



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2011 Assembly Bill 376

**Assembly Substitute
Amendment 1, as Amended**

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2011 ASSEMBLY BILL 376

2011 Assembly Bill 376 directs the Wisconsin Economic Development Corporation (WEDC) to create a program for the sale or transfer of tax credits that were awarded on or after January 1, 2011. Under the bill, WEDC may authorize the sale or transfer of a tax credit if it determines that the activity for which the tax credit was awarded is substantially related to economic development in a “qualifying county,” defined to mean an area with specified levels of high unemployment that is designated by WEDC, and if the person to whom the credit was awarded meets at least one of the following conditions:

- The person is headquartered in the qualifying county.
- The person intends to relocate its headquarters to the qualifying county.
- The person intends to expand its operations in the qualifying county, and that expansion will result in an increase in the number of full-time employees employed by the person in an amount equal to at least 10% of the person’s full-time workforce at the time of application.
- The person intends to expand its operations in the qualifying county, and that expansion will result in the person making a significant capital investment in property located in that county, as determined by WEDC.

Under the bill, if WEDC authorizes the sale or transfer of a tax credit, then up to 85% of the value of the tax credit may be sold or transferred to another person. WEDC may authorize up to a total of \$10 million in partial tax credit sales or transfers over five years. After five years, WEDC may extend the program for another five years, if authorized by the Joint Finance Committee through a passive review process.

In addition, the bill authorizes WEDC to waive or modify an eligibility requirement for certification for a tax credit issued by WEDC if a person who may sell or transfer the tax credit applies to WEDC for such a waiver and WEDC determines that the waiver will support economic development in a qualifying county.

Finally, the bill specifies that if WEDC revokes a certification for a tax credit program after the tax credit has been transferred, the person to whom the tax credit was awarded is responsible for repaying the tax credit.

ASSEMBLY SUBSTITUTE AMENDMENT 1

Assembly Substitute Amendment 1 to 2011 Assembly Bill 376 directs WEDC to create a program for the transfer, but not the sale, of certain tax credits. The substitute amendment also replaces references to “qualifying counties” with references to the state as a whole and removes the requirement that the tax credits be related to economic development in qualifying counties in order to qualify for a transfer under the program. It retains the remaining provisions in the bill.

ASSEMBLY AMENDMENT 1 TO ASSEMBLY SUBSTITUTE AMENDMENT 1

Assembly Amendment 1 to Assembly Substitute Amendment 1 provides that WEDC may not authorize a tax credit transfer if the person applying for the authorization to transfer the tax credit has not satisfied a requirement that is a condition precedent to claiming the tax credit, unless WEDC waives or modifies the requirement as provided under the bill. In addition, it provides that if WEDC is unable to recover a tax credit from a person who has transferred a tax credit despite the revocation of the person’s certification, then the person to whom the credit was transferred may not claim the credit and must repay any amount of the credit that has already been claimed.

Finally, the amendment adds a reporting requirement. Specifically, it requires WEDC to submit an annual report to the Joint Finance Committee that provides a detailed assessment of the progress to date of the tax credit transfer program.

LEGISLATIVE HISTORY

Assembly Substitute Amendment 1 to 2011 Assembly Bill 376 was offered by Representative Knilans on February 22, 2012. Assembly Amendment 1 to Assembly Substitute Amendment 1 was offered by Representative Knilans on February 27, 2012. On February 29, 2012, the Assembly Committee on Jobs, Economy, and Small Business voted to recommend adoption of Assembly Amendment 1 to Assembly Substitute Amendment 1 on a vote of Ayes, 10; Noes, 0. The committee then voted to recommend adoption of Assembly Substitute Amendment 1, as amended, on a vote of Ayes, 9; Noes, 1. On the same day, the committee voted to recommend passage of the bill, as amended, on a vote of Ayes, 9; Noes, 1.

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