



# State of Wisconsin

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STEPHEN R. MILLER  
CHIEF

April 1, 2014

## MEMORANDUM

**To:** Senator Vinehout

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

**Subject:** Technical Memorandum to **2013 SB 686** (LRB-3548/1) by **DOR**

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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

March 31, 2014

**TO:** Joe Kreye  
Legislative Reference Bureau

**FROM:** Bob Schmidt  
Department of Revenue

**SUBJECT:** Technical Memorandum on SB 686 – relating to authorizing the creation of a Chippewa Valley regional transit authority and making appropriations.

The Department has the following concerns with SB 686:

1. The bill requires that the resolutions and referenda that create and expand the 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 may not be able to impose the tax if Chippewa County fails to specify the maximum tax rate in either its resolution or referendum. Failure by Chippewa County to specify the maximum tax rate in its resolution or referendum does not appear to preclude Chippewa County from joining the RTA. Similar problems would exist if Chippewa County were to pass a resolution and referendum with a different maximum rate than the RTA.

The department suggests the bill be modified to require that resolution and referendum for Chippewa County contain the same maximum rates as previously authorized in the resolution and referendum for Eau Claire County

2. 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, may, by resolution and referendum under s. 66.1039 (4) (s), 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 of the sales price or purchase price. Those taxes may be imposed only in their entirety. The resolution under s. 66.1039 (4) (s) 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 ~~are~~is-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:

3. The bill does not provide a minimum 120 day notice to the department for a local tax rate change within the authorized range. The Streamlined Sales and Use Tax Agreement (SSUTA) requires member states to provide at least 120 days' notice to sellers for local tax rate changes. If Wisconsin does not conform to the SSUTA and consequently loses its membership, out-of-state retailers that voluntarily registered through Streamlined would no longer be obligated to collect Wisconsin sales and use tax.

The department suggests the bill be modified to include a 120 notice requirement within sec. 66.1039(4)(s) for a situation in which the RTA, having initially imposed a tax, amends its resolution to change the tax rate.

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, 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](mailto:robertk1.schmidt@revenue.wi.gov).

cc: Senator Vinehout