State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0284/~~P1~~ P2
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d-note stage

DOA:.....Weidner, BB0005 - Zone Tax Credit Consolidation

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

in 1/16/09

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do not gen.

1 AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

COMMERCE AND ECONOMIC DEVELOPMENT

ECONOMIC DEVELOPMENT

Consolidation of economic development zone programs

Under current law, the Department of Commerce (Commerce) may designate a portion of the state as a development zone, a development opportunity zone, an enterprise development zone, an agricultural development zone, an enterprise zone, an airport development zone, or a technology zone. Commerce may also certify persons who agree to undertake certain eligible activities in one of the designated zones. Eligible activities include job creation, environmental remediation, and capital investment. Persons who obtain certification are then eligible for tax benefits.

This bill consolidates the development zones, enterprise development zones, agricultural development zones, technology zones, and airport development zones (five development zone programs) into a program that provides tax benefits to persons who enter into a contract with Commerce to undertake eligible activities anywhere in the state. Eligible activities under the bill include all of the following:

1. Job creation projects that result in the creation and maintenance of jobs paying wages and providing benefits at a level approved by Commerce.

2. Projects that involve a significant investment of capital, as defined by Commerce by rule, by the person in new equipment, machinery, real property, or depreciable personal property.

3. Projects that involve significant investments in the training or reeducation of employees, as defined by Commerce by rule, for the purpose of improving the productivity or competitiveness of the business of the person.

4. Projects that will result in the location or retention of a person's corporate headquarters in Wisconsin or that will result in the retention of employees if the person's corporate headquarters are located in Wisconsin.

Commerce may allocate tax benefits under the consolidated program up to the total amount remaining to be allocated under the five development zone programs on the effective date of this bill. Tax benefits are allocated under the bill only after the person has verified to Commerce that the person has met the performance obligations established under the contract.

The value of tax benefits for which a person is eligible under the new tax credit program depends on the number of jobs created by the person, the amount of the capital investment made by the person, the amount of training or reeducation provided to the employees of a person, or the number of jobs retained by the person having its corporate headquarters located in Wisconsin.

Under the bill, Commerce may award additional tax benefits to a person that conducts eligible activities in an economically distressed area or if the eligible activities benefit members of a targeted group. Commerce is required by the bill to develop a methodology for designating an area as an "economically distressed area." The bill defines "member of a targeted group" as a person who resides in an area designated by the federal government as an economic revitalization area, a person who is employed in an unsubsidized job but meets certain eligibility requirements for a Wisconsin Works employment position, a person who is employed in a trial job or in a real work real pay project position, a person who is eligible for child care assistance, a person who is a vocational rehabilitation referral, an economically disadvantaged youth, an economically disadvantaged veteran, a supplemental security income recipient, a general assistance recipient, an economically disadvantaged ex-convict, a dislocated worker, as defined under federal law, or a food stamp recipient, if the person has been certified by a designated local agency.

Audit by the Legislative Audit Bureau

The bill requires the Legislative Audit Bureau to prepare a financial and program evaluation audit of the consolidated economic development tax benefit program created by the bill no later than July 1, 2012.

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.** 13.94 (1) (ms) of the statutes is created to read:

13.94 **(1)** (ms) No later than July 1, 2014, prepare a financial and performance evaluation audit of the economic development tax benefit program under ss. 560.701 to 560.706. The legislative audit bureau shall file a copy of the report of the audit under this paragraph with the distributees specified in par. (b).

SECTION 2. 13.94 (4) (a) 1. of the statutes is amended to read:

13.94 **(4)** (a) 1. Every state department, board, examining board, affiliated credentialing board, commission, independent agency, council or office in the executive branch of state government; all bodies created by the legislature in the legislative or judicial branch of state government; any public body corporate and politic created by the legislature including specifically the Fox River Navigational System Authority, the Lower Fox River Remediation Authority, and the Wisconsin Aerospace Authority, a professional baseball park district, a local professional football stadium district, a local cultural arts district and a long-term care district under s. 46.2895; every Wisconsin works agency under subch. III of ch. 49; every provider of medical assistance under subch. IV of ch. 49; technical college district boards~~; development zones designated under s. 560.71~~; every county department under s. 51.42 or 51.437; every nonprofit corporation or cooperative or unincorporated cooperative association to which moneys are specifically appropriated by state law; and every corporation, institution, association or other organization which receives more than 50% of its annual budget from appropriations made by state law, including subgrantee or subcontractor recipients of such funds.

SECTION 3. 49.149 (4) of the statutes is repealed.

SECTION 4. 71.05 (6) (a) 15. of the statutes is amended to read:

71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3s), (3t), (3w),

(5e), (5f), (5h), (5i), (5j), and (5k) and not passed through by a partnership, limited liability company, or tax-option corporation that has added that amount to the partnership's, company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

SECTION 5. 71.07 (2dy) of the statutes is created to read:

71.07 **(2dy)** ECONOMIC DEVELOPMENT TAX CREDIT. (a) *Definition.* In this subsection, "claimant" means a person who files a claim under this subsection and is certified under s. 560.701 (2) and authorized to claim tax benefits under s. 560.703.

(b) *Filing claims.* Subject to the limitations under this subsection and ss. 560.701 to 560.706, for taxable years beginning after December 31, 2008, a claimant may claim as a credit against the tax imposed under s. 71.02, up to the amount of the tax, the amount authorized for the claimant under s. 560.703.

(c) *Limitations.* 1. No credit may be allowed under this subsection unless the claimant includes with the claimant's return a copy of the claimant's certification under s. 560.701 (2) and a copy of the claimant's notice of eligibility to receive tax benefits under s. 560.703 (3).

2. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their authorization to claim tax benefits under s. 560.703. A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* 1. Except as provided in subd. 2., s. 71.28 (4) (e) and (f), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

2. If a claimant's certification is revoked under s. 560.705, or if a claimant becomes ineligible for tax benefits under s. 560.702, the claimant may not claim credits under this subsection for the taxable year that includes the day on which the certification is revoked; the taxable year that includes the day on which the claimant becomes ineligible for tax benefits; or succeeding taxable years and the claimant may not carry over unused credits from previous years to offset the tax imposed under s. 71.02 for the taxable year that includes the day on which certification is revoked; the taxable year that includes the day on which the claimant becomes ineligible for tax benefits; or succeeding taxable years.

3. Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

SECTION 6. 71.08 (1) (intro.) of the statutes is amended to read:

71.08 **(1)** IMPOSITION. (intro.) If the tax imposed on a natural person, married couple filing jointly, trust, or estate under s. 71.02, not considering the credits under ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2dy), (2fd), (3m), (3n), (3p), (3s), (3t), (3w), (5b), (5d), (5e), (5f), (6), (6e), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (1fd), (2m), (3), (3n), (3t), and (3w), and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (1fd), (2m), (3), (3n), (3t), and (3w), and subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than the tax under this section, there is imposed on that natural person, married couple filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative minimum tax computed as follows:

1 **SECTION 7.** 71.10 (4) (gv) of the statutes is created to read:

2 71.10 **(4)** (gv) Economic development tax credit under s. 71.07 (2dy).

3 **SECTION 8.** 71.21 (4) of the statutes is amended to read:

4 71.21 **(4)** Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
5 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3s), (3t), (3w), (5e), (5f),
6 (5g), (5h), (5i), (5j), and (5k) and passed through to partners shall be added to the
7 partnership's income.

8 **SECTION 9.** 71.26 (2) (a) 4. of the statutes is amended to read:

9 71.26 **(2)** (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
10 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3t), (3w), (5e),
11 (5f), (5g), (5h), (5i), (5j), and (5k) and not passed through by a partnership, limited
12 liability company, or tax-option corporation that has added that amount to the
13 partnership's, limited liability company's, or tax-option corporation's income under
14 s. 71.21 (4) or 71.34 (1k) (g).

15 **SECTION 10.** 71.28 (1dy) of the statutes is created to read:

16 71.28 **(1dy)** ECONOMIC DEVELOPMENT TAX CREDIT. (a) *Definition.* In this
17 subsection, "claimant" means a person who files a claim under this subsection and
18 is certified under s. 560.701 (2) and authorized to claim tax benefits under s. 560.703.

19 (b) *Filing claims.* Subject to the limitations under this subsection and ss.
20 560.701 to 560.706, for taxable years beginning after December 31, 2008, a claimant
21 may claim as a credit against the tax imposed under s. 71.23, up to the amount of the
22 tax, the amount authorized for the claimant under s. 560.703.

23 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the
24 claimant includes with the claimant's return a copy of the claimant's certification

1 under s. 560.701 (2) and a copy of the claimant's notice of eligibility to receive tax
2 benefits under s. 560.703 (3).
3 2. Partnerships, limited liability companies, and tax-option corporations may
4 not claim the credit under this subsection, but the eligibility for, and the amount of,
5 the credit are based on their authorization to claim tax benefits under s. 560.703.
6 A partnership, limited liability company, or tax-option corporation shall compute
7 the amount of credit that each of its partners, members, or shareholders may claim
8 and shall provide that information to each of them. Partners, members of limited
9 liability companies, and shareholders of tax-option corporations may claim the
10 credit in proportion to their ownership interests.
11 (d) *Administration.* 1. Except as provided in subd. 2., sub. (4) (e) and (f), as it
12 applies to the credit under sub. (4), applies to the credit under this subsection.
13 2. If a claimant's certification is revoked under s. 560.705, or if a claimant
14 becomes ineligible for tax benefits under s. 560.702, the claimant may not claim
15 credits under this subsection for the taxable year that includes the day on which the
16 certification is revoked; the taxable year that includes the day on which the claimant
17 becomes ineligible for tax benefits; or succeeding taxable years and the claimant may
18 not carry over unused credits from previous years to offset the tax imposed under s.
19 71.23 for the taxable year that includes the day on which certification is revoked; the
20 taxable year that includes the day on which the claimant becomes ineligible for tax
21 benefits; or succeeding taxable years.
22 3. Subsection (4) (g) and (h), as it applies to the credit under sub. (4), applies
23 to the credit under this subsection.
24 **SECTION 11.** 71.30 (3) (em) of the statutes is renumbered 71.30 (3) (eh).
25 **SECTION 12.** 71.30 (3) (ema) of the statutes is created to read:

71.30 **(3)** (ema) Economic development tax credit under s. 71.28 (1dy).

SECTION 13. 71.30 (3) (emb) of the statutes is renumbered 71.30 (3) (ei).

SECTION 14. 71.30 (3) (en) of the statutes is renumbered 71.30 (3) (ej).

SECTION 15. 71.30 (3) (eo) of the statutes is renumbered 71.30 (3) (ek).

SECTION 16. 71.30 (3) (eom) of the statutes is renumbered 71.30 (3) (eL).

SECTION 17. 71.34 (1k) (g) of the statutes is amended to read:

71.34 **(1k)** (g) An addition shall be made for credits computed by a tax-option corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3), (3g), (3h), (3n), (3p), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), and (5k) and passed through to shareholders.

SECTION 18. 71.45 (2) (a) 10. of the statutes is amended to read:

71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit computed under s. 71.47 (1dd) to ~~(1dx)~~ (1dy), (3h), (3n), (3p), (3w), (5e), (5f), (5g), (5h), (5i), (5j), and (5k) and not passed through by a partnership, limited liability company, or tax-option corporation that has added that amount to the partnership's, limited liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

SECTION 19. 71.47 (1dy) of the statutes is created to read:

71.47 **(1dy)** ECONOMIC DEVELOPMENT TAX CREDIT. (a) *Definition.* In this subsection, "claimant" means a person who files a claim under this subsection and is certified under s. 560.701 (2) and authorized to claim tax benefits under s. 560.703.

(b) *Filing claims.* Subject to the limitations under this subsection and ss. 560.701 to 560.706, for taxable years beginning after December 31, 2008, a claimant may claim as a credit against the tax imposed under s. 71.43, up to the amount of the tax, the amount authorized for the claimant under s. 560.703.

1 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the
2 claimant includes with the claimant's return a copy of the claimant's certification
3 under s. 560.701 (2) and a copy of the claimant's notice of eligibility to receive tax
4 benefits under s. 560.703 (3).

5 2. Partnerships, limited liability companies, and tax-option corporations may
6 not claim the credit under this subsection, but the eligibility for, and the amount of,
7 the credit are based on their authorization to claim tax benefits under s. 560.703.
8 A partnership, limited liability company, or tax-option corporation shall compute
9 the amount of credit that each of its partners, members, or shareholders may claim
10 and shall provide that information to each of them. Partners, members of limited
11 liability companies, and shareholders of tax-option corporations may claim the
12 credit in proportion to their ownership interests.

13 (d) *Administration.* 1. Except as provided in subd. 2., sub. (4) (e) and (f), as it
14 applies to the credit under sub. (4), applies to the credit under this subsection.

15 2. If a claimant's certification is revoked under s. 560.705, or if a claimant
16 becomes ineligible for tax benefits under s. 560.702, the claimant may not claim
17 credits under this subsection for the taxable year that includes the day on which the
18 certification is revoked; the taxable year that includes the day on which the claimant
19 becomes ineligible for tax benefits; or succeeding taxable years and the claimant may
20 not carry over unused credits from previous years to offset the tax imposed under s.
21 71.43 for the taxable year that includes the day on which certification is revoked; the
22 taxable year that includes the day on which the claimant becomes ineligible for tax
23 benefits; or succeeding taxable years.

24 3. Subsection (4) (g) and (h), as it applies to the credit under sub. (4), applies
25 to the credit under this subsection.

1 **SECTION 20.** 71.49 (1) (em) of the statutes is renumbered 71.49 (1) (eh).

2 **SECTION 21.** 71.49 (1) (ema) of the statutes is created to read:

3 71.49 **(1)** (ema) Economic development tax credit under s. 71.47 (1dy).

4 **SECTION 22.** 71.49 (1) (emb) of the statutes is renumbered 71.49 (1) (ei).

5 **SECTION 23.** 71.49 (1) (en) of the statutes is renumbered 71.49 (1) (ej).

6 **SECTION 24.** 71.49 (1) (eo) of the statutes is renumbered 71.49 (1) (ek).

7 **SECTION 25.** 71.49 (1) (eom) of the statutes is renumbered 71.49 (1) (eL).

8 **SECTION 26.** 76.637 of the statutes is created to read:

9 **76.637 Economic development credit. (1)** DEFINITION. In this section,
10 "claimant" means an insurer who files a claim under this section and is certified
11 under s. 560.701 (2) and authorized to claim tax benefits under s. 560.703.

12 **(2)** FILING CLAIMS. Subject to the limitations under this section and ss. 560.701
13 to 560.706, for taxable years beginning after December 31, 2008, a claimant may
14 claim as a credit against the fees due under s. 76.60, 76.63, 76.65, 76.66, or 76.67 the
15 amount authorized for the claimant under s. 560.703.

16 **(3)** LIMITATIONS. No credit may be allowed under this section unless the insurer
17 includes with the insurer's annual return under s. 76.64 a copy of the claimant's
18 certification under s. 560.701 (2) and a copy of the claimant's notice of eligibility to
19 receive tax benefits under s. 560.703 (3).

20 **(4)** ADMINISTRATION. If an insurer's certification is revoked under s. 560.705,
21 or if an insurer becomes ineligible for tax benefits under s. 560.702, the insurer may
22 not claim credits under this section for the taxable year that includes the day on
23 which the certification is revoked; the taxable year that includes the day on which
24 the insurer becomes ineligible for tax benefits; or succeeding taxable years and the
25 insurer may not carry over unused credits from previous years to offset the fees

imposed under ss. 76.60, 76.63, 76.65, 76.66, or 76.67 for the taxable year that includes the day on which certification is revoked; the taxable year that includes the day on which the insurer becomes ineligible for tax benefits; or succeeding taxable years.

SECTION 27. 76.67 (2) of the statutes is amended to read:

76.67 **(2)** If any domestic insurer is licensed to transact insurance business in another state, this state may not require similar insurers domiciled in that other state to pay taxes greater in the aggregate than the aggregate amount of taxes that a domestic insurer is required to pay to that other state for the same year less the credits under ss. 76.635, 76.636, and 76.655, except that the amount imposed shall not be less than the total of the amounts due under ss. 76.65 (2) and 601.93 and, if the insurer is subject to s. 76.60, 0.375% of its gross premiums, as calculated under s. 76.62, less offsets allowed under s. 646.51 (7) or under ss. 76.635, 76.636, 76.637, and 76.655 against that total, and except that the amount imposed shall not be less than the amount due under s. 601.93.

SECTION 28. 77.92 (4) of the statutes is amended to read:

77.92 **(4)** "Net business income," with respect to a partnership, means taxable income as calculated under section 703 of the Internal Revenue Code; plus the items of income and gain under section 702 of the Internal Revenue Code, including taxable state and municipal bond interest and excluding nontaxable interest income or dividend income from federal government obligations; minus the items of loss and deduction under section 702 of the Internal Revenue Code, except items that are not deductible under s. 71.21; plus guaranteed payments to partners under section 707 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3s), (3n), (3p), (3t), (3w),

(5e), (5f), (5g), (5h), (5i), (5j), and (5k); and plus or minus, as appropriate, transitional adjustments, depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain, loss, and deductions from farming. "Net business income," with respect to a natural person, estate, or trust, means profit from a trade or business for federal income tax purposes and includes net income derived as an employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

SECTION 29. 234.01 (4n) (a) 3m. e. of the statutes is amended to read:

234.01 **(4n)** (a) 3m. e. The facility is located in a targeted area, as determined by the authority after considering the factors set out in s. 560.605 (2m) (c), 2005 stats., s. 560.605 (2m) (d), 2005 stats., s. 560.605 (2m) (e), 2005 stats., s. 560.605 (2m) (g), 2007 stats., and s. 560.605 (2m) (a), (b), ~~and~~ (f) ~~to~~, and (h).

SECTION 30. 234.03 (2m) of the statutes is amended to read:

234.03 **(2m)** To issue notes and bonds in accordance with ss. 234.08, 234.40, 234.50, 234.60, 234.61, 234.626, ~~234.63,~~ and 234.65.

SECTION 31. 234.03 (11) of the statutes is amended to read:

234.03 **(11)** To collect fees and charges on mortgage loans and economic development loans and airport development loans under s. 234.63 (3), 2007 stats., for the purpose of paying all or a portion of authority costs as the authority determines are reasonable and as approved by the authority.

SECTION 32. 234.08 (1) of the statutes is amended to read:

234.08 **(1)** The authority may issue its negotiable notes and bonds in such principal amount, as, in the opinion of the authority, is necessary to provide sufficient funds for achieving its corporate purposes, including the purchase of certain mortgages and securities and the making of secured loans for low- and

moderate-income housing, for the rehabilitation of existing structures and for the construction of facilities appurtenant thereto as provided in this chapter; for the making of secured loans to assist eligible elderly homeowners in paying property taxes and special assessments; for the payment of interest on notes and bonds of the authority during construction; ~~for the awarding of airport development loans under s. 234.63 (3);~~ for the establishment of reserves to secure such notes and bonds; for the provision of moneys for the housing development fund in order to make temporary loans to sponsors of housing projects as provided in this chapter; and for all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

SECTION 33. 234.265 (2) of the statutes is amended to read:

234.265 **(2)** Records or portions of records consisting of personal or financial information provided by a person seeking a grant or loan under s. 234.63, 2007 stats., or s. 234.04, 234.08, 234.49, 234.59, 234.61, ~~234.63,~~ 234.65, 234.67, 234.83, 234.84, 234.90, 234.905, 234.907, or 234.91, seeking a loan under ss. 234.621 to 234.626, seeking financial assistance under s. 234.66, 2005 stats., seeking investment of funds under s. 234.03 (18m), or in which the authority has invested funds under s. 234.03 (18m), unless the person consents to disclosure of the information.

SECTION 34. 234.40 (4) of the statutes is amended to read:

234.40 **(4)** The limitations established in ss. 234.18, 234.50, 234.60, 234.61, ~~234.63,~~ and 234.65 are not applicable to bonds issued under the authority of this section. The authority may not have outstanding at any one time bonds for veterans housing loans in an aggregate principal amount exceeding $61,945,000, excluding bonds being issued to refund outstanding bonds.

SECTION 35. 234.50 (4) of the statutes is amended to read:

234.50 **(4)** The limitations established in ss. 234.18, 234.40, 234.60, 234.61, ~~234.63,~~ and 234.65 are not applicable to bonds issued under the authority of this section. The authority may not have outstanding at any one time bonds for housing rehabilitation loans in an aggregate principal amount exceeding $100,000,000, excluding bonds being issued to refund outstanding bonds. The authority shall consult with and coordinate the issuance of bonds with the building commission prior to the issuance of bonds.

SECTION 36. 234.60 (2) of the statutes is amended to read:

234.60 **(2)** The limitations in ss. 234.18, 234.40, 234.50, 234.61, ~~234.63,~~ and 234.65 do not apply to bonds or notes issued under this section.

SECTION 37. 234.61 (1) of the statutes is amended to read:

234.61 **(1)** Upon the authorization of the department of health services, the authority may issue bonds or notes and make loans for the financing of housing projects which are residential facilities as defined in s. 46.28 (1) (d) and the development costs of those housing projects, if the department of health services has approved the residential facilities for financing under s. 46.28 (2). The limitations in ss. 234.18, 234.40, 234.50, 234.60, ~~234.63,~~ and 234.65 do not apply to bonds or notes issued under this section. The definition of "nonprofit corporation" in s. 234.01 (9) does not apply to this section.

SECTION 38. 234.63 of the statutes is repealed.

SECTION 39. 560.605 (2m) (g) of the statutes is repealed.

SECTION 40. 560.605 (7) (e) of the statutes is repealed.

SECTION 41. Subchapter VI (title) of chapter 560 [precedes s. 560.70] of the statutes is repealed and recreated to read:

CHAPTER 560

SUBCHAPTER VI

TAX INCENTIVES FOR BUSINESS

DEVELOPMENT IN WISCONSIN

SECTION 42. 560.70 (2g) of the statutes is created to read:

560.70 **(2g)** "Eligible activity" means an activity described under s. 560.702.

SECTION 43. 560.70 (2m) of the statutes is renumbered 560.70 (2m) (a) and amended to read:

560.70 **(2m)** (a) ~~"Full~~ Except as provided in par. (b), "full-time job" means a regular, nonseasonal full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays, and for which the individual receives pay that is equal to at least 150% of the federal minimum wage and benefits that are not required by federal or state law. "Full-time job" does not include initial training before an employment position begins.

SECTION 44. 560.70 (2m) (b) of the statutes is created to read:

560.70 **(2m)** (b) The department may by rule specify circumstances under which the department may grant exceptions to the requirement under par. (a) that a full-time job means a job in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, but under no circumstances may a full-time job mean a job in which an individual, as a condition of employment, is required to work less than 37.5 hours per week.

SECTION 45. 560.70 (4m) of the statutes is created to read:

560.70 **(4m)** "Member of a targeted group" means a person who resides in an area designated by the federal government as an economic revitalization area, a person who is employed in an unsubsidized job but meets the eligibility requirements

1 under s. 49.145 (2) and (3) for a Wisconsin Works employment position, a person who
2 is employed in a trial job, as defined in s. 49.141 (1) (n), or in a real work, real pay
3 project position under s. 49.147 (3m), a person who is eligible for child care assistance
4 under s. 49.155, a person who is a vocational rehabilitation referral, an economically
5 disadvantaged youth, an economically disadvantaged veteran, a supplemental
6 security income recipient, a general assistance recipient, an economically
7 disadvantaged ex-convict, a dislocated worker, as defined in 29 USC 2801 (9), or a
8 food stamp recipient, if the person has been certified in the manner under 26 USC
9 51 (d) (13) (A) by a designated local agency, as defined in 26 USC 51 (d) (12).

10 **SECTION 46.** 560.70 (7) (a) of the statutes is amended to read:

11 560.70 **(7)** (a) Except as provided in pars. (b) ~~and~~, (c), and (d), "tax benefits"
12 means the development zones credit under ss. 71.07 (2dx), 71.28 (1dx), 71.47 (1dx),
13 and 76.636.

14 **SECTION 47.** 560.70 (7) (d) of the statutes is created to read:

15 560.70 **(7)** (d) In ss. 560.701 to 560.706, "tax benefits" means the economic
16 development tax credit under ss. 71.07 (2dy), 71.28 (1dy), 71.47 (1dy), and 76.637.

17 **SECTION 48.** 560.701 of the statutes is created to read:

18 **560.701 Certification for tax benefits. (1)** APPLICATION. Any person may
19 apply to the department on a form prepared by the department for certification under
20 this section. The application shall include all of the following:

21 (a) The name and address of the person.

22 (b) The federal tax identification number of the person.

23 (c) The names and addresses of the locations where the person conducts
24 business and a description of the business activities conducted at those locations.

1 (d) A description of each eligible activity conducted or proposed to be conducted
2 by the person.
3 (e) Other information required by the department or the department of
4 revenue.
5 **(2)** CERTIFICATION. (a) The department may certify a person who submits an
6 application under sub. (1) if, after conducting an investigation, the department
7 determines that the person is conducting or intends to conduct at least one eligible
8 activity.
9 (b) The department shall provide a person certified under this section and the
10 department of revenue with a copy of the certification.
11 **(3)** CONTRACT. A person certified under this section shall enter into a written
12 contract with the department. The contract shall include provisions that detail all
13 of the following:
14 (a) A description of each eligible activity being conducted or proposed to be
15 conducted by the person.
16 (b) Whether any of the eligible activities will occur in an economically
17 distressed area, as designated by the department under s. 560.704 (1).
18 (c) Whether any of the eligible activities will benefit members of a targeted
19 group, as determined by the department under s. 560.704 (2).
20 (d) A compliance schedule that includes a sequence of anticipated actions to be
21 taken or goals to be achieved by the person before the person may receive tax benefits
22 under s. 560.703.
23 (e) The reporting requirements with which the person must comply.
24 (f) If feasible, a determination of the tax benefits the person will be authorized
25 to claim under s. 560.703 (2) if the person fulfills the terms of the contract.

1 **SECTION 49.** 560.702 of the statutes is created to read:

2 **560.702 Eligible activities.** A person who conducts or proposes to conduct
3 any of the following may be certified under s. 560.701 (2):

4 **(1)** JOB CREATION PROJECT. A project that creates and maintains for a period of
5 time established by the department by rule full-time jobs in addition to any existing
6 full-time jobs provided by the person.

7 **(2)** CAPITAL INVESTMENT PROJECT. A project that involves a significant
8 investment of capital, as defined by the department by rule under s. 560.706 (2) (b),
9 by the person in new equipment, machinery, real property, or depreciable personal
10 property.

11 **(3)** EMPLOYEE TRAINING PROJECT. A project that involves significant investments
12 in the training or reeducation of employees, as defined by the department by rule
13 under s. 560.706 (2) (c), by the person for the purpose of improving the productivity
14 or competitiveness of the business of the person.

15 **(4)** PROJECT RELATED TO PERSONS WITH CORPORATE HEADQUARTERS IN WISCONSIN.
16 A project that will result in the location or retention of a person's corporate
17 headquarters in Wisconsin or that will result in the retention of employees holding
18 full-time jobs in Wisconsin if the person's corporate headquarters are located in
19 Wisconsin.

20 **SECTION 50.** 560.703 of the statutes is created to read:

21 **560.703 Limits on tax benefits and claiming tax benefits. (1)** LIMITS. (a)
22 Except as provided in par. (b), the total tax benefits available to be allocated by the
23 department under ss. 560.701 to 560.706 may not exceed the sum of the tax benefits
24 remaining to be allocated under ss. 560.71 to 560.785, 560.797, 560.798, 560.7995,
25 and 560.96 on the effective date of this paragraph .... [LRB inserts date].

1 (b) The department may submit to the joint committee on finance a request in
2 writing to exceed the total tax benefits specified in par. (a). The department shall
3 submit with its request a justification for seeking an increase under this paragraph.
4 The joint committee on finance, following its review, may approve or disapprove an
5 increase in the total tax benefits available to be allocated under ss. 560.701 to
6 560.706.

7 **(2)** AUTHORITY TO CLAIM TAX BENEFITS. The department may authorize a person
8 certified under s. 560.701 (2) to claim tax benefits only after the person has submitted
9 a report to the department that documents to the satisfaction of the department that
10 the person has complied with the terms of the contract under s. 560.701 (3) and the
11 requirements of any applicable rules promulgated under s. 560.706 (2).

12 **(3)** NOTICE OF ELIGIBILITY. The department shall provide to the person and to
13 the department of revenue a notice of eligibility to receive tax benefits that reports
14 the amount of tax benefits for which the person is eligible.

15 **SECTION 51.** 560.704 of the statutes is created to read:

16 **560.704 Eligible activities in economically distressed areas and**
17 **benefiting members of targeted groups.** The department may authorize a
18 person certified under s. 560.701 (2) to claim additional tax benefits under s. 560.703
19 if, after conducting an investigation, the department determines any of the
20 following:

21 **(1)** The person conducts at least one eligible activity in an area designated by
22 the department as economically distressed. In designating an area as economically
23 distressed under this subsection, the department shall follow the methodology
24 established by rule under s. 560.706 (2) (e).

1 **(2)** The person conducts at least one eligible activity that benefits, creates,
2 retains, or significantly upgrades full-time jobs for, that trains, or that reeducates,
3 members of a targeted group.

4 **SECTION 52.** 560.705 of the statutes is created to read:

5 **560.705 Revocation of certification.** The department shall revoke the
6 certification of a person who does any of the following:

7 **(1)** Supplies false or misleading information to obtain certification under s.
8 560.701 (2).

9 **(2)** Supplies false or misleading information to obtain tax benefits under s.
10 560.703.

11 **(3)** Leaves the state to conduct substantially the same business outside of the
12 state.

13 **(4)** Ceases operations in the state and does not renew operation of the business
14 or a similar business within 12 months.

15 **SECTION 53.** 560.706 of the statutes is created to read:

16 **560.706 Responsibilities of the department.** The department shall do all
17 of the following:

18 **(1)** ACCOUNTABILITY. (a) Annually verify information submitted to the
19 department of revenue under ss. 71.07 (2dy), 71.28 (1dy), 71.47 (1dy), and 76.637 by
20 persons certified under s. 560.701 (2) and eligible to receive tax benefits under s.
21 560.703.

22 (b) Notify and obtain written approval from the secretary for any certification
23 under sub. (2) (j).

24 **(2)** RULES. Establish by rule all of the following:

1 (a) A schedule of hourly wage ranges to be paid, and health insurance benefits
2 to be provided, to an employee by a person certified under s. 560.701 (2) and the
3 corresponding per employee tax benefit for which a person certified under s. 560.701
4 (2) may be eligible.

5 (b) A definition of "significant investment of capital" for purposes of s. 560.702
6 (2), together with a corresponding schedule of tax benefits for which a person who is
7 certified under s. 560.701 (2) and who conducts a project described in s. 560.702 (2)
8 may be eligible. The department shall include in the definition required under this
9 paragraph a schedule of investments that takes into consideration the size or nature
10 of the business.

11 (c) A definition of "significant investments in the training or reeducation of
12 employees" for purposes of s. 560.702 (3), together with a corresponding schedule of
13 tax benefits for which a person who is certified under s. 560.701 (2) and who conducts
14 a project under s. 560.702 (3) may be eligible.

15 (d) A schedule of tax benefits for which a person who is certified under s.
16 560.701 (2) and who conducts a project that will result in the location or retention
17 of a person's corporate headquarters in Wisconsin may be eligible.

18 (e) The methodology for designating an area as economically distressed under
19 s. 560.704 (1). The methodology under this paragraph shall require the department
20 to consider the most current data available for the area and for the state on the
21 following indicators:

22 1. Unemployment rate.

23 2. Percentage of families with incomes below the poverty line established under
24 42 USC 9902 (2).

25 3. Median family income.

1 4. Median per capita income.

2 5. Average annual wage.

3 6. Real property values.

4 7. Other significant or irregular indicators of economic distress, such as a
5 natural disaster.

6 (f) A schedule of additional tax benefits for which a person who is certified
7 under s. 560.701 (2) and who conducts an eligible activity described under s. 560.704
8 may be eligible.

9 (g) Reporting requirements, minimum benchmarks, and outcomes expected of
10 a person certified under s. 560.701 (2) before that person may receive tax benefits
11 under s. 560.703.

12 (h) Policies, criteria, and methodology for allocating a portion of the tax benefits
13 available under s. 560.703 to rural areas.

14 (i) Policies, criteria, and methodology for allocating a portion of the tax benefits
15 available under s. 560.703 to small businesses.

16 (j) Policies and criteria for certifying a person who may be eligible for tax
17 benefits greater than or equal to $3,000,000.

18 (k) Procedures for implementing ss. 560.701 to 560.706.

19 **(3)** REPORTING. Annually, 6 months after the report has been submitted under
20 s. 560.01 (2) (am), submit to the joint legislative audit committee and to the
21 appropriate standing committees of the legislature under s. 13.172 (3) a
22 comprehensive report assessing the program under ss. 560.701 to 560.706. The
23 report under this subsection shall update the applicable information provided in the
24 report under s. 560.01 (2) (am).

25 **SECTION 54.** 560.71 (4) of the statutes is created to read:

1 560.71 **(4)** No development zone may be designated under this section after the
2 effective date of this subsection .... [LRB inserts date].

3 **SECTION 55.** 560.737 (4) of the statutes is created to read:

4 560.737 **(4)** No premises of a business incubator may be designated as part of
5 a development zone under this section after the effective date of this subsection ....
6 [LRB inserts date].

7 **SECTION 56.** 560.74 (1) of the statutes is amended to read:

8 560.74 **(1)** ~~At~~ Except as provided under sub. (6), at any time after a
9 development zone is designated by the department, a local governing body may
10 submit an application to change the boundaries of the development zone. If the
11 boundary change reduces the size of a development zone, the local governing body
12 shall explain why the area excluded should no longer be in a development zone. The
13 department may require the local governing body to submit additional information.

14 **SECTION 57.** 560.74 (6) of the statutes is created to read:

15 560.74 **(6)** The department may not accept any applications under sub. (1) to
16 change the boundaries of a development zone designated under s. 560.71 on or after
17 the effective date of this subsection .... [LRB inserts date].

18 **SECTION 58.** 560.745 (1) (b) of the statutes is amended to read:

19 560.745 **(1)** (b) The local governing body may apply to the department for one
20 60-month extension of the designation. The department shall promulgate rules
21 establishing criteria for approving an extension of a designation of an area as a
22 development zone under this subsection. No applications may be accepted by the
23 department under this paragraph on or after the effective date of this paragraph ....
24 [LRB inserts date].

25 **SECTION 59.** 560.745 (2) (am) of the statutes is amended to read:

560.745 **(2)** (am) Notwithstanding par. (a), the department may increase the established limit for tax benefits for a development zone. The department may not increase the limit for tax benefits established for any development zone designated under s. 560.71 on or after the effective date of this paragraph .... [LRB inserts date].

SECTION 60. 560.78 (1m) of the statutes is created to read:

560.78 **(1m)** No person may be certified under s. 560.765 (3) on or after the effective date of this subsection .... [LRB inserts date].

SECTION 61. 560.78 (3) (a) of the statutes is amended to read:

560.78 **(3)** (a) Except as provided in ~~par.~~ pars. (b) and (c), if the economic activity for which a person is seeking certification under s. 560.765 (3) is the relocation of a business into a development zone from a location that is outside the development zone but within the limits of a city, village, town or federally recognized American Indian reservation in which that development zone is located, the local governing body that nominated that area as a development zone under s. 560.72 shall determine whether sub. (2) (a) or (b) applies.

SECTION 62. 560.78 (3) (c) of the statutes is created to read:

560.78 **(3)** (c) No local governing body may make any determination under this subsection on or after the effective date of this paragraph .... [LRB inserts date].

SECTION 63. 560.785 (1) (intro.) of the statutes is amended to read:

560.785 **(1)** (intro.) For the development zone program under ss. 560.70 and 560.71 to 560.78, the development opportunity zone program under s. 560.795 and the enterprise development zone program under s. 560.797, the department shall promulgate rules that further define a person's eligibility for tax benefits. The rules shall do at least all of the following:

SECTION 64. 560.797 (2) (a) (intro.) of the statutes is amended to read:

1 560.797 **(2)** (a) (intro.) Subject to pars. (c) ~~and~~, (d), and (e), the department may
2 designate an area as an enterprise development zone for a project if the department
3 determines all of the following:

4 **SECTION 65.** 560.797 (2) (bg) (intro.) of the statutes is amended to read:

5 560.797 **(2)** (bg) (intro.) Notwithstanding par. (a) and subject to pars. (c) ~~and~~,
6 (d), and (e), the department may designate an area as an enterprise development
7 zone for a project if the department determines all of the following:

8 **SECTION 66.** 560.797 (2) (e) of the statutes is created to read:

9 560.797 **(2)** (e) The department may not designate any area as an enterprise
10 development zone on or after the effective date of this paragraph .... [LRB inserts
11 date].

12 **SECTION 67.** 560.797 (3) (c) of the statutes is created to read:

13 560.797 **(3)** (c) The department may not accept or approve any applications or
14 project plans submitted under par. (a) on or after the effective date of this paragraph
15 .... [LRB inserts date].

16 **SECTION 68.** 560.797 (4) (a) of the statutes is amended to read:

17 560.797 **(4)** (a) ~~If~~ Except as provided in par. (h), if the department approves a
18 project plan under sub. (3) and designates the area in which the person submitting
19 the project plan conducts or intends to conduct the project as an enterprise
20 development zone under the criteria under sub. (2), the department shall certify the
21 person as eligible for tax benefits.

22 **SECTION 69.** 560.797 (4) (h) of the statutes is created to read:

23 560.797 **(4)** (h) No person may be certified under this subsection on or after the
24 effective date of this paragraph .... [LRB inserts date].

25 **SECTION 70.** 560.798 (2) (a) of the statutes is amended to read:

560.798 **(2)** (a) ~~The~~ Except as provided under par. (c), the department may designate one area in the state as an agricultural development zone. The area must be located in a rural municipality. An agricultural business that is located in an agricultural development zone and that is certified by the department under sub. (3) is eligible for tax benefits as provided in sub. (3).

SECTION 71. 560.798 (2) (c) of the statutes is created to read:

560.798 **(2)** (c) No area may be designated as an agricultural development zone on or after the effective date of this paragraph .... [LRB inserts date].

SECTION 72. 560.798 (3) (a) of the statutes is amended to read:

560.798 **(3)** (a) ~~The~~ Except as provided under par. (c), the department may certify for tax benefits in an agricultural development zone a new or expanding agricultural business that is located in the agricultural development zone. In determining whether to certify a business under this subsection, the department shall consider, among other things, the number of jobs that will be created or retained by the business.

SECTION 73. 560.798 (3) (c) of the statutes is created to read:

560.798 **(3)** (c) No business may be certified under this subsection on or after the effective date of this paragraph .... [LRB inserts date].

SECTION 74. 560.7995 (2) (a) (intro.) of the statutes is amended to read:

560.7995 **(2)** (a) (intro.) Subject to ~~par.~~ pars. (c) and (e), the department may designate an area as an airport development zone if the department determines all of the following:

SECTION 75. 560.7995 (2) (d) of the statutes is amended to read:

560.7995 **(2)** (d) Notwithstanding pars. (a) to (c), and except as provided in par. (e), the department shall designate as an airport development zone the area within

the boundaries of Adams, Fond du Lac, Green Lake, Juneau, Langlade, Lincoln, Marathon, Marquette, Menominee, Oneida, Portage, Price, Shawano, Taylor, Waupaca, Waushara, Winnebago, Wood, and Vilas counties.

SECTION 76. 560.7995 (2) (e) of the statutes is created to read:

560.7995 **(2)** (e) No area may be designated as an airport development zone under this subsection on or after the effective date of this paragraph .... [LRB inserts date].

SECTION 77. 560.7995 (4) (ar) of the statutes is created to read:

560.7995 **(4)** (ar) The department may not accept or approve any applications or business plans submitted under par. (a) on or after the effective date of this paragraph .... [LRB inserts date].

SECTION 78. 560.7995 (4) (b) of the statutes is renumbered 560.7995 (4) (b) 1. and amended to read:

560.7995 **(4)** (b) 1. ~~If~~ Except as provided in subd. 2., if the department approves a business plan under par. (a) or (am), the department shall certify the person as eligible for tax benefits. The department shall notify the department of revenue within 30 days of certifying a person under this paragraph.

SECTION 79. 560.7995 (4) (b) 2. of the statutes is created to read:

560.7995 **(4)** (b) 2. No person may be certified under this paragraph on or after the effective date of this subdivision .... [LRB inserts date].

SECTION 80. 560.84 (2) (c) 2. of the statutes is amended to read:

560.84 **(2)** (c) 2. A ~~development zone designated under s. 560.71, a~~ development opportunity zone designated under s. 560.795 ~~or an enterprise development zone designated under s. 560.797~~.

SECTION 81. 560.96 (2) (a) of the statutes is amended to read:

560.96 **(2)** (a) ~~The~~ Except as provided in par. (c), the department may designate up to 8 areas in the state as technology zones. A business that is located in a technology zone and that is certified by the department under sub. (3) is eligible for a tax credit as provided in sub. (3).

SECTION 82. 560.96 (2) (c) of the statutes is created to read:

560.96 **(2)** (c) No area may be designated as a technology zone under this subsection on or after the effective date of this paragraph .... [LRB inserts date].

SECTION 83. 560.96 (3) (a) (intro.) of the statutes is amended to read:

560.96 **(3)** (a) (intro.) ~~The~~ Except as provided in par. (e), the department may certify for tax credits in a technology zone a business that satisfies all of the following requirements:

SECTION 84. 560.96 (3) (e) of the statutes is created to read:

560.96 **(3)** (e) No business may be certified under this subsection on or after the effective date of this paragraph .... [LRB inserts date].

SECTION 9110. Nonstatutory provisions; Commerce.

(CS DEVELOPMENT ZONE TAX BENEFIT CONSOLIDATION)

(1) EMERGENCY RULES. The department of commerce may use the procedure under section 227.24 of the statutes to promulgate rules under section 560.706 (2) of the statutes, as created by this act. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this subsection remain in effect until July 1, 2010, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

(CS) DEVELOPMENT ZONE TAX BENEFIT CONSOLIDATION
ECONOMIC IMPACT REPORT

(2) Notwithstanding sections 227.137 (2) and 227.138 (2) of the statutes, if the secretary of administration requires the department of commerce to prepare an economic impact report for the rules required under section 560.706 (2) of the statutes, as created by this act, the department may submit the proposed rules to the legislature for review under section 227.19 (2) of the statutes before the department completes the economic impact report and before the department receives a copy of the report and approval under section 227.138 (2) of the statutes.

SECTION 9410. Effective date; commerce.

(1) This act takes effect on July 1, 2009, or on the day after publication, whichever is later.

(END)

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0284/P2dn
TKK:...:...
bjk

Date

Jenna:

This redraft eliminates the effective date provision and provides titles for the initial applicability provisions.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0284/P2dn
TKK:bjk:md

January 16, 2009

Jenna:

This redraft eliminates the effective date provision and provides titles for the initial applicability provisions.

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