

2007 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB40)

Received: **06/19/2007**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Fitzgerald (608) 266-5660**

By/Representing: **keith**

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

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Other - fuel**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Fitzgerald@legis.wisconsin.gov**

Carbon copy (CC:) to: **joseph.kreye@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Delete the oil company assessment provisions

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>
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FE Sent For:

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/1	jkreye	1/6 20jld					

FE Sent For:

<END>

Basford, Sarah

From: Gilkes, Keith
Sent: Friday, June 15, 2007 5:08 PM
To: LRB.Legal
Subject: Budget Amendment Requests for Senator Fitzgerald...

To whom it may concern:

I am requesting the following items be drafted separately for introduction as amendments to the Joint Committee on Finance's budget bill. The four motions are broken out below:

- 1.) JFC Motion #424 (Items 1, 2) offered by Rep. Rhoades
 - *Oil Company Assessment.* Adopt Alternative #5 from LFB Issue Paper #761, which would delete the proposed oil company assessment. Reduce transportation fund revenues by \$116,570,000 in 2007-08 and \$158,280,000 in 2008-09.
 - *Oil Company Assessment – Audit Positions.* Adopt Alternative #B2 from LFB Issue Paper #763, which would delete \$200,500 SEG in 2007-08 and \$187,300 SEG in 2008-09 and 3.0 SEG audit positions annually. 1479600
- 2.) JFC Motion #424 (Items 5, 6,7) offered by Rep. Rhoades
 - *Conversion of Appropriations from the General Fund to the Transportation Fund.* Adopt Alternative #A2 from LFB Issue Paper #765, which would delete the appropriation conversion. Delete \$33,913,500 SEG and 0.75 SEG position annually and provide \$33,913,500 GPR and 0.75 GPR position annually to reflect this change.
 - *Supplemental Title Fee Transfer.* Adopt Alternative #B2 from LFB Issue Paper #765, which would delete the conversion of this appropriation. Delete \$10,290,000 SEG in 2007-08 and \$12,763,000 SEG in 2008-09 and provide \$10,290,000 GPR in 2007-08 and \$12,763,000 GPR in 2008-09 to reflect this change.
 - *Transportation Fund Appropriations for Supplementing General Fund debt Service.* Adopt Alternative #C2 from LFB Issue Paper #765, which would delete this provision. Delete \$26,600,00 SEG in 2007-08 and \$43,300,000 SEG in 2008-09 and provide \$26,000,000 GPR in 2007-08 and \$43,300,000 GPR 2008-09 to reflect this change.
 - Additionally - I believe at some point a "notwithstanding" was included in the statutes to allow these transfers to occur because of a previous statute that outlawed these types of transfers from the transportation fund.
- 3.) 2007 Senate Bill 34 Authored by Senator Lassa and Rep. Vukmir
 - Simply draft the bill as is as an amendment to the JFC bill.
- 4.) The final motion was never offered or drafted before - see the amendment we want drafted based upon the LFB Paper #770.
 - *General Transportation Aids – Municipal Distributions.* Adopt Alternative 2 Line J (6% Increase) from LFB Issue Paper #770 for Municipal Distributions only, which would increase the rate per mile to \$2,013 in 2008 and \$2,134 in 2009. Increases SEG to base \$11,731,000 in 2007-08 and SEG to base \$29,946,300 in 2008-09.

Please contact me with any questions or concerns on the legislation at Senator Fitzgerald's office at (608) 266-5660.

06/18/2007

Thanks.

Keith Gilkes
Office of Senator Scott Fitzgerald
13th State Senate District

DOA:.....Kornely, BB0352 - Oil company assessment

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

This bill imposes an assessment on a motor vehicle fuel supplier at the rate of 2.5 percent of the supplier's gross receipts from the first sale of motor vehicle fuel in this state. The supplier may take no action to increase or influence the selling price of motor vehicle fuel in order to recover the amount of the assessment. For the purpose of determining the amount of the assessment, income derived from the first sale in this state of biodiesel fuel or ethanol blended with gasoline to create gasoline consisting of at least 85 percent ethanol is not included in the supplier's gross receipts. The revenue collected from the assessment is deposited into the transportation fund.

For further information see the *state* 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:

2 SECTION 1. 25.40 (1) (bd) of the statutes is created to read:

1 25.40 (1) (bd) Oil company assessments under subch. XIV of ch. 77.

2 SECTION 2. Chapter 77 (title) of the statutes is amended to read:

3 CHAPTER 77

4 TAXATION OF FOREST CROPLANDS;

5 REAL ESTATE TRANSFER FEES;

6 SALES AND USE TAXES; COUNTY

7 AND SPECIAL DISTRICT SALES

8 AND USE TAXES; MANAGED FOREST

9 LAND; TEMPORARY RECYCLING

10 SURCHARGE; LOCAL FOOD AND

11 BEVERAGE TAX; LOCAL RENTAL

12 CAR TAX; PREMIER RESORT AREA

13 TAXES; STATE RENTAL VEHICLE FEE;

14 DRY CLEANING FEES; REGIONAL

15 TRANSIT AUTHORITY FEE;

16 OIL COMPANY ASSESSMENT

17 SECTION 3. Subchapter XIV of chapter 77 [precedes 77.998] of the statutes is
18 created to read:

19 CHAPTER 77

20 SUBCHAPTER XIV

21 OIL COMPANY ASSESSMENT

22 **77.998 Definitions.** In this subchapter:

23 (1) "Biodiesel fuel" means biodiesel fuel, as defined in s. 168.14 (2m) (a), that
24 is not blended with any petroleum product.

25 (2) "Department" means the department of revenue.

1 (3) “Motor vehicle fuel” has the meaning given in s. 78.005 (13).

2 (4) “Related party” means a person whose relationship with the supplier is
3 described under section 267 (b) of the Internal Revenue Code.

4 (5) “Supplier” has the meaning given in s. 78.005 (14).

5 (6) “Terminal operator” has the meaning given in s. 78.005 (16).

6 **77.9981 Imposition.** (1) For the privilege of doing business in this state, there
7 is imposed an assessment on each supplier at the rate of 2.5 percent of the supplier’s
8 gross receipts in each calendar quarter that are derived from the first sale in this
9 state of motor vehicle fuel received by the supplier for sale in this state, for sale for
10 export to this state, or for export to this state.

11 (2) Any person, including a terminal operator, who is not a licensee under s.
12 78.09 and who either used any motor vehicle fuel in this state or has possession of
13 any motor vehicle fuel, other than that contained in a motor vehicle’s fuel tank, for
14 which the assessment under this subchapter has not been paid or for which no
15 supplier has incurred liability for paying the assessment, shall file a report, in the
16 manner described by the department, and pay the assessment based on the purchase
17 price of the motor vehicle fuel.

18 **77.9982 Administration.** (1) The department shall administer the
19 assessment under this subchapter and may take any action, conduct any proceeding,
20 and impose interest and penalties.

21 (2) The assessments imposed under this subchapter for each calendar quarter
22 are due and payable on the last day of the month next succeeding the calendar
23 quarter for which the assessments are imposed, as provided by the department by
24 rule.

1 **(3)** For purposes of determining the amount of the assessment imposed under
2 this subchapter, income derived from the first sale in this state of biodiesel fuel or
3 of ethanol blended with gasoline to create gasoline consisting of at least 85 percent
4 ethanol is not included in the supplier's gross receipts. For purposes of determining
5 the amount of the assessment imposed under this subchapter, with regard to a
6 transfer of motor vehicle fuel from a supplier to a related party, the point of first sale
7 in this state is the date of such transfer, and the gross receipts are calculated on a
8 monthly basis using an index determined by rule by the department. For purposes
9 of this subchapter, there is only one point of first sale in this state with regard to the
10 sale of the same motor vehicle fuel.

11 **(4)** No supplier who is subject to the assessment imposed under this subchapter
12 shall take any action to increase or influence the selling price of motor vehicle fuel
13 in order to recover the amount of the assessment. A supplier who takes any action
14 to increase or influence the selling price of motor vehicle fuel to recover the amount
15 of the assessment is subject to a penalty equal to the amount of the gain the supplier
16 received from any increase in the selling price that is implemented in order to recover
17 the assessment amount or imprisonment of not more than 6 months, or both.

18 **(5)** At the secretary of revenue's request, the attorney general may represent
19 this state, or assist a district attorney, in prosecuting any case arising under this
20 subchapter.

21 **(6)** In addition to any other audits the department conducts to administer and
22 enforce this subchapter, the department may audit any supplier who is subject to the
23 assessment imposed under this subchapter to determine whether the supplier has
24 taken any action to increase or influence the selling price of motor vehicle fuel in
25 order to recover the amount of the assessment. Annually, the department shall

1 submit a report to the governor and the legislature, as provided under s. 13.172 (2),
2 that contains information on all audits conducted under this subsection in the
3 previous year.

4 (7) (a) Sections 71.74 (1) to (3), (5), (7), and (9) to (15), 71.75 (1), (2), (6), (7), and
5 (9), 71.77 (1) and (4) to (8), 71.78 (1) to (4) and (5) to (8), 71.80 (1) (a) and (b), (4) to
6 (6), (8) to (12), (14), (17), and (18), 71.82 (1) and (2) (a) and (b), 71.83 (1) (a) 1. and 2.
7 and (b) 1., 2., and 6., (2) (a) 1. to 3. and (b) 1. to 3., and (3), 71.87, 71.88, 71.89, 71.90,
8 71.91 (1) (a), (2), (3), and (4) to (7), 71.92, and 71.93 as they apply to the taxes under
9 ch. 71 apply to the assessment under this subchapter.

10 (b) Section 78.01 (2) (a) and (b), and (2m) (a) and (b), as it applies to the tax
11 imposed under s. 78.01 (1), applies to the assessment imposed under this subchapter.

12 (8) The department shall deposit all revenue collected under this subchapter
13 into the transportation fund.

14 **SECTION 9141. Nonstatutory provisions; Revenue.**

15 (1) EMERGENCY RULES CONCERNING OIL COMPANY ASSESSMENT. The department of
16 revenue may promulgate emergency rules under section 227.24 of the statutes
17 implementing subchapter XIV of chapter 77 of the statutes, as created by this act.
18 Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department
19 of revenue is not required to provide evidence that promulgating a rule under this
20 subsection as an emergency rule is necessary for the preservation of the public peace,
21 health, safety, or welfare and is not required to provide a finding of emergency for a
22 rule promulgated under this subsection.

23 **SECTION 9341. Initial applicability; Revenue.**

24 (1) OIL COMPANY ASSESSMENT. The treatment of section 25.40 (1) (bd), subchapter
25 XIV of chapter 77, and chapter 77 (title) of the statutes first applies to the sales of

1 motor vehicle fuel on the first day of the 2nd calendar quarter beginning after the
2 effective date of this subsection.

3 (END)



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBb0490/1

JK:.....

Handwritten signature

**SENATE AMENDMENT ,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2007 SENATE BILL 40**

6-19-07

INSERT 1-3

D-N

1 At the locations indicated, amend the substitute amendment as follows: ✓

2 **1.** Page 256, line 3: delete "1,690,100" and substitute "1,489,600".

3 **2.** Page 256, line 3: delete "1,676,900" and substitute "1,489,600".

4 **3.** Page 438, line 7: delete lines 7 and 8. ✓

5 **4.** Page 1051, line 13: delete the material beginning with that line and ending

6 *with*
on page 1052, line 3. ✓

7 **5.** Page 1180, line 4: delete the material beginning with that line and ending

8 *with*
on page 1182, line 24. ✓

9 **6.** Page 1631, line 7: delete lines 7 to 14. ✓

1 7. Page 1663, line 24: delete the material beginning with that line and ending

2 *with*
3 on page 1664, line 2. ✓

(END)

d-note
↓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0490/1dn

JK: ^:....

date

Jld

Senator Fitzgerald:

This amendment eliminates the oil company assessment. ✓

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov

**2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb0490/lins
JK:.....

Insert 1 - 3

- 1 **1.** Page 256, line 3: decrease the dollar amount for fiscal year 2007-08 by
2 \$200,500 ✓ and decrease the dollar amount for fiscal year 2008-09 by ✓ \$187,300 for the
3 purpose of eliminating auditor positions for the oil company assessment. ✓

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb0490/1dn
JK:jld:rs

June 20, 2007

Senator Fitzgerald:

This amendment eliminates the oil company assessment.

Joseph T. Kreye
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