



2015 ASSEMBLY BILL 495

November 10, 2015 - Introduced by Representatives ZEPNICK and BERCEAU.
Referred to Committee on Transportation.

1 **AN ACT to amend** chapter 77 (title), subchapter V (title) of chapter 77 [precedes
2 77.70], 77.71 (intro.), 77.71 (1), 77.71 (2), 77.71 (3), 77.71 (4), 77.73 (2), 77.73 (3),
3 77.75, 77.76 (1), 77.76 (2), 77.76 (4), 77.77 and 77.78; and **to create** 20.566 (1)
4 (gh), 20.835 (4) (gh), 77.701 and 77.76 (3r) of the statutes; **relating to:** a
5 municipal sales and use tax for transportation purposes and making an
6 appropriation.

Analysis by the Legislative Reference Bureau

This bill allows a municipality to enact an ordinance to impose a sales and use tax on the sale or use of motor vehicle fuel in the municipality. The municipality must use the tax revenue for transportation purposes. The tax rate may not exceed 5 percent of the sales price.

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:

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

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SECTION 1

2015-16 2016-17

20.566 Revenue, department of

(1) COLLECTION OF TAXES

(gh) Administration of municipality

taxes	PR	A	-0-	-0-
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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 enact 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

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1 **SALES AND USE TAXES; MANAGED**
2 **FOREST LAND; ECONOMIC DEVELOPMENT**
3 **SURCHARGE; LOCAL FOOD AND BEVERAGE**
4 **TAX; LOCAL RENTAL CAR TAX;**
5 **PREMIER RESORT AREA TAXES;**
6 **STATE RENTAL VEHICLE**
7 **FEE; DRY CLEANING FEES**

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

10 **CHAPTER 77**

11 SUBCHAPTER V

12 COUNTY, MUNICIPALITY, AND

13 SPECIAL DISTRICT SALES AND USE TAXES

14 **SECTION 6.** 77.701 of the statutes is created to read:

15 **77.701 Adoption by municipal ordinance.** A municipality may adopt an
16 ordinance to impose a sales and use tax under this subchapter at the rate of no more
17 than 5 percent of the sales price or purchase price on the sale or use of motor vehicle
18 fuel in the municipality. The taxes may be imposed only on motor vehicle fuel that
19 is subject to taxation under subch. I of ch. 78 and only to use for transportation
20 purposes. An ordinance adopted under this section shall be effective on January 1,
21 April 1, July 1, or October 1. A certified copy of the ordinance shall be delivered to
22 the secretary of revenue at least 120 days prior to its effective date. The repeal of any
23 such ordinance shall be effective on December 31. A certified copy of a repeal
24 ordinance shall be delivered to the secretary of revenue at least 120 days before the
25 effective date of the repeal.

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1 **SECTION 7.** 77.71 (intro.) of the statutes is amended to read:

2 **77.71 Imposition of ~~county and special district~~ local sales and use**
3 **taxes.** (intro.) Whenever ~~a county sales and use tax~~ an ordinance is adopted ~~enacted~~
4 under s. 77.70 or 77.701, or a ~~special district~~ resolution is adopted under s. 77.705
5 or 77.706, the following taxes are imposed:

6 **SECTION 8.** 77.71 (1) of the statutes is amended to read:

7 77.71 (1) For the privilege of selling, licensing, leasing, or renting tangible
8 personal property and the items, property, and goods specified under s. 77.52 (1) (b),
9 (c), and (d), and for the privilege of selling, licensing, performing, or furnishing
10 services a sales tax is imposed upon retailers at the rates under s. 77.70 in the case
11 of a county tax, at the rate under s. 77.701 in the case of a municipality tax, or at the
12 rate under s. 77.705 or 77.706 in the case of a special district tax of the sales price
13 from the sale, license, lease, or rental of tangible personal property and the items,
14 property, and goods specified under s. 77.52 (1) (b), (c), and (d), except property taxed
15 under sub. (4), sold, licensed, leased, or rented at retail in the county, municipality,
16 or special district, or from selling, licensing, performing, or furnishing services
17 described under s. 77.52 (2) in the county, municipality, or special district.

18 **SECTION 9.** 77.71 (2) of the statutes is amended to read:

19 77.71 (2) An excise tax is imposed at the rates under s. 77.70 in the case of a
20 county tax, at the rate under s. 77.701 in the case of a municipality tax, or at the rate
21 under s. 77.705 or 77.706 in the case of a special district tax of the purchase price
22 upon every person storing, using, or otherwise consuming in the county,
23 municipality, or special district tangible personal property, or items, property, or
24 goods specified under s. 77.52 (1) (b), (c), or (d), or services if the tangible personal
25 property, item, property, good, or service is subject to the state use tax under s. 77.53,

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1 except that a receipt indicating that the tax under sub. (1), (3), or (4) has been paid
2 relieves the buyer of liability for the tax under this subsection and except that if the
3 buyer has paid a similar local tax in another state on a purchase of the same tangible
4 personal property, item, property, good, or service that tax shall be credited against
5 the tax under this subsection and except that for motor vehicles that are used for a
6 purpose in addition to retention, demonstration, or display while held for sale in the
7 regular course of business by a dealer the tax under this subsection is imposed not
8 on the purchase price but on the amount under s. 77.53 (1m).

9 **SECTION 10.** 77.71 (3) of the statutes is amended to read:

10 77.71 (3) An excise tax is imposed upon a contractor engaged in construction
11 activities within the county, municipality, or special district at the rates under s.
12 77.70 in the case of a county tax, at the rate under s. 77.701 in the case of a
13 municipality tax, or at the rate under s. 77.705 or 77.706 in the case of a special
14 district tax of the purchase price of tangible personal property or items, property, or
15 goods under s. 77.52 (1) (b), (c), or (d) that are used in constructing, altering,
16 repairing, or improving real property and that became a component part of real
17 property in that county, municipality, or special district, except that if the contractor
18 has paid the sales tax of a county, municipality, or special district in this state on that
19 tangible personal property, item, property, or good, or has paid a similar local sales
20 tax in another state on a purchase of the same tangible personal property, item,
21 property, or good, that tax shall be credited against the tax under this subsection.

22 **SECTION 11.** 77.71 (4) of the statutes is amended to read:

23 77.71 (4) An excise tax is imposed at the rates under s. 77.70 in the case of a
24 county tax, at the rate under s. 77.701 in the case of a municipality tax, or at the rate
25 under s. 77.705 or 77.706 in the case of a special district tax of the purchase price

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1 upon every person storing, using, or otherwise consuming a motor vehicle, boat,
2 recreational vehicle, as defined in s. 340.01 (48r), or aircraft, if that property must
3 be registered or titled with this state and if that property is to be customarily kept
4 in a county that has in effect an ordinance under s. 77.70, in a municipality that has
5 in effect an ordinance under s. 77.701, or in a special district that has in effect a
6 resolution under s. 77.705 or 77.706, except that if the buyer has paid a similar local
7 sales tax in another state on a purchase of the same property that tax shall be
8 credited against the tax under this subsection.

9 **SECTION 12.** 77.73 (2) of the statutes is amended to read:

10 77.73 (2) Counties, municipalities, and special districts do not have jurisdiction
11 to impose the tax under s. 77.71 (2) in regard to items, property, and goods under s.
12 77.52 (1) (b), (c), and (d), and tangible personal property, except snowmobiles,
13 trailers, semitrailers, all-terrain vehicles, and utility terrain vehicles, purchased in
14 a sale that is consummated in another county, municipality, or special district in this
15 state that does not have in effect an ordinance or resolution imposing the taxes under
16 this subchapter and later brought by the buyer into the county, municipality, or
17 special district that has imposed a tax under s. 77.71 (2).

18 **SECTION 13.** 77.73 (3) of the statutes is amended to read:

19 77.73 (3) Counties, municipalities, and special districts have jurisdiction to
20 impose the taxes under this subchapter on retailers who file, or who are required to
21 file, an application under s. 77.52 (7) or who register, or who are required to register,
22 under s. 77.53 (9) or (9m), regardless of whether such retailers are engaged in
23 business in the county, municipality, or special district, as provided in s. 77.51 (13g).
24 A retailer who files, or is required to file, an application under s. 77.52 (7) or who
25 registers, or is required to register, under s. 77.53 (9) or (9m) shall collect, report, and

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1 remit to the department the taxes imposed under this subchapter for all counties,
2 municipalities, or special districts that have an ordinance or resolution imposing the
3 taxes under this subchapter.

4 **SECTION 14.** 77.75 of the statutes is amended to read:

5 **77.75 Reports.** Every person subject to county, municipality, or special district
6 sales and use taxes shall, for each reporting period, record that person's sales made
7 in the county, municipality, or special district that has imposed those taxes
8 separately from sales made elsewhere in this state and file a report as prescribed by
9 the department of revenue.

10 **SECTION 15.** 77.76 (1) of the statutes is amended to read:

11 77.76 (1) The department of revenue shall have full power to levy, enforce, and
12 collect county, municipality, and special district sales and use taxes and may take any
13 action, conduct any proceeding, impose interest and penalties, and in all respects
14 proceed as it is authorized to proceed for the taxes imposed by subch. III. The
15 department of transportation and the department of natural resources may
16 administer the county, municipality, and special district sales and use taxes in regard
17 to items under s. 77.61 (1).

18 **SECTION 16.** 77.76 (2) of the statutes is amended to read:

19 77.76 (2) Judicial and administrative review of departmental determinations
20 shall be as provided in subch. III for state sales and use taxes, and no county,
21 municipality, or special district may intervene in any matter related to the levy,
22 enforcement, and collection of the taxes under this subchapter.

23 **SECTION 17.** 77.76 (3r) of the statutes is created to read:

24 77.76 (3r) From the appropriation under s. 20.835 (4) (gh), the department
25 shall distribute 98.25 percent of the municipality taxes reported for each enacting

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

15 **SECTION 18.** 77.76 (4) of the statutes is amended to read:

16 77.76 (4) There shall be retained by the state ~~1.5%~~ 1.5 percent of the taxes
17 collected for taxes imposed by special districts under ss. 77.705 and 77.706 and ~~1.75%~~
18 1.75 percent of the taxes collected for taxes imposed by counties under s. 77.70 and
19 for taxes imposed by municipalities under s. 77.701 to cover costs incurred by the
20 state in administering, enforcing, and collecting the tax. All interest and penalties
21 collected shall be deposited and retained by this state in the general fund.

22 **SECTION 19.** 77.77 of the statutes is amended to read:

23 **77.77 Transitional provisions.** (1) (a) The sales price from services subject
24 to the tax under s. 77.52 (2) or the lease, rental, or license of tangible personal
25 property and property, items, and goods specified under s. 77.52 (1) (b), (c), and (d),

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1 is subject to the taxes under this subchapter, and the incremental amount of tax
2 caused by a rate increase applicable to those services, leases, rentals, or licenses is
3 due, beginning with the first billing period starting on or after the effective date of
4 the county ordinance, municipal ordinance, special district resolution, or rate
5 increase, regardless of whether the service is furnished or the property, item, or good
6 is leased, rented, or licensed to the customer before or after that date.

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

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

