

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0523/2dn
MES/JTK/RC/JK:kmg:kjf

March 30, 2000

Senator Decker:

1. Article XI, section 3 (2) of the Wisconsin Constitution imposes a debt limitation on “municipal corporation[s].” Article XI, section 3 (3) further requires that any such indebtedness be repaid within 20 years by levying a direct, annual [property] tax. In recognition of this requirement, s. 24.66 (5) (a), stats. requires an applicant for a state trust fund loan to certify that it has levied a direct annual tax sufficient to repay the loan, which becomes “irrepealable until the loan and the interest on the loan are fully paid”. Proposed s. 229.825 (2) (ae), which directs a professional football stadium district to annually pay a county that obtains a state trust fund loan for purposes related to football stadium facilities an amount that exactly equals the county’s principal and interest costs on its trust fund loan may be viewed as contravening this requirement because the district’s revenue sources under proposed s. 229.825 (1) do not include a direct annual levy.

2. Additionally, there is a line of Wisconsin supreme court cases that holds that tax revenue must be spent at the level of government at which the tax is raised. See *State ex rel. Warren v. Nusbaum*, 59 Wis. 2d 391 at 421 (1973) and 77 Marquette Law Review 466–67 (1994). Proposed s. 229.825 (2) (ae), discussed above, which provides for certain revenues raised by a professional football stadium district to be transferred to the county in which the district is located, may be found to contravene this principle. However, since in this particular case the jurisdiction of the district is the same as the jurisdiction of the county, the courts might find that the principle is not offended.

If you need any further information regarding these issues or would like to make any changes in the draft, please let us know.

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