



## 2009 ASSEMBLY BILL 871

March 19, 2010 - Introduced by Representatives MURSAU, BIES, LOTHIAN, SPANBAUER, SUDER, TOWNSEND, MEYER and PETROWSKI, cosponsored by Senators HOLPERIN, HARS DORF, A. LASEE, LEIBHAM, OLSEN and SCHULTZ. Referred to Committee on Ways and Means.

1     **AN ACT to amend** 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a) 4., 71.34 (1k) (g), 71.45  
2           (2) (a) 10. and 77.92 (4); and **to create** 71.07 (5n), 71.10 (4) (cd), 71.28 (5n), 71.30  
3           (3) (cd), 71.47 (5n) and 71.49 (1) (cd) of the statutes; **relating to:** an income and  
4           franchise tax credit for providing broadband service.

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### *Analysis by the Legislative Reference Bureau*

This bill creates an income and franchise tax credit for amounts that a taxpayer spends for infrastructure costs to provide broadband service to any of the following:

1. Rural areas in this state.
2. Areas in this state where there is no broadband service or where the Internet access service is no more than 200 kilobits per second.
3. Areas in this state that are populated primarily by low-income persons.

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:*

5           **SECTION 1.** 71.05 (6) (a) 15. of the statutes, as affected by 2009 Wisconsin Act  
6           28, is amended to read:

**ASSEMBLY BILL 871****SECTION 1**

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

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

8           71.07 (5n) BROADBAND SERVICE CREDIT. (a) *Definitions.* In this subsection:

9           1. "Claimant" means a person who files a claim under this subsection.

10          2. "Low-income persons" means low-income persons, and very low-income  
11          persons, as determined by the income limits published by the federal department of  
12          housing and urban development under the National Housing Act of 1937.

13          3. "Unserved area" means an area of this state where there is no broadband  
14          service or where Internet service is no more 200 kilobits per second.

15          (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
16          claimant may claim as a credit against the tax imposed under s. 71.02, up to the  
17          amount of the tax, an amount equal to any of the following:

18          1. Ten percent of the amount the claimant paid in the taxable year for  
19          infrastructure costs to provide broadband service to a rural area of this state or an  
20          area in this state populated primarily by low-income persons, if the broadband  
21          service is at least 5 megabits per second, but less than 50 megabits per second.

22          2. Twenty percent of the amount the claimant paid in the taxable year for  
23          infrastructure costs to provide broadband service to a rural area of this state, an  
24          unserved area, or an area in this state populated primarily by low-income persons,  
25          if the broadband service is at least 50 megabits per second.

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1           3. Twenty percent of the amount the claimant paid in the taxable year for  
2 infrastructure costs to provide broadband service to an unserved area, if the  
3 broadband service is at least 5 megabits per second, but less than 50 megabits per  
4 second.

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

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

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

16           71.10 (4) (cd) Broadband service credit under s. 71.07 (5n).

17           **SECTION 4.** 71.21 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is  
18 amended to read:

19           71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
20 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s), (3t), (3w),  
21 (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), and (8r) and passed through to partners shall  
22 be added to the partnership's income.

23           **SECTION 5.** 71.26 (2) (a) 4. of the statutes, as affected by 2009 Wisconsin Act 28,  
24 is amended to read:

**ASSEMBLY BILL 871****SECTION 5**

1           71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),  
2 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3t),  
3 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), and (8r) and not passed through by a  
4 partnership, limited liability company, or tax-option corporation that has added that  
5 amount to the partnership's, limited liability company's, or tax-option corporation's  
6 income under s. 71.21 (4) or 71.34 (1k) (g).

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

8           71.28 (5n) BROADBAND SERVICE CREDIT. (a) *Definitions.* In this subsection:

9           1. "Claimant" means a person who files a claim under this subsection.

10          2. "Low-income persons" means low-income persons, and very low-income  
11 persons, as determined by the income limits published by the federal department of  
12 housing and urban development under the National Housing Act of 1937.

13          3. "Unserved area" means an area of this state where broadband service is less  
14 than 200 kilobits per second.

15          (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
16 claimant may claim as a credit against the tax imposed under s. 71.23, up to the  
17 amount of the tax, an amount equal to any of the following:

18          1. Ten percent of the amount the claimant paid in the taxable year for  
19 infrastructure costs to provide broadband service to a rural area of this state or an  
20 area in this state populated primarily by low-income persons, if the broadband  
21 service is at least 5 megabits per second, but less than 50 megabits per second.

22          2. Twenty percent of the amount the claimant paid in the taxable year for  
23 infrastructure costs to provide broadband service to a rural area of this state, an  
24 unserved area, or an area in this state populated primarily by low-income persons,  
25 if the broadband service is at least 50 megabits per second.

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1           3. Twenty percent of the amount the claimant paid in the taxable year for  
2 infrastructure costs to provide broadband service to an unserved area, if the  
3 broadband service is at least 5 megabits per second, but less than 50 megabits per  
4 second.

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

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

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

16           71.30 (3) (cd) Broadband service credit under s. 71.28 (5n).

17           **SECTION 8.** 71.34 (1k) (g) of the statutes, as affected by 2009 Wisconsin Act 28,  
18 is amended to read:

19           71.34 (1k) (g) An addition shall be made for credits computed by a tax-option  
20 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),  
21 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n),  
22 and (8r) and passed through to shareholders.

23           **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2009 Wisconsin Act  
24 28, is amended to read:

**ASSEMBLY BILL 871****SECTION 9**

1           71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
2           computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3w), (5e), (5f),  
3           (5g), (5h), (5i), (5j), (5k), (5n), and (8r) and not passed through by a partnership,  
4           limited liability company, or tax-option corporation that has added that amount to  
5           the partnership's, limited liability company's, or tax-option corporation's income  
6           under s. 71.21 (4) or 71.34 (1k) (g) and the amount of credit computed under s. 71.47  
7           (1), (3), (3t), (4), (4m), and (5).

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

9           71.47 (5n) BROADBAND SERVICE CREDIT. (a) *Definitions.* In this subsection:

10          1. "Claimant" means a person who files a claim under this subsection.

11          2. "Low-income persons" means low-income persons, and very low-income  
12          persons, as determined by the income limits published by the federal department of  
13          housing and urban development under the National Housing Act of 1937.

14          3. "Unserved area" means an area of this state where broadband service is less  
15          than 200 kilobits per second.

16          (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
17          claimant may claim as a credit against the tax imposed under s. 71.43, up to the  
18          amount of the tax, an amount equal to any of the following:

19          1. Ten percent of the amount the claimant paid in the taxable year for  
20          infrastructure costs to provide broadband service to a rural area of this state or an  
21          area in this state populated primarily by low-income persons, if the broadband  
22          service is at least 5 megabits per second, but less than 50 megabits per second.

23          2. Twenty percent of the amount the claimant paid in the taxable year for  
24          infrastructure costs to provide broadband service to a rural area of this state, an

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1 unserved area, or an area in this state populated primarily by low-income persons,  
2 if the broadband service is at least 50 megabits per second.

3 3. Twenty percent of the amount the claimant paid in the taxable year for  
4 infrastructure costs to provide broadband service to an unserved area, if the  
5 broadband service is at least 5 megabits per second, but less than 50 megabits per  
6 second.

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

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

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

18 71.49 (1) (cd) Broadband service credit under s. 71.47 (5n).

19 **SECTION 12.** 77.92 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is  
20 amended to read:

21 77.92 (4) "Net business income," with respect to a partnership, means taxable  
22 income as calculated under section 703 of the Internal Revenue Code; plus the items  
23 of income and gain under section 702 of the Internal Revenue Code, including taxable  
24 state and municipal bond interest and excluding nontaxable interest income or  
25 dividend income from federal government obligations; minus the items of loss and

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1 deduction under section 702 of the Internal Revenue Code, except items that are not  
2 deductible under s. 71.21; plus guaranteed payments to partners under section 707  
3 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),  
4 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s),  
5 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), and (8r); and plus or minus, as  
6 appropriate, transitional adjustments, depreciation differences, and basis  
7 differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,  
8 loss, and deductions from farming. “Net business income,” with respect to a natural  
9 person, estate, or trust, means profit from a trade or business for federal income tax  
10 purposes and includes net income derived as an employee as defined in section 3121  
11 (d) (3) of the Internal Revenue Code.

**SECTION 13. Initial applicability.**

12 (1) This act first applies to taxable years beginning on January 1 of the year  
13 in which this subsection takes effect, except that if this subsection takes effect after  
14 July 31 this act first applies to taxable years beginning on January 1 of the year  
15 following the year in which this subsection takes effect.  
16

17 (END)