## 2005 DRAFTING REQUEST

# **Assembly Substitute Amendment (ASA-AB913)**

Received: 02/07/2006				Received By: jkreye			
Wanted: Today				Identical to LRB:			
For: Sheryl Albers (608) 266-8531				By/Representing: bill ford			
This file	This file may be shown to any legislator: <b>NO</b>				Drafter: jkreye		
May Contact:				Addl. Drafters:			
Subject: Tax, Other - sales			Extra Copies:				
Submit v	Submit via email: YES						
Requeste	er's email:	Rep.Alber	s@legis.sta	te.wi.us			
Carbon c	Carbon copy (CC:) to: joseph.kreye@legis.state.wi.us						
Pre Top	ic:					**************************************	
No speci	No specific pre topic given						
Topic:							
Sales and use tax on construction materials sold as part of a lump sum contract							
Instructions:							
See Attached							
Drafting	g History:		NHPWN-PA-L-ALL				
Vers.	<u>Drafted</u>	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	jkreye 02/07/2006	kfollett 02/07/2006					
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Drafting History:						
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### STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

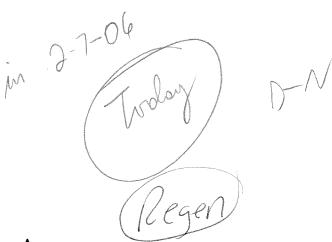
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#### **2005 - 2006 LEGISLATURE**

SOS/9// LRBs0503/1 JK:kjf:ys

# ASSEMBLY SUBSTITUTE AMENDMENT, TO 2005 ASSEMBLY BILL 913



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AN ACT *to amend* 77.51 (4) (c) 4. and 77.51 (15) (c) 2.; and *to create* 77.51 (4) (b)

9., 77.51 (7m) and 77.51 (15) (b) 8. of the statutes; **relating to:** the application of the sales and use tax on construction materials, labor, and services that are 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 that are sold as part of the contract to certain nonprofit organizations, special districts, authorities, and local governmental units 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

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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:

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

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

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

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

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

77.51 **(7m)** "Lump sum contract" means a contract to perform real property construction activities and for which the contractor quotes the charge for labor,

, except for roler to an entity derviled under 5. 77,54(9a),

1	services of subcontractors, and materials as one price, including a contract for which
2	the contractor itemizes the charges for labor, services of subcontractors, and
3	materials as part of a schedule of values or similar document.
4	<b>Section 4.</b> 77.51 (15) (b) 8. of the statutes is created to read:
5	77.51 (15) (b) 8. Amounts charged as part of a lump sum contract under sub.
6	(7m) for tangible personal property or taxable services that are sold as part of the
7	contract to any of the entiries described under s. 77.54 (9a), if the total of all such
8	amounts charged is less than 10 percent of the total amount of the contract. The cost
9	of the tangible personal property or taxable services to the contractor, not including
10	amounts paid to the contractor's employees, shall be used as the measure of the tax
11)	under this subchapter and the contractor shall be liable for paying the tax on the
12	tangible personal property or taxable services as described under this subdivision.
13	<b>Section 5.</b> 77.51 (15) (c) 2. of the statutes is amended to read:
14	77.51 (15) (c) 2. The amount charged for labor or services rendered in installing
15	or applying tangible personal property sold, except the price received for installing
16	or applying property which, when installed or applied, will constitute an addition $\underline{to}$
17	or capital improvement of real property and provided such amount is separately set
18	forth from the amount charged for the tangible personal property, and except as
19	provided under par. (b) 8.
20	Section 6. Effective date.
21	(1) This act takes effect on the first day of the 2nd month beginning after
22	publication.
23	(END)
	(END)  Jexcept for roler to an entity described w  5. 77.54(9a)
	(5.77.54/9a)

D-Note

#### STATE OF WISCONSIN – LEGISLATIVE REFERENCE BUREAU

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# DRAFTER'S NOTE FROM THE LEGISLATIVE REFERENCE BUREAU

LRBs0519/1dn JK:kjf:jf

February 7, 2006

Representative Albers:

This substitute amendment is based on my conversation with Bill Ford.

Joseph T. Kreye Legislative Attorney Phone: (608) 266–2263

E-mail: joseph.kreye@legis.state.wi.us