2017 SENATE BILL 863

March 7, 2018 - Introduced by Senators LARSON, L. TAYLOR, JOHNSON and CARPENTER, cosponsored by Representatives BROSTOFF, CROWLEY, SINICKI, ANDERSON, SARGENT, SPREITZER and ZEPNICK. Referred to Committee on Revenue, Financial Institutions and Rural Issues.

AN ACT to renumber and amend 77.70; to amend chapter 77 (title), subchapter V (title) of chapter 77 [precedes 77.70], 77.71, 77.73, 77.75, 77.76 (1), 77.76 (2), 77.76 (4), 77.77 and 77.78; and to create 20.566 (1) (gh), 20.835 (4) (gh), 77.70 (2), 77.701 and 77.76 (3r) of the statutes; relating to: allowing a municipality to impose a sales and use tax and allowing a county to increase the rate of its sales and use tax and making appropriations.

Analysis by the Legislative Reference Bureau

Under current law, a county may impose a sales and use tax at the rate of 0.5 percent of the sales price of tangible personal property, goods, and services sold or used in the county. This bill allows a county, with the approval of the county electors at a referendum, to increase the tax rate in 0.1 percent increments, as long as the overall rate does not exceed 1 percent.

The bill also allows a municipality to impose a sales and use tax at the rate of 0.1, 0.2, 0.3, 0.4, or 0.5 percent of the sales price of tangible personal property, goods, and services sold or used in the municipality if the municipality adopts an ordinance to impose the tax and the ordinance is approved by the electors of the municipality at a referendum held at a spring or general election. In addition, the bill allows a municipality that has adopted such an ordinance to subsequently increase the rate in 0.1 percent increments as long as the increase is approved by the electors of the municipality at a referendum held at a spring or general election and as long as the overall rate does not exceed 0.5 percent.
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:

SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

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<tr>
<th></th>
<th>2017-18</th>
<th>2018-19</th>
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<tbody>
<tr>
<td>20.566 Revenue, department of</td>
<td></td>
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<tr>
<td>(1) Collection of taxes</td>
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<td>(gh) Administration of municipality taxes</td>
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SECTION 2. 20.566 (1) (gh) of the statutes is created to read:

20.566 (1) (gh) Administration of municipality taxes. From the moneys transferred from the appropriation account under s. 20.835 (4) (gh), the amounts in the schedule for administering the municipality taxes imposed under s. 77.701. Notwithstanding s. 20.001 (3) (a), at the end of the fiscal year the unencumbered balance of this appropriation account lapses to the general fund.

SECTION 3. 20.835 (4) (gh) of the statutes is created to read:

20.835 (4) (gh) Municipality taxes. All moneys received from the taxes imposed under s. 77.701 for distribution to the municipalities that adopt an ordinance imposing taxes under that section and for interest payments on refunds under s. 77.76 (3r), except that 1.75 percent of those tax revenues collected under that section shall be credited to the appropriation account under s. 20.566 (1) (gh).

SECTION 4. Chapter 77 (title) of the statutes is amended to read:
CHAPTER 77
TAXATION OF FOREST CROPLANDS;
REAL ESTATE TRANSFER FEES;
SALES AND USE TAXES; COUNTY,
MUNICIPALITY, AND SPECIAL DISTRICT
SALES AND USE TAXES; MANAGED
FOREST LAND; ECONOMIC DEVELOPMENT
SURCHARGE; LOCAL FOOD AND BEVERAGE
TAX; LOCAL RENTAL CAR TAX;
PREMIER RESORT AREA TAXES;
STATE RENTAL VEHICLE
FEE; DRY CLEANING FEES

SECTION 5. Subchapter V (title) of chapter 77 [precedes 77.70] of the statutes is amended to read:

CHAPTER 77
SUBCHAPTER V
COUNTY, MUNICIPALITY, AND
SPECIAL DISTRICT SALES
AND USE TAXES

SECTION 6. 77.70 of the statutes, as affected by 2017 Wisconsin Act 58, is renumbered 77.70 (1) and amended to read:

77.70 (1) Any county desiring to impose county sales and use taxes under this subchapter may do so by the adoption of an ordinance, stating its purpose and referring to this subchapter. The rate of the tax imposed under this section is 0.5 percent of the sales price or purchase price. Except
as provided in s. 66.0621 (3m), the county sales and use taxes may be imposed only
for the purpose of directly reducing the property tax levy and only in their entirety
as provided in this subchapter. That ordinance shall be effective on the first day of
January, the first day of April, the first day of July or the first day of October January
1, April 1, July 1, or October 1. A certified copy of that ordinance shall be delivered
to the secretary of revenue at least 120 days prior to its effective date. The repeal
of any such ordinance shall be effective on December 31. A certified copy of a repeal
ordinance shall be delivered to the secretary of revenue at least 120 days before the
effective date of the repeal. Except as provided under s. 77.60 (9), the department
of revenue may not issue any assessment nor act on any claim for a refund or any
claim for an adjustment under s. 77.585 after the end of the calendar year that is 4
years after the year in which the county has enacted a repeal ordinance under this
section subsection.

SECTION 7. 77.70 (2) of the statutes is created to read:

77.70 (2) A county that has adopted an ordinance under sub. (1) may
subsequently increase the tax rate by adopting an ordinance to increase the rate and
having the ordinance approved by the electors of the county at a referendum held at
the spring or general election. The county may increase the rate by an additional 0.1,
0.2, 0.3, 0.4, or 0.5 percent by holding a referendum pursuant to this subsection, but
the overall rate of the tax imposed under this section may not exceed 1 percent. An
ordinance adopted under this subsection shall be effective January 1, April 1, July
1, or October 1. A certified copy of that ordinance shall be delivered to the secretary
of revenue at least 120 days prior to its effective date. The repeal of any such
ordinance shall be effective on December 31. A certified copy of a repeal ordinance
shall be delivered to the secretary of revenue at least 120 days before the effective
date of the repeal. Except as provided under s. 77.60 (9), the department of revenue
may not issue any assessment nor act on any claim for a refund or any claim for an
adjustment under s. 77.585 after the end of the calendar year that is 4 years after
the year in which the county has enacted a repeal ordinance under this subsection.

SECTION 8. 77.701 of the statutes is created to read:

77.701 Adoption by municipal ordinance. (1) A municipality may impose
a sales and use tax under this subchapter at the rate of 0.1, 0.2, 0.3, 0.4, or 0.5 percent
of the sales price or purchase price if it adopts an ordinance to impose the tax, the
ordinance specifies the rate of the tax imposed, and the ordinance is approved by the
electors of the municipality at a referendum held at the spring or general election.
The taxes imposed under this section may be imposed only in their entirety as
provided under this subchapter. An ordinance adopted under this subsection shall
be effective on January 1, April 1, July 1, or October 1. A certified copy of the
ordinance shall be delivered to the secretary of revenue at least 120 days prior to its
effective date. The repeal of any such ordinance shall be effective on December 31.
A certified copy of a repeal ordinance shall be delivered to the secretary of revenue
at least 120 days before the effective date of the repeal. Except as provided under
s. 77.60 (9), the department of revenue may not issue any assessment nor act on any
claim for a refund or any claim for an adjustment under s. 77.585 after the end of the
calendar year that is 4 years after the year in which the municipality has adopted
a repeal ordinance under this subsection.

(2) A municipality that has adopted an ordinance under sub. (1) may
subsequently increase the tax rate by adopting an ordinance to increase the rate and
having the ordinance approved by the electors of the municipality at a referendum
held at the spring or general election. The municipality may increase the rate by an
additional 0.1, 0.2, 0.3, 0.4, or 0.5 percent by holding a referendum pursuant to this subsection, but the overall rate of the tax imposed under this section may not exceed 0.5 percent. An ordinance adopted under this subsection shall be effective January 1, April 1, July 1, or October 1. A certified copy of that ordinance shall be delivered to the secretary of revenue at least 120 days prior to its effective date. The repeal of any such ordinance shall be effective on December 31. A certified copy of a repeal ordinance shall be delivered to the secretary of revenue at least 120 days before the effective date of the repeal. Except as provided under s. 77.60 (9), the department of revenue may not issue any assessment nor act on any claim for a refund or any claim for an adjustment under s. 77.585 after the end of the calendar year that is 4 years after the year in which the municipality has adopted a repeal ordinance under this subsection.

**SECTION 9.** 77.71 of the statutes is amended to read:

77.71 **Imposition of county, municipality, and special district sales and use taxes.** Whenever a county sales and use tax ordinance is adopted under s. 77.70 or a special district resolution is adopted under s. 77.705 or 77.706, the following taxes are imposed:

1. For the privilege of selling, licensing, leasing, or renting tangible personal property and the items, property, and goods specified under s. 77.52 (1) (b), (c), and (d), and for the privilege of selling, licensing, performing, or furnishing services a sales tax is imposed upon retailers at the rates under s. 77.70 in the case of a county tax, at the rate under s. 77.701 in the case of a municipality tax, or at the rate under s. 77.705 or 77.706 in the case of a special district tax of the sales price from the sale, license, lease, or rental of tangible personal property and the items, property, and goods specified under s. 77.52 (1) (b), (c), and (d), except property taxed under sub.
(4), sold, licensed, leased, or rented at retail in the county, municipality, or special
district, or from selling, licensing, performing, or furnishing services described under
s. 77.52 (2) in the county, municipality, or special district.

(2) An excise tax is imposed at the rates under s. 77.70 in the case of a county
tax, at the rate under s. 77.701 in the case of a municipality tax, or at the rate under
s. 77.705 or 77.706 in the case of a special district tax of the purchase price upon every
person storing, using, or otherwise consuming in the county, municipality, or special
district tangible personal property, or items, property, or goods specified under s.
77.52 (1) (b), (c), or (d), or services if the tangible personal property, item, property,
good, or service is subject to the state use tax under s. 77.53, except that a receipt
indicating that the tax under sub. (1), (3), (4), or (5) has been paid relieves the buyer
of liability for the tax under this subsection and except that if the buyer has paid a
similar local tax in another state on a purchase of the same tangible personal
property, item, property, good, or service that tax shall be credited against the tax
under this subsection and except that for motor vehicles that are used for a purpose
in addition to retention, demonstration, or display while held for sale in the regular
course of business by a dealer the tax under this subsection is imposed not on the
purchase price but on the amount under s. 77.53 (1m).

(3) An excise tax is imposed upon a contractor engaged in construction
activities within the county, municipality, or special district at the rates under s.
77.70 in the case of a county tax, at the rate under s. 77.701 in the case of a
municipality tax, or at the rate under s. 77.705 or 77.706 in the case of a special
district tax of the purchase price of tangible personal property or items, property, or
goods under s. 77.52 (1) (b), (c), or (d) that are used in constructing, altering,
repairing, or improving real property and that became a component part of real
property in that county, municipality, or special district, except that if the contractor
has paid the sales tax of a county, municipality, or special district in this state on that
tangible personal property, item, property, or good, or has paid a similar local sales
tax in another state on a purchase of the same tangible personal property, item,
property, or good, that tax shall be credited against the tax under this subsection.

(4) An excise tax is imposed at the rates under s. 77.70 in the case of a county
tax, at the rate under s. 77.701 in the case of a municipality tax, or at the rate under
s. 77.705 or 77.706 in the case of a special district tax of the purchase price upon every
person storing, using, or otherwise consuming a motor vehicle, boat, recreational
vehicle, as defined in s. 340.01 (48r), or aircraft if that property must be registered
or titled with this state and if that property is to be customarily kept in a county that
has in effect an ordinance under s. 77.70, in a municipality that has in effect an
ordinance under s. 77.701, or in a special district that has in effect a resolution under
s. 77.705 or 77.706, except that if the buyer has paid a similar local sales tax in
another state on a purchase of the same property, that tax shall be credited against
the tax under this subsection. The lease or rental of a motor vehicle, boat,
recreational vehicle, as defined in s. 340.01 (48r), or aircraft is not taxed under this
subsection if the lease or rental does not require recurring periodic payments.

(5) An excise tax is imposed on the purchase price for the lease or rental of a
motor vehicle, boat, recreational vehicle, as defined in s. 340.01 (48r), or aircraft at
the rates under s. 77.70 in the case of a county tax, at the rate under s. 77.701 in the
case of a municipality tax, or at the rate under s. 77.705 or 77.706 in the case of a
special district tax upon every person storing, using, or otherwise consuming in the
county, municipality, or special district the motor vehicle, boat, recreational vehicle,
as defined in s. 340.01 (48r), or aircraft if that property must be registered or titled
with this state and if the lease or rental does not require recurring periodic
payments, except that a receipt indicating that the tax under sub. (1) had been paid
relieves the purchaser of liability for the tax under this subsection and except that
if the purchaser has paid a similar local tax in another state on the same lease or
rental of such motor vehicle, boat, recreational vehicle, as defined in s. 340.01 (48r),
or aircraft, that tax shall be credited against the tax under this subsection.

SECTION 10. 77.73 of the statutes is amended to read:

77.73 Jurisdiction to tax. (2) Counties, municipalities, and special districts
do not have jurisdiction to impose the tax under s. 77.71 (2) in regard to items,
property, and goods under s. 77.52 (1) (b), (c), and (d), and tangible personal property,
except snowmobiles, trailers, semitrailers, limited use off-highway motorcycles, as
defined in s. 23.335 (1) (o), all-terrain vehicles, and utility terrain vehicles,
purchased in a sale that is consummated in another county, municipality, or special
district in this state that does not have in effect an ordinance or resolution imposing
the taxes under this subchapter and later brought by the buyer into the county,
municipality, or special district that has imposed a tax under s. 77.71 (2).

(2m) Counties, municipalities, and special districts do not have jurisdiction to
impose the tax under s. 77.71 (5) with regard to the lease or rental of a motor vehicle,
boat, recreational vehicle, as defined in s. 340.01 (48r), or aircraft if the lease or
rental does not require recurring periodic payments and if the purchaser received the
property in another county, municipality, or special district in this state and then
brings the property into a county, municipality, or special district that imposes the
tax under s. 77.71 (5).

(3) Counties, municipalities, and special districts have jurisdiction to impose
the taxes under this subchapter on retailers who file, or who are required to file, an
application under s. 77.52 (7) or who register, or who are required to register, under
s. 77.53 (9) or (9m), regardless of whether such retailers are engaged in business in
the county, municipality, or special district, as provided in s. 77.51 (13g). A retailer
who files, or is required to file, an application under s. 77.52 (7) or who registers, or
is required to register, under s. 77.53 (9) or (9m) shall collect, report, and remit to the
department the taxes imposed under this subchapter for all counties, municipalities,
or special districts that have an ordinance or resolution imposing the taxes under
this subchapter.

SECTION 11. 77.75 of the statutes is amended to read:

77.75 Reports. Every person subject to county, municipality, or special district
sales and use taxes shall, for each reporting period, record that person’s sales made
in the county, municipality, or special district that has imposed those taxes
separately from sales made elsewhere in this state and file a report as prescribed by
the department of revenue.

SECTION 12. 77.76 (1) of the statutes is amended to read:

77.76 (1) The department of revenue shall have full power to levy, enforce, and
collect county, municipality, and special district sales and use taxes and may take any
action, conduct any proceeding, impose interest and penalties, and in all respects
proceed as it is authorized to proceed for the taxes imposed by subch. III. The
department of transportation and the department of natural resources may
administer the county, municipality, and special district sales and use taxes in regard
to items under s. 77.61 (1).

SECTION 13. 77.76 (2) of the statutes is amended to read:

77.76 (2) Judicial and administrative review of departmental determinations
shall be as provided in subch. III for state sales and use taxes, and no county or,
municipality, nor special district may intervene in any matter related to the levy, enforcement, and collection of the taxes under this subchapter.

SECTION 14. 77.76 (3r) of the statutes is created to read:

77.76 (3r) From the appropriation under s. 20.835 (4) (gh), the department shall distribute 98.25 percent of the municipality taxes reported for each enacting municipality, minus the municipality portion of the retailers’ discounts, to the municipality and shall indicate the taxes reported by each taxpayer, no later than 75 days following the last day of the calendar quarter in which such amounts were reported. In this subsection, the “municipality portion of the retailers’ discount” is the amount determined by multiplying the total retailers’ discount by a fraction the numerator of which is the gross municipality sales and use taxes payable and the denominator of which is the sum of the gross state and municipality sales and use taxes payable. The municipality taxes distributed shall be increased or decreased to reflect subsequent refunds, audit adjustments, and all other adjustments of the municipality taxes previously distributed. Interest paid on refunds of municipality sales and use taxes shall be paid from the appropriation under s. 20.835 (4) (gh) at the rate paid by this state under s. 77.60 (1) (a). Any municipality receiving a report under this subsection is subject to the duties of confidentiality to which the department of revenue is subject under s. 77.61 (5) and (6).

SECTION 15. 77.76 (4) of the statutes is amended to read:

77.76 (4) There shall be retained by the state 1.5 percent of the taxes collected for taxes imposed by special districts under ss. 77.705 and 77.706 and 1.75 percent of the taxes collected for taxes imposed by counties under s. 77.70 and for taxes imposed by municipalities under s. 77.701 to cover costs incurred by the state in
administering, enforcing, and collecting the tax. All interest and penalties collected shall be deposited and retained by this state in the general fund.

**SECTION 16.** 77.77 of the statutes is amended to read:

**77.77 Transitional provisions.** (1) (a) The sales price from services subject to the tax under s. 77.52 (2) or the lease, rental, or license of tangible personal property and property, items, and goods specified under s. 77.52 (1) (b), (c), and (d), is subject to the taxes under this subchapter, and the incremental amount of tax caused by a rate increase applicable to those services, leases, rentals, or licenses is due, beginning with the first billing period starting on or after the effective date of the county ordinance, municipal ordinance, special district resolution, or rate increase, regardless of whether the service is furnished or the property, item, or good is leased, rented, or licensed to the customer before or after that date.

(b) The sales price from services subject to the tax under s. 77.52 (2) or the lease, rental, or license of tangible personal property and property, items, and goods specified under s. 77.52 (1) (b), (c), and (d) is not subject to the taxes under this subchapter, and a decrease in the tax rate imposed under this subchapter on those services first applies, beginning with bills rendered on or after the effective date of the repeal or sunset of a county ordinance, municipal ordinance, or special district resolution imposing the tax or other rate decrease, regardless of whether the service is furnished or the property, item, or good is leased, rented, or licensed to the customer before or after that date.

(3) The sale of building materials to contractors engaged in the business of constructing, altering, repairing or improving real estate for others is not subject to the taxes under this subchapter, and the incremental amount of tax caused by the rate increase applicable to those materials is not due, if the materials are affixed and
made a structural part of real estate, and the amount payable to the contractor is
fixed without regard to the costs incurred in performing a written contract that was
irrevocably entered into prior to the effective date of the county ordinance, municipal
ordinance, special district resolution, or rate increase or that resulted from the
acceptance of a formal written bid accompanied by a bond or other performance
guaranty that was irrevocably submitted before that date.

SECTION 17. 77.78 of the statutes, as affected by 2017 Wisconsin Act 59, is
amended to read:

77.78 Registration. No motor vehicle, boat, snowmobile, recreational vehicle,
as defined in s. 340.01 (48r), trailer, semitrailer, all-terrain vehicle, utility terrain
vehicle, off-highway motorcycle, as defined in s. 23.335 (1) (q), or aircraft that is
required to be registered by this state may be registered or titled by this state unless
the registrant files a sales and use tax report and pays the county tax, municipality
tax, and special district tax at the time of registering or titling to the state agency
that registers or titles the property. That state agency shall transmit those tax
revenues to the department of revenue.

(END)