

Patch II

99-3293df



gunderson



jkreye



1999 DRAFTING REQUEST

Bill

Received: 07/16/1999

Received By: jkreye

Wanted: As time permits

Identical to LRB:

For: Scott Gunderson (608) 266-3363

By/Representing: Mike

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Alt. Drafters:

Subject: Tax - sales

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

reduce sales tax rate to 4.50% for 2000 and to 4% or 4.25% for 2001 depending on the budget surplus

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	jkreye 07/20/1999	gilfokm 08/04/1999	martykr 08/05/1999	_____	lrb_docadmin 08/05/1999	lrb_docadminS&L 08/06/1999	

FE Sent For:

→ 09-02-99

<END>

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1?	jkreye	1-8-4-99 kmg	km/s	km/s			

FE Sent For:

<END>

7.16.99

Mike - Henderson's office
6-3363

97-
LRB - 4970 97 AB 909

lowers sales and use tax by $\frac{1}{2}\%$ - following by
(by 2000)

reduce in by-01 by $\frac{1}{25}$ to $\frac{1}{2}\%$

depending on the projected
budget surplus

\$153m for $\frac{1}{25}\%$ (first impact)

\$300m for $\frac{1}{2}\%$ (first impact)

in that year's

JK
52

809.25 (3) FRIVOLOUS APPEALS. (a) If an appeal or cross-appeal is found to be frivolous by the court, the court shall award to the successful party costs and fees under this section.

(b) The costs and fees awarded under par. (a) may be assessed fully against the appellant or cross-appellant or the attorney representing the appellant or cross-appellant or may be assessed so that the appellant or cross-appellant and the attorney each pay a portion of the costs and fees.

(c) In order to find an appeal or cross-appeal to be frivolous under par. (a), the court must find one or more of the following:

1. The appeal or cross-appeal was filed, used or continued in bad faith, solely for purposes of harassing or maliciously injuring another.

2. The party or the party's attorney knew, or should have known, that the appeal or cross-appeal was without any reasonable basis in law or equity and could not be supported by a good faith argument for an extension, modification or reversal of existing law.

1981 Senate Bill 783

Date published: April 30, 1982

CHAPTER 317, Laws of 1981
(Vetoed in Part)

AN ACT to repeal 23.77 (1) (b), 33.13 (4), 52.01 (8), 59.43, ~~77.54 (19), 77.66 (4) (a), 101.57 (8) (c), 128.21 (6), 139.31 (2), 345.43 (1) (b) and (4), 757.57 (7) and (8), 757.71 (2), subchapter VI of chapter 779, 799.08, 799.21 (3) (c), 799.25 (2) and (4), 809.25 (2) (a) 4, 814.04 (3) and 814.21; to renumber 33.13 (2) and (3), 33.16 (5), 50.04 (2), 59.07 (60) and (66), 753.06 (6) (i), (7) (g), (9) (a) and (b) and (10) (a) and (h); to renumber and amend 23.77 (1) (a), 33.16 (1) and (6), 345.43 (1) (a), 757.71 (1) and 809.25 (2) (a) 5; to amend 16.40 (14), (15) and (16), 20.370 (1) (a), 20.366 (2) (a), 20.855 (4) (dm) and (u), 20.865 (1) (c), (ci), (cm), (d), (i), (ic), (im), (j), (s), (si), (sm) and (t), 20.866 (2) (s), (t), (to), (w), (y) and (zj), 20.867 (2) (f), 20.878 (1) (a), 20.903 (2) (c), 20.910, 20.916 (7), 23.54 (3) (i) and (j), 23.66 (2) and (4), 23.67 (2) and (3), 23.75 (3) (b) and (c), 33.02 (1), 33.13 (1), 33.14 (title), 33.16 (4) (intro.), (e) and (f), 39.374 (4), ~~39.38 (2)~~ 46.05 (1m), 48.998 (1), 49.19 (11) (a) 1. a. (intro.) and b. (intro.), 49.45 (3) (i) and (14) (c), 49.46 (2) (a) 2, 50.04 (2) (title), 59.15 (1) (a), 59.20 (11), 59.395 (5), 60.56, 61.28, 62.09 (13) (a), 66.114 (2) (a), 66.34, 71.01 (1) (a) and (4) (g) 5, 71.02 (1) (a) 6 and (2) (b) 7 and (p), 71.03 (2) (e), 71.04 (15) (b), (e) and (f), 71.05 (1) (a) 1, 71.07 (1m), 71.09 (11) (a) 6. a and b, 71.10 (18) (a) (intro.), 71.13 (3) (b), 71.19 (1) (intro.), (3) and (4) (intro.) and (a), 71.55 (1), 71.60 (2), 72.01 (17), 72.12 (4) (c) 1, 72.22 (4) (a), 73.01 (4) (a), 74.03 (2) (c), (4) and (6), 74.031 (3), (5) and (6), 77.52 (1) and (2) (intro.) and (a) 3 and 4, 77.53 (1), 77.63, 77.64 (1), 77.655, 77.66 (1), (2), (4) (b), (5) and (10), 79.03 (3) (b) 4. (intro.), 79.035 (1) (a) and (b), 79.10 (1), (2) (a) and (am) 1, (3) (intro.) and (6), 80.38, 94.29, 101.57 (1n), (3), (5) (c) and (8) (a), 115.88 (1) (b) and (2), 118.255 (4), 121.004 (3), 121.07 (7) (a), 128.21 (1), 139.03 (2i) (intro.), 139.31 (1), ~~139.33 (1) (a) and (4)~~ 345.26 (1) (b) 1 and (2) (b), 345.27 (1), 345.37 (2), 425.205 (1) (c), 441.11 (1), ~~441.11 (1)~~ 753.34 (7), 757.25, 757.57 (2), (3) and (5), 767.08 (1), 778.25 (2) (g) and (h), (3), (5), (6) and (8) (b) and (c), 779.19, 779.40 (2), 779.80 (3) (a), 799.02 (1), 799.12 (3), 799.21 (3) (a) and (b), 799.24 (1), 799.25~~

Vetoed
in Part

the last day of February by the town, city or village treasurer. All such taxes and special assessments remaining unpaid on March 1 shall be delinquent, ~~except that the taxes due from individuals who receive loans under subch. IV of ch. 77 are not delinquent if they are paid before the next January 1.~~ Delinquent taxes and shall be collected by the town, city or village treasurer with interest at the rate of one percent per month or fraction thereof from January 1 next preceding.

SECTION 57r. 74.031 (6) of the statutes, as affected by chapter 20, laws of 1981, is amended to read:

74.031 (6) OTHER DELINQUENT INSTALMENTS; INTEREST. If any taxes, the payment of which shall have been thus postponed, shall not be paid in full on or before the final date fixed in such ordinance, the unpaid portion of such postponed taxes shall be delinquent, ~~except that the taxes due from individuals who receive loans under subch. IV of ch. 77 are not delinquent if they are paid before the next January 1.~~ Delinquent and such taxes shall be collected together with interest thereon at one percent per month or fraction thereof from January 1 preceding in lieu of accumulated penalties imposed pursuant to sub. (3). Any such taxes remaining delinquent on August 1 shall be returned to the county treasurer for collection as provided in sub. (9).

SECTION 59. 77.52 (1) of the statutes is amended to read:

77.52 (1) For the privilege of selling, leasing or renting tangible personal property, including accessories, components, attachments, parts, supplies and materials, at retail a tax is imposed upon all retailers at the rate of 4% of the gross receipts from the sale, lease or rental of tangible personal property, including accessories, components, attachments, parts, supplies and materials, sold, leased or rented at retail in this state, except that from May 1, 1982, to June 30, 1983, the rate is 5% and except commencing July 1, 1983, the rate is as provided in s. 77.533.

SECTION 60. 77.52 (2) (intro.) of the statutes is amended to read:

77.52 (2) (intro.) For the privilege of selling, performing or furnishing the services described under par. (a) at retail in this state to consumers or users, a tax is imposed upon all persons selling, performing or furnishing the services at the rate of 4% of the gross receipts from the sale, performance, or furnishing of the services, except that from May 1, 1982, to June 30, 1983, the rate is 5% and except commencing July 1, 1983, the rate is as provided in s. 77.533.

SECTION 61. 77.52 (2) (a) 3 of the statutes is amended to read:

77.52 (2) (a) 3. The sale of intrastate telegraph services;

SECTION 62. 77.52 (2) (a) 4 of the statutes is amended to read:

77.52 (2) (a) 4. The sale of telephone services of whatever nature including, in addition to services connected with voice communication, any services connected with the transmission of sound, vision, information, data or material other than by voice communication, and connection, move and change charges, except services paid for by insertion of coins in a coin-operated telephone and except interstate service, unless that interstate service originates from and is charged to a telephone located in this state.

SECTION 63t. 77.52 (2) (a) 20 of the statutes is created to read:

77.52 (2) (a) 20. The sale of landscaping and lawn maintenance services including landscape planning and counseling, lawn and garden services such as planting, mowing, spraying and fertilizing and shrub and tree services.

SECTION 64. 77.53 (1) of the statutes is amended to read:

77.53 (1) An excise tax is hereby levied and imposed on the storage, use or other consumption in this state of tangible personal property or taxable services described in s. 77.52 purchased from any retailer at the rate of 4% of the sales price of the property or

taxable services, except that from May 1, 1982, to June 30, 1983, the rate is 5% and except commencing July 1, 1983, the rate is as provided in s. 77.533.

SECTION 64m. 77.533 of the statutes is created to read:

77.533 Applicability of sales and use tax increase. (1) If April 1982 special session senate joint resolution is adopted by the 1981 legislature in the exact form of the joint resolution as introduced and if that constitutional amendment is adopted by the 1983 legislature on 2nd consideration and if the 1983 legislature submits that constitutional amendment to the people for ratification at the spring election in April 1983, and if that constitutional amendment is ratified by the people, ss. 20.835 (2), (6) and 79.10 (7) and (8) apply and the rate of tax under ss. 77.52 (1) and (2) (intro.) and 77.53 (1) commencing July 1, 1983, shall be 5%.

Vetoed in Part

(2) If all of the conditions under sub. (1) do not occur, ss. 20.835 (2), (6) and 79.10 (7) and (8) do not apply for calendar years 1984 and thereafter and the rate of tax under ss. 77.52 (1) and (2) (intro.) and 77.53 (1) commencing July 1, 1983, shall be 4%.

Vetoed in Part

SECTION 65m. 77.535 of the statutes is created to read:

77.535 Increases; building materials. Increases in the rates of the taxes under this subchapter do not apply to building materials purchased by persons engaged in constructing, altering, repairing or improving real estate for others when the materials so purchased by those persons are affixed and made a structural part of real estate in the fulfillment of a written contract for a fixed price not subject to change or modification, or to a formal written bid that cannot be altered or withdrawn, if the contract is entered into or the bid is made before the effective date of the sales and use tax rate increase.

SECTION 66. 77.54 (18) of the statutes is created to read:

77.54 (18) When the sale, lease or rental of a service or property that was previously exempt or not taxable under this subchapter becomes taxable, and the service or property is furnished under a written contract by which the seller is unconditionally obligated to provide the service or property for the amount fixed under the contract, the seller is exempt from sales or use tax on the gross receipts for services or property provided until the contract is terminated, extended, renewed or modified. However, from the time the service or property becomes taxable until the contract is terminated, extended, renewed or modified the user is subject to use tax, measured by the sales price, on the service or property purchased under the contract.

SECTION 67. 77.54 (19) of the statutes is repealed.

SECTION 67d. 77.63 of the statutes, as created by chapter 20, laws of 1981, is amended to read:

77.63 Purpose. The legislature finds that older individuals who have resided in their homes for a substantial period of time have found it difficult to remain in their own homes because their incomes are insufficient to cover property taxes, which have risen as the value of their homes has increased. The legislature finds that it is in the public interest and that it serves a statewide public purpose to create a program whereby the home equity accrued to these individuals is made available as security for loans that are applied to the payment of property taxes lien-creating loans are made to low- and moderate-income elderly homeowners for the purpose, and only for the purpose, of enabling individuals to pay local, general property taxes on their homes so that more older of these individuals can remain in their homes.

SECTION 67f. 77.64 (1) of the statutes, as created by chapter 20, laws of 1981, is amended to read:

77.64 (1) "Coowner" means a natural person who is at least 60 years of age at the time of the participant's initial application and who has an ownership interest in the qualifying dwelling unit of a participant in the program. The Except as provided under s. 77.66 (5), the names of all coowners shall appear on the initial application of the participant. For

axes and special at the taxes due quent if they are y the town, city fraction thereof laws of 1981, is the payment of e the final date be delinquent, IV of ch. 77 are such taxes shall fraction thereof ant to sub. (3). e county trea- onal property, als, at retail a the sale, lease, attachments, cept that from y 1, 1983, the ng the services imposed upon b of the gross t from May 1, the rate is as ding, in addi- cted with the ice communi- y insertion of at interstate ces including ing, mowing, use or other escribed in s. a property or



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3293A

JK: *[Handwritten initials]*

7-20-99

[Handwritten "Spoon" in a circle]

[Handwritten "D-N" in a circle]

[Handwritten "gen" in a circle]

1

AN ACT ...; relating to: reducing the sales tax rate and the use tax rate.

Analysis by the Legislative Reference Bureau

Under current law, the state imposes a sales tax on all retailers at the rate of 5% of the gross receipts from the sale, lease or rental of tangible personal property and the sale of services. Retailers generally pass on the sales tax to the consumer. Under current law, the state imposes a use tax on all consumers, at the rate of 5% of the sales price, for the consumption, use or storage of goods in this state that the consumer purchases from an out-of-state retailer and the consumption or use of services in this state that the consumer purchases from an out-of-state retailer.

Under this bill, the rate of the sales tax is 4.5% of the gross receipts from the sale, lease or rental of tangible personal property and the sale of services. Under the bill, the rate of the use tax is 4.5% of the sales price for the consumption, use or storage of goods in this state that the consumer purchases from an out-of-state retailer and 4.5% for the consumption or use of services in this state that the consumer purchases from an out-of-state retailer.

Under the bill, by July 31, 2001, the department of revenue must determine if there is a surplus of unappropriated general purpose revenues, for purposes of the state budget. If there is a surplus of at least \$153,000,000 but less than \$300,000,000, the sales tax and the use tax rates are 4.25% beginning on October 1, 2001. If there is a surplus of at least \$300,000,000, the sales tax and the use tax rates are 4% beginning on October 1, 2001. If the surplus is less than \$153,000,000, the sales tax and the use tax rates remain at ~~5%~~.

4.5%

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.** 77.51 (18g) of the statutes is created to read:

2 77.51 (18g) "Surplus" means the amount obtained by subtracting the
3 department's estimate of the amount of unappropriated general purpose revenues
4 on July 1, 1999, from the department's estimate of the amount of unappropriated
5 general purpose revenues on June 30, 2000, except that neither estimate may
6 include the required general fund balance as described in s. 20.003 (4).

7 **SECTION 2.** 77.52 (1) of the statutes is amended to read:

8 77.52 (1) For the privilege of selling, leasing or renting tangible personal
9 property, including accessories, components, attachments, parts, supplies and
10 materials, at retail a tax is imposed upon all retailers at the rate of 5% 4.5%, except
11 as provided under sub. (2p), of the gross receipts from the sale, lease or rental of
12 tangible personal property, including accessories, components, attachments, parts,
13 supplies and materials, sold, leased or rented at retail in this state.

14 **SECTION 3.** 77.52 (2) (intro.) of the statutes is amended to read:

15 77.52 (2) (intro.) For the privilege of selling, performing or furnishing the
16 services described under par. (a) at retail in this state to consumers or users, a tax
17 is imposed upon all persons selling, performing or furnishing the services at the rate
18 of 5% 4.5%, except as provided under sub. (2p), of the gross receipts from the sale,
19 performance or furnishing of the services.

20 **SECTION 4.** 77.52 (2p) of the statutes is created to read:

① 77.52 (2p) By July 31, 2001, the department shall determine the surplus. ~~HA~~

② ~~the surplus is less than \$153,000,000, the rates under subs. (1) and (2) and under s.~~

③ ~~77.53 (1) shall remain at 4.5%~~ If the surplus is at least \$153,000,000 but less than

4 \$300,000,000, the rates under subs. (1) and (2) and under s. 77.53 (1) shall be 4.25%

5 beginning on October 1, 2001. If the surplus is at least \$300,000,000, the rates under

6 subs. (1) and (2) and under s. 77.53 (1) shall be 4% beginning on October 1, 2001. The

⑦ department shall publish any change to the rates ~~under~~ this subsection by August

8 31, 2001. *occurring as a result of*

9 SECTION 5. 77.53 (1) of the statutes is amended to read:

10 77.53 (1) Except as provided in sub. (1m) and s. 77.52 (2p), an excise tax is

11 levied and imposed on the use or consumption in this state of taxable services under

12 s. 77.52 purchased from any retailer, at the rate of 5% 4.5% of the sales price of those

13 services; on the storage, use or other consumption in this state of tangible personal

14 property purchased from any retailer, at the rate of 5% 4.5% of the sales price of that

15 property; and on the storage, use or other consumption of tangible personal property

16 manufactured, processed or otherwise altered, in or outside this state, by the person

17 who stores, uses or consumes it, from material purchased from any retailer, at the

18 rate of 5% 4.5% of the sales price of that material.

19 SECTION 6. Effective date.

20 (1) This act takes effect on July 1, 2000.

21

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3293/7dn ¹

JK: *King*

Please review this ~~draft~~ ^{bill} carefully to ensure that it complies with your intent. The bill requires the department of revenue (DOR) to determine the surplus by July 31, 2001. Any change to the sales tax and use tax rates, generally, takes effect on the first day of the second month beginning after publication because that gives retailers sufficient notice to reprogram computers and registers to calculate the new rate. The ~~draft~~, therefore, requires that DOR publish any change to the sales tax and use tax rates, as a result of a surplus, by August 31, 2001, and that such a change takes effect beginning on October 1, 2001. Is that O.K.?

bill

tax

e

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: Joseph.Krcyc@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3293/1dn
JK:kmg:km

August 5, 1999

Please review this bill carefully to ensure that it complies with your intent. The bill requires the department of revenue (DOR) to determine the surplus by July 31, 2001. Any change to the sales tax and use tax rates, generally, takes effect on the first day of the second month beginning after publication because that gives retailers sufficient notice to reprogram computers and registers to calculate the new tax rate. The bill, therefore, requires that DOR publish any change to the sales tax and use tax rates, as a result of a surplus, by August 31, 2001, and that such a change take effect beginning on October 1, 2001. Is that O.K.?

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: Joscph.Krcye@legis.state.wi.us

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 08/05/1999

To: Representative Gunderson

Relating to LRB drafting number: LRB-3293

Topic

reduce sales tax rate to 4.50% for 2000 and to 4% or 4.25% for 2001 depending on the budget surplus

Subject(s)

Tax - sales

1. **JACKET** the draft for introduction _____

in the **Senate** _____ or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

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



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 266-5648

STEPHEN R. MILLER
CHIEF

November 24 , 1999

LRB
/

MEMORANDUM

To: Representative Gunderson

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

Subject: Technical Memorandum to **1999 AB 441** (LRB 99-3293/1)

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

November 23, 1999

TO: Joseph T. Kreye
Legislative Reference Bureau

FROM: Yeang-Eng Braun *YEB*
Department of Revenue

SUBJECT: Technical Memorandum on AB 441, Reducing the Sales and Use Tax Rate

The proposed legislation makes no provision for the funding of the costs involved in administering the activities required. If the author wishes to provide funding, appropriation language could be developed and costs allocated in the following manner:

		<u>Chapter 20</u>	<u>Amount</u>	<u>FTE</u>
1999-00	one-time	s. 20.566 (1) (a)	\$ 150,400	
2000-01	one-time	s. 20.566 (1) (a)	\$ 78,300	

If you have any questions regarding this technical memorandum, please call John Stott at 266-9706; for administrative costs contact Pat Lashore at 266-3347.

YEB:JTS:dls
t:\fsn99-00\js\lab441.tec