



2013 ASSEMBLY BILL 761

February 13, 2014 – Introduced by Representatives KUGLITSCH, KAHL, KNODL, RIPP and A. OTT. Referred to Committee on Jobs, Economy and Mining.

1 **AN ACT to create** 238.15 (3) (dm) of the statutes; **relating to:** the allocation of
2 unused early stage seed investment credits.

Analysis by the Legislative Reference Bureau

Under this bill, the Wisconsin Economic Development Corporation (WEDC) may allocate at least 25 percent, but no more than 50 percent, of the unallocated early stage seed investment tax credits to certified investment fund managers so that the fund managers may allocate the credits to persons who make investments in certified businesses for which early stage seed investment credits may be claimed. A fund manager who receives the unallocated credits must allocate the entire amount to investors and no investor may claim the credits unless the total amount committed for investment equals or exceeds 100 percent of the amount of the credits allocated to the fund manager. Under the bill, the fund manager must pay 50 percent of all distributions from the investments as a return of capital, or a return on capital, to the state, less the amount of certain fees and costs.

Under the bill, a fund manager who receives unallocated early stage seed investment credits must report to WEDC the subsequent allocation of those credits no later than 10 days after the fund manager allocates the credits to investors. WEDC then submits the report to the joint committee on finance. The fund manager must also submit an annual report to WEDC that contains the name of each business receiving an investment and the investment amount, the number of jobs created or retained by the business, and any other information required by WEDC. WEDC also submits that report to the joint committee on finance.

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

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

1 **SECTION 1.** 238.15 (3) (dm) of the statutes is created to read:

2 238.15 (3) (dm) *Reallocation.* 1. Beginning in 2014, and in each year
3 thereafter, the corporation may allocate at least 25 percent, but no more than 50
4 percent, of the unallocated credits under ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and
5 76.638 to investment fund managers certified under sub. (2) so that the fund
6 managers may allocate the credits to persons who make investments in businesses
7 certified under sub. (1) and for which credits may be claimed under s. 71.07 (5b),
8 71.28 (5b), 71.47 (5b), or 76.638. A certified investment fund manager wishing to
9 receive unallocated credits under this paragraph shall apply for the credits in the
10 manner provided by the corporation. A fund manager who receives unallocated
11 credits under this subdivision shall allocate the entire amount to investors and no
12 investor may claim such credits unless the total amount committed for investment
13 by the investors and the fund equals or exceeds 100 percent of the amount of the
14 credits allocated to the fund manager. The corporation shall certify the amount of
15 matching capital that is invested in order to meet this requirement and that capital
16 shall not be subject to the distribution provided in subd. 3. The corporation shall not
17 consider the reinvestment of any proceeds of a prior investment under this
18 subdivision as matching capital.

19 2. For purposes of this paragraph, a fund manager shall make investments in
20 businesses certified under sub. (1) no later than 3 years after the date on which the
21 fund manager allocates credits received under subd. 1. The fund manager shall keep

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1 the investments invested in one or more businesses certified under sub. (1) for 5
2 years.

3 3. With regard to the investments made as provided under this paragraph, the
4 fund manager shall pay 50 percent of all distributions as a return of capital, or a
5 return on capital, to the state, less the following amounts:

6 a. Management fees not exceeding 2 percent a year on the amount of capital
7 invested in businesses certified under sub. (1).

8 b. Reasonable costs and expenses for professional services, including legal and
9 accounting services, related to forming and operating the fund.

10 c. Tax distributions to equity owners related to any projected increase in federal
11 or state taxes.

12 d. An amount equal to a matching capital contribution, plus 5 percent of that
13 amount.

14 4. A fund manager who receives credits under subd. 1. shall retain the services
15 of an independent 3rd party to evaluate the effectiveness of the reallocation of credits
16 as provided under this paragraph and to ensure that funds are timely disbursed, that
17 investments are made in businesses certified under sub. (1), and that profits are
18 reported and disbursed under subd. 3. Annually, the independent 3rd party shall
19 submit its evaluation to the fund manager and to the corporation and the corporation
20 shall submit the evaluation to the joint committee on finance.

21 5. If a fund manager or investor fails to comply with the requirements under
22 subd. 2., the corporation shall rescind the allocation of credits to the fund manager
23 and recapture the amount of any such credits claimed by the investor, in the manner
24 determined by the corporation.

