

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

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October 19, 1999

This drafter's note is meant to alert you to the possibility that the property tax exemption under this amendment could be challenged as a violation of the uniformity clause of article VIII, section 1, of the Wisconsin Constitution. The uniformity clause requires that the taxation of property be uniform. A 1974 amendment to the uniformity clause exempts agricultural land from the uniformity requirement.

A classification of property for property tax purposes must be reasonable and all property included in the classification must be either uniformly taxed or wholly exempt. See *Gottlieb v. City of Milwaukee*, 33 Wis.2d 408. A court could find that the exemption created in the amendment violates the uniformity clause because the distinction between a hub terminal facility and some other terminal facility, for property tax purposes, is an unreasonable classification of property.

The property tax exemption under this amendment could also be challenged as a violation of the commerce clause of article I, section 8, of the U.S. Constitution which prohibits the states from enacting laws which discriminate against interstate commerce. See *Boston Stock Exchange v. State Tax Commission*, 429 U.S. 318, 97 S. Ct. 599 (1977). A court could find that the exemption created in the amendment discriminates against interstate commerce, which violates the commerce clause, because it gives a tax preference to in-state businesses.

While I am not at all certain how a court would rule on a constitutional challenge to the property tax exemption created in the amendment, should it become law, you should be aware of possible challenges to the exemption.

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The purposes of the appropriation under proposed s. 20.395 (2) (dr) are identical to the appropriation under s. 20.395 (2) (dq), as affected by this draft. OK?

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