



# CDA STAFF REPORT

**MEMO DATE:** January 8, 2019  
**MEETING DATE:** **JANUARY 14, 2019**

**TO:** Village of Cottage Grove Community Development Authority  
**CC:** Matt Giese – Village Administrator  
Lee Boushea – Village Attorney

**FROM:** [Erin Ruth, AICP – Village Planning Director](#)

**RE:** **Room Tax Ordinance**

## BACKGROUND

In 2012 the Village of Cottage Grove established a room tax of 8%. The full text of the Village's Room Tax Ordinance is attached.

Since 2012, no hotels have been built in the Village. However, multiple developers continue to seek hotel projects. The Village has received some feedback that the 8% tax may be too high, and lowering the rate may help in the recruitment of a hotel.

## ROOM TAX RATE

Staff has reviewed the current room tax rate in comparable communities throughout Dane County. Those rates are as follows (including hyperlinks to the relevant ordinances):

MUNICIPALITY	ROOM TAX RATE	ORDINANCE LINK
City of Madison	10%	<a href="#">Ch. 4.21</a>
<b>Village of Cottage Grove</b>	<b>8%</b>	<a href="#">Ch. 16-9</a>
City of Monona	8%	<a href="#">Ch. 63, Article III</a>
Village of McFarland	8%	<a href="#">Ch. 23, Art. II, Div. 6</a>
City of Fitchburg	7%	<a href="#">Ch. 10, Art. III, Div. 4</a>
City of Middleton	7%	<a href="#">Ch. 3.10</a>
City of Sun Prairie	7%	<a href="#">Ch. 3.20</a>
City of Stoughton	6%	<a href="#">Art. VI, Div. 1, 2-585</a>
Village of Mount Horeb	5%	<a href="#">Ch. 3.10</a>
City of Verona	5%	<a href="#">Title 3, Ch. 5</a>
Village of Waunakee	5%	<a href="#">Ch. 62, Art. III</a>
Village of Windsor	5%	<a href="#">Ch. 46, Art. II</a>
Village of DeForest	3%	<a href="#">Ch. 2.08</a>



If the assumption is that most travelers coming through Cottage Grove are coming from the east on I-94, then the most likely competitors to a Cottage Grove hotel would be other east side locations like Madison, Sun Prairie, and McFarland and possibly locations along the beltline like Monona or Fitchburg.

While Cottage Grove has the second highest room tax rate (8%), this rate is less than Madison, and equal to or within 1% of the east side and beltline competitors. The municipalities with significantly lower room tax rates are located on the north (Waunakee, Windsor, and DeForest), west (Mount Horeb and Verona), and far south sides (Stoughton).

Therefore, the current 8% room tax rate should not put a Cottage Grove hotel at a significant competitive disadvantage. That said, lowering the rate to 6% or lower would provide an advantage over those competing locations.

It should be noted that 8% is highest room tax rate allowed by Wisconsin Statute (with some exceptions that do not apply to the Village). Using 2016 data (the latest available) the statewide median room tax rate is 5.5%

## **DISPOSITION OF FUNDS**

The collection and use of room tax funds are regulated by [Wisconsin Statute 66.0615](#). Per the statutes, at least 70% of the revenue collected must be used on 'tourism promotion and tourism development' (see more detail below).

The remaining 30% can simply be absorbed into the Village's general fund, or the Village could consider targeting the funds for a specific use or program.

Attached is a memo prepared by the Wisconsin Legislative Council which provides a good overview of the room tax statutes.

## **TOURISM COMMISSION**

*Per 66.0615(1m)(b), "if a single municipality imposes a room tax under par. (a), the municipality may create a commission under par. (c). The commission shall contract with another organization to perform the functions of a tourism entity if no tourism entity exists in that municipality."*

Prior to receiving any room tax, the Village should create a Tourism Commission by drafting a new section of Chapter 12 of the Village Ordinance. If created by a single municipality, the commission shall consist of 4 to 6 members including one representative of the hotel/motel industry (presumably the owner/operator or manager of a hotel located in the Village). If a five member commission is optimal to avoid tie votes, the other members could be a Village Board member, a representative from the Chamber of Commerce, and two members representing businesses or facilities that benefit from tourist activity.



## **TOURISM ENTITY**

As explained by the Wisconsin Legislative Council's memo, the statute "implies that a commission must work with a tourism entity as it uses room tax revenues to coordinate tourism promotion and tourism development."

Per Wisconsin Statute 66.0615(1)(f), a tourism entity "means a nonprofit organization that came into existence before January 1, 2015, spends at least 51 percent of its revenues on tourism promotion and tourism development, and provides destination marketing staff and services for the tourism entity in a municipality, except that if no such organization exists, a municipality may contract with one of the following:

1. A nonprofit organization that spends at least 51 percent of its revenues on tourism promotion and tourism development, and provides destination marketing staff and services for the tourism industry in a municipality.
2. A nonprofit organization that was incorporated before January 1, 2015, spends 100 percent of the room tax revenue it receives from a municipality on tourism promotion and tourism development, and provides destination marketing staff and services for the tourism industry in a municipality.

The Village does not have an entity meeting the requirements of the main paragraph. Nor does the Village currently have an entity meeting sub. 1. In some municipalities, the local chamber of commerce focuses significantly on tourism and meets the requirements of sub. 1. The Cottage Grove Chamber of Commerce currently focuses primarily on business development and advocacy. We would need to discuss with them the feasibility of using them as a 'tourism entity.' Under sub. 2, it would appear that the Village could contract with an established regional entity like the Greater Madison Convention and Visitors Bureau.

## **TOURISM PROMOTION AND DEVELOPMENT**

As noted, 70% of the room tax revenue must be spent on 'tourism promotion and tourism development. The statute also defines this term, as follows per 66.0615(1)(fm), "tourism promotion and tourism development means any of the following that are significantly used by transient tourists and reasonably likely to generate paid overnight stays at more than one establishment on which a tax under sub. (1m)(a) may be imposed, that are owned by different persons and located within a municipality in which a tax under this section is in effect; or, if the municipality only has one such establishment, reasonably likely to generate paid overnight stays in that establishment:

1. Marketing projects, including advertising media buys, creation and distribution of printed or electronic promotional tourist materials, or efforts to recruit conventions, sporting events, or motorcoach groups.
2. Transient tourist informational services.



3. *Tangible municipal development, including a convention center."*

### **STAFF RECOMMENDATION**

1. Provide direction to staff regarding desired amendments to the room tax ordinance, specifically the tax rate.
2. Discuss the timing for drafting an ordinance amendment to create a Tourism Commission.

Village of Cottage Grove, WI  
Tuesday, January 8, 2019

## Chapter 16. Budget and Finance

### § 16-9. Hotel/motel room tax.

[Added 6-4-2012 by Ord. No. 04-2012]

A. Definitions. In this section, the following definitions shall apply:

#### **HOTEL or MOTEL**

A building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, bed-and-breakfast establishments, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins and any other building or group of buildings in which accommodations are available to the public, except accommodations rented for a continuous period of more than one month and accommodations furnished by any hospital, sanitariums or nursing homes or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes, provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.

#### **GROSS RECEIPTS**

Has the meaning as defined in s. 76.48(d), Wis. Stats., insofar as applicable.

#### **TRANSIENT**

Any person residing for a continuous period of less than one month in a hotel, motel or other furnished accommodation available to the public.

#### **BED-AND-BREAKFAST ESTABLISHMENT**

Any place of temporary lodging that provides four or fewer rooms for rent, which is open for rental more than 10 nights in a twelve-month period, is the owner's personal residence and is occupied by the owner at the time of rental, and in which the only meal served is breakfast.

B. Imposition of tax.

- (1) Pursuant to s. 66.0615, Wis. Stats., a tax is hereby imposed on the privilege and services of furnishing, at retail, rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations. Such tax shall be at the rate of 8% of the gross receipts from such retail furnishing of rooms or lodgings. Such tax shall not be subject to the selective sales tax imposed by S 77.52(2)(a)1, Wis. Stats. The Village shall distribute the room tax as provided by the Wisconsin Statutes.
- (2) Exemptions. The following room sales are exempt from this tax:
  - (a) Sales to the federal government;
  - (b) Sales to persons listed under s. 77.54(9a), Wis. Stats.
- (3) Exemption conditions. The following conditions must occur for a sale to be exempt from the room tax:
  - (a) The lodging establishment must issue the billing or invoice for the lodging in the name of the exempt entity; and
  - (b) The lodging establishment must receive from the exempt entity:

[1] In the case of federal and Wisconsin state or local governmental units, a purchase order, written document (such as a letter of authorization), or other acceptable authorization; or

[2] In the case of nonprofit religious, charitable, scientific or educational organization, the organization's certificate of exempt status number.

(c) The exemption still applies if the employee pays with his or her own funds, as long as the above conditions are met.

#### C. Collection of tax.

- (1) Administration by Village Clerk-Treasurer. This tax shall be administered by the Village Clerk-Treasurer who shall, at Village expense, provide the necessary application and reporting forms at no cost to the taxpayer.
- (2) Reporting periods. The tax imposed for the months of January, February and March, and for each calendar quarter thereafter, is due and payable on the last day of the month next succeeding the calendar quarter for which imposed. A return shall be filed with the Village Clerk-Treasurer, by those furnishing at retail such rooms and lodging, on or before the same date on which such tax is due and payable. Such returns shall show the gross receipts of the preceding calendar quarter from such retail furnishing of room or lodging, the amount of taxes imposed for such period, and such other information as the Village Clerk-Treasurer deems necessary. Every person required to file such quarterly return shall, with their first return, elect to file an annual calendar year or fiscal year return. Such annual return shall be filed within 90 days of the close of each such calendar or fiscal year. The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns, and shall contain certain such additional information as the Village Clerk-Treasurer requires. Such annual returns shall be made on forms as prescribed by the Village Clerk-Treasurer. All such returns shall be signed by the person required to file a return or duly authorized agent, but need not be verified by oath. The Village Clerk-Treasurer may, for good cause, extend the time for filing any return, but in no event longer than one month from the filing date.
- (3) Sale or conveyance of business. If any person liable for any amount of tax under this section sells out his business or stock of goods or quits the business, his successors or assigns shall withhold sufficient portion of the purchase price to cover such amount until the former owner produces a receipt from the Village Clerk-Treasurer that it has been paid or a certificate stating that no amount is due. If a person subject to the tax imposed by this section fails to withhold such amount of tax from the purchase price as required, he shall become personally liable for payment of the amount required to be withheld by him to the extent of the price of the accommodations valued in money.
- (4) Determination of tax by audit. The Village Clerk-Treasurer may, by office audit, determine the tax required to be paid to the Village or the refund due to any person under this section. This determination may be made upon the basis of the facts contained in the return being audited or on the basis of any other information within the Village Clerk-Treasurer's possession. Whenever the Village Clerk-Treasurer has cause to believe that the correct amount of room tax has not been assessed or that the room tax return is not correct, the Village Clerk-Treasurer is authorized to examine and inspect the financial records pertaining to the furnishing of accommodations in question in order to verify the tax liability of that person or establishment. One or more such office audit determination may be made of the amount due for any or for more than one period.
- (5) Failure to file return. If any person fails to file a return as required by this chapter, the Village Clerk-Treasurer shall make an estimate of the amount of the gross receipts under Subsection **C(2)** and **(3)**. Such estimates shall be made for the period for which such person failed to make a return and shall be based upon any information which is in the Village Clerk-Treasurer's possession or may come into the Village Clerk-Treasurer's possession. On the basis of this estimate, the Village Clerk-Treasurer shall compute and determine the amount required to be paid to the Village, adding to the sum thus arrived at a penalty equal to 10% thereof. One or more such determinations may be made for one or more than one period.
- (6) Interest on unpaid taxes. All unpaid taxes under this chapter shall bear interest at the rate of 12% per year from the due date of the return until the first day of the month following the month in which the tax is paid or deposited with the Village Clerk-Treasurer. An extension of time within which to file a return shall operate to extend the due date of the return for the purposes of interest computations. If the Village Clerk-Treasurer determines that any overpayment of tax has been made intentionally or by reason of carelessness or neglect, or if the tax which was overpaid was not accompanied by a complete return, she shall not allow any interest thereon.

- (7) Delinquent returns; late fees; penalty.
- (a) Delinquent tax returns shall be subject to a late filing fee of \$100. The tax imposed by this chapter shall become delinquent if not paid:
- [1] In the case of a timely filed return, within 30 days after the due date of the return, or within 30 days after the expiration of an extension period, if one is granted.
- (b) If due to negligence no return is filed, or a return is filed late, or an incorrect return is filed, the entire tax finally determined shall be subject to a forfeiture established herein as follows:
- [1] A forfeiture of 25% or \$5,000, whichever is less, of the tax imposed and is due and owing within 30 days after the due date of said return.
- [2] If a person fails to file a return when due or files a false or fraudulent return with the intent in either case to defeat or evade a tax imposed by this section, a forfeiture of 50% of the entire tax finally determined shall be added to the tax required to be paid exclusive of interest and other penalties.
- D. Security required. In order to protect the revenue of the Village, the Village Clerk-Treasurer may require any person liable for the tax imposed by this chapter to place with her before or after a permit is issued such security not in excess of \$100 as the Village Clerk-Treasurer shall determine. If any taxpayer fails or refuses to place security, the Village Clerk-Treasurer may revoke or refuse to issue such permit. If any taxpayer is delinquent in the payment of the taxes imposed by this section, the Village Clerk-Treasurer may, upon 10 days' notice, recover the taxes, interest and penalties from the security placed with the said Clerk-Treasurer by such taxpayer. No interest shall be paid or allowed by the Village to any persons for the deposit of such security.
- E. Records to be maintained. Every person liable for the tax imposed by this section shall keep or cause to be kept such records, receipts, invoices and other pertinent papers in such form as the Village Clerk-Treasurer and this chapter shall require. Such records shall be retained and made available for a period of five years from the date of a filing period.
- F. Confidentiality maintained.
- (1) All tax returns, schedules, exhibits, writings or audit reports relating to such returns on file with the Village Clerk-Treasurer are deemed to be confidential, except the Village Clerk-Treasurer may divulge their contents to the following and no others:
- (a) The person who filed the return.
- (b) Officers, agents or employees of the Federal Internal Revenue Service or the State Department of Revenue.
- (c) Officers, employees or agents of the Village Auditors.
- (d) Such other public officers of the Village of Cottage Grove when deemed necessary.
- (2) No person having an administrative duty under this section shall make known in any manner the business affairs, operations or information obtained by an investigation of records of any person on whom a tax is imposed by this section or the amount or source of income, profits, losses, expenditures or any particulars thereof, set forth or disclosed in any return, or to permit any return or copy thereof to be seen or examined by any person, except as provided above.
- G. Violations and penalties. Any person who is subject to the tax imposed by this chapter who fails or refuses to permit the inspection of records by the Village Clerk-Treasurer after such inspection has been duly requested by such Village Clerk-Treasurer, or who fails to file a return as provided in this chapter, or who violates any other provision of this chapter, shall be subject to:
- (1) A forfeiture, not to exceed 5% of the room tax, may be imposed for a failure to comply with a request to inspect and audit required financial records.
- (2) Require the amount of taxes due to be paid plus interest at the rate of 1% per month on the unpaid balance. No refund or modification of the payment may be granted until the person files a correct room tax return, and permits the municipality to inspect and audit the financial records.

- (3) Forfeiture, not to exceed 25% of the room tax due for the previous year or \$3,000, whichever is less, of the tax imposed, in the event the room tax is not paid.
- (4) Each day, or portion thereof, that such violation continues is hereby deemed to constitute a separate offense.



## WISCONSIN LEGISLATIVE COUNCIL INFORMATION MEMORANDUM

### 2015-17 Biennial Budget Revisions to Municipal Room Tax

A municipality may impose a “room tax” on entities such as hotels, motels, and other establishments that rent short-term lodging. State law controls municipal room tax collection, as well as the use of room tax revenues. 2015 Wisconsin Act 55 (Act 55), the 2015-17 Biennial Budget, modified state law regarding the collection and use of a municipal room tax. This Information Memorandum provides a brief overview of the municipal room tax, including a description of prior law, and summarizes the changes made by Act 55. Gubernatorial partial vetoes that modify the budget language as originally proposed by the Legislature are noted where applicable.

#### **BACKGROUND AND PRIOR LAW**

Generally, under Wisconsin law, a municipality may impose a tax on short-term lodging (a “room tax”) on entities such as hotels, motels, and other establishments that rent lodging for periods of less than one month. Additionally, two or more municipalities may impose a room tax in a “zone,” defined as “an area made up of 2 or more municipalities that, those municipalities agree, is a single destination as perceived by the traveling public.” [s. 66.0615 (1) (h), Stats.]

#### ***ROOM TAX PURPOSE AND USE***

Wisconsin law requires that certain percentages of room tax revenues, as discussed below, must be spent on tourism promotion and tourism development. “Tourism promotion and tourism development” is defined to mean any of the following, if significantly used by transient tourists and reasonably likely to generate paid overnight stays in multiple establishments within a municipality: (1) marketing projects; (2) “transient tourist informational services;” and (3) “tangible municipal development, including a convention center.” The establishments that benefit from the promotional services must be establishments upon which a room tax is imposed, and they must be owned by different people, unless a municipality has only one qualifying establishment. [s. 66.0615 (1) (fm), Stats.] Therefore, a marketing campaign advertising a single hotel in a municipality with multiple hotels, motels, or other short-term lodging establishments would not qualify as tourism promotion or tourism development.

Prior to Act 55, a municipality could directly spend room tax revenues on tourism promotion or tourism development or could forward the room tax revenues to a tourism entity or to a commission to be spent for those purposes.

Prior to Act 55, a tourism entity was defined as “a nonprofit organization that came into existence before January 1, 1992, and that provides staff, development or promotional services for the tourism industry in a municipality.” [s. 66.0615 (1) (f), 2013-14 Stats.] As discussed below, Act

55 modified the definition of a tourism entity. However, tourism entities, as defined under both current and prior law, may receive room tax revenues that they must spend on tourism promotion and tourism development.

A municipality that imposes a room tax may create a commission, defined as an entity “to coordinate tourism promotion and tourism development.” [s. 66.0615 (1) (a), Stats.] If two or more municipalities in a zone impose a room tax, they must create a commission. Under current and prior law, a commission must contract with an organization that performs the functions of a tourism entity if a tourism entity does not exist in a municipality or within a zone. Although not explicitly stated, this implies that a commission must work with a tourism entity as it uses room tax revenues to coordinate tourism promotion and tourism development.

Current and prior law both provide that a commission must report annually to each municipality from which it receives room tax revenues the purposes for which it spends the revenues.

### ***ROOM TAX RATES AND EXPENDITURE LEVELS***

For municipalities that adopted a room tax after May 13, 1994, the room tax rate may be no higher than 8%, and at least 70% of the room tax collections must be dedicated to expenditures related to tourism promotion and development. Therefore, up to 30% of room tax collections may be directed to general municipal expenditures.

The permitted rates and division of room taxes in municipalities that collected room taxes on or before May 13, 1994 are more complex. Subject to certain exemptions of limited applicability,<sup>1</sup> a municipality that collected a room tax on May 13, 1994, was required to reduce its room tax rate to 8% under 1993 Wisconsin Act 467. However, Act 467 also specified that a municipality that collected a room tax on May 13, 1994, could retain for its general revenues not more than the same percentage of the total room tax revenues collected that it retained on May 13, 1994, as an exception to the 70% threshold for expenditures related to tourism promotion and development (this exception is commonly referred to as the 1994 grandfather clause). If a municipality that collected a room tax on May 1, 1994, increased its room tax after May 1, 1994, the municipality may retain not more than the same percentage of the room tax that it retained

---

<sup>1</sup> “A municipality that imposes a room tax under par. (a) is not subject to the limit on the maximum amount of tax that may be imposed under that paragraph if any of the following apply:

1. The municipality is located in a county with a population of at least 380,000 and a convention center is being constructed or renovated within that county.
2. The municipality intends to use at least 60% of the revenue collected from its room tax, of any room tax that is greater than 7%, to fund all or part of the construction or renovation of a convention center that is located in a county with a population of at least 380,000.
3. The municipality is located in a county with a population of less than 380,000 and that county is not adjacent to a county with a population of at least 380,000, and the municipality is constructing a convention center or making improvements to an existing convention center.
4. The municipality has any long-term debt outstanding with which it financed any part of the construction or renovation of a convention center.” [s. 66.0615 (1m) (am), Stats.]

on May 1, 1994, except that the municipality must spend at least 70% of the increased amount of room tax that it began collecting after May 1, 1994, on tourism promotion and development.<sup>2</sup>

[s. 66.0615, Stats.]

### **2015 WISCONSIN ACT 55**

2015 Senate Bill 21 (SB 21) was passed by the Legislature, modified by the Governor's partial veto, and enacted as Act 55. Act 55 made several changes to the collection and use of a municipal room tax, each of which is discussed below. Gubernatorial partial vetoes that modify the language passed by the Legislature are noted where applicable. Specifically, Act 55 does all of the following:

#### ***EXPENDITURE OF ROOM TAX REVENUE***

- Specifies that the required percentage of room tax revenues must be spent on tourism promotion or **tourism** development, not municipal development generally. Under prior law, the revenues had to be spent on "tourism promotion and development."<sup>3</sup>
- Eliminates a municipality's authority to directly spend the room tax revenues that must be spent on tourism promotion and tourism development. Under Act 55, a municipality must forward those room tax revenues to a commission, if one exists for the municipality, or to a tourism entity.

#### ***RETENTION OF ROOM TAX REVENUE***

- Modifies the 1994 grandfather clause, which generally permitted municipalities that had imposed a room tax prior to May 13, 1994, to retain more than 30% of room tax revenues if they had been doing so as of that date. Beginning with the room taxes collected on January 1, 2017, Act 55 creates a cap on the amount of room tax revenues that a municipality subject to the 1994 grandfather clause may retain for purposes other than tourism promotion and tourism development. The cap will be gradually reduced over a period of five years, such that, by fiscal year 2021, an affected municipality will be able to retain only the same dollar amount of the room tax that it retained in fiscal year 2010 or 30% of its current year room tax revenues, whichever is greater.

---

<sup>2</sup> Although the grandfather clause is commonly understood to permit a municipality to retain more than 30% of collected room tax revenues for purposes other than tourism promotion and tourism development if it was doing so as of May 13, 1994, the clause also requires a municipality to continue to retain less than 30% of collected room tax revenues if it was doing so as of May 13, 1994.

<sup>3</sup> Act 55 did not, however, modify the required aspects of tourism promotion and tourism development. See, for example, the continued allowance for "tangible municipal development, including a convention center" in both current and prior law. [s. 66.0615 (1) (fm), Stats.; s. 66.0615 (1) (fm), 2013-14 Stats.] It appears that under both current and prior law, tangible municipal development may qualify as tourism promotion or tourism development if it meets the definition's requirement that it is significantly used by transient tourists and is reasonably likely to generate overnight stays in multiple establishments within a municipality that are subject to a room tax and are owned by different people. However, municipal development that does not satisfy these qualifications would not be considered tourism promotion or tourism development with regard to expenditure of room tax revenues.

### ***Governor's Veto***

Under SB 21, as enrolled, a municipality that would otherwise be subject to the room tax retention reduction schedule, could have delayed implementation of the reduction schedule if the municipality had entered into a contract before January 1, 2016, that depended upon room tax revenues to satisfy its terms. The Governor vetoed this provision. Therefore, under Act 55, all municipalities that had imposed a room tax as of May 13, 1994, and had retained more than 30% of room tax revenues, pursuant to the 1994 grandfather clause, will be subject to the room tax revenue retention reduction schedule beginning with the room tax collected on January 1, 2017.

### ***TOURISM ENTITIES***

- Specifies that a tourism entity's governing body must include at least one owner or operator of a lodging facility that collects the room tax and is located within the municipality for which the room tax is collected. Prior law did not address the composition of a tourism entity's governing body.
- Modifies the definition of "tourism entity." Under Act 55, a tourism entity is an organization that: (1) is a nonprofit organization; (2) existed before January 1, 1992; (3) spends at least 51% of its revenues on tourism promotion and tourism development; and (4) provides destination marketing staff and services for the tourism industry in a municipality. Under prior law, a tourism entity was a nonprofit organization that existed before January 1, 1992, and provided staff, development, or promotional services for the tourism industry in a municipality.
- Permits a municipality to contract with an organization that did not exist prior to January 1, 1992, under certain circumstances. If on January 1, 2016, no organization within a municipality qualifies as a tourism entity, as described above, the municipality may contract with an organization that: (1) is a nonprofit organization; (2) was created within the municipality; (3) spends at least 51% of its revenues on tourism promotion and tourism development; and (4) provides destination marketing staff and services for the tourism industry in the municipality. Prior law did not allow for the creation of a tourism entity after January 1, 1992, although, if no tourism entity existed in a municipality, a tourism commission was required to contract with another organization to perform the functions of a tourism entity.

### ***Governor's Veto***

Among other changes to the definition of "tourism entity," SB 21 changed the date by which a nonprofit organization must have existed in order to be recognized as a tourism entity from January 1, 1992, to January 1, 2016. The Governor vetoed the date modification, restoring the provision under prior law that a nonprofit organization must have existed prior to January 1, 1992, to be recognized as a tourism entity. The Governor did not veto the modified provision permitting a municipality to contract with an alternative organization created within the municipality, if no fully qualified organization exists within the municipality on January 1, 2016.

***REPORTING REQUIREMENTS***

- Specifies that a tourism entity must annually report to each municipality from which it receives room tax revenues the purposes for which the revenues were spent. Under prior law, this reporting requirement applied only to tourism commissions.<sup>4</sup>
- Creates a new reporting requirement applicable to municipalities. Beginning in 2017, all municipalities that impose a room tax must submit an annual report to the Department of Revenue, on or before May 1 of each year. Among other information, the reports must include the amount of room tax revenue collected and the rate imposed the previous year; an accounting of the amounts forwarded to tourism entities or commissions in the previous year; and a list of the members of the commission or governing body of the tourism entity to which revenue was forwarded in the previous year.

This memorandum is not a policy statement of the Joint Legislative Council or its staff.

This memorandum was prepared by Scott Grosz, Principal Attorney, and Rachel E. Snyder, Staff Attorney on August 12, 2015.

---

**WISCONSIN LEGISLATIVE COUNCIL**

One East Main Street, Suite 401 • P.O. Box 2536 • Madison, WI 53701-2536

Telephone: (608) 266-1304 • Fax: (608) 266-3830

Email: [leg.council@legis.wisconsin.gov](mailto:leg.council@legis.wisconsin.gov)

<http://www.legis.wisconsin.gov/lc>

---

<sup>4</sup> As discussed above, if no tourism entity exists within a municipality as of January 1, 2016, a municipality may contract with an organization that meets the definition of a tourism entity except that it did not exist prior to January 1, 1992. Although not explicitly stated, it appears logical that such an organization would also be considered a tourism entity and would, therefore, be subject to the reporting requirements.