Wisconsin Department of Administration
Division of Executive Budget and Finance

Fiscal Estimate - 2005 Session

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number **05-3150/2**	Introduction Number **AB-573**

Subject

Property tax exemption for certain residential property and leased property

Fiscal Effect

State:

☐ No State Fiscal Effect
☒ Indeterminate

☐ Increase Existing Appropriations
☐ Decrease Existing Appropriations
☐ Create New Appropriations
☐ Increase Existing Revenues
☐ Decrease Existing Revenues
☐ Increase Costs - May be possible to absorb within agency's budget ☐ Yes ☐ No
☐ Decrease Costs

Local:

☐ No Local Government Costs
☒ Indeterminate

1. ☐ Increase Costs ☐ Permissive ☐ Mandatory
2. ☐ Decrease Costs ☐ Permissive ☐ Mandatory
3. ☐ Increase Revenue ☐ Permissive ☐ Mandatory
4. ☐ Decrease Revenue ☐ Permissive ☐ Mandatory
5. Types of Local Government Units Affected
☐ Towns ☐ Village ☐ Cities
☐ Counties ☐ Others
☐ School Districts ☐ WTCS Districts

Fund Sources Affected

☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEGS

Affected Ch. 20 Appropriations

Agency/Prepared By	Authorized Signature	Date
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Fiscal Estimate Narratives

DOR 8/4/2005

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Assumptions Used in Arriving at Fiscal Estimate

In a 2003 decision (Columbus Park Housing Corporation v. Kenosha, 267 Wis.2d 59), the Wisconsin Supreme Court held that property Columbus Park (a non-stock, non-profit corporation) rented to qualified low-income persons was not exempt from property taxes because the low-income residents would be subject to property taxes if they owned the property.

In reaction to this decision, 2003 Wisconsin Act 195 was enacted to effectively overturn the court's decision as it affected residential rental property. The Act also directed the Legislative Council to study the issue of the tax exemption for housing. The Legislative Council convened a Special Committee on Tax Exemptions for Residential Property, which issued its findings in April 2005. The bill reflects the Special Committee's recommendations.

Under the bill, s. 70.11 (4) is amended by creating separate subdivisions for the tax exemptions for educational associations, churches and religious associations, women's clubs, historical societies, libraries, and fraternal societies. The exemption for housing owned and used by churches and religious associations to house pastors, ordained assistants and teachers, and members of religious orders is moved to the subdivision on churches and religious associations. A separate subdivision for non-residential property owned by benevolent associations is created. This part of the bill has no effect on the amount of property that is exempt. Therefore, this part of the bill has no fiscal effect on state or local government.

Under the bill, a new subdivision (subdivision (c)) is created under s. 70.11 (4) that applies to residential property owned by benevolent associations, churches, and religious associations. Unless the property is exempt elsewhere, residential property owned by these entities is exempt if it is any of the following: (1) a nursing home licensed under s. 50.03; (2) a community-based residential facility licensed under s. 50.03; (3) an adult family home certified under s. 50.032 or licensed under s. 50.033; (4) a residential care apartment complex registered or certified under s. 50.034; (5) a domestic abuse shelter; (6) a shelter for the homeless; (7) housing for low-income persons that meet certain Internal Revenue Service requirements; (8) residential facilities whose primary purpose is providing services relating to alcohol or drug abuse; or (9) residential housing for persons with permanent disabilities that meet certain eligibility requirements of the Social Security Administration.

In addition, the organization and lessee may not discriminate on the basis of race. The property may also not be rented for profit. However, leasing property as residential housing may not render it taxable if all the leasehold income is used to further the benevolent or educational activities of the owner, or, for churches and religious associations, to further the religious activities of the church or association.

Some residential facilities may not meet any of the above criteria and may become taxable as a result of the bill. In particular, it is possible that some facilities will not meet the income requirements under the Internal Revenue Service and Social Security Administration provisions. However, it is expected that most housing that is currently exempt from property taxes under current law will remain exempt under the bill. The Department of Revenue does not have data to permit a reasonable estimate of the amount of property that could become taxable under the bill. It is therefore not possible to reasonably estimate the shift in property taxes at the local level and the increase in state forestation taxes that this bill could engender.

Long-Range Fiscal Implications