



State of Wisconsin
2015 - 2016 LEGISLATURE

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2015 ASSEMBLY BILL 210

May 8, 2015 – Introduced by Representatives KNUDSON, KITCHENS, KNODL, KRUG, KULP, T. LARSON, NYGREN, QUINN, RIPP, SPIROS, MILROY, KOLSTE, HEATON, WEATHERSTON, SANFELIPPO and PETRYK, cosponsored by Senator TIFFANY. Referred to Committee on Transportation.

1 **AN ACT** *to renumber and amend* 77.70; *to amend* chapter 77 (title), subchapter
2 V (title) of chapter 77 [precedes 77.70], 77.71 (intro.), 77.71 (1), 77.71 (2), 77.71
3 (3), 77.71 (4), 77.73 (2), 77.73 (3), 77.75, 77.76 (1), 77.76 (2), 77.76 (4), 77.77 and
4 77.78; and *to create* 20.566 (1) (gh), 20.835 (4) (gh), 77.70 (2), 77.701 and 77.76
5 (3r) of the statutes; **relating to:** an additional local sales and use tax for
6 maintenance of streets and highways and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, a county may impose a sales and use tax at the rate of 0.5 percent of the sales price of tangible personal property, goods, and services sold or used in the county. The county sales and use tax may be imposed only for the purpose of reducing the county's property tax levy.

Under the bill, with the approval of the electors in the county at a referendum, a county may impose an additional sales and use tax at the rate of no more than 0.5 percent of the sales price of tangible personal property, goods, and services sold or used in the county for maintenance of streets and highways. A municipality may also impose the tax for the same purpose. The county or municipality may impose the tax for four years. If the county or municipality wishes to extend the tax, it must be approved again at a referendum. Finally, for each year in which a county or municipality imposes the tax, the county or municipality must expend on highway or street maintenance and repair an amount equal to the average of the amount it spent for such purposes in the previous three years.

ASSEMBLY BILL 210**CHAPTER 77****TAXATION OF FOREST CROPLANDS;****REAL ESTATE TRANSFER FEES;****SALES AND USE TAXES; COUNTY,****MUNICIPALITY, AND SPECIAL DISTRICT****SALES AND USE TAXES; MANAGED****FOREST LAND; ECONOMIC DEVELOPMENT****SURCHARGE; LOCAL FOOD AND BEVERAGE****TAX; LOCAL RENTAL CAR TAX;****PREMIER RESORT AREA TAXES;****STATE RENTAL VEHICLE****FEE; DRY CLEANING FEES**

SECTION 5. Subchapter V (title) of chapter 77 [precedes 77.70] of the statutes is amended to read:

CHAPTER 77**SUBCHAPTER V****COUNTY, MUNICIPALITY, AND****SPECIAL DISTRICT SALES AND USE TAXES**

SECTION 6. 77.70 of the statutes is renumbered 77.70 (1) and amended to read:

77.70 (1) Any county desiring to impose county sales and use taxes under this subchapter may do so by the adoption of an ordinance, stating its purpose and referring to this subchapter. The rate of the tax imposed under this ~~section~~ subsection is 0.5 percent of the sales price or purchase price. ~~The~~ Except as provided in sub. (2), county sales and use taxes may be imposed only for the purpose of directly reducing the property tax levy and only in their entirety as provided in this

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1 subchapter. That ordinance shall be effective on ~~the first day of January, the first day~~
2 ~~of April, the first day of July or the first day of October~~ January 1, April 1, July 1, or
3 October 1. A certified copy of that ordinance shall be delivered to the secretary of
4 revenue at least 120 days prior to its effective date. The repeal of any such ordinance
5 shall be effective on December 31. A certified copy of a repeal ordinance shall be
6 delivered to the secretary of revenue at least 120 days before the effective date of the
7 repeal.

8 **SECTION 7.** 77.70 (2) of the statutes is created to read:

9 77.70 (2) (a) In addition to the taxes imposed under sub. (1), if the electors of
10 the county approve the ordinance at a referendum at the spring election or general
11 election, a county may adopt an ordinance to impose a sales and use tax under this
12 subchapter at the rate of no more than 0.5 percent of the sales price or purchase price
13 in order to maintain and repair highways in the county and to ensure that all county
14 roads are all-weather roads. The taxes may be imposed only in their entirety. An
15 ordinance adopted under this paragraph shall be effective on January 1, April 1, July
16 1, or October 1. A certified copy of the ordinance shall be delivered to the secretary
17 of revenue at least 120 days prior to its effective date. The repeal of any such
18 ordinance shall be effective on December 31. A certified copy of a repeal ordinance
19 shall be delivered to the secretary of revenue at least 120 days before the effective
20 date of the repeal. An ordinance adopted to impose the tax under this paragraph is
21 valid for 4 years but may be renewed by the approval of the electors of the county at
22 a referendum at the spring election or general election. If the county holds a
23 referendum during the 4-year period when the tax is imposed in order to renew the
24 ordinance for another 4 years and the referendum is not approved, the county may

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1 not hold another referendum to renew the ordinance until one year after the previous
2 period for imposing the tax has expired.

3 (b) If a county holds a referendum under par. (a), the question appearing on the
4 ballot shall be "Shall (name of the county) impose a local sales and use tax for
5 (4 years) (an additional 4 years) at the rate of one-half of one percent to provide for
6 the maintenance and repair of county highways?"

7 (c) For each year in which a county imposes the tax under par. (a), the county
8 shall expend on highway maintenance and repair no less than an amount equal to
9 the average of the amount it spent for such purposes in the previous 3 years.

10 **SECTION 8.** 77.701 of the statutes is created to read:

11 **77.701 Adoption by municipal ordinance.** (1) If the electors of the
12 municipality approve the ordinance at a referendum at the spring election or general
13 election, a municipality may adopt an ordinance to impose a sales and use tax under
14 this subchapter at the rate of no more than 0.5 percent of the sales price or purchase
15 price in order to maintain and repair streets in the municipality. The taxes may be
16 imposed only in their entirety. An ordinance adopted under this subsection shall be
17 effective on January 1, April 1, July 1, or October 1. A certified copy of the ordinance
18 shall be delivered to the secretary of revenue at least 120 days prior to its effective
19 date. The repeal of any such ordinance shall be effective on December 31. A certified
20 copy of a repeal ordinance shall be delivered to the secretary of revenue at least 120
21 days before the effective date of the repeal. An ordinance adopted to impose the tax
22 under this subsection is valid for 4 years but may be renewed by the approval of the
23 electors of the municipality at a referendum at the spring election or general election.
24 If a municipality holds a referendum during the 4-year period when the tax is
25 imposed in order to renew the ordinance for another 4 years and the referendum is

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1 not approved, the county may not hold another referendum to renew the ordinance
2 until one year after the previous period for imposing the tax has expired. In this
3 section, “municipality” means a city, village, or town.

4 (2) If a municipality holds a referendum under sub. (1), the question appearing
5 on the ballot shall be “Shall (name of the municipality) impose a local sales and
6 use tax for (4 years) (an additional 4 years) at the rate of one-half of one percent
7 to provide for the maintenance and repair of streets in the municipality?”.

8 (3) For each year in which a municipality imposes the tax under sub. (1), the
9 municipality shall expend on street maintenance and repair no less than an amount
10 equal to the average of the amount it spent for such purposes in the previous 3 years.

11 **SECTION 9.** 77.71 (intro.) of the statutes is amended to read:

12 **77.71 Imposition of county and special district local sales and use**
13 **taxes.** (intro.) Whenever ~~a county sales and use tax~~ an ordinance is adopted enacted
14 under s. 77.70 or 77.701, or a ~~special district~~ resolution is adopted under s. 77.705
15 or 77.706, the following taxes are imposed:

16 **SECTION 10.** 77.71 (1) of the statutes is amended to read:

17 77.71 (1) For the privilege of selling, licensing, leasing, or renting tangible
18 personal property and the items, property, and goods specified under s. 77.52 (1) (b),
19 (c), and (d), and for the privilege of selling, licensing, performing, or furnishing
20 services a sales tax is imposed upon retailers at the rates under s. 77.70 in the case
21 of a county tax, at the rate under s. 77.701 in the case of a municipality tax, or at the
22 rate under s. 77.705 or 77.706 in the case of a special district tax of the sales price
23 from the sale, license, lease, or rental of tangible personal property and the items,
24 property, and goods specified under s. 77.52 (1) (b), (c), and (d), except property taxed
25 under sub. (4), sold, licensed, leased, or rented at retail in the county, municipality,

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1 or special district, or from selling, licensing, performing, or furnishing services
2 described under s. 77.52 (2) in the county, municipality, or special district.

3 **SECTION 11.** 77.71 (2) of the statutes is amended to read:

4 77.71 (2) An excise tax is imposed at the rates under s. 77.70 in the case of a
5 county tax, at the rate under s. 77.701 in the case of a municipality tax, or at the rate
6 under s. 77.705 or 77.706 in the case of a special district tax of the purchase price
7 upon every person storing, using, or otherwise consuming in the county,
8 municipality, or special district tangible personal property, or items, property, or
9 goods specified under s. 77.52 (1) (b), (c), or (d), or services if the tangible personal
10 property, item, property, good, or service is subject to the state use tax under s. 77.53,
11 except that a receipt indicating that the tax under sub. (1), (3), or (4) has been paid
12 relieves the buyer of liability for the tax under this subsection and except that if the
13 buyer has paid a similar local tax in another state on a purchase of the same tangible
14 personal property, item, property, good, or service that tax shall be credited against
15 the tax under this subsection and except that for motor vehicles that are used for a
16 purpose in addition to retention, demonstration, or display while held for sale in the
17 regular course of business by a dealer the tax under this subsection is imposed not
18 on the purchase price but on the amount under s. 77.53 (1m).

19 **SECTION 12.** 77.71 (3) of the statutes is amended to read:

20 77.71 (3) An excise tax is imposed upon a contractor engaged in construction
21 activities within the county, municipality, or special district at the rates under s.
22 77.70 in the case of a county tax, at the rate under s. 77.701 in the case of a
23 municipality tax, or at the rate under s. 77.705 or 77.706 in the case of a special
24 district tax of the purchase price of tangible personal property or items, property, or
25 goods under s. 77.52 (1) (b), (c), or (d) that are used in constructing, altering,

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1 repairing, or improving real property and that became a component part of real
2 property in that county, municipality, or special district, except that if the contractor
3 has paid the sales tax of a county, municipality, or special district in this state on that
4 tangible personal property, item, property, or good, or has paid a similar local sales
5 tax in another state on a purchase of the same tangible personal property, item,
6 property, or good, that tax shall be credited against the tax under this subsection.

7 **SECTION 13.** 77.71 (4) of the statutes is amended to read:

8 77.71 (4) An excise tax is imposed at the rates under s. 77.70 in the case of a
9 county tax, at the rate under s. 77.701 in the case of a municipality tax, or at the rate
10 under s. 77.705 or 77.706 in the case of a special district tax of the purchase price
11 upon every person storing, using, or otherwise consuming a motor vehicle, boat,
12 recreational vehicle, as defined in s. 340.01 (48r), or aircraft, if that property must
13 be registered or titled with this state and if that property is to be customarily kept
14 in a county that has in effect an ordinance under s. 77.70, in a municipality that has
15 in effect an ordinance under s. 77.701, or in a special district that has in effect a
16 resolution under s. 77.705 or 77.706, except that if the buyer has paid a similar local
17 sales tax in another state on a purchase of the same property that tax shall be
18 credited against the tax under this subsection.

19 **SECTION 14.** 77.73 (2) of the statutes is amended to read:

20 77.73 (2) Counties, municipalities, and special districts do not have jurisdiction
21 to impose the tax under s. 77.71 (2) in regard to items, property, and goods under s.
22 77.52 (1) (b), (c), and (d), and tangible personal property, except snowmobiles,
23 trailers, semitrailers, all-terrain vehicles, and utility terrain vehicles, purchased in
24 a sale that is consummated in another county, municipality, or special district in this
25 state that does not have in effect an ordinance or resolution imposing the taxes under

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1 this subchapter and later brought by the buyer into the county, municipality, or
2 special district that has imposed a tax under s. 77.71 (2).

3 **SECTION 15.** 77.73 (3) of the statutes is amended to read:

4 77.73 (3) Counties, municipalities, and special districts have jurisdiction to
5 impose the taxes under this subchapter on retailers who file, or who are required to
6 file, an application under s. 77.52 (7) or who register, or who are required to register,
7 under s. 77.53 (9) or (9m), regardless of whether such retailers are engaged in
8 business in the county, municipality, or special district, as provided in s. 77.51 (13g).
9 A retailer who files, or is required to file, an application under s. 77.52 (7) or who
10 registers, or is required to register, under s. 77.53 (9) or (9m) shall collect, report, and
11 remit to the department the taxes imposed under this subchapter for all counties,
12 municipalities, or special districts that have an ordinance or resolution imposing the
13 taxes under this subchapter.

14 **SECTION 16.** 77.75 of the statutes is amended to read:

15 **77.75 Reports.** Every person subject to county, municipality, or special district
16 sales and use taxes shall, for each reporting period, record that person's sales made
17 in the county, municipality, or special district that has imposed those taxes
18 separately from sales made elsewhere in this state and file a report as prescribed by
19 the department of revenue.

20 **SECTION 17.** 77.76 (1) of the statutes is amended to read:

21 77.76 (1) The department of revenue shall have full power to levy, enforce, and
22 collect county, municipality, and special district sales and use taxes and may take any
23 action, conduct any proceeding, impose interest and penalties, and in all respects
24 proceed as it is authorized to proceed for the taxes imposed by subch. III. The
25 department of transportation and the department of natural resources may

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1 administer the county, municipality, and special district sales and use taxes in regard
2 to items under s. 77.61 (1).

3 **SECTION 18.** 77.76 (2) of the statutes is amended to read:

4 77.76 (2) Judicial and administrative review of departmental determinations
5 shall be as provided in subch. III for state sales and use taxes, and no county,
6 municipality, or special district may intervene in any matter related to the levy,
7 enforcement, and collection of the taxes under this subchapter.

8 **SECTION 19.** 77.76 (3r) of the statutes is created to read:

9 77.76 (3r) From the appropriation under s. 20.835 (4) (gh), the department
10 shall distribute 98.25 percent of the municipality taxes reported for each enacting
11 municipality, minus the municipality portion of the retailers' discounts, to the
12 municipality and shall indicate the taxes reported by each taxpayer, no later than
13 75 days following the last day of the calendar quarter in which such amounts were
14 reported. In this subsection, the "municipality portion of the retailers' discount" is
15 the amount determined by multiplying the total retailers' discount by a fraction the
16 numerator of which is the gross municipality sales and use taxes payable and the
17 denominator of which is the sum of the gross state and municipality sales and use
18 taxes payable. The municipality taxes distributed shall be increased or decreased
19 to reflect subsequent refunds, audit adjustments, and all other adjustments of the
20 municipality taxes previously distributed. Interest paid on refunds of municipality
21 sales and use taxes shall be paid from the appropriation under s. 20.835 (4) (gh) at
22 the rate paid by this state under s. 77.60 (1) (a). Any municipality receiving a report
23 under this subsection is subject to the duties of confidentiality to which the
24 department of revenue is subject under s. 77.61 (5) and (6).

25 **SECTION 20.** 77.76 (4) of the statutes is amended to read:

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1 77.76 (4) There shall be retained by the state ~~1.5%~~ 1.5 percent of the taxes
2 collected for taxes imposed by special districts under ss. 77.705 and 77.706 and ~~1.75%~~
3 1.75 percent of the taxes collected for taxes imposed by counties under s. 77.70 and
4 for taxes imposed by municipalities under s. 77.701 to cover costs incurred by the
5 state in administering, enforcing, and collecting the tax. All interest and penalties
6 collected shall be deposited and retained by this state in the general fund.

7 **SECTION 21.** 77.77 of the statutes is amended to read:

8 **77.77 Transitional provisions. (1)** (a) The sales price from services subject
9 to the tax under s. 77.52 (2) or the lease, rental, or license of tangible personal
10 property and property, items, and goods specified under s. 77.52 (1) (b), (c), and (d),
11 is subject to the taxes under this subchapter, and the incremental amount of tax
12 caused by a rate increase applicable to those services, leases, rentals, or licenses is
13 due, beginning with the first billing period starting on or after the effective date of
14 the county ordinance, municipal ordinance, special district resolution, or rate
15 increase, regardless of whether the service is furnished or the property, item, or good
16 is leased, rented, or licensed to the customer before or after that date.

17 (b) The sales price from services subject to the tax under s. 77.52 (2) or the lease,
18 rental, or license of tangible personal property and property, items, and goods
19 specified under s. 77.52 (1) (b), (c), and (d) is not subject to the taxes under this
20 subchapter, and a decrease in the tax rate imposed under this subchapter on those
21 services first applies, beginning with bills rendered on or after the effective date of
22 the repeal or sunset of a county ordinance, municipal ordinance, or special district
23 resolution imposing the tax or other rate decrease, regardless of whether the service
24 is furnished or the property, item, or good is leased, rented, or licensed to the
25 customer before or after that date.

