a commission if one is created under par. (c), as provided in par. (d), except that before the person collecting the tax pays it to the municipality within the time frame prescribed by the municipality, the person may retain 3 percent of the tax collected, or a higher percentage if the municipality has a higher percentage in effect on the effective date of this paragraph .... [LRB inserts date], to cover the person's processing costs. Except as provided in par. (am), a tax imposed under this paragraph by a municipality may not exceed 8%. Except as provided in par. (am), if a tax greater than 8% under this paragraph is in effect on May 13, 1994, the municipality imposing the tax shall reduce the tax to 8%, effective on June 1, 1994.

**SECTION 6.** 66.0615 (1m) (c) 1. of the statutes is amended to read:

66.0615 **(1m)** (c) 1. If a commission is created by a single municipality, the commission shall consist of 4 to 6 members. ~~One~~ At least one of the commission members shall represent the Wisconsin hotel and motel industry. Members shall be appointed under subd. 3. A majority of the members of a commission shall be owners or operators of restaurants, tourist attractions, or lodging facilities that collect the room tax described in this section, and that are located in the municipality for which the room tax is collected.

**SECTION 7.** 66.0615 (1m) (c) 2. a. of the statutes is amended to read:

66.0615 **(1m)** (c) 2. a. If the commission is created by more than one municipality in a zone, the commission shall consist of 3 members from each municipality in which annual tax collections exceed $1,000,000, 2 members from each municipality in which annual tax collections exceed $300,000 but are not more than $1,000,000 and one member from each municipality in which annual tax collections are $300,000 or less. A majority of the members of a commission shall be owners or operators of restaurants, tourist attractions, or lodging facilities that collect the room tax described in this section and that are located in the municipalities for which the room tax is collected. Except as provided in subd. 2. b., members shall be appointed under subd. 3.

**SECTION 8.** 66.0615 (1m) (d) 1. of the statutes is amended to read:

66.0615 **(1m)** (d) 1. A municipality that first imposes a room tax under par. (a) after May 13, 1994, shall spend at least 70% of the amount collected on tourism promotion and tourism development. Any amount of room tax collected that must be spent on tourism promotion and tourism development shall either be ~~spent directly by the municipality on tourism promotion and development or shall be~~ forwarded to the commission for its municipality or zone if the municipality has created a commission, or forwarded to a tourism entity.

**SECTION 9.** 66.0615 (1m) (d) 2. of the statutes is amended to read:

66.0615 **(1m)** (d) 2. ~~If~~ Subject to par. (dm), if a municipality collects a room tax on May 13, 1994, it may retain not more than the same percentage of the room tax that it retains on May 13, 1994. If a municipality that collects a room tax on May 1, 1994, increases its room tax after May 1, 1994, the municipality may retain not more than the same percentage of the room tax that it retains on May 1, 1994, except that if the municipality is not exempt under par. (am) from the maximum tax that may

be imposed under par. (a), the municipality shall spend at least 70% of the increased amount of room tax that it begins collecting after May 1, 1994, on tourism promotion and tourism development. Any amount of room tax collected that must be spent on tourism promotion and tourism development shall either be ~~spent directly by the municipality on tourism promotion and development or shall be~~ forwarded to the commission for its municipality or zone if the municipality has created a commission, or forwarded to a tourism entity.

**SECTION 10.** 66.0615 (1m) (d) 3. of the statutes is amended to read:

66.0615 **(1m)** (d) 3. A commission shall use the room tax revenue that it receives from a municipality for tourism promotion and tourism development in the zone or in the municipality.

**SECTION 11.** 66.0615 (1m) (d) 7. of the statutes is amended to read:

66.0615 **(1m)** (d) 7. Notwithstanding the provisions of subds. 1. and 2., any amount of room tax revenue that a municipality described under s. 77.994 (3) is required to spend on tourism promotion and tourism development shall be forwarded to, and spent by, the municipality's tourism entity, unless the municipality creates a commission and forwards the revenue to the commission.

**SECTION 12.** 66.0615 (1m) (d) 8. of the statutes is created to read:

66.0615 **(1m)** (d) 8. The governing body of a tourism entity shall include at least one owner or operator of a lodging facility that collects the room tax described in this section and that is located in the municipality for which the room tax is collected. Subdivision 4., as it applies to a commission, applies to a tourism entity.

**SECTION 13.** 66.0615 (1m) (d) 9. of the statutes is created to read:

66.0615 **(1m)** (d) 9. With regard to a tourism entity that spends at least 51 percent, but not more than 70 percent, of its revenues on tourism promotion and

1 tourism development, a majority of the members of the tourism entity's governing
2 body shall be owners or operators of restaurants, tourism attractions, or lodging
3 facilities which collect the room tax described in this section, and which are located
4 in the municipality for which the room tax is collected. This subdivision does not
5 apply to a tourism entity that receives room tax revenue solely under contract with
6 a commission under par. (b).

7 **SECTION 14.** 66.0615 (1m) (dm) of the statutes is created to read:

8 66.0615 **(1m)** (dm) Beginning with the room tax collected on January 1, 2015,
9 by a municipality that collected a room tax on May 13, 1994, as described in par. (d)
10 2., and retained more than 30 percent of the room tax collected for purposes other
11 than tourism promotion and tourism development, such a municipality shall reduce
12 the amount retained that exceeds 30 percent by one–sixth on January 1, 2015,
13 January 1, 2016, January 1, 2017, January 1, 2018, January 1, 2019, and January
14 1, 2020, so that on and after January 1, 2020, the municipality retains not more than
15 30 percent of the room tax collected for purposes other than tourism promotion and
16 tourism development.

17 **SECTION 15.** 66.0615 (4) and (5) of the statutes are created to read:

18 66.0615 **(4)** (a) Annually, on a form created and provided by the department of
19 revenue, every municipality that imposes a tax under sub. (1m) shall certify and
20 report to the department all of the following:

21 1. The amount of room tax revenue collected, and the room tax rate imposed,
22 by the municipality in the previous year.

23 2. A detailed accounting of the amounts of such revenue that were forwarded
24 in the previous year for tourism promotion and tourism development, specifying the
25 commission or tourism entity that received the revenue. The detailed accounting

1 shall include expenditures of at least $1,000 made by a commission or a tourism
2 entity.
3 3. A list of each member of the commission and each member of the governing
4 body of a tourism entity to which the municipality forwarded room tax revenue in the
5 previous year, and the name of the business entity the member owns, operates, or is
6 employed by, if any.
7 (b) The department of revenue shall collect the reports described in par. (a) and
8 shall make them available to the public.
9 (c) The department of revenue may impose a penalty of not more than $3,000
10 on a municipality that does not submit to the department the reports described in
11 par. (a). A municipality may not use room tax revenue to pay a penalty imposed
12 under this paragraph. The penalty shall be paid to the department of revenue.
13 **(5)** (a) A tourism entity or a tourism organization may file a written complaint
14 with municipality alleging that the municipality is not allocating or using the room
15 tax revenue it receives as required under this section. The complaint shall be filed
16 on a form prepared by the department of revenue and shall specify the statute with
17 which the municipality is not complying, and how it is not complying. A municipality
18 that receives such a complaint shall provide the complaining party with a written
19 response to the complaint not later than 60 days after the municipality receives the
20 complaint.
21 (b) If the complainant is not satisfied with the municipality's response, or if the
22 municipality does not respond within the time period prescribed in par. (a), the
23 complainant may submit to the municipality a written request for mediation.
24 (c) If both parties agree to mediation, the parties shall either agree on a
25 mediator or the parties may stipulate that one party will choose the mediator. If one

1 party chooses the mediator, that party shall pay all costs associated with the
2 mediation. If the parties jointly choose the mediator, the costs associated with the
3 mediation shall be paid by one of the following:

4 1. The complainant, if the mediator finds that the municipality is in compliance
5 with this section.

6 2. The municipality, if the mediator finds that the municipality is not in
7 compliance with this section.

8 3. Both parties, equally, if the mediator is not able to determine whether the
9 municipality is in compliance with this section.

10 (d) Not later than 60 days after the mediation is concluded, the mediator shall
11 provide both parties with a written decision on the complaint filed by the
12 complainant. If the mediator upholds the allegations in the complaint, his or her
13 written findings shall specify how the municipality is not complying with this section
14 and shall recommend actions the municipality should take to comply with this
15 section. The mediator's written decision and findings are not binding on the parties.

16 (e) If the parties voluntarily follow the mediator's written decision and findings
17 the complainant may not commence an action in circuit court, during the
18 municipality's fiscal year in which the written decision is provided to the parties, that
19 alleges the same issues as the complainant raised in the complaint filed under par.
20 (a).

21 (f) If a municipality does not agree to a request for mediation under par. (b), or
22 if the mediator's written decision under par. (d) finds that the municipality is not
23 complying with this section and the municipality refuses to follow the mediator's

1 nonbinding written findings and recommendations, the complainant may commence
2 an action in circuit court to enforce compliance with the requirements of this section.
3 **(END)**

## Barman, Mike

**From:** Bruce, Cory
**Sent:** Tuesday, August 20, 2013 8:52 AM
**To:** LRB.Legal
**Subject:** Draft Review: LRB -2963/1 Topic: Modifications to the local room tax

Please Jacket LRB -2963/1 for the ASSEMBLY.