

2011 Jr1 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB7)

Received: 01/18/2011

Received By: jkreye

Wanted: As time permits

Companion to LRB:

For: Legislative Fiscal Bureau

By/Representing: ron shanovich

May Contact:

Drafter: jkreye

Subject: Tax, Business - crp inc, fran

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: ron.shanovich@legis.wisconsin.gov

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

Pre Topic:

No specific pre topic given

Topic:

Job creation income and franchise tax deduction

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>
/?	jkreye 01/18/2011	wjackson 01/18/2011		_____			
/1	chanaman 01/20/2011		phenry 01/19/2011	_____	sbasford 01/19/2011	sbasford 01/19/2011	
/2		csicilia 01/20/2011	mduchek 01/20/2011	_____	mbarman 01/20/2011	mbarman 01/20/2011	

FE Sent For:

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<END>

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/?	jkreye	1/18/11	1/18 DK	1/19 JF/PL			
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FE Sent For:

<END>

Kreye, Joseph

From: Toftness, Jennifer
Sent: Friday, January 14, 2011 4:16 PM
To: Kreye, Joseph
Cc: Reinhardt, Rob
Subject: amendment change to LRB s0005/1
Joe and Rob,

*hold ?
by SAM Tuesday*

There has been a change to the amendment that we currently have drafted:

We would like to change the deduction to provide a ~~\$5,000~~^{\$4,000} deduction for businesses having gross receipts of \$5 million. For those businesses that have gross receipts of more than 5 million, they would receive a deduction per job of ~~\$2,500~~^{\$2,000}.

not until Wed

I also believe that the original intent of the amendment might not have been completely met. I think that I asked to have the UI count be an average employee number per year, by averaging the four quarterly UI reports. I don't see that specified anywhere in the first amendment and think it's important so that if someone had, for instance, 1 employee on Jan. 1, hired 9 or 10 in the summer and ended the year with 2 that they not be able to benefit from those middle of the year hires that they no longer have. I think that's why the average is important here. Sorry if I didn't specify it.

Rob, I'm including you on this email, because we'd like to stick somewhere along the lines of \$30 million a year. We'd like to end up under the \$75 million price tag the original bill is at, but we don't want to so undershoot it that it looks puny in comparison. Can you please look at this proposal and see how close it gets us to \$30 million per year? You can talk to DOR.

Thank you,

Jenny



State of Wisconsin
2011 - 2012 LEGISLATURE

January 2011 Special Session



LRBs0005/1
JK:nwn:rs

50015

+ WLj

ASSEMBLY SUBSTITUTE AMENDMENT,
TO ASSEMBLY BILL 7

\$ 4,000 for a business with gross receipts of no greater than \$ 5,000,000 in the taxable year or \$ 2,000 for a business with gross receipts greater than \$ 5,000,000 in the taxable year

due Wed 1-19 AM - first thing

1 AN ACT to create 71.05 (6) (b) 47., 71.26 (1) (h) and 71.45 (1) (c) of the statutes;
2 relating to: a job creation income and franchise tax deduction.

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

3 SECTION 1. 71.05 (6) (b) 47. of the statutes is created to read:

4 71.05 (6) (b) 47. An amount equal to the increase in the number of full-time
5 equivalent employees employed by the taxpayer in this state during the taxable year,

6 multiplied by \$1,000. For purposes of this subdivision, the increase in the number
7 of full-time equivalent employees employed by the taxpayer in this state during the
8 taxable year is determined by subtracting from the number of full-time equivalent
9 employees employed by the taxpayer in this state during the taxable year, as

10 determined by the taxpayer's unemployment insurance report ^{average} employee count for
11 the taxable year, the number of full-time equivalent employees employed by the

computing the

from the taxpayer's quarterly unemployment insurance reports

from the taxpayer's quarterly unemployment insurance reports

Computing

1 taxpayer in this state during the immediately preceding taxable year, as determined
2 by the taxpayer's unemployment insurance report ^{average} employee count for the
3 immediately preceding taxable year. No person may claim a deduction under this
4 subdivision if the person may claim a credit under this subchapter based on the
5 person relocating the person's business from another state to this state and in an
6 amount equal to the person's tax liability.

7 **SECTION 2.** 71.26 (1) (h) of the statutes is created to read:

INSERT A

8 71.26 (1) (h) An amount equal to the increase in the number of full-time
9 equivalent employees employed by the taxpayer in this state during the taxable year,
10 multiplied by \$1,000. For purposes of this paragraph, the increase in the number of
11 full-time equivalent employees employed by the taxpayer in this state during the
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13 employees employed by the taxpayer in this state during the taxable year, as

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16 taxpayer in this state during the immediately preceding taxable year, as determined
17 by the taxpayer's unemployment insurance report ^{average} employee count for the
18 immediately preceding taxable year. No person may claim a deduction under this
19 paragraph if the person may claim a credit under this subchapter based on the
20 person relocating the person's business from another state to this state and in an
21 amount equal to the person's tax liability.

22 **SECTION 3.** 71.45 (1) (c) of the statutes is created to read:

23 71.45 (1) (c) An amount equal to the increase in the number of full-time
24 equivalent employees employed by the taxpayer in this state during the taxable year,
25 multiplied by \$1,000. For purposes of this paragraph, the increase in the number of

INSERT A

Computing

from the taxpayer's quarterly unemployment insurance reports

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9 paragraph if the person may claim a credit under this subchapter based on the
10 person relocating the person's business from another state to this state and in an
11 amount equal to the person's tax liability.

12 **SECTION 4. Nonstatutory provisions.**

13 (1) REQUIRED GENERAL FUND BALANCE. Section 20.003 (4) of the statutes does not
14 apply to the action of the legislature in enacting this act.

15 **SECTION 5. Initial applicability.**

16 (1) This act first applies to taxable years beginning on January 1, 2011.

17 (END)

50015/1

Insert A

business

(No
\$) \$4,000 for a business with gross receipts of no greater than \$5,000,000 in the taxable year or \$2,000 for a business with gross receipts greater than \$5,000,000 in the taxable year

Champagne, Rick

From: Reinhardt, Rob
Sent: Thursday, January 20, 2011 8:33 AM
To: Champagne, Rick
Subject: FW: AB 7 and PEO's

From: Koskinen, John B - DOR [mailto:John.Koskinen@revenue.wi.gov]
Sent: Wednesday, January 19, 2011 4:48 PM
To: Reinhardt, Rob
Subject: FW: AB 7 and PEO's

Can you get the appropriate technical drafted to amend this along the lines Lili Crane suggests?

What else would you need from us?

From: Crane, Lili B - DOR
Sent: Wednesday, January 19, 2011 4:45 PM
To: Crane, Lili B - DOR; Hardt, Diane L - DOR; Hanson, Jeffrey W - DOR; Stock, Marcella L - DOR
Cc: Koskinen, John B - DOR; Boldt, Rebecca A - DOR; Oakleaf, Michael P - DOR
Subject: RE: AB 7 and PEO's

OK, I forgot to say I told Ron that the language should include "taxpayer's quarterly unemployment insurance reports or other information as required by DOR (or DWD)" or words to that effect on page 2, lines 5, 23, and page 3, lines 13, 16. And then, also "The department shall promulgate rules to administer this subsection"

From: Crane, Lili B - DOR
Sent: Wednesday, January 19, 2011 4:33 PM
To: Hardt, Diane L - DOR; Hanson, Jeffrey W - DOR; Stock, Marcella L - DOR
Cc: Koskinen, John B - DOR; Boldt, Rebecca A - DOR; Oakleaf, Michael P - DOR
Subject: RE: AB 7 and PEO's

I spoke to Ron Shanovich about this issue. DOR would need informational reporting from the PEO to determine which employees of the PEO were providing services to the client employer. s. 461.04(4) requires the PEO to provide any employment information requested and reasonably required by the agency . . . that is necessary to support a claim . . . The authority to promulgate Rules would be needed in order for DOR to say what reasonable documentation the PEO would need to provide

From: Hardt, Diane L - DOR
Sent: Wednesday, January 19, 2011 4:19 PM
To: Crane, Lili B - DOR; Hanson, Jeffrey W - DOR; Stock, Marcella L - DOR
Subject: FW: AB 7 and PEO's

Where are we on this?

From: Koskinen, John B - DOR
Sent: Wednesday, January 19, 2011 3:52 PM
To: Boldt, Rebecca A - DOR; Hardt, Diane L - DOR

Subject: FW: AB 7 and PEO's

The relevant part of this string is at the very bottom.

From: Reinhardt, Rob [mailto:Rob.Reinhardt@legis.wisconsin.gov]
Sent: Wednesday, January 19, 2011 3:43 PM
To: Koskinen, John B - DOR
Subject: FW: AB 7 and PEO's

John,

Here's the original email regarding the PEOs.

From: Toftness, Jennifer
Sent: Wednesday, January 19, 2011 2:39 PM
To: Reinhardt, Rob; Kreye, Joseph; Shanovich, Ron
Subject: RE: AB 7 and PEO's

Ok, sounds good. Unless I hear different, I am right now working on the assumption that everything is still fine and the draft is fine. Do you think we will have a copy of this by the end of the day?

Jenny

From: Reinhardt, Rob
Sent: Wednesday, January 19, 2011 10:08 AM
To: Toftness, Jennifer
Subject: RE: AB 7 and PEO's

Jenny,

I looked at this further, and as Mr. Newcomer mentions, there is a statute in Chapter 461 that specifically states that employees of PEOs are considered to be employed by the client for purposes of tax credits and other benefits based on providing employment. So I think that policy is well established and the question is whether the draft works properly. Joe thinks it's ok, and we're still working with DOR to see if language needs to be added.

From: Toftness, Jennifer
Sent: Wednesday, January 19, 2011 8:50 AM
To: Reinhardt, Rob; Kreye, Joseph; Shanovich, Ron
Subject: FW: AB 7 and PEO's

Rob, Ron and Joe,

The email below is from someone who represents the professional employment organizations. Can you take a look at his concern and let me know if there is a problem with our amendment as drafted?

Thanks,

Jenny

From: Scott Newcomer [mailto:scottanewcomer@aol.com]
Sent: Tuesday, January 18, 2011 5:17 PM
To: Toftness, Jennifer
Subject: AB 7 and PEO's

1/20/2011

Hi Jenny,

Thank you for helping me out with this on such short notice.

There is language in the WI PEO statute (Chapter 461) that is intended to ensure that PEO clients remain eligible for such tax credits and economic development incentives. Section 461.04(4). The problem potentially created by AB 7 is - that to claim the credit (it is actually a deduction) the DOR will rely on "taxpayer's unemployment insurance report" to determine if there have been new hires. In the PEO relationship, that unemployment insurance report will be filed by the PEO with the PEO's state unemployment insurance account number - not the client's. This could make it difficult for a PEO client to provide the documentation required to obtain a credit for which it would otherwise be eligible to claim.

What the PEO's and small businesses of Wisconsin would like to see is general language that states that the DOR shall issue rules/procedures defining the documentation a client of a PEO can provide (i.e., certified report from the PEO listing full-time equivalent employees on which SUI was reported for the client) in order for the client to claim the credit.

Thank you very much for your time and consideration in this matter.

Sincerely,

Scott Newcomer
Capitol Management, Inc.
4600 American Parkway, Ste. 208
Madison, WI 53718
Office: 608-242-8878
Cell: 262-389-5050

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State of Wisconsin
2011 - 2012 LEGISLATURE
January 2011 Special Session



LRBs0015/1
JK:nwn&wljph

1/2
~~RETRACT~~

Now
ASSEMBLY SUBSTITUTE AMENDMENT,
TO ASSEMBLY BILL 7

\$ gjs

Gen Cont

*and granting
rule-making
authority*

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24 SECTION 5. Initial applicability.

OR OTHER INFORMATION AS REQUIRED BY THE DEPARTMENT

