

2011 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB107)

Received: 08/24/2011

Received By: jkreye

Wanted: As time permits

Companion to LRB:

For: Warren Petryk (608) 266-0660

By/Representing:

May Contact:

Drafter: jkreye

Subject: Tax, Business - credits

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Petryk@legis.wi.gov

Carbon copy (CC:) to: joseph.kreye@legis.wisconsin.gov
anna.henning@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Small business expansion credit

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/P1	jkreye 08/29/2011 fknepp 08/31/2011	csicilia 09/07/2011	phenry 09/07/2011	_____ _____ _____	lparisi 09/07/2011		
/1	jkreye 09/09/2011	csicilia 09/09/2011	jfrantze 09/09/2011	_____ _____	sbasford 09/09/2011	sbasford 09/09/2011	

FE Sent For:

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09-23-2011
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"Special
Supplemental"
FE

See
attached

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/P1	jkreye 08/29/2011 fknepp 08/31/2011	csicilia 09/07/2011	phenry 09/07/2011	_____	lparisi 09/07/2011		

FE Sent For:

Handwritten signatures and initials:
Tjs 9/9
II
ala
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<END>

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Kreye, Joseph

From: Henning, Anna
Sent: Monday, August 22, 2011 2:16 PM
To: Kreye, Joseph
Subject: AB 107 sub

Joe,

The following are drafting instructions for a preliminary substitute amendment to Assembly Bill 107 requested by Representative Petryk and Senator Wanggaard:

- ✓ • Restructure the tax credit created under the bill from a property tax credit to an income tax credit.
- ✓ • Amend the title of the program and eligibility requirements to create a focus on small business expansion – e.g., change the name of the credit to the “Small business expansion credit.”
- ✓ • Add a definitions section. Define the term “small business” to mean “a business entity, including its affiliates, which is independently owned and operated and not dominant in its field, and which employs 25 or fewer full-time employees or which has gross annual sales of less than \$5,000,000.” Define the term “full-time job” to mean “a regular, nonseasonal full-time position in which an individual, as condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays.”
- Authorize WEDC to certify small businesses to obtain the credit and require businesses to obtain certification from WEDC in order to obtain the credit.
- ✓ • Modify the credit to apply only to *taxable* real and personal property.
- ✓ • Structure the credit as a nonrefundable income or franchise tax credit that may be carried forward for 15 years.
- ✓ • Adjust the calculation of the credit as follows: make the credit equal to 1% of the actual cost of improvements to real property and acquisitions of personal property made by a small business, provided that the improvements and acquisitions are made as part of a business expansion.
- ✓ • Provide that a business shall be eligible to obtain a percentage of the credit based on an increase in the number of full-time employees in the current year versus the previous tax year. Model the number of additional employees and the corresponding percentage of credit on those provided in LRB-1915/1 – e.g., 20% for one additional employee; 40% for two additional employees, etc.
- ✓ • As in the bill, allow the credit to be claimed in two subsequent years. Base the amount of the credit in the second year on the costs of improvements and acquisitions in the first year.
- Provide that WEDC may certify the credit for the second year only if the business retained the jobs required for the initial credit. However, provide that the percentage of the credit will increase if new employees are added. For example, if, in the first year, a business receives 60% of the credit because it has added three new employees, but in the second year the

admin rules
definitions?
see ch 227 &
415

a 1450/1

in this stat

certification
like the other
econ dev
programs

business adds two new employees (for a total of five), the percentage of the credit awarded in the second year should increase to 100%.

Thanks, and please let me know if you have any questions.

Anna

Anna Henning
Staff Attorney
Wisconsin Legislative Council
(608) 266-0292
anna.henning@legis.wisconsin.gov



State of Wisconsin
2011 - 2012 LEGISLATURE



LRBa1450/1
JK:kjf:jf

ASSEMBLY AMENDMENT ,
TO 2011 ASSEMBLY BILL 107

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 22: after “multiplying” insert “one of the following percentages
3 of”.

4 **2.** Page 3, line 3: delete “at least 10”.

5 **3.** Page 3, line 4: delete “(12).” and substitute “(12):”.

6 **4.** Page 3, line 4: after that line insert:

7 “(a) If the business employs one more employee, 20 percent.

8 (b) If the business employs 2 more employees, 40 percent.

9 (c) If the business employs 3 more employees, 60 percent.

10 (d) If the business employs 4 more employees, 80 percent.

11 (e) If the business employs at least 5 more employees, 100 percent.”.

12 (END)



ys

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2011 ASSEMBLY BILL 107**

SAV
draft

is used 8-31

due used 9-7

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1 AN ACT...; relating to: a small business expansion income and franchise tax
2 credit.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 71.05 (6) (a) 15. of the statutes, as affected by 2011 Wisconsin Act
4 32, is amended to read:

5 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
6 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
7 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), (5n), (5p), (5r), (5rm), and
8 (8r) and not passed through by a partnership, limited liability company, or
9 tax-option corporation that has added that amount to the partnership's, company's,
10 or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237; 1999 a. 9, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109; 2003 a. 85, 99, 119, 135, 183, 255, 289, 321, 326; 2005 a. 22, 25, 216, 254, 335, 361, 479, 483; 2007 a. 20, 96, 226; 2009 a. 2, 28, 205, 265, 269, 276, 295, 332, 344; 2011 a. 3, 5, 10, 32; s. 13.92 (1) (bm) 2.

^

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

71.07 (5p) SMALL BUSINESS EXPANSION CREDIT. (a) Definitions. In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "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 is certified under s. 238.18(2)

3. "Small business" means a business entity, including its affiliates, which is independently owned and operated and not dominant in its field, and which employs 25 or fewer employees who are working full-time jobs or which has gross annual sales of less than \$5,000,000.

has the meaning given in s. 238.18(1)(a)

(b) Filing claims. Subject to the limitations provided in this subsection and s.

~~238.18~~ for taxable years beginning after December 31, 2011, a claimant may claim as a credit against the taxes imposed under s. 71.02, up to the amount of the taxes, an amount equal to the actual cost of improvements to real property and acquisitions of personal property, if such real and personal property is subject to taxation under ch. 70, made by the claimant's small business in the taxable year, multiplied by one of the following, if the improvements and acquisitions are made as part of expanding the claimant's small business in this state and if the claimant's small business employs more employees working full-time jobs in the taxable year than it did in the previous taxable year:

reported to the department under s. 238.18(3)(a)

1. If the small business employs one more employee working a full-time job in the taxable year than it did in the previous taxable year, 0.002.

2. If the small business employs 2 more employees working full-time jobs in the taxable year than it did in the previous taxable year, 0.004.

in

in

1 3. If the small business employs 3 more employees working full-time jobs in
2 the taxable year than it did in the previous taxable year, 0.006.

3 4. If the small business employs 4 more employees working full-time jobs in
4 the taxable year than it did in the previous taxable year, 0.008.

5 5. If the small business employs at least 5 more employees working full-time
6 jobs in the taxable year than it did in the previous taxable year, 0.01.

7 (c) *Limitations.* 1. A claimant may only claim a credit under this subsection
8 for 2 consecutive taxable years. Except as provided in s. ~~XXX.XX~~ the amount that
9 the claimant may claim as a credit under this subsection for the 2nd taxable year is
10 equal to the amount that the claimant claimed as a credit under this subsection for
11 the first taxable year. Insert A

12 2. Partnerships, limited liability companies, and tax-option corporations may
13 not claim the credit under this subsection, but the eligibility for, and the amount of,
14 the credit are based on their payment of amounts under par. (b). A partnership,
15 limited liability company, or tax-option corporation shall compute the amount of
16 credit that each of its partners, members, or shareholders may claim and shall
17 provide that information to each of them. Partners, members of limited liability
18 companies, and shareholders of tax-option corporations may claim the credit in
19 proportion to their ownership interests.

20 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
21 s. 71.28 (4), applies to the credit under this subsection.

22 **SECTION 3.** 71.10 (4) (ct) of the statutes is created to read:

23 71.10 (4) (ct) Small business expansion credit under s. 71.07 (5p).

24 **SECTION 4.** 71.21 (4) of the statutes, as affected by 2011 Wisconsin Act 32, is
25 amended to read:

1 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
2 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s),
3 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5p), (5r), (5rm), and (8r) and passed
4 through to partners shall be added to the partnership's income. ✓

History: 1987 a. 312, 411; 1989 a. 31; 1993 a. 112; 1995 a. 27, 400; 1997 a. 27; 2001 a. 16; 2003 a. 99, 135, 255, 326; 2005 a. 74, 361, 479, 483; 2007 a. 20, 96; 2009 a. 2, 28, 265, 269, 295, 332; 2011 a. 32.

5 **SECTION 5.** 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act 32,
6 is amended to read: ✓

7 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
8 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
9 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5p), (5r), (5rm), (8r),
10 and (9s) and not passed through by a partnership, limited liability company, or
11 tax-option corporation that has added that amount to the partnership's, limited
12 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k)
13 (g). ✓

History: 1987 a. 312; 1987 a. 411 ss. 22, 124 to 129; 1989 a. 31, 336; 1991 a. 37, 39, 221, 269; 1993 a. 16, 112, 246, 263, 399, 437, 491; 1995 a. 27, 56, 351, 371, 380, 428; 1997 a. 27, 37, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 106, 109; 2003 a. 33, 85, 99, 135, 255, 326; 2005 a. 25, 74, 335, 361, 362, 479, 483; 2007 a. 20, 96, 97, 151, 226; 2009 a. 2, 28, 161, 165, 180, 183, 205, 265, 269, 295, 332, 344; 2011 a. 3, 5, 7, 10, 32.

14 **SECTION 6.** 71.28 (5p) of the statutes is created to read:

15 71.28 (5p) **SMALL BUSINESS EXPANSION CREDIT.** (a) *Definitions.* In this
16 subsection: *and is certified under s. 238.18(2)*

17 1. "Claimant" means a person who files a claim under this subsection.

18 2. "Full-time job" means a regular, nonseasonal, full-time position in which an
19 individual, as a condition of employment, is required to work at least 2,080 hours per
20 year, including paid leave and holidays. *has the meaning given in s. 238.18(1)(a)*

21 3. "Small business" means a business entity, including its affiliates, which is
22 independently owned and operated and not dominant in its field, and which employs

25 or fewer employer who are working full-time jobs or which has gross annual sales of less than \$5,000,000.

has the meaning given in s. 238.18(1)(b)

(b) Filing claims. Subject to the limitations provided in this subsection and s. 238.18 XXX.XX, for taxable years beginning after December 31, 2011, a claimant may claim

as a credit against the taxes imposed under s. 71.23, up to the amount of the taxes, an amount equal to the actual cost of improvements to real property and acquisitions of personal property, if such real and personal property is subject to taxation under

reported to the department under s. 238.18(3)(a)

ch. 70, made by the claimant's small business in the taxable year, multiplied by one of the following, if the improvements and acquisitions are made as part of expanding the claimant's small business in this state and if the claimant's small business employs more employees working full-time jobs in the taxable year than it did in the previous taxable year:

- 1. If the small business employs one more employee working a full-time job in the taxable year than it did in the previous taxable year, 0.002.
- 2. If the small business employs 2 more employees working full-time jobs in the taxable year than it did in the previous taxable year, 0.004.
- 3. If the small business employs 3 more employees working full-time jobs in the taxable year than it did in the previous taxable year, 0.006.
- 4. If the small business employs 4 more employees working full-time jobs in the taxable year than it did in the previous taxable year, 0.008.
- 5. If the small business employs at least 5 more employees working full-time jobs in the taxable year than it did in the previous taxable year, 0.01.

(c) Limitations. 1. A claimant may only claim a credit under this subsection for 2 consecutive taxable years. Except as provided in s. XXX.XX, the amount that the claimant may claim as a credit under this subsection for the 2nd taxable year is

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1 equal to the amount that the claimant claimed as a credit under this subsection for
2 the first taxable year. *insert A* ✓

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 payment of amounts under par. (b). A partnership,
6 limited liability company, or tax-option corporation shall compute the amount of
7 credit that each of its partners, members, or shareholders may claim and shall
8 provide that information to each of them. Partners, members of limited liability
9 companies, and shareholders of tax-option corporations may claim the credit in
10 proportion to their ownership interests.

11 (d) *Administration*. Subsection (4) (e) to (h), as it applies to the credit under
12 sub. (4), applies to the credit under this subsection.

13 **SECTION 7.** 71.30 (3) (dt) of the statutes is created to read:

14 71.30 (3) (dt) Small business expansion credit under s. 71.28 (5p).

15 **SECTION 8.** 71.34 (1k) (g) of the statutes is amended to read:

as affected by 2011 Wisconsin Act 32,

16 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
17 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
18 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),
19 (5k), (5n), (5p), (5r), (5rm), and (8r) and passed through to shareholders. *AAA*

History: 1987 a. 312; 1987 a. 411 ss. 18, 23, 146; 1989 a. 31, 336; 1991 a. 39, 269; 1993 a. 16, 437; 1995 a. 27, 380, 428; 1997 a. 27, 37, 237; 1999 a. 9, 194; 2001 a. 16, 109; 2003 a. 33, 99, 135, 255, 326; 2005 a. 25, 49, 74, 261, 479, 483; 2007 a. 20, 96, 226; 2009 a. 2, 28, 161, 183, 265, 269, 295, 332; 2011 a. 32.

20 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2011 Wisconsin Act

21 32, is amended to read:

22 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
23 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn),
24 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5p), (5r), (5rm), (8r), and (9s) and not

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1 passed through by a partnership, limited liability company, or tax-option
 2 corporation that has added that amount to the partnership's, limited liability
 3 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) and
 4 the amount of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

History: 1987 a. 312; 1989 a. 31, 336, 359; 1991 a. 37, 39, 269; 1993 a. 16, 112, 263, 437; 1995 a. 27, 56, 371, 380; 1997 a. 27, 37, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 109; 2003 a. 37, 85, 99, 135, 255, 326; 2005 a. 74, 297, 335, 361, 479, 483; 2007 a. 20, 96, 226; 2009 a. 2, 28, 165, 205, 265, 269, 295, 332, 344; 2011 a. 3, 5, 32.

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

6 71.47 (5p) SMALL BUSINESS EXPANSION CREDIT. (a) *Definitions.* In this
 7 subsection:

8 1. "Claimant" means a person who files a claim under this subsection.

9 2. "Full-time job" means a regular, nonseasonal, full-time position in which an
 10 individual, as a condition of employment, is required to work at least 2,080 hours per
 11 year, including paid leave and holidays.

12 3. "Small business" means a business entity, including its affiliates, which is
 13 independently owned and operated and not dominant in its field, and which employs
 14 25 or fewer employer who are working full-time jobs or which has gross annual sales
 15 of less than \$5,000,000.

16 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
 17 ~~XXX.XX~~ ^{238.18}, for taxable years beginning after December 31, 2011, a claimant may claim
 18 as a credit against the taxes imposed under s. 71.43, up to the amount of the taxes,
 19 an amount equal to the actual cost of improvements to real property and acquisitions
 20 of personal property, ^{reported to the department under s. 238.18 (3)} if such real and personal property is subject to taxation under (a)
 21 ch. 70, made by the claimant's small business in the taxable year, multiplied by one
 22 of the following, if the improvements and acquisitions are made as part of expanding
 23 the claimant's small business in this state and if the claimant's small business

and is certified under s. 238.18(2)

has the meaning given in s. 238.18(1)(a)

has the meaning given in s. 238.18(1)(b)

1 employs more employees working full-time jobs in the taxable year than it did in the
2 previous taxable year:

3 1. If the small business employs one more employee working a full-time job in
4 the taxable year than it did in the previous taxable year, 0.002.

5 2. If the small business employs 2 more employees working full-time jobs in
6 the taxable year than it did in the previous taxable year, 0.004.

7 3. If the small business employs 3 more employees working full-time jobs in
8 the taxable year than it did in the previous taxable year, 0.006.

9 4. If the small business employs 4 more employees working full-time jobs in
10 the taxable year than it did in the previous taxable year, 0.008.

11 5. If the small business employs at least 5 more employees working full-time
12 jobs in the taxable year than it did in the previous taxable year, 0.01.

13 (c) *Limitations.* 1. A claimant may only claim a credit under this subsection
14 for 2 consecutive taxable years. ~~Except as provided in s. XXX.XX,~~ the amount that
15 the claimant may claim as a credit under this subsection for the 2nd taxable year is
16 equal to the amount that the claimant claimed as a credit under this subsection for
17 the first taxable year. Insert A

18 2. Partnerships, limited liability companies, and tax-option corporations may
19 not claim the credit under this subsection, but the eligibility for, and the amount of,
20 the credit are based on their payment of amounts under par. (b). A partnership,
21 limited liability company, or tax-option corporation shall compute the amount of
22 credit that each of its partners, members, or shareholders may claim and shall
23 provide that information to each of them. Partners, members of limited liability
24 companies, and shareholders of tax-option corporations may claim the credit in
25 proportion to their ownership interests.

1 (d) *Administration*. Section 71.28 (4) (e) to (h), as it applies to the credit under
2 s. 71.28 (4), applies to the credit under this subsection.

3 **SECTION 11.** 71.49 (1) (dt) of the statutes is created to read:

4 71.49 (1) (dt) Small business expansion credit under s. 71.47 (5p).

5 **SECTION 12.** 77.92 (4) of the statutes, as affected by 2011 Wisconsin Act 32, is
6 amended to read:

7 77.92 (4) "Net business income," with respect to a partnership, means taxable
8 income as calculated under section 703 of the Internal Revenue Code; plus the items
9 of income and gain under section 702 of the Internal Revenue Code, including taxable
10 state and municipal bond interest and excluding nontaxable interest income or
11 dividend income from federal government obligations; minus the items of loss and
12 deduction under section 702 of the Internal Revenue Code, except items that are not
13 deductible under s. 71.21; plus guaranteed payments to partners under section 707
14 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
15 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
16 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5p), (5r), (5rm),
17 and (8r); and plus or minus, as appropriate, transitional adjustments, depreciation
18 differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but
19 excluding income, gain, loss, and deductions from farming. "Net business income,"
20 with respect to a natural person, estate, or trust, means profit from a trade or
21 business for federal income tax purposes and includes net income derived as an
22 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

23 **History:** 1989 a. 335; 1991 a. 39, 269; 1993 a. 16, 112, 490; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 99, 135, 255, 326; 2005 a. 74, 361, 479, 483; 2007
a. 20, 96; 2009 a. 2, 28, 265, 269, 295, 332; 2011 a. 32.

(END)



2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0168/FKins
FFK:.....

INS Q
^ ✓

1 SECTION 1. 238.18 of the statutes is created to read:

2 238.18 Small business expansion tax credit. (1) DEFINITIONS. In this
3 section:

4 (a) "Full-time job" means a regular, nonseasonal, full-time position in which
5 an individual, as a condition of employment, is required to work at least 2,080 hours
6 per year, including paid leave and holidays.

7 (b) "Small business" means a business entity, including its affiliates, that is
8 independently owned and operated and not dominant in its field, and that employs
9 25 or fewer full-time employees or that has gross annual sales of less than
10 \$5,000,000.

11 (2) CERTIFICATION. (a) The corporation may certify a person under this section
12 to claim tax credits under s. 71.07 (5p), 71.28 (5p), or 71.47 (5p) for one taxable year
13 if the person applies to the corporation on a form prepared by the corporation and
14 submits evidence satisfactory to the corporation that the person is operating a small
15 business that did all of the following: in the taxable year

16 1. Made improvements to real property and acquisitions of personal property
17 as part of expanding the small business.

18 2. Employed more employees in full-time jobs in the taxable year than in the
19 previous taxable year.

20 (b) The corporation may certify a person certified under par. (a) to claim tax
21 credits under s. 71.07 (5p), 71.28 (5p), or 71.47 (5p) for an additional taxable year if
22 the person's small business retains the number of full-time jobs that were used to

the ~~actual cost~~ of improvements and acquisitions described in sub. (2)(a)1, for which each certification is provided.

1 calculate the amount of the tax credit claimed by the person under s. 71.07 (5p), 71.28
2 (5p), or 71.47 (5p) in the first taxable year.

3 (c) The corporation may only certify a person to claim tax credits under s. 71.07
4 (5p), 71.28 (5p), or 71.47 (5p) for 2 consecutive years.

5 (3) DUTIES OF THE CORPORATION. (a) The corporation shall notify the department
6 of revenue of every certification issued under sub. (2), the number of full-time jobs
7 the certified person's small business added in the taxable year, and the date on which
8 any certification is revoked or expires.

9 (b) The corporation shall adopt policies and procedures for the implementation
10 and operation of this section.

11

50162/P1

Insert A

From

↑ except that, if the claimant employs more employees in full-time jobs in the 2nd taxable year than in the ^{first} taxable year, the amount that the claimant may claim as a for the 2nd taxable year credit under this subsection is based on the ^{cumulative} increase of all such employees for both taxable years

end of insert

Kreye, Joseph

From: Henning, Anna
Sent: Friday, September 09, 2011 10:20 AM
To: Kreye, Joseph
Cc: Berken, Nathan; Kelly, Scott; Malszycki, Marcie; Grosz, Scott
Subject: Change to LRBs0168/P1

Hi Joe,

I have a request for a small change to LRBs0168/P1 (the substitute amendment for AB 107), on behalf of the authors. They would like to modify the substitute amendment to allow a small business to receive the tax credit in the second year so long as the employer retained at least one of the new employees hired in the first year, rather than require the employer to retain all employees hired in the first year. They would like a corresponding change to specify that the calculation of the credit for the second year may be adjusted to decrease according to the number of employees retained. It looks like the request would require two modifications:

1. On page 10, line 7, change "the number of full-time jobs" to "one or more of the full-time jobs".
2. On page 3, lines 3-10; page 5, lines 13-20; and page 7-8, lines 22-25 and 1-4, modify the language to specify that the credit claimed for the second taxable year shall be based on the cumulative increase *or decrease* of employees in full-time jobs.

I hope that makes sense; let me know if you have questions.

Anna

Anna Henning
Staff Attorney
Wisconsin Legislative Council
(608) 266-0292
anna.henning@legis.wisconsin.gov



State of Wisconsin
2011 - 2012 LEGISLATURE



LRBs0168/P1
JK/cjs:ph

RMR

stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ASSEMBLY SUBSTITUTE AMENDMENT,

TO 2011 ASSEMBLY BILL 107

FFK

Full list

in Friday 9-9

Today

Ger Cat

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a) 4., 71.34 (1k) (g), 71.45
2 (2) (a) 10. and 77.92 (4); and **to create** 71.07 (5p), 71.10 (4) (ct), 71.28 (5p), 71.30
3 (3) (dt), 71.47 (5p), 71.49 (1) (dt) and 238.18 of the statutes; **relating to:** a small
4 business expansion income and franchise tax credit.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 **SECTION 1.** 71.05 (6) (a) 15. of the statutes, as affected by 2011 Wisconsin Act
6 32, is amended to read:

7 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
8 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
9 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), (5n), (5p), (5r), (5rm), and
10 (8r) and not passed through by a partnership, limited liability company, or

1 tax-option corporation that has added that amount to the partnership's, company's,
2 or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

3 **SECTION 2.** 71.07 (5p) of the statutes is created to read:

4 **71.07 (5p) SMALL BUSINESS EXPANSION CREDIT.** (a) *Definitions.* In this
5 subsection:

6 1. "Claimant" means a person who files a claim under this subsection and is
7 certified under s. 238.18 (2).

8 2. "Full-time job" has the meaning given in s. 238.18 (1) (a).

9 3. "Small business" has the meaning given in s. 238.18 (1) (b).

10 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
11 238.18, for taxable years beginning after December 31, 2011, a claimant may claim
12 as a credit against the taxes imposed under s. 71.02, up to the amount of the taxes,
13 an amount equal to the actual cost of improvements to real property and acquisitions
14 of personal property reported to the department under s. 238.18 (3) (a), if such real
15 and personal property is subject to taxation under ch. 70, made by the claimant's
16 small business in the taxable year, multiplied by one of the following:

17 1. If the small business employs one more employee in a full-time job in the
18 taxable year than it did in the previous taxable year, 0.002.

19 2. If the small business employs 2 more employees in full-time jobs in the
20 taxable year than it did in the previous taxable year, 0.004.

21 3. If the small business employs 3 more employees in full-time jobs in the
22 taxable year than it did in the previous taxable year, 0.006.

23 4. If the small business employs 4 more employees in full-time jobs in the
24 taxable year than it did in the previous taxable year, 0.008.

1 5. If the small business employs at least 5 more employees in full-time jobs in
2 the taxable year than it did in the previous taxable year, 0.01.

3 (c) *Limitations.* 1. A claimant may only claim a credit under this subsection
4 for 2 consecutive taxable years. The amount that the claimant may claim as a credit
5 under this subsection for the 2nd taxable year is equal to the amount that the
6 claimant claimed as a credit under this subsection for the first taxable year, except
7 that, if the claimant employs more ^{or fewer} employees in full-time jobs in the 2nd taxable
8 year than in the first taxable year, the amount that the claimant may claim as a
9 credit under this subsection for the 2nd taxable year is based on the cumulative

10 increase ^{or decrease} of all such employees for both taxable years.

INS A

11 2. Partnerships, limited liability companies, and tax-option corporations may
12 not claim the credit under this subsection, but the eligibility for, and the amount of,
13 the credit are based on their payment of amounts under par. (b). A partnership,
14 limited liability company, or tax-option corporation shall compute the amount of
15 credit that each of its partners, members, or shareholders may claim and shall
16 provide that information to each of them. Partners, members of limited liability
17 companies, and shareholders of tax-option corporations may claim the credit in
18 proportion to their ownership interests.

19 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
20 s. 71.28 (4), applies to the credit under this subsection.

21 **SECTION 3.** 71.10 (4) (ct) of the statutes is created to read:

22 71.10 (4) (ct) Small business expansion credit under s. 71.07 (5p).

23 **SECTION 4.** 71.21 (4) of the statutes, as affected by 2011 Wisconsin Act 32, is
24 amended to read:

1 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
2 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s),
3 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5p), (5r), (5rm), and (8r) and passed
4 through to partners shall be added to the partnership's income.

5 **SECTION 5.** 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act 32,
6 is amended to read:

7 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
8 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
9 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5p), (5r), (5rm), and
10 (8r) and (9s) ← PLAIN and not passed through by a partnership, limited liability company, or
11 tax-option corporation that has added that amount to the partnership's, limited
12 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k)
13 (g).

Handwritten notes on the right margin: a large bracket spanning lines 7-13, and the letters 'D', 'Z', and 'TT' written vertically.

14 **SECTION 6.** 71.28 (5p) of the statutes is created to read:

15 71.28 (5p) SMALL BUSINESS EXPANSION CREDIT. (a) *Definitions.* In this
16 subsection:

- 17 1. "Claimant" means a person who files a claim under this subsection and is
- 18 certified under s. 238.18 (2).
- 19 2. "Full-time job" has the meaning given in s. 238.18 (1) (a).
- 20 3. "Small business" has the meaning given in s. 238.18 (1) (b).

21 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
22 238.18, for taxable years beginning after December 31, 2011, a claimant may claim
23 as a credit against the taxes imposed under s. 71.23, up to the amount of the taxes,
24 an amount equal to the actual cost of improvements to real property and acquisitions
25 of personal property reported to the department under s. 238.18 (3) (a), if such real

1 and personal property is subject to taxation under ch. 70, made by the claimant's
2 small business in the taxable year, multiplied by one of the following:

3 1. If the small business employs one more employee in a full-time job in the
4 taxable year than it did in the previous taxable year, 0.002.

5 2. If the small business employs 2 more employees in full-time jobs in the
6 taxable year than it did in the previous taxable year, 0.004.

7 3. If the small business employs 3 more employees in full-time jobs in the
8 taxable year than it did in the previous taxable year, 0.006.

9 4. If the small business employs 4 more employees in full-time jobs in the
10 taxable year than it did in the previous taxable year, 0.008.

11 5. If the small business employs at least 5 more employees in full-time jobs in
12 the taxable year than it did in the previous taxable year, 0.01.

13 (c) *Limitations.* 1. A claimant may only claim a credit under this subsection
14 for 2 consecutive taxable years. The amount that the claimant may claim as a credit
15 under this subsection for the 2nd taxable year is equal to the amount that the
16 claimant claimed as a credit under this subsection for the first taxable year, except
17 that, if the claimant employs more ^{or fewer} employees in full-time jobs in the 2nd taxable
18 year than in the first taxable year, the amount that the claimant may claim as a
19 credit under this subsection for the 2nd taxable year is based on the cumulative
20 increase or decrease of all such employees for both taxable years. INSA

21 2. Partnerships, limited liability companies, and tax-option corporations may
22 not claim the credit under this subsection, but the eligibility for, and the amount of,
23 the credit are based on their payment of amounts under par. (b). A partnership,
24 limited liability company, or tax-option corporation shall compute the amount of
25 credit that each of its partners, members, or shareholders may claim and shall

1 provide that information to each of them. Partners, members of limited liability
2 companies, and shareholders of tax-option corporations may claim the credit in
3 proportion to their ownership interests.

4 (d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under
5 sub. (4), applies to the credit under this subsection.

6 **SECTION 7.** 71.30 (3) (dt) of the statutes is created to read:

7 71.30 (3) (dt) Small business expansion credit under s. 71.28 (5p).

8 **SECTION 8.** 71.34 (1k) (g) of the statutes, as affected by 2011 Wisconsin Act 32,
9 is amended to read:

10 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
11 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
12 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),
13 (5k), (5n), (5p), (5r), (5rm), and (8r) and passed through to shareholders.

14 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2011 Wisconsin Act
15 32, is amended to read:

16 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
17 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn),
18 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5p), (5r), (5rm), (8r), and (9s) and not
19 passed through by a partnership, limited liability company, or tax-option
20 corporation that has added that amount to the partnership's, limited liability
21 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) and
22 the amount of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

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

24 71.47 (5p) SMALL BUSINESS EXPANSION CREDIT. (a) *Definitions.* In this
25 subsection:

1 1. "Claimant" means a person who files a claim under this subsection and is
2 certified under s. 238.18 (2).

3 2. "Full-time job" has the meaning given in s. 238.18 (1) (a).

4 3. "Small business" has the meaning given in s. 238.18 (1) (b).

5 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
6 238.18, for taxable years beginning after December 31, 2011, a claimant may claim
7 as a credit against the taxes imposed under s. 71.43, up to the amount of the taxes,
8 an amount equal to the actual cost of improvements to real property and acquisitions
9 of personal property reported to the department under s. 238.18 (3) (a), if such real
10 and personal property is subject to taxation under ch. 70, made by the claimant's
11 small business in the taxable year, multiplied by one of the following:

12 1. If the small business employs one more employee in a full-time job in the
13 taxable year than it did in the previous taxable year, 0.002.

14 2. If the small business employs 2 more employees in full-time jobs in the
15 taxable year than it did in the previous taxable year, 0.004.

16 3. If the small business employs 3 more employees in full-time jobs in the
17 taxable year than it did in the previous taxable year, 0.006.

18 4. If the small business employs 4 more employees in full-time jobs in the
19 taxable year than it did in the previous taxable year, 0.008.

20 5. If the small business employs at least 5 more employees in full-time jobs in
21 the taxable year than it did in the previous taxable year, 0.01.

22 (c) *Limitations.* 1. A claimant may only claim a credit under this subsection
23 for 2 consecutive taxable years. The amount that the claimant may claim as a credit
24 under this subsection for the 2nd taxable year is equal to the amount that the
25 claimant claimed as a credit under this subsection for the first taxable year, except

or fewer

1 that, if the claimant employs more employees in full-time jobs in the 2nd taxable
2 year than in the first taxable year, the amount that the claimant may claim as a
3 credit under this subsection for the 2nd taxable year is based on the cumulative
4 increase of all such employees for both taxable years.

or decrease

INSA

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 payment of amounts under par. (b). A partnership,
8 limited liability company, or tax-option corporation shall compute the amount of
9 credit that each of its partners, members, or shareholders may claim and shall
10 provide that information to each of them. Partners, members of limited liability
11 companies, and shareholders of tax-option corporations may claim the credit in
12 proportion to their ownership interests.

13 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
14 s. 71.28 (4), applies to the credit under this subsection.

15 SECTION 11. 71.49 (1) (dt) of the statutes is created to read:

16 71.49 (1) (dt) Small business expansion credit under s. 71.47 (5p).

17 SECTION 12. 77.92 (4) of the statutes, as affected by 2011 Wisconsin Act 32, is
18 amended to read:

19 77.92 (4) "Net business income," with respect to a partnership, means taxable
20 income as calculated under section 703 of the Internal Revenue Code; plus the items
21 of income and gain under section 702 of the Internal Revenue Code, including taxable
22 state and municipal bond interest and excluding nontaxable interest income or
23 dividend income from federal government obligations; minus the items of loss and
24 deduction under section 702 of the Internal Revenue Code, except items that are not
25 deductible under s. 71.21; plus guaranteed payments to partners under section 707

1 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
2 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
3 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5p), (5r), (5rm),
4 and (8r); and plus or minus, as appropriate, transitional adjustments, depreciation
5 differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but
6 excluding income, gain, loss, and deductions from farming. "Net business income,"
7 with respect to a natural person, estate, or trust, means profit from a trade or
8 business for federal income tax purposes and includes net income derived as an
9 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

10 **SECTION 13.** 238.18 of the statutes is created to read:

11 **238.18 Small business expansion tax credit.** (1) DEFINITIONS. In this
12 section:

13 (a) "Full-time job" means a regular, nonseasonal, full-time position in which
14 an individual, as a condition of employment, is required to work at least 2,080 hours
15 per year, including paid leave and holidays.

16 (b) "Small business" means a business entity, including its affiliates, that is
17 independently owned and operated and not dominant in its field, and that employs
18 25 or fewer full-time employees or that has gross annual sales of less than
19 \$5,000,000.

20 (2) CERTIFICATION. (a) The corporation may certify a person under this section
21 to claim tax credits under s. 71.07 (5p), 71.28 (5p), or 71.47 (5p) for one taxable year
22 if the person applies to the corporation on a form prepared by the corporation and
23 submits evidence satisfactory to the corporation that the person is operating a small
24 business that did all of the following in the taxable year:

INS A

~~it~~ the number of employees that it employs in full-time jobs in the 2nd taxable year that is in excess of the number of employees that it employed in full-time jobs in the ^{taxable} year previous to the first taxable year

Barman, Mike

From: Barman, Mike
Sent: Friday, September 23, 2011 11:20 AM
To: Rep.Petryk; Malszycki, Marcie
Subject: Supplemental FE Information (possible supplemental FE for ASA1-AB107)



As we discussed, please see option #4 below ... Joint Rule 41

(3) (b)

An e-mail request sent by either the President's or the Speaker's office to both the LRB (lrb.legal@legis.wisconsin.gov) (Attn: Mike Barman) and the fiscal estimate coordinator at DOA (fes@doa.state.wi.us) (Attn: Shayna Heztel) is needed before a "supplemental" fiscal estimate can be initiated.

1. In the e-mail please quote the Joint Rule that applies.
2. Please note the Introduction and LRB number of the bill, substitute amendment or simple amendment the fiscal estimate is based on.
3. Please state the agency(s) requested to prepare the "supplemental" fiscal estimate.

Please feel free to contact me if you have any questions.

Mike Barman (Lead Program Assistant)

State of Wisconsin - Legislative Reference Bureau - Legal Section - Front Office
1 East Main Street, Suite 200, Madison, WI 53703
(608) 266-3561 / mike.barman@legis.state.wi.us

Alternative Fiscal Estimate Options

Fiscal estimates initiated by the bill's primary author (sponsor):

1. **Before the fiscal estimate is "released" (during the five-day review period) ... the primary author of an introduced bill may contact the agency that prepared the *original* fiscal estimate, explain his or her concerns, and request a rewrite. If the agency agrees to rewrite the estimate and the primary author wishes to delay publication, the agency must immediately notify the Department of Administration (DOA) and the Legislative Reference Bureau (LRB). The fiscal estimate will then be returned to the agency for a rewrite. The rewritten fiscal estimate will be the only *original* fiscal estimate "released" (published and inserted into the bill jacket envelope). However, both the rewritten and the initial *original* fiscal estimates will be available for public inspection in the LRB drafting file. If the agency opts not to rewrite the fiscal estimate, it will be "released" by the LRB at the end of the five day review period. See Joint Rule 48 (4).**
2. **Before the fiscal estimate is "released" (during the five-day review period) ... the primary author of an introduced bill may request that a new *original* fiscal estimate be prepared that takes into account any changes resulting from a proposed simple or substitute amendment (whether offered for introduction or not). See Joint Rule 48 (2).**
3. **The primary author of an introduced bill may request that the Legislative Fiscal Bureau (LFB) or DOA prepare a *supplemental* fiscal estimate if he or she disagrees with the fiscal estimate for the bill prepared by the state agency. See Joint Rule 48 (3).**
4. **The primary author of an introduced bill may contact the presiding officer (of either house) and request a *supplemental* fiscal estimate that takes into account any changes resulting from a proposed simple or substitute**

9/23/2011

amendment. If the presiding officer agrees that a *supplemental* fiscal estimate on the bill (as affected by the proposed amendment) would be substantially different from the *original* fiscal estimate submitted by the state agency, they may formally submit a request (in writing – via e-mail to the LRB) to have the agency prepare a *supplemental* fiscal estimate. See Joint Rule 41 (3) (b).

5. The state agency may, at its discretion, submit an *updated* fiscal estimate supplementing its *original* estimate if it has available better or more current information on the bill. If the primary author of the bill feels the *original* fiscal estimate is inaccurate, and can provide more complete information to the agency, this may be a good option to initiate. See Joint Rule 41 (3) (e).

Barman, Mike

From: Bauknecht, Jason
Sent: Friday, September 23, 2011 12:06 PM
To: LRB.Legal
Cc: Malszycki, Marcie
Subject: Attn: Mike Barman

Mike,

I would like to request a supplemental FE on Assembly Substitute Amendment 1 to AB 107.

Thank you kindly.

Jason Bauknecht
Office of Speaker Fitzgerald
266-2540



ACTIVE

LRB Number: 11s0168/1

Introduction Number: ASA1-AB107

Comment: "Supplemental" FE requested ... per Joint Rule 41
(3) (b)

Request Date: 9/23/2011 12:44:31 PM

Description:

Subject:

PUBLIC DRAFT/BILL and Assignments

Edit the Request

Draft/Bill: Not attached