Wisconsin Department of Administration
Division of Executive Budget and Finance

Fiscal Estimate - 2007 Session

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number **07-3790/1**	Introduction Number **SB-403**

Description
Under this bill, property owned by churches
or religious or benevolent associations and used as low–income housing is exempt
from the property tax. Re-defines low income housing.

Fiscal Effect

State:

☐ No State Fiscal Effect
☐ Indeterminate
- ☐ Increase Existing Appropriations
- ☐ Decrease Existing Appropriations
- ☐ Create New Appropriations
- ☐ Increase Existing Revenues
- ☒ Decrease Existing Revenues
- ☒ Increase Costs - May be possible to absorb within agency's budget ☒ Yes ☐ No
- ☐ Decrease Costs

Local:

☐ No Local Government Costs
☒ Indeterminate
1. ☐ Increase Costs ☐ Permissive ☐ Mandatory
2. ☐ Decrease Costs ☐ Permissive ☐ Mandatory
3. ☐ Increase Revenue ☐ Permissive ☐ Mandatory
4. ☐ Decrease Revenue ☐ Permissive ☐ Mandatory
5. Types of Local Government Units Affected
   ☒ Towns ☒ Village ☒ Cities
   ☒ Counties ☐ Others
   ☒ School Districts ☒ WTCS Districts

Fund Sources Affected

☐ GPR ☐ FED ☐ PRO ☐ PRS ☒ SEG ☐ SEGS

Affected Ch. 20 Appropriations

Agency/Prepared By	Authorized Signature	Date
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Fiscal Estimate Narratives

DOR 1/29/2008

LRB Number **07-3790/1**	Introduction Number **SB-403**	Estimate Type **Original**
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Assumptions Used in Arriving at Fiscal Estimate

CURRENT LAW

Prior to 2003, property owned by non-profit organizations and rented to low-income persons was usually considered to be exempt from property taxes. However, a provision of the property tax exemption statute indicated that, for property rented to others, the property tax exemption would hold only if both of the following conditions were met: (a) all rental income was used for maintenance of the property and/or to service construction debt (the "rent use" test) and (b) the person or entity who rented the property would be exempt from property taxes if they owned the property (the "lessee identity" test).

In response to a question concerning the taxability of a provider of low-income housing, a 2003 decision by the Wisconsin Supreme Court (Columbus Park Housing Corporation v. Kenosha, 267 Wis.2d 59) held that property owned by Columbus Park (a non-stock, non-profit corporation) and rented to low-income persons was taxable because, if the renters had owned the property, it would be subject to property taxes.

The Legislature reacted to this decision by enacting 2003 Wisconsin Act 195 (2003 Senate Bill 512), which created an exception to the "lessee identity" test for residential housing.

Thus, under the current property tax exemption statutes regarding residential housing, the property tax exemption holds only if the "rent use" test is met (all rental income is used for maintenance of the property and/or to service construction debt).

In general, the amount of land owned by a property tax exempt organization within a municipality may not exceed a statutory limit. For churches and religious organizations, this limit is 30 acres. For all other exempt entities, the general limit is 10 acres.

PROPOSED LAW

Property used as low-income housing, as defined, and meeting a newly defined "rent use" test, and owned by churches or religious or benevolent associations would be exempt from property taxes.

The definition of who qualifies as a low-income or very low-income person is based on the household income levels used by the U. S. Department of Housing and Urban Development (HUD) in its low-income housing assistance programs. A very low-income person is a member of a household with an income of less than 50% of the HUD area median family income. A low-income person is a member of a household with a median income of 50% or more, but less than 80%, of the HUD area median family income.

"Low-income housing" is defined as any residential unit within a "low-income housing project" that is either occupied by a low-income or very-low income person or, if vacant, is only available to such a person. A "low-income housing project" is defined as a multi-unit property where at least 75% of the occupied residential units are occupied by low-income or very-low income persons and (a) at least 20% of the units are rented by or, if vacant, only available to a very-low income person, or (b) at least 40% of the units are rented by or, if vacant, only available to a person whose income does not exceed 120% of the very low-income limit. All properties included within the same HUD contract, or for rural areas the related program operated by the U. S. Department of Agriculture (USDA), shall be considered as one low-income housing project.

For low-income housing owned by churches or religious or benevolent associations, the "rent use" test is changed so that the property tax exemption is retained if the all of the rental income is used for the following purposes directly related to the low-income housing project: (1) maintenance, (2) capital replacements, (3) insurance premiums, (4) project management, (5) debt retirement, (6) reserves for project-related purposes, (7) general and administrative expenses, (8) social and other services to project residents, (9) utilities, (10) financing costs, (11) other expenses for preserving and managing the project, and (12) other similar project-related expenses. In addition, up to 10% of a project's rental income could be used for these purposes at another low-income housing project in Wisconsin owned by the same entity. The owner of the low-income housing project may also use any of the rental income from a project to pay the debt service on another low-income housing project as long as the both projects are under common control, under the same mortgage, and located in Wisconsin.

Annually, by March 1, each owner of a low-income housing project shall file a report with the municipal assessor, on a form prescribed by the Department of Revenue (DOR),that specifies which units were occupied by residents who met the low-income limits. A copy of the HUD or USDA contract must also be included with this report. If the assessor does not receive this report by March 1, the assessor must notify the owner via certified mail of the failure to report and that failing to report is subject to a penalty. If a person fails to file the report within 30 days of notification, a penalty of $10 is imposed for each succeeding day on which the form is not received, with a maximum penalty of $500.

The general limit on the amount of tax exempt land owned by a non-religious organization remains at 10 acres. However, the amount that can be owned by churches or religious or benevolent associations and used for low-income housing is subject to a limitation of 30 acres and a further limitation of 10 contiguous acres.

These changes would take effect retroactively on January 1, 2006.

FISCAL EFFECT

Most, if not all, of the low-income housing projects that are currently exempt from property taxes are expected to remain exempt under the bill. The bill may also permit additional low-income housing projects to become exempt from property taxes. The Department of Revenue does not have data to permit a reasonable estimate of how much property could become exempt under the bill. It is therefore not possible to reasonably estimate the potential shift in property taxes at the local level, the decrease in state forestation taxes, and any refunds that may be needed should any property that was taxed in the last two years be deemed to have qualified for the exemption as a result of the bill on January 1, 2006.

The Department of Revenue would incur one-time costs of $8,200 for programming related to its property tax administration systems.

Long-Range Fiscal Implications

Wisconsin Department of Administration
Division of Executive Budget and Finance

Fiscal Estimate Worksheet - 2007 Session

Detailed Estimate of Annual Fiscal Effect

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Description
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I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

The Department of Revenue would incur one-time costs of $8,200 for programming related to its property tax administation systems.

II. Annualized Costs:	**Annualized Fiscal Impact on funds from:**	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	$	$
(FTE Position Changes)		
State Operations - Other Costs		
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	**$**	**$**
B. State Costs by Source of Funds		
GPR		
FED		
PRO/PRS		
SEG/SEG-S		

III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)

	Increased Rev	Decreased Rev
GPR Taxes	$	$
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
TOTAL State Revenues	**$**	**$**

NET ANNUALIZED FISCAL IMPACT

	State	Local
NET CHANGE IN COSTS	$	$
NET CHANGE IN REVENUE	$see text	$see text

Agency/Prepared By	**Authorized Signature**	**Date**
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