



2005 SENATE BILL 660

March 7, 2006 – Introduced by Senators WIRCH, JAUCH and COGGS, cosponsored by Representatives GOTTLIEB and BERCEAU. Referred to Committee on Job Creation, Economic Development and Consumer Affairs.

1 **AN ACT** *to renumber and amend* 70.11 (4); *to amend* 70.11 (intro.), 70.32 (1)
2 and 70.44 (1); and *to create* 70.11 (4) (c), 70.11 (4) (d), 70.11 (4) (i) and 70.32 (1b)
3 of the statutes; **relating to:** revision and elimination of the exemption from the
4 property tax for certain property and the use of income from certain tax-exempt
5 leased property.

Analysis by the Legislative Reference Bureau

Under current law, property owned and used exclusively by benevolent associations, including benevolent nursing homes and retirement homes for the aged, is exempt from the property tax, if the property is not used for profit. This bill modifies the property tax exemption under current law for property owned by benevolent associations, including benevolent nursing homes and retirement homes for the aged by setting forth the specific types of property owned by a benevolent association that are exempt from property taxes.

Under the bill, the types of property owned by a benevolent association that are exempt from the property tax are:

1. Nursing homes.
2. Community based residential facilities.
3. Adult family homes.
4. Residential care apartment complexes.
5. Domestic abuse shelters.
6. Shelters for the homeless, including transitional housing facilities.

SENATE BILL 660

7. Housing for low-income persons that is operated in compliance with income eligibility limits for federal low-income housing programs.

8. A residential facility that provides alcohol or other drug abuse (AODA) treatment services or housing for persons with or recovering from AODA problems.

9. Residential housing for persons with permanent disabilities.

10. Property that is not residential housing, but used exclusively for benevolent purposes.

11. Property that is used exclusively to provide housing for persons and families of low and moderate income, if the property is owned by an entity organized for the purpose of providing such housing.

Under the bill, property owned by a benevolent association that is residential housing is subject to the property tax if it does not fit within any of the categories described above.

Under current law, nonresidential property owned and used exclusively by a benevolent association is exempt from the property tax. Under the bill, nonresidential property owned by a church or religious association is exempt from the property tax.

Under current law, if property that is exempt from property taxes is leased, the property retains its tax exemption only if the owner uses all of the leasehold income for maintenance of the leased property or construction debt retirement of the leased property or both.

The bill provides that leasing property owned by benevolent associations and certain education associations as residential housing does not render the property taxable if the property owner uses all of the lease income to support its benevolent or educational activities, or in the case of a church or religious association, to support the activities of the church or association, and the activities are undertaken in the county where the tax exempt property is located. In addition, the bill provides that a property owner may not discriminate based on race.

Under the bill, with regard to determining the assessed value of residential property owned by a benevolent association, church, or religious association, if information on the sale of reasonably comparable property is not available to the assessor of taxation district where the property is located, the assessor must determine the value of the property based on the income that is or may be generated by the property, as specified in the Wisconsin Property Assessment Manual.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

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:

1 **SECTION 1.** 70.11 (intro.) of the statutes is amended to read:

SENATE BILL 660

1 **70.11 Property exempted from taxation.** (intro.) The property described
2 in this section is exempted from general property taxes if the property is exempt
3 under sub. (1), (2), (18), (21), (27) or (30); if it was exempt for the previous year and
4 its use, occupancy or ownership did not change in a way that makes it taxable; if the
5 property was taxable for the previous year, the use, occupancy or ownership of the
6 property changed in a way that makes it exempt and its owner, on or before March 1,
7 files with the assessor of the taxation district where the property is located a form
8 that the department of revenue prescribes or if the property did not exist in the
9 previous year and its owner, on or before March 1, files with the assessor of the
10 taxation district where the property is located a form that the department of revenue
11 prescribes. Leasing a part of the property described in this section does not render
12 it taxable if, except for property described in sub. (4), the lessor uses all of the
13 leasehold income for maintenance of the leased property or construction debt
14 retirement of the leased property, or both, and, except for residential housing, if the
15 lessee would be exempt from taxation under this chapter if it owned the property.
16 Leasing property described in sub. (4) as residential housing does not render it
17 taxable if the property owner uses all of the leasehold income to support the
18 benevolent or educational activities of the owner, or in the case of a church or
19 religious association, to support the activities of the church or association, and the
20 activities are undertaken in the county where the tax-exempt property is located.
21 In addition, leasing property described in sub. (4) (c) 7. or (i) as residential housing
22 does not render it taxable if the property owner uses all of the leasehold income to
23 support the provision of similar housing anywhere in this state. Any lessor who
24 claims that leased property is exempt from taxation under this chapter shall, upon

SENATE BILL 660**SECTION 1**

1 request by the tax assessor, provide records relating to the lessor's use of the income
2 from the leased property. Property exempted from general property taxes is:

3 **SECTION 2.** 70.11 (4) of the statutes is renumbered 70.11 (4) (intro.) and
4 amended to read:

5 70.11 (4) (intro.) Property owned and used exclusively by ~~educational~~ any of the
6 entities described in this subsection while such property is used not for profit.
7 Property that is exempt from taxation under this subsection and is leased remains
8 exempt from taxation only if, in addition to the requirements specified in the
9 introductory phrase of this section, the property owner and the lessee do not
10 discriminate on the basis of race. The amount of land exempt under this subsection
11 may not exceed 10 acres of land necessary for location and convenience of buildings,
12 except as provided in par. (b). This subsection does not include property owned by
13 an organization that is organized under s. 185.981 or ch. 611, 613, or 614 and that
14 offers a health maintenance organization as defined in s. 609.01 (2) or a limited
15 service health organization as defined in s. 609.01 (3) or by an organization that is
16 issued a certificate of authority under ch. 618 and that offers a health maintenance
17 organization or a limited service health organization or by any nonstock, nonprofit
18 corporation which services guaranteed student loans for others or on its own account.
19 The property of the following entities is exempt from taxation under this subsection.

20 (a) Educational institutions offering regular courses 6 months in the year; or
21 by churches and educational associations, if the property is used exclusively for the
22 purposes of the educational institution or association.

23 (b) Churches or religious, educational or benevolent associations, including
24 benevolent nursing homes and retirement homes for the aged but not including an
25 organization that is organized under s. 185.981 or ch. 611, 613 or 614 and that offers

SENATE BILL 660

1 ~~a health maintenance organization as defined in s. 609.01 (2) or a limited service~~
2 ~~health organization as defined in s. 609.01 (3) or an organization that is issued a~~
3 ~~certificate of authority under ch. 618 and that offers a health maintenance~~
4 ~~organization or a limited service health organization and not including property~~
5 ~~owned by any nonstock, nonprofit corporation which services guaranteed student~~
6 ~~loans for others or on its own account, and also if the property is used exclusively for~~
7 ~~church or religious purposes, including property owned and used for housing for~~
8 ~~pastors and their ordained assistants, members of religious orders and communities,~~
9 ~~and ordained teachers, whether or not contiguous to and a part of other property~~
10 ~~owned and used by such associations or churches; or by women's, but not other types~~
11 ~~of residential housing except for the property described in par. (c). Property owned~~
12 ~~by churches or religious associations necessary for location and convenience of~~
13 ~~buildings, used for educational purposes and not for profit, shall not be subject to the~~
14 ~~10-acre limitation under this subsection but shall be subject to a 30-acre limitation.~~

15 ~~(e) Women's clubs; or by domestic, if the property is used exclusively for the~~
16 ~~purposes of the club.~~

17 ~~(f) Domestic incorporated historical societies; or by domestic, if the property~~
18 ~~is used exclusively for the purposes of the historical society.~~

19 ~~(g) Domestic incorporated, free public library associations; or by fraternal, if~~
20 ~~the property is used exclusively for the purposes of the library association.~~

21 ~~(h) Fraternal societies operating under the lodge system (except university,~~
22 ~~college and high school fraternities and sororities), but not exceeding 10 acres of land~~
23 ~~necessary for location and convenience of buildings while such property is not used~~
24 ~~for profit. Property owned by churches or religious associations necessary for~~
25 ~~location and convenience of buildings, used for educational purposes and not for~~

SENATE BILL 660**SECTION 2**

1 profit, shall not be subject to the 10-acre limitation but shall be subject to a 30-acre
2 limitation. Property that is exempt from taxation under this subsection and is leased
3 remains exempt from taxation only if, in addition to the requirements specified in the
4 introductory phrase of this section, the lessee does not discriminate on the basis of
5 race, except university, college, and high school fraternities and sororities, if the
6 property is used exclusively for the purposes of the fraternal society.

7 **SECTION 3.** 70.11 (4) (c) of the statutes is created to read:

8 70.11 (4) (c) Benevolent associations, churches, or religious associations, if the
9 property is used exclusively for benevolent purposes as any of the following:

10 1. A nursing home licensed under s. 50.03.

11 2. A community-based residential facility licensed under s. 50.03.

12 3. An adult family home certified under s. 50.032 or licensed under s. 50.033.

13 4. A residential care apartment complex registered or certified under s. 50.034
14 if at least 25 percent of the residents receive, on a daily basis, nursing services, as
15 defined in s. HFS 89.13 (24), Wis. Adm. Code, or personal services, as defined in s.
16 HFS 89.13 (25), Wis. Adm. Code, pursuant to a written service agreement between
17 the resident and the residential care apartment complex.

18 5. A domestic abuse shelter.

19 6. A shelter for the homeless, including transitional housing facilities.

20 7. Housing for low-income persons that is operated in compliance with sections
21 3.01 and 3.02 (1), (2), and (3), or that is provided as part of a program described in
22 section 4.02 (4) or 4.02 (9), of the Internal Revenue Service revenue procedure 96-32.
23 In order to claim the exemption under this subdivision, the property owner shall
24 provide the assessor an affidavit stating that the property meets the requirements
25 under this subdivision. For the purposes of this subdivision, “project”, as used in

SENATE BILL 660

1 Internal Revenue Service revenue procedure 96-32, includes property located on
2 more than one tax parcel, if the parcels are owned or operated by the same person
3 and are adjacent, separated only by a street or other public right-of-way, or within
4 the same condominium development.

5 8. A residential facility, the purpose of which is to provide alcohol or other drug
6 abuse treatment or services or housing for persons with, or who are recovering from,
7 alcohol or other drug abuse problems.

8 9. Residential housing in which at least 75 percent of the housing units are
9 occupied by one or more persons with permanent disabilities, for whom evidence is
10 available that demonstrates that these persons meet the medical definition of
11 permanent disability used to determine eligibility for programs administered by the
12 federal social security administration.

13 **SECTION 4.** 70.11 (4) (d) of the statutes is created to read:

14 70.11 (4) (d) Benevolent associations, if the property is not residential and is
15 used exclusively for benevolent purposes.

16 **SECTION 5.** 70.11 (4) (i) of the statutes is created to read:

17 70.11 (4) (i) All property owned by an eligible sponsor, as defined in s. 234.01
18 (5), and used exclusively to provide housing for persons and families of low and
19 moderate income.

20 **SECTION 6.** 70.32 (1) of the statutes is amended to read:

21 70.32 (1) ~~Real~~ Except as provided in sub. (1b), real property shall be valued by
22 the assessor in the manner specified in the Wisconsin property assessment manual
23 provided under s. 73.03 (2a) from actual view or from the best information that the
24 assessor can practicably obtain, at the full value which could ordinarily be obtained
25 therefor at private sale. In determining the value, the assessor shall consider recent

SENATE BILL 660**SECTION 6**

1 arm's-length sales of the property to be assessed if according to professionally
2 acceptable appraisal practices those sales conform to recent arm's-length sales of
3 reasonably comparable property; recent arm's-length sales of reasonably
4 comparable property; and all factors that, according to professionally acceptable
5 appraisal practices, affect the value of the property to be assessed.

6 **SECTION 7.** 70.32 (1b) of the statutes is created to read:

7 70.32 (1b) With regard to determining the value of residential property owned
8 by a benevolent association, church, or religious association, if information on the
9 sale of reasonably comparable property, as described under sub. (1), is not available
10 to the taxation district assessor, the assessor shall determine the value of such
11 property by using the income approach specified in the Wisconsin property
12 assessment manual provided under s. 73.03 (2a).

13 **SECTION 8.** 70.44 (1) of the statutes is amended to read:

14 70.44 (1) Real or personal property omitted from assessment in any of the 2
15 next previous years, unless previously reassessed for the same year or years, shall
16 be entered once additionally for each previous year of such omission, designating
17 each such additional entry as omitted for the year of omission and affixing a just
18 valuation to each entry for a former year as the same should then have been assessed
19 according to the assessor's best judgment, and taxes shall be apportioned, using the
20 net tax rate as provided in s. 70.43, and collected on the tax roll for such entry. This
21 section shall not apply to manufacturing property assessed by the department of
22 revenue under s. 70.995 or to property previously omitted from assessment solely on
23 the basis of the property owner's failure to comply with the leased property
24 provisions under s. 70.11 (intro.) during the years for which the property was
25 omitted.

