



## 2007 ASSEMBLY BILL 696

January 14, 2008 - Introduced by Representatives KLEEFISCH, HAHN, VAN ROY, PRIDEMORE, GUNDERSON, ZIPPERER, STRACHOTA and PETROWSKI, cosponsored by Senators KANAVAS, DARLING, S. FITZGERALD, KEDZIE, LEIBHAM, ROESSLER, PLALE and OLSEN. Referred to Committee on Jobs and The Economy.

1     **AN ACT to amend** 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)  
2           (a) 10. and 77.92 (4); and **to create** 71.07 (5m), 71.10 (4) (cd), 71.28 (5m), 71.30  
3           (3) (cd), 71.47 (5m), 71.49 (1) (cd) and 560.208 of the statutes; **relating to:**  
4           creating an income and franchise tax credit for eligible innovation projects and  
5           project facilities.

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### *Analysis by the Legislative Reference Bureau*

Under this bill, a person may claim an income and franchise tax credit that is equal to 75 percent of the costs that the person paid in the taxable year related to creating and operating a project facility or to creating and maintaining an eligible innovation project. The amount that a claimant may claim in any taxable year may not exceed \$500,000, and the total amount of all claims in each year may not exceed \$10,000,000. Under the bill, a project facility is any facility located in this state that is operated for the purpose of creating and maintaining an eligible innovation project, if the operation of the facility is likely to create new jobs, or preserve existing jobs, in this state, as determined by the Department of Commerce. The bill defines an eligible innovation project as any real property, tangible personal property, or intangible property related to a new product or process that is based on new technology or the creative application of existing technology.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 71.05 (6) (a) 15. of the statutes, as affected by 2007 Wisconsin Act  
2           20, is amended to read:

3           71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),  
4           (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3h), (3n), (3p), (3s), (3t), (3w), (5e),  
5           (5f), (5h), (5i), (5j), ~~and (5k),~~ and (5m) and not passed through by a partnership,  
6           limited liability company, or tax-option corporation that has added that amount to  
7           the partnership's, company's, or tax-option corporation's income under s. 71.21 (4)  
8           or 71.34 (1) (g).

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

10           71.07 **(5m)** INNOVATION PROJECTS AND FACILITIES CREDIT. (a) *Definitions.* In this  
11           subsection:

12           1. "Blighted area" has the meaning given in s. 66.1331 (3) (a).

13           2. "Brownfield" means an industrial or commercial facility the expansion or  
14           redevelopment of which is complicated by environmental contamination.

15           3. "Claimant" means a person who is certified to receive tax credits under s.  
16           560.208 and who files a claim under this subsection.

17           4. "Eligible innovation project" means any real property, tangible personal  
18           property, or intangible property related to a new product or process that is based on  
19           new technology or the creative application of existing technology.

20           5. "Project facility" means any facility located in this state that is operated for  
21           the purpose of creating and maintaining an eligible innovation project, if the

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1 operation of the facility is likely to create new jobs, or preserve existing jobs, in this  
2 state, as determined by the department of commerce.

3 (b) *Filing claims.* Subject to the limitations provided under this subsection and  
4 s. 560.208, for taxable years beginning after December 31, 2006, a claimant may  
5 claim as a credit against the tax imposed under s. 71.02, up to the amount of the tax,  
6 an amount that is equal to the following costs paid by the claimant in the taxable  
7 year:

8 1. Except as provided in subd. 3., 75 percent of the costs of acquiring,  
9 constructing, reconstructing, rehabilitating, renovating, enlarging, or improving a  
10 project facility or eligible innovation project and 75 percent of the costs of all of the  
11 following related to creating and operating a project facility or to creating and  
12 maintaining an eligible innovation project:

13 a. Designs, plans, specifications, surveys, studies, estimates, and any similar  
14 services or items that are necessary or incidental to determining the feasibility or  
15 practicality of a project facility or eligible innovation project.

16 b. Site clearance and preparation.

17 c. Architectural, engineering, or legal services.

18 d. Marketing products.

19 2. The costs of equipping a project facility and the costs of all of the following  
20 related to creating and operating a project facility or to creating and maintaining an  
21 eligible innovation project:

22 a. Research and development.

23 b. Computer software or hardware.

24 c. Product testing and other quality control activities.

25 d. Perfecting products.

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1 e. Creating and protecting intellectual property.

2 3. If the project facility or eligible innovation project is a brownfield or located  
3 in a blighted area, and if the brownfield or blighted area is not otherwise being  
4 remediated with moneys received from the state, 100 percent of the costs described  
5 in subd. 1.

6 (c) *Limitations.* 1. The maximum amount of the credit that a claimant may  
7 claim under this subsection in a taxable year is \$500,000.

8 2. The maximum amount of the credits that may be awarded under this  
9 subsection and ss. 71.28 (5m) and 71.47 (5m) in each year is \$10,000,000.

10 3. Partnerships, limited liability companies, and tax-option corporations may  
11 not claim the credit under this subsection, but the eligibility for, and the amount of,  
12 the credit are based on their payment of amounts under par. (b). A partnership,  
13 limited liability company, or tax-option corporation shall compute the amount of  
14 credit that each of its partners, members, or shareholders may claim and shall  
15 provide that information to each of them. Partners, members of limited liability  
16 companies, and shareholders of tax-option corporations may claim the credit in  
17 proportion to their ownership interests.

18 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under  
19 s. 71.28 (4), applies to the credit under this subsection.

20 **SECTION 3.** 71.10 (4) (cd) of the statutes is created to read:

21 71.10 (4) (cd) Innovation projects and facilities credit under s. 71.07 (5m).

22 **SECTION 4.** 71.21 (4) of the statutes, as affected by 2007 Wisconsin Act 20, is  
23 amended to read:

24 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
25 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3h), (3n), (3p), (3s), (3t), (3w), (5e), (5f), (5g),

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1 (5h), (5i), (5j), ~~and (5k)~~, and (5m) and passed through to partners shall be added to  
2 the partnership's income.

3 **SECTION 5.** 71.26 (2) (a) of the statutes, as affected by 2007 Wisconsin Act 20,  
4 is amended to read:

5 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means  
6 the gross income as computed under the Internal Revenue Code as modified under  
7 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit  
8 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)  
9 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income  
10 under this paragraph at the time that the taxpayer first claimed the credit plus the  
11 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),  
12 (1ds), (1dx), (3g), (3h), (3n), (3p), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), ~~and (5k)~~, and  
13 (5m) and not passed through by a partnership, limited liability company, or  
14 tax-option corporation that has added that amount to the partnership's, limited  
15 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1)  
16 (g) plus the amount of losses from the sale or other disposition of assets the gain from  
17 which would be wholly exempt income, as defined in sub. (3) (L), if the assets were  
18 sold or otherwise disposed of at a gain and minus deductions, as computed under the  
19 Internal Revenue Code as modified under sub. (3), plus or minus, as appropriate, an  
20 amount equal to the difference between the federal basis and Wisconsin basis of any  
21 asset sold, exchanged, abandoned, or otherwise disposed of in a taxable transaction  
22 during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

23 **SECTION 6.** 71.28 (5m) of the statutes is created to read:

24 71.28 (5m) INNOVATION PROJECTS AND FACILITIES CREDIT. (a) *Definitions.* In this  
25 subsection:

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1           1. “Blighted area” has the meaning given in s. 66.1331 (3) (a).

2           2. “Brownfield” means an industrial or commercial facility the expansion or  
3 redevelopment of which is complicated by environmental contamination.

4           3. “Claimant” means a person who is certified to receive tax credits under s.  
5 560.208 and who files a claim under this subsection.

6           4. “Eligible innovation project” means any real property, tangible personal  
7 property, or intangible property related to a new product or process that is based on  
8 new technology or the creative application of existing technology.

9           5. “Project facility” means any facility located in this state that is operated for  
10 the purpose of creating and maintaining an eligible innovation project, if the  
11 operation of the facility is likely to create new jobs, or preserve existing jobs, in this  
12 state, as determined by the department of commerce.

13           (b) *Filing claims.* Subject to the limitations provided under this subsection and  
14 s. 560.208, for taxable years beginning after December 31, 2006, a claimant may  
15 claim as a credit against the tax imposed under s. 71.23, up to the amount of the tax,  
16 an amount that is equal to the following costs paid by the claimant in the taxable  
17 year:

18           1. Except as provided in subd. 3., 75 percent of the costs of acquiring,  
19 constructing, reconstructing, rehabilitating, renovating, enlarging, or improving a  
20 project facility or eligible innovation project and 75 percent of the costs of all of the  
21 following related to creating and operating a project facility or to creating and  
22 maintaining an eligible innovation project:

23           a. Designs, plans, specifications, surveys, studies, estimates, and any similar  
24 services or items that are necessary or incidental to determining the feasibility or  
25 practicality of a project facility or eligible innovation project.

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- 1           b. Site clearance and preparation.
- 2           c. Architectural, engineering, or legal services.
- 3           d. Marketing products.
- 4           2. The costs of equipping a project facility and the costs of all of the following
- 5 related to creating and operating a project facility or to creating and maintaining an
- 6 eligible innovation project:
- 7           a. Research and development.
- 8           b. Computer software or hardware.
- 9           c. Product testing and other quality control activities.
- 10          d. Perfecting products.
- 11          e. Creating and protecting intellectual property.
- 12          3. If the project facility or eligible innovation project is a brownfield or located
- 13 in a blighted area, and if the brownfield or blighted area is not otherwise being
- 14 remediated with moneys received from the state, 100 percent of the costs described
- 15 in subd. 1.
- 16          (c) *Limitations.* 1. The maximum amount of the credit that a claimant may
- 17 claim under this subsection in a taxable year is \$500,000.
- 18          2. The maximum amount of the credits that may be awarded under this
- 19 subsection and ss. 71.07 (5m) and 71.47 (5m) in each year is \$10,000,000.
- 20          3. Partnerships, limited liability companies, and tax-option corporations may
- 21 not claim the credit under this subsection, but the eligibility for, and the amount of,
- 22 the credit are based on their payment of amounts under par. (b). A partnership,
- 23 limited liability company, or tax-option corporation shall compute the amount of
- 24 credit that each of its partners, members, or shareholders may claim and shall
- 25 provide that information to each of them. Partners, members of limited liability

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1 companies, and shareholders of tax-option corporations may claim the credit in  
2 proportion to their ownership interests.

3 (d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under  
4 sub. (4), applies to the credit under this subsection.

5 **SECTION 7.** 71.30 (3) (cd) of the statutes is created to read:

6 71.30 (3) (cd) Innovation projects and facilities credit under s. 71.28 (5m).

7 **SECTION 8.** 71.34 (1) (g) of the statutes, as affected by 2007 Wisconsin Act 20,  
8 is amended to read:

9 71.34 (1) (g) An addition shall be made for credits computed by a tax-option  
10 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),  
11 (3h), (3n), (3p), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), ~~and (5k)~~, and (5m) and passed  
12 through to shareholders.

13 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2007 Wisconsin Act  
14 20, is amended to read:

15 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
16 computed under s. 71.47 (1dd) to (1dx), (3h), (3n), (3p), (3w), (5e), (5f), (5g), (5h), (5i),  
17 (5j), ~~and (5k)~~, and (5m) and not passed through by a partnership, limited liability  
18 company, or tax-option corporation that has added that amount to the partnership's,  
19 limited liability company's, or tax-option corporation's income under s. 71.21 (4) or  
20 71.34 (1) (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and  
21 (5).

22 **SECTION 10.** 71.47 (5m) of the statutes is created to read:

23 71.47 (5m) INNOVATION PROJECTS AND FACILITIES CREDIT. (a) *Definitions.* In this  
24 subsection:

25 1. "Blighted area" has the meaning given in s. 66.1331 (3) (a).



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1           2. “Brownfield” means an industrial or commercial facility the expansion or  
2 redevelopment of which is complicated by environmental contamination.

3           3. “Claimant” means a person who is certified to receive tax credits under s.  
4 560.208 and who files a claim under this subsection.

5           4. “Eligible innovation project” means any real property, tangible personal  
6 property, or intangible property related to a new product or process that is based on  
7 new technology or the creative application of existing technology.

8           5. “Project facility” means any facility located in this state that is operated for  
9 the purpose of creating and maintaining an eligible innovation project, if the  
10 operation of the facility is likely to create new jobs, or preserve existing jobs, in this  
11 state, as determined by the department of commerce.

12           (b) *Filing claims.* Subject to the limitations provided under this subsection and  
13 s. 560.208, for taxable years beginning after December 31, 2006, a claimant may  
14 claim as a credit against the tax imposed under s. 71.43, up to the amount of the tax,  
15 an amount that is equal to the following costs paid by the claimant in the taxable  
16 year:

17           1. Except as provided in subd. 3., 75 percent of the costs of acquiring,  
18 constructing, reconstructing, rehabilitating, renovating, enlarging, or improving a  
19 project facility or eligible innovation project and 75 percent of the costs of all of the  
20 following related to creating and operating a project facility or to creating and  
21 maintaining an eligible innovation project:

22           a. Designs, plans, specifications, surveys, studies, estimates, and any similar  
23 services or items that are necessary or incidental to determining the feasibility or  
24 practicality of a project facility or eligible innovation project.

25           b. Site clearance and preparation.

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1 c. Architectural, engineering, or legal services.

2 d. Marketing products.

3 2. The costs of equipping a project facility and the costs of all of the following  
4 related to creating and operating a project facility or to creating and maintaining an  
5 eligible innovation project:

6 a. Research and development.

7 b. Computer software or hardware.

8 c. Product testing and other quality control activities.

9 d. Perfecting products.

10 e. Creating and protecting intellectual property.

11 3. If the project facility or eligible innovation project is a brownfield or located  
12 in a blighted area, and if the brownfield or blighted area is not otherwise being  
13 remediated with moneys received from the state, 100 percent of the costs described  
14 in subd. 1.

15 (c) *Limitations.* 1. The maximum amount of the credit that a claimant may  
16 claim under this subsection in a taxable year is \$500,000.

17 2. The maximum amount of the credits that may be awarded under this  
18 subsection and ss. 71.07 (5m) and 71.28 (5m) in each year is \$10,000,000.

19 3. Partnerships, limited liability companies, and tax-option corporations may  
20 not claim the credit under this subsection, but the eligibility for, and the amount of,  
21 the credit are based on their payment of amounts under par. (b). A partnership,  
22 limited liability company, or tax-option corporation shall compute the amount of  
23 credit that each of its partners, members, or shareholders may claim and shall  
24 provide that information to each of them. Partners, members of limited liability

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1 companies, and shareholders of tax-option corporations may claim the credit in  
2 proportion to their ownership interests.

3 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under  
4 s. 71.28 (4), applies to the credit under this subsection.

5 **SECTION 11.** 71.49 (1) (cd) of the statutes is created to read:

6 71.49 (1) (cd) Innovation projects and facilities credit under s. 71.47 (5m).

7 **SECTION 12.** 77.92 (4) of the statutes, as affected by 2007 Wisconsin Act 20, is  
8 amended to read:

9 77.92 (4) “Net business income,” with respect to a partnership, means taxable  
10 income as calculated under section 703 of the Internal Revenue Code; plus the items  
11 of income and gain under section 702 of the Internal Revenue Code, including taxable  
12 state and municipal bond interest and excluding nontaxable interest income or  
13 dividend income from federal government obligations; minus the items of loss and  
14 deduction under section 702 of the Internal Revenue Code, except items that are not  
15 deductible under s. 71.21; plus guaranteed payments to partners under section 707  
16 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),  
17 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3h), (3s), (3n), (3p), (3t), (3w), (5e),  
18 (5f), (5g), (5h), (5i), (5j), and (5k), and (5m); and plus or minus, as appropriate,  
19 transitional adjustments, depreciation differences, and basis differences under s.  
20 71.05 (13), (15), (16), (17), and (19); but excluding income, gain, loss, and deductions  
21 from farming. “Net business income,” with respect to a natural person, estate, or  
22 trust, means profit from a trade or business for federal income tax purposes and  
23 includes net income derived as an employee as defined in section 3121 (d) (3) of the  
24 Internal Revenue Code.

25 **SECTION 13.** 560.208 of the statutes is created to read:

**ASSEMBLY BILL 696****SECTION 13**

1           **560.208 Innovation projects and facilities program.** (1) INNOVATION  
2 PROJECTS AND FACILITIES TAX CREDITS. The department shall implement a program to  
3 certify businesses for purposes of ss. 71.07 (5m), 71.28 (5m), and 71.47 (5m). A  
4 business desiring certification shall submit an application to the department in each  
5 taxable year for which the business desires certification. For the purpose of  
6 certifying businesses under this subsection for taxable years beginning after  
7 December 31, 2006, and before January 1, 2009, the department shall give priority  
8 to businesses that use biotechnology or nanotechnology. Unless otherwise provided  
9 under the rules of the department, a business may be certified under this subsection,  
10 and may maintain such certification, only if the business satisfies all of the following  
11 conditions:

12           (a) It conducts business in this state.

13           (b) At least 51 percent of the employees employed by the business are employed  
14 in this state.

15           (c) It is engaged in, or has committed to engage in, manufacturing, agriculture,  
16 or processing or assembling products and conducting research and development or  
17 developing a new product or business process.

18           (d) It is not engaged in real estate development, insurance, banking, lending,  
19 lobbying, political consulting, professional services provided by attorneys,  
20 accountants, business consultants, physicians, or health care consultants, wholesale  
21 or retail trade, leisure, hospitality, transportation, or construction.

22           **(2) ADMINISTRATION.** (a) The department shall maintain a list of businesses  
23 certified under sub. (1) and shall permit public access to the lists through the  
24 department's Web site.

