

**2013 DRAFTING REQUEST**

**Bill**

Received: **12/12/2012** Received By: **fknepp**  
Wanted: **As time permits** Same as LRB:  
For: **Administration-Budget 266-7597** By/Representing: **Ley**  
May Contact: Drafter: **fknepp**  
Subject: **Econ. Development - tax incentives** Addl. Drafters:  
Extra Copies:

Submit via email: **YES**  
Requester's email:  
Carbon copy (CC) to: **fern.knepp@legis.wisconsin.gov**  
**michael.gallagher@legis.wisconsin.gov**  
**rick.champagne@legis.wisconsin.gov**

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**Pre Topic:**

DOA:.....Ley, BB0150 -

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**Topic:**

Clarifying an increase in employment under the jobs tax credit program

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**Instructions:**

See attached

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**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>
/?	fknepp 12/12/2012			_____			
/P1	fknepp 12/19/2012	jdyer 12/13/2012	phenry 12/13/2012	_____	sbasford 12/13/2012		
/P2	fknepp	jdyer	jmurphy	_____	sbasford		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	1/22/2013	12/19/2012	12/19/2012	_____	12/19/2012		
/1		jdye 1/23/2013	phenry 1/23/2013	_____	sbasford 1/23/2013		

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/?	fknepp 12/12/2012	<i>P2 12/19 jld</i>		_____			
/P1		jdyer 12/13/2012	phenry 12/13/2012	<i>Jm + RS 12/19</i>	sbasford 12/13/2012		

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/?	fknepp	PI 12/13 jld	12/13 ph				

FE Sent For:

<END>

## **Knepp, Fern**

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**From:** Hanaman, Cathlene  
**Sent:** Monday, October 08, 2012 8:56 AM  
**To:** Gallagher, Michael; Knepp, Fern  
**Subject:** FW: Statutory Language Drafting Request

**Categories:** Economic Development

**From:** [Emily.Ley@wisconsin.gov](mailto:Emily.Ley@wisconsin.gov) [<mailto:Emily.Ley@wisconsin.gov>]  
**Sent:** Friday, October 05, 2012 1:36 PM  
**To:** Hanaman, Cathlene  
**Cc:** Frederick, Caitlin - DOA; Ley, Emily A - DOA; Thornton, Scott - DOA  
**Subject:** Statutory Language Drafting Request

**Biennial Budget:** 2013-15

**DOA Tracking Code:** BB0150

**Topic:** Modify the job creation requirement under the Jobs Tax Credit Program

**SBO Team:** TLGED

**SBO Analyst:** Ley, Emily - DOA  
**Phone:** 608-266-7597  
**E-mail:** [Emily.Ley@wisconsin.gov](mailto:Emily.Ley@wisconsin.gov)

**Agency Acronym:** WEDC

**Agency Number:** 192

**Priority:** Medium

**Intent:**

Modify the statutes pertaining to job creation requirements under the Jobs Tax Credit Program to make clear that the availability of tax benefits is predicated upon an increase in employment over a base year, and not necessarily the addition of jobs in each year of an award.

**Attachments:** False

*Please send completed drafts to [statlanguage@wisapps.wi.gov](mailto:statlanguage@wisapps.wi.gov)*



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-0809(?)

FFK:.....

In 12-12-12

Jld JAMA

DOA:.....Ley, BB0150 - Clarifying an increase in employment under the jobs tax credit program

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

do not gen

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

Analysis by the Legislative Reference Bureau  
COMMERCE AND ECONOMIC DEVELOPMENT  
ECONOMIC DEVELOPMENT

This bill clarifies that to be eligible to receive tax benefits under the jobs tax credit program, a person must employ more individuals in full-time jobs in the person's business on December 31 of the year for which the person claims the tax benefits than the person employed on January 1 of the same year.

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

- 2 SECTION 1. 238.16 (3) (intro.) of the statutes is amended to read:
- 3 238.16 (3) ELIGIBILITY FOR TAX BENEFITS. (intro.) A person certified under sub.
- 4 (2) may receive tax benefits under this section if, in each year for which the person
- 5 claims tax benefits under this section, the person increases net employment in the

1 ~~person's business~~ <sup>o</sup> (the) number of eligible employees in the person's business on  
 2 December 31 <sup>✓</sup> of that year exceeds the number of eligible employees in the person's  
 3 business on January 1 <sup>✓</sup> of that year, and one of the following applies:

\*\*\*\*NOTE: Please confirm that this is consistent with your intent.

History: 2009 a. 28, 265; 2011 a. 32 ss. 2864, 3357 to 3366; Stats. 2011 s. 238.16; 2011 a. 88.

4 **SECTION 2. 238.16 (3) (am)** of the statutes is repealed.

\*\*\*\*NOTE: This paragraph is superfluous because this condition described in this paragraph is already stated in the introduction. <sup>✓</sup>

5 (END)

Trust Draft Tastes

- Search ch. 701 for "assets" → "property" <sup>1/2</sup>

## Knepp, Fern

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**From:** Ley, Emily A - DOA <Emily.Ley@wisconsin.gov>  
**Sent:** Tuesday, December 18, 2012 3:26 PM  
**To:** Knepp, Fern  
**Subject:** RE: Job tax credit drafts

Hi Fern,

BB0150 – yes

BB0151 – I agree with you- It means the same thing, and your language is clearer, but they want to exact pre-2011 Act 32 language. Please redraft.

BB0233 – I'll be in touch sometime in early/mid-January to set up a meeting. We are significantly behind on our briefing schedule so I'm not exactly sure when, but I'll let you know.

Thank you!

Emily

---

**From:** Knepp, Fern [<mailto:Fern.Knepp@legis.wisconsin.gov>]  
**Sent:** Tuesday, December 18, 2012 3:14 PM  
**To:** Ley, Emily A - DOA  
**Subject:** RE: Job tax credit drafts

Emily,

Thanks for your email. I want to clarify that I understand a few things.

BB0150 – The intent is that the person is eligible for tax benefits so long as they increase their net employment over the year before they were certified. A simplistic example would be a person has 2 employees the year before they are certified, in year 1 they increase to 10 employees and would have a net increase of 8 employees, in year 2 they have 6 employees and would have a net increase of 6 employees. The person would be eligible for tax benefits in year 1 and year 2.

BB0151 – I think “that does not exceed 10 percent” and “in an amount equal to up to 10 percent” mean the same thing. I am happy to change it back if you think the exact wording is important.

BB0233 – I have no problem waiting until you have more specific instructions. Currently, I am planning on being out of the office from 12/24 until 1/2. I am free for a telephone conference pretty much anytime starting on 1/2.

In the meantime, I will proceed with a redraft of BB0150 and BB0151

Thanks,  
Fern

---

**From:** Ley, Emily A - DOA [<mailto:Emily.Ley@wisconsin.gov>]  
**Sent:** Tuesday, December 18, 2012 2:55 PM  
**To:** Knepp, Fern  
**Subject:** Job tax credit drafts

Hi Fern,

I hope things are going well for you this budget season.

I have finally had a chance to go through a few of your jobs tax credit stat language drafts and can respond to your notes.

BB0149, Calculation of jobs and enterprise zone tax credits: looks good. *- Typo in analysis*

BB0150, Clarifying an increase in employment under the jobs tax credit program:

1. The intent of this legislation is to clarify a net increase in employment over a base year, not a net increase every year. I've attached a slide from my briefing doc with more information. Let me know if you have additional questions on this.
2. Your repeal of s. 238.16(3)(am) is fine.

BB0151, Tax benefits under the Jobs Tax Credit Program:

The intent is to undo the 2011 Act 32 change (Section 3363m) and replace the 2009 language in s.

238.16(4)(b)1. "The corporation may award... in an amount **equal to up to 10 percent** of the wages paid..." (as opposed to an amount "that does not exceed 10 percent").

The big remaining issue is BB0233, Modify the jobs and economic development tax credit programs. We do not yet have a decision from the Governor on this one and, as you've noted, the instructions are unclear on a number of points. Maybe sometime after the holidays, we could arrange a phone call or meeting and walk through the proposal looking at the different drafting options and the interaction of the proposed changes with the other jobs tax credit drafts. I'm hesitant to spend a lot of time on this one until we have more definitive direction.

Thank you! Enjoy the snow.

Emily

Emily Ley  
Executive Policy & Budget Analyst  
Department of Administration  
Division of Executive Budget and Finance  
(608)-266-7597  
[emily.ley@wisconsin.gov](mailto:emily.ley@wisconsin.gov)

# Statutory Language Changes

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**Request –** Modify state law regarding the job creation requirement under the jobs tax credit program to clarify that the availability of tax benefits requires an increase in net employment over a base year, and not necessarily the addition of jobs in each year of an award.

- ▶ Under current law, a person is eligible to receive tax benefits under the jobs program for each year in which the person creates full-time jobs meeting certain wage and benefit standards.
- ▶ 2009 Wisconsin Act 28 established that jobs tax benefits could be offered for up to 10 years to businesses that added and sustained new jobs.
- ▶ The proposal revises existing language to make clear that the availability of tax benefits under the jobs tax credit program requires an increase in net employment over a base year, prior to the date the business is certified to receive benefits.
- ▶ **Fiscal Impact:** The request has no fiscal effect.





In 12-19-12

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DOA:.....Ley, BB0150 - Clarifying an increase in employment under the jobs tax credit program

**FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION**

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increase net employment in the person's business above the net employment in the person's business in the year before the person was certified for the program. ~~NO #~~  
AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*  
**COMMERCE AND ECONOMIC DEVELOPMENT**

**ECONOMIC DEVELOPMENT**

This bill clarifies that to be eligible to receive tax benefits under the jobs tax credit program, a person must employ more individuals in full-time jobs in the person's business on December 31 of the year for which the person claims the tax benefits than the person employed on January 1 of the same year.

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

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SECTION 1. 238.16 (3) (intro.) of the statutes is amended to read:

238.16 (3) ELIGIBILITY FOR TAX BENEFITS. (intro.) A person certified under sub. (2) may receive tax benefits under this section if, in each year for which the person claims tax benefits under this section, the person increases net employment in the

no strike

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1 ~~person's business number of eligible employees in the person's business on December~~

2 ~~31 of that year exceeds the number of eligible employees in the person's business on~~

3 ~~January 1 of that year, and one of the following applies:~~

\*\*\*\*NOTE: Please confirm that this is consistent with your intent.

SECTION 2. 238.16 (3) (am) of the statutes is repealed.

\*\*\*\*NOTE: This paragraph is superfluous because this condition described in this paragraph is already stated in the introduction.

(END)

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above the net employment in the person's business  
during the year before the person was certified under  
sub. (2), as determined by the corporation under its  
policies and procedures.

D-note  
↓



DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0809/P2dn

FFK: ^:....

date

JLD

To Emily:

\* This draft requires WED to adopt policies and procedures for determining a change in net employment in a person's business. I included this language to allow WED the flexibility to accommodate businesses that operate on a non-calendar fiscal year as well as the flexibility to consider that different businesses may have different peak employment seasons. If this approach is not consistent with your intent, I will need to specify how an increase in net employment is determined in the language of the bill. For example, would it be to comparing the number of employees on December 31 of a certain year to December 31 of the year before the person was certified? ✓

Fern Knepp  
Legislative Attorney  
Phone: (608) 261-6927  
E-mail: fern.knepp@legis.wisconsin.gov

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0809/P2dn  
FFK:jld:jm

December 19, 2012

To Emily:

This draft requires WEDC to adopt policies and procedures for determining a change in net employment in a person's business. I included this language to allow WEDC the flexibility to accommodate businesses that operate on a noncalendar fiscal year as well as the flexibility to consider that different businesses may have different peak employment seasons. If this approach is not consistent with your intent, I will need to specify how an increase in net employment is determined in the language of the bill. For example, would it be to comparing the number of employees on December 31 of a certain year to December 31 of the year before the person was certified?

Fern Knepp  
Legislative Attorney  
Phone: (608) 261-6927  
E-mail: fern.knepp@legis.wisconsin.gov

## **Knepp, Fern**

---

**From:** Ley, Emily A - DOA <Emily.Ley@wisconsin.gov>  
**Sent:** Tuesday, January 22, 2013 3:31 PM  
**To:** Knepp, Fern  
**Subject:** last couple modifications

Hi Fern,

I'm pretty confident (or at least hopeful) that these are the last two changes I'll need for WEDC's draft requests.

0809/P2, Clarifying an increase in employment under the jobs tax credit program – please change the effective date to taxable years beginning on January 1, 2013.

0366/2, Tax benefits under the Jobs Tax Credit Program – please change the effective date to taxable years beginning on January 1, 2013.

Thank you Fern,

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[emily.ley@wisconsin.gov](mailto:emily.ley@wisconsin.gov)



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-0809/02

FFK:jld:jm

In 1-22-13

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DOA:.....Ley, BB0150 – Clarifying an increase in employment under the jobs tax credit program

**FOR 2013-2015 BUDGET – NOT READY FOR INTRODUCTION**

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

*Analysis by the Legislative Reference Bureau*

**COMMERCE AND ECONOMIC DEVELOPMENT**

**ECONOMIC DEVELOPMENT ✓**

This bill clarifies that to be eligible to receive tax benefits under the jobs tax credit program, a person must increase net employment in the person's business above the net employment in the person's business in the year before the person was certified for the program.

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1 person's business above the net employment in the person's business during the year  
 2 before the person was certified under sub. (2), as determined by the corporation  
 3 under its policies and procedures, and one of the following applies:

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4 SECTION 2. 238.16 (3) (am) of the statutes is repealed.

5 SECTION 3. 238.16 (5) (f) (intro.) of the statutes is amended to read:

6 238.16 (5) (f) (intro.) The corporation shall adopt ~~rules~~ policies and procedures  
 7 for the implementation and operation of this section, including ~~rules~~ policies and  
 8 procedures relating to the following:

9 SECTION 4. 238.16 (5) (f) 5. of the statutes is created to read:

10 238.16 (5) (f) 5. Determining a change in net employment in a person's  
 11 business.

(END)

IS  
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INS 2-11

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**SECTION 9350. Initial applicability; Wisconsin Economic Development Corporation**

(1) JOBS TAX CREDIT PROGRAM; NET EMPLOYMENT INCREASE. The treatment of section 238.16 (3) (intro.) of the statutes first applies to taxable years beginning on January 1, 2013.

END INS 2-11

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State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-0809/1

FFK:jld:ph

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6 238.16 (5) (f) (intro.) The corporation shall adopt ~~rules~~ policies and procedures  
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9 **SECTION 4.** 238.16 (5) (f) 5. of the statutes is created to read:

10 238.16 (5) (f) 5. Determining a change in net employment in a person's  
11 business.

12 **SECTION 9350. Initial applicability; Wisconsin Economic Development**  
13 **Corporation.**

14 (1) JOBS TAX CREDIT PROGRAM; NET EMPLOYMENT INCREASE. The treatment of  
15 section 238.16 (3) (intro.) of the statutes first applies to taxable years beginning on  
16 January 1, 2013.

17 (END)