

2009 DRAFTING REQUEST

Assembly Amendment (AA-AB504)

Received: 12/01/2009

Received By: jkreye

Wanted: As time permits

Identical to LRB:

For: Jon Richards (608) 266-0650

By/Representing: jeff

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax, Other - sales

Extra Copies:

Submit via email: YES

Requester's email: Rep.Richards@legis.wisconsin.gov

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

Pre Topic:

No specific pre topic given

Topic:

Milwaukee County sales tax; audit and suspension

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>
/1	jkreye 12/01/2009	jdyer 12/01/2009	mduchek 12/01/2009	_____	lparisi 12/01/2009	lparisi 12/01/2009	
	jkreye 12/04/2009	jdyer 12/07/2009		_____			
/2			phenry 12/07/2009	_____	lparisi 12/07/2009	lparisi 12/07/2009	

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FE Sent For:

1/2 12/7 jld PH
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<END>
12/7

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/1	jkreye	1/12 jld	1/12 - gfall	_____	_____	_____	_____
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FE Sent For:

<END>

Kreye, Joseph

From: Kostelic, Jeff
Sent: Tuesday, December 01, 2009 9:12 AM
To: Kreye, Joseph
Subject: RE: Amendments to AB-504

I may look for guidance from you on this, but we were thinking that the tax could be reinstated if the County took corrective action through a budget amendment to make the parks and culture spending "whole". The tax would be reinstate 30 days after County action to give retailers an opportunity to adjust their systems. Does that work?

From: Kreye, Joseph
Sent: Tuesday, December 01, 2009 9:07 AM
To: Kostelic, Jeff
Subject: RE: Amendments to AB-504

Thanks Jeff.

One last thing (I promise), if the suspension is temporary, when would the collection of the taxes resume?

Joe

Joseph T. Kreye
Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

From: Kostelic, Jeff
Sent: Monday, November 30, 2009 6:31 PM
To: Kreye, Joseph
Subject: RE: Amendments to AB-504

I suppose it would make sense to get back to the drafter with a response rather than just talking it over with my boss and keeping the answer to myself. Oops.

It is Rep. Richards' intent to suspend the tax in the event and audit finds that the funds were appropriated to unauthorized functions. "No later than 30 days" should give retailers time to reprogram computers and make other adjustments.

The suspension is supposed to be temporary.

The \$100,000 language should stay. It is a relatively small amount given the amount of money that will be collected and it allows for a little flexibility. If the County get's too aggressive with this flexibility it risks having the whole tax suspended. That should be an adequate hammer to stay within the parameters of the law.

From: Kreye, Joseph
Sent: Mon 11/30/2009 5:10 PM
To: Kostelic, Jeff
Subject: FW: Amendments to AB-504

12/01/2009

Jeff,

I'll be doing this amendment.

I received your request for the other amendment, but I did not get a response to my e-mails (2) of November 18. Below are copies of those e-mails:

"Jeff,

I assume then that you would also want the tax to stop being imposed in the county. Please note that you would need to specify a time period for which suspending collection of the tax and payment of collected taxes would take place (for example, no later than 30 days after receiving the audit report). Generally, retailers need some lead time to reprogram computers, etc.

If you direct DOR to suspend payment and collection, what should DOR do with the collected proceeds? Please note that, due to constitutional constraints, the state cannot spend the proceeds of this locally imposed tax. Do you want DOR to implement, by rule, some sort of refund mechanism to the residents of the county or would Milwaukee County be able to have the tax reinstated? In other words, is the suspension supposed to be temporary or permanent?

Joe "

"Jeff,

One other thing: by amending the bill as proposed, you are, in essence, allowing Milwaukee County to spend up to \$100,000 of the tax proceeds on functions not related to parks, recreation, or culture (since doing so would incur no penalty). Is that an acceptable outcome?

Joe"

Please response to these questions as soon as possible so I can complete the first amendment.

Joseph T. Kreye

Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

From: Kostelic, Jeff
Sent: Monday, November 30, 2009 3:08 PM
To: Kuesel, Jeffery
Subject: Amendment to AB504

Jeff,

Representative Richards would like another amendment drafted to Assembly Bill 504.

The amendment would define "County parks, recreation and culture programs". County parks and recreation programs would be restricted to the expenditures of the Parks and Recreation Department and County support for the Milwaukee County Zoo. Culture programs would include the Milwaukee Public Museum, Milwaukee County Historical Society, War Memorial Center, Villa Terrace/Charles Allis Museums, Marcus Center for the Performing Arts, Fund for the Arts Program, Federated Library System and VISIT Milwaukee.

Please let me know if you have any questions. Also, do you have an update on the other amendment Rep. Richards requested relating to an audit of the County's use of the funds? The Ways and Means Committee has scheduled an executive session on AB504 for next week.

12/01/2009

Thanks.

Jeff Kostelic
Office of Rep. Richards
266-0650

Kreye, Joseph

From: Kostelic, Jeff
Sent: Wednesday, November 18, 2009 1:44 PM
To: Kreye, Joseph
Subject: Amendment to AB504

Joe,

Representative Richards requests that you draft an amendment to AB504 that will require the Audit Bureau to conduct an annual audit of Milwaukee County's use of the sales tax revenue generated by the new sales tax option. If the audit finds that over \$100,000 in the aggregate was allocated to functions not related to parks or culture (as will be defined in a different amendment) the Department of Revenue would be authorized to suspend payments to the County.

Please let me know if you have any questions or suggestions related to this request.

Thank you.

Jeff Kostelic
Office of Rep. Jon Richards
266-0650

Kreye, Joseph

From: Kreye, Joseph
Sent: Wednesday, November 18, 2009 1:58 PM
To: Kostelic, Jeff
Subject: RE: Amendment to AB504

Jeff,

I assume then that you would also want the tax to stop being imposed in the county. Please note that you would need to specify a time period for which suspending collection of the tax and payment of collected taxes would take place (for example, no later than 30 days after receiving the audit report). Generally, retailers need some lead time to reprogram computers, etc.

If you direct DOR to suspend payment and collection, what should DOR do with the collected proceeds? Please note that, due to constitutional constraints, the state cannot spend the proceeds of this locally imposed tax. Do you want DOR to implement, by rule, some sort of refund mechanism to the residents of the county or would Milwaukee County be able to have the tax reinstated? In other words, is the suspension supposed to be temporary or permanent?

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Joseph T. Kreye
Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

From: Kostelic, Jeff
Sent: Wednesday, November 18, 2009 1:44 PM
To: Kreye, Joseph
Subject: Amendment to AB504

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Please let me know if you have any questions or suggestions related to this request.

Thank you.

Jeff Kostelic
Office of Rep. Jon Richards
266-0650

Kreye, Joseph

From: Kreye, Joseph
Sent: Wednesday, November 18, 2009 2:05 PM
To: Kostelic, Jeff
Subject: RE: Amendment to AB504

Jeff,

One other thing: by amending the bill as proposed, you are, in essence, allowing Milwaukee County to spend up to \$100,000 of the tax proceeds on functions not related to parks, recreation, or culture (since doing so would incur no penalty). Is that an acceptable outcome?

Joe

Joseph T. Kreye
Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

From: Kostelic, Jeff
Sent: Wednesday, November 18, 2009 1:44 PM
To: Kreye, Joseph
Subject: Amendment to AB504

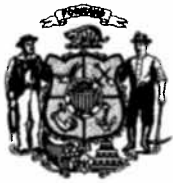
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Please let me know if you have any questions or suggestions related to this request.

Thank you.

Jeff Kostelic
Office of Rep. Jon Richards
266-0650



JLd

**ASSEMBLY AMENDMENT ,
TO 2009 ASSEMBLY BILL 504**

in 12-1-09

Today

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 3: before that line insert:

3 “SECTION 1b. 13.94 (11) of the statutes is created to read:

4 **13.94 (11) AUDIT OF MILWAUKEE COUNTY SALES TAX.** Annually, the legislative
5 audit bureau shall conduct a financial audit of the tax imposed under s. 77.70 (2) to
6 determine if the tax revenue is being used for the purposes described under s. 77.70
7 (2). If the legislative audit bureau determines that Milwaukee County has spent
8 more than \$100,000, in the aggregate, of such revenue for purposes other than those
9 described under s. 77.70 (2), the bureau shall notify the department of revenue of this
10 determination no later than 5 days after making the determination. For purposes
11 of this subsection, the \$100,000 aggregate amount described in this subsection does
12 not include any amount that has been replaced, as provided under s. 77.70 (2).”

13 **2.** Page 1, line 3: delete “SECTION 1” and substitute “SECTION 1d”.

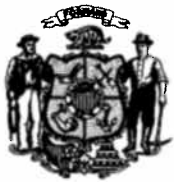
Kreye, Joseph

From: Packnett2, Greg
Sent: Friday, December 04, 2009 4:26 PM
To: Kreye, Joseph
Cc: Kostelic, Jeff; Sinicki, Christine; George, Mary Beth; Richards, Jon; Blomme, Brett
Subject: Changes to LRBa1186/1 to AB 504

Pg 1, Ln 8, change "\$100,000" to "\$50,000"

Pg 2: Please rewrite this section as follows:

"Section 3 Page 2, line 9: after "repeal." Insert "If the department of revenue receives notice under s. 13.94 (11), then the department shall withhold remittance of the sales tax revenue for up to 180 days. If the county provides proof to the department of revenue that the county has taken corrective action through a budget amendment to replace any sales tax revenue that was not used for a purpose authorized under this subsection, and if the department of revenue accepts the proof provided by the county, the department will then remit to the county the sales tax revenue it has withheld."



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBa1186/1
JK:jld:md

PM mark

ASSEMBLY AMENDMENT,
TO 2009 ASSEMBLY BILL 504

in Fri. 12-4
due Mon 12-7

D-N

✓
\$50,000

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 1, line 3: before that line insert:
- 3 “SECTION 1b. 13.94 (11) of the statutes is created to read:
- 4 13.94 (11) AUDIT OF MILWAUKEE COUNTY SALES TAX. Annually, the legislative
- 5 audit bureau shall conduct a financial audit of the tax imposed under s. 77.70 (2) to
- 6 determine if the tax revenue is being used for the purposes described under s. 77.70
- 7 (2). If the legislative audit bureau determines that Milwaukee County has spent
- 8 more than ~~\$100,000~~ in the aggregate, of such revenue for purposes other than those
- 9 described under s. 77.70 (2), the bureau shall notify the department of revenue of this
- 10 determination no later than 5 days after making the determination. For purposes
- 11 of this subsection, the ~~\$100,000~~ ^{\$50,000} aggregate amount described in this subsection does
- 12 not include any amount that has been replaced, as provided under s. 77.70 (2).”.
- 13 **2.** Page 1, line 3: delete “SECTION 1” and substitute “SECTION 1d”.

the county

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3. Page 2, line 9: after "repeal." insert "If the department of revenue receives notice under s. 13.94 (11), the tax imposed under this subsection may not be imposed and collected beginning 30 days after the date that the department receives the notice. The county may resume imposing and collecting the tax if it provides proof to the department of revenue that the county has taken corrective action through a budget amendment to replace any sales tax revenue that was not used for a purpose authorized under this subsection. ^{and if} If the department of revenue accepts the proof provided by the county, the county may resume imposing and collecting the tax beginning 30 days after the date that the department accepts the proof".

(END)

department shall withhold remittance of the sales tax revenue for up to 180 days

shall remit to the county sales the sales tax revenue withheld

d-note
↓

P-N

a/186/2 dy
JK

tax revenue

Representative Richards:

Please note that the amendment ^{does} not address what would happen to the ^{withheld sales} withheld sales if the country fails to provide proof of a correction before the 180-day period [✓] expires.

JK

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

LRBa1186/2dn
JK:jld:ph

December 7, 2009

Representative Richards:

Please note that the amendment does not address what would happen to the withheld sales tax revenue if the county fails to provide proof of a correction before the 180-day period expires.

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