

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2005 ASSEMBLY BILL 913**

February 8, 2006 – Offered by COMMITTEE ON WAYS AND MEANS.

1 **AN ACT** *to amend* 77.51 (4) (c) 4. and 77.51 (15) (c) 2.; and *to create* 77.51 (4) (b)
2 9., 77.51 (7m) and 77.51 (15) (b) 8. of the statutes; **relating to:** the application
3 of the sales and use tax on construction materials, labor, and services that are
4 sold under a lump sum contract.

Analysis by the Legislative Reference Bureau

Under current law, the amount charged by a person for providing labor or services to install or apply tangible personal property is subject to the sales and use tax. However, the amount charged for labor or services is not subject to the sales and use tax, if the installed or applied tangible personal property will constitute an addition to or capital improvement of real property and if that amount is separately set forth from the amount received for the tangible personal property.

Under this substitute amendment, the amount charged as a part of a lump sum contract for tangible personal property or taxable services is not subject to the sales and use tax if the total of all such amounts is less than 10 percent of the total amount of the contract and regardless of whether the amounts charged for labor and services are separately set forth from the amount received for the tangible personal property. Under the substitute amendment, a lump sum contract is a contract to perform real property construction activities and for which the contractor quotes the charge for labor, services of subcontractors, and materials as one price, including a contract for

which the contractor subsequently itemizes the charges for labor, services of subcontractors, and materials as part of a schedule of values or similar document.

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

1 **SECTION 1.** 77.51 (4) (b) 9. of the statutes is created to read:

2 77.51 **(4)** (b) 9. Amounts charged as part of a lump sum contract under sub. (7m)
3 for tangible personal property or taxable services that are sold as part of the lump
4 sum contract, if the total of all such amounts charged is less than 10 percent of the
5 total amount of the lump sum contract. For purposes of this subdivision, the cost of
6 the tangible personal property or taxable services to the contractor, not including
7 amounts paid to the contractor's employees, shall be used as the measure of the tax
8 under this subchapter and, except for sales to an entity described under s. 77.54 (9a),
9 the contractor shall be liable for paying the tax on the tangible personal property or
10 taxable services as described under this subdivision.

11 **SECTION 2.** 77.51 (4) (c) 4. of the statutes is amended to read:

12 77.51 **(4)** (c) 4. The price received for labor or services used in installing or
13 applying tangible personal property sold, except the price received for installing or
14 applying property which, when installed or applied, will constitute an addition to or
15 capital improvement of real property and provided such amount is separately set
16 forth from the amount received for the tangible personal property, and except as
17 provided under par. (b) 9.

18 **SECTION 3.** 77.51 (7m) of the statutes is created to read:

19 77.51 **(7m)** "Lump sum contract" means a contract to perform real property
20 construction activities and for which the contractor quotes the charge for labor,
21 services of subcontractors, and materials as one price, including a contract for which

1 the contractor itemizes the charges for labor, services of subcontractors, and
2 materials as part of a schedule of values or similar document.

3 **SECTION 4.** 77.51 (15) (b) 8. of the statutes is created to read:

4 77.51 (15) (b) 8. Amounts charged as part of a lump sum contract under sub.
5 (7m) for tangible personal property or taxable services that are sold as part of the
6 contract, if the total of all such amounts charged is less than 10 percent of the total
7 amount of the contract. The cost of the tangible personal property or taxable services
8 to the contractor, not including amounts paid to the contractor's employees, shall be
9 used as the measure of the tax under this subchapter and, except for sales to an entity
10 described under s. 77.54 (9a), the contractor shall be liable for paying the tax on the
11 tangible personal property or taxable services as described under this subdivision.

12 **SECTION 5.** 77.51 (15) (c) 2. of the statutes is amended to read:

13 77.51 (15) (c) 2. The amount charged for labor or services rendered in installing
14 or applying tangible personal property sold, except the price received for installing
15 or applying property which, when installed or applied, will constitute an addition to
16 or capital improvement of real property and provided such amount is separately set
17 forth from the amount charged for the tangible personal property, and except as
18 provided under par. (b) 8.

19 **SECTION 6. Effective date.**

20 (1) This act takes effect on the first day of the 2nd month beginning after
21 publication.

22 (END)