



State of Wisconsin
2003 - 2004 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 2003 ASSEMBLY BILL 538**

November 11, 2003 - Offered by COMMITTEE ON ECONOMIC DEVELOPMENT.

1 **AN ACT to amend** 71.05 (6) (a) 15. and 71.08 (1) (intro.); and **to create** 71.07 (5d),
2 71.10 (4) (gx) and 560.03 (25) and (26) of the statutes; **relating to:** creating a
3 qualified new business venture tax credit, facilitating the development of
4 certain investor networks, and granting rule-making authority.

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

5 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:

6 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
7 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), and (3s), and (5d) and not passed
8 through by a partnership, limited liability company, or tax-option corporation that
9 has added that amount to the partnership's, company's, or tax-option corporation's
10 income under s. 71.21 (4) or 71.34 (1) (g).

11 **SECTION 2.** 71.07 (5d) of the statutes is created to read:

1 71.07 (5d) QUALIFIED NEW BUSINESS VENTURE CREDIT. (a) *Definitions*. In this
2 subsection:

3 1. “Bona fide angel investment” means a purchase of an equity interest, or any
4 other expenditure, as determined by rule by the department, that is made by any of
5 the following:

6 a. An individual who reviews new businesses or proposed new businesses for
7 potential investment of the individual’s money.

8 b. A network of individuals who satisfy subd. 1.

9 2. “Claimant” means an individual who files a claim under this subsection.

10 3. “Qualified new business venture” means a business that is certified under
11 s. 560.03 (26).

12 (b) *Filing claims*. Subject to the limitations provided in this subsection and in
13 s. 560.03 (26), a claimant may claim as a credit against the tax imposed under s. 71.02
14 or 71.08, up to the amount of those taxes, an amount equal to 40 percent of the
15 claimant’s bona fide angel investment made directly in a qualified new business
16 venture in the taxable year.

17 (c) *Limitations*. 1. The maximum amount of the credits that may be claimed
18 under this subsection for all taxable years combined is \$30,000,000.

19 2. The maximum amount of a claimant’s investment that may be used as the
20 basis for a credit under this subsection is \$500,000 for each investment made directly
21 in a business certified under s. 560.03 (26).

22 3. For a claimant who is a nonresident or part-year resident of this state and
23 who is a single person or a married person filing a separate return, multiply the
24 credit for which the claimant is eligible under par. (b) by a fraction, the numerator
25 of which is the individual’s Wisconsin adjusted gross income and the denominator of

1 which is the individual's federal adjusted gross income. If a claimant is married and
2 files a joint return, and if the claimant or the claimant's spouse, or both, are
3 nonresidents or part-year residents of this state, multiply the credit for which the
4 claimant is eligible under par. (b) by a fraction, the numerator of which is the couple's
5 joint Wisconsin adjusted gross income and the denominator of which is the couple's
6 joint federal adjusted gross income.

7 (d) *Administration.* 1. If an investment for which a claimant claims a credit
8 under par. (b) is held by the claimant for less than one year, the claimant shall pay
9 to the department, in the manner prescribed by the department, the amount of the
10 credit that the claimant received related to the investment.

11 2. Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies
12 to the credit under this subsection.

13 3. Subsection (9e) (d), to the extent that it applies to the credit under that
14 subsection, applies to the credit under this subsection.

15 **SECTION 3.** 71.08 (1) (intro.) of the statutes is amended to read:

16 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
17 couple filing jointly, trust or estate under s. 71.02, not considering the credits under
18 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3s), (5d),
19 (6), (~~6s~~), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) and
20 (3) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) and (3) and
21 subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than the
22 tax under this section, there is imposed on that natural person, married couple filing
23 jointly, trust or estate, instead of the tax under s. 71.02, an alternative minimum tax
24 computed as follows:

25 **SECTION 4.** 71.10 (4) (gx) of the statutes is created to read:

1 71.10 (4) (gx) Qualified new business venture credit under s. 71.07 (5d).

2 **SECTION 5.** 560.03 (25) and (26) of the statutes are created to read:

3 560.03 (25) In cooperation with the department of financial institutions and
4 the board of regents of the University of Wisconsin System, provide education and
5 other support to facilitate the development networks of bona fide angel investors, as
6 defined in s. 71.07 (5d) (a) 1.

7 (26) (a) Certify businesses as qualified new business ventures for purposes of
8 s. 71.07 (5d). The department shall promulgate rules for the administration of this
9 subsection. The rules shall require a business desiring certification to submit an
10 application to the department in each taxable year for which the business desires
11 certification. The department shall maintain a list of businesses certified under this
12 subsection and shall permit public access to the list through the department's
13 Internet website. The department shall notify the department of revenue of every
14 business certified under this subsection and the date on which any such business is
15 decertified. Annually, no later than September 15, the department of commerce shall
16 submit a report to the chief clerk of each house of the legislature for distribution to
17 the legislature under s. 13.172 (2), listing the total amount of tax credits claimed
18 under s. 71.07 (5d) per taxable year, the name of each business in which investments
19 qualifying for such tax credits were made, the amount of such tax credits, the amount
20 of such investments, and any other information the department considers
21 reasonable to include. Unless otherwise provided under the rules of the department
22 of commerce, a business may be certified under this subsection, and may maintain
23 such certification, only if the business satisfies all of the following conditions:

24 1. It has its headquarters in this state.

1 2. At least 51 percent of the employees employed by the business are employed
2 in this state.

3 3. Its average annual net income, if any, for each of the 2 taxable years
4 immediately preceding the taxable year to which the certification applies does not
5 exceed \$5,000,000.

6 4. It's net worth, in any, in the taxable year to which the certification applies
7 does not exceed \$10,000,000.

8 5. It is engaged in, or has committed to engage in, manufacturing, agriculture,
9 or processing or assembling products and conducting research and development or
10 developing a new product or business process.

11 6. It is not engaged in real estate development, insurance, banking, lending,
12 lobbying, political consulting, professional services provided by attorneys,
13 accountants, business consultants, physicians, or health care consultants, wholesale
14 or retail trade, leisure, hospitality, transportation, or construction.

15 7. It has less than 100 employees.

16 8. It has been in operation in this state for not more than 7 consecutive years.

17 9. It has not received more than \$1,000,000 in investments that have qualified
18 for tax credits under s. 71.07 (5d).

19 (b) In consultation with the department of revenue, promulgate rules to limit
20 the aggregate amount of tax credits under s. 71.07 (5d) that may be claimed for
21 investments in businesses certified under par. (a) at \$5,000,000 per taxable year.
22 The rules may not permit the department of commerce or the department of revenue
23 to assign a dollar amount of investments qualifying for the tax credits under s. 71.07
24 (5d) that a particular business may subsequently raise.

25 **SECTION 6. Nonstatutory provisions.**

1 (1) RULES.

2 (a) The department of commerce shall submit in proposed form the rules
3 required under section 560.03 (26) of the statutes, as created by this act, to the
4 legislative council staff under section 227.15 (1) of the statutes no later than the first
5 day of the 6th month beginning after the effective date of this paragraph.

6 (b) The department of revenue shall submit in proposed form the rules required
7 under section 71.07 (5d) (a) 1. of the statutes, as created by this act, to the legislative
8 council staff under section 227.15 (1) of the statutes no later than the first day of the
9 6th month beginning after the effective date of this paragraph.

10 **SECTION 7. Initial applicability.**

11 (1) QUALIFIED NEW BUSINESS VENTURE CREDIT. The treatment of sections 71.05
12 (6) (a) 15., 71.07 (5d), 71.08 (1) (intro.), and 71.10 (4) (gx) of the statutes first applies
13 to taxable years beginning on January 1, 2006.

14 **SECTION 8. Effective dates.** This act takes effect on July 1, 2004, except as
15 follows:

16 (1) RULES. SECTION 6 (1) of this act takes effect on the day after publication.

17 (END)