

Fiscal Estimate - 2023 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 23-1374/1	Introduction Number AB-0002	
Description Eliminating the personal property tax		
Fiscal Effect		
State: <input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input checked="" type="checkbox"/> Decrease Existing Appropriations <input checked="" type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs		
Local: <input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs 4. <input checked="" type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory 5. Types of Local Government Units Affected <input checked="" type="checkbox"/> Towns <input checked="" type="checkbox"/> Village <input checked="" type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
Fund Sources Affected Affected Ch. 20 Appropriations <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEGS 20.855(4)(q) and 20.855(4)(bm)		
Agency/Prepared By DOR/ Craig Steinfeldt (608) 266-5705	Authorized Signature Robert Schmidt (608) 266-5773	Date 2/7/2023

Fiscal Estimate Narratives

DOR 2/7/2023

LRB Number	23-1374/1	Introduction Number	AB-0002	Estimate Type	Original
Description Eliminating the personal property tax					

Assumptions Used in Arriving at Fiscal Estimate

The bill exempts all items of personal property from property tax assessments as of January 1, 2023. Under the bill, buildings, improvements, and fixtures on leased and exempt lands shall be assessed as real property. The Legislature may add a state aid payment provision in the 2023-25 Biennial Budget, but the bill does not provide an aid payment to local taxing jurisdictions, including tax incremental districts, or adjust levy limits for such a payment.

The federal Railroad Revitalization and Regulatory Act of 1976, 49 USC 11501(B)(4) (4-R Act) restricts the ability of state and local governments to levy discriminatory taxes on rail carriers. The court found in *Union Pacific Railroad Co. v. DOR*, 940 F.3d 336(2019) that Wisconsin's intangible personal property exemption under s.70.112(1) reflects and operates as "another tax that discriminates against a rail carrier" within the meaning of subsection (b)(4) and thereby offends the 4-R Act. Under the bill, railroads taxed under Chapter 76 would also have their personal property exempted.

Property Tax

For 2022, statewide personal property less buildings on leased land totaled \$ 9,453,873,500, and under the bill a property tax shift will occur from exempted personal to other taxable property. The fiscal effect of the tax shift would vary based on personal property concentration in a municipality. Based on preliminary 2022-23 property tax levies and 2022 equalized values, the department estimates a potential property tax shift of \$173.84 million in the absence of a state aid payment. The property tax shift in any particular municipality would depend on the share of the property tax base comprised of personal property/buildings on leased land.

In most (1,433) municipalities, personal property less buildings on leased land account for less than 1% of the property tax base.

In 392 municipalities, personal property less buildings on leased land account for 1% to 5% of the property tax base.

In 32 municipalities, personal property less buildings on leased land account for 5% to 10% of the property tax base.

In 11 municipalities, personal property less buildings on leased land account for more than 10% of the property tax base.

The bill will reduce the increment value of most tax increment districts (TID). For uniformity with new TID districts, the department will need to re-determine each TID's base value. Since a breakdown of increment value is not available by property class, the impact on increment value is indeterminate. Without an aid payment, TIDs will see an indeterminate reduction in revenue requiring life extensions and possibly shifting unrecoverable costs to municipal taxpayers, which would be an additional cost on top of the property tax shift.

Sales and Use Tax

The sales tax treatment of certain transactions depends on whether the property is real property or tangible personal property, as provided by case law and administrative rule. The bill changes certain property on leased land from being assessed as personal property to real property for property tax purposes (e.g., mobile and manufactured homes, and leasehold improvements and fixtures such as

utility transmission and distributions lines, and cell/radio/tv broadcasting towers). As a result, many items will be considered personal property for sales tax purposes according to administrative rule but will be real property for property tax assessment purposes by statute. This would shift the price subject to sales tax from the installed price (inclusive of labor and retail markup) to the lower acquisition price of the contractor/service provider. The fiscal effect would be an indeterminate decrease in state and county sales tax revenue.

Manufacturing and Agriculture Credit

Under current law, the manufacturing portion of the manufacturing and agriculture credit is available to taxpayers who generate receipts from the sale, rental, license, or exchange of qualified production property, defined as tangible personal property manufactured in whole or in part by the claimant on property that is assessed as manufacturing under s. 70.995. In addition, the original cost of personal property assessed as manufacturing is also used in the calculation of the property factor for the credit.

Under the bill, the department would no longer assess personal property as manufacturing property. For taxpayers that currently use personal property assessed as manufacturing in calculating the credit, this may reduce the amount of credit, although the amount of reduction is unknown. Some current claimants who only use personal property in the manufacture of qualified production property may no longer qualify for the credit. Based on a review of department assessment records, approximately 1,300 out of 8,500 manufacturers are only assessed for personal property, although it is unknown how many of these taxpayers claim the manufacturing and agriculture credit and therefore the amount of the reduction in credit claims is unknown.

Conservation Fund

Under the bill, FY 2023 GPR transfers to the conservation fund would have declined by an estimated \$1,582,600 due to lower equalized values. The FY 2023 conservation fund transfer totaled \$126,453,900 for forestry programs managed by the Department of Natural Resources.

Other Utility Taxes

Chapter 76 deems property, both real and personal, including all rights, franchises and privileges used in and necessary to the prosecution of the business as personal property. Under the bill, utilities may also receive a personal property exemption. Based on FY 2024 revenue estimates, the general program revenue (GPR) loss is estimated at \$370.82 million for installment payments and \$22.09 million for utility credit refunds for a GPR total of \$392.91 million. The transportation fund revenue loss is estimated at \$4.3 million (not including railroad revenues). Local governments could also lose railroad and pipeline terminal payments resulting in an estimated expenditure reduction of \$2.5 million for the transportation fund and \$8.9 million for GPR.

The department estimates the transportation fund will lose \$32.68 million annually beginning in FY 2024 due to 4-R Act effect on Chapter 76 railroad taxes.

Administrative Costs

The department cannot absorb annual costs of \$20,600 and one-time costs of \$1,475,200 to re-determine TID bases, update computer programs and revise forms.

Because this bill reduces tax revenue, it may impact the state's maintenance of effort requirement under the American Rescue Plan Act. The Dept of Administration should review this bill for this specific purpose to provide further clarity on the matter.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2023 Session

Detailed Estimate of Annual Fiscal Effect

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Description Eliminating the personal property tax		
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): One-time refunds for utility credits are estimated at \$22,090,000. One-time administrative costs are estimated at \$1,475,200.		
II. Annualized Costs:	Annualized Fiscal Impact on funds from:	
	Increased Costs Decreased Costs	
A. State Costs by Category		
State Operations - Salaries and Fringes	\$20,600	\$
(FTE Position Changes)		
State Operations - Other Costs		
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	\$20,600	\$
B. State Costs by Source of Funds		
GPR	20,600	
FED		
PRO/PRS		
SEG/SEG-S		
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
	Increased Rev	Decreased Rev
GPR Taxes	\$	\$-370,820,000
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		-41,280,000
TOTAL State Revenues	\$	\$-412,100,000
NET ANNUALIZED FISCAL IMPACT		
	<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS	\$20,600	\$
NET CHANGE IN REVENUE	\$-412,100,000	\$
Agency/Prepared By	Authorized Signature	Date
DOR/ Craig Steinfeldt (608) 266-5705	Robert Schmidt (608) 266-5773	2/7/2023