



2007 SENATE BILL 459

February 5, 2008 - Introduced by Senators VINEHOUT, KAPANKE, OLSEN and HARSDORF, cosponsored by Representatives DAVIS, STEINBRINK, A. OTT, ALBERS, GRONEMUS, MURSAU, MUSSER, TAUCHEN, SUDER, JORGENSEN, M. WILLIAMS, HAHN, GARTHWAITE, NERISON, PETROWSKI, BALLWEG and VRUWINK. Referred to Committee on Agriculture and Higher Education.

1 **AN ACT** *to amend* 20.835 (2) (bn), 71.07 (3p) (a) 3. (intro.), 71.07 (3p) (b), 71.07
2 (3p) (c) 2m. b., 71.07 (3p) (c) 3., 71.07 (3p) (d) 2., 71.28 (3p) (a) 3. (intro.), 71.28
3 (3p) (b), 71.28 (3p) (c) 2m. b., 71.28 (3p) (c) 3., 71.28 (3p) (d) 2., 71.47 (3p) (a) 3.
4 (intro.), 71.47 (3p) (b), 71.47 (3p) (c) 2m. b., 71.47 (3p) (c) 3., 71.47 (3p) (d) 2. and
5 560.207 (2); and *to create* 20.835 (2) (bp), 71.07 (3p) (a) 1m., 71.07 (3p) (c) 2m.
6 bm., 71.07 (3p) (c) 5., 71.07 (3p) (d) 3., 71.28 (3p) (a) 1m., 71.28 (3p) (c) 2m. bm.,
7 71.28 (3p) (c) 5., 71.28 (3p) (d) 3., 71.47 (3p) (a) 1m., 71.47 (3p) (c) 2m. bm., 71.47
8 (3p) (c) 5. and 71.47 (3p) (d) 3. of the statutes; **relating to:** allowing dairy
9 cooperatives to claim the dairy manufacturing facility investment credit and
10 making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, a person may claim a credit against the person's income or franchise tax liability that is equal to 10 percent of the amount that the person paid in the taxable year for dairy manufacturing modernization or expansion related to the claimant's dairy manufacturing operation. If the amount of the credit exceeds the amount of the person's tax liability, the person receives a refund. Under current

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law, dairy cooperatives are, generally, not subject to state income or franchise taxes and, therefore, are not eligible to claim the credit for dairy manufacturing modernization or expansion.

This bill allows the members of a dairy cooperative to claim the credit for the dairy manufacturing modernization or expansion expenses paid by the cooperative. The dairy cooperative determines the amount of the credit that each member may claim, based on the amount of milk each member delivers to the cooperative.

For further information see the *state* 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.** 20.835 (2) (bn) of the statutes, as created by 2007 Wisconsin Act 20,
2 is amended to read:

3 20.835 (2) (bn) *Dairy manufacturing facility investment credit.* The amounts
4 in the schedule to make the payments under ss. 71.07 (3p) (d) 2., 71.28 (3p) (d) 2., and
5 71.47 (3p) (d) 2.

6 **SECTION 2.** 20.835 (2) (bp) of the statutes is created to read:

7 20.835 (2) (bp) *Dairy manufacturing facility investment credit; dairy*
8 *cooperatives.* A sum sufficient to make the payments under ss. 71.07 (3p) (d) 3., 71.28
9 (3p) (d) 3., and 71.47 (3p) (d) 3.

10 **SECTION 3.** 71.07 (3p) (a) 1m. of the statutes is created to read:

11 71.07 (3p) (a) 1m. “Dairy cooperative” means a business organized under ch.
12 185 or 193 for the purpose of obtaining or processing milk.

13 **SECTION 4.** 71.07 (3p) (a) 3. (intro.) of the statutes, as created by 2007 Wisconsin
14 Act 20, is amended to read:

15 71.07 (3p) (a) 3. (intro.) “Dairy manufacturing modernization or expansion”
16 means constructing, improving, or acquiring buildings or facilities, or acquiring
17 equipment, for dairy manufacturing, including the following, if used exclusively for

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1 dairy manufacturing and if acquired and placed in service in this state during
2 taxable years that begin after December 31, 2006, and before January 1, 2015, or, in
3 the case of dairy cooperatives, if acquired and placed in service in this state during
4 taxable years that begin after December 31, 2008, and before January 1, 2017:

5 **SECTION 5.** 71.07 (3p) (b) of the statutes, as created by 2007 Wisconsin Act 20,
6 is amended to read:

7 71.07 **(3p)** (b) *Filing claims.* Subject to the limitations provided in this
8 subsection and s. 560.207, except as provided in par. (c) 5., for taxable years
9 beginning after December 31, 2006, and before January 1, 2015, a claimant may
10 claim as a credit against the taxes imposed under s. 71.02 or 71.08, up to the amount
11 of the tax, an amount equal to 10 percent of the amount the claimant paid in the
12 taxable year for dairy manufacturing modernization or expansion related to the
13 claimant's dairy manufacturing operation.

14 **SECTION 6.** 71.07 (3p) (c) 2m. b. of the statutes, as created by 2007 Wisconsin
15 Act 20, is amended to read:

16 71.07 **(3p)** (c) 2m. b. The maximum amount of the credits that may be claimed
17 by all claimants, other than members of dairy cooperatives, under this subsection
18 and ss. 71.28 (3p) and 71.47 (3p) in fiscal year 2008-09, and in each fiscal year
19 thereafter, is \$700,000, as allocated under s. 560.207.

20 **SECTION 7.** 71.07 (3p) (c) 2m. bm. of the statutes is created to read:

21 71.07 **(3p)** (c) 2m. bm. The maximum amount of the credits that may be claimed
22 by members of dairy cooperatives under this subsection and ss. 71.28 (3p) and 71.47
23 (3p) in fiscal year 2009-10 is \$600,000, as allocated under s. 560.207, and the
24 maximum amount of the credits that may be claimed by members of dairy
25 cooperatives under this subsection and ss. 71.28 (3p) and 71.47 (3p) in fiscal year

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1 2010-11, and in each fiscal year thereafter, is \$700,000, as allocated under s.
2 560.207.

3 **SECTION 8.** 71.07 (3p) (c) 3. of the statutes, as created by 2007 Wisconsin Act
4 20, is amended to read:

5 71.07 **(3p)** (c) 3. Partnerships, limited liability companies, and tax-option
6 corporations, and dairy cooperatives may not claim the credit under this subsection,
7 but the eligibility for, and the amount of, the credit are based on their payment of
8 expenses under par. (b), except that the aggregate amount of credits that the entity
9 may compute shall not exceed \$200,000 for each of the entity's dairy manufacturing
10 facilities. A partnership, limited liability company, ~~or~~ tax-option corporation, or
11 dairy cooperative shall compute the amount of credit that each of its partners,
12 members, or shareholders may claim and shall provide that information to each of
13 them. Partners, members of limited liability companies, and shareholders of
14 tax-option corporations may claim the credit in proportion to their ownership
15 interest. Members of a dairy cooperative may claim the credit in proportion to the
16 amount of milk that each member delivers to the dairy cooperative, as determined
17 by the dairy cooperative.

18 **SECTION 9.** 71.07 (3p) (c) 5. of the statutes is created to read:

19 71.07 **(3p)** (c) 5. A claimant who is a member of a dairy cooperative may claim
20 the credit, based on amounts described under par. (b) that are paid by the dairy
21 cooperative, for taxable years beginning after December 31, 2008, and before
22 January 1, 2017.

23 **SECTION 10.** 71.07 (3p) (d) 2. of the statutes, as created by 2007 Wisconsin Act
24 20, is amended to read:

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1 71.07 (3p) (d) 2. If Except as provided in subd. 3., if the allowable amount of
2 the claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08 ~~or no~~
3 ~~tax is due under s. 71.02 or 71.08~~, the amount of the claim not used to offset the tax
4 due shall be certified by the department of revenue to the department of
5 administration for payment by check, share draft, or other draft drawn from the
6 appropriation account under s. 20.835 (2) (bn).

7 **SECTION 11.** 71.07 (3p) (d) 3. of the statutes is created to read:

8 71.07 (3p) (d) 3. With regard to claims that are based on amounts described
9 under par. (b) that are paid by a dairy cooperative, if the allowable amount of the
10 claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08, the
11 amount of the claim not used to offset the tax due shall be certified by the department
12 of revenue to the department of administration for payment by check, share draft,
13 or other draft drawn from the appropriation account under s. 20.835 (2) (bp).

14 **SECTION 12.** 71.28 (3p) (a) 1m. of the statutes is created to read:

15 71.28 (3p) (a) 1m. “Dairy cooperative” means a business organized under ch.
16 185 or 193 for the purpose of obtaining or processing milk.

17 **SECTION 13.** 71.28 (3p) (a) 3. (intro.) of the statutes, as created by 2007
18 Wisconsin Act 20, is amended to read:

19 71.28 (3p) (a) 3. (intro.) “Dairy manufacturing modernization or expansion”
20 means constructing, improving, or acquiring buildings or facilities, or acquiring
21 equipment, for dairy manufacturing, including the following, if used exclusively for
22 dairy manufacturing and if acquired and placed in service in this state during
23 taxable years that begin after December 31, 2006, and before January 1, 2015, or, in
24 the case of dairy cooperatives, if acquired and placed in service in this state during
25 taxable years that begin after December 31, 2008, and before January 1, 2017:

SENATE BILL 459**SECTION 14**

1 **SECTION 14.** 71.28 (3p) (b) of the statutes, as created by 2007 Wisconsin Act 20,
2 is amended to read:

3 71.28 **(3p)** (b) *Filing claims.* Subject to the limitations provided in this
4 subsection and s. 560.207, except as provided in par. (c) 5., for taxable years
5 beginning after December 31, 2006, and before January 1, 2015, a claimant may
6 claim as a credit against the taxes imposed under s. 71.23, up to the amount of the
7 tax, an amount equal to 10 percent of the amount the claimant paid in the taxable
8 year for dairy manufacturing modernization or expansion related to the claimant's
9 dairy manufacturing operation.

10 **SECTION 15.** 71.28 (3p) (c) 2m. b. of the statutes, as created by 2007 Wisconsin
11 Act 20, is amended to read:

12 71.28 **(3p)** (c) 2m. b. The maximum amount of the credits that may be claimed
13 by all claimants, other than members of dairy cooperatives, under this subsection
14 and ss. 71.07 (3p) and 71.47 (3p) in fiscal year 2008-09, and in each fiscal year
15 thereafter, is \$700,000, as allocated under s. 560.207.

16 **SECTION 16.** 71.28 (3p) (c) 2m. bm. of the statutes is created to read:

17 71.28 **(3p)** (c) 2m. bm. The maximum amount of the credits that may be claimed
18 by members of dairy cooperatives under this subsection and ss. 71.07 (3p) and 71.47
19 (3p) in fiscal year 2009-10 is \$600,000, as allocated under s. 560.207, and the
20 maximum amount of the credits that may be claimed by members of dairy
21 cooperatives under this subsection and ss. 71.07 (3p) and 71.47 (3p) in fiscal year
22 2010-11, and in each fiscal year thereafter, is \$700,000, as allocated under s.
23 560.207.

24 **SECTION 17.** 71.28 (3p) (c) 3. of the statutes, as created by 2007 Wisconsin Act
25 20, is amended to read:

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1 71.28 (3p) (c) 3. Partnerships, limited liability companies, and tax-option
2 corporations, and dairy cooperatives may not claim the credit under this subsection,
3 but the eligibility for, and the amount of, the credit are based on their payment of
4 expenses under par. (b), except that the aggregate amount of credits that the entity
5 may compute shall not exceed \$200,000 for each of the entity's dairy manufacturing
6 facilities. A partnership, limited liability company, ~~or tax-option corporation, or~~
7 dairy cooperative shall compute the amount of credit that each of its partners,
8 members, or shareholders may claim and shall provide that information to each of
9 them. Partners, members of limited liability companies, and shareholders of
10 tax-option corporations may claim the credit in proportion to their ownership
11 interest. Members of a dairy cooperative may claim the credit in proportion to the
12 amount of milk that each member delivers to the dairy cooperative, as determined
13 by the dairy cooperative.

14 **SECTION 18.** 71.28 (3p) (c) 5. of the statutes is created to read:

15 71.28 (3p) (c) 5. A claimant who is a member of a dairy cooperative may claim
16 the credit, based on amounts described under par. (b) that are paid by the dairy
17 cooperative, for taxable years beginning after December 31, 2008, and before
18 January 1, 2017.

19 **SECTION 19.** 71.28 (3p) (d) 2. of the statutes, as created by 2007 Wisconsin Act
20 20, is amended to read:

21 71.28 (3p) (d) 2. If Except as provided in subd. 3., if the allowable amount of
22 the claim under par. (b) exceeds the tax otherwise due under s. 71.23 ~~or no tax is due~~
23 ~~under s. 71.23~~, the amount of the claim not used to offset the tax due shall be certified
24 by the department of revenue to the department of administration for payment by

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1 check, share draft, or other draft drawn from the appropriation account under s.
2 20.835 (2) (bn).

3 **SECTION 20.** 71.28 (3p) (d) 3. of the statutes is created to read:

4 71.28 (3p) (d) 3. With regard to claims that are based on amounts described
5 under par. (b) that are paid by a dairy cooperative, if the allowable amount of the
6 claim under par. (b) exceeds the tax otherwise due under s. 71.23, the amount of the
7 claim not used to offset the tax due shall be certified by the department of revenue
8 to the department of administration for payment by check, share draft, or other draft
9 drawn from the appropriation account under s. 20.835 (2) (bp).

10 **SECTION 21.** 71.47 (3p) (a) 1m. of the statutes is created to read:

11 71.47 (3p) (a) 1m. “Dairy cooperative” means a business organized under ch.
12 185 or 193 for the purpose of obtaining or processing milk.

13 **SECTION 22.** 71.47 (3p) (a) 3. (intro.) of the statutes, as created by 2007
14 Wisconsin Act 20, is amended to read:

15 71.47 (3p) (a) 3. (intro.) “Dairy manufacturing modernization or expansion”
16 means constructing, improving, or acquiring buildings or facilities, or acquiring
17 equipment, for dairy manufacturing, including the following, if used exclusively for
18 dairy manufacturing and if acquired and placed in service in this state during
19 taxable years that begin after December 31, 2006, and before January 1, 2015, or, in
20 the case of dairy cooperatives, if acquired and placed in service in this state during
21 taxable years that begin after December 31, 2008, and before January 1, 2017:

22 **SECTION 23.** 71.47 (3p) (b) of the statutes, as created by 2007 Wisconsin Act 20,
23 is amended to read:

24 71.47 (3p) (b) *Filing claims.* Subject to the limitations provided in this
25 subsection and s. 560.207, except as provided in par. (c) 5., for taxable years

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1 beginning after December 31, 2006, and before January 1, 2015, a claimant may
2 claim as a credit against the taxes imposed under s. 71.43, up to the amount of the
3 tax, an amount equal to 10 percent of the amount the claimant paid in the taxable
4 year for dairy manufacturing modernization or expansion related to the claimant's
5 dairy manufacturing operation.

6 **SECTION 24.** 71.47 (3p) (c) 2m. b. of the statutes, as created by 2007 Wisconsin
7 Act 20, is amended to read:

8 71.47 (3p) (c) 2m. b. The maximum amount of the credits that may be claimed
9 by all claimants, other than members of dairy cooperatives, under this subsection
10 and ss. 71.07 (3p) and 71.28 (3p) in fiscal year 2008-09, and in each fiscal year
11 thereafter, is \$700,000, as allocated under s. 560.207.

12 **SECTION 25.** 71.47 (3p) (c) 2m. bm. of the statutes is created to read:

13 71.47 (3p) (c) 2m. bm. The maximum amount of the credits that may be claimed
14 by members of dairy cooperatives under this subsection and ss. 71.07 (3p) and 71.28
15 (3p) in fiscal year 2009-10 is \$600,000, as allocated under s. 560.207, and the
16 maximum amount of the credits that may be claimed by members of dairy
17 cooperatives under this subsection and ss. 71.07 (3p) and 71.28 (3p) in fiscal year
18 2010-11, and in each fiscal year thereafter, is \$700,000, as allocated under s.
19 560.207.

20 **SECTION 26.** 71.47 (3p) (c) 3. of the statutes, as created by 2007 Wisconsin Act
21 20, is amended to read:

22 71.47 (3p) (c) 3. Partnerships, limited liability companies, ~~and tax-option~~
23 corporations, and dairy cooperatives may not claim the credit under this subsection,
24 but the eligibility for, and the amount of, the credit are based on their payment of
25 expenses under par. (b), except that the aggregate amount of credits that the entity

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1 may compute shall not exceed \$200,000 for each of the entity's dairy manufacturing
2 facilities. A partnership, limited liability company, ~~or~~ tax-option corporation, or
3 dairy cooperative shall compute the amount of credit that each of its partners,
4 members, or shareholders may claim and shall provide that information to each of
5 them. Partners, members of limited liability companies, and shareholders of
6 tax-option corporations may claim the credit in proportion to their ownership
7 interest. Members of a dairy cooperative may claim the credit in proportion to the
8 amount of milk that each member delivers to the dairy cooperative, as determined
9 by the dairy cooperative.

10 **SECTION 27.** 71.47 (3p) (c) 5. of the statutes is created to read:

11 71.47 (3p) (c) 5. A claimant who is a member of a dairy cooperative may claim
12 the credit, based on amounts described under par. (b) that are paid by the dairy
13 cooperative, for taxable years beginning after December 31, 2008, and before
14 January 1, 2017.

15 **SECTION 28.** 71.47 (3p) (d) 2. of the statutes, as created by 2007 Wisconsin Act
16 20, is amended to read:

17 71.47 (3p) (d) 2. If Except as provided in subd. 3., if the allowable amount of
18 the claim under par. (b) exceeds the tax otherwise due under s. 71.43 ~~or no tax is due~~
19 ~~under s. 71.43~~, the amount of the claim not used to offset the tax due shall be certified
20 by the department of revenue to the department of administration for payment by
21 check, share draft, or other draft drawn from the appropriation account under s.
22 20.835 (2) (bn).

23 **SECTION 29.** 71.47 (3p) (d) 3. of the statutes is created to read:

24 71.47 (3p) (d) 3. With regard to claims that are based on amounts described
25 under par. (b) that are paid by a dairy cooperative, if the allowable amount of the

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1 claim under par. (b) exceeds the tax otherwise due under s. 71.43, the amount of the
2 claim not used to offset the tax due shall be certified by the department of revenue
3 to the department of administration for payment by check, share draft, or other draft
4 drawn from the appropriation account under s. 20.835 (2) (bp).

5 **SECTION 30.** 560.207 (2) of the statutes, as created by 2007 Wisconsin Act 20,
6 is amended to read:

7 560.207 (2) If the department of commerce certifies a taxpayer under sub. (1),
8 the department of commerce shall determine the amount of credits to allocate to that
9 taxpayer. The total amount of dairy manufacturing facility investment credits
10 allocated to taxpayers in fiscal year 2007-08 may not exceed \$600,000 and the total
11 amount of dairy manufacturing facility investment credits allocated to taxpayers
12 who are not members of dairy cooperatives in fiscal year 2008-09, and in each fiscal
13 year thereafter, may not exceed \$700,000. The total amount of dairy manufacturing
14 facility investment credits allocated to taxpayers who are members of dairy
15 cooperatives in fiscal year 2009-10 may not exceed \$600,000 and the total amount
16 of dairy manufacturing facility investment credits allocated to taxpayers who are
17 members of dairy cooperatives in fiscal year 2010-11, and in each fiscal year
18 thereafter, may not exceed \$700,000.

19 (END)