

2003 SENATE BILL 505

February 27, 2004 – Introduced by Senators HARSDORF, ROESSLER, ZIEN, KANAVAS and BRESKE, cosponsored by Representatives PETTIS, KESTELL, KREIBICH, HINES, LADWIG, NASS, TOWNSEND, M. LEHMAN, MONTGOMERY, NISCHKE, MCCORMICK, D. MEYER and SUDER. Referred to Committee on Higher Education and Tourism.

1 **AN ACT** *to renumber* 66.0615 (1) (a); *to amend* 66.0615 (1m) (a), 66.0615 (1m)
2 (d) 1. and 66.0615 (1m) (d) 2.; and *to create* 66.0615 (1) (ab), 66.0615 (1) (aj),
3 66.0615 (1) (em), 66.0615 (1) (fm), 66.0615 (1m) (g), 66.0615 (1m) (h) and
4 66.0615 (4) of the statutes; **relating to:** changes to the room tax law and the
5 creation of destination marketing organizations and tourism committees.

Analysis by the Legislative Reference Bureau

Under current law a city, village, or town (municipality) and a local exposition district may impose a room tax. The room tax is a tax on the privilege of furnishing, at retail, rooms or lodging to transients by hotelkeepers, motel operators, and other persons who furnish accommodations that are available to the public, irrespective of whether membership is required for use of the accommodations.

Generally, the maximum room tax that a municipality may impose is eight percent. A single municipality that imposes a room tax may create a commission, which is defined as an entity to coordinate tourism promotion and development. If two or more municipalities in a zone impose a room tax, they must create a commission. Current law defines a zone as an area made up of two or more municipalities that, those municipalities agree, is a single destination as perceived by the traveling public. Current law requires a commission to contract with an organization to provide staff, development, or promotional services for the tourism industry in a municipality if a tourism entity does not exist in that municipality. A tourism entity is defined as a nonprofit organization that existed before January 1,

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1992, that provides staff, development, or promotional services for the tourism industry in a municipality.

A municipality that first imposes a room tax after May 13, 1994, must spend at least 70 percent of the amount collected on tourism promotion and development, which may be spent directly by the municipality or forwarded to the commission for its municipality or zone.

Under the bill, generally, room tax revenues must be forwarded by a municipality to a destination marketing organization (DMO) or a tourism committee, other than room tax revenues that current law authorizes a municipality to retain for purposes other than tourism promotion and development. The bill defines a DMO as a nonprofit organization whose primary purpose is to generate overnight stays in hotels or motels in an area. An area is defined as the geographic area of one municipality that imposes a room tax or the geographic areas of two or more municipalities that impose a room tax and that enter into a joint contract with a DMO to generate overnight hotel or motel stays in their municipalities.

Under the bill, if a single municipality imposes a room tax, it must contract with a DMO or, if no DMO exists in the municipality, the municipality must create a tourism committee. The DMO must be governed by a board that has less than 30 members who are appointed by the municipality according to procedures established in a municipal ordinance. The board members must consist of tourism-related retailers, owners or operators of hotels or motels, and representatives of the hospitality industry (hotel, motel, restaurant, tourist attraction, or private golf course industry), and at least 20 percent must be appointed by the principal elected official in the municipality.

If two or more municipalities enter into a contract with a DMO to jointly promote their areas, the DMO must be governed by a board whose members must be appointed under the terms of a written agreement entered into by the municipalities. The board members must consist of representatives of the hospitality industry and owners or operators of hotels or motels in the municipality, and at least 20 percent, in total, must be appointed by the principal elected officials in the municipalities.

The bill requires a DMO to do at least all of the following:

1. Engage in activities that generate overnight hotel or motel stays in its area.
2. At least annually, prepare a complete accounting of the receipts, expenses, and expenditures of the DMO's board and provide this report to all of the municipalities that provide room tax revenue to the DMO.
3. At least annually, prepare a report that correlates the expenditures of the DMO's board and the overnight stays that result from the expenditures, which shall be distributed as described in item 2.

If no DMO provides services to a single municipality that imposes a room tax, the municipality must create a tourism committee to which it forwards its room tax. The tourism committee consists of seven members who are appointed by the principal elected official in the municipality, and confirmed by the governing body. The committee members are made up of representatives of the hotel or motel industry, tourism-related retailers, and electors who reside in the municipality. The

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tourism committee must contract with a nonprofit tourism organization (NTO) to provide tourism development and promotion services to the municipality, and the tourism committee forwards the room tax revenue it receives from the municipality to the NTO.

The NTO is governed by a board whose members consist of tourism-related retailers, owners or operators of hotels or motels, and members who are appointed by the principal elected official in the municipality. An NTO's duties are similar to the duties of a DMO.

If a commission exists on or after the effective date of the bill, it must wind up its affairs by transferring its assets and liabilities, and its existing contracts and programs, to a DMO or a tourism committee. Following the winding up of its affairs, the commission shall dissolve, effective March 31, 2005. Generally, the bill first applies to room tax revenues that are collected on the effective date of the bill, but if a municipality forwards its room tax revenues to a commission the bill first applies to such revenues that are collected on April 1, 2005.

Also under the bill, in any cause of action that relates to the interpretation or applicability of the room tax statute, a court must award the prevailing party the costs incurred in connection with the action, including attorney fees.

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.** 66.0615 (1) (a) of the statutes is renumbered 66.0615 (1) (ae).

2 **SECTION 2.** 66.0615 (1) (ab) of the statutes is created to read:

3 66.0615 (1) (ab) "Area" means the geographic area of one municipality that
4 imposes a room tax under sub. (1m) (a) or the geographic areas of 2 or more
5 municipalities that impose a room tax under sub. (1m) (a) and that enter into a joint
6 contract with a destination marketing organization to generate overnight hotel or
7 motel stays in their municipalities.

8 **SECTION 3.** 66.0615 (1) (aj) of the statutes is created to read:

9 66.0615 (1) (aj) "Destination marketing organization" means one of the
10 following:

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1 1. A nonprofit organization that came into existence before January 1, 2004,
2 and whose primary purpose is to generate overnight stays in hotels or motels in an
3 area.

4 2. If an area does not have an organization described in subd. 1. that serves the
5 area and that is in existence on January 1, 2004, a nonprofit organization that came
6 into existence after December 31, 2003, and whose primary purpose is to generate
7 overnight stays in hotels or motels in an area.

8 **SECTION 4.** 66.0615 (1) (em) of the statutes is created to read:

9 66.0615 **(1)** (em) “Tourism committee” means a committee created by a
10 municipality, under sub. (1m) (h), after December 31, 2003, in an area that does not
11 have in existence on January 1, 2004, a destination marketing organization, and
12 whose primary purpose is to generate overnight stays in hotels or motels in an area.

13 **SECTION 5.** 66.0615 (1) (fm) of the statutes is created to read:

14 66.0615 **(1)** (fm) “Tourism-related retailers” has the meaning given in s.
15 66.1113 (1) (d).

16 **SECTION 6.** 66.0615 (1m) (a) of the statutes is amended to read:

17 66.0615 **(1m)** (a) The governing body of a municipality may enact an ordinance,
18 and a district, under par. (e), may adopt a resolution, imposing a tax on the privilege
19 of furnishing, at retail, except sales for resale, rooms or lodging to transients by
20 hotelkeepers, motel operators and other persons furnishing accommodations that
21 are available to the public, irrespective of whether membership is required for use
22 of the accommodations. A tax imposed under this paragraph is not subject to the
23 selective sales tax imposed by s. 77.52 (2) (a) 1. and may not be imposed on sales to
24 the federal government and persons listed under s. 77.54 (9a). A tax imposed under
25 this paragraph by a municipality shall be paid to the municipality and ~~may~~ shall.

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1 subject to par. (d), be forwarded to a commission if one is created under par. (c), as
2 provided in par. (d) destination marketing organization, as described under par. (g)
3 or, if such an organization does not exist in the municipality, to a tourism committee,
4 as described under par. (h). Except as provided in par. (am), a tax imposed under this
5 paragraph by a municipality may not exceed 8%. Except as provided in par. (am),
6 if a tax greater than 8% under this paragraph is in effect on May 13, 1994, the
7 municipality imposing the tax shall reduce the tax to 8%, effective on June 1, 1994.

8 **SECTION 7.** 66.0615 (1m) (d) 1. of the statutes is amended to read:

9 66.0615 **(1m)** (d) 1. A municipality that first imposes a room tax under par. (a)
10 after May 13, 1994, shall spend at least 70% of the amount collected on tourism
11 promotion and development. Any amount of room tax collected that must be spent
12 on tourism promotion and development shall ~~either be spent directly by the~~
13 ~~municipality on tourism promotion and development or shall be forwarded to the~~
14 ~~commission for its municipality or zone if the municipality has created a commission~~
15 a destination marketing organization, as described under par. (g) or, if such an
16 organization does not exist in the municipality, to a tourism committee, as described
17 under par. (h).

18 **SECTION 8.** 66.0615 (1m) (d) 2. of the statutes is amended to read:

19 66.0615 **(1m)** (d) 2. If a municipality collects a room tax on May 13, 1994, it may
20 retain not more than the same percentage of the room tax that it retains on May 13,
21 1994. If a municipality that collects a room tax on May 1, 1994, increases its room
22 tax after May 1, 1994, the municipality may retain not more than the same
23 percentage of the room tax that it retains on May 1, 1994, except that if the
24 municipality is not exempt under par. (am) from the maximum tax that may be
25 imposed under par. (a), the municipality shall spend at least 70% of the increased

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1 amount of room tax that it begins collecting after May 1, 1994, on tourism promotion
2 and development . Any amount of room tax collected that must be spent on tourism
3 promotion and development shall ~~either be spent directly by the municipality on~~
4 ~~tourism promotion and development or shall be forwarded to the commission for its~~
5 ~~municipality or zone if the municipality has created a commission~~ a destination
6 marketing organization, as described under par. (g) or, if such an organization does
7 not exist in the municipality, to a tourism committee, as described under par. (h).

8 **SECTION 9.** 66.0615 (1m) (g) of the statutes is created to read:

9 66.0615 **(1m)** (g) 1. If a single municipality imposes a room tax under par. (a),
10 the municipality shall contract with a destination marketing organization in its
11 area. If no destination marketing organization exists in the municipality, the
12 municipality shall create a tourism committee under par. (h).

13 2. With regard to a destination marketing organization that provides services
14 to a single municipality, the organization shall be governed by a board that has no
15 more than 29 members. The governing board shall be composed of the following
16 members and, except as provided in subd. 2. d., shall be appointed by the
17 municipality according to procedures established in a municipal ordinance:

18 a. At least 67 percent of the members of the board shall represent
19 tourism-related retailers.

20 b. At least 33 percent of the members of the board shall be owners or operators
21 of hotels or motels that collect the room tax in the municipality.

22 c. At least 51 percent of the members of the board shall represent the hotel
23 industry, the motel industry, the restaurant industry, the tourist attraction industry,
24 or the private golf course industry.

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1 d. At least 20 percent of the members of the board shall be appointed by the
2 principal elected official in the municipality.

3 3. Two or more municipalities that impose a room tax under par. (a) may enter
4 into a contract under s. 66.0301 to jointly promote their areas. If each of the
5 contracting municipalities imposes a room tax, the municipalities may enter into a
6 contract with a single destination marketing organization in their area. A
7 destination marketing organization that provides services to 2 or more
8 municipalities under this subdivision shall be governed by a board. The governing
9 board shall be composed of the following members who shall be appointed under the
10 terms of a written agreement entered into by the municipalities:

11 a. At least 51 percent of the members of the board shall represent the hotel
12 industry, the motel industry, the restaurant industry, the tourist attraction industry,
13 or the private golf course industry.

14 b. At least 25 percent of the members of the board shall be owners or operators
15 of hotels or motels that collect the room tax in the area.

16 c. At least 20 percent of the members of the board, in total, shall be appointed
17 by the principal elected official in each of the municipalities.

18 4. A destination marketing organization's governing board shall do at least all
19 of the following:

20 a. Meet regularly and, from among its members, elect a chairperson, vice
21 chairperson, secretary, and treasurer.

22 b. Engage in activities that generate overnight stays in hotels or motels in the
23 area.

24 c. Prepare, and provide to each municipality from which it receives room tax
25 revenues, at least annually, a complete accounting of the receipts, expenses, and

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1 expenditures of the board and a report that correlates the expenditures of the board
2 and the overnight stays that result from the expenditures. This information shall
3 be provided to the municipality by board members who are appointed under subd.
4 2. d. or 3. c.

5 **SECTION 10.** 66.0615 (1m) (h) of the statutes is created to read:

6 66.0615 **(1m)** (h) 1. If no destination marketing organization provides services
7 to a single municipality that imposes a room tax under par. (a), the municipality shall
8 create a tourism committee to which it shall forward its room tax revenues. The
9 tourism committee shall consist of 7 members. Members of the committee shall be
10 appointed by the principal elected official in the municipality and shall be confirmed
11 by a majority vote of the members of the municipality's governing body who are
12 present when the vote is taken. Committee members shall serve for a one-year term,
13 at the pleasure of the appointing official, and may be reappointed. Two of the
14 committee members shall represent the hotel or motel industry. Three of the
15 committee members shall represent tourism-related retailers, other than
16 representatives of the hotel or motel industry. Two members shall be electors who
17 reside in the municipality, and may be individuals who hold elective public office.

18 2. A tourism committee shall contract with a nonprofit tourism organization
19 to provide tourism development and promotion services to the municipality, and
20 shall forward to the organization all of the room tax revenues it receives from the
21 municipality. One of the major purposes of the nonprofit tourism organization shall
22 be to generate overnight stays in hotels or motels in the municipality. The nonprofit
23 tourism organization shall be governed by a board. The governing board shall be
24 composed of the following members:

25 a. At least 51 percent of the members shall represent tourism-related retailers.

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1 b. At least 25 percent of the members shall be owners or operators of hotels or
2 motels that collect the room tax in the municipality.

3 c. At least 20 percent of the members of the board shall be appointed by the
4 principal elected official in the municipality.

5 3. The governing board of a nonprofit tourism organization described under
6 subd. 2. shall do at least all of the following:

7 a. Meet regularly and, from among its members, elect a chairperson, vice
8 chairperson, secretary, and treasurer.

9 b. Engage in activities that generate overnight stays in hotels or motels in the
10 area.

11 c. Prepare, and provide to the tourism committee and to the municipality from
12 which the room tax revenues are generated, at least annually, a complete accounting
13 of the receipts, expenses, and expenditures of the board, and a report that correlates
14 the expenditures of the board and the overnight stays that result from the
15 expenditures. This information shall be provided to the committee and the
16 municipality by board members who are appointed under subd. 2. c.

17 **SECTION 11.** 66.0615 (4) of the statutes is created to read:

18 66.0615 (4) In any cause of action relating to the interpretation or applicability
19 of this section, the court shall award the prevailing party the costs incurred in
20 connection with the action, including attorney fees.

21 **SECTION 12. Nonstatutory provisions.**

22 (1) DISSOLUTION OF A COMMISSION, TRANSFER OF ASSETS AND LIABILITIES. If a
23 commission under section 66.0615 (1) (ae) of the statutes, as affected by this act, is
24 in existence on or after the effective date of this subsection, it shall wind up its affairs
25 by transferring its assets and liabilities, and its existing contracts and programs, to

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1 a destination marketing organization or a tourism committee. Upon so winding up
2 its affairs, the commission shall dissolve, and the dissolution shall take effect on
3 March 31, 2005.

4 **SECTION 13. Initial applicability.**

5 (1) This act first applies to room tax revenues that are collected on the effective
6 date of this subsection, except that, if a municipality that collects a room tax on the
7 effective date of this subsection, forwards its room tax revenue to a commission, this
8 act first applies to room tax revenues that are collected on April 1, 2005.

9 (END)