

2011 DRAFTING REQUEST

Bill

Received: **05/10/2011**

Received By: **mshovers**

Wanted: **As time permits**

Companion to LRB:

For: **Luther Olsen (608) 266-0751**

By/Representing:

May Contact:

Drafter: **mshovers**

Subject: **Local Gov't - room tax**

Addl. Drafters:

Extra Copies: **EVM**

Submit via email: **YES**

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

Carbon copy (CC:) to: **Sen.Moulton@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Modifications to the local room tax

Instructions:

See attached

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/3	mshovers 12/09/2011 mshovers 01/13/2012	wjackson 12/09/2011 jdye 01/16/2012	phenry 12/12/2011	_____ _____ _____ _____	sbasford 12/12/2011		S&L
/4			jmurphy 01/17/2012	_____ _____	sbasford 01/17/2012	lparisi 01/27/2012	

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At intro
2/7/2012

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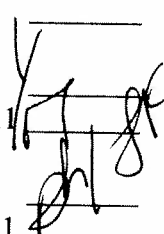
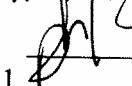
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mshovers*

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2011 DRAFTING REQUEST

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Received: 05/10/2011

Received By: mshovers

Wanted: As time permits

Luther Olsen

Companion to LRB:

For: ~~Terry Moulton~~ (608) 266-7511

By/Representing: Elise

May Contact:

Drafter: mshovers

Subject: Local Gov't - room tax

Addl. Drafters:

Extra Copies: EVM

Sen. Moulton

Submit via email: YES

Requester's email: Sen.Moulton@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

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Topic:

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FE Sent For: *11/5/11* *EP* *JF/PL*

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By/Representing: **Elise**

May Contact:

Drafter: **mshovers**

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FE Sent For:

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FE Sent For:

<END>

Shovers, Marc

From: Nelson, Elise
Sent: Tuesday, May 03, 2011 12:03 PM
To: Shovers, Marc
Subject: Room Tax Draft

Attachments: 20110503115534003.pdf

Sen. Moulton would like to propose changes to the WI Room Tax. For drafting instructions, please see attached. Please let me know if you have further questions.

Thanks, Marc.

Elise Nelson
Office of Sen. Terry Moulton
23rd Senate District
608.266.7511

Wisconsin Room Tax Reform Proposal

The following are the four components of the Room Tax Reform Proposal relating to Wisconsin Statute 66.0615 on Room Tax, provided as a reference for consideration by the bill sponsors:

I. Phase-out, over 3 years, the "Grandfather Clause" component allowing certain municipalities to retain more than 30% of collected Room Tax revenues.

Related section: 66.0615 (1m) (d) 2. Two concepts are important here:

- Municipalities that retained less than 30% for their own use in 1994 must continue to not be authorized to retain more.
- In allowing a 3-year phase-out for municipalities currently retaining more than 30% under the current language, the proposed concept is for a gradual ease to the 30% cap, so either a 33% reduction of the difference each year or if there is precedent language that is more clear this would be appreciated as well.

specified in current law

CR 66.0615 (1m) (dm)

II. Create new accountability provisions for the use of Room Tax revenues.

Suggestion: Create a new section (66.0615 (5)?) that similar to 66.0615 (2) includes initial wording on the line of "As a means of ensuring compliance with this statute..." or something similar.

Important concepts are:

- Mayors or Administrators shall certify and submit an annual report on a provided form to the State Department of Revenue on the total Room Tax collected and expenditures made.
- The DOR would ensure and document collection of said reports from all municipalities receiving Room Tax revenues, and would retain the reports.
- A State Room Tax Commission would be created and appointed by the Governor. Composition would include the chief staff officer or their designee from the Wisconsin Hotel & Lodging Association, the chief staff officer or their designee from the Wisconsin Association of Convention & Visitor Bureaus, and a representative from the League of Wisconsin Municipalities, with a DOR staff representative in an ex-officio without vote position. Compensation would not be provided to the organization representatives. The

purpose of this Commission would be to, on an as-needed basis, evaluate annual Room Tax reports, seek and analyze additional documentation and supporting facts relating to the use of Room Tax in a municipality, and submit recommendations to the DOR for action.

- Upon receipt of a written complaint regarding the use of Room Tax revenue in a municipality, the DOR would provide a copy of the complaint, and copies of the annual Room Tax reports submitted by the municipality to the State Room Tax Commission within 30 days for their recommendation.
- The DOR would be authorized to impose a penalty for improper use of Room Tax, based on the recommendations and findings of the State Room Tax Commission.
- The proposed penalty could be at the minimum a required pay back of the amount found to be improperly spent to allow it to be spent in compliance with the statute within one year, but should also include an amount that would be paid to the DOR to help offset their costs in administering the collection of reports. A different penalty that may already be authorized in another statute could be considered as well.

III. Authorize lodging properties collecting room tax to retain a 3% Administrative Fee, to cover credit card transaction and processing costs, before submitting collected Room Tax revenue to the municipality.

Suggestion: Create a new section (66.0615 (4)?). The important concepts here are that this is to recoup direct costs experienced by the collector (lodging property) in an industry that is almost exclusively paid by credit cards, and that the fee retention would occur before submitting the balance to the municipality, so that the percentages going to municipalities or to tourism are split from just the amounts submitted to the municipality (the "net" versus the "gross")

Am.
sub. (1m)(a)

IV. Require municipalities to direct the portion of Room Tax revenue required to be spent on "tourism promotion and development", to either a Tourism Commission or a Tourism Entity, as already defined in the statute

Suggestion: In Section 66.0615 (1m) (d) 1. "Any amount of room tax collected that must be spent on tourism promotion and development ~~shall either be spent directly by the municipality on tourism promotion and development or~~ shall be forwarded to the commission for its municipality

AMT
work -
see 48 Note

or zone if the municipality has created a commission and/or forwarded to a tourism entity.

This language would be repeated in Section 66.0615 (1m) (d) 2.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2120/P1
MES...

gt
RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

gen

1 AN ACT ...; relating to: changes to the local room tax and creation of a state room
2 tax board.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

X

g

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 15.435 (2) of the statutes is created to read:

4 15.435 (2) ROOM TAX REVIEW BOARD. (a) *Creation; membership*. There is created
5 a room tax review board, attached to the department of revenue under s. 15.03,
6 consisting of the following members:

7 1. One public member who is a member of a statewide organization that
8 represents the interests of the Wisconsin hotel and motel industry.

***NOTE: Your instruction stated this person should be the chief staff officer or designee from the WI Hotel and Lodging Assoc. This formulation essentially limits the governor to one specific person, which may be a delegation problem. Also, if the organization changes its name, there would be no appointee possible for this seat.

Is what I've drafted OK? It is consistent with the language in s. 66.0615 (1m) (c) 1. Another option would be to require the appointee be from a list submitted by a group (see s. 15.165(3) (b)), although the problem of naming a specific organization remains if the organization goes out of existence or changes its name. This Note also relates to subs. 2. and 3., below.

1
2

2. One public member who is a member of a statewide organization that represents the interests of the Wisconsin convention, visitor, and tourism industries

3
4

3. One public member who is a member of a statewide organization that represents the interests of Wisconsin municipalities.

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4. One employee of the department of revenue, who shall provide staff support for the board, and may not vote.

***NOTE: What term would you like specified for the members of the board?

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(b) *Duties.* The board shall review the annual room tax reports submitted to the department of revenue under s. 66.0615 (4) and complaints forwarded by the department under s. 66.0615 (4), and shall evaluate whether any expenditures of room tax revenues that a municipality, a commission as defined in s. 66.0615 (1) (a), a tourism entity as defined in s. 66.0615 (1) (f), or an organization that performs the functions of a tourism entity as described in s. 66.0615 (1m) (b) 1., 2., and 4., is required to spend on tourism promotion and development have not been spent for the required purposes. The board may seek and evaluate any other data that relates to such possible improper spending of room tax revenues by a municipality directly or on behalf of a municipality or zone, as defined in s. 66.0615 (1) (h), by a commission, tourism entity, or organization that performs the functions of a tourism entity.

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(c) *Findings.* The board shall forward to the department of revenue written findings concerning the board's evaluation of possible improper spending described under

✓
1 par. (b), and its recommendations for department action against a municipality that
2 has spent room tax revenues directly, or on whose behalf such revenues have been
3 spent, for an improper purpose.

✓
4 **SECTION 2.** 66.0615 (1m) (a) of the statutes is amended to read:

5 66.0615 (1m) (a) The governing body of a municipality may enact an ordinance,
6 and a district, under par. (e), may adopt a resolution, imposing a tax on the privilege
7 of furnishing, at retail, except sales for resale, rooms or lodging to transients by
8 hotelkeepers, motel operators and other persons furnishing accommodations that
9 are available to the public, irrespective of whether membership is required for use
10 of the accommodations. A tax imposed under this paragraph is not subject to the
11 selective sales tax imposed by s. 77.52 (2) (a) 1. and may not be imposed on sales to
12 the federal government and persons listed under s. 77.54 (9a). A tax imposed under
13 this paragraph by a municipality shall be paid to the municipality and may be
14 forwarded to a commission if one is created under par. (c), as provided in par. (d),
15 except that before the person collecting the tax pays it to the municipality, the person
16 may retain 3 percent of the tax collected if the person paying for the room or lodging
17 on which the tax was imposed uses a credit card to pay for the room or lodging. Except
18 as provided in par. (am), a tax imposed under this paragraph by a municipality may
19 not exceed 8%. Except as provided in par. (am), if a tax greater than 8% under this
20 paragraph is in effect on May 13, 1994, the municipality imposing the tax shall
21 reduce the tax to 8%, effective on June 1, 1994.

✓
22 **History:** 1983 a. 189, 514; 1993 a. 263, 467, 491; 1999 a. 9; 1999 a. 150 ss. 565 to 567; Stats. 1999 s. 66.0615; 2003 a. 203; 2005 a. 135; 2007 a. 20; 2009 a. 2.

23 **SECTION 3.** 66.0615 (1m) (d) 1. of the statutes is amended to read:

24 66.0615 (1m) (d) 1. A municipality that first imposes a room tax under par. (a)
after May 13, 1994, shall spend at least 70% of the amount collected on tourism

1 promotion and development. Any amount of room tax collected that must be spent
 2 on tourism promotion and development shall either be ~~spent directly by the~~
 3 ~~municipality on tourism promotion and development or shall be~~ forwarded to the
 4 commission for its municipality or zone if the municipality has created a commission,
 5 or forwarded to a tourism entity.

History: 1983 a. 189, 514; 1993 a. 263, 467, 491; 1999 a. 9; 1999 a. 150 ss. 565 to 567; Stats. 1999 s. 66.0615; 2003 a. 203; 2005 a. 135; 2007 a. 20; 2009 a. 2.

****NOTE: This subdivision is amended according to your instructions, but it does not seem to work. If it did work, several other statutes, such as s. 66.0615 (1m) (a), would also need to be amended.

X You seem to be suggesting that you'd like to require all room tax revenue that must be spent on tourism promotion and development to be forwarded either to a commission or a tourism entity "as already defined in the statute" yet your instructions do not require a commission to be created -- your marked up s. 66.0615 (1m) (d) 1. states that the relevant amount of room tax "shall be forwarded to the commission for its municipality or zone if the municipality has created a commission, and/or forwarded to a tourism entity." What if it hasn't created a commission? Who could spend the money?

Another problem is that a tourism entity, as defined in s. 66.0615 (1) (f), had to have been in existence before January 1, 1992. Do you also want to include an organization that functions as a tourism entity, as described in sub. (1m) (b) 1. and 2.? If a municipality does not have a tourism entity and has not created a commission, there's no place for the room tax revenue to go. Is your intent to require all municipalities to create a commission and to then require that all of the relevant room tax revenue must be forwarded by a municipality either to a commission or a tourism entity?

6 SECTION 4. 66.0615 (1m) (d) 2. of the statutes is amended to read:

7 66.0615 (1m) (d) 2. If Subject to par. (dm), if a municipality collects a room tax
 8 on May 13, 1994, it may retain not more than the same percentage of the room tax
 9 that it retains on May 13, 1994. If a municipality that collects a room tax on May 1,
 10 1994, increases its room tax after May 1, 1994, the municipality may retain not more
 11 than the same percentage of the room tax that it retains on May 1, 1994, except that
 12 if the municipality is not exempt under par. (am) from the maximum tax that may
 13 be imposed under par. (a), the municipality shall spend at least 70% of the increased
 14 amount of room tax that it begins collecting after May 1, 1994, on tourism promotion
 15 and development. Any amount of room tax collected that must be spent on tourism
 16 promotion and development shall either be spent directly by the municipality on

1 tourism promotion and development or shall be forwarded to the commission for its
2 municipality or zone if the municipality has created a commission.

3 **History:** 1983 a. 189, 514; 1993 a. 263, 467, 491; 1999 a. 9; 1999 a. 150 ss. 565 to 567; Stats. 1999 s. 66.0615; 2003 a. 203; 2005 a. 135; 2007 a. 20; 2009 a. 2.

3 **SECTION 5.** 66.0615 (1m) (dm) of the statutes is created to read:

4 66.0615 (1m) (dm) Beginning with the room tax collected on January 1, 2012,
5 by a municipality that collected a room tax on May 13, 1994, and retained more than
6 30 percent of the room tax collected for purposes other than tourism promotion and
7 development, such a municipality shall reduce the amount retained that exceeds 30
8 percent by one-third on January 1, 2012, ^{January 1,} 2013, and 2014, so that on and after
9 January 1, 2014, the municipality retains not more than 30 percent of the room tax
10 collected for purposes other than tourism promotion and development.

11 **SECTION 6.** 66.0615 (4) of the statutes is created to read:

12 66.0615 (4)(a) Annually, on a form provided by the department of revenue,
13 every municipality that imposes a tax under sub. (1m) shall certify and report to the
14 department all of the following:

15 1. The amount of room tax revenue collected by the municipality in the previous
16 year.

17 2. A detailed accounting of the amounts of such revenue that were expended
18 in the previous year, both for tourism promotion and development and for any other
19 purpose. The detailed accounting shall include expenditures made directly by a
20 municipality or on behalf of a municipality or a zone by a commission, a tourism
21 entity, or an organization that performs the functions of a tourism entity, as
22 described in sub. (1m) (b).

1 (b) The department of revenue shall collect the reports described in par. (a) and
 2 shall forward copies of the reports to the room tax review board under s. 15.435 (2)
 3 not later than 30 days after receiving a report.

4 (c) Upon receipt of a complaint concerning the use of room tax revenue by a
 5 municipality, commission, tourism entity, or an organization that performs the
 6 functions of a tourism entity, as described in sub. (1m) (b), the department of revenue
 7 shall forward a copy of the complaint to the room tax review board not later than 30
 8 days after receiving the complaint.

9 (d) If the department of revenue receives written findings from the room tax
 10 board, as described under s. 15.435 (2) (c), concerning the board's evaluation of
 11 possible improper spending of room tax revenues the department may, based on the
 12 board's findings, impose any of the following penalties on a municipality:

13 1. An amount equal to the improper expenditure, which the municipality shall
 14 spend on tourism promotion and development or deposit in an account or forward to
 15 a commission, ensuring that the amount deposited or forwarded is spent on tourism
 16 promotion and development.

****NOTE: Is this consistent with your intent? Your instructions don't indicate what should be done with the penalty.

17 2. An amount determined by the department, that shall be paid to the
 18 department, which represents part of the department's costs in collecting and
 19 distributing the reports under par. (b).

****NOTE: This is drafted according to your instructions, but is it consistent with your intent? It seems to authorize DOR to impose 99% of its costs on a single municipality for a single (possibly minor) violation.

20 3.

****NOTE: Your instructions state that another penalty could also be considered, but do not clarify what other penalties you are considering. The part of your instructions dealing with penalties doesn't seem to be very definite. Who gets the penalty money?

Editor
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percent

What should it be used for? Please review the penalty provisions in the draft, as well as in your instructions, and let me know if any changes are needed.

1

(END)

Shovers, Marc

From: Nelson, Elise
Sent: Tuesday, July 26, 2011 9:15 AM
To: Shovers, Marc
Subject: FW: Draft review: LRB 11-2120/P1 Topic: Modifications to the local room tax
Attachments: LRB-2120_P1; Prelim Draft LRB-comments.doc

Marc,

We've responded to some points brought up in the preliminary draft. (See attached Word doc) Please feel free to contact me with questions.

Thank you,

Elise Nelson
Office of Sen. Terry Moulton
23rd Senate District
608.266.7511

From: Basford, Sarah
Sent: Wednesday, June 01, 2011 11:14 AM
To: Sen.Moulton
Subject: Draft review: LRB 11-2120/P1 Topic: Modifications to the local room tax

Following is the PDF version of draft LRB 11-2120/P1.

Preliminary Draft LRB-2120/P1

Room Tax Reform

July 25, 2011

#1: 15.435(2) on Room Tax Review Board (a) Creation; membership

1. One public member who is ~~a member~~ an officer or their designee of a statewide organization that represents the interests of the Wisconsin hotel and ~~motel~~ lodging industry
2. One public member who is ~~a member~~ an officer or their designee of a statewide organization that represents the interests of the Wisconsin convention, visitor, and tourism entity industries
3. One public member who is ~~a member~~ an officer or their designee of a statewide organization that represents the interests of Wisconsin municipalities
4. (as noted)
5. (include staggered 3-year terms, so that one position is re-appointed each year)

Reasoning: "An officer or their designee" helps to ensure that the technical knowledge required in this role will be present. "Lodging" helps draw the entire lodging industry, instead of just one or two segments, as all segments collect and pay room tax. "Entity" draws in the language from the statute. The 3-year terms allow for some continuity for expertise, but allows for accountability as well.

#2: 15.435.2 (b) Duties

The board shall have the opportunity to review the annual room tax reports submitted to the department of revenue under s. 66.0615 (4) and shall review complaints forwarded by the department...

Reasoning: The board is only required to review reports from areas where a complaint is received, but they should also have the right to do a review if questions are raised.

#3: 66.0615 (1m) (a)

... A tax imposed under this paragraph by a municipality shall be paid to the municipality and may be forwarded to a commission if one is created under par. (c) , as provided in par. (d) except that before the person collecting the tax pays it to the municipality, the person may retain 3 percent of the tax collected. if the person paying for the room or lodging on which the tax was imposed uses a credit card to pay for the room or lodging.

Reasoning: The proposal noted 3% as the low average of credit card fees to take into account that 90 – 100% of lodging is paid by credit card, Total fees range from a low of over 2% to a high of 5% depending on complex dynamics set by processors. The flat 3% is more simplistic from an accounting perspective, and does not expose confidential customer charge card information in the event of a municipal audit.

#4: 66.0615 (1m) (d) 1

A municipality that first imposes a room tax under par. (a) after May 13, 1994, shall spend at least 70% of the amount collected on tourism promotion and development. Any amount of room tax collected that must be spent on tourism promotion and development shall either be ~~spent directly by the municipality on tourism promotion and development or shall be forwarded to the commission for its municipality or zone if the municipality has created a commission,~~ or forwarded to a tourism entity.

Reasoning: Leave it as the drafter noted.

1. *This may require other sections to be revised to ensure consistency, such as (1m) (a). ~~It was A.M.~~*
2. *It is correct that the suggestion is the room tax revenue must go to either a commission or a tourism entity. If there is neither at this time, the municipality would have their choice of which needs to be appointed or created, based on their circumstances, but one or the other must be in place for the routing or spending of the portion for tourism promotion and development.*
3. *To address the concern with the current definition of a "tourism entity", the following is suggested language that should resolve this issue:*

"Tourism Entity" definition change:

(f) "Tourism entity" means a nonprofit organization that ~~came into existence before January 1, 1992, and provides staff, development or promotional~~ provides destination marketing staff and services for the tourism industry in a municipality.

#5: Section 6. 66.0615 (4) (a) Report from municipality

2. A detailed accounting of the amounts of such revenue that were expended in the previous year, ~~both for tourism promotion and development and for any other purpose.~~

Reasoning: this suggested revision removes any obligation for the municipality to report on the portion of room tax revenue that can be spent however the municipality wishes. It is only the portion for tourism promotion and development that needs accountability added.

#6: Section 6. 66.0615 (4) (b) DOR submissions to Board

The department of revenue shall collect the reports described in par. (a) and shall forward copies of the reports to the room tax review board on request under 15.435 (2) not later than 30 days after receiving a report.

Reasoning: This change would provide consistency with the recommendation #2 above, and does not require all reports from municipalities to have to be sent to the board, however would require it if the board requested and that covered under (c) in the draft.

#7: Section 6. 66.0615 (4) (d) 1. Penalties

An amount equal to the improper expenditure, which the municipality shall ~~spend on tourism promotion and development or deposit in an account or~~ forward to a commission or tourism entity within six months, ensuring that the amount deposited or forwarded is spent on tourism promotion or development.

Reasoning: These suggested revisions are consistent with #4 above, plus they add a deadline not previously considered, to avoid unreasonable delay in the proper replacement of monies mis-spent.

#8: Section 6. 66.0615 (4) (d) 2. Penalties.

An amount determined by the department not to exceed the lesser of 20% of the amount in 66.0615 (4) (d) 1. Or \$2,000, that shall be paid to the department to be allocated to offset part of the department's costs in collecting and distributing the reports under par. (b).

Reasoning: This should clarify intent, as questioned in the drafter notes, and avoids the potential for the department to require that one municipality bear the financial burden for the entire program. There would be no further penalties than those two options, and again it clarifies what the penalty revenue would be used for.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2120/P1
MES:kjf:jf

P2

Tuesday
Cmns

(RMB)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

(RMB)

1 **AN ACT to amend** 66.0615 (1m) (a), 66.0615 (1m) (d) 1. and 66.0615 (1m) (d) 2.;
2 and **to create** 15.435 (2), 66.0615 (1m) (dm) and 66.0615 (4) of the statutes;
3 **relating to:** changes to the local room tax and creation of a state room tax
4 board.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

For further information see the **state and local** 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:

5 **SECTION 1.** 15.435 (2) of the statutes is created to read:
6 15.435 (2) ROOM TAX REVIEW BOARD. (a) *Creation; membership.* There is created
7 a room tax review board, attached to the department of revenue under s. 15.03,
8 consisting of the following members: *appointed by the governor*

8

use 3 times
an officer, or the designee of an officer,

1 One public member who is ~~a member~~ of a statewide organization that
2 represents the interests of the Wisconsin hotel and ~~tourism~~ *lodging* industry.

~~***NOTE: Your instruction stated this person should be the chief staff officer or designee from the WI Hotel and Lodging Assoc. This formulation essentially limits the governor to one specific person, which may be a delegation problem. Also, if the organization changes its name, there would be no appointee possible for this seat.~~

Is what I've drafted OK? It is consistent with the language in s. 66.0615 (1m) (c)
1. Another option would be to require the appointee be from a list submitted by a group (see s. 15.165 (3) (b)), although the problem of naming a specific organization remains if the organization goes out of existence or changes its name. This Note also relates to subs. 2. and 3., below.

3 2. One public member who is ~~a member~~ of a statewide organization that
4 represents the interests of the Wisconsin convention, visitor, and tourism *entity* industries.

5 3. One public member who is ~~a member~~ of a statewide organization that
6 represents the interests of Wisconsin municipalities.

7 4. One employee of the department of revenue, who shall provide staff support
8 for the board, and may not vote.

JPS 2-6
~~***NOTE: What term would you like specified for the members of the board?~~

9 (c) ~~(b)~~ Duties. The board ~~shall~~ *may, upon its request,* review the annual room tax reports submitted to
10 the department of revenue under s. 66.0615 (4) and *shall review* complaints forwarded by the
11 department under s. 66.0615 (4) ~~and~~ *The board* shall evaluate whether any expenditures of
12 room tax revenues that a municipality, a commission as defined in s. 66.0615 (1) (a),
13 a tourism entity as defined in s. 66.0615 (1) (f), or an organization that performs the
14 functions of a tourism entity as described in s. 66.0615 (1m) (b) 1., 2., and 4., is
15 required to spend on tourism promotion and development have not been spent for the
16 required purposes. The board may seek and evaluate any other data that relates to
17 such possible improper spending of room tax revenues by a municipality directly or
18 on behalf of a municipality or zone, as defined in s. 66.0615 (1) (h), by a commission,
19 tourism entity, or organization that performs the functions of a tourism entity.

by the municipality
shall ←

1 (d) ~~(c)~~ Findings. The board shall forward to the department of revenue written
2 findings concerning the board's evaluation of possible improper spending described
3 under par. ~~(b)~~, and its recommendations for department action against a
4 municipality that has spent room tax revenues directly, or on whose behalf such
5 revenues have been spent, for an improper purpose.

INS
3-5

6 SECTION 2. 66.0615 (1m) (a) of the statutes is amended to read:

7 66.0615 (1m) (a) The governing body of a municipality may enact an ordinance,
8 and a district, under par. (e), may adopt a resolution, imposing a tax on the privilege
9 of furnishing, at retail, except sales for resale, rooms or lodging to transients by
10 hotelkeepers, motel operators and other persons furnishing accommodations that
11 are available to the public, irrespective of whether membership is required for use
12 of the accommodations. A tax imposed under this paragraph is not subject to the
13 selective sales tax imposed by s. 77.52 (2) (a) 1. and may not be imposed on sales to

14 the federal government and persons listed under s. 77.54 (9a). A tax imposed under
15 this paragraph by a municipality shall be paid to the municipality and ~~may~~ be
16 forwarded to a tourism entity or a commission if one is created under par. (c), as provided in par. (d),

17 except that before the person collecting the tax pays it to the municipality, the person
18 may retain 3 percent of the tax collected if the person paying for the room or lodging

19 on which the tax was imposed uses a credit card to pay for the room or lodging. Except
20 as provided in par. (am), a tax imposed under this paragraph by a municipality may
21 not exceed 8%. Except as provided in par. (am), if a tax greater than 8% under this
22 paragraph is in effect on May 13, 1994, the municipality imposing the tax shall
23 reduce the tax to 8%, effective on June 1, 1994.

24 SECTION 3. 66.0615 (1m) (d) 1. of the statutes is amended to read:

1 66.0615 (1m) (d) 1. A municipality that first imposes a room tax under par. (a)
2 after May 13, 1994, shall spend at least 70% of the amount collected on tourism
3 promotion and development. Any amount of room tax collected that must be spent
4 on tourism promotion and development shall either be ~~spent directly by the~~
5 ~~municipality on tourism promotion and development or shall~~ be forwarded to the
6 commission for its municipality or zone if the municipality has created a commission,
7 or forwarded to a tourism entity.

~~****NOTE: This subdivision is amended according to your instructions, but it does not seem to work. If it did work, several other statutes, such as s. 66.0615 (1m) (a), would also need to be amended.~~

~~You seem to be suggesting that you'd like to require all room tax revenue that must be spent on tourism promotion and development to be forwarded either to a commission or a tourism entity "as already defined in the statute," yet your instructions do not require a commission to be created -- your marked up s. 66.0615 (1m) (d) 1. states that the relevant amount of room tax "shall be forwarded to the commission for its municipality or zone if the municipality has created a commission, and/or forwarded to a tourism entity." What if it hasn't created a commission? Who could spend the money?~~

~~Another problem is that a tourism entity, as defined in s. 66.0615 (1) (f), had to have been in existence before January 1, 1992. Do you also want to include an organization that functions as a tourism entity, as described in sub. (1m) (b) 1. and 2.? If a municipality does not have a tourism entity and has not created a commission, there's no place for the room tax revenue to go. Is your intent to require all municipalities to create a commission and to then require that all of the relevant room tax revenue must be forwarded by a municipality either to a commission or a tourism entity?~~

8 SECTION 4. 66.0615 (1m) (d) 2. of the statutes is amended to read:

9 66.0615 (1m) (d) 2. If Subject to par. (dm), if a municipality collects a room tax
10 on May 13, 1994, it may retain not more than the same percentage of the room tax
11 that it retains on May 13, 1994. If a municipality that collects a room tax on May 1,
12 1994, increases its room tax after May 1, 1994, the municipality may retain not more
13 than the same percentage of the room tax that it retains on May 1, 1994, except that
14 if the municipality is not exempt under par. (am) from the maximum tax that may
15 be imposed under par. (a), the municipality shall spend at least 70% of the increased
16 amount of room tax that it begins collecting after May 1, 1994, on tourism promotion

1 and development. Any amount of room tax collected that must be spent on tourism
2 promotion and development shall either be spent directly by the municipality on
3 tourism promotion and development or shall be forwarded to the commission for its
4 municipality or zone if the municipality has created a commission.

5 **SECTION 5.** 66.0615 (1m) (dm) of the statutes is created to read:

6 66.0615 (1m) (dm) Beginning with the room tax collected on January 1, 2012,
7 by a municipality that collected a room tax on May 13, 1994, and retained more than
8 30 percent of the room tax collected for purposes other than tourism promotion and
9 development, such a municipality shall reduce the amount retained that exceeds 30
10 percent by one-third on January 1, 2012, January 1, 2013, and January 1, 2014, so
11 that on and after January 1, 2014, the municipality retains not more than 30 percent
12 of the room tax collected for purposes other than tourism promotion and
13 development.

14 **SECTION 6.** 66.0615 (4) of the statutes is created to read:

15 66.0615 (4) (a) Annually, on a form provided by the department of revenue,
16 every municipality that imposes a tax under sub. (1m) shall certify and report to the
17 department all of the following:

- 18 1. The amount of room tax revenue collected by the municipality in the previous
19 year.
- 20 2. A detailed accounting of the amounts of such revenue that were expended
21 in the previous year ~~for~~ for tourism promotion and development ~~and for any other~~
22 ~~purpose~~. The detailed accounting shall include expenditures made directly by a
23 municipality or on behalf of a municipality or a zone by a commission, a tourism
24 entity, or an organization that performs the functions of a tourism entity, as
25 described in sub. (1m) (b).

1 (b) The department of revenue shall collect the reports described in par. (a) and
2 shall forward copies of the reports to the room tax review board under s. 15.435 (2), *upon*
3 *the request of the board,* not later than 30 days after receiving a *request from the board for a copy of a* report.

4 (c) Upon receipt of a complaint concerning the use of room tax revenue by a
5 municipality, commission, tourism entity, or an organization that performs the
6 functions of a tourism entity, as described in sub. (1m) (b), the department of revenue
7 shall forward a copy of the complaint to the room tax review board not later than 30
8 days after receiving the complaint.

9 (d) If the department of revenue receives written findings from the room tax
10 board, as described under s. 15.435 (2) *(d)*, concerning the board's evaluation of
11 possible improper spending of room tax revenues the department may, based on the
12 board's findings, impose any of the following penalties on a municipality:

13 1. An amount equal to the improper expenditure, which the municipality shall
14 ~~spend on tourism promotion and development or deposit in an account or~~ forward to
15 a commission, *or tourism entity*, ensuring that the amount deposited or forwarded is spent on tourism
16 promotion and development. *The municipality shall forward the penalty to a commission or entity not later than the first day of the sixth month beginning after the penalty is imposed.*

6th
****NOTE: Is this consistent with your intent? Your instructions don't indicate what should be done with the penalty.

17 2. An amount determined by the department, *and allocated by the department to offset*
18 department, ~~which represents~~ part of the department's costs in collecting and
19 distributing the reports under par. (b).

~~****NOTE: This is drafted according to your instructions, but is it consistent with your intent? It seems to authorize DOR to impose 99 percent of its costs on a single municipality for a single (possibly minor) violation.~~

20 3.
~~****NOTE: Your instructions state that another penalty could also be considered, but do not clarify what other penalties you are considering. The part of your instructions dealing with penalties doesn't seem to be very definite. Who gets the penalty money?~~

INS 6-17

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What should it be used for? Please review the penalty provisions in the draft, as well as in your instructions, and let me know if any changes are needed.

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2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2120/P2ins
MES:kjf:jf

INS 2-8

(b) *Terms.* Each member under par. (a) shall be appointed by the governor for a 3-year term, except that the first person appointed under par. (a) 1. shall be appointed for a one-year term, and the first person appointed under par. (a) 2. shall be appointed for a ^{e 2}two-year term. Any vacancy shall be filled for the balance of the unexpired term by the governor as soon as practicable.

****NOTE: Is this consistent with your intent? Do you want someone other than the governor to make the appointments?

INS 3-5

SECTION 1. 66.0615 (1) (f) of the statutes is amended to read:

66.0615 (1) (f) "Tourism entity" means a nonprofit organization that ~~came into existence before January 1, 1992, and provides staff, development or promotional~~ provides destination marketing staff and services for the tourism industry in a municipality.

History: 1983 a. 189, 514; 1993 a. 263, 467, 491; 1999 a. 9; 1999 a. 150 ss. 565 to 567; Stats. 1999 s. 66.0615; 2003 a. 203; 2005 a. 135; 2007 a. 20; 2009 a. 2; 2011 a. 18, 32.

INS 6-17

^{no ff} not to exceed the lesser of either 20 percent of the improper expenditure described under subd. 1. or \$2,000,

Shovers, Marc

From: Nelson, Elise
Sent: Wednesday, September 28, 2011 3:14 PM
To: Shovers, Marc
Subject: RE: Draft review: LRB 11-2120/P1 Topic: Modifications to the local room tax

Marc,

Sorry, some time has passed since we last touched base on this bill. I believe we're working off a P2 now...

The question on page two asks if the governor or someone else should make the appointments. We'd like the Governor to make that appointment.

There was one other change suggested by interested stakeholders:

Page 2, line 12 (15435 (2) (b):

"... Except that the first person appointed under par. (a) 1. shall be..."

We suggest that this be changed to "par. (a) 3." This would mean that the **initial one-year term on the Room Tax Review Board (in creating staggered terms) would be for the municipalities organization instead of the hotel and lodging organization.**

The reasoning is that their representative would be highly likely to have less experience with room tax on a state-wide basis, and the organization may find a one-year option helpful in determining who is the best fit in a new specialization.

Please let me know that the proposed change would indeed reflect their intent.

Thanks!

Elise

From: Basford, Sarah
Sent: Wednesday, June 01, 2011 11:14 AM
To: Sen.Moulton
Subject: Draft review: LRB 11-2120/P1 Topic: Modifications to the local room tax

Following is the PDF version of draft LRB 11-2120/P1.

Shovers, Marc

From: Nelson, Elise
Sent: Wednesday, October 12, 2011 4:08 PM
To: Shovers, Marc
Cc: Baxter, Tara
Subject: LRB-2120

Marc,

You've been working on LRB-2120 regarding the room tax for Senator Moulton's office. Please allow Sen. Olsen's office access to the draft and request for future changes as they will be taking over as the lead on this piece of legislation.

Thank you!

Elise Nelson
Office of Sen. Terry Moulton
23rd Senate District
608.266.7511