



State of Wisconsin

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STEPHEN R. MILLER
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October 28, 2011

MEMORANDUM

To: Representative Knodl

From: Joseph T. Kreye, Sr. Legislative Attorney, (608) 266-2263

Subject: Technical Memorandum to **2011 AB 262** (LRB-1684/1) by **DOR**

We received the attached technical memorandum relating to your bill. This copy is for your information and your file.

If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

October 28, 2011

TO: Joseph Kreye
Legislative Reference Bureau

FROM: Paul Ziegler
Department of Revenue

SUBJECT: Technical Memorandum on 2011 AB 262 Relating to Excluding Permits and Licenses from the Definition of Real Property for Property Tax Purposes

The Department of Revenue has the following concerns regarding the bill:

The terms "licenses" and "permits" are not clearly defined. For example, could a general zoning ordinance that permits various land uses in specified areas be deemed a "permit", or would only some exception to the general zoning ordinance allowing a conditional use be deemed a "permit"? Some clarification of these terms may be needed to prevent undue expansion of the proposed exclusion beyond what the authors intend.

Under current law, licenses and permits that apply to a property or location may create value for that property due to the income that could be generated as a result of the permit or license or to the range of potential uses of the property allowed by the permit or license. It is possible that a court may find that this exclusion could conflict with the uniformity clause of the Wisconsin Constitution since excluding permits and licenses from the definition of property could be deemed to grant the affected property owners a partial exemption from property taxation in that a portion of the total property value has been carved out as exempt.

The bill first applies to January 1, 2011 assessments. The proposed exemption, however, comes too late in the 2011/12 property tax process to be accurately reflected on the 2011 assessment rolls. To avoid conflicts with existing 2011 assessments, to permit DOR to revise the Assessment Manual, and to notify and train assessors about the new law, we recommend that the exemption be effective for assessments as of January 1, 2012.

The amendment to section 70.03 modifies the definition of real property, real estate, and land for more than just property taxes because the section affects how these terms are used in Chapters 70 thru 76 and Chapters 78 and 79. The extension of this change to chapters beyond Chapter 70 may have implications beyond the author's intentions.

If you have any questions on this technical memorandum, please contact Daniel Huegel at 266-5705.

cc: Representative Dan Knodl