



**Testimony of Representative Garey Bies
Assembly Committee on Consumer Protection**

AB 107- Entertainers Surety Bond

Chairman Thiesfeldt, committee members. I appreciate the opportunity to testify in support of Assembly Bill 107.

This issue was brought to my attention by the organizers of the Peninsula Music Festival, a popular event that occurs in Door County every year. Unfortunately, the Director of the festival isn't able to join us because today is the opening day of the three week event.

Many of the artists who perform in the festival travel at their own expense and often times bring their families to vacation in Wisconsin. But, an entertainer isn't just the artist who performs in Door County, or the large musical acts at Summerfest, but also includes speakers at conferences.

When the entertainer comes to Wisconsin they're required to post a bond with the department of revenue as a guarantee they'll pay the state taxes incurred related to the performance if they'll earn more than \$3200 in the taxable year.

The amount of the bond is 6 percent of the total contract price. If an entertainer is going to make \$3201 on a performance (or combination of performances), he or she would have to submit a \$192 bond to the Department of Revenue (DOR) no later than 7 days before the performance.

The requirement that an entertainer post a surety bond with DOR was enacted in 1987 and the dollar amount hasn't been changed since that time. Under this bill, an entertainer must file a bond with DOR if the total amount paid to the entertainer under all contracts to perform in Wisconsin is more than \$7,000 in the taxable year. This increase accounts for inflation since the law was enacted.

First for Wisconsin!

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This bill will also benefit small business owners who must obtain the surety bond for out-of-state entertainers whose tax liability is likely to be minimal.

We have introduced a substitute amendment to incorporate recommendations from DOR. The first being that employers of all sizes must include travel expenses as part of the 6% calculation for withholding, but travel expenses are often not known until after the event, so an employer must estimate the value. However, travel expenses aren't taxable so an employer is forced to estimate the tax liability on something that isn't taxable to begin with. This bill removes travel expenses from the 6% contract price used to determine the withholding or bond value.

The second change is the effective date of the bill will be January 1, 2014 to avoid the retroactive treatment of contracts/withholding that go back to January of this year.

Thank you for your time. I'd be happy to take any questions committee members may have.



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July 20, 2013

Representative Garey Bies
Room 216 North, State Capitol
P.O. Box 8952
Madison, WI 53708

Dear Representative Bies:

Thank you so much for your work on this important Bill. I am sorry that I cannot be there on August 6 to personally testify in support of Assembly Bill 107, but I will be busy that day with the Opening of the 61st Season of the Peninsula Music Festival in Door County, Wisconsin.

The Peninsula Music Festival welcomes over 80 musicians and their families who spend three weeks at their own expense in Door County each August so that we can present nine different symphony concerts at the Door Community Auditorium. These musicians travel from Tennessee, Texas, North Carolina, Florida, New York, Pennsylvania, Nebraska, Illinois, Minnesota, Michigan just to name a few of the states they represent. These musicians are some of the finest musicians in the country.

The issue of the Non Resident Entertainer Tax has become a larger and larger burden on the musicians of the Peninsula Music Festival as well as our small staff. Currently, I must withhold 6% from 80% of the musicians who perform with our Festival. The majority of these musicians are not making much more than the threshold of \$3200, which has remained unchanged since the inception of the NRE tax in 1987. As our pay scale for our musicians has improved, more of our musicians are punished with this tax. Raising the threshold to \$7000 will allow our musicians to take home more of their pay and allow the Peninsula Music Festival to continue to attract top caliber musicians. Additionally, our small staff can save time and money with a reduction in paperwork and additional accounting costs.

An adjustment in the threshold after twenty-six years makes sense for everyone involved and will show strong support for the entertainers who visit our great state.

Please thank all of the committee members for their time and consideration. Everyone at the Peninsula Music Festival is appreciative.

Sincerely,

Sharon Grutzmacher

Digitally signed by Sharon Grutzmacher
DN: cn=Sharon Grutzmacher, o=Peninsula Music
Festival, ou, email=sharon@musicfestival.com, c=US
Date: 2013.07.30 15:55:57 -05'00'

Sharon L. Grutzmacher
Executive Director

**PMF 2013 ORCHESTRAL PERSONNEL
21JULY13**

OBOES

Eric Olson
Principal
Jacksonville, Florida
Rogene Russell
Dallas, Texas
Leanna Booze
Nashville, Tennessee

CLARINETS

Ron Samuels
Principal [Weeks 1 & 2]
Pittsburgh, Pennsylvania
Carmelo Galante
Principal [Week 3]
Omaha, Nebraska
David Bell
Baileys Harbor, Wisconsin
Leslie Grimm
Chicago, Illinois
Lisa Bellino
Poughkeepsie, New York

BASSOONS

Philip Pandolfi [Week 1]
Principal
Pittsburgh, Pennsylvania
Michael Kroth
East Lansing, Michigan
Principal [Week 3]
Samuel Banks
Principal [Week 2]
Toronto, Canada
Patricia Holland
Plover, Wisconsin

HORNS

Richard Britsch
Principal
Grand Rapids, Michigan
Erich Peterson
Grand Rapids, Michigan
Matthew Annin
Milwaukee, Wisconsin
David G. Elliott
Lexington, Kentucky
Bruce Atwell
Oshkosh, Wisconsin
Leslie Norton
Nashville, Tennessee
Dietrich Hemann
Shorewood, Wisconsin

TRUMPETS

Terry Everson
Principal
Boston, Massachusetts
Chris Hasselbring
Evanston, Illinois

Bruce Briney
Macomb, Illinois
Daniel Grantham
Cincinnati, Ohio
Don Sipe
Milwaukee, Wisconsin

TROMBONES

Paul Bellino
Principal
Poughkeepsie, New York
Bradley L. Ward
East Windsor, New Jersey
David Lussier
Bass Trombone
Brown Deer, Wisconsin

TUBA

Charles Schuchat
Chicago, Illinois

TIMPANI

William G. Wiggins
Principal
Nashville, Tennessee

PERCUSSION

Douglas Howard
Principal
Dallas, Texas
Christopher Norton
Nashville, Tennessee
Mark Libby
Birmingham, Alabama
Paul Ristau
Appleton, Wisconsin

HARP

Marcia Emilia LaBella
Brookfield, Illinois
Elizabeth Motter
Cincinnati, Ohio

ELECTRIC BASS

Andy Sachen
Oshkosh, Wisconsin

KEYBOARD

Judith Jackson
Sister Bay, Wisconsin
Yuchi Chou
Evanston, Illinois
Rob McWilliams
Oshkosh, Wisconsin

PERSONNEL MANAGER

David G. Elliott
Lexington, Kentucky

LIBRARIAN

Sarah Bowman Peterson
Grand Rapids, Michigan

**PMF 2013 ORCHESTRAL PERSONNEL
21JULY13**

FIRST VIOLINS

Igor Yuzefovich
Concertmaster
Hong Kong, China
Amy Sims
Assistant Concertmaster
Boston, Massachusetts
Paul Zafer
Wilmette, Illinois
Jennifer Startt
Milwaukee, Wisconsin
Jessica Hung
Dayton, Ohio
Teresa Fream
Glenwood, Illinois
Zhan Shu [Weeks 1 & 2]
Milwaukee, Wisconsin
Kurt Johnson [Week 3]
Houston, Texas
Tracy Figard
Greenville, South Carolina
Karen Nelson
Park Ridge, Illinois
Jen Chang
Fort Worth, Texas
Margot Schwartz
Milwaukee, Wisconsin
Peter Vickery
Milwaukee, Wisconsin

SECOND VIOLINS

Kirstin Greenlaw
Principal
Cincinnati, Ohio
Marilyn McDonald
Oberlin, Ohio
Scott Shoemaker
Omaha, Nebraska
Lori Everson
Boston, Massachusetts
Carol Yampolsky
Evanston, Illinois
Betty Lewis
Wilmette, Illinois
Janet Bond Sutter
Appleton, Wisconsin
Betsy Cline
Northfield, Illinois
Christine Hauptly Annin
Milwaukee, Wisconsin
Jonathan Eddy
Kansas City, Missouri

VIOLA

Joan DerHovsepian
Principal
Houston, Texas
Kristin Figard
Greenville, South Carolina
Suzanne LeFevre
Houston, Texas
Judith Ablon
Nashville, Tennessee
Adam Neeley
Miami Beach, Florida
Jonas Benson
Evanston, Illinois
Amy Mason
Raleigh, North Carolina

CELLOS

Paul V. Ledwon
Principal
Omaha, Nebraska
Amy Johnson Wensink
Boston, Massachusetts
Freya Oberle Samuels
Pittsburgh, Pennsylvania
Anna Burden
Montreal, Canada
Richard Yeo
Lake Forest, Illinois
Linda Minke
Jacksonville, Florida
Daniel Cline
Little Rock, Arkansas

BASSES

J. Mark Pellegrino
Principal
Columbus, Ohio
C. Michael Roberts
Cincinnati, Ohio
E. Thorpe Gronfor
Houston, Texas
Conrad Hultquist
Covington, Louisiana

FLUTES

Susanna Self
Principal
Lubbock, Texas
Merrilee Elliott
Lexington, Kentucky
Melissa Ngan Snoza
Algonquin, Illinois
Colleen Matheu Johnson
Houston, Texas



State of Wisconsin • DEPARTMENT OF REVENUE

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Scott Walker
Governor

Richard G. Chandler
Secretary of Revenue

July 24, 2013

Representative Garey Bies
Room 216 North, State Capitol
P.O. Box 8952
Madison, WI 53708

Dear Representative Bies:

This letter is to convey the Department of Revenue's appreciation for including, in Assembly Substitute Amendment 1 to Assembly Bill 107, DOR's recommendation to address travel expenses, as they relate to out-of-state entertainers' withholding, cash deposits, and surety bonds.

I regret that I am unable to be present to testify in support of this legislation at the Assembly Committee on Consumer Protection's public hearing. I thought that this correspondence may be helpful in addressing potential questions of the Committee relating to this issue generally and as affected by Assembly Bill 107, as amended under Assembly Substitute Amendment 1.

Background

When an out-of-state resident works and earns income in Wisconsin, that person has an income tax liability to Wisconsin and must file a Wisconsin income tax return after earning certain dollar amounts. This includes everybody from opposing NFL players competing at Lambeau Field to those employed by multistate companies working on a project at the company's Wisconsin location.

The same holds true for out-of-state entertainers, including musicians, speakers at conferences, magicians; etc. If the entertainer's contract for a performance or the sum of all contracts in a given tax year is \$3,200 or greater, the employer (usually the venue or promoter) of the out-of-state entertainer must address his/her income tax liability in one of three ways: 1) withholding Wisconsin income tax from the payment at least five days before the performance; 2) making a cash deposit to DOR at least seven days prior to the event; or 3) providing DOR with a surety bond from a bonding company at least seven days prior to the performance. Related statutes in sec. 71.80 (15) (c) and sec. 71.64 (5) generally tie the thresholds for cash deposits and withholding to the surety bond threshold. The vast majority of employers of out-of-state entertainers withholds or makes cash deposits.

Generally, the employer paying the out-of-state entertainer must withhold, make a cash deposit for, or provide a surety bond in the amount of 6% of the contract price, including travel expenses that the employer will reimburse at a later date.

Compliance with the withholding, cash deposit, and surety bond requirements is generally very good. When an out-of-state entertainer files a Wisconsin income tax return at the end of the year, the entertainer is entitled to a refund if the withholding or cash deposit amounts are greater than the entertainer's liability. In the case of a bond, no refund would be provided since no money was provided to DOR prior the performance. Thus, the out-of-state entertainer pays his/her tax liability in full when filing the return. If the out-of-state entertainer pays his/her tax liability, DOR releases the bond. If the out-of-state entertainer fails to file an income tax return or does not satisfy his/her liability, DOR collects on the surety bond from the bonding company.

Issues of Concern with Current Law

DOR usually receives fewer than ten surety bonds for out-of-state entertainers in a tax year, and most of those bonds are for employers hosting the entertainer at smaller venues. The \$3,200 threshold for filing a

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surety bond is a relatively low threshold. The resulting burden on small employers is that they must obtain a surety bond (or cash deposits or withholding that are linked to the \$3,200 threshold) for out-of-state entertainers when the entertainer's total tax liability will ultimately be quite small.

In a related topic, DOR receives feedback from employers of all sizes regarding the requirement to include reimbursed travel expenses as part of the 6% calculation for withholding, cash deposits, or surety bonds.

Travel expenses are often unknown at the time of the contract, so the employer must estimate the value. Only after the travel occurs does the employer know the true travel expenses of the out-of-state entertainer. Also, reimbursed travel expenses are not taxable. That means that employers must estimate unknown amounts for the purposes of tax liability when the amounts they are estimating are not taxable in the first place.

Assembly Bill 107 as Amended under Assembly Substitute Amendment 1

The bill, as amended, addresses both issues of concern under current law. The bill raises the threshold for surety bond filings from \$3,200 to \$7,000. The result is that the burden on small employers to obtain a surety bond is eased and more closely aligns the threshold for obtaining a bond with a meaningful tax liability. Since the cash deposit and withholding thresholds generally link to the surety bond threshold, these burdens will ease on small employers as well.

The substitute amendment also addresses the travel expense issue by removing reimbursed travel expenses from the 6% contract calculation for withholding, cash deposits, and surety bonds for out-of-state entertainers. The result is that employers will no longer be forced to estimate unknown amounts for tax liability purposes that are not taxable in the first place.

DOR projects the fiscal effect of Assembly Bill 107 to be minimal in our fiscal estimate for the bill. The fiscal effect is unchanged for the bill under Assembly Substitute Amendment 1.

Since tax liability is unaffected for out-of-state entertainers and DOR maintains all of our collection tools for the very few cases of noncompliance or delinquency, the surety bond threshold increase, and resulting threshold increases for cash deposits and withholding, will not result in a meaningful decrease in tax collections. Second, since travel expenses are already non-taxable, no loss in revenue will occur with their exclusion from the 6% calculation for withholding, cash deposits, or surety bonds.

In conclusion, Assembly Bill 107 as amended under Assembly Substitute Amendment 1 makes two common-sense reforms that will reduce burdens on small businesses employing out-of-state entertainers. DOR supports these reforms and appreciates your efforts in bringing these issues and bill for consideration by the Legislature.

Sincerely,


Michael Wagner
Legislative Advisor
Wisconsin Department of Revenue



Testimony

To: Representative Jeremy Thiesfeldt, Chair
From: Members, Assembly Committee on Consumer Protection
Date: Tuesday, August 6, 2013

Re: Support AB-107 Entertainer's Surety Bond

Good morning Chairman Thiesfeldt and members of the Assembly Committee on Consumer Protection. Thank you for holding a public hearing today on Assembly Bill 107, relating to an entertainer's surety bond.

I apologize for not being able to attend the public hearing in person, but I am providing written testimony today to share with you a statewide trade association executive director's perspective. I am the executive director of the Wisconsin Assisted Living Association (WALA).

Although today's issue is about an "entertainer's surety bond," this does include out of state educational presenters\speakers that are paid to present at our conferences and seminars in Wisconsin.

I believe many trade association leaders who plan member education seminars and conferences have likely run into the surety bond issue and the complications it can sometimes create.

Keep in mind that associations like WALA represent large memberships that originally created the organization to efficiently pool resources to promote education and quality. As a leader of a statewide association it is our challenge to bring in the best in a particular field and promote their presentations and training at our conferences. Often those experts are coming in from out of state.

As an executive director, I have of course hired speakers from out of state. Over the years, I have had a few cases where the current surety bond law has hampered and nearly caused a presenter to cancel.

The issue is more about the extra red tape and hassle a expert speaker and trade association must go through to present in Wisconsin and how the entertainer surety bond law is structured, which I believe can have the unintended affect to increase the speaker costs charged to the Wisconsin organization.

As an example, recently an out of state presenter for one of our main conferences felt the added red tape and expense was not worth their energy and time, which nearly led to a cancellation – until that is we agreed to pay more. I have been told by a number of presenters about the Wisconsin surety bond issue, that they don't run into this requirement in other states.

I realize in the scheme of things, this surety bond issue is likely less of a priority as compared to the many higher profile issues you as Wisconsin Legislators must consider. However, I am asking the Committee to please consider support and passage of Assembly Bill 107. I believe this small regulatory fix will provide a level of procedural relief to those association leaders working to benefit our Wisconsin members.

This issue truly is about less red tape and less hassle to bring in the experts we need to promote the quality our members demand – without increasing our costs to comply.

Changing the total amount paid to the entertainer in one taxable year from \$3,200 to \$7,000 would address some of the complications WALA and other trade associations have experienced.

Thank you for you consideration in this matter. If you should have any questions, please feel free to contact myself or the our lobbyist Forbes McIntosh with any questions you may have.

Sincerely,

Jim Murphy
Executive Director