



2015 ASSEMBLY BILL 301

August 6, 2015 – Introduced by Representative ZEPNICK. Referred to Committee on Transportation.

1 **AN ACT** *to amend* chapter 77 (title), 77.52 (1), 77.52 (2) (intro.), 77.53 (1),
2 subchapter V (title) of chapter 77 [precedes 77.70], 77.71 (intro.), 77.71 (1),
3 77.71 (2), 77.71 (3), 77.71 (4), 77.73 (2), 77.73 (3), 77.75, 77.76 (1), 77.76 (2),
4 77.76 (4), 77.77 and 77.78; and *to create* 20.566 (1) (gh), 20.835 (4) (gh), 77.61
5 (21), 77.701 and 77.76 (3r) of the statutes; **relating to:** allowing municipalities
6 to impose a sales and use tax for transportation purposes, lowering the state
7 sales and use tax rates, using state sales and use tax revenue for transportation
8 purposes, and making appropriations.

Analysis by the Legislative Reference Bureau

This bill allows a city, village, or town to impose a sales and use tax at the rate of 1.5 percent of the sales price of tangible personal property and taxable services purchased or used in the city, village, or town. The city, village, or town must use the sales and use tax revenue for transportation purposes.

The bill also lowers the state sales and use tax rate from 5 percent to 3 percent and requires that the sales and use tax collected on the sale of gasoline and diesel fuel be deposited into the transportation fund.

ASSEMBLY BILL 301**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. 77.52 (1) of the statutes is amended to read:

77.52 (1) (a) For the privilege of selling, licensing, leasing or renting tangible personal property at retail a tax is imposed upon all retailers at the rate of ~~5%~~ 3 percent of the sales price from the sale, license, lease or rental of tangible personal property sold, licensed, leased or rented at retail in this state, as determined under s. 77.522.

(b) For the privilege of selling, licensing, leasing, or renting at retail coins and stamps of the United States that are sold, licensed, leased, rented, or traded as collectors' items above their face value, a tax is imposed on all retailers at the rate of ~~5~~ 3 percent of the sales price from the sale, license, lease, or rental of such coins and stamps.

(c) For the privilege of leasing property that is affixed to real property, a tax is imposed on all retailers at the rate of ~~5~~ 3 percent of the sales price from the lease

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1 of such property, if the lessor has the right to remove the leased property upon breach
2 or termination of the lease agreement, unless the lessor of the leased property is also
3 the lessor of the real property to which the leased property is affixed.

4 (d) A tax is imposed on all retailers at the rate of ~~5~~ 3 percent of the sales price
5 from the sale, lease, license, or rental of specified digital goods and additional digital
6 goods at retail for the right to use the specified digital goods or additional digital
7 goods on a permanent or less than permanent basis and regardless of whether the
8 purchaser is required to make continued payments for such right.

9 **SECTION 6.** 77.52 (2) (intro.) of the statutes is amended to read:

10 77.52 (2) (intro.) For the privilege of selling, licensing, performing or furnishing
11 the services described under par. (a) at retail in this state, as determined under s.
12 77.522, to consumers or users, regardless of whether the consumer or user has the
13 right of permanent use or less than the right of permanent use and regardless of
14 whether the service is conditioned on continued payment from the purchaser, a tax
15 is imposed upon all persons selling, licensing, performing or furnishing the services
16 at the rate of ~~5%~~ 3 percent of the sales price from the sale, license, performance or
17 furnishing of the services.

18 **SECTION 7.** 77.53 (1) of the statutes is amended to read:

19 77.53 (1) Except as provided in sub. (1m), an excise tax is levied and imposed
20 on the use or consumption in this state of taxable services under s. 77.52 purchased
21 from any retailer, at the rate of ~~5%~~ 3 percent of the purchase price of those services;
22 on the storage, use or other consumption in this state of tangible personal property
23 and items or property under s. 77.52 (1) (b) or (c) purchased from any retailer, at the
24 rate of ~~5%~~ 3 percent of the purchase price of the property or items; on the storage, use,
25 or other consumption of goods in this state under s. 77.52 (1) (d) purchased from any

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1 retailer, if the purchaser has the right to use the goods on a permanent or less than
2 permanent basis and regardless of whether the purchaser is required to make
3 continued payments for such right, at the rate of ~~5~~ 3 percent of the purchase price
4 of the goods; and on the storage, use or other consumption of tangible personal
5 property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) manufactured,
6 processed or otherwise altered, in or outside this state, by the person who stores, uses
7 or consumes it, from material purchased from any retailer, at the rate of ~~5%~~ 3 percent
8 of the purchase price of that material.

9 **SECTION 8.** 77.61 (21) of the statutes is created to read:

10 77.61 (21) The taxes collected under this subchapter from the sale of gasoline,
11 as defined in s. 78.005 (7), and diesel fuel, as defined in s. 78.005 (5), shall be
12 deposited into the transportation fund.

13 **SECTION 9.** Subchapter V (title) of chapter 77 [precedes 77.70] of the statutes
14 is amended to read:

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

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

20 **77.701 Adoption by municipal ordinance.** A municipality may, by
21 ordinance, impose a sales and use tax under this subchapter at the rate of 1.5 percent
22 of the sales price or the purchase price. The taxes imposed under this section may
23 only be used for transportation purposes and may be imposed only in their entirety.
24 Taxes imposed under this section take effect on the first January 1 that begins at
25 least 120 days after the date on which the municipality enacts the ordinance. The

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1 municipality shall deliver a certified copy of the ordinance to the secretary of revenue
2 at least 120 days prior to its effective date. If the municipality repeals the ordinance,
3 the repeal is effective on December 31. The municipality shall deliver a certified copy
4 of a repeal ordinance to the secretary of revenue at least 120 days before the effective
5 date of the repeal. In this section, "municipality" means a city, village, or town.

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

7 **77.71 Imposition of county and special district sales and use taxes.**

8 (intro.) Whenever ~~a county sales and use tax~~ an ordinance is adopted enacted under
9 s. 77.70 or 77.701, or a ~~special district~~ resolution is adopted under s. 77.705 or 77.706,
10 the following taxes are imposed:

11 **SECTION 12.** 77.71 (1) of the statutes is amended to read:

12 77.71 (1) For the privilege of selling, licensing, leasing, or renting tangible
13 personal property and the items, property, and goods specified under s. 77.52 (1) (b),
14 (c), and (d), and for the privilege of selling, licensing, performing, or furnishing
15 services a sales tax is imposed upon retailers at the rates under s. 77.70 in the case
16 of a county tax, at the rate under s. 77.701 in the case of a municipality tax, or at the
17 rate under s. 77.705 or 77.706 in the case of a special district tax of the sales price
18 from the sale, license, lease, or rental of tangible personal property and the items,
19 property, and goods specified under s. 77.52 (1) (b), (c), and (d), except property taxed
20 under sub. (4), sold, licensed, leased, or rented at retail in the county, municipality,
21 or special district, or from selling, licensing, performing, or furnishing services
22 described under s. 77.52 (2) in the county, municipality, or special district.

23 **SECTION 13.** 77.71 (2) of the statutes is amended to read:

24 77.71 (2) An excise tax is imposed at the rates under s. 77.70 in the case of a
25 county tax, at the rate under s. 77.701 in the case of a municipality tax, or at the rate

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

14 **SECTION 14.** 77.71 (3) of the statutes is amended to read:

15 77.71 (3) An excise tax is imposed upon a contractor engaged in construction
16 activities within the county, municipality, or special district at the rates under s.
17 77.70 in the case of a county tax, at the rate under s. 77.701 in the case of a
18 municipality tax, or at the rate under s. 77.705 or 77.706 in the case of a special
19 district tax of the purchase price of tangible personal property or items, property, or
20 goods under s. 77.52 (1) (b), (c), or (d) that are used in constructing, altering,
21 repairing, or improving real property and that became a component part of real
22 property in that county, municipality, or special district, except that if the contractor
23 has paid the sales tax of a county, municipality, or special district in this state on that
24 tangible personal property, item, property, or good, or has paid a similar local sales

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1 tax in another state on a purchase of the same tangible personal property, item,
2 property, or good, that tax shall be credited against the tax under this subsection.

3 **SECTION 15.** 77.71 (4) of the statutes is amended to read:

4 77.71 (4) 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 a motor vehicle, boat,
8 recreational vehicle, as defined in s. 340.01 (48r), or aircraft, if that property must
9 be registered or titled with this state and if that property is to be customarily kept
10 in a county that has in effect an ordinance under s. 77.70, in a municipality that has
11 in effect an ordinance under s. 77.701, or in a special district that has in effect a
12 resolution under s. 77.705 or 77.706, except that if the buyer has paid a similar local
13 sales tax in another state on a purchase of the same property that tax shall be
14 credited against the tax under this subsection.

15 **SECTION 16.** 77.73 (2) of the statutes is amended to read:

16 77.73 (2) Counties, municipalities, and special districts do not have jurisdiction
17 to impose the tax under s. 77.71 (2) in regard to items, property, and goods under s.
18 77.52 (1) (b), (c), and (d), and tangible personal property, except snowmobiles,
19 trailers, semitrailers, all-terrain vehicles, and utility terrain vehicles, purchased in
20 a sale that is consummated in another county, municipality, or special district in this
21 state that does not have in effect an ordinance or resolution imposing the taxes under
22 this subchapter and later brought by the buyer into the county, municipality, or
23 special district that has imposed a tax under s. 77.71 (2).

24 **SECTION 17.** 77.73 (3) of the statutes is amended to read:

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1 77.73 (3) Counties, municipalities, and special districts have jurisdiction to
2 impose the taxes under this subchapter on retailers who file, or who are required to
3 file, an application under s. 77.52 (7) or who register, or who are required to register,
4 under s. 77.53 (9) or (9m), regardless of whether such retailers are engaged in
5 business in the county, municipality, or special district, as provided in s. 77.51 (13g).
6 A retailer who files, or is required to file, an application under s. 77.52 (7) or who
7 registers, or is required to register, under s. 77.53 (9) or (9m) shall collect, report, and
8 remit to the department the taxes imposed under this subchapter for all counties,
9 municipalities, or special districts that have an ordinance or resolution imposing the
10 taxes under this subchapter.

11 **SECTION 18.** 77.75 of the statutes is amended to read:

12 **77.75 Reports.** Every person subject to county, municipality, or special district
13 sales and use taxes shall, for each reporting period, record that person's sales made
14 in the county, municipality, or special district that has imposed those taxes
15 separately from sales made elsewhere in this state and file a report as prescribed by
16 the department of revenue.

17 **SECTION 19.** 77.76 (1) of the statutes is amended to read:

18 77.76 (1) The department of revenue shall have full power to levy, enforce, and
19 collect county, municipality, and special district sales and use taxes and may take any
20 action, conduct any proceeding, impose interest and penalties, and in all respects
21 proceed as it is authorized to proceed for the taxes imposed by subch. III. The
22 department of transportation and the department of natural resources may
23 administer the county, municipality, and special district sales and use taxes in regard
24 to items under s. 77.61 (1).

25 **SECTION 20.** 77.76 (2) of the statutes is amended to read:

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1 77.76 (2) Judicial and administrative review of departmental determinations
2 shall be as provided in subch. III for state sales and use taxes, and no county,
3 municipality, or special district may intervene in any matter related to the levy,
4 enforcement, and collection of the taxes under this subchapter.

5 **SECTION 21.** 77.76 (3r) of the statutes is created to read:

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

22 **SECTION 22.** 77.76 (4) of the statutes is amended to read:

23 77.76 (4) There shall be retained by the state ~~1.5%~~ 1.5 percent of the taxes
24 collected for taxes imposed by special districts under ss. 77.705 and 77.706 and ~~1.75%~~
25 1.75 percent of the taxes collected for taxes imposed by counties under s. 77.70 and

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1 for taxes imposed by municipalities under s. 77.701 to cover costs incurred by the
2 state in administering, enforcing, and collecting the tax. All interest and penalties
3 collected shall be deposited and retained by this state in the general fund.

4 **SECTION 23.** 77.77 of the statutes is amended to read:

5 **77.77 Transitional provisions. (1)** (a) The sales price from services subject
6 to the tax under s. 77.52 (2) or the lease, rental, or license of tangible personal
7 property and property, items, and goods specified under s. 77.52 (1) (b), (c), and (d),
8 is subject to the taxes under this subchapter, and the incremental amount of tax
9 caused by a rate increase applicable to those services, leases, rentals, or licenses is
10 due, beginning with the first billing period starting on or after the effective date of
11 the county ordinance, municipal ordinance, special district resolution, or rate
12 increase, regardless of whether the service is furnished or the property, item, or good
13 is leased, rented, or licensed to the customer before or after that date.

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

23 **(3)** The sale of building materials to contractors engaged in the business of
24 constructing, altering, repairing or improving real estate for others is not subject to
25 the taxes under this subchapter, and the incremental amount of tax caused by the

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1 rate increase applicable to those materials is not due, if the materials are affixed and
2 made a structural part of real estate, and the amount payable to the contractor is
3 fixed without regard to the costs incurred in performing a written contract that was
4 irrevocably entered into prior to the effective date of the county ordinance,
5 municipality ordinance, special district resolution, or rate increase or that resulted
6 from the acceptance of a formal written bid accompanied by a bond or other
7 performance guaranty that was irrevocably submitted before that date.

8 **SECTION 24.** 77.78 of the statutes is amended to read:

9 **77.78 Registration.** No motor vehicle, boat, snowmobile, recreational vehicle,
10 as defined in s. 340.01 (48r), trailer, semitrailer, all-terrain vehicle, utility terrain
11 vehicle, or aircraft that is required to be registered by this state may be registered
12 or titled by this state unless the registrant files a sales and use tax report and pays
13 the county tax, the municipality tax, and special district tax at the time of registering
14 or titling to the state agency that registers or titles the property. That state agency
15 shall transmit those tax revenues to the department of revenue.

16 **SECTION 25. Effective dates.** This act takes effect on July 1, 2015, or the day
17 after publication of the 2015-17 biennial budget act, whichever is later, except as
18 follows:

19 (1) STATE SALES TAX. The treatment of sections 77.52 (1) and (2) (intro.), 77.53
20 (1), and 77.61 (21) of the statutes takes effect on January 1, 2016.

21 (END)