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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Ways and Means...

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INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

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- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (November 2012)

Assembly

Record of Committee Proceedings

Committee on Ways and Means

Assembly Bill 954

Relating to: an income and franchise tax credit for workplace wellness programs and requiring the exercise of rule-making authority.

By Representatives Moulton, Underheim, Vruwink, Ott, Hines, Krawczyk, LeMahieu, Bies, Vos, Kreibich, Honadel and Petrowski; cosponsored by Senators Leibham and Roessler.

January 30, 2006 Referred to Committee on Ways and Means.

February 8, 2006 **PUBLIC HEARING HELD**

Present: (12) Representatives Wood, Nass, Hahn, Jeskewitz, Kerkman, Lothian, Strachota, Pridemore, Ziegelbauer, Toles, Hebl and Fields.

Absent: (1) Representative Berceau.

Appearances For

- Terry Moulton — Representative, Author
- John Lerand — Work Injury Care Center
- Ronald Rutowski — Creation Technologies Wisconsin Inc.
- Scott Alcorn — Standard Process
- Deb Seyler — Wellness Council of Wisconsin
- Donna Owens — Health Solutions & Wellness Council of WI

Appearances Against

- None.

Appearances for Information Only

- None.

Registrations For

- David Barnes — Standard Process
- Jon Bruss — Lob Safety Supply
- Rosemary Curtin — Harley-Davidson Motor Co.
- Bob Garrison — UW Provision Co. Inc.
- Kari Gates — Lob Safety Supply

- Lucy Gilles-Khowri — Dean Health System, St. Mary's Hospital, Wellness Council of WI, National Wellness Institute
- Tim Markus — Lob Safety
- David Massey — Higgins Hemb Insurance Group
- Abigail Nadler — Mortunson Matzelle Meldrom
- Jeff Ranous — American Heart Association
- Amy Richards — Physicians Plus Insurance
- Jeff Schoepke, Madison — WMC

Registrations Against

- None.

February 28, 2006 **EXECUTIVE SESSION HELD**

Present: (13) Representatives Wood, Nass, Hahn, Jeskewitz, Kerkman, Lothian, Strachota, Pridemore, Berceau, Ziegelbauer, Toles, Hebl and Fields.
Absent: (0) None.

Moved by Representative Hahn, seconded by Representative Wood that **Assembly Substitute Amendment 2** be recommended for adoption.

Ayes: (13) Representatives Wood, Nass, Hahn, Jeskewitz, Kerkman, Lothian, Strachota, Pridemore, Berceau, Ziegelbauer, Toles, Hebl and Fields.
Noes: (0) None.

ASSEMBLY SUBSTITUTE AMENDMENT 2 ADOPTION RECOMMENDED, Ayes 13, Noes 0

Moved by Representative Wood, seconded by Representative Hahn that **Assembly Bill 954** be recommended for passage as amended.

Ayes: (8) Representatives Wood, Nass, Hahn, Jeskewitz, Kerkman, Lothian, Strachota and Pridemore.
Noes: (5) Representatives Berceau, Ziegelbauer, Toles, Hebl and Fields.

PASSAGE AS AMENDED RECOMMENDED, Ayes 8, Noes 5

Anthony Blodgett
Committee Clerk

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Jim Doyle
Governor

Michael L. Morgan
Secretary of Revenue

Assembly Ways and Means Committee Hearing, February 8, 2006

AB 954 – Credit for Workplace Wellness Programs (Rep. Moulton)

Description of Current Law and Proposed Change

The bill would create an income and franchise tax credit for amounts spent by employers to provide workplace wellness programs to employees. The credit would be available for three years for an amount equal to the amount paid in the taxable year for the program and would begin with the first year that the claimant provided a workplace wellness program.

A workplace wellness program is a health and fitness program that would include smoking cessation, weight management, stress management, health risk assessments, health screenings, nutrition education, and health and fitness incentive programs. The Department is authorized to further define a workplace wellness program by rule.

The maximum amount of credits that may be claimed is $2 million per taxable year.

Fairness/Tax Equity

- Employers would receive a credit for expenditures to offer workplace wellness programs and facilities to employees that would not be available to private providers of those programs or facilities.

Impact on Economic Development

- The bill may encourage employers to provide programs that encourage healthier lifestyles and wellness of its employees. To the extent that such programs reduce employee absences and health care costs, the credit may just reward business decisions made by employers for economic reasons.

- The bill could negatively impact private providers of the type of services and facilities covered by the credit, such as, fitness centers, weight management and smoking cessation programs. To the extent that these programs would be provided independently by employers who receive a credit for expenditures incurred in offering the programs, it may be difficult for private providers to compete with the employer programs. As a result, it may have a negative impact on economic development.

- The bill would provide an annual cap on the amount of credits that may be claimed in a taxable year. The benefit of an enforceable annual cap is that it limits the fiscal effect of the program. However, if the program does not include criteria for applying the cap, taxpayers cannot be assured of getting the credit. As a result it would not provide incentives for investment in the programs.

- Another alternative may be to provide grants to businesses rather than credits. With a grant, the recipient receives the funds up-front, before the investment is made. In addition, the benefit of the incentive does not depend upon the business having tax liability to offset with the credit.

Administrative Impact/Fiscal Effect

- The estimated fiscal effect of the bill is at least $2 million, the annual cap stated in the bill. However, because the bill does not provide criteria for determining how the annual cap would be allocated, it is unclear how the department would deny claims. As such, the fiscal effect could be significantly higher.

- Some potential methods and issues involved in enforcing a cap include:

  - First-Come-First-Served Approach. With independent corporate and individual income tax systems, it would be difficult to track a cap that applied to both systems. Even if a cap could be identified and maintained in the income tax systems, a first-come-first-served approach would still create problems. If taxpayers could not be assured of a credit, the program would not offer incentive to invest in the programs. Many returns come in on the same day and the credit would be given to returns processed first, which probably isn't a fair approach and may not provide the credit to those intended with the bill. Taxpayers with earlier filings would get the credit. Corporations have fiscal years so that a taxable year cap runs for nearly two years.

  - Allocation Based on Demand. To allocate a limited amount of credit based on demand, taxpayers would have to apply before a particular deadline after which credits would be meted out according to the applications. For the credit to encourage the intended investment, the allocation would have to occur prior to the time the investment is made. This could be viewed as administratively burdensome for taxpayers, which could reduce participation in the program. Some may see the prior allocation of credits as being in conflict with the audit role of the Department.

  - Certification by Another State Agency. With existing credits that have an annual cap, another state agency certifies the businesses for a certain amount of credit.

- Section 71.07(5e)(b) allows the credit to be offset against the taxes imposed under sec. 71.02. However, the order of computation (s. 71.10(4)(gxx)) places the credit after the alternative minimum tax. Section 71.07(5e)(b) should also include a reference to the taxes imposed under s. 71.08. Section 71.08(1) should be amended to include sec. 71.07(5e) in the list of credits not considered when computing minimum tax.

- Subsection (5e)(b) provides that the credit may be claimed in each taxable year for 3 years. It is unclear how this 3-year limitation is to be applied. For example, if in January of 2008 an employer were to begin a smoking cessation program for employees, credits would be claimed for 2008, 2009, and 2010. If the same employer were to start a stress management program in 2011, it is unclear if the sponsor intends the employer to qualify for credit for the new program in three later years.

- It appears that a self-employed businessman or farmer whose spouse is an employee could receive a credit for the purchase of exercise equipment that could be used in the home. It is unclear if this is the sponsor's intent.

February 6, 2006

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