



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #720--Revised

Expansion of Premier Resort Area Tax (Shared Revenue and Tax Relief -- Local Revenue Options)

[LFB 2009-11 Budget Summary: Page 585, #1]

CURRENT LAW

The governing body of a political subdivision can enact an ordinance or adopt a resolution declaring itself to be a premier resort area if at least 40% of the equalized value of its taxable property is used by retailers that fall within certain tourism-related standard industrial classifications. A municipality or county, all of which is included in a premier resort area, can enact an ordinance to impose a tax at a rate of 0.5% on the gross receipts from the sale, lease, or rental of goods or services subject to the state sales tax that are made by businesses that are included in a second list of tourism-related retailers (this list, provided as an attachment, is more extensive than that used to determine whether the 40% threshold is met). However, taxing authority does not include the "use" tax. Further, a county and a municipality within that county cannot each impose the tax on sales by the same tourism-related retailer. In addition, the cities of Bayfield and Eagle River can declare themselves a premier resort area and impose the 0.5% premier resort tax, regardless of whether they meet the 40% threshold.

Proceeds from the premier resort area tax may only be used to pay infrastructure expenses within the jurisdiction of a premier resort area. Infrastructure expenses are defined as the cost of purchasing, constructing, or improving: parking lots; access ways; transportation facilities, including roads and bridges; sewer and water facilities; parks, boat ramps, beaches, and other recreational facilities; fire fighting equipment; police vehicles; ambulances; and other equipment or materials dedicated to public safety or public works.

GOVERNOR

Make the following modifications to the premier resort area tax:

Premier Resort Area Tax Rate. Specify that any municipality that enacted an ordinance imposing a 0.5% premier resort area tax that became effective prior to January 1, 2000, may amend the ordinance to increase the tax rate to 1.0%. They could increase their tax rate on the first day of any calendar quarter, provided that they deliver a certified copy of the amended ordinance to the Department of Revenue (DOR) at least 120 days in advance of its effective date.

Premier Resort Area Tax Base. Add businesses in the following Standard Industrial Classifications (SICs) to the list of businesses whose gross receipts are subject to the premier resort area tax. Specify that the gross receipts of businesses within these classifications would first be subject to the premier resort area tax on the first day of the third month beginning after publication of the budget act.

- 5251 -- Hardware stores.
- 5411 -- Grocery stores.
- 5531 -- Auto and home supply stores.
- 5731 -- Radio, television, and consumer electronics stores.
- 5734 -- Computer and computer software stores.
- 5735 -- Record and prerecorded tape stores.
- 7215 -- Coin-operated laundries and dry cleaning.
- 7832 -- Motion picture theaters, except drive-in.
- 7841 -- Video tape rental.
- 7933 -- Bowling centers.

Infrastructure Expenses. Expand the definition of infrastructure expenses for which premier resort area tax proceeds could be used to include exposition center facilities that are used primarily for conventions, expositions, trade shows, musical or dramatic events, or other events involving educational, cultural, recreational, sporting, or commercial activities.

DISCUSSION POINTS

1. In 1998, the Village of Lake Delton and the City of Wisconsin Dells each enacted a 0.5% premier resort area tax under the statutory requirements. Under 2001 Act 16, the City of Eagle River was exempted from the statutory requirement that 40% of its equalized value be used by tourism-related retailers in order to declare itself a premier resort area. The City of Eagle River enacted a premier resort area tax in 2006. The City of Bayfield was provided a similar exemption by 2001 Act 109 and enacted a premier resort area tax in 2003.

2. The following table lists the premier resort area tax revenues for those municipalities that collected the tax during 2008. The amounts shown are net of the 3% retained by DOR for the Department's costs of administering the tax.

<u>Municipality</u>	<u>Revenue</u>
Bayfield	\$61,600
Eagle River	138,800
Lake Delton	1,837,800
Wisconsin Dells	<u>649,500</u>
Total	\$2,687,700

3. The premier resort area tax allows areas of the state where tourism makes up a significant portion of the local economy to have the option of imposing a 0.5% tax on the sales of businesses that provide goods and services to tourists. The reasoning behind the premier resort tax is that it allows municipalities to capture some of the tourist dollars spent in the area in order to cover a portion of the transportation infrastructure and public safety costs that those tourists place upon the municipality. Under this concept, the tourists pay for some of the municipal costs they cause rather than having local residents pay those costs. As a result, the imposition of the premier resort tax is targeted at the sales of those businesses where tourists are most likely to shop.

4. Only the Village of Lake Delton and the City of Wisconsin Dells enacted an ordinance imposing a premier resort area tax prior to January 1, 2000. Therefore, under the bill, only these two municipalities could amend their ordinances to increase their premier resort tax rate to 1.0%. Based on the 2008 premier resort area tax distributions to these municipalities, a 1.0% tax rate on the current tax base would result in an estimated \$1,837,800 annually in additional revenue for the Village of Lake Delton and \$649,500 annually for the City of Wisconsin Dells.

5. DOR is authorized to retain 3% of collections to cover the costs of administration, enforcement, and collection of the tax. Any unencumbered balance in DOR's appropriation account for the administration of the tax at the end of each fiscal year is also distributed back to the premier resort areas. If both municipalities imposed the higher tax rate, DOR would receive an estimated \$77,000 annually in additional program revenue for administering the tax (unneeded amounts would revert to the premier resort area). However, because it is not known when or if the higher rate would be established, no reestimate of DOR's appropriation can be done at this time.

6. Under current law, proceeds from the premier resort tax can only be used to pay for statutorily specified infrastructure expenses within the premier resort area's jurisdiction. These expenses generally include transportation facilities, recreational facilities, and public safety-related equipment. The bill would expand the list of allowable expenditures to include exposition center facilities that are used primarily for conventions, expositions, trade shows, musical or dramatic events, or other events involving educational, cultural, recreational, sporting, or commercial activities. All existing and future premier resort areas would have this expanded expenditure authority.

7. According to the Department of Administration (DOA), no specific project, of the type that could be funded under the bill, is currently being planned in either Lake Delton or

Wisconsin Dells. However, DOA indicates that local leaders and businesses are discussing potential projects that could draw people to the area during the non-peak season. They indicate that the additional revenue from the higher tax rate and expanded list of allowable expenditures would allow the two municipalities to have the funding and flexibility available to take advantage of any future development opportunities should they arise. For example, DOA indicates that leaders in the area have been in discussions with youth baseball program officials about the idea of improving or developing the area's public youth baseball facilities so that the communities could attract visitors to the area by hosting annual baseball tournaments during the months of May and early June.

8. While such facilities or projects may be worthy and further develop tourism in the Wisconsin Dells and Lake Delton areas, it could be argued that using the premier resort tax to fund these types of projects goes beyond the original intent of the premier resort area tax. The premier resort area tax has been seen as a means for these areas to have tourists pay for their share of costs for using the governmental services and infrastructure of the area rather than a means for further tourism development. Both of these communities also impose a 5% room tax (the maximum allowable rate is 8%) and most of the revenues from that tax are required by statute to be used for tourism promotion and development, including tangible municipal developments. According to DOR's municipal financial reporting data, the Village of Lake Delton and the City of Wisconsin Dells reported annual room tax revenues of \$6.7 million and \$1.4 million, respectively, in 2007. Some may contend that these two communities, similar to all Wisconsin communities, have a local options tax funding mechanism to carry out tourism development and that providing additional taxing authority and expanding the allowable spending purposes under the premier resort area tax to carry out further tourism development projects is not warranted.

9. The cities of Bayfield and Eagle River likely experience similar, non-peak tourist periods. It is conceivable that projects similar to those envisioned in the Lake Delton and Wisconsin Dells area could be used in Bayfield or Eagle River to increase the number of tourists in non-peak tourist periods. Therefore, the Committee could extend the proposed increase in the premier resort area tax rate to these areas as well (Alternative A2).

Premier Resort Area Tax Retailer Base

10. The premier resort tax is imposed on the sales of tourism-related businesses. The attachment to this paper lists the current types of businesses whose sales are subject to the premier resort area tax. The original premier resort area law used a smaller set of retail categories (the same set used to determine the 40% threshold for creating an area). That list was expanded under 2005 Act 25 to include an additional 23 categories (these are identified in the attachment with an asterisk). Under the bill, the list of businesses whose sales would be subject to the tax would be expanded again to include businesses such as supermarkets, supercenters, general merchandise stores, and gasoline stations with convenience stores.

11. Unlike the provision that would allow the Village of Lake Delton and the City of Wisconsin Dells to increase their premier resort area tax rate to 1%, the provision that would expand the number of retailers whose sales would be subject to the tax would apply to all existing and

future premier resort areas. Therefore, additional retailers in Bayfield, Eagle River, Lake Delton, and Wisconsin Dells would all have their sales subject to the premier resort area tax.

12. Most of the types of businesses whose sales would be subject to the premier resort area tax under the Governor's proposal are included under the retail trade category of business classifications. The remaining few types of businesses are included under the arts, entertainment and recreation, information, and other services classifications. The U.S. Census Bureau's 2002 Economic Census provides information on the statewide sales of businesses within the retail trade category, as well as some regional and local estimates for the state's larger municipalities. No sales data exists for the individual categories of businesses in the less populated areas of the state. This data would be needed in order to make an estimate of the additional revenue that would be generated from the expanded base of businesses that would be subject to the tax in the state's premier resort areas.

13. Using statewide sales data from the 2002 Economic Census could give some perspective on the scale of the proposed premier resort area tax base expansion. Statewide sales for the expanded list of businesses made up 30.7% of the sales statewide within the retail trade category.

14. However, some of the retailers included in the proposed tax base expansion primarily sell items that are not subject to the premier resort area tax. For example, most food items sold by supermarkets are not subject to the state sales tax and would not be subject to the premier resort area tax. Similarly, motor vehicle fuel sales by gasoline stations would not be subject to the tax. No data is available to determine the amount of merchandise sold by such retailers that would not be subject to the tax. According to the 2002 Economic Census data, statewide sales from these two types of businesses accounted for two-thirds of the total sales from those businesses in the retail trade category that would become subject to the premier resort area tax. Therefore, while including these two large business types on the list of retailers that would be subject to the tax may appear like a sizeable expansion of the tax base, their actual taxable sales may be considerably more limited.

15. DOA officials indicate that the expanded base for the premier resort area tax is necessary in order to provide equity among retailers within the state's premier resort areas. That is, under the existing premier resort area tax, the same item may be subject to taxation in one store within the premier resort area, but not another. For example, the purchase of a television in a department store, which is included in the current retailer base, is subject to the premier resort area tax, but that item is not currently subject to the tax if purchased at a radio, television, and consumer electronics store or a supercenter store. Similarly, the purchase of a taxable item within a drug store is subject to the premier resort area tax, but if the same item is purchased in a supermarket, or a gas station convenience store, it is not currently subject to the tax.

16. Expanding the list of retailers could eliminate the different tax treatment of the retail goods and services that can be purchased in the various types of retail stores within a premier resort area. It would also eliminate the competitive price advantage that a retailer whose merchandise is not taxed has over those retailers who sell the same items that are taxed.

ALTERNATIVES

A. 1% Premier Resort Area Tax Rate

1. Approve the Governor's recommendation to allow that any municipality that enacted an ordinance imposing a 0.5% premier resort area tax that became effective prior to January 1, 2000 (the Village of Lake Delton and City of Wisconsin Dells), to amend that ordinance to increase the tax rate to 1.0%. Specify that the municipality could increase their tax rate on the first day of any calendar quarter, provided that they deliver a certified copy of the amended ordinance to DOR at least 120 days in advance of its effective date.

2. Modify the Governor's recommendation by allowing any premier resort area to increase its tax rate to 1%.

3. Delete provision.

B. Allowable Expenditures

1. Approve the Governor's recommendation to expand the definition of infrastructure expenses for which premier resort area tax proceeds could be used to include exposition center facilities that are used primarily for conventions, expositions, trade shows, musical or dramatic events, or other events involving educational, cultural, recreational, sporting, or commercial activities. (All existing and future premier resort areas in the state would have this authority).

2. Delete provision.

C. Expansion of Premier Resort Area Tax Base

1. Approve the Governor's recommendation to expand the list of businesses whose gross receipts are subject to the premier resort area tax. Specify that the gross receipts of businesses within these classifications would first be subject to the premier resort area tax on the first day of the third month beginning after publication of the budget act. (All existing and future premier resort areas in the state would have this authority).

2. Delete provision.

Prepared by: Al Runde
Attachment

ATTACHMENT

Current Businesses Subject to the Premier Resort Area Tax

- 5311 -- Department stores.*
- 5331 -- Variety stores.
- 5399 -- Miscellaneous general merchandise stores.
- 5441 -- Candy, nut, and confectionary stores.
- 5451 -- Dairy product stores.

- 5461 -- Retail bakeries.
- 5499 -- Miscellaneous food stores.*
- 5541 -- Gasoline service stations.
- 5611 -- Men's and boys' clothing and accessory stores.*
- 5621 -- Women's clothing stores.*

- 5632 -- Women's accessory and specialty stores.*
- 5641 -- Children's and infants' wear stores.*
- 5651 -- Family clothing stores.*
- 5661 -- Shoe stores.*
- 5699 -- Miscellaneous apparel and accessory stores.*

- 5812 -- Eating places.
- 5813 -- Drinking places.
- 5912 -- Drug stores and proprietary stores.
- 5921 -- Liquor stores.
- 5941 -- Sporting goods stores and bicycle shops.

- 5942 -- Book stores.*
- 5943 -- Stationery stores.*
- 5944 -- Jewelry stores.*
- 5945 -- Hobby, toy, and game shops.*
- 5946 -- Camera and photographic supply stores.

- 5947 -- Gift, novelty, and souvenir shops.
- 5948 -- Luggage and leather goods stores.*
- 5949 -- Sewing, needlework, and piece goods stores.*
- 5992 -- Florists.*
- 5993 -- Tobacco stores and stands.*

- 5994 -- News dealers and newsstands.*
- 5999 -- Miscellaneous retail stores.*
- 7011 -- Hotels and motels.
- 7032 -- Sporting and recreational camps.
- 7033 -- Recreational vehicle parks and campsites.

ATTACHMENT (Continued)

- 7922 -- Theatrical producers (except motion picture) and miscellaneous theatrical services.*
- 7929 -- Bands, orchestras, actors, and other entertainers and entertainment groups.*
- 7948 -- Racing, including track operation.
- 7991 -- Physical fitness facilities.*
- 7992 -- Public golf courses.

- 7993 -- Coin-operated amusement devices.
- 7996 -- Amusement parks.
- 7997 -- Membership sports and recreation clubs.*
- 7999 -- Amusement and recreational services, not elsewhere classified.

* Included in the list of taxable business categories by 2005 Act 25.