



**WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO**

<b>August 2017 Special Session Assembly Bill 1</b>	<b>Senate Substitute Amendment 1, as Amended and Passed by the Senate</b>
<i>Memo published: September 13, 2017</i>	<i>Contact: Larry Konopacki, Principal Attorney Scott Grosz, Principal Attorney Anna Henning, Senior Staff Attorney Zach Ramirez, Staff Attorney</i>

This Amendment Memo describes changes made to August 2017 Special Session Assembly Bill 1, as passed by the Assembly and engrossed (“the engrossed bill”) by Senate Substitute Amendment 1, as amended and passed by the Senate (“the Senate substitute amendment”). Previous Amendment Memos describing changes made by amendments passed or recommended by the Assembly Committee on Jobs and the Economy, the Assembly, or the Joint Committee on Finance, can be obtained by contacting the Legislative Council staff office.

**AUGUST 2017 SPECIAL SESSION ASSEMBLY BILL 1, AS PASSED BY THE ASSEMBLY AND  
ENGROSSED FOR REFERRAL TO THE SENATE**

The engrossed bill authorizes the Wisconsin Economic Development Corporation (WEDC) to create an electronics and information technology manufacturing zone (EITM zone) in which businesses may be certified to claim certain tax credits and exemptions, special provisions apply to tax incremental financing activities conducted by a municipality, certain environmental review and permitting requirements are waived, and special utility rate and project review provisions apply. The engrossed bill also provides for grants to local governments and state support of local obligations relating to an EITM zone, bonding authorization for specified highway construction, and changes to state law related to the administration of “enterprise zones,” among other changes.

## **CHANGES MADE BY SENATE SUBSTITUTE AMENDMENT 1, AS AMENDED AND PASSED BY THE SENATE**

The Senate substitute amendment makes numerous changes, described below, to the engrossed bill.

### **EITM Zone Administration**

#### **Geographical Limits**

**The engrossed bill** authorizes WEDC to designate one EITM zone and to certify a business that begins operations in the zone as eligible to receive special income tax credits. The engrossed bill requires WEDC to consider certain economic indicators and effects when designating an EITM zone but does not specify a geographic limit on the designation or the zone. For purposes of a payroll tax credit, the engrossed bill limits the credit to payroll attributable to wages paid to employees for services that are performed in the zone or that are performed outside the zone, but within the state and for the benefit of the operations within the zone.

**The Senate substitute amendment** specifies that WEDC may not include any area outside Wisconsin in its designation of an EITM zone. The Senate substitute amendment also more expressly prohibits WEDC from certifying a business to claim EITM zone tax credits for services performed outside Wisconsin.

#### **Hiring Goals**

**The engrossed bill** authorizes WEDC to certify a business in an EITM zone as eligible to receive a tax credit equal to 15% of significant capital expenditures within the zone.

**The Senate substitute amendment**, as amended by Senate Amendment 1 to the Senate substitute amendment, requires WEDC to establish job creation thresholds for a business certified to receive EITM zone tax credits and requires that claiming a capital expenditure tax benefit under the Senate substitute amendment must be tied to those job creation thresholds.

#### **Contract Requirement**

**The engrossed bill** refers to a contract between WEDC and a business located in an EITM zone but does not explicitly require WEDC to negotiate such a contract. **The Senate substitute amendment** requires WEDC to contract with a business certified to receive EITM zone tax credits.

#### **Legislative Audit Bureau Evaluation**

**The engrossed bill** does not provide a statutory requirement for periodic audits relating to the tax credits authorized for a business in an EITM zone.

Under **the Senate substitute amendment**, the Legislative Audit Bureau (LAB) is directed to evaluate the process used by WEDC to verify information submitted to the corporation by

the claimant of the tax credits created under the Senate substitute amendment, and to evaluate whether WEDC appropriately verified the amount of tax credits a claimant may claim. The LAB would conduct this evaluation annually for five years, beginning in 2018.

### **Enterprise Zones**

The engrossed bill expands the enterprise zone program from 30 to 35 zones. The Senate substitute amendment deletes this expansion.

### **Grants to Local Governments**

#### **Grants for Local Government Expenditures**

The engrossed bill creates a grant program for local government expenditures and funds it with a \$10,000,000 appropriation. The Senate substitute amendment increases this appropriation to \$15,000,000 and adds technical college districts to the definition of local governmental unit for purposes of the grant program.

#### **Expenditure Restraint Program**

The engrossed bill does not provide an exception with respect to the expenditure restraint program, which is a source of general purpose state aid for municipalities. The Senate substitute amendment excludes payments received under the bill's grant program for local expenditures from the calculation of payment eligibility under the expenditure restraint program.

### **Tax Incremental Financing Law**

The engrossed bill prescribes certain procedures regarding creation of a tax incremental district (TID) in an EITM zone. It does not address whether a TID created using those procedures may serve as a "donor" TID for another TID.

The Senate substitute amendment prohibits a TID created in an EITM zone from acting as a donor district to other TIDs.

The Senate substitute amendment also specifies that payments made by a city or village to a county or other municipality that issues obligations to finance project costs of a TID in an EITM zone may be included as eligible project costs of that TID.

### **County Sales Tax Revenue Bonds**

The engrossed bill authorizes the issuance of county sales tax revenue bonds under ch. 67, Stats. The Senate substitute amendment moves this authorization from ch. 67, Stats., relating to municipal bonds, to ch. 66, Stats., relating to municipal revenue obligations.

#### **Moral Obligation Pledge**

The engrossed bill creates the grant program for local government expenditures and the state's moral obligation pledge in the same section of the statutes, and provides that the

Department of Administration (DOA) Secretary may contract with a local unit of government to implement the grant program. **The Senate substitute amendment** extends DOA's authority to contract with a local unit of government to the implementation of the moral obligation pledge.

### Highway Funding

**The engrossed bill** requires approval by the Joint Committee on Finance in order to expend the proceeds of the general obligation bonds relating to the I-94 north-south corridor project that are authorized by the bill.

**The Senate substitute amendment** allows for expenditure of these proceeds following expiration of a 14-day passive review. In order to object to the expenditure under the Senate substitute amendment, the committee must object within 14 days and vote to deny the request within 30 days of that objection.

### Wetlands Mitigation

**The engrossed bill** provides various options for wetlands mitigation relating to construction, access, or operation of a new manufacturing facility in an EITM zone.

**The Senate substitute amendment** deletes one of these options, participation in an escrow subprogram under s. 281.36 (3s), Stats. That subprogram was closed following federal approval of Wisconsin Wetland Conservation Trust in-lieu fee program.

### Workforce Training

**The engrossed bill** creates a worker training and employment program. **The Senate substitute amendment** specifies that the persons eligible to apply for and receive grants through that program must include institutions of higher education. For purposes of the Senate substitute amendment, institutions of higher education include the campuses of the UW System and the Technical College System, as well as private nonprofit institutions that are members of the Wisconsin Association of Independent Colleges and Universities.

### Judicial Procedure for Decisions Relating to EITM Zones

**The engrossed bill** does not address judicial review of decisions relating to an EITM zone.

**The Senate substitute amendment**, as amended by Senate Amendment 13 to the Senate substitute amendment, creates an expedited procedure, similar to the procedure under current law for certain decisions relating to parental rights or consent to abortion procedures, for appealing judicial decisions relating to an EITM zone. Under the Senate substitute amendment, appeals of a circuit court's judgment or order relating to an EITM zone may be appealed to the Court of Appeals as a matter of right. The Senate substitute amendment provides an expedited timeline and special procedural requirements governing such appeals.

The Senate substitute amendment also requires the Court of Appeals to certify an appeal to the Wisconsin Supreme Court within three days of the Court of Appeals' receipt of the

respondent's reply brief or statement that a reply brief will not be filed. (Under current law, those certifications are discretionary.) Such certifications are made under a current law process authorizing the Supreme Court to take jurisdiction of a pending appeal upon a certification of the Court of Appeals. The Senate substitute amendment requires the Wisconsin Supreme Court to give preference to such certifications in cases relating to an EITM zone. If the Supreme Court refuses to take jurisdiction of the appeal, the Senate substitute amendment provides that the appeal continues through the typical appellate process.

Finally, the Senate substitute amendment provides that any judgment or order of a circuit court relating to an EITM zone is automatically stayed upon the filing of an appeal. However, any party to the proceeding may apply to the relevant appellate court district to request that the stay be modified or vacated.

### **BILL HISTORY**

August 2017 Special Session Assembly Bill 1 was introduced on August 1, 2017, by the Committee on Assembly Organization and Representatives Vos, Steineke, August, Kerkman, Weatherston and Wichgers, by request of Governor Scott Walker. Representatives Neylon, Vos, Steineke, and Nygren introduced Assembly Substitute Amendment 1 on August 11, 2017. On August 14, 2017, the Assembly Committee on Jobs and the Economy recommended adoption of Assembly Substitute Amendment 1, and passage of August 2017 Special Session Assembly Bill 1, as amended, on successive votes of Ayes, 8; Noes, 5. On August 17, 2017, Representatives Ballweg and Neylon introduced Assembly Amendment 24 to the substitute amendment. On the same day, the Assembly adopted Assembly Amendment 24 to the substitute amendment, adopted the substitute amendment, as amended; and passed the bill, as amended, on a vote of Ayes, 59; Noes, 30; and Paired, 6. The bill was then engrossed and referred to the Senate.

On September 6, 2017, the Joint Committee on Finance introduced Senate Amendment 1 and Senate Substitute Amendment 1 - a simple and substitute version of amendments that result in the same changes made to the engrossed bill, on votes of Ayes, 16; Noes, 0. On the same day, the committee recommended adoption of the amendment and concurrence in the bill, as amended, on votes of Ayes, 12; Noes, 4.

On September 12, 2017, Senator Fitzgerald introduced Senate Amendments 1 and 13 to Senate Substitute Amendment 1. On the same day, the Senate adopted Senate Amendment 1 to the substitute amendment on a voice vote and Senate Amendment 13 to the substitute amendment on a vote of Ayes, 19; Noes, 14. The Senate then adopted the substitute amendment, as amended, on a voice vote, and passed the bill, as amended, on a vote of Ayes, 20; Noes, 13.

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