



JOEL KITCHENS

STATE REPRESENTATIVE • 1ST ASSEMBLY DISTRICT

Testimony for the Assembly Committee on Ways and Means Assembly Bill 683 Thursday, January 9, 2020

Thank you Chairman Macco and committee members for holding a public hearing and allowing me to testify in support of Assembly Bill 683. This bipartisan bill helps to ensure that municipalities are receiving the correct amount of room taxes from lodging marketplace companies, such as Airbnb and Vrbo.

Last session, we passed a budget that required lodging marketplaces to begin collecting room taxes on behalf of their short-term rental clients. That change made it vastly easier to collect taxes on short-term rentals, but it has created an unintended problem which we must fix.

Under current law, lodging marketplaces will remit taxes based on zip codes. In our rural areas, including my district, several municipalities share the same zip code, so distributing these taxes to the proper municipality will be impossible. It is illegal for tax money to be remitted incorrectly, so it is absolutely imperative that we fix this problem. AB 683 does that.

Under this bill, the entities that are subject to the room tax must provide the address of each property, the total sales of each property, the tax collected for each property and the number of nights each short-term rental was rented. By providing all of this information, we are ensuring that municipalities are receiving the correct amount of room tax to which they are entitled.

An amendment to this bill is being prepared that will require probable cause for a municipality to ask for an audit of tax-related information to substantiate that the room tax being remitted is correct.

If the required room tax returns are not filed in a timely matter, or neglected altogether by the marketplace provider, a municipality has the ability impose a forfeiture of up to \$500 per day. The maximum forfeiture that can be imposed for a year is \$45,000. Forfeitures that were imposed to a municipality can be appealed, and municipalities can waive the forfeitures.

It's important to create a level playing field for lodging marketplace businesses, traditional hotels and any other entity that supplies overnight rooms. This bill provides measures to move away from having a separate set of rules for each industry.

Thank you for taking the time to listen to my testimony and I hope consideration of this bill. I would like to thank the other authors of Assembly Bill 683 and their staff for all of the hard work they put into this legislation. I am happy to answer any questions you may have.



Luther S. Olsen
State Senator
14th District

TO: Assembly Committee on Ways & Means
FROM: Senator Luther Olsen
DATE: January 9, 2020
SUBJECT: Testimony in favor of Assembly Bill 683

Thank you Chairman Macco and the Assembly Committee on Ways and Means for holding a hearing and allowing me to testify in favor of Assembly Bill 683.

Under current state law, room taxes are remitted back to municipalities based on their zip codes. In many parts of the state there are municipalities that share the same zip code, therefore making it difficult to know whether all municipalities are being provided with accurate room tax totals.

Assembly Bill 683 will give municipalities the tools they need to ensure they are receiving the correct amount of room taxes they are owed from lodging marketplaces. Under this legislation, those who are subject to the tax would have to provide the following information:

- The address of each property
- The total sales for each property
- The tax collected for each property
- The number of nights each short-term rental was rented

In order to ensure municipalities are receiving the correct amount of room taxes, they may inspect and audit tax-related records of an entity subject to the room tax. Municipalities would be allowed to conduct joint audits with other municipalities and share that information with the Department of Revenue.

In addition, this legislation authorizes a municipality to impose a forfeiture of up to \$500 per day, for a maximum of \$45,000 a year, if a marketplace provider does not file the required room tax returns to the municipality in a timely fashion or fails to pay the required tax. Forfeitures may be appealed to the municipality. Municipalities can also waive the forfeitures.

Thank you, members. I ask for your support and would be more than happy to answer any questions.



DOOR COUNTY TOURISM ZONE COMMISSION

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January 9, 2020

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Representative Tip McGuire
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Dear Assembly Committee on Ways and Means,

On behalf of our 19 member municipalities, we ask the State of Wisconsin to adopt AB683 to provide correcting language to State Statute §66.0615 / 2019 WIS ACT 10. We respectfully request that Online Marketplace Providers be required to provide reporting with essential identifying and financial information along with room tax payments to each municipality and/or taxing authority.

Currently the room tax statute, §66.0615 affords no provisions for reporting requirements for Online Marketplace Providers. Reporting requirements are critical to guarantying fair and equitable room tax remittance and distribution. With the standard use of zip codes or geo-codes to locate properties and their use as part of the distribution process, Wisconsin municipalities will not know if they have received the correct amount of room tax due from Online Marketplace Providers. Zip codes and geo-codes are not accurate methods to determine which Wisconsin municipality is owed local municipal room tax.

Payments from Online Marketplace Providers are remitted to municipalities in bulk. For the Door County Tourism Zone, bulk payments remitted without reporting will not provide the means to distribute room tax to the appropriate municipality under State Statute and per our Intergovernmental Agreements. For Wisconsin municipalities, accepting a bulk payment from Online Marketplace Providers would not provide them the ability to fulfill their fiduciary and statutory obligations as a taxing authority. With the recently passed legislation in 2019 WIS ACT 10, the legislature is asking municipalities and/or taxing authorities to "trust" payments from Online Marketplace Providers; the "honor system" is not an appropriate policy for government entities nor will it satisfy municipal auditors (please see attached auditor's letter).

AB683 puts in place protections for all local taxing authorities, municipalities and/or Tourism Zone Commissions, in dealing with Online Marketplace Providers. AB683 will help guarantee that every municipality and taxing authority in the State receives fair, equitable, and transparent distributions of room tax revenues from Online Marketplace Providers.

Without AB683, Wisconsin municipalities and/or taxing authorities lose their ability to provide assurances and demonstrate to their municipal board, marketing entity, municipal auditors and constituents that they have received the correct amount of room tax due. With levy limits and budget constraints, room tax revenue is essential to municipal budgets. Without the proposed legislation, there will be uncertainty, unpredictability and possibly municipalities at legal odds with one another over incorrectly allocated room tax funds from Online Marketplace Providers.

Online Marketplace Providers must be required to provide the following as outlined in the proposed legislation:

- 1) The address of each property.
- 2) The total sales for each property.
- 3) The total tax collected for each property.
- 4) The number of nights rented for each short-term rental.

In the first days of WIS ACT 10 being in effect, we've seen that Online Marketplace Providers have not consistently notified their hosts of the law changes, communication has been inaccurate and confusing, there has been ineffective programming resulting in room tax not added to all Wisconsin listings, and it is clear that municipalities are being incorrectly designated to receive room tax that is not due to their municipality. For example, one platform is allocating room tax to Sturgeon Bay, when the property is located in the Town of Egg Harbor.

The proposed legislation is necessary because the room tax collection process only works if a municipality or taxing authority can identify, verify and reconcile room tax payments received from Online Marketplace Providers. The issues we have presented underline the necessity to move this bill to the floor for a vote.

It is essential that the proposed reporting provision be retained in the bill to clarify that, "persons who are subject to the room tax must file a room tax return in the manner and form and within the time prescribed by a municipality." Wisconsin municipalities and/or taxing authorities should not be left without options other than accepting a bulk payment from Online Marketplace Providers that does not include detailed reporting information. Wisconsin municipalities need data transparency and cooperation from Online Marketplace Providers; this will only happen if the State of Wisconsin takes the necessary steps to ensure the statute provides these requirements.

The bottom line is that tourism works for us: It supports local lodging, restaurants, retail and attractions while enhancing the quality of life in our communities. Without a consistent and proactive approach to room tax collection, Door County would not have the revenues to dedicate towards a unified, creative media marketing program which has a direct impact on tourism, our main economic driver. Without this legislation, Wisconsin municipalities that depend on tourism will be negatively impacted.

Thank you for the opportunity to provide testimony today on AB683 on behalf of Door County municipalities.

Respectfully submitted,



Josh Van Lieshout
Administrator, City of Sturgeon Bay
Chair, Door County Tourism Zone
Commission



Kim Roberts
Administrator, Door County
Tourism Zone Commission

Attachments:

- 1) Action Sheet AB683
- 2) Auditor letter



DOOR COUNTY TOURISM ZONE COMMISSION

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LEGISLATIVE REQUEST: The Door County Tourism Zone Commission on behalf of its nineteen member municipalities requests the State of Wisconsin adopt AB683 to provide correcting language to State Statute 66.0615 / 2019 WIS ACT 10. We respectfully request that Online Marketplaces Providers be required to provide essential identifying and financial transactional information along with room tax payments to each municipality and/or taxing authority.

WHY LEGISLATION IS NECESSARY:

- **§66.0615 currently lacks reporting requirements for Online Marketplace Providers:** Currently §66.0615 affords no provisions for reporting requirements for Online Marketplace Providers.
 - Reporting requirements are critical to guarantee fair and equitable room tax remittance and distribution. With the use of zip codes to locate properties and as part of the distribution process by Online Marketplace providers, Wisconsin municipalities can't be guaranteed that they will receive the correct amount of room tax due.
- **Inaccurate location of lodging properties:** Online Marketplace providers don't utilize a system of municipal identification in determining where to send payments.
 - Their standard technology for location of host properties is by zip code or geo-code, neither of which are a reliable method to determine which Wisconsin municipality is owed the collected municipal room tax.
- **Bulk payments with no reporting:** Payments from Online Marketplace Providers in bulk with no reporting will not provide the means to remit room tax to the appropriate municipality under State Statute and our Intergovernmental Agreements.
 - Accepting a bulk payment from Online Marketplace Providers would not allow Wisconsin municipalities to fulfill their fiduciary and statutory obligations as a taxing authority. The legislature is asking municipalities and/or taxing authorities to "trust" payments from Online Marketplace Providers; the "honor system" is not an appropriate policy for government entities nor will it satisfy municipal auditors.

IMPACT: Without proper data, there will be an inability to properly evaluate an Online Marketplace Provider tax bill or to ensure that a municipality has received the correct amount of room tax due. Without the proposed legislation, there will be uncertainty, unpredictability and possibly municipalities at legal odds with one another over incorrectly allocated room tax funds from Online Marketplace Providers.

SOLUTION: Reporting as proposed in AB683 requires: Property address information, total sales and the amount of tax collected for each address would validate to each Wisconsin Municipality and/or taxing authority that they have received the correct amount of room tax due. Transparency, equality and accountability provisions are attained.

WHAT HAPPENS IF PROTECTIONS AREN'T PUT IN PLACE?

Without the proposed legislation, Wisconsin municipalities and/or taxing authorities lose their ability to provide assurances to their municipal board, marketing entity, municipal auditor and constituents that they have received the correct amount of room tax due. With levy limits and budget constraints, room tax revenue is essential to municipal budgets.

IN CONCLUSION:

In the first days of WIS ACT 10 being in effect, we've seen that Online Marketplace Providers have not consistently notified their hosts of the law changes, communication has been inaccurate and confusing, there has been ineffective programming resulting in room tax not added to all Wisconsin listings, and it is clear that municipalities are being incorrectly designated to receive room tax that is not due to their municipality. For example, one platform is allocating room tax to Sturgeon Bay, when the property is located in the Town of Egg Harbor.

These problems highlight the necessity to move this bill to the floor for a vote. It is essential that the proposed reporting provision be retained in the bill to clarify that, "persons who are subject to the room tax must file a room tax return in the manner and form and within the time prescribed by a municipality." This information is essential to verify and reconcile Online Marketplace Providers payments to ensure fair and equitable room tax distributions. No municipality and/or taxing authority should be left with no other option other than accepting a bulk payment from Online Marketplace Providers that includes no reporting information.

The bottom line is that tourism works for us: It supports local lodging, restaurants, retail and attractions while enhancing the quality of life our communities. Without a consistent and proactive approach to room tax collection, Door County would not have the revenues to dedicate towards a **unified**, creative media marketing program which has a direct impact on tourism, our main economic driver. Without this legislation, Wisconsin municipalities that depend on tourism and invest in tourism infrastructure will be negatively impacted.

October 9, 2019

To whom it may concern:

My name is Josh Swanson, CPA, and I am an auditor with CliftonLarsonAllen LLP. I have been auditing governmental entities in the State of Wisconsin for over 11 years. I am writing to express my concern over the recent changes in room tax reporting requirements. I understand this change will be convenient for lodging marketplace reporters. However, I believe this change will not only negatively impact Door County Tourism Zone Commission, but the hundreds of other Wisconsin municipalities that rely on tourism and room tax revenue. Allow me to discuss how this change will impact an audit.

As part of an audit, we perform tests of transactions and internal controls that are in place for the entity being audited. When there are significant internal controls that are outside of the entity's control, auditing standards require the auditor to evaluate the internal control system in place. This is typically tested through a System and Organization Controls Report (SOC Report). If a SOC Report is not available, extensive testing must be done in order for the auditor to be comfortable with the outside entity's reporting. Whether a SOC Report is available or not, additional time and effort is required to test the information, which will result in additional fees being charged to the entity being audited.

Another concern I have related specifically to Door County Tourism Zone Commission is regarding their responsibility to remit room tax revenues to the corresponding municipality under state statutes and intergovernmental agreements. Currently the Commission is able to document collections within each municipality and properly remit the required amount to the municipality and Door County Visitors Bureau. If the Commission is unable to document the municipality payments are properly allocated and remitted, they will be in violation of state statutes and will likely receive compliance findings as a result of their annual audit.

On a personal level, I am concerned as a Wisconsin citizen that the transparency and accountability will be lost with the reporting changes. My job allows me to see firsthand how important accountability is to taxpayers all across the state. Additionally, with levy limits and budget restraints, I understand how valuable room tax revenue can be to municipal budgets. If the reliance on accurate room tax revenue collections is lost, the uncertainty and unpredictability will negatively impact a municipality's budget.

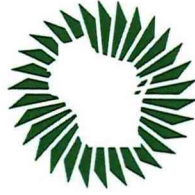
Thank you for allowing me to express my concerns over the reporting changes. Please don't hesitate to contact me if additional information is needed or further explanation is required.

Sincerely,



Josh Swanson

Director, CliftonLarsonAllen LLP



WISCONSIN ASSOCIATION
OF CONVENTION
& VISITORS BUREAUS

To: Members, Assembly Ways and Means Committee
From: Julia Hertel, Executive Director
Date: January 9, 2020
Re: Testimony in support of AB 683

Chair Macco and committee members: The WI Association of Convention & Visitors Bureaus, which is now doing business as Destinations Wisconsin, is comprised of 39 destination marketing organizations that promote Wisconsin's destinations. Our members are the "tourism entities" as defined in the state's room tax law. On behalf of them, I urge you to support AB 683.

Almost all of our members receive a portion of their funding from room tax allocations and use those dollars for tourism promotion and tourism development in their destinations. We believe the technical changes recommended in this bill will help ensure that our members and the municipalities they promote receive accurate room tax collections in a timely manner from online lodging marketplaces such as Airbnb, Expedia, VRBO and many more.

While this bill doesn't solve all the growing issues surrounding the collection and remittance of room taxes from online lodging marketplaces, it does take an important step in the right direction. This bill gives the marketplaces clearer direction on how to comply with our room tax law and requires them to remit the taxes in a timely manner or face penalties.

Room tax collections designated for tourism promotion and tourism development are essential to growing our local and state tourism economies. Some of the dollars are tied to bonding for convention centers or other facilities used by tourists. Some of the dollars are funding essential marketing campaigns that are driving visitors to destinations around the state. And, of course, some of the collections are used by the municipalities to support public education, health and safety programs. If the growing online lodging marketplaces aren't correctly collecting and remitting room taxes, our municipalities and tourism economy will be negatively impacted.

Please support AB 683 to help ensure our municipalities and their tourism entities receive room tax collections in a timely and accurate manner.

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VISIT EAU CLAIRE

To: Members, Assembly Ways and Means Committee
From: Linda John Executive Director – Visit Eau Claire
Date: January 9, 2020
Re: Support of AB 683

Dear Chair Macco and committee members,

As the tourism entity for the City of Eau Claire, City of Altoona and Town of Union, Visit Eau Claire urges your support of AB 683. Our area currently has numerous lodging options offered via online marketplaces. Until the enactment of 2019 Wisconsin Act 10, in effect requiring lodging marketplaces to collect and remit sales taxes from third parties, we had no opportunity to capture the lodging tax revenue being generated from these overnight stays in our destination. We believe the technical components of this bill will do much to ensure the statewide collection and remittance of sales and room taxes from third parties is being done in a way that is compliant with state law and local ordinances.

Investment in tourism promotion and development is crucial to economic growth in our state. From funds we have committed to the region's new Pablo Center at the Confluence, to sports commission investments in national tournaments to extensive marketing campaigns and local arts grants, the room tax dollars received by Visit Eau Claire are used to fund initiatives that generate new visitor spending in our region.

Additionally, ensuring a level playing field for the lodging properties collecting and remitting room taxes under current statutes and ordinances is of high importance to Visit Eau Claire. As a festival destination, we have numerous weekends throughout the year during which the demand surge for lodging accommodations exceeds the traditional hotel room inventory. At those times, the need for online marketplace lodging is important to accommodating all visitors—and it is important that all are subject to the same taxing/remitting requirements.

While this bill doesn't solve all the concerns regarding the collection and remittance of room taxes from online lodging marketplaces, it is an important step in the right direction. For that reason, we ask for your support of AB 683 to ensure the timely and accurate allocation of room tax dollars for Visit Eau Claire and other tourism entities throughout Wisconsin.



Sincerely,
Linda John
715-379-9891



WISCONSIN MANUFACTURERS & COMMERCE

To: Assembly Committee on Ways and Means
From: Corydon Fish, Wisconsin Manufacturers & Commerce
Date: January 9, 2020
Re: Testimony in Opposition to Assembly Bill 683

Thank you Chairman Macco and members of the Assembly Committee on Ways and Means for hearing my testimony in opposition to Assembly Bill 683 (AB 683). Wisconsin Manufacturers and Commerce (WMC) does not oppose ensuring that companies pay the amount of tax they owe local governments. However, the additional authority AB 683 provides local governments to audit and fine businesses goes too far.

WMC is the state chamber of commerce and largest general business association in Wisconsin. We were founded over 100 years ago, and are proud to represent approximately 3,800 member companies of all sizes and from every sector of our economy. Our mission is to make Wisconsin the most competitive state in the nation in which to do business.

WMC has a series of concerns with the legislation:

- Section 10: This provision expands upon current law allowing local governments to require businesses to file tax returns, “in the manner and form, and within the time prescribed by the municipality” by allowing local governments to require additional information on the form if they so choose. There should be uniformity in these requirements to prevent saddling businesses with the additional burden of tracking inconsistent forms and filing dates.
- Section 12: The elimination of the “probable cause” language means that a local government can impose an audit without reasonable grounds for belief the business is in violation of the statute. Further, this section expands the type of information an auditor can inspect. Both of these changes are inappropriate government intrusions into the private affairs of a business and should be eliminated.
- Section 14: The forfeiture schedule set up in this section specifically for marketplace providers who do not file a return or pay the tax is different – and significantly more burdensome – than other businesses who fail to pay the tax under current law. There should be parity in the law for all businesses subject to this tax.

Thank you again Chairman Macco and Committee members for the opportunity to testify. I look forward to working with Representative Kitchens and Senator Olsen to address WMC’s concerns.



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To: Assembly Committee on Ways and Means
From: Curt Witynski, J.D., Deputy Director, League of Wisconsin Municipalities
Date: January 9, 2020
Re: **AB 683, Providing More Tools for Collecting Room Taxes from Online Lodging Marketplaces**

The League of Wisconsin Municipalities supports AB 683, giving municipalities helpful tools they need to ensure they are receiving the full amount of room taxes they are entitled to from online lodging marketplaces like Airbnb and Expedia.

Over 290 municipalities impose a room tax in Wisconsin. In 2017 room tax collections generated about \$112 million in revenue statewide. However, cities and villages typically retain only 30% of the room tax revenue they collect. State law mandates that 70% be forwarded to tourism entities or tourism commissions to be spent on tourism promotion and development.

The bill is timely because, with Act 10 taking effect on January 1, 2020, there is confusion among municipalities as to how they can best determine whether online hotel and short-term rental booking services are collecting and remitting all of the room taxes owed to them as Act 10 requires.

Under SB 683, Airbnb, Expedia, and other online lodging marketplaces charged with collecting and remitting room taxes are required to file annual tax returns providing the following information to municipalities imposing the tax:

- The address of each property
- The total sales for each property
- The tax collected for each property
- The number of nights each short-term rental or hotel room was rented

The bill also authorizes municipalities to call for an audit and inspect the tax related records of any entity subject to the room tax without the need to show probable cause of a tax violation, as required under current law. Under the bill, municipalities can also conduct joint audits with other municipalities and share that information with DOR or any other municipality that is involved in the joint audit.

The bill further provides that if a marketplace provider does not file the required room tax returns to municipalities in a timely fashion or fails to pay the taxes, a municipality may impose a forfeiture of up to \$500 per day, for a maximum of \$45,000 a year. Forfeitures may be appealed to the municipality. Municipalities may also waive the forfeitures.

We urge you to recommend passage of AB 683. Thanks for considering our comments.