

2013 DRAFTING REQUEST

Bill

Received: 12/5/2013 Received By: mgallagh
Wanted: As time permits Same as LRB: -2997
For: Richard Gudex (608) 266-5300 By/Representing: Lance
May Contact: Drafter: mgallagh
Subject: Econ. Development - bus. dev.
Econ. Development - misc. Addl. Drafters: jkreye

Extra Copies:

Submit via email: YES
Requester's email: Sen.Gudex@legis.wisconsin.gov
Carbon copy (CC) to: michael.gallagher@legis.wisconsin.gov
joseph.kreye@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Transferability of tax credits related to economic development

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>
/1	mgallagh 12/5/2013	evinz 12/5/2013	jfrantze 12/5/2013	_____	lparisi 12/5/2013	sbasford 12/5/2013	

FE Sent For:

~~None
Needed~~

12/17/2013
("1") <END>

see
attached

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/1	mgallagh	1 eev 12/5/13		12/15 _____			

FE Sent For:

<END>

Gallagher, Michael

From: Morouney, Lonna
Sent: Wednesday, December 04, 2013 9:03 AM
To: Gallagher, Michael
Cc: Burri, Lance
Subject: LRB 2997/1 tax credit transferability bill

Mike,

Please release LRB 2997/1 to Senator Gudex's office so they may request a Senate version of the bill. Thanks!

Lonna

Lonna Morouney
Committee Clerk for Assembly Committee on Workforce Development
Office of Representative Amy Loudenbeck
31st Assembly District

Office 209 North
PO Box 8952
Madison, WI 53708
608-266-9967 Toll free: (888) 529-0031
Lonna.morouney@legis.wi.gov



12/5 Today
State of Wisconsin

2013 - 2014 LEGISLATURE



Trans! LRB 2997/1
MPG&JK:sac&eev:jm

2013 BILL

3767/1
Companion RMR
No changes

regn

1 AN ACT *to create* 238.3045 of the statutes; **relating to:** authorizing the transfer
2 of certain tax credits earned in connection with economic development in this
3 state.

Analysis by the Legislative Reference Bureau

Under current law, the Wisconsin Economic Development Corporation (corporation) may certify a person to claim tax credits against the person's income or franchise tax liability or against the person's liability for fees imposed on insurers, if the corporation determines that the person is conducting or will conduct certain eligible business activities that will result in economic development in Wisconsin (economic development tax credits). A person may qualify for additional economic development tax credits if the eligible activity conducted by the person will benefit a particular group or economically distressed area that the state has targeted for economic development.

This bill creates a program under which the corporation may approve the transfer of economic development tax credits to another Wisconsin taxpayer other than the person to whom the corporation initially awards the tax credits. Under the bill, the corporation may approve the transfer of economic development tax credits if the person to whom the tax credits are initially awarded meets at least one of the following conditions in addition to being authorized by the corporation to claim the tax credits:

1. The person is headquartered in, and employs at least 51 percent of its employees in, Wisconsin.

BILL

2. The person intends to relocate its headquarters to, and employ at least 51 percent of its employees in, Wisconsin.

3. The person intends to expand its operations in Wisconsin, and that expansion will increase the number of full-time employees employed by the person in Wisconsin by a number that equals at least 10 percent of the person's full-time employees.

4. The person intends to expand its operations in Wisconsin, and the person will make a significant capital investment in property in Wisconsin as a result of that expansion.

If the corporation approves a person to transfer economic development tax credits, that person must transfer those tax credits to another person previously identified to the corporation if the tax credits are transferred in exchange for some valuable consideration, other than money, in connection with the eligible business activity for which the tax credits were awarded. The person to whom the tax credits are transferred may carry forward any unused amount of those tax credits for up to 15 years until fully claimed.

Under the bill, if the corporation revokes a person's certification for economic development tax credits and that person has already transferred the tax credits, that person is liable for the full amount of the tax credits, and the person to whom the credits were transferred may not claim any unused credits.

Under the bill, the corporation may authorize the transfer of up to \$15,000,000 in economic development tax credits over three years. However, if after reaching that three-year limit, the corporation determines that an extension of the program will support significant economic development in Wisconsin, the corporation may continue the program for up to an additional three years and authorize the transfer of up to an additional \$15,000,000 in economic development tax credits. However, any such extension of the program is subject to passive review by the Joint Committee on Finance.

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

1 **SECTION 1.** 238.3045 of the statutes is created to read:
2 **238.3045 Transferability of tax benefits.** (1) APPLICATION AND CORPORATION
3 APPROVAL. (a) An applicant for certification for tax benefits under s. 238.301 may
4 submit with its application under s. 238.301 (1) an application to the corporation on
5 a form prescribed by the corporation to transfer those tax benefits to another person
6 under this section. The application shall include the name, address, and tax
7 identification number of the person to whom the applicant intends to transfer the tax

BILL

1 benefits and any other information the corporation requires. The corporation shall
2 notify the applicant of the corporation's determination concerning the transfer of tax
3 benefits when the corporation notifies the applicant of the corporation's certification
4 determination under s. 238.301.

5 (b) The corporation may approve the transfer of tax benefits under this section
6 if the corporation certifies the applicant under par. (a) for tax benefits under s.
7 238.301 and finds that the applicant meets at least one of the following conditions:

8 1. Is headquartered and employs at least 51 percent of its employees in this
9 state.

10 2. Intends to relocate its headquarters to this state and employ at least 51
11 percent of its employees in this state.

12 3. Intends to expand its operations in this state, and that expansion will result
13 in an increase in the number of full-time employees employed by the applicant in
14 this state in an amount equal to at least 10 percent of the applicant's full-time
15 workforce in this state at the time of application.

16 4. Intends to expand its operations in this state, and that expansion will result
17 in the applicant making a significant capital investment in property located in this
18 state, as determined by the corporation.

19 (c) 1. Subject to subd. 2., a person that receives an approval under par. (b) shall
20 transfer tax benefits in accordance with the terms of the application under par. (a)
21 after the corporation authorizes the person to claim tax benefits under s. 238.303 (2)
22 and provides the notice of eligibility under s. 238.303 (3). The notice of eligibility
23 shall contain all relevant information concerning a transfer of tax benefits under this
24 section. The person to whom tax benefits are transferred may carry forward,
25 beginning on the date of the notice of eligibility, any unused amount of the value of

BILL**SECTION 1**

1 those tax benefits as provided under the appropriate provision in ch. 71 or in s.
2 76.636.

3 2. Tax benefits may be transferred under this paragraph only in exchange for
4 some consideration, other than money, in connection with the eligible activity for
5 which the tax benefits were initially awarded.

6 **(2) REVOCATION.** (a) If the corporation revokes a person's certification for tax
7 benefits under s. 238.305, and, at the time of revocation, that person has transferred
8 those tax benefits under this section, that person shall be liable for the full value of
9 the tax benefits, and the person to whom the tax benefits were transferred may not
10 claim any tax benefits that were not claimed prior to revocation.

11 (b) The corporation shall notify the department of revenue of a revocation of tax
12 benefits subject to par. (a), including the value of the tax benefits for which the person
13 is liable.

14 (c) The department of revenue has full power to administer tax benefits
15 transferred under this section and may take any action, conduct any proceeding, and
16 proceed as it is authorized in respect to income and franchise taxes imposed under
17 ch. 71. The income and franchise tax provisions in ch. 71 relating to assessments,
18 refunds, appeals, collection, interest, and penalties apply to tax benefits transferred
19 under this section.

20 **(3) ANNUAL REPORT.** Annually, the corporation shall submit a report to the joint
21 committee on finance that provides a detailed assessment of the progress to date of
22 the program under this section.

23 **(4) PROGRAM LIMITS AND TERMINATION.** (a) Except as provided in par. (b), the
24 corporation may not authorize the transfer of tax benefits under this section that
25 total more than \$15,000,000, and the corporation may not authorize the transfer of

BILL

1 tax benefits after 36 months after the effective date of this paragraph [LRB inserts
2 date].

3 (b) Upon expiration of the 36-month period under par. (a), the corporation may
4 continue to authorize the transfer of tax benefits under this section for up to an
5 additional 36 months, and the corporation may authorize the transfer of up to an
6 additional \$15,000,000 in tax benefits, if the corporation determines that a
7 continuation of the program under this section will promote significant economic
8 development in this state. Before the corporation authorizes the transfer of tax
9 benefits under this paragraph, the chief executive officer of the corporation shall
10 notify the joint committee on finance in writing that the corporation intends to
11 continue authorizing the transfer of tax benefits under this section. That notice shall
12 state the reasons supporting the corporation's determination that the transfer of
13 additional tax benefits will promote significant economic development in this state.
14 If, within 14 working days after the date of that notice, the cochairpersons of the
15 committee do not notify the corporation that the committee has scheduled a meeting
16 to review the corporation's proposed continuation of the program, the corporation
17 may proceed to authorize the transfer of additional tax benefits under this section.
18 If, within 14 working days after the date of that notice, the cochairpersons of the
19 committee notify the corporation that the committee has scheduled a meeting to
20 review the proposed continuation of the program, the corporation may proceed to
21 authorize the transfer of additional tax benefits only upon approval of the committee.

SECTION 2. Initial applicability.

22 (1) This act first applies to taxable years beginning on January 1, 2014.

24 (END)

Parisi, Lori

From: Burri, Lance
Sent: Thursday, December 05, 2013 12:05 PM
To: LRB.Legal
Subject: Draft Review: LRB -3767/1 Topic: Transferability of tax credits related to economic development

Please Jacket LRB -3767/1 for the SENATE.

Barman, Mike

From: Gallagher, Michael
Sent: Tuesday, December 17, 2013 11:23 AM
To: Barman, Mike
Subject: RE: SB0449

Mike: I e-mailed Sen. Gudex's office on this. I'll let you know once I've got authorization to request a fiscal estimate. This was an oversight.

Mike

Mike Gallagher
Attorney
Wisconsin Legislative Reference Bureau
(608) 267-7511

From: Barman, Mike
Sent: Tuesday, December 17, 2013 11:05 AM
To: Sweeney, Matthew - DOR; Hamele, Mary - DOA; Williamson, Tracy L - DOA
Cc: Gallagher, Michael; Kreye, Joseph
Subject: RE: SB0449

SB 449 was not tagged to have a fiscal estimate prepared.

From: Sweeney, Matthew - DOR [<mailto:Matthew1.Sweeney@revenue.wi.gov>]
Sent: Tuesday, December 17, 2013 10:40 AM
To: Hamele, Mary - DOA; Williamson, Tracy L - DOA; Barman, Mike
Subject: SB0449

All,

Was DOR going to be assigned to prepare a fiscal estimate for SB0449? It looks like it has a hearing tomorrow.

Thanks!

Matt Sweeney
Legislative Relations Specialist
Division of Research and Policy
Wisconsin Department of Revenue
608-267-1262

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Barman, Mike

From: Gallagher, Michael
Sent: Tuesday, December 17, 2013 11:48 AM
To: Barman, Mike
Subject: FW: SB0449

Mike: Please request a fiscal estimate on this bill. Senator Gudex's office gave the authorization.

Thanks for your help.

Mike

"State"

Mike Gallagher
Attorney
Wisconsin Legislative Reference Bureau
(608) 267-7511

From: Burri, Lance
Sent: Tuesday, December 17, 2013 11:46 AM
To: Gallagher, Michael
Subject: RE: SB0449

Go ahead.

Lance Burri
Office of Sen. Rick Gudex
608-266-5300

From: Gallagher, Michael
Sent: Tuesday, December 17, 2013 11:22 AM
To: Burri, Lance
Subject: FW: SB0449

Lance: Please see below. This bill should have included a fiscal estimate tag in the analysis but didn't. Can I have permission from your office to request a fiscal estimate? Let me know.

Thanks.

Mike

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Attorney
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Barman, Mike

From: Gallagher, Michael
Sent: Tuesday, December 17, 2013 11:51 AM
To: Barman, Mike
Subject: FW: SB0449

If possible, they'd like it by 1 PM tomorrow. Is that possible?

From: Burri, Lance
Sent: Tuesday, December 17, 2013 11:49 AM
To: Gallagher, Michael
Subject: RE: SB0449

Any chance we can get that by 1 pm tomorrow?

Lance Burri
Office of Sen. Rick Gudex
608-266-5300

From: Gallagher, Michael
Sent: Tuesday, December 17, 2013 11:46 AM
To: Burri, Lance
Subject: RE: SB0449

Thanks.

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Wisconsin Legislative Reference Bureau

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ACTIVE

LRB Number: 13-3767/1
Introduction Number: SB-449
Comment:
Request Date: 12/17/2013 12:09:11 PM
Description:



Subject: Rush - FE needed by 11AM 12/18/2013 if possible.
PUBLIC DRAFT/BILL and Assignments

Edit the Request

Draft/Bill: Not attached