

1973 Spec. Sess. Senate Bill 1

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CHAPTER 158, Laws of 1973

AN ACT to amend 20.835 (1) (b); and to create 20.835 (1) (d), 79.065 and 79.08 of the statutes, relating to correcting payments from the shared tax account, payment of the November 1973 shared tax distribution and earned interest thereon and making an appropriation.

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

SECTION 1. 20.835 (1) (b) of the statutes, as affected by chapter 90, laws of 1973, is amended to read:

20.835 (1) (b) *Minimum payments.* A sum sufficient to make the payments required under ~~s. ss. 79.06~~ and 79.065.

SECTION 2. 20.835 (1) (d) of the statutes is created to read:

20.835 (1) (d) *Earned interest on 1973 delayed payments.* A sum sufficient to pay earned interest on delayed 1973 shared taxes to municipalities and counties according to section 6 of chapter 158, laws of 1973.

SECTION 3. 79.065 of the statutes is created to read:

79.065 Minimum payments; corrections. With respect to the November 1973 distribution under s. 79.06 or any distribution under that section thereafter, any overpayment or underpayment made in any certification by the department of revenue or resulting from populations changed as a result of a final court determination or in the distribution by the department of administration shall be corrected. Corrections shall be made as provided in this section if the department of administration or the department of revenue has determined within 3 years after the distribution that there was an overpayment or underpayment. Upon certification by the department of revenue any overpayment shall be corrected by reducing a subsequent payment under s. 79.02, 79.03 or 79.04 by the amount of the overpayment. Upon certification by the department of revenue, any underpayment shall be corrected by the department of administration in a subsequent distribution under s. 79.02, 79.03, 79.04 or 79.06 by distributing the amount necessary to correct the underpayment from the appropriation under s. 20.835 (1) (b). Such corrections shall be without interest.

SECTION 4. 79.08 of the statutes is created to read:

79.08 Other distributions; corrections. With respect to the July 1973 distribution under s. 79.02 or any distribution thereafter under that section or with respect to the November 1973 distributions under s. 79.03 or 79.04 or any distribution under either such section thereafter, any underpayment or overpayment made in any certification by the department of revenue or resulting from populations changed as a result of a final court determination or in the distribution by the department of administration shall be corrected by the department of administration upon certification by the department of revenue, and appropriate adjustments to reduce or increase subsequent distributions to municipalities or counties under those sections shall be made to correct for any such underpayment or overpayment. Such corrections shall be made if the department of administration or the department of revenue determines within 3 years after the distribution that there was an overpayment or an underpayment. Such corrections shall be without interest. When the department of revenue determines that delay in correcting for any underpayment in distributions under s. 79.02, 79.03 or 79.04 will withhold 10% or more of the funds due to the municipality or county in that payment, it shall upon the request of the municipality or county, without delay, certify to the department of administration for payment the amount which will correct the error. Within 10 days thereafter, the department of administration shall pay from the then existing balance in the "Municipal and County Shared Tax Account", to any such municipality or county the amount so certified. In the absence of such an advance payment, corrections shall be made as adjustments at the time of the distributions provided in ss. 79.02, 79.03 and 79.04.

SECTION 4m. 1972 Populations not to be reestimated. Nothing in this act shall be construed as authority to reestimate 1972 population determinations and such 1972 population determinations shall not be reestimated.

SECTION 5. Interim distribution of delayed shared taxes. An interim partial distribution of moneys which according to chapter 79 of the statutes was to have been distributed to municipalities and counties on the third Monday of November 1973 under sections 79.03, 79.04 and 79.06 of the statutes shall be made in accord with this section. The moneys remaining after this partial distribution shall be distributed upon completion of litigation regarding 1973 populations.

(1) The department of revenue shall determine a selected population for each municipality which shall be the lesser of the following items:

- (a) Ninety-five percent of its estimated 1973 population, or
- (b) Its estimated 1972 population.

(2) (a) The municipality's selected population under sub. (1) shall be multiplied by \$35.

(b) Any amounts received by the municipality in the July 1973 preliminary distribution under section 79.02 of the statutes shall be subtracted from the amount determined under par. (a) to determine a partial population distribution.

(3) The department of revenue shall determine each municipality's excess levy allocation under section 79.03 (3) of the statutes according to the department of revenue's estimate of October 19, 1973, as modified through November 19, 1973.

(4) The amounts determined in subs. (2) and (3) and in section 79.04 of the statutes shall each be considered as separate funds for this partial distribution.

(5) If the amount determined under sub. (2) (b) is a positive sum, that amount plus 98% of the excess levy amount determined in sub. (3) and the entire utility tax distribution under section 79.04 of the statutes shall be paid to the municipality.

(6) If the amount determined under sub. (2) (b) is negative, that amount shall be subtracted from 98% of the estimated excess levy allocation and the remainder plus the entire utility tax distribution under section 79.04 of the statutes shall be paid to the municipality.

(7) If subtracting the amount determined under sub. (2) (b) from 98% of the estimated excess levy allocation results in a negative amount, that amount shall be subtracted from the utility tax distribution under section 79.04 of the statutes and the remainder shall be paid to the municipality.

(8) If the subtraction from the utility tax distribution in accord with sub. (7) results in a negative amount, then, when litigation relating to the November 1973 distribution from the municipal and county shared tax account is completed and final allocations are made, that negative amount shall be subtracted from the final allocation to the municipality.

(9) If there are not sufficient funds in the final distribution to satisfy the negative amount, the resulting underpayments and overpayments shall be corrected according to the provisions of section 79.08 of the statutes.

(10) There shall be an interim distribution under section 79.06 of the statutes which shall be the amount which would be distributed if the estimated 1973 populations were used and a distribution were made of all funds distributable under sections 79.03 and 79.04 of the statutes on the third Monday in November 1973. Upon completion of litigation regarding the estimated 1973 populations corrections shall be made to the distribution under this subsection, if necessary, according to the provisions of section 79.065 of the statutes.

(11) Counties shall receive portions of the interim partial distributions made to municipalities under this section in accord with the manner provided for determining county payments under chapter 79 of the statutes.

SECTION 6. Special distribution of interest earned on delayed shared taxes. The purpose of this section is to distribute to municipalities and counties the interest earned by the state as a result of a delayed distribution of shared taxes. In this section, "delayed shared taxes" means the amount of money which according to chapter 79 of the statutes was to be distributed to municipalities and counties on the third Monday in November 1973 under sections 79.03, 79.04 and 79.06 of the statutes. In the event that some portion of the funds distributable on the third Monday of November 1973 under sections 79.03, 79.04 and 79.06 of the statutes are delayed longer than other portions, interest earned on all such portions shall be paid according to this section and the provisions of this section for calculating interest earnings shall apply to all delayed shared taxes.

(1) (a) Upon enactment of this act, the department of revenue shall determine the date on which a partial distribution will be made, which date shall be as soon as practicable. The department of revenue shall inform the department of administration of such date when determined.

(b) Upon the lifting of any order by any court restraining the state from distributing any remaining funds distributable on the third Monday of November 1973, the department of revenue shall determine the date on which a final distribution will be made, which date shall be as soon as practicable after the lifting of such order.

The department of revenue shall inform the department of administration of such date when determined.

(2) Upon being informed of each date the department of administration shall determine the amount of interest which will have been earned as a result of the investment of funds available to the state because of the delay in the distribution of shared taxes. Such amount shall be calculated by multiplying the average of the dollar weighted average daily rate of return on all open repurchase agreements or other short-term instruments in which the delayed shared taxes were invested by the state of Wisconsin investment board from November 19, 1973, to the last day on which such rate is known by the investment board on the day that the department of revenue informs the department of administration of each distribution date as provided in sub. (1) by the portion of the delayed shared taxes being distributed and dividing the resulting product by 360 and multiplying the resulting quotient by the number of days after November 18, 1973, to each distribution determined in sub. (1). Upon making such determinations the department of administration shall certify such amounts to the department of revenue.

(3) The department of administration, upon certification by the department of revenue, shall distribute to municipalities and counties the amount determined in sub. (2) according to each municipality's and county's proportion of delayed shared taxes. Such determination shall be made by dividing the amount each municipality and county will receive under sections 79.03 (3), 79.04 and 79.06 of the statutes and SECTION 5 of this act, after adjustments for prior year claims and any other adjustment, by the portion of the funds being distributed under such sections and multiplying the resulting percentage by the amounts determined in sub. (2).

(4) Upon certification by the department of revenue, errors in the distributions under this section shall be corrected by the department of administration when determined or in the next possible subsequent distribution of payments under chapter 79 of the statutes. Any overpayments shall be corrected by reducing the next possible subsequent distribution of funds under chapter 79 of the statutes by the amount of such overpayment. Corrections in this section shall not apply to corrections of underpayments or overpayments made according to sections 79.065 and 79.08 of the statutes.

SECTION 7. Calculation of minimum payments in 1973 and 1974. In the 1973 and 1974 distributions of minimum payments under section 79.06 of the statutes, the special distribution of interest under SECTION 6 of this act shall not be considered as a shared tax payment when computing payments under section 79.06 of the statutes.

SECTION 8. 1972 Corrections validated. Any corrections made prior to November 19, 1973, by the departments of administration and revenue with respect to the 1972 distribution of shared taxes and minimum payments shall be deemed valid.
