



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

1 EAST MAIN, SUITE 200
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 264-6948

RICHARD CHAMPAGNE
CHIEF

January 27, 2016

MEMORANDUM

To: Senator Tiffany

From: Joseph T. Kreye, Legal Section Administrator, (608) 266-2263

Subject: Technical Memorandum to **2015 SB 624** (LRB-4464/1) **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

January 26, 2016

TO: Joe Kreye
Legislative Reference Bureau

FROM: Bob Schmidt
Department of Revenue

SUBJECT: Technical Memorandum on Senate Bill 624, relating to: assessing certain items as real property for property tax purposes.

The department has the following concerns with the bill.

The bill will require, for purposes of Ch. 77, Wis. Stats. (sales and use taxes), that the items listed in proposed sec. 70.03 (1m), be treated as "real property," whereas such items are currently treated, in most cases, as personal property that remains personal property when installed. 1993 Wis. Act 308 specifically amended sec. 70.03, Stats., so that its definitions no longer applied for purposes of Ch. 77, Wis. Stats., including sales and use taxes. As a result of 1993 Wis. Act 308, items assessed as "real property" under Ch. 70 were allowed to be treated as "personal property" for sales and use tax purposes.

Under current law, sec. 70.03(1), excludes the definition of "real property" from being applicable to Ch. 77, Stats., (sales and use taxes). Also under current law, sec. 70.04(1), Stats., provides that "personal property" as used in Chs. 70 to 79, Wis. Stats., excludes items included in the term "real property," as defined in sec. 70.03, Stats. The result of the proposal adding a list of items at sec. 70.03 (1m) that are to be "real property" is that such items must now be treated as "real property" for purposes of Ch. 77, Wis. Stats., contrary to the intent behind 1993 Wis. Act 308.

The department suggests the author modify the bill so it is clear that proposed sec. 70.03 (1m) will not apply for purposes of Ch. 77., Wis. Stats., as is currently the case for existing sec. 70.03 (1), Stats.

If you have any questions regarding this technical memorandum, please contact Bob Schmidt at (608) 266-5773.

cc: Senator Tiffany