

2015 DRAFTING REQUEST

Senate Amendment (SA-SB443)

Received: 1/5/2016 Received By: jkreye
For: Howard Marklein (608) 266-0703 Same as LRB:
May Contact: By/Representing: crystal
Subject: Tax, Other - sales Drafter: jkreye
Addl. Drafters:
Extra Copies:

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

Pre Topic:

No specific pre topic given

Topic:

Sales tax on ecosystem restoration services; DOR technical concerns

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	jkreye 1/5/2016	kmochal 1/5/2016	_____	mbarman 1/5/2016	mbarman 1/5/2016	

FE Sent For:

<END>

Kreye, Joseph

From: Potts, Crystal
Sent: Tuesday, January 05, 2016 12:44 PM
To: Kreye, Joseph
Subject: Amendment Request to SB 443

Joe—

I was contacted by DOR with a potential conflict between the bill and one of the amendments. I have included their interpretation below:

*The newly-created sec. 77.52(2m)(c), Stats., deems the sale of the seeds and plants to be a separate sale from the sale of the services. This is to allow the seller to purchase the seeds and plants without tax, for resale. Since **the sale** of the services, plants, and seeds would also be exempt from tax, this would, in effect, create a "flow-through" exemption.*

This new language (created sec. 77.52(2m)(c), Stats.) conflicts with the language of the original bill. The original bill creates sec. 77.51(13)(q), Stats., to deem a person to be a retailer when selling plants (and seeds, per the amendment) to the seller/installer. This language is intended to make it clear that the seller/installer is the consumer of the plants and seeds and owes sales or use tax on its purchase of such plants and seeds.

Therefore, SB 443 with SA1 to SB443 does **both** of the following:

- *Makes the seller/installer the consumer of the plants and seeds (must pay sales or use tax on its purchase of the plants and seed).*
- *Allows the seller/installer to purchase the plants and seeds without tax, for resale.*

The conflict can be resolved by deleting Section 1 of SB 443, which creates sec. 77.51(13)(q), Stats. The service provider will, in effect, be allowed a "flow-through" exemption on its purchase of plants and seeds (i.e., service provider may purchase plants and seeds without tax, for resale AND service provider's sale of the installed plants and seeds will not be taxable).

It sounds like if we had an amendment drafted that deleted section 1 of the original bill, we would be ok moving forward.

I apologize for all these amendments. I thought we had worked through some of these issues, but they keep popping up.

Thanks for your understanding. Let me know if you have any questions.

Thanks,

Crystal L. Potts | Chief of Staff | Office of State Senator Howard Marklein
17th Senate District | 608-266-0703 | <http://legis.wisconsin.gov/senate/17/marklein>





State of Wisconsin
2015 - 2016 LEGISLATURE

LRBa1416/1

JK:...

A handwritten signature in cursive, appearing to be "JK" followed by a flourish.

**SENATE AMENDMENT ,
TO SENATE BILL 443**

A large circle containing the handwritten word "Today" and the number "1-5" below it.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 3: delete the material beginning with that line and ending with
3 page 2, line 3.

4 (END)