

MEMORANDUM

To: Members of the Conference Committee on Taxes (H.F. 991)

From: Senate Counsel, Research, and Fiscal Analysis
House Research

Date: May 6, 2021

Re: Standard language for local sales tax authorizations

As discussed during the May 4, 2021, hearing, several local sales tax authorizations are substantively the same between the House and Senate bills but contain different language regarding the imposition of a tax in addition to any other local taxes that a jurisdiction imposes. Additionally, language is not consistent among authorizations in both bills regarding the phrasing of how and when taxes terminate. The Revisor has produced a comparison document with examples of the two issues identified. This memo describes the issues, provides page and line references to the examples in the comparison document, and recommends a drafting approach that we, along with the Revisor, have agreed upon.

1. Whether to include language that provides the tax authorized is in addition to other local taxes that apply in the jurisdiction.

The city of Litchfield local sales tax authorization is substantively identical in both bills. The only difference is that Senate language includes the following sentence at the end of subdivision 1, which authorizes the tax (Senate language; 115.7-115.8):

“The tax imposed under this subdivision is in addition to any local sales and use tax imposed under any other special law.”

The authorization for the city of Cloquet local sales tax is also substantively identical in both bills and includes this sentence (House language; 165.32-165.33. Senate language; 106.2-106.3).

Generally, the purpose of this language is to set apart the tax authorized in the bill from other taxes that may be imposed in a jurisdiction (such as a county transit tax). While we believe this is clear given that taxes must be authorized separately anyway, *we recommend that new local sales tax authorizations include this language* to avoid confusion about the intent of the specific authorization and avoid speculation about why the phrase was included in some authorizations and not others within an omnibus bill.

2. Phrasing of how and when the local sales tax terminates.

This language is not consistent across authorizations in both the House and Senate bills. For example, the authorization for the city of Wadena to impose a .25% local sales tax is

substantively identical in both bills and includes the following language in subdivision 4 (providing for the termination of the tax):

“The tax imposed under subdivision 1 expires at the earlier of: (1)... years after the tax is first imposed; or (2) when the city council determines that the amount received from the tax is sufficient to pay for the project costs authorized under subdivision 2... *plus an amount sufficient to pay costs, including interest costs, related to the issuance of the bonds* authorized in subdivision 3.” (House language; 184.29-184.30. Senate language; 126.16-126.17)

The phrase “to pay costs” could be interpreted to mean “pay costs for anything.” While we believe that the structure of the sentence does not lead to this interpretation, we recommend not using this language to avoid ambiguity about its intent.

Instead, ***we recommend the following language*** to specify that the tax must only be used to pay for the authorized project(s) and costs related to issuing bonds to finance the projects. For example, again using the Cloquet authorization:

“...the tax imposed under subdivision 1 expires at the earlier of: (1)... years after the tax is first imposed; or (2) when the city council determines that the amount received from the tax is sufficient to pay for the project costs authorized under subdivision 2... *plus an amount sufficient to pay the costs related to issuance of any bonds authorized under subdivision 3, including interest on the bonds.*” (House language; 166.29-166.30. Senate language 106.32-106.33)

Conclusion

If the conference committee approves of the approaches described above, staff will modify the language in the authorizations, if any, that the conference committee adopts.