

2001 DRAFTING REQUEST

Bill

Received: **04/20/2001**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Senate Republican Caucus 6-8820**

By/Representing: **Mike Prentice**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax - property**
Tax - utilities

Extra Copies:

Submit via email: **NO**

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

Property tax and ad valorem tax exemption for air carrier company

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>
/?	jkreye 04/20/2001	jdye 04/23/2001		_____			S&L Tax
/1			martykr 04/23/2001	_____	lrb_docadmin 04/23/2001	lrb_docadmin 04/24/2001	

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/?	jkreye	1 4/21 jld	km 4/23	2 4/23 km			

FE Sent For:

<END>

6-8820

Mike Prentice

S. Rep. Council

Sen Langer

bill draft — identical to SB100 as passed

by assembly (the sub)

send to

S. Rep. Council

- 3134/1

LPS-check auto
refs

stays

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2001 ASSEMBLY BILL 100**

in 4-20-01
5000N

February 15, 2001 - Offered by Representatives STONE, PLALE, LADWIG, RILEY,
SUDER, BALOW, JENSEN, STASKUNAS, FOTI, ZIEGELBAUER, KREIBICH and SYKORA.

Regen

1 **AN ACT to repeal** 20.395 (2) (dq); **to amend** 20.395 (4) (aq), 20.395 (9) (rd), 20.395
 2 (9) (td), 76.02 (1) and 78.55 (1); and **to create** 20.395 (2) (dc), 20.395 (2) (dr),
 3 20.395 (2) (dt), 25.40 (1) (cd), 70.11 (41) and 77.65 of the statutes; **relating to:**
 4 a property tax exemption for an air carrier that operates from a hub facility,
 5 creating an airport financing committee, granting rule-making authority and
 6 making appropriations.

✓
INSERT
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The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

7 **SECTION 1.** 20.395 (2) (dc) of the statutes is created to read:
 8 20.395 (2) (dc) *Aeronautical activities matching supplement, state funds.* From
 9 the general fund, a sum sufficient in each fiscal year equal to one-half of the
 10 difference between \$11,800,000 and the amounts received under par. (dr) during the
 11 preceding fiscal year, or equal to \$650,000, whichever is less, for the purposes of the
 12 state's share of airport projects under ss. 114.34 and 114.35; for developing air

1 marking and other air navigational facilities; for administration of the powers and
2 duties of the secretary of transportation under s. 114.31; for costs associated with
3 aeronautical activities under s. 114.31, except for the program under s. 114.31 (3) (b);
4 and for the administration of other aeronautical activities, except aircraft
5 registration under s. 114.20, authorized by law. No moneys may be encumbered from
6 this appropriation for any fiscal year in excess of the amounts encumbered from the
7 appropriation under par. (dt) for that fiscal year. No moneys may be encumbered
8 from this appropriation for any fiscal year if the amounts received under par. (dr)
9 during the previous fiscal year are equal to or greater than \$11,800,000.

10 **SECTION 2.** 20.395 (2) (dq) of the statutes is repealed.

11 **SECTION 3.** 20.395 (2) (dr) of the statutes is created to read:

12 20.395 (2) (dr) *Aeronautical activities, state funds.* All moneys received from
13 taxes on air carrier companies under ch. 76, from aircraft registration fees under s.
14 114.20, from general aviation fuel taxes under subch. III of ch. 78, from sales and use
15 taxes on noncommercial aircraft as determined under s. 77.65 and from any other
16 tax or fee received from an aeronautical activity and deposited in the transportation
17 fund, except moneys appropriated under pars. (dv) and (dx) and sub. (4) (es), and all
18 moneys transferred under 2001 Wisconsin Act ... (this act), section 14 (1), for the
19 purposes of the state's share of airport projects under ss. 114.34 and 114.35; for
20 developing air marking and other air navigational facilities; for administration of the
21 powers and duties of the secretary of transportation under s. 114.31; for costs
22 associated with aeronautical activities under s. 114.31, except for the program under
23 s. 114.31 (3) (b); and for the administration of other aeronautical activities, except
24 aircraft registration under s. 114.20, authorized by law.

25 **SECTION 4.** 20.395 (2) (dt) of the statutes is created to read:

1 20.395 (2) (dt) *Aeronautical activities supplement, state funds.* A sum sufficient
2 in each fiscal year equal to one-half of the difference between \$11,800,000 and the
3 amounts received under par. (dr) during the preceding fiscal year, or equal to
4 \$650,000, whichever is less, for the purposes of the state's share of airport projects
5 under ss. 114.34 and 114.35; for developing air marking and other air navigational
6 facilities; for administration of the powers and duties of the secretary of
7 transportation under s. 114.31; for costs associated with aeronautical activities
8 under s. 114.31, except for the program under s. 114.31 (3) (b); and for the
9 administration of other aeronautical activities, except aircraft registration under s.
10 114.20, authorized by law. No moneys may be encumbered from this appropriation
11 for any fiscal year in excess of the amounts encumbered from the appropriation
12 under par. (dc) for that fiscal year. No moneys may be encumbered from this
13 appropriation for any fiscal year if the amounts received under par. (dr) during the
14 previous fiscal year are equal to or greater than \$11,800,000.

15 **SECTION 5.** 20.395 (4) (aq) of the statutes is amended to read:

16 20.395 (4) (aq) *Departmental management and operations, state funds.* The
17 amounts in the schedule for departmental planning and administrative activities
18 and the administration and management of departmental programs except those
19 programs under subs. (2) (bq), (cq) ~~and (dq), (dc), (dr), and (dt)~~ and (3) (iq), including
20 those activities in s. 85.07 and including not less than \$220,000 in each fiscal year
21 to reimburse the department of justice for legal services provided the department
22 under s. 165.25 (4) (a) and including activities related to the demand management
23 and ride-sharing program under s. 85.24 that are not funded from the appropriation
24 under sub. (1) (bs), (bv) or (bx), the minority civil engineer scholarship and loan
25 repayment incentive grant program under s. 85.107, the Type 1 motorcycle, moped

1 and motor bicycle safety program under s. 85.30 and to match federal funds for mass
2 transit planning.

3 **SECTION 6.** 20.395 (9) (rd) ✓ of the statutes is amended to read:

4 20.395 (9) (rd) *Airport construction major cost carry-over.* When an airport
5 development project is approved by the governor under s. 114.33 (3), the moneys
6 allocated for the project from sub. (2) ~~(dq)~~ (dc), (dr) and (dt) shall be considered
7 encumbered and carried-over to subsequent years to meet the state's share of the
8 project.

9 **SECTION 7.** 20.395 (9) (td) ✓ of the statutes is amended to read:

10 20.395 (9) (td) *Real estate major cost carry-over.* Subject to s. 86.255, when a
11 highway, airport or railroad land acquisition project is approved by the secretary
12 under s. 84.09, 85.09 or 114.33, the moneys allocated for the project from subs. (2)
13 (bq), ~~(dq)~~ (dc), (dr), (dt), and (eq) and (3) (bq), (cq) and (eq) may be considered
14 encumbered.

15 **SECTION 8.** 25.40 (1) (cd) ✓ of the statutes is created to read:

16 25.40 (1) (cd) Taxes on the sale and use of noncommercial aircraft under ch. 77
17 as determined under s. 77.65.

18 **SECTION 9.** 70.11 (41) ✓ of the statutes is created to read:

19 70.11 (41) HUB FACILITY. (a) In this subsection:

20 1. "Air carrier company" means any person engaged in the business of
21 transportation in aircraft of persons or property for hire on regularly scheduled
22 flights. In this subdivision, "aircraft" has the meaning given in s. 76.02 (1).

23 2. "Hub facility" means any of the following:

24 a. A facility at an airport from which an air carrier company operated at least
25 45 common carrier departing flights each weekday in the prior year and from which

1 it transported passengers to at least 15 nonstop destinations, as defined by rule by
2 the department of revenue, or transported cargo to nonstop destinations, as defined
3 by rule by the department of revenue.

4 b. An airport or any combination of airports in this state from which an air
5 carrier company cumulatively operated at least 20 common carrier departing flights
6 each weekday in the prior year, if the air carrier company's headquarters, as defined
7 by rule by the department of revenue, is in this state.

8 (b) Property owned by an air carrier company that operates a hub facility in this
9 state, if the property is used in the operation of the air carrier company.

10 **SECTION 10.** 76.02 (1) of the statutes is amended to read:

11 76.02 (1) "Air carrier company" means any person engaged in the business of
12 transportation in aircraft of persons or property for hire on regularly scheduled
13 flights, except an air carrier company whose property is exempt from taxation under
14 s. 70.11 (41) (b). In this subsection, "aircraft" means a completely equipped operating
15 unit, including spare flight equipment, used as a means of conveyance in air
16 commerce.

17 **SECTION 11.** 77.65 of the statutes is created to read:

18 **77.65 Determination of sales and use tax receipts for aeronautical**
19 **activities.** By July 1, 2003, and every July 1 thereafter, the department shall
20 determine, and deposit in the transportation fund, the total amount of the sales tax
21 and use tax, as imposed under ss. 77.52 and 77.53, paid in the immediately preceding
22 calendar year on the sale and use of noncommercial aircraft.

23 **SECTION 12.** 78.55 (1) of the statutes is amended to read:

24 78.55 (1) "Air carrier company" has the meaning given in s. ~~76.02 (1)~~ 70.11 (41)
25 (a) 1.

SECTION 13. Nonstatutory provisions.

(1) AIRPORT FINANCING COMMITTEE. There is created an airport financing committee consisting of members appointed by the governor. The governor shall appoint members representing the department of transportation, the department of commerce, airport managers, airlines serving this state, the general aviation community, the people of this state, and private businesses having an interest in transportation policy and financing. The committee shall review and evaluate this state's airport system needs and the current system of funding those needs and shall recommend changes, if any, to better meet those needs. The committee shall evaluate, among other things: aircraft registration fees; aviation fuel taxes and fees; allocation of sales tax receipts from the sale of aircraft, parts, and services to the appropriation account under section 20.395 (2) (dr) of the statutes, as created by this act, and allocation of other moneys to that appropriation account. The committee's recommendations, if any, should, if enacted, generate revenue in amounts equal to or greater than the sum of moneys appropriated for aeronautical activities in fiscal year 2001. Not later than December 31, 2001, the committee shall submit a report containing the committee's evaluation, findings, and recommendations to the governor, and to the legislature in the manner provided under section 13.172 (2) of the statutes.

SECTION 14. Appropriation changes.

(1) The unencumbered balance of the appropriation to the department of transportation under section 20.395 (2) (dq) of the statutes immediately before the effective date of this subsection is transferred to the appropriation account under section 20.395 (2) (dr) of the statutes, as created by this act.

SECTION 15. Initial applicability.

2001 ASSEMBLY BILL 101

February 6, 2001 - Introduced by Representatives STONE, PLALE, JENSEN, RILEY, KREIBICH, STASKUNAS, GARD, BALOW, DUFF, LA FAVE, WALKER, ZIEGELBAUER, NASS, WILLIAMS, SUDER, BOCK, HUEBSCH, VRAKAS, LADWIG, ALBERS, KEDZIE, JESKEWITZ, GUNDERSON, SYKORA and TOWNSEND, cosponsored by Senators GROBSCHMIDT, FARROW, BAUMGART, ROESSLER, BURKE, DARLING, HUELSMAN, ROSENZWEIG and SCHULTZ. Referred to Committee on Transportation. Referred to Joint survey committee on Tax Exemptions.

1 **AN ACT to repeal** 20.395 (2) (dq); **to amend** 20.395 (4) (aq), 20.395 (9) (rd), 20.395
2 (9) (td), 76.02 (1) and 78.55 (1); and **to create** 20.395 (2) (dc), 20.395 (2) (dr),
3 20.395 (2) (dt), 25.40 (1) (cd), 70.11 (41) and 77.65 of the statutes; **relating to:**
4 a property tax exemption for an air carrier that operates from a hub facility,
5 creating an airport financing committee, granting rule-making authority and
6 making appropriations.

Analysis by the Legislative Reference Bureau

This bill creates a property tax exemption for a hub facility operated by an air carrier. The bill defines "hub facility" as: a facility at an airport from which an air carrier company operated at least 45 common carrier departing flights each weekday in the prior year and from which it transported passengers to at least 15 nonstop destinations; or an airport or any combination of airports in this state from which an air carrier company cumulatively operated at least 20 common carrier departing flights each weekday in the prior year, if the air carrier company's headquarters are in this state. The bill defines "air carrier" as any person engaged in the business of transportation in aircraft of persons or property for hire on regularly scheduled flights.

Under current law, revenues derived from aeronautics activities in this state, including moneys received from taxes on air carrier companies, from aircraft registration fees, and from general aviation fuel taxes, are deposited in the

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ASSEMBLY BILL 101

segregated transportation fund. Aeronautics activities are funded from a sum certain appropriation in the segregated transportation fund.

Beginning on July 1, 2003, this bill directs all revenues derived from aeronautics activities that are currently deposited in the transportation fund to a new appropriation. Aeronautics activities are funded from these receipts, instead of from a sum certain appropriation. However, if the amounts received for aeronautics activities under the new appropriation are less than \$11,800,000, the aeronautics activities may be funded with equal amounts from the general fund and the transportation fund not exceeding \$650,000 from each fund.

Finally, the bill creates an airport financing committee consisting of members appointed by the governor. The bill requires the committee to review and evaluate this state's airport system needs and the current system of funding those needs and to recommend changes, if any, to better meet those needs. The bill requires the committee to submit a report not later than December 31, 2001, to the legislature and to the governor containing the committee's evaluation, findings, and recommendations. The committee's recommendations, if any, should, if enacted, generate revenue in amounts equal to or greater than the sum of moneys appropriated for aeronautical activities in fiscal year 2001.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

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.** 20.395 (2) (dc) of the statutes is created to read:
- 2 20.395 (2) (dc) *Aeronautical activities matching supplement, state funds.* From
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- 5 preceding fiscal year, or equal to \$650,000, whichever is less, for the purposes of the
- 6 state's share of airport projects under ss. 114.34 and 114.35; for developing air
- 7 marking and other air navigational facilities; for administration of the powers and
- 8 duties of the secretary of transportation under s. 114.31; for costs associated with
- 9 aeronautical activities under s. 114.31, except for the program under s. 114.31 (3) (b);
- 10 and for the administration of other aeronautical activities, except aircraft



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

April 23, 2001

MEMORANDUM

To: Senate Republican Caucus

From: Joseph T. Kreye, Legislative Attorney

Re: LRB-3134/1 Property tax and ad valorem tax exemption for air carrier company

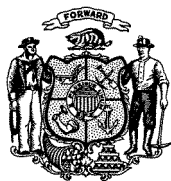
The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

_____ JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-2263 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

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

April 26, 2001

MEMORANDUM

To: Senator Decker

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

Subject: The Uniformity Clause as it relates to 2001 Senate Bill 158

This memorandum is meant to alert you to the possibility that, should the bill become law, 2001 Senate Bill 158 could be challenged as a violation of the uniformity clause, article VIII, section 1 of the Wisconsin Constitution. The uniformity clause requires that the taxation of property be uniform. The uniformity clause applies only to property taxes. A 1974 amendment to the uniformity clause exempts agricultural land from the uniformity requirement.

Article VIII, section 1 allows the legislature to make exceptions to the uniformity requirement. However, a classification of property for property tax purposes must be reasonable. See *Gottlieb v. City of Milwaukee*, 33 Wis.2d 408 (1966). Although I cannot predict how a court would rule on a constitutional challenge to the bill, a court could find that the exemption created in the bill violates the uniformity clause because the distinction between the property of an air carrier company, as described in the bill, and the property of some other air carrier company is an unreasonable classification. Please note, however, that a classification by the legislature is presumed constitutional. Therefore, any person who chooses to challenge the bill assumes the task of overcoming that presumption.

Please contact me if you have any questions.