



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4969/1
JK:wlj/amn/ahe

2017 SENATE BILL 863

March 7, 2018 - Introduced by Senators LARSON, L. TAYLOR, JOHNSON and CARPENTER, cosponsored by Representatives BROSTOFF, CROWLEY, SINICKI, ANDERSON, SARGENT, SPREITZER and ZEPNICK. Referred to Committee on Revenue, Financial Institutions and Rural Issues.

1 **AN ACT to renumber and amend** 77.70;**to amend** chapter 77 (title), subchapter
2 V (title) of chapter 77 [precedes 77.70], 77.71, 77.73, 77.75, 77.76 (1), 77.76 (2),
3 77.76 (4), 77.77 and 77.78; and **to create** 20.566 (1) (gh), 20.835 (4) (gh), 77.70
4 (2), 77.701 and 77.76 (3r) of the statutes; **relating to:** allowing a municipality
5 to impose a sales and use tax and allowing a county to increase the rate of its
6 sales and use tax and making appropriations.

Analysis by the Legislative Reference Bureau

Under current law, a county may impose a sales and use tax at the rate of 0.5 percent of the sales price of tangible personal property, goods, and services sold or used in the county. This bill allows a county, with the approval of the county electors at a referendum, to increase the tax rate in 0.1 percent increments, as long as the overall rate does not exceed 1 percent.

The bill also allows a municipality to impose a sales and use tax at the rate of 0.1, 0.2, 0.3, 0.4, or 0.5 percent of the sales price of tangible personal property, goods, and services sold or used in the municipality if the municipality adopts an ordinance to impose the tax and the ordinance is approved by the electors of the municipality at a referendum held at a spring or general election. In addition, the bill allows a municipality that has adopted such an ordinance to subsequently increase the rate in 0.1 percent increments as long as the increase is approved by the electors of the municipality at a referendum held at a spring or general election and as long as the overall rate does not exceed 0.5 percent.

SENATE BILL 863

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

2017-18 2018-19

3 **20.566 Revenue, department of**

4 (1) COLLECTION OF TAXES

5 (gh) Administration of municipality

taxes	PR	A	-0-	-0-
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7 **SECTION 2.** 20.566 (1) (gh) of the statutes is created to read:

8 20.566 (1) (gh) *Administration of municipality taxes.* From the moneys
9 transferred from the appropriation account under s. 20.835 (4) (gh), the amounts in
10 the schedule for administering the municipality taxes imposed under s. 77.701.
11 Notwithstanding s. 20.001 (3) (a), at the end of the fiscal year the unencumbered
12 balance of this appropriation account lapses to the general fund.

13 **SECTION 3.** 20.835 (4) (gh) of the statutes is created to read:

14 20.835 (4) (gh) *Municipality taxes.* All moneys received from the taxes imposed
15 under s. 77.701 for distribution to the municipalities that adopt an ordinance
16 imposing taxes under that section and for interest payments on refunds under s.
17 77.76 (3r), except that 1.75 percent of those tax revenues collected under that section
18 shall be credited to the appropriation account under s. 20.566 (1) (gh).

19 **SECTION 4.** Chapter 77 (title) of the statutes is amended to read:

SENATE BILL 863

CHAPTER 77

TAXATION OF FOREST CROPLANDS;

REAL ESTATE TRANSFER FEES;

SALES AND USE TAXES; COUNTY,

MUNICIPALITY, AND SPECIAL DISTRICT

SALES AND USE TAXES; MANAGED

FOREST LAND; ECONOMIC DEVELOPMENT

SURCHARGE; LOCAL FOOD AND BEVERAGE

TAX; LOCAL RENTAL CAR TAX;

PREMIER RESORT AREA TAXES;

STATE RENTAL VEHICLE

FEE; DRY CLEANING FEES

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

CHAPTER 77

SUBCHAPTER V

COUNTY, MUNICIPALITY, AND

SPECIAL DISTRICT SALES

AND USE TAXES

SECTION 6. 77.70 of the statutes, as affected by 2017 Wisconsin Act 58, is renumbered 77.70 (1) and amended to read:

77.70 (1) Any county desiring to impose county sales and use taxes under this subchapter may do so by the adoption of an ordinance, stating its purpose and referring to this subchapter. The Except as provided in sub. (2), the rate of the tax imposed under this section is 0.5 percent of the sales price or purchase price. Except

SENATE BILL 863**SECTION 6**

1 as provided in s. 66.0621 (3m), the county sales and use taxes may be imposed only
2 for the purpose of directly reducing the property tax levy and only in their entirety
3 as provided in this subchapter. That ordinance shall be effective on ~~the first day of~~
4 ~~January, the first day of April, the first day of July or the first day of October~~ January
5 1, April 1, July 1, or October 1. A certified copy of that ordinance shall be delivered
6 to the secretary of revenue at least 120 days prior to its effective date. The repeal
7 of any such ordinance shall be effective on December 31. A certified copy of a repeal
8 ordinance shall be delivered to the secretary of revenue at least 120 days before the
9 effective date of the repeal. Except as provided under s. 77.60 (9), the department
10 of revenue may not issue any assessment nor act on any claim for a refund or any
11 claim for an adjustment under s. 77.585 after the end of the calendar year that is 4
12 years after the year in which the county has enacted a repeal ordinance under this
13 ~~section~~ subsection.

14 **SECTION 7.** 77.70 (2) of the statutes is created to read:

15 77.70 (2) A county that has adopted an ordinance under sub. (1) may
16 subsequently increase the tax rate by adopting an ordinance to increase the rate and
17 having the ordinance approved by the electors of the county at a referendum held at
18 the spring or general election. The county may increase the rate by an additional 0.1,
19 0.2, 0.3, 0.4, or 0.5 percent by holding a referendum pursuant to this subsection, but
20 the overall rate of the tax imposed under this section may not exceed 1 percent. An
21 ordinance adopted under this subsection shall be effective January 1, April 1, July
22 1, or October 1. A certified copy of that ordinance shall be delivered to the secretary
23 of revenue at least 120 days prior to its effective date. The repeal of any such
24 ordinance shall be effective on December 31. A certified copy of a repeal ordinance
25 shall be delivered to the secretary of revenue at least 120 days before the effective

SENATE BILL 863

1 date of the repeal. Except as provided under s. 77.60 (9), the department of revenue
2 may not issue any assessment nor act on any claim for a refund or any claim for an
3 adjustment under s. 77.585 after the end of the calendar year that is 4 years after
4 the year in which the county has enacted a repeal ordinance under this subsection.

5 **SECTION 8.** 77.701 of the statutes is created to read:

6 **77.701 Adoption by municipal ordinance. (1)** A municipality may impose
7 a sales and use tax under this subchapter at the rate of 0.1, 0.2, 0.3, 0.4, or 0.5 percent
8 of the sales price or purchase price if it adopts an ordinance to impose the tax, the
9 ordinance specifies the rate of the tax imposed, and the ordinance is approved by the
10 electors of the municipality at a referendum held at the spring or general election.
11 The taxes imposed under this section may be imposed only in their entirety as
12 provided under this subchapter. An ordinance adopted under this subsection shall
13 be effective on January 1, April 1, July 1, or October 1. A certified copy of the
14 ordinance shall be delivered to the secretary of revenue at least 120 days prior to its
15 effective date. The repeal of any such ordinance shall be effective on December 31.
16 A certified copy of a repeal ordinance shall be delivered to the secretary of revenue
17 at least 120 days before the effective date of the repeal. Except as provided under
18 s. 77.60 (9), the department of revenue may not issue any assessment nor act on any
19 claim for a refund or any claim for an adjustment under s. 77.585 after the end of the
20 calendar year that is 4 years after the year in which the municipality has adopted
21 a repeal ordinance under this subsection.

22 **(2)** A municipality that has adopted an ordinance under sub. (1) may
23 subsequently increase the tax rate by adopting an ordinance to increase the rate and
24 having the ordinance approved by the electors of the municipality at a referendum
25 held at the spring or general election. The municipality may increase the rate by an

SENATE BILL 863**SECTION 8**

1 additional 0.1, 0.2, 0.3, 0.4, or 0.5 percent by holding a referendum pursuant to this
2 subsection, but the overall rate of the tax imposed under this section may not exceed
3 0.5 percent. An ordinance adopted under this subsection shall be effective January
4 1, April 1, July 1, or October 1. A certified copy of that ordinance shall be delivered
5 to the secretary of revenue at least 120 days prior to its effective date. The repeal
6 of any such ordinance shall be effective on December 31. A certified copy of a repeal
7 ordinance shall be delivered to the secretary of revenue at least 120 days before the
8 effective date of the repeal. Except as provided under s. 77.60 (9), the department
9 of revenue may not issue any assessment nor act on any claim for a refund or any
10 claim for an adjustment under s. 77.585 after the end of the calendar year that is 4
11 years after the year in which the municipality has adopted a repeal ordinance under
12 this subsection.

13 **SECTION 9.** 77.71 of the statutes is amended to read:

14 **77.71 Imposition of county, municipality, and special district sales and**
15 **use taxes.** Whenever a ~~county sales and use tax~~ an ordinance is adopted under s.
16 77.70 or a ~~special district~~ resolution is adopted under s. 77.705 or 77.706, the
17 following taxes are imposed:

18 (1) For the privilege of selling, licensing, leasing, or renting tangible personal
19 property and the items, property, and goods specified under s. 77.52 (1) (b), (c), and
20 (d), and for the privilege of selling, licensing, performing, or furnishing services a
21 sales tax is imposed upon retailers at the rates under s. 77.70 in the case of a county
22 tax, at the rate under s. 77.701 in the case of a municipality tax, or at the rate under
23 s. 77.705 or 77.706 in the case of a special district tax of the sales price from the sale,
24 license, lease, or rental of tangible personal property and the items, property, and
25 goods specified under s. 77.52 (1) (b), (c), and (d), except property taxed under sub.

SENATE BILL 863

1 (4), sold, licensed, leased, or rented at retail in the county, municipality, or special
2 district, or from selling, licensing, performing, or furnishing services described under
3 s. 77.52 (2) in the county, municipality, or special district.

4 (2) An excise tax is imposed at the rates under s. 77.70 in the case of a county
5 tax, at the rate under s. 77.701 in the case of a municipality tax, or at the rate under
6 s. 77.705 or 77.706 in the case of a special district tax of the purchase price upon every
7 person storing, using, or otherwise consuming in the county, municipality, or special
8 district tangible personal property, or items, property, or goods specified under s.
9 77.52 (1) (b), (c), or (d), or services if the tangible personal property, item, property,
10 good, or service is subject to the state use tax under s. 77.53, except that a receipt
11 indicating that the tax under sub. (1), (3), (4), or (5) has been paid relieves the buyer
12 of liability for the tax under this subsection and except that if the buyer has paid a
13 similar local tax in another state on a purchase of the same tangible personal
14 property, item, property, good, or service that tax shall be credited against the tax
15 under this subsection and except that for motor vehicles that are used for a purpose
16 in addition to retention, demonstration, or display while held for sale in the regular
17 course of business by a dealer the tax under this subsection is imposed not on the
18 purchase price but on the amount under s. 77.53 (1m).

19 (3) An excise tax is imposed upon a contractor engaged in construction
20 activities within the county, municipality, or special district at the rates under s.
21 77.70 in the case of a county tax, at the rate under s. 77.701 in the case of a
22 municipality tax, or at the rate under s. 77.705 or 77.706 in the case of a special
23 district tax of the purchase price of tangible personal property or items, property, or
24 goods under s. 77.52 (1) (b), (c), or (d) that are used in constructing, altering,
25 repairing, or improving real property and that became a component part of real

SENATE BILL 863**SECTION 9**

1 property in that county, municipality, or special district, except that if the contractor
2 has paid the sales tax of a county, municipality, or special district in this state on that
3 tangible personal property, item, property, or good, or has paid a similar local sales
4 tax in another state on a purchase of the same tangible personal property, item,
5 property, or good, that tax shall be credited against the tax under this subsection.

6 (4) An excise tax is imposed at the rates under s. 77.70 in the case of a county
7 tax, at the rate under s. 77.701 in the case of a municipality tax, or at the rate under
8 s. 77.705 or 77.706 in the case of a special district tax of the purchase price upon every
9 person storing, using, or otherwise consuming a motor vehicle, boat, recreational
10 vehicle, as defined in s. 340.01 (48r), or aircraft if that property must be registered
11 or titled with this state and if that property is to be customarily kept in a county that
12 has in effect an ordinance under s. 77.70, in a municipality that has in effect an
13 ordinance under s. 77.701, or in a special district that has in effect a resolution under
14 s. 77.705 or 77.706, except that if the buyer has paid a similar local sales tax in
15 another state on a purchase of the same property, that tax shall be credited against
16 the tax under this subsection. The lease or rental of a motor vehicle, boat,
17 recreational vehicle, as defined in s. 340.01 (48r), or aircraft is not taxed under this
18 subsection if the lease or rental does not require recurring periodic payments.

19 (5) An excise tax is imposed on the purchase price for the lease or rental of a
20 motor vehicle, boat, recreational vehicle, as defined in s. 340.01 (48r), or aircraft at
21 the rates under s. 77.70 in the case of a county tax, at the rate under s. 77.701 in the
22 case of a municipality tax, or at the rate under s. 77.705 or 77.706 in the case of a
23 special district tax upon every person storing, using, or otherwise consuming in the
24 county, municipality, or special district the motor vehicle, boat, recreational vehicle,
25 as defined in s. 340.01 (48r), or aircraft if that property must be registered or titled

SENATE BILL 863

1 with this state and if the lease or rental does not require recurring periodic
2 payments, except that a receipt indicating that the tax under sub. (1) had been paid
3 relieves the purchaser of liability for the tax under this subsection and except that
4 if the purchaser has paid a similar local tax in another state on the same lease or
5 rental of such motor vehicle, boat, recreational vehicle, as defined in s. 340.01 (48r),
6 or aircraft, that tax shall be credited against the tax under this subsection.

7 **SECTION 10.** 77.73 of the statutes is amended to read:

8 **77.73 Jurisdiction to tax. (2)** Counties, municipalities, and special districts
9 do not have jurisdiction to impose the tax under s. 77.71 (2) in regard to items,
10 property, and goods under s. 77.52 (1) (b), (c), and (d), and tangible personal property,
11 except snowmobiles, trailers, semitrailers, limited use off-highway motorcycles, as
12 defined in s. 23.335 (1) (o), all-terrain vehicles, and utility terrain vehicles,
13 purchased in a sale that is consummated in another county, municipality, or special
14 district in this state that does not have in effect an ordinance or resolution imposing
15 the taxes under this subchapter and later brought by the buyer into the county,
16 municipality, or special district that has imposed a tax under s. 77.71 (2).

17 **(2m)** Counties, municipalities, and special districts do not have jurisdiction to
18 impose the tax under s. 77.71 (5) with regard to the lease or rental of a motor vehicle,
19 boat, recreational vehicle, as defined in s. 340.01 (48r), or aircraft if the lease or
20 rental does not require recurring periodic payments and if the purchaser received the
21 property in another county, municipality, or special district in this state and then
22 brings the property into a county, municipality, or special district that imposes the
23 tax under s. 77.71 (5).

24 **(3)** Counties, municipalities, and special districts have jurisdiction to impose
25 the taxes under this subchapter on retailers who file, or who are required to file, an

SENATE BILL 863**SECTION 10**

1 application under s. 77.52 (7) or who register, or who are required to register, under
2 s. 77.53 (9) or (9m), regardless of whether such retailers are engaged in business in
3 the county, municipality, or special district, as provided in s. 77.51 (13g). A retailer
4 who files, or is required to file, an application under s. 77.52 (7) or who registers, or
5 is required to register, under s. 77.53 (9) or (9m) shall collect, report, and remit to the
6 department the taxes imposed under this subchapter for all counties, municipalities,
7 or special districts that have an ordinance or resolution imposing the taxes under
8 this subchapter.

9 **SECTION 11.** 77.75 of the statutes is amended to read:

10 **77.75 Reports.** Every person subject to county, municipality, or special district
11 sales and use taxes shall, for each reporting period, record that person's sales made
12 in the county, municipality, or special district that has imposed those taxes
13 separately from sales made elsewhere in this state and file a report as prescribed by
14 the department of revenue.

15 **SECTION 12.** 77.76 (1) of the statutes is amended to read:

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

23 **SECTION 13.** 77.76 (2) of the statutes is amended to read:

24 **77.76 (2)** Judicial and administrative review of departmental determinations
25 shall be as provided in subch. III for state sales and use taxes, and no county or,

SENATE BILL 863

1 municipality, nor special district may intervene in any matter related to the levy,
2 enforcement, and collection of the taxes under this subchapter.

3 **SECTION 14.** 77.76 (3r) of the statutes is created to read:

4 77.76 (3r) From the appropriation under s. 20.835 (4) (gh), the department
5 shall distribute 98.25 percent of the municipality taxes reported for each enacting
6 municipality, minus the municipality portion of the retailers' discounts, to the
7 municipality and shall indicate the taxes reported by each taxpayer, no later than
8 75 days following the last day of the calendar quarter in which such amounts were
9 reported. In this subsection, the "municipality portion of the retailers' discount" is
10 the amount determined by multiplying the total retailers' discount by a fraction the
11 numerator of which is the gross municipality sales and use taxes payable and the
12 denominator of which is the sum of the gross state and municipality sales and use
13 taxes payable. The municipality taxes distributed shall be increased or decreased
14 to reflect subsequent refunds, audit adjustments, and all other adjustments of the
15 municipality taxes previously distributed. Interest paid on refunds of municipality
16 sales and use taxes shall be paid from the appropriation under s. 20.835 (4) (gh) at
17 the rate paid by this state under s. 77.60 (1) (a). Any municipality receiving a report
18 under this subsection is subject to the duties of confidentiality to which the
19 department of revenue is subject under s. 77.61 (5) and (6).

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

21 77.76 (4) There shall be retained by the state 1.5 percent of the taxes collected
22 for taxes imposed by special districts under ss. 77.705 and 77.706 and 1.75 percent
23 of the taxes collected for taxes imposed by counties under s. 77.70 and for taxes
24 imposed by municipalities under s. 77.701 to cover costs incurred by the state in

SENATE BILL 863**SECTION 15**

1 administering, enforcing, and collecting the tax. All interest and penalties collected
2 shall be deposited and retained by this state in the general fund.

3 **SECTION 16.** 77.77 of the statutes is amended to read:

4 **77.77 Transitional provisions. (1)** (a) The sales price from services subject
5 to the tax under s. 77.52 (2) or the lease, rental, or license of tangible personal
6 property and property, items, and goods specified under s. 77.52 (1) (b), (c), and (d),
7 is subject to the taxes under this subchapter, and the incremental amount of tax
8 caused by a rate increase applicable to those services, leases, rentals, or licenses is
9 due, beginning with the first billing period starting on or after the effective date of
10 the county ordinance, municipal ordinance, special district resolution, or rate
11 increase, regardless of whether the service is furnished or the property, item, or good
12 is leased, rented, or licensed to the customer before or after that date.

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

22 **(3)** The sale of building materials to contractors engaged in the business of
23 constructing, altering, repairing or improving real estate for others is not subject to
24 the taxes under this subchapter, and the incremental amount of tax caused by the
25 rate increase applicable to those materials is not due, if the materials are affixed and

SENATE BILL 863

1 made a structural part of real estate, and the amount payable to the contractor is
2 fixed without regard to the costs incurred in performing a written contract that was
3 irrevocably entered into prior to the effective date of the county ordinance, municipal
4 ordinance, special district resolution, or rate increase or that resulted from the
5 acceptance of a formal written bid accompanied by a bond or other performance
6 guaranty that was irrevocably submitted before that date.

7 **SECTION 17.** 77.78 of the statutes, as affected by 2017 Wisconsin Act 59, is
8 amended to read:

9 **77.78 Registration.** No motor vehicle, boat, snowmobile, recreational vehicle,
10 as defined in s. 340.01 (48r), trailer, semitrailer, all-terrain vehicle, utility terrain
11 vehicle, off-highway motorcycle, as defined in s. 23.335 (1) (q), or aircraft that is
12 required to be registered by this state may be registered or titled by this state unless
13 the registrant files a sales and use tax report and pays the county tax, municipality
14 tax, and special district tax at the time of registering or titling to the state agency
15 that registers or titles the property. That state agency shall transmit those tax
16 revenues to the department of revenue.

17 (END)