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(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2011-12

(session year)

### Joint

(Assembly, Senate or Joint)

### Survey Committee on Tax Exemptions...

#### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

#### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

**Record of Committee Proceedings**

**Joint Survey Committee on Tax Exemptions**

**Assembly Bill 40**

Relating to: state finances and appropriations, constituting the executive budget act of the 2011 legislature.

By Joint Committee on Finance.

March 01, 2011      Referred to Joint Survey Committee on Tax Exemptions.

June 7, 2011      **EXECUTIVE SESSION HELD**

Present:    (9)    Senator Hopper; Representative Knodl; Senators Zipperer and Carpenter; Representatives Van Roy and Turner; Secretary Chandler; Executive Assistant Means; Public Member Shaul.

Absent:    (0)    None.

Excused:   (0)    None.

Moved by Senator Zipperer, seconded by Representative Van Roy that **Assembly Bill 40** be recommended for Move that the Joint Survey Committee on Tax Exemptions issue its report on Assembly Bill 40 with the following statement of public policy: "The Joint Survey Committee on Tax Exemptions finds that there is good public policy concerning the tax exemptions in Assembly Bill 40."

Ayes:    (7)    Senator Hopper; Representative Knodl; Senator Zipperer; Representative Van Roy; Secretary Chandler; Executive Assistant Means; Public Member Shaul.

Noes:    (2)    Senator Carpenter; Representative Turner.

MOVE THAT THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS ISSUE ITS REPORT ON ASSEMBLY BILL 40 WITH THE FOLLOWING STATEMENT OF PUBLIC POLICY: "THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS FINDS THAT THERE IS GOOD PUBLIC POLICY CONCERNING THE TAX EXEMPTIONS IN ASSEMBLY BILL 40." RECOMMENDED, Ayes 7, Noes 2

Greg Gasper  
Committee Clerk

PDF - AB40: Record of Committee Proceedings for JFIN from 06-13-2011

## **Record of Committee Proceedings**

### **Joint Committee on Finance**

#### **Assembly Bill 40**

Relating to: state finances and appropriations, constituting the executive budget act of the 2011 legislature.

By Joint Committee on Finance.

March 01, 2011      Referred to Joint Committee on Finance.

March 29, 2011      **PUBLIC HEARING HELD**

Present:    (15)    Senator Darling; Representative Vos; Senators Olsen, Harsdorf, Grothman, Leibham, Hopper, Taylor and Jauch; Representatives Strachota, LeMahieu, Nygren, Kleefisch, Grigsby and Shilling.

## Vote Record Joint Survey Committee on Tax Exemptions

Date: 6/7/11

Moved by: ~~\_\_\_\_\_~~  
Zipper

Seconded by: Van Roy

AB \_\_\_\_\_ SB \_\_\_\_\_ Clearinghouse Rule \_\_\_\_\_  
 AJR \_\_\_\_\_ SJR \_\_\_\_\_ Appointment \_\_\_\_\_  
 AR \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_  
 A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:

- Passage     Adoption     Confirmation     Concurrence     Indefinite Postponement  
 Introduction     Rejection     Tabling     Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<b>Senator Randy Hopper, Co-Chair</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Daniel Knodl, Co-Chair</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Rich Zipperer</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Tim Carpenter</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Karl Van Roy</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Robert Turner</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Secretary Rick Chandler</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Executive Assistant Steve Means</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Public Member Kimberly Shaul</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Totals:</b>	<u>7</u>	<u>2</u>	_____	_____

Motion Carried

Motion Failed



*PRELIMINARY*  
*STATE OF WISCONSIN*  
*REPORT OF THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS*  
*2011 ASSEMBLY BILL 40*

[Introduced by the Joint Committee on Finance at the request of Governor Scott Walker.]

2011 Assembly Bill 40 is the 2011-13 Executive Budget Bill ("bill") prepared by the Governor and introduced by the Joint Committee on Finance at the request of the Governor. The bill contains a number of provisions that affect existing statutes or create new statutes relating to the exemption of property or persons from state or local taxes. This report address those provisions.

**General Nature and Fiscal Effect of Tax Exemption Provisions in 2011 Assembly Bill 40**

***Deferral for Capital Gains Reinvested in Qualified Wisconsin Businesses***

For taxable years beginning after December 31, 2010, Assembly Bill 40 would authorize the deferral of long-term capital gains if the gains are reinvested in qualified Wisconsin businesses within 180 days of the sale of the asset generating the gain. Under the bill, upon qualified reinvestment of the gains and subject to certain limitations, a claimant would be authorized to subtract the amount of the gain from federal adjusted gross income for purposes of calculating their Wisconsin adjusted gross income. The basis of the investment in the qualified Wisconsin business would be calculated by subtracting the reinvested capital gain from the investment. The Wisconsin Economic Development Corporation would be responsible for the certification of qualified Wisconsin businesses for purposes of the capital gain deferral.

The Legislative Fiscal Bureau (LFB) estimates that the fiscal effect of this provision would be to decrease revenues by \$16,100,000 in 2011-12 and \$20,200,000 in 2012-13.

***Capital Gains Exclusion for Wisconsin Capital Assets***

For taxable years beginning after December 31, 2015, Assembly Bill 40 would authorize the subtraction of certain qualified capital gains from federal adjusted gross income for purposes of calculating Wisconsin adjusted gross income. Generally, capital gains would be qualified for exclusion from taxation under this provision if the capital assets relate to a Wisconsin business, as certified by the Wisconsin Economic Development Corporation; are purchased after December 31, 2010; are held for at least five years; and are long-term gains under the Internal Revenue Code (IRC). The provision specifies that a qualifying gain under the exclusion provision may not include an amount for which a claimant claimed a subtraction as a reinvestment in a qualified new business venture.

Due to the provision's delayed applicability, the LFB notes no fiscal effect for the 2011-13 biennium. Subject to substantial variation, the Department of Revenue (DOR) indicates the exclusion would reduce individual income tax collections by \$79,000,000 when fully implemented. The LFB also

indicates that certain modifications may be required in order to achieve the Governor's stated intent regarding the relationship between this provision and the deferral of capital gains described above.

***Exclusion for Interest on Wisconsin Health and Educational Facilities Authority (WHEFA)-Issued Debt***

The bill would provide an income tax exclusion for interest income received on bonds or notes issued by WHEFA. Generally, in order to qualify for the exclusion, WHEFA bonds or notes must be issued to a person who is eligible to receive tax-exempt bonds or notes from another issuer for the same purpose as the bonds or notes issued by WHEFA. The LFB indicates that the administration estimates the fiscal effect of this provision to result in a minimal loss of state tax revenues.

***IRC Update***

Generally, under the bill, the state's income and franchise tax statutes would continue to reference the IRC in effect as of December 31, 2008. However, the bill would adopt certain changes made to the IRC in 2009 and 2010, including changes related to: long-term care insurance provided in connection with an annuity or life insurance contract; contributions and roll-overs to Roth accounts for participants in government-sponsored deferred compensation plans; partial annuitization of non-qualified annuity contracts; and the treatment of qualified tax credit and Build America bonds.

The LFB indicates that the administration estimates the net fiscal effect of these provisions to be an increase of income and franchise tax revenues by \$230,000 in 2011-12 and a decrease of income and franchise tax revenues by \$347,000 in 2012-13.

***Combined Reporting: Use of Net Business Loss Carry-Forwards Incurred before 2009***

Under the bill, combined groups would be authorized to share net business loss carry-forwards incurred by group members before January 1, 2009. Generally, under state law, a net business loss is defined as the excess of business expenses allowed as deductions over the amount of income attributable to the operation of a trade or business in the state. The bill places certain limits on the use of the qualified net business loss carry-forwards by members of a combined group, including a requirement that a corporation must first use the carry-forwards to offset its own income; and that a corporation may use up to 5% of its remaining qualified net business loss carry-forwards to proportionally offset the income of other members of the combined group. If the full 5% could not be used to offset the income of the other members of the combined group, the remainder could be added to the portion of the corporation's loss carry-forward that could be used to offset the income of group members in the subsequent year. These provisions would apply to taxable years beginning after December 31, 2011, and for each of the 20 subsequent tax years.

The LFB indicates these provisions would reduce corporate income and franchise tax revenues by an estimated \$9,200,000 in 2011-12 and \$37,200,000 in 2012-13.

***Sales and Use Tax Exemption for Modular and Manufactured Homes***

Under current law, state sales and use tax applies to sales of modular homes and manufactured homes, subject to certain exemptions and treatments dependent on whether a home will become a real property construction or will be sold as tangible personal property.

Assembly Bill 40 would create a state sales and use tax exemption for modular and manufactured homes if a home is destined to become real property in another state.

The LFB indicates that DOR estimates the fiscal effect of this provision would reduce sales and use tax revenue by \$195,000 in 2011-12 and by \$260,000 in 2012-13.

***Sales and Use Tax Exemption for Oil and Fat Converted Into Fuel***

The bill creates an exemption from the state sales and use tax for sales of vegetable oil or animal fat that is converted into motor fuel, if the fuel is exempt from the state motor vehicle fuel tax under the exemption for personal renewable fuel. The LFB indicates this exemption is expected to have a minimal fiscal effect.

***Tax Treatment of the University of Wisconsin (UW)-Madison Authority***

As an element of the proposed creation of a UW-Madison Authority, Assembly Bill 40 provides that the authority would be exempt from state sales and use tax and from state income taxes. Additionally, property owned or leased by the authority would be exempt from property taxes to the extent that the use of the property is primarily related to the purposes of the authority. Property of the authority would be subject to special assessments for local improvements. Generally, these provisions would provide the proposed UW-Madison Authority with the same tax exemptions that are provided to the UW System under current law.

**Legality Involved**

There are no questions of legality regarding the provisions of the bill described in this report.

**Public Policy Involved**

06/03/11

***JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS***





*STATE OF WISCONSIN**REPORT OF THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS**2009 ASSEMBLY BILL 75*

[Introduced by Joint Committee on Finance by request of Governor Jim Doyle.]

2009 Assembly Bill 75 is the 2009-11 Executive Budget Bill ("bill") prepared by the Governor and introduced by the Joint Committee on Finance at the request of the Governor. The bill contains a number of provisions which affect existing statutes or create new statutes relating to the exemption of property or persons from state or local taxes. This report addresses those provisions.

**General Nature and Fiscal Effect of Tax Exemption Provisions in 2009 Assembly Bill 75**

**Capital Gains Exclusion**

Current law provides an individual income tax exclusion of 60% of long-term capital gains. The bill would decrease the exclusion from 60% to 40%. This provision would first apply to taxable years beginning on January 1, 2009, except that if the bill's effective date is after August 31, 2009, the provision would first apply to taxable years beginning on January 1, 2010.

At the time of introduction, the Legislative Fiscal Bureau (LFB) estimated that the fiscal effect of this provision would be to increase individual income tax revenue by \$85,100,000 in 2009-10 and \$95,500,000 in 2010-11. As of May 27, 2009, the LFB reduced these estimates to \$75,400,000 in 2009-10 and \$83,400,000 in 2010-11.

**Domestic Production Activities**

For individual income and corporate income and franchise tax, current law refers to the Internal Revenue Code (IRC) in a manner that provides a deduction for domestic production activities income. The bill would eliminate the deduction for domestic production activities for purposes of state income taxes. This provision would take effect for taxable years beginning on or after January 1, 2009.

At the time of introduction, the LFB estimated that the fiscal effect of this provision would be to increase individual income and corporate income and franchise tax revenue by \$38,200,000 in 2009-10 and \$33,500,000 in 2010-11. On May 11, 2009, the LFB re-estimated the fiscal effect to be \$27,300,000 in 2009-10 and \$27,600,000 in 2010-11.

**Sales and Use Tax on Towing and Hauling of Motor Vehicles**

Under current law, sales and use tax statutes refer to the "towing" of vehicles. Generally, in practice, sales and use tax is paid on both the towing of vehicles and the "hauling" of vehicles on a flatbed truck. The bill would clarify that the both towing and hauling of motor vehicles are subject to the sales and use tax.

The LFB estimates that the fiscal effect of this provision would be to preserve sales tax revenue of \$2.4 million in 2009-10 and \$2.5 million in 2010-11.

### **Oil Company Profits Tax**

Generally, 2009 Assembly Bill 75 would impose, for the privilege of doing business in the state, a tax on each motor fuel supplier's annual gross receipts (the bill refers to this tax as a tax on profits, however, as proposed, the tax would be imposed on a supplier's gross receipts). The tax rates would increase from 0% to 3% based on increases in each supplier's total gross receipts. The bill would exclude the following amounts from the definition of gross receipts:

- State or federal excise taxes, or petroleum inspection fees, collected from the purchaser.
- Sales of motor vehicle fuel if the fuel is biodiesel fuel or ethanol blended with gasoline to create fuel consisting of at least 85% ethanol (E85).
- Sales for all current gasoline and diesel fuel uses that are exempt from the state motor vehicle fuel excise tax, some of which include fuel sold for use in mass transit, trains, and aircraft, for most non-highway uses, and for use as a heating oil.

Initially, the LFB estimated the tax would result in revenue of \$100,324,900 in 2009-10 and \$171,490,300 in 2010-11. Based on macroeconomic changes and a modification of the proposed effective date, the LFB re-estimated the fiscal effect to be \$103,684,300 in 2009-10 and \$156,403,300 in 2010-11.

### **Capital Gain Reinvestment in New Business Ventures**

The bill would permit taxpayers to subtract a long-term capital gain from federal adjusted gross income if the taxpayer reinvests all of the proceeds from the gain in a qualified new business venture within 180 days of the sale generating the gain. The subtraction of long-term capital gains would be limited to gains up to \$10 million per taxpayer and would apply to individuals and individual partners or members of partnerships, LLCs or limited liability partnerships and individual shareholders of tax-option corporations. The Department of Commerce would be required to certify qualified new business ventures subject to certain limitations.

Since the deferral would first apply for tax years beginning after December 31, 2010, the administration estimates no fiscal effect of the 2009-11 biennium. The administration estimates a reduction in individual income tax collections of \$14 million annually in the 2011-13 biennium.

### **Internal Revenue Code Update**

With certain exceptions, the bill updates statutory references to the federal Internal Revenue Code (IRC) to include changes enacted in 2007 and through December 31, 2008. The administration estimates these changes would reduce state individual income and corporate income and franchise tax collections by \$40,560,000 in 2009-10 and \$ 5,490,000 in 2010-11.

**Sales and Use Tax Exemption for Youth Sports**

Generally, current law imposes sales and use tax on the sale of admissions to amusement, athletic, entertainment, or recreational events. 2009 Assembly Bill 75 proposes a sales and use tax exemption for admissions sold by nonprofit organizations to participate in any sports activity in which more than 50% of the participants are age 19 or younger.

According to the LFB, the fiscal effect of this provision would be minimal.

**Sales and Use Tax Exemptions for Biotechnology and Manufacturing Research**

For persons engaged primarily in manufacturing or biotechnology in the state, the bill would create sales and use tax exemptions for purchases of the following items:

- Machinery and equipment used exclusively and directly in qualified research.
- Tangible personal property that is consumed, destroyed, or loses its identity while being used exclusively and directly in qualified research.

Under 2009 Assembly Bill 75, this proposal would take effect January 1, 2012. It is estimated that this proposal would reduce sales and use tax revenue by \$5 million in 2011-12 and \$10 million in 2012-13 and annually thereafter.

**Property Tax Exemptions for Research Machinery and Equipment**

2009 Assembly Bill 75 would create a property tax exemption for machinery and equipment, including attachments, parts, and accessories, used by persons who are engaged primarily in manufacturing or biotechnology in this state, provided the machinery and equipment are used exclusively and directly in qualified research. The bill also specifies modifications to state aid payments in connection with the property tax exemption.

Based on the effective date of the provision, the Governor estimates no fiscal effect until the 2013-15 biennium.

**Personal Property Tax Exemption for Research Property**

2009 Assembly Bill 75 would create a personal property tax exemption for tangible personal property used by persons who are engaged primarily in manufacturing or biotechnology in this state, if the tangible personal property is consumed or destroyed or loses its identity while being used exclusively and directly in qualified research. The bill also specifies modifications to state aid payments in connection with the property tax exemption.

Based on the effective date of the provision, the Governor estimates no fiscal effect until the 2013-15 biennium.

*Sales and Use Tax Exemption for Native American Purchasers*

Under the bill, purchases made by any federally recognized American Indian tribe or band in this state would be exempt from sales and use taxation. The LFB estimates the fiscal effect of this provision to be minimal.

*Modifications to Premier Resort Area Tax*

Under current law, a political subdivision may declare itself to be a premier resort area if at least 40% of the equalized value of its taxable property is used by retailers within certain tourism-related standard industrial classifications. Additionally, certain municipalities may declare themselves to be premier resort areas regardless of the 40% threshold. As a premier resort area, the political subdivision may impose a 0.5% sales tax on certain tourism-related retailers. Proceeds from the tax must be used for infrastructure expenses within the premier resort area.

Under 2009 Assembly Bill 75, 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%. This provision would affect the Village of Lake Delton and the City of Wisconsin Dells. According to the LFB, "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."

Additionally, for any premier resort area, the bill would add the following Standard Industrial Classifications to the list of businesses subject to the premier resort area tax:

- 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.

Also, the bill expands the definition of infrastructure expenses for which premier resort area tax proceeds may 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.

### **Regional Transit Authorities**

Generally, 2009 Assembly Bill 75 prescribes or authorizes the creation of certain regional transit authorities. As a component of the proposal, the bill creates a general property tax exemption for all property owned by transit authorities. The bill also exempts sales to transit authorities and an authority's income from taxation.

### **Wisconsin Quality Home Care Authority**

2009 Assembly Bill 75 proposes the creation of the Wisconsin Quality Home Care Authority. Generally, the authority would conduct activities related to the provision of home care services in the state. As a component of this proposal, the bill creates a general property tax exemption for all property owned by the Wisconsin Quality Home Care Authority, provided that use of the property is primarily related to the purposes of the authority. The bill also exempts sales to the authority and the authority's income from taxation.

### **Sales Tax Definition of Manufacturing**

2009 Assembly Bill 75 modifies certain sales and use tax exemptions for tangible personal property or services consumed in the process of manufacturing to reflect current administrative rules and collection practices. The LFB estimates the fiscal effect of this provision to be minimal.

### **Legality Involved**

Generally, there are no questions of legality involved in the provisions of the bill described in this report. However, a constitutional concern may exist with regard to the provisions of the bill relating to the oil company profits tax. Generally, the concern relates to the constitutionality of the "anti-pass-through" portion of the oil company profits tax. [See Legislative Fiscal Bureau (LFB) Budget Paper #752, May 19, 2009.]

### **Public Policy Involved**

The bill is good public policy.

6/03/09

*JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS*



## History of Assembly Bill 75

ASSEMBLY BILL 75

of Act 75

An Act relating to: state finances and appropriations, constituting the executive budget act of the 2009 legislature.

2009

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04-01.	A.	Public hearing held by joint committee on Finance.	
04-03.	A.	Public hearing held by joint committee on Finance.	
04-16.	A.	Executive action taken by joint committee on Finance.	
04-21.	A.	Executive action taken by joint committee on Finance.	
04-23.	A.	Executive action taken by joint committee on Finance.	
04-29.	A.	Executive action taken by joint committee on Finance.	
04-30.	A.	Executive action taken by joint committee on Finance.	
05-05.	A.	Executive action taken by joint committee on Finance.	
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