



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0385/5
ARG/JK/MPG:wlj:rs

2011 ASSEMBLY BILL 278

September 28, 2011 - Introduced by Representatives STONE, HONADEL, STASKUNAS, MURSAU, PASCH, KOOYENGA, FIELDS, SPANBAUER, RICHARDS and TURNER, cosponsored by Senators DARLING and ZIPPERER. Referred to Committee on Transportation. Referred to Joint Survey Committee on Tax Exemptions.

1 **AN ACT** *to amend* 20.370 (2) (cf), 20.395 (5) (cq), 20.395 (5) (hq), 20.395 (5) (hx),
2 77.54 (57) (b) 1., 77.54 (57) (b) 2., 110.20 (2), 110.20 (8) (am) 1., 110.21, 110.215,
3 285.39 (3) (a) and 341.26 (2m) (am); and **to create** 20.395 (5) (cr), 70.11 (27m),
4 70.111 (27), 70.111 (28), 77.54 (57) (a) 5m., 77.54 (60), 85.63, 110.20 (9) (o),
5 110.20 (10) (e), 238.07 (4) and 285.30 (7) of the statutes; **relating to:** a sales and
6 use tax exemption for extended-range electric vehicles; a property tax
7 exemption for tangible personal property used to recharge electric vehicles; the
8 motor vehicle emission inspection and maintenance program and payments to
9 the Wisconsin Economic Development Corporation related to extended-range
10 electric vehicles; a property and sales and use tax exemption for certain

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- 1 machinery and tangible personal property used to conduct research; and
2 making an appropriation.
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Analysis by the Legislative Reference Bureau**SALES TAX EXEMPTIONS**

This bill provides a sales and use tax exemption for extended-range electric vehicles that are licensed for highway use.

PROPERTY TAX EXEMPTIONS

This bill exempts from property taxes all tangible personal property used exclusively to provide electricity to recharge electric vehicles that are licensed for highway use.

This bill also creates a property tax exemption and a sales and use tax exemption for machinery and other tangible personal property used for qualified research by persons engaged primarily in manufacturing, silviculture, or biotechnology in this state.

VEHICLE EMISSION INSPECTIONS AND PAYMENTS RELATED TO ELECTRIC VEHICLES

Current law requires the Department of Transportation (DOT) to conduct the motor vehicle emission inspection and maintenance program (I/M program) in counties in which the air quality does not meet certain federal standards (nonattainment counties). Under the I/M program, most motor vehicles that are subject to emission limitations established by the Department of Natural Resources (DNR) must pass periodic emission inspections and may not be registered by DOT unless they have passed these inspections. Most nonexempt motor vehicles must undergo an initial emission inspection in the fourth year after the vehicle's model year and additional emission inspections every two years thereafter. DOT may contract with third parties to perform vehicle emission inspections under the I/M program. The costs of administering the program, including contracting for emission inspections, are primarily paid by DOT from the transportation fund, although a small portion of the costs are paid by DNR from the general fund.

This bill terminates the I/M program on June 30, 2013, if termination of the program on that date is consistent with the requirements under federal law or if this state receives a waiver of the requirements under federal law or approval from the applicable federal agency to terminate the program. If any of these conditions are satisfied so that termination may occur, DOT may not thereafter enter into, or renew or extend, any contract to perform testing and inspections under the program for a period that extends beyond June 30, 2013. The bill also eliminates the requirement that DOT's testing and inspection contracts must be for at least three years.

Under the bill, beginning on July 1, 2013, DOT must pay to the Wisconsin Economic Development Corporation (WEDC) amounts appropriated for these payments if the I/M program is terminated on June 30, 2013. These payments must be used for purposes related to the research, production, promotion, and use of extended-range electric vehicles primarily in the nonattainment counties. The bill

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1 20.395 (5) (cq) *Vehicle registration, ~~inspection and maintenance, driver~~*
2 *licensing, and aircraft registration, state funds.* The amounts in the schedule for
3 administering the vehicle registration and driver licensing program, including the
4 traffic violation and registration program and the driver license reinstatement
5 training program under s. 85.28, ~~for administering the motor vehicle emission~~
6 ~~inspection and maintenance program under s. 110.20,~~ for the training of inspectors
7 under s. 110.22, for administering the fuel tax and fee reporting program under s.
8 341.45, for administering the aircraft registration program under s. 114.20 and to
9 compensate for services performed, as determined by the secretary of transportation,
10 by any county providing registration services.

11 **SECTION 4.** 20.395 (5) (cr) of the statutes is created to read:

12 20.395 (5) (cr) *Vehicle inspection and maintenance; payments; state funds.* The
13 amounts in the schedule for administering the motor vehicle emission inspection and
14 maintenance program under s. 110.20 or, if this program is terminated on June 30,
15 2013, for the reasons specified in s. 110.20 (2), for making payments under s. 85.63.

16 **SECTION 5.** 20.395 (5) (hq) of the statutes is amended to read:

17 20.395 (5) (hq) *Motor vehicle emission inspection and maintenance program;*
18 *contractor costs and equipment grants; payments; state funds.* The amounts in the
19 schedule to provide for contracts for the operation of inspection stations under s.
20 110.20 and for the motor vehicle emission control equipment grant program under
21 s. 110.215 or, if these programs are terminated on June 30, 2013, for the reasons
22 specified in s. 110.20 (2), for making payments under s. 85.63.

23 **SECTION 6.** 20.395 (5) (hx) of the statutes is amended to read:

24 20.395 (5) (hx) *Motor vehicle emission inspection and maintenance programs,*
25 *federal funds.* All moneys received from the federal government for the purpose of

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1 the motor vehicle emission inspection and maintenance program under s. 110.20, for
2 such purposes. If this program is terminated on June 30, 2013, for the reasons
3 specified in s. 110.20 (2), no moneys may be encumbered from this appropriation
4 account after June 30, 2013.

5 **SECTION 7.** 70.11 (27m) of the statutes is created to read:

6 70.11 (**27m**) RESEARCH MACHINERY AND EQUIPMENT. (a) In this subsection:

- 7 1. "Biotechnology" has the meaning given in s. 77.54 (57) (a) 1f.
- 8 2. "Machinery" has the meaning given in sub. (27) (a) 2.
- 9 3. "Manufacturing" has the meaning given in sub. (27) (a) 3.
- 10 4. "Primarily" means more than 50 percent.
- 11 5. "Qualified research" means qualified research as defined under section 41
12 (d) (1) of the Internal Revenue Code.
- 13 6. "Silviculture" means theory and practice of controlling regeneration,
14 composition, and growth of stands of forest vegetation using knowledge of the life
15 history, characteristics, and ecology of forest trees through:
 - 16 a. Regeneration treatment.
 - 17 b. Liberation cutting.
 - 18 c. Thinning.
 - 19 d. Crown thinning.
 - 20 e. Improvement cutting.
 - 21 f. Planting.
 - 22 g. Site preparation.
 - 23 h. Pruning.
- 24 7. "Used exclusively" has the meaning given in sub. (27) (a) 8.

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1 (b) Machinery and equipment, including attachments, parts, and accessories,
2 used by persons who are engaged primarily in manufacturing, silviculture, or
3 biotechnology in this state and are used exclusively and directly in qualified
4 research.

5 **SECTION 8.** 70.111 (27) of the statutes is created to read:

6 70.111 **(27)** CHARGING STATIONS. All tangible personal property used exclusively,
7 as defined in s. 70.11 (27) (a) 8., to provide electricity to recharge electric vehicles that
8 are licensed for highway use, regardless of the extent to which the tangible personal
9 property is fastened to, connected to, or built into real property.

10 **SECTION 9.** 70.111 (28) of the statutes is created to read:

11 70.111 **(28)** RESEARCH PROPERTY. (a) In this subsection:

- 12 1. "Biotechnology" has the meaning given in s. 77.54 (57) (a) 1f.
- 13 2. "Manufacturing" has the meaning given in s. 70.11 (27) (a) 3.
- 14 3. "Primarily" means more than 50 percent.
- 15 4. "Qualified research" means qualified research as defined under section 41
16 (d) (1) of the Internal Revenue Code.

17 5. "Silviculture" has the meaning given in s. 70.11 (27m) (a) 6.

18 6. "Used exclusively" has the meaning given in s. 70.11 (27) (a) 8.

19 (b) Tangible personal property used by persons who are engaged primarily in
20 manufacturing, silviculture, or biotechnology in this state, if the tangible personal
21 property is consumed or destroyed or loses its identity while being used exclusively
22 and directly in qualified research.

23 **SECTION 10.** 77.54 (57) (a) 5m. of the statutes is created to read:

24 77.54 **(57)** (a) 5m. "Silviculture" has the meaning given in s. 70.11 (27m) (a) 6.

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1 **SECTION 11.** 77.54 (57) (b) 1. of the statutes, as created by 2009 Wisconsin Act
2 28, is amended to read:

3 77.54 **(57)** (b) 1. Machinery and equipment, including attachments, parts, and
4 accessories, that are sold to persons who are engaged primarily in manufacturing,
5 silviculture, or biotechnology in this state and are used exclusively and directly in
6 qualified research.

7 **SECTION 12.** 77.54 (57) (b) 2. of the statutes, as created by 2009 Wisconsin Act
8 28, is amended to read:

9 77.54 **(57)** (b) 2. Tangible personal property or item or property under s. 77.52
10 (1) (b) or (c) that is sold to persons who are engaged primarily in manufacturing,
11 silviculture, or biotechnology in this state, if the tangible personal property or item
12 or property under s. 77.52 (1) (b) or (c) is consumed or destroyed or loses its identity
13 while being used exclusively and directly in qualified research.

14 **SECTION 13.** 77.54 (60) of the statutes is created to read:

15 77.54 **(60)** The sales price from the sales of and the storage, use, or other
16 consumption of extended-range electric vehicles, as defined in s. 85.63 (1), that are
17 licensed for highway use, including accessories and parts for such vehicles, and
18 purchased during the period beginning on the effective date of this subsection
19 [LRB inserts date], and ending on December 31, 2022, except that the exemption
20 under this subsection that applies to batteries for extended-range electric vehicles
21 ends on December 31, 2025. The exemption under this subsection applies regardless
22 of whether the vehicles are sold new or used. The taxes imposed under this
23 subchapter on the vehicles, accessories, and parts described under this subsection
24 after the exemptions under this subsection expire shall be deposited into the
25 transportation fund.

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1 **SECTION 14.** 85.63 of the statutes is created to read:

2 **85.63 Payments to the Wisconsin Economic Development Corporation.**

3 **(1)** In this section, “extended-range electric vehicle” means a vehicle that is
4 equipped with an electric motor and energy storage device capable of propelling the
5 vehicle, without other methods of propulsion, for at least 30 miles on a single energy
6 charge, but does not include a “low-speed vehicle,” as defined in s. 340.01 (27h), or
7 a golf cart. An “extended-range electric vehicle” may incorporate additional
8 methods of propulsion, including a chemically fueled internal combustion engine
9 that is capable of operating on gasoline, diesel fuel, or alternative fuels.

10 **(2)** (a) Beginning on July 1, 2013, the department shall pay to the Wisconsin
11 Economic Development Corporation under ch. 238 the amounts appropriated under
12 s. 20.395 (5) (cr) and (hq) if the inspection and maintenance program under s. 110.20
13 is terminated as provided in s. 110.20 (2).

14 (b) Payments under par. (a) shall be used for purposes related to the research,
15 production, promotion, and use of extended-range electric vehicles primarily in the
16 counties of Kenosha, Milwaukee, Ozaukee, Racine, Sheboygan, Washington, and
17 Waukesha.

18 **SECTION 15.** 110.20 (2) of the statutes is amended to read:

19 **110.20 (2) PROGRAM ESTABLISHED.** The department shall establish an inspection
20 and maintenance program as provided in this section. This program shall terminate
21 on, and the provisions of this section do not apply after, June 30, 2013, if termination
22 of the program on that date is consistent with the requirements of the federal act or
23 if this state receives a waiver of the requirements of the federal act or approval from
24 the applicable federal agency to terminate the program. If this program is
25 terminated for the reasons specified in this subsection, the department shall provide

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1 for notice of such termination to be published by the legislative reference bureau in
2 the Wisconsin Administrative Register under s. 35.93 (4).

3 **SECTION 16.** 110.20 (8) (am) 1. of the statutes is amended to read:

4 110.20 (8) (am) 1. The emissions test and equipment inspection of nonexempt
5 vehicles may be performed by persons under contract with the department. Each
6 such contract shall require the contractor to operate inspection stations, which may
7 be permanent or mobile, ~~for a minimum of 3 years~~ and shall provide for equitable
8 compensation to the contractor if the operation of an inspection and maintenance
9 program within any county is terminated ~~within 3 years after the inspection and~~
10 ~~maintenance program in the county is begun~~ before the end of the contract period.

11 No officer, director or employee of the contractor may be an employee of the
12 department. The department may contract with any person, including any person
13 engaged in the business of selling, maintaining, or repairing motor vehicles or of
14 selling motor vehicle replacement or repair parts. The department shall require the
15 contractor to operate a sufficient number of inspection stations, permanent or
16 mobile, to ensure public convenience in those counties identified under sub. (5).

17 **SECTION 17.** 110.20 (9) (o) of the statutes is created to read:

18 110.20 (9) (o) Do not apply after June 30, 2013, if the inspection and
19 maintenance program is terminated as provided in sub. (2).

20 **SECTION 18.** 110.20 (10) (e) of the statutes is created to read:

21 110.20 (10) (e) Do not apply after June 30, 2013, if the inspection and
22 maintenance program is terminated as provided in sub. (2).

23 **SECTION 19.** 110.21 of the statutes is amended to read:

24 **110.21 Education and training related to motor vehicle emissions.** The
25 department and its contractors under s. 110.20 (8) (am) shall conduct a program of

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1 public education related to the motor vehicle emission and equipment inspection and
2 maintenance program established under s. 110.20 (6). The program under s. 110.20
3 (6) may include a pilot project of motor vehicle emissions inspections for those owners
4 who elect to present their motor vehicles for inspection. This section does not apply
5 after June 30, 2013, if the inspection and maintenance program is terminated as
6 provided in s. 110.20 (2).

7 **SECTION 20.** 110.215 of the statutes is amended to read:

8 **110.215 Motor vehicle emission control equipment grant program.**

9 From the appropriation under s. 20.395 (5) (hq), the department shall, in
10 consultation with the department of natural resources, develop and administer a
11 program to provide grants for the purchase and installation of oxidation catalyst
12 mufflers on school buses customarily kept in counties identified in s. 110.20 (5). The
13 department shall adopt rules to implement and administer this section, including
14 procedures, standards, and criteria for awarding and distributing the grants. The
15 program under this section shall terminate on, and the provisions of this section and
16 any rule adopted under this section do not apply after, June 30, 2013, if the inspection
17 and maintenance program is terminated as provided in s. 110.20 (2).

18 **SECTION 21.** 238.07 (4) of the statutes is created to read:

19 **238.07 (4)** For each year in which the department of transportation makes
20 payments under s. 85.63 (2) (a), the board shall submit to the presiding officer of each
21 house of the legislature an audited financial statement of its use of the payments
22 under s. 85.63 (2), prepared in accordance with generally accepted accounting
23 principles.

24 **SECTION 22.** 285.30 (7) of the statutes is created to read:

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1 285.30 (7) SUNSET DATE IF CONSISTENT WITH FEDERAL LAW. This section, and any
2 rule adopted under this section, does not apply after June 30, 2013, if the inspection
3 and maintenance program is terminated as provided in s. 110.20 (2).

4 **SECTION 23.** 285.39 (3) (a) of the statutes is amended to read:

5 285.39 (3) (a) Promulgate rules under s. 285.30 (6) (e), relating to the inspection
6 of vehicles for tampering with air pollution control equipment. These rules do not
7 apply after June 30, 2013, if the inspection and maintenance program is terminated
8 as provided in s. 110.20 (2).

9 **SECTION 24.** 341.26 (2m) (am) of the statutes is amended to read:

10 341.26 (2m) (am) A fee of \$5 shall be paid to the department for the original
11 issuance of a registration plate for any vehicle owned by this state or by any county
12 or municipality or federally recognized Indian tribe or band in this state or leased to
13 this state or to any county or municipality or federally recognized Indian tribe or
14 band in this state, and operated exclusively, except for operation under s. 20.916 (7),
15 in the public service by such state, county, municipality or Indian tribe or band. The
16 registration shall be valid while the vehicle is owned and operated by the registrant
17 or is leased to and operated by this state or by the county, municipality or Indian tribe
18 or band, and the registrant complies with s. 110.20 (6) when required.

19 **SECTION 25. Nonstatutory provisions.**

20 (1) If termination of the inspection and maintenance program becomes
21 consistent with the requirements of the federal act, as defined in section 110.20 (1)
22 (am) of the statutes, or if this state receives a waiver of the requirements of the
23 federal act or approval from the applicable federal agency to terminate the inspection
24 and maintenance program, the department of transportation may not thereafter

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1 enter into, or renew or extend, any contract under section 110.20 (8) (am) of the
2 statutes, as affected by this act, for a period that extends beyond June 30, 2013.

3 **SECTION 26. Fiscal changes.**

4 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
5 to the department of transportation under section 20.395 (5) (cq) of the statutes, as
6 affected by the acts of 2011, the dollar amount is decreased by \$600,000 for the first
7 fiscal year of the fiscal biennium in which this subsection takes effect, and is
8 decreased by \$600,000 for the second fiscal year of the fiscal biennium in which this
9 subsection takes effect, to delete funding for administering the motor vehicle
10 emission inspection and maintenance program under section 110.20 of the statutes,
11 as affected by this act.

12 **SECTION 27. Initial applicability.**

13 (1) The treatment of sections 70.11 (27m) and 70.111 (27) and (28) of the
14 statutes first applies to the property tax assessments as of January 1, 2011.

15 **SECTION 28. Effective dates.** This act takes effect on the day after
16 publication, except as follows:

17 (1) The treatment of section 77.54 (57) (a) 5m. and (b) 1. and 2. of the statutes
18 takes effect January 1, 2012, or on the first day of the 2nd month beginning after
19 publication, whichever is later.

20 (2) The treatment of section 77.54 (60) of the statutes takes effect on the first
21 day of the 2nd month beginning after publication.

22 (END)