

**2015 DRAFTING REQUEST**

**Bill**

Received: **6/26/2015** Received By: **jkreye**  
For: **Janis Ringhand (608) 266-2253** Same as LRB:  
May Contact: By/Representing: **pat**  
Subject: **Tax, Other - sales** Drafter: **jkreye**  
Addl. Drafters:  
Extra Copies:

Submit via email: **YES**  
Requester's email: **Sen.Ringhand@legis.wi.gov**  
Carbon copy (CC) to: **joseph.kreye@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Sales and use tax exemption for ecosystem restoration services

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 6/29/2015		_____			
/P1	jkreye 8/12/2015	csicilia 6/30/2015	_____	mbarman 6/30/2015		State S&L Tax
/P2	jkreye 11/16/2015	anienaja 8/13/2015	_____	mbarman 8/13/2015		State S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1		csicilia 11/17/2015	_____	sbasford 11/17/2015	mbarman 11/17/2015	State S&L Tax

FE Sent For:

→ A+  
Intro.

<END>

6-26-15

Bot

6-2253

Sen Ringherd

rule tax exemption

for "ecosystem restoration industry"

<sup>providing</sup>  
(ecological review)▷ <sup>should be</sup> like other professional review

▷ will send over materials to review

for drafting

- may really be more

engineering-related  
- advanced degrees  
professional

## Kreye, Joseph

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**From:** Walsh, Patrick  
**Sent:** Friday, June 26, 2015 4:31 PM  
**To:** Kreye, Joseph  
**Subject:** Ecosystem Restoration Industry  
**Attachments:** Potential language considerations to clarify tax definition of.docx

Joe,

Attached is background and suggestions provided by Mr. Steve Apfelbaum, the Chairman of Applied Ecological Systems, to remedy his sales tax issue. Mr. Apfelbaum's phone number is 608-897-8641. Feel free to contact him.

<http://www.appliedeco.com/>

Please let me know if you have any questions.

Thank you

Patrick Walsh  
Legislative Aide  
Office of State Senator Janis Ringhand  
(608) 266 - 2253

**Potential language considerations to clarify tax definition of "Landscaping" in statute 77.52(2)(a)20.**

**Statue: Landscape planning and management, such as installation of lawns, etc is the 1981 definition**

**Justification for a definition change:**

A new industry focused on ecosystem restoration that is conducted as professional services (e.g. engineers, scientists, landscape architects, hydrologists, soil scientists, mine reclamation specialists, vegetation management specialists such as on mined sites and landfills) for State, Federal, County and Municipal agencies has developed since the 1981 definition of Landscape in the tax code was defined.

This new industry, represented by pre-eminent Wisconsin companies such as Applied Ecological Services, Inc (main office in Brodhead, WI for 39 years has been a leading firm globally in design and implementing ecosystem restoration and reclamation projects.

The 1981 definition of landscape planning and management clearly is focused on taxing firms that provide landscape installation and maintenance services such as residential yards or corporate campuses. The 1981 definition did not envision the professional service work now being done by this new field of ecosystem restoration, nor did it envision that the type of work these firms do requires federal, state, county, municipal permits that often require months to years to obtain permits for the work. This is not the type of service provided (Phd and master degree trained and licensed, registered professional service provider firms and individuals) by firms such as AES, Inc.

The definition of landscaping planning and management need to updated to reflect what this new industry does. This is needed to provide absolute clarity to this new industry so as to encourage this new green industry and related employment and business opportunities in WI. The present-day definition discourages and disadvantages firms such as this by charging them taxes when competing firms remain non-taxable as professional services provider firms.

**Proposed Language and definition change suggestions**

Firms and individuals with professional certifications, registrations, professional licenses that are involved in the business of design and management of ecological landscapes, not residential and commercial conventional landscapes need to be differentiated by definition if not by statutory language at this time.

For purposes of a definition clarification, Firms and individuals who engage in the restoration, reclamation, revitalization of landscapes with the use of native plants and native plant communities to

improve land, soils, water quality, and biodiversity, and other ecosystem services and function, are considered from henceforth as providing professional services in their engagement in landscape planning and management services.



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-2687/P1

JK: /

95

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

*in 6-29-15  
due Tuesday 6-30*

*2A  
copy*

*Go Cat*

1 **AN ACT** ...; **relating to:** the sales tax imposed on ecosystem restoration services.

***Analysis by the Legislative Reference Bureau***

This bill excludes the sale of certain landscape restoration services from the sales tax. Under current law, the sale of landscaping and lawn maintenance services is subject to the sales tax. The bill excludes from taxable landscaping services the restoration of landscapes using native plants in order to improve land, soils, water quality, biodiversity, and other ecosystem functions.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

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:***

2 **SECTION 1.** 77.52 (2) (a) 20. of the statutes is amended to read:

3 77.52 (2) (a) 20. The sale of landscaping and lawn maintenance services  
4 including landscape planning and counseling; lawn and garden services such as  
5 planting, mowing, spraying, and fertilizing; and shrub and tree services. For

1 purposes of this subdivision, landscaping and lawn maintenance services do not  
2 include restoring, reclaiming, or revitalizing landscapes using native plants and  
3 native plant communities to improve land, soils, water quality, biodiversity, or other  
4 ecosystem functions.

**History:** 1973 c. 156; 1975 c. 39; 1977 c. 29, 142, 418; 1979 c. 174, 221; 1981 c. 20, 317; 1983 a. 2, 27; 1983 a. 189 ss. 99, 103, 107, 329 (12); 1983 a. 341, 510, 544; 1985 a. 29, 149; 1987 a. 27, 399; 1989 a. 31, 335; 1991 a. 39, 316; 1993 a. 112, 213, 308, 437; 1995 a. 27, 225, 351; 1997 a. 27, 237, 291; 1999 a. 9, 83; 1999 a. 150 s. 672; 2001 a. 16, 104, 109; 2003 a. 33, 321; 2005 a. 149, 327, 344; 2007 a. 11, 20, 42, 97; 2009 a. 2, 12, 28, 330; 2011 a. 18, 32; 2013 a. 20, 185.

5 **SECTION 2. Effective date.**

6 (1) This act takes effect on the first day of the 3rd month beginning after  
7 publication.

8 (END)



## Kreye, Joseph

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**From:** Walsh, Patrick  
**Sent:** Friday, August 07, 2015 2:17 PM  
**To:** Kreye, Joseph  
**Subject:** FW: Bill Draft

Joe, could you please make the DOR suggested changes to LRB 2687/P1.

Thank you.

Patrick Walsh  
Legislative Aide  
Office of State Senator Janis Ringhand  
(608) 266 - 2253

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**From:** Ristow, Nathaniel L - DOR (Nate) [mailto:Nathaniel.Ristow@revenue.wi.gov]  
**Sent:** Friday, July 10, 2015 11:21 AM  
**To:** Walsh, Patrick <Patrick.Walsh@legis.wisconsin.gov>  
**Subject:** RE: Bill Draft

Patrick,

I had our technical services team look at this and here is what they said. If the original language were introduced as a bill, some of these things may come to you guys in a technical memo. They also provided suggested language. We would be happy to provide additional technical advice on this going forward. Thanks!

The exception created in the bill is vague. This creates the following concerns:

- It is unclear how "restoring, reclaiming, or revitalizing landscapes differs from regular landscaping activities. There is no definition of this phrase. How will service providers or consumers distinguish between the two activities?
- The bill appears to create an exemption for some landscaping services that have been subject to sales tax in the past. For example, planting a pine tree in a lawn may qualify for the exception (i.e., revitalizing the landscape using a native plant to improve the land).
- What does "native plants" mean? Does it mean that the plant is native to Wisconsin? Native to North America?
- What does "native plant communities" mean?
- To qualify for the exception, it appears a person has to use both native plants **and** native plant communities (i.e., using only native plants is not sufficient).
- The bill creates a burden on landscapers, since they will have to determine whether or not they are using a native plant.
- Persons who provide landscaping services may currently buy the plants and other materials transferred with their services without tax, for resale (s. 77.52(2m)(b), Stats.). Under the bill, to the extent such services are no longer taxable, the person providing the service would have to pay sales or use tax on their purchases of these plants and materials.

**Note:** Under current law, no tax liability exists when the sale of the restorative service is to an exempt entity (service provider purchases plants without tax for resale; sale to exempt entity is exempt). Under this bill, the service provider becomes the consumer of the plants and other property and is liable for tax on its purchase of the plants, even when the sale is to an exempt entity.

Suggested drafting language to limit the effect of this bill:

- Amend sec. 77.52(2)(a)20., Wis. Stats., to read:

The sale of landscaping and lawn maintenance services including landscape planning and counseling,; lawn and garden services such as planting, mowing, spraying, and fertilizing; and shrub and tree services. For purposes of this subdivision, landscaping and lawn maintenance services do not include the installation of plants native to Wisconsin, including planning and design, when the seller installs the native plants in the restoration, reclamation, or revitalization of 10 or more contiguous acres of prairie, savannah or wetlands, but not golf courses, to improve the quality of land, soils, or water, biodiversity, or other ecosystem functions.

- Create par. (om) under the definition of "retailer" in sec. 77.51(13), Wis. Stats., to read:

A person selling tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) to a person who installs plants native to Wisconsin in the restoration, reclamation, or revitalization of 10 or more contiguous acres of prairie, savannah or wetlands, but not golf courses, to improve the quality of land, soils, or water, biodiversity, or other ecosystem functions.

Nate Ristow  
(608) 266-7817  
[Nate.Ristow@revenue.wi.gov](mailto:Nate.Ristow@revenue.wi.gov)

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**From:** Walsh, Patrick [<mailto:Patrick.Walsh@legis.wisconsin.gov>]  
**Sent:** Friday, July 10, 2015 11:03 AM  
**To:** Ristow, Nathaniel L - DOR (Nate)  
**Subject:** Bill Draft

Nate, has DOR had an opportunity to review the bill draft and to see if it will accomplish our goal of defining the work of the Ecosystem Restoration Industry as professional services so it is sales tax exempt?

PS: Donna Bright, 705 17<sup>th</sup> Street, Brodhead contacted us regarding her 2014 tax return. A mistake was made on her Homestead Credit totaling \$256. She has paid back \$220 of the money. She was late on her last payment of \$36 and being assessed a \$35 late charge. Ms. Bright lives on SS and doesn't have much money. Is there a way for the late fee to be deleted?

Thank you.

Patrick Walsh  
Legislative Aide  
Office of State Senator Janis Ringhand  
(608) 266 - 2253

**From:** Walsh, Patrick  
**Sent:** Tuesday, June 30, 2015 11:45 AM  
**To:** Ristow, Nathaniel L - DOR (Nate)  
**Subject:** Bill Draft

Nate, attached is the draft LRB came up with to address the concerns of the Ecosystem Restoration Industry regarding their sales tax status. We would appreciate feedback from DOR. Please share any concerns or suggestions DOR may have with the proposal as drafted. We would be happy to work with DOR to develop a proposal everyone feels comfortable moving forward with.

Thank you.

Patrick Walsh  
Legislative Aide  
Office of State Senator Janis Ringhand  
(608) 266 - 2253

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**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

SA✓

in Wed 8-12

due Thurs 8-13

Regen.

1 AN ACT *to amend* 77.52 (2) (a) 20. of the statutes; **relating to:** the sales tax  
2 imposed on ecosystem restoration services.

***Analysis by the Legislative Reference Bureau***

This bill excludes the sale of certain landscape restoration services from the sales tax. Under current law, the sale of landscaping and lawn maintenance services is subject to the sales tax. The bill excludes from taxable landscaping services the restoration of landscapes using native plants in order to improve land, soils, water quality, biodiversity, and other ecosystem functions.

or to improve

will, or

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

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

insert 1-3

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

3 SECTION 1. 77.52 (2) (a) 20. of the statutes is amended to read:  
4 77.52 (2) (a) 20. The sale of landscaping and lawn maintenance services  
5 including landscape planning and counseling,; lawn and garden services such as

*Insert 2-1*

1 planting, mowing, spraying, and fertilizing; and shrub and tree services. *For*  
2 purposes of this subdivision, landscaping and lawn maintenance services do not  
3 include restoring, reclaiming, or revitalizing landscapes using native plants and  
4 native plant communities to improve land, soils, water quality, biodiversity, or other  
5 ecosystem functions.

6 **SECTION 2. Effective date.**

7 (1) This act takes effect on the first day of the 3rd month beginning after  
8 publication.

9 (END)

2015-2016 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2687/P2ins  
JK:cjs

Insert 1 - 3

1 SECTION 1. 77.51 (13) (q) of the statutes is created to read:

2 77.51 (13) (q) A person selling tangible personal property or items, <sup>or</sup> property  
3 or goods under s. 77.52 (1) (b), (c) or (d) to <sup>a</sup> person who installs plants native to this  
4 state in the restoration, reclamation, or revitalization of 10 or more contiguous acres  
5 of prairie, savannah, or wetlands, but not golf courses, to improve land, soil, or water  
6 quality, <sup>or to improve</sup> biodiversity or other ecosystem functions.

Insert 2 - 1

7 For purposes of this subdivision, landscaping and lawn maintenance services  
8 do not include the installation of plants native to this state, including the planning  
9 and design for such installation, if the seller installs the plants in the restoration,  
10 reclamation, or revitalization of 10 or more contiguous acres of prairie, savannah, or  
11 wetlands, but not golf courses, to improve land, soil, or water quality, <sup>or to improve</sup> biodiversity,  
12 or other ecosystem functions.

## Kreye, Joseph

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**From:** Walsh, Patrick  
**Sent:** Monday, November 16, 2015 3:55 PM  
**To:** Kreye, Joseph  
**Subject:** LRB-2687/P2

Joe, could you please make LRB-2687/P2 a slash 1.

Thank you.

Patrick Walsh  
Legislative Aide  
Office of State Senator Janis Ringhand  
(608) 266 - 2253



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-2687/P2  
JK:cjs&amn

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Tuesday  
11-17

Stamps  
SA ✓

Coer Cat

1 AN ACT *to amend* 77.52 (2) (a) 20.; and *to create* 77.51 (13) (q) of the statutes;  
2 relating to: the sales tax imposed on ecosystem restoration services.

***Analysis by the Legislative Reference Bureau***

This bill excludes the sale of certain landscape restoration services from the sales tax. Under current law, the sale of landscaping and lawn maintenance services is subject to the sales tax. The bill excludes from taxable landscaping services the restoration of landscapes using native plants in order to improve land, soil, or water quality, or to improve biodiversity or other ecosystem functions.

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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:***

3 SECTION 1. 77.51 (13) (q) of the statutes is created to read:  
4 77.51 (13) (q) A person selling tangible personal property or items, or property  
5 or goods under s. 77.52 (1) (c) or (d), to a person who installs plants native to this state



1 in the restoration, reclamation, or revitalization of 10 or more contiguous acres of  
2 prairie, savannah, or wetlands, but not golf courses, to improve land, soil, or water  
3 quality, or to improve biodiversity or other ecosystem functions.

4 **SECTION 2.** 77.52 (2) (a) 20. of the statutes is amended to read:

5 77.52 (2) (a) 20. The sale of landscaping and lawn maintenance services  
6 including landscape planning and counseling; lawn and garden services such as  
7 planting, mowing, spraying, and fertilizing; and shrub and tree services. For  
8 purposes of this subdivision, landscaping and lawn maintenance services do not  
9 include the installation of plants native to this state, including the planning and  
10 design for such installation, if the seller installs the plants in the restoration,  
11 reclamation, or revitalization of 10 or more contiguous acres of prairie, savannah, or  
12 wetlands, but not golf courses, to improve land, soil, or water quality, or to improve  
13 biodiversity or other ecosystem functions.

14 **SECTION 3. Effective date.**

15 (1) This act takes effect on the first day of the 3rd month beginning after  
16 publication.

17 (END)

**Barman, Mike**

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**From:** Walsh, Patrick  
**Sent:** Tuesday, November 17, 2015 2:37 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -2687/1

Please Jacket LRB -2687/1 for the SENATE.