



State of Wisconsin
2011 – 2012 LEGISLATURE

January 2011 Special Session



LRBs0039/1
JK:jld:ph

**ASSEMBLY SUBSTITUTE AMENDMENT 4,
TO ASSEMBLY BILL 7**

January 25, 2011 – Offered by Representative HINTZ.

1 **AN ACT** *to create* 71.645 and 560.2057 of the statutes; **relating to:** tax benefits
2 for hiring new employees and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under this substitute amendment, generally, a business that hires new full-time employees may begin to receive a tax benefit, if it applies to the Department of Commerce to receive that benefit. Under the substitute amendment, an eligible business may, rather than submit the amount as withholding taxes, retain an amount that is equal to the increase in the business's payroll attributable to new employees with full-time jobs. A business is only eligible for the tax benefits if it employs no more than ten employees during the year. Under the substitute amendment, the Department of Revenue (DOR) considers all amounts retained as tax benefits to be amounts submitted to DOR as withholding taxes.

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

3 **SECTION 1.** 71.645 of the statutes is created to read:
4 **71.645 Job creation tax benefit.** Subject to the limitations provided in this
5 section and s. 560.2057, and notwithstanding any other provision in this subchapter,

1 for taxable years beginning after December 31, 2010, a person who is certified to
2 receive tax benefits under s. 560.2057 (2) may, rather than submit the income
3 withholding taxes of any eligible employees, as defined under s. 560.2057 (1) (b),
4 retain those taxes as a tax benefit. The person shall report this amount to the
5 department, in the manner prescribed by the department, and, for purposes of this
6 chapter, the department shall treat all amounts retained under this section as if the
7 amounts had been withheld pursuant to this subchapter.

8 **SECTION 2.** 560.2057 of the statutes is created to read:

9 **560.2057 Job creation tax benefit. (1) DEFINITIONS.** In this section:

10 (a) “Business” means any organization or enterprise operated for profit,
11 including a proprietorship, partnership, firm, business trust, joint venture,
12 syndicate, corporation, limited liability company, or association.

13 (b) “Eligible employee” means an individual employed in a full-time job by a
14 person certified in sub. (2), if all of the following apply:

15 1. The individual begins employment with the person certified in sub. (2) after
16 February 3, 2011, and before January 1, 2012.

17 2. The individual certifies to the department, in the manner prescribed by the
18 department, that the individual has not been employed for more than 40 hours
19 during the 60-day period ending on the date that the individual begins his or her
20 employment with the person certified in sub. (2).

21 3. The individual is not employed by the person certified in sub. (2) to replace
22 another employee of the person unless the other employee separated from his or her
23 employment with the person voluntarily or unless person terminated the other
24 employee for cause.

25 4. The individual is not an individual described in 26 USC 51 (i) (1).

1 (c) “Full-time job” means a regular, nonseasonal full-time position, in this
2 state, in which an individual, as a condition of employment, is required to work at
3 least 2,080 hours per year, including paid leave and holidays. “Full-time job” does
4 not include initial training before an employment position begins.

5 (d) “Tax benefits” means the job creation tax benefit under s. 71.645.

6 **(2) CERTIFICATION.** The department may certify a person to receive tax benefits
7 under this section if all of the following apply:

8 (a) The person is operating or intends to operate a business in this state.

9 (b) The person’s business employs no more than 10 employees during the
10 taxable year for which the person seeks to claim tax benefits under this section.

11 (c) The person applies under this section.

12 **(3) LIMITATIONS.** (a) A person may not claim the tax benefits under this section
13 and the tax credits under ss. 71.07 (3q), 71.28 (3q), and 71.47 (3q) for amounts related
14 to the same employees.

15 (b) The maximum amount of tax benefits that may be awarded under this
16 section is \$10,000,000.

17 (c) If an eligible employee does not work for the person certified under sub. (2)
18 for at least 30 days during the taxable year for which the person receives the tax
19 benefits, the person shall repay the amount of the tax benefits received for that
20 employee in the manner prescribed by rule by the department.

21 **(4) DUTIES OF THE DEPARTMENT.** (a) The department of commerce shall notify
22 the department of revenue when the department of commerce certifies a person to
23 receive tax benefits.

24 (b) The department of commerce shall notify the department of revenue within
25 30 days of revoking a certification made under sub. (2).

1 (c) The department shall annually verify the information submitted to the
2 department by the person claiming tax benefits under s. 71.645.

3 (d) The department shall promulgate rules for the implementation and
4 operation of this section, including rules relating to the conditions for the revocation
5 of a certification under par. (b).

6 **SECTION 3. Nonstatutory provisions.**

7 (1) **JOB CREATION TAX BENEFITS.** The department of commerce may use the
8 procedure under section 227.24 of the statutes to promulgate rules under section
9 560.2057 (4) (d) of the statutes, as created by this act. Notwithstanding section
10 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this
11 subsection remain in effect until July 1, 2011, or the date on which permanent rules
12 take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the
13 statutes, the department is not required to provide evidence that promulgating a rule
14 under this subsection as an emergency rule is necessary for the preservation of the
15 public peace, health, safety, or welfare and is not required to provide a finding of
16 emergency for a rule promulgated under this subsection.

17 (2) **RULES.** Notwithstanding sections 227.137 (2) and 227.138 (2) of the statutes,
18 if the secretary of administration requires the department of commerce to prepare
19 an economic impact report for the rules required under section 560.2057 (4) (d) of the
20 statutes, as created by this act, the department may submit the proposed rules to the
21 legislature for review under section 227.19 (2) of the statutes before the department
22 completes the economic impact report and before the department receives a copy of
23 the report and approval under section 227.138 (2) of the statutes.

24 **(END)**