



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-5061/1
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2023 SENATE BILL 853

December 26, 2023 - Introduced by Senators TESTIN, BALLWEG, CARPENTER, L. JOHNSON, KNODL and SPREITZER, cosponsored by Representatives KRUG, BRANDTJEN, BODDEN, C. ANDERSON, DITTRICH, GOEBEN, GUNDRUM, JACOBSON, MELOTIK, OHNSTAD, RETTINGER, SHANKLAND, SNODGRASS and SUBECK. Referred to Committee on Universities and Revenue.

1 **AN ACT to amend** 20.566 (1) (hp), 71.10 (5s) (d) 1., 71.10 (5s) (d) 4. and 71.10 (5s)
2 (d) 5.; and **to create** 71.10 (5fn) of the statutes; **relating to:** creating an
3 individual income tax checkoff for donations to the Wisconsin Fire & EMS
4 Memorial, Inc., and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates an individual income tax checkoff for the Wisconsin Fire & EMS Memorial, Inc., the proceeds of which support the construction, improvement, and maintenance of the fire fighters and emergency medical services memorial. The bill requires that an amount equal to the total amount of designations received, less the total cost of administering the income tax checkoff procedure, be transferred to the corporation.

Currently, there are eight permanent checkoffs to which taxpayers may make a designation. Current law prohibits the Department of Revenue from placing more than 10 checkoffs, not including temporary checkoffs, on the income tax form. Current law also requires DOR to remove from the tax forms any checkoffs that do not generate at least an average of \$50,000 of designations per year over the most recent three-year period. Formerly, a temporary checkoff for the fire fighters and emergency medical services memorial appeared on the tax forms, but it was removed by DOR because it failed to generate the required level of designations. The checkoff created in the bill would be a permanent checkoff.

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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.** 20.566 (1) (hp) of the statutes is amended to read:

2 20.566 (1) (hp) *Administration of income tax checkoff voluntary payments.* The
3 amounts in the schedule for the payment of all administrative costs, including data
4 processing costs, incurred in administering ss. 71.10 (5), (5e), (5f), (5fm), (5fn), (5g),
5 (5h), (5i), (5j), (5k), (5km), and (5m), and 71.30 (10). All moneys specified for deposit
6 in this appropriation under ss. 71.10 (5) (h) 5., (5e) (h) 4., (5f) (i), (5fm) (i), (5fn) (i),
7 (5g) (i), (5h) (i), (5i) (i), (5j) (i), (5k) (i), (5km) (i), and (5m) (i) and 71.30 (10) (i) and (11)
8 (i) shall be credited to this appropriation account.

9 **SECTION 2.** 71.10 (5fn) of the statutes is created to read:

10 71.10 (5fn) FIRE FIGHTERS AND EMS MEMORIAL CHECKOFF, 2023 AND BEYOND. (a)
11 *Definitions.* In this subsection:

12 1. "Corporation" means the Wisconsin Fire & EMS Memorial, Inc.

13 2. "Department" means the department of revenue.

14 (b) *Voluntary payments.* 1. 'Designation on return.' Every individual filing an
15 income tax return who has a tax liability or is entitled to a tax refund may designate
16 on the return any amount of additional payment or any amount of a refund due that
17 individual for the fire fighters and emergency medical services memorial.

18 2. 'Designation added to tax owed.' If the individual owes any tax, the
19 individual shall remit in full the tax due and the amount designated on the return
20 for the fire fighters and emergency medical services memorial when the individual
21 files a tax return.

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1 3. ‘Designation deducted from refund.’ Except as provided in par. (d), if the
2 individual is owed a refund for that year after crediting under ss. 71.75 (9) and 71.80
3 (3) and (3m), the department shall deduct the amount designated on the return for
4 the fire fighters and emergency medical services memorial from the amount of the
5 refund.

6 (c) *Errors; failure to remit correct amount.* If an individual who owes taxes fails
7 to remit an amount equal to or in excess of the total of the actual tax due, after error
8 corrections, and the amount designated on the return for the fire fighters and
9 emergency medical services memorial:

10 1. The department shall reduce the designation for the fire fighters and
11 emergency medical services memorial to reflect the amount remitted in excess of the
12 actual tax due, after error corrections, if the individual remitted an amount in excess
13 of the actual tax due, after error corrections, but less than the total of the actual tax
14 due, after error corrections, and the amount originally designated on the return for
15 the fire fighters and emergency medical services memorial.

16 2. The designation for the fire fighters and emergency medical services
17 memorial is void if the individual remitted an amount equal to or less than the actual
18 tax due, after error corrections.

19 (d) *Errors; insufficient refund.* If an individual is owed a refund that does not
20 equal or exceed the amount designated on the return for the fire fighters and
21 emergency medical services memorial, after crediting under ss. 71.75 (9) and 71.80
22 (3) and (3m) and after error corrections, the department shall reduce the designation
23 for the fire fighters and emergency medical services memorial to reflect the actual
24 amount of the refund that the individual is otherwise owed, after crediting under ss.
25 71.75 (9) and 71.80 (3) and (3m) and after error corrections.

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1 (e) *Conditions.* If an individual places any conditions on a designation for the
2 fire fighters and emergency medical services memorial, the designation is void.

3 (f) *Void designation.* If a designation for the fire fighters and emergency
4 medical services memorial is void, the department shall disregard the designation
5 and determine amounts due, owed, refunded, and received without regard to the void
6 designation.

7 (g) *Tax return.* The secretary of revenue shall provide a place for the
8 designation under this subsection on the individual income tax return.

9 (h) *Certification of amounts.* Annually, on or before September 15, the
10 secretary of revenue shall certify to the department of administration and the state
11 treasurer all of the following:

12 1. The total amount of the administrative costs, including data processing
13 costs, incurred by the department in administering this subsection during the
14 previous fiscal year.

15 2. The total amount received from all designations for the fire fighters and
16 emergency medical services memorial made by taxpayers during the previous fiscal
17 year.

18 3. The net amount remaining after the administrative costs, including data
19 processing costs, under subd. 1. are subtracted from the total received under subd.
20 2.

21 (i) *Appropriations.* From the moneys received from designations for the fire
22 fighters and emergency medical services memorial, an amount equal to the sum of
23 administrative expenses, including data processing costs, certified under par. (h) 1.
24 shall be deposited in the general fund and credited to the appropriation account
25 under s. 20.566 (1) (hp), and the net amount remaining that is certified under par.

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1 (h) 3. shall be transferred to the corporation for the construction, improvement, and
2 maintenance of the fire fighters and emergency medical services memorial.

3 (j) *Amounts subject to refund.* Amounts designated for the fire fighters and
4 emergency medical services memorial under this subsection are not subject to refund
5 to the taxpayer unless the taxpayer submits information to the satisfaction of the
6 department, within 18 months after the date on which the taxes are due or the date
7 on which the return is filed, whichever is later, that the amount designated is clearly
8 in error. Any refund granted by the department under this paragraph shall be
9 deducted from the moneys received under this subsection in the fiscal year for which
10 the refund is certified.

11 **SECTION 3.** 71.10 (5s) (d) 1. of the statutes is amended to read:

12 71.10 **(5s)** (d) 1. If more than 11 checkoffs exist under this section after August
13 14, 2014, and every 2 years thereafter, not including the checkoff under sub. ~~(5fm)~~
14 (5fn), only the 8 highest ranking checkoffs for which designations were made in the
15 previous 2-year period may appear on the income tax form for the next 2 taxable
16 years.

17 **SECTION 4.** 71.10 (5s) (d) 4. of the statutes is amended to read:

18 71.10 **(5s)** (d) 4. If 10 checkoffs exist under this section after August 14, 2014,
19 not including the checkoff under sub. ~~(5fm)~~ (5fn), those 10 checkoffs may appear on
20 the income tax form for the next 2 taxable years.

21 **SECTION 5.** 71.10 (5s) (d) 5. of the statutes is amended to read:

22 71.10 **(5s)** (d) 5. If 11 checkoffs exist under this section after August 14, 2014,
23 not including the checkoff under sub. ~~(5fm)~~ (5fn), only the 9 highest ranking
24 checkoffs for which designations were made in the previous 2-year period may
25 appear on the income tax form for the next 2 taxable years. The remaining checkoff

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1 for which designations may be made and which shall be placed on the income tax
2 form for the next 2 taxable years, in place of the lowest ranking checkoff, shall be a
3 checkoff that has not received any designations during the previous 2-year period.
4 This last checkoff shall be selected using the method described under subd. 3.

5 **SECTION 6. Initial applicability.**

6 (1) This act first applies to taxable years beginning on January 1, 2024.

7 (END)