



State of Wisconsin

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STEPHEN R. MILLER
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September 6, 2013

MEMORANDUM

To: Senator Ellis

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

Subject: Technical Memorandum to **2013 SB 259** (LRB-1656/1) 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

August 29, 2013

TO: Joe Kreye
Legislative Reference Bureau

FROM: Bob Schmidt
Department of Revenue

SUBJECT: Technical Memorandum on SB 259 – relating to authorizing the creation of a Fox Cities regional transit authority and making appropriations.

The Department has the following concerns with SB 259:

1. The bill does not require that municipal resolutions and referenda specify the same maximum sales tax rate as an existing RTA or other municipalities establishing an RTA. This could lead to municipalities establishing different maximum rates for the RTA. The department suggests the following modifications to avoid conflicting maximum tax rates:
 - Amend sec. 66.1039(4)(s)3., of the bill, to provide that the maximum authorized tax rates must be identical in each resolution and referendum under sec. 66.1039(2)(d)1., of the bill.
 - Amend sec. 66.1039(2)(d)2., and 3., of the bill to require the resolutions and referenda required under each subdivision indicate the maximum tax rate the authority is currently authorized to impose.
2. The bill requires that resolutions and referenda authorizing a municipality to join an RTA indicate the maximum sales tax rate the RTA is authorized to impose. The language in sec. 66.1039(4)(s)3. suggests that the RTA tax may become invalid if a municipality joins an established RTA, but fails to specify the maximum tax rate in either its resolution or referendum. The department suggests sec. 66.1039(4)(s)3. be modified so that the requirement to specify the maximum tax rate that may be imposed by the RTA only applies to resolutions and referenda that establish the RTA (sec. 66.1039(2)(d)1).
3. The bill requires municipalities to adopt resolutions, ratified at referenda, to establish or join the RTA. The established RTA is only required to adopt a resolution to impose a sales tax. Section 17 of the bill could be interpreted to require a referendum for the established RTA to impose a sales tax. To clarify what the words "resolution" and "referendum" are referring to in sec. 77.708(1) of the bill and to clarify the authority of an established RTA to impose a sales tax by passing a resolution, the department recommends the following changes:

77.708 Adoption by resolution and referendum; transit authority. (1) A transit authority created under s. 66.1039, by resolution and referendum under s. 66.1039 (4) (s) (1), may, subject to s. 66.1039 (4) (s) 3., impose a sales tax and a use tax under this subchapter at a rate of 0.1, 0.2, 0.3, 0.4, or 0.5 percent, but not exceeding the maximum rate authorized by the resolutions and referendums under s. 66.1039 (2) (d) (1), of the sales price or purchase price. Those taxes may be imposed only in their entirety. The resolution under s. 66.1039 (4) (s) (1) and referendum shall be effective on the first day of the first calendar quarter that begins at least 120 days after a certified copy of the that resolution and the resolutions and affirmative result results of the referendum referendums under s. 66.1039 (2) (d) (1) are delivered to the department of revenue.

77.71 Imposition of county, transit authority, and special district sales and use taxes. Whenever a county sales and use tax ordinance is adopted under s. 77.70, a transit authority resolution is adopted under s. 77.708 and affirmed by referendum, or a special district resolution is adopted under s. 77.705 or 77.706, the following taxes are imposed:

4. The bill does not specify a procedure for the Regional Transit Authority (RTA) to change the sales tax rate or modify the maximum allowable rate (if the maximum rate initially established is lower than 0.5%). If the author's intent is to provide the RTA with the flexibility to change the maximum allowable rate or change the sales tax rate within the maximum authorized rate, the bill should be modified to include such provisions.

If you have questions regarding this technical memorandum, please contact Bob Schmidt at (608) 266-5773 or robertk1.schmidt@revenue.wi.gov.

cc: Senator Ellis