

## CHAPTER 238

## WISCONSIN ECONOMIC DEVELOPMENT CORPORATION

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## SUBCHAPTER I

## GENERAL PROVISIONS

**238.01 Definitions.** In this chapter, except as otherwise provided:

- (1) “Board” means the board of directors of the corporation.
- (2) “Corporation” means the Wisconsin Economic Development Corporation.
- (3) “Economic development program” means a program or activity having the primary purpose of encouraging the establishment and growth of business in this state, including the creation and retention of jobs.

**History:** 2011 a. 7.

**238.02 Creation and organization of corporation.**

(1) There is created an authority, which is a public body corporate and politic, to be known as the “Wisconsin Economic Development Corporation.” The members of the board shall consist of the governor, who shall serve as chairperson of the board, and 6 members nominated by the governor, and with the advice and consent of the senate appointed, to serve at the pleasure of the governor; 3 members appointed by the speaker of the assembly, consisting of one majority and one minority party representative to the assembly, appointed as are the members of standing committees in the assembly, and one person employed in the private sector, to serve at the speaker’s pleasure; and 3 members appointed by the senate majority leader, consisting of one majority and one minority party senator, appointed as are members of standing committees in the senate, and one person employed in the private sector, to serve at the majority leader’s pleasure. The secretary of administration and the secretary of revenue shall also serve on the board as nonvoting members.

(2) A majority of the voting members of the board constitutes a quorum for the purpose of conducting its business and exercis-

ing its powers and for all other purposes, notwithstanding the existence of any vacancies. Action may be taken by the board upon a vote of a majority of the voting members present.

(3) A chief executive officer shall be nominated by the governor, and with the advice and consent of the senate appointed, to serve at the pleasure of the governor. The board may delegate to the chief executive officer any powers and duties the board considers proper. The chief executive officer shall receive such compensation as may be determined by the board.

(4) All powers and duties assigned to the corporation under this chapter shall be exercised or carried out by the board, unless the board delegates the power or duty to an employee of the corporation.

**History:** 2011 a. 7, 32.

**238.03 Duties of board.** (1) The board shall develop and implement economic programs to provide business support and expertise and financial assistance to companies that are investing and creating jobs in Wisconsin and to support new business start-ups and business expansion and growth in Wisconsin. The board may also develop and implement any other programs related to economic development in Wisconsin.

(2) For each program developed and implemented by the board, the board shall do all of the following:

(a) Establish clear and measurable goals for the program that are tied to statutory or programmatic policy objectives.

(b) Establish at least one quantifiable benchmark for each program goal described in par. (a).

(c) Require that each recipient of a grant or loan under the program submit a report to the corporation. Each contract with a recipient of a grant or loan under the program must specify the frequency and format of the report to be submitted to the corporation and the performance measures to be included in the report.

(d) Establish a method for evaluating the projected results of the program with actual outcomes as determined by evaluating the information described in par. (a) and (b).

(e) Annually and independently verify, from a sample of grants and loans, the accuracy of the information required to be reported under par. (c).

(3) The board shall require for each program developed and implemented by the board all of the following:

(a) That each recipient of a grant or loan under the program of at least \$100,000 submit to the corporation, within 120 days after the end of the recipient's fiscal year in which any grant or loan funds were expended, a schedule of expenditures of the grant or loan funds, including expenditures of any matching cash or in-kind match, signed by the director or principal officer of the recipient to attest to the accuracy of the schedule of expenditures. The recipient shall engage an independent certified public accountant to perform procedures, approved by the corporation and consistent with applicable professional standards of the American Institute of Certified Public Accountants, to determine whether the grant or loan funds and any matching cash or in-kind match were expended in accordance with the grant or loan contract. The board shall also require the recipient of such a grant or loan to make available for inspection the documents supporting the schedule of expenditures. The board shall include the requirements under this paragraph in the contract with grant or loan recipients.

(b) That the board, if a recipient of a grant or loan under the program submits false or misleading information to the corporation or fails to comply with the terms of a contract entered into with the corporation, without providing satisfactory explanation for the noncompliance, do all of the following:

1. Recoup payments made to the recipient.
2. Withhold future payments to be made to the recipient.
3. Impose a financial penalty on the recipient.

**History:** 2011 a. 7; 2013 a. 20.

**238.04 Powers of board.** The board shall have all the powers necessary or convenient to carry out the purposes and provisions of this chapter. In addition to all other powers granted the board under this chapter, the board may specifically:

(1) Adopt, amend, and repeal any bylaws, policies, and procedures for the regulation of its affairs and the conduct of its business.

(2) Have a seal and alter the seal at pleasure.

(3) Maintain an office.

(4) Sue and be sued.

(5) Accept gifts, grants, loans, or other contributions from private or public sources.

(6) Establish the corporation's annual budget and monitor the fiscal management of the corporation.

(7) Execute contracts and other instruments required for the operation of the corporation.

(8) Employ any officers, agents, and employees that it may require and determine their qualifications, duties, and compensation.

(9) Issue notes, bonds, and any other obligations.

(10) Make loans and provide grants.

(11) Incur debt.

(12) Procure liability insurance.

(14) Enter into agreements regarding compensation, space, and other administrative matters as are necessary to operate offices in other states and foreign countries. Such agreements shall be subject to the approval of the secretary of administration.

**History:** 2011 a. 7; 2011 a. 32 s. 3289.

**238.045 Establishment of nonprofit organization.**

(1) **DEFINITION.** In this section, "nonprofit organization" means a nonprofit corporation, as defined in s. 181.0103 (17), and any

organization described in section 501 (c) (3) of the Internal Revenue Code that is exempt from federal income tax under section 501 (a) of the Internal Revenue Code.

(2) **APPROVAL REQUIRED.** (a) The corporation may not establish a nonprofit organization without the approval of the joint committee on finance.

(b) The joint committee on finance may approve the corporation's establishment of a nonprofit organization if the corporation's chief executive officer submits a request for approval to the committee that describes in detail the corporation's proposal to establish a nonprofit organization and the chief executive officer appears at the committee's meeting to consider that request for approval.

**History:** 2013 a. 20.

**238.046 Private interest in public contract.** (1) A member of the board or an employee of the corporation to whom the board delegates its authority to contract shall notify the corporation's legal counsel or, if the corporation's legal counsel is unavailable, the chief executive officer of the corporation if the member or employee has a direct or indirect, private, pecuniary interest in a contract that is being negotiated, bid for, or entered into with the corporation. If the corporation's legal counsel or chief executive officer is notified under this section, he or she shall report the name of the individual from whom he or she received the notification and the contract in which the individual has a private, pecuniary interest to the board. A member or employee who notifies the corporation's legal counsel or chief executive officer under this section is not authorized to participate in the member's or employee's capacity as a member of the board or an employee of the corporation in the making of the contract or to perform in regard to the contract some official function requiring the exercise of discretion on the member's or employee's part.

(2) An employee of the corporation shall notify the corporation's legal counsel or, if the corporation's legal counsel is unavailable, the chief executive officer of the corporation if the employee has a controlling interest in an entity that is negotiating, bidding for, or entering into a contract with the corporation. If the corporation's legal counsel or chief executive officer is notified under this section, he or she shall report the name of the individual from whom he or she received the notification and the contract at issue to the board. The board shall prohibit the corporation from entering into any contract with an entity in which an employee of the corporation has a controlling interest.

**History:** 2013 a. 43 s. 1; 2013 a. 173 s. 32.

**238.05 Department of commerce assistance and coordination.** (1) If requested by the board, the department of commerce shall provide staff or other resources to assist the board in carrying out the purposes and provisions of this chapter.

(2) To the greatest extent practicable, the department of commerce and the board shall seek to coordinate their economic development programs.

**History:** 2011 a. 7.

**238.06 Liability limited.** Neither the state nor any political subdivision of the state, nor any officer, employee, or agent of the state or a political subdivision of the state who is acting within the scope of employment or agency, is liable for any debt, obligation, act, or omission of the corporation.

**History:** 2011 a. 7.

**238.07 Submission of annual reports to legislature.**

(1) Annually, by January 1, the board shall submit to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), a report identifying the economic development projects that the board intends to develop and implement during the current calendar year.

(2) Annually, no later than October 1, the board shall submit to the joint legislative audit committee and the chief clerk of each house of the legislature, for distribution to the legislature under s.

13.172 (2), a report for the previous fiscal year on each of the economic development programs of the corporation that contains all of the following:

- (a) A description of each program.
- (ag) An accounting of the location, by municipality, of each job created or retained in the state in the previous fiscal year as a result of the program.
- (ar) An accounting of the industry classification, by municipality, of each job created or retained in the state as a result of the program.
- (b) A comparison of expected and actual program outcomes.
- (c) The number of grants made under the program.
- (d) The number of loans made under the program.
- (dm) The total amount of tax benefits allocated, and the total amount of tax benefits verified to the department of revenue, under the program.
- (e) The amount of each grant and loan made under the program.
- (f) The recipient of each grant or loan made under the program.
- (fm) An identification of each recipient of a tax benefit allocated, and each recipient of a tax benefit that was verified to the department of revenue, under the program.
- (g) The sum total of all grants and loans awarded to and received by each recipient under the program.
- (h) Any recommended changes to the program.
- (3) The board shall make readily accessible to the public on an Internet-based system the information required under sub. (2).

(4) Annually, beginning in 2014, the board shall have an independent audit conducted of the corporation's financial statements for the previous fiscal year and submit the audit report to the joint legislative audit committee and the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2).

**History:** 2011 a. 7; 2013 a. 20.

**238.08 Records of the corporation.** All records of the corporation are open to the public as provided in s. 19.35 (1) except those records relating to pending grants, loans, or economic development projects that, in the opinion of the corporation, must remain confidential to protect the competitive nature of the grant, loan, or project.

**History:** 2011 a. 32.

**238.09 Procurement policies and procedures.** The board shall adopt policies and procedures that specify all of the following:

- (1) When the corporation is required to publicly solicit proposals from multiple vendors of goods or services.
- (2) How the corporation is to evaluate proposals from multiple vendors.
- (3) How the corporation is to assess any conflict of interest a vendor may have if the vendor sells goods or services to the corporation.

**History:** 2013 a. 20.

**238.10 Allocation of volume cap on tax-exempt bonds. (1) ALLOCATION.** The corporation shall establish under 26 USC 146 and administer a system for the allocation of the volume cap on the issuance of private activity bonds, as defined under 26 USC 141 (a), among all municipalities, as defined in s. 67.01 (5), and any corporation formed on behalf of those municipalities, and among this state, the Wisconsin Health and Educational Facilities Authority, the Wisconsin Aerospace Authority, and the Wisconsin Housing and Economic Development Authority.

(2) AMENDMENT TO ALLOCATION. At any time prior to December 31 in any year, the corporation may adopt rules to revise the allocation system established for that year under sub. (1), except that any revision under this subsection does not apply to any allocation under which the recipient of that allocation has adopted

a resolution authorizing the issuance of a private activity bond, as defined in 26 USC 141 (a).

(3) CONDITIONS. The corporation may establish any procedure for, and place any condition upon, the granting of an allocation under this section which the corporation deems to be in the best interest of the state including a requirement that a cash deposit, at a rate established by the corporation, be a condition for an allocation.

(4) CERTIFICATION. If the corporation receives notice of the issuance of a bond under an allocation under subs. (1) to (3), the corporation shall certify that that bond meets the requirements of 26 USC 146.

**History:** 1987 a. 69, 403; 1989 a. 8; 1997 a. 27; 2005 a. 335; 2011 a. 32 s. 3315; Stats. 2011 s. 238.10.

**238.11 Employment impact estimates. (1)** The corporation shall prescribe the notice forms to be used under s. 66.1103 (4m) (a) 1. The corporation shall include on the forms a requirement for information on the number of jobs the person submitting the notice expects to be eliminated, created, or maintained on the project site and elsewhere in this state by the project which is the subject of the notice. The corporation shall prescribe the forms to be used under s. 66.1103 (4m) (b).

(2) If the corporation receives a notice under s. 66.1103 (4m) (a), the corporation shall estimate, no later than 20 days after receipt of the notice, whether the project that is the subject of the notice is expected to eliminate, create, or maintain jobs on the project site and elsewhere in this state and the net number of jobs expected to be eliminated, created, or maintained as a result of the project.

(5) The corporation shall issue an estimate made under sub. (2) to the city, village, town, or county which will issue the bonds to finance the project which is the subject of the estimate.

**History:** 1985 a. 299; 1999 a. 85; 1999 a. 150 s. 672; 2001 a. 104; 2009 a. 112; 2011 a. 32 s. 3318; Stats. 2011 s. 238.11; 2011 a. 214.

**238.12 Repayment of grants, loans, and tax benefits.**

(1) In this section, "tax benefits" means the credits under ss. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), and (3t), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3g), and (3t), 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3g), and (3t), and 76.636.

(2) The corporation may not award a grant or loan under this chapter to a person or certify a person to receive tax benefits unless the corporation enters into an agreement with the person that requires the person to repay the grant, loan, or tax benefits if, within 5 years after receiving the grant or loan or being certified to receive tax benefits, the person ceases to conduct in this state the economic activity for which the person received the grant or loan or for which the person was certified to receive tax benefits and commences substantially the same economic activity outside this state.

**History:** 2005 a. 25, 259; 2011 a. 32 s. 3327; Stats. 2011 s. 238.12.

**238.125 Notification of position openings; compliance.** The corporation shall monitor compliance with the position-opening notification requirements under ss. 66.1103 (6m) and 106.16.

**History:** 1987 a. 27; 1995 a. 27; 1999 a. 150 s. 672; 2011 a. 32 s. 3333; Stats. 2011 s. 238.125.

**238.127 State main street program. (1)** In this section:

(a) "Business area" means a commercial area existing at the time services under the state main street program are requested and having historic significance.

(b) "Municipality" means a city, village or town.

(c) "Revitalization" means the process of engaging in activities to increase economic activity, while preserving and building upon a location's historically significant characteristics.

(2) The corporation shall establish and administer a state main street program to coordinate state and local participation in pro-

grams offered by the national main street center, created by the national trust for historic preservation, to assist municipalities in planning, managing and implementing programs for the revitalization of business areas. The corporation shall do all of the following:

(a) Enter into contracts to obtain business area revitalization services provided by the national main street center.

(c) With help from interested individuals and organizations, develop a plan describing the objectives of the state main street program and the methods by which the corporation shall:

1. Coordinate the activities of that program with private and public sector revitalization of business areas.

2. Solicit and use private sector funding for revitalization of business areas.

3. Help municipalities engage in revitalization of business areas.

(d) Coordinate with other state and local public and private entities which provide services to municipalities undertaking projects for the revitalization of business areas.

(e) Annually select, upon application, up to 5 municipalities to participate in the state main street program. The program for each municipality shall conclude after 3 years, except that the program for each municipality selected after July 29, 1995, shall conclude after 5 years. The corporation shall select program participants representing various geographical regions and populations. A municipality may apply to participate, and the corporation may select a municipality for participation, more than one time. In selecting a municipality, however, the corporation may give priority to those municipalities that have not previously participated.

(f) For use in selecting the participants in the state main street program under par. (e), develop objective criteria relating to at least the following issues:

1. Private and public sector interest in and commitment to revitalization of a business area selected by the municipality.

2. Potential private sector investment in a business area selected by the municipality.

3. Local organizational and financial commitment to employ a program manager for not less than 3 years, or not less than 5 years for participants selected after July 29, 1995.

4. Local assistance in paying for the services of a design consultant.

5. Local commitment to assist in training persons to direct activities related to business areas in municipalities that do not participate in the state main street program.

(h) Provide training, technical assistance and information on the revitalization of business areas to municipalities which do not participate in the state main street program. The corporation may charge reasonable fees for the services and information provided under this paragraph.

(j) The corporation shall expend at least \$250,000 annually on the state main street program.

**History:** 1987 a. 109; 1993 a. 16; 1995 a. 27; 1999 a. 9; 2011 a. 32 ss. 2860m, 3330c to 3330s; Stats. 2011 s. 238.127; 2013 a. 166 s. 76.

### 238.13 Brownfields grant program. (1) In this section:

(a) “Brownfields” means abandoned, idle or underused industrial or commercial facilities or sites, the expansion or redevelopment of which is adversely affected by actual or perceived environmental contamination.

(b) “Brownfields redevelopment” means any work or undertaking by a person to acquire a brownfields facility or site and to raze, demolish, remove, reconstruct, renovate, or rehabilitate the facility or existing buildings, structures, or other improvements at the site for the purpose of promoting the use of the facility or site for commercial, industrial, or other purposes. “Brownfields redevelopment” does not include construction of new facilities on the site for any purpose other than environmental remediation activities.

(d) “Environmental remediation activities” means investigation, analysis and monitoring of a brownfields facility or site to determine the existence and extent of actual or potential environmental pollution; abating, removing or containing environmental pollution at a brownfields facility or site; or restoring soil or groundwater at a brownfields facility or site.

(g) “Person” means an individual, partnership, limited liability company, corporation, nonprofit organization, city, village, town, county, or trustee, including a trustee in bankruptcy.

(2) (a) The corporation may make a grant to a person if all of the following apply:

1. The recipient uses the grant proceeds for brownfields redevelopment or associated environmental remediation activities.

1m. The recipient does not use the grant proceeds to pay lien claims of the department of natural resources or the federal environmental protection agency based on investigation or remediation activities of the department of natural resources or the federal environmental protection agency or to pay delinquent real estate taxes or interest or penalties that relate to those taxes.

2. All of the following are unknown, cannot be located, or are financially unable to pay the cost of environmental remediation activities:

a. The party that caused the portion of the environmental contamination that is the basis for the grant request.

b. Any person who possessed or controlled the environmental contaminant that is the basis for the grant request before the contaminant was released.

3. The recipient contributes to the cost of the project as provided in par. (b).

(b) 1. The contribution required under par. (a) 3. may be in cash or in-kind. Cash contributions may be of private or public funds. In-kind contributions shall be limited to actual remediation services.

2. For a grant that does not exceed \$300,000, the recipient shall be required to contribute not less than 20% of the cost of the project. For a grant that is greater than \$300,000 but that does not exceed \$700,000, the recipient shall be required to contribute not less than 35% of the cost of the project. For a grant that is greater than \$700,000 but that does not exceed \$1,250,000, the recipient shall be required to contribute not less than 50% of the cost of the project.

(3) The corporation may consider the following criteria in making awards under this section:

(a) The potential of the project to promote economic development in the area.

(c) The level of financial commitment by the applicant to the project.

(d) The extent and degree of soil and groundwater contamination at the project site.

(e) The adequacy and completeness of the site investigation and remediation plan.

(f) Any other factors considered by the corporation to be relevant to assessing the viability and feasibility of the project.

(5) Before the corporation awards a grant under this section, the corporation shall consider the recommendations of the department of administration and the department of natural resources.

(6m) Receipt of a grant under this section shall not render the recipient ineligible for a loan or any other grant awarded by the state, unless under the eligibility criteria of the loan or other grant the recipient is excluded by virtue of having received the grant.

**History:** 1997 a. 27; 1999 a. 9; 2001 a. 16; 2007 a. 20, 125; 2009 a. 28; 2011 a. 32 ss. 3341 to 3343; Stats. 2011 s. 238.13; 2013 a. 166 s. 76.

### 238.133 Brownfield site assessment grants. (1) DEFINITIONS. In this section:

(a) “Eligible site or facility” means one or more contiguous industrial or commercial facilities or sites with common or multiple ownership that are abandoned, idle, or underused, the expan-

sion or redevelopment of which is adversely affected by actual or perceived environmental contamination.

(b) “Local governmental unit” means a city, village, town, county, redevelopment authority created under s. 66.1333, community development authority created under s. 66.1335, or housing authority.

(c) “Petroleum product” has the meaning given in s. 292.63 (1) (f).

(d) “Underground hazardous substance storage tank system” means an underground storage tank used for storing a hazardous substance other than a petroleum product together with any on-site integral piping or dispensing system with at least 10% of its total volume below the surface of the ground.

(e) “Underground petroleum product storage tank” has the meaning given in s. 292.63 (1) (i).

**(2) DUTIES OF THE CORPORATION.** (a) The corporation shall administer a program to award brownfield site assessment grants from the appropriation under s. 20.192 (1) (s) to local governmental units for the purposes of conducting any of the eligible activities under sub. (3).

(b) The corporation may not award a grant to a local governmental unit under this section if that local governmental unit caused the environmental contamination that is the basis for the grant request.

(c) The corporation may only award grants under this section if the person that caused the environmental contamination that is the basis for the grant request is unknown, cannot be located or is financially unable to pay the cost of the eligible activities.

(d) The corporation shall establish criteria as necessary to administer the program. The corporation may limit the total amount of funds that may be used to cover the costs of each category of eligible activity described in sub. (3).

**(3) ELIGIBLE ACTIVITIES.** The corporation may award grants to local governmental units to cover the costs of the following activities:

(a) The investigation of environmental contamination on an eligible site or facility for the purposes of reducing or eliminating environmental contamination.

(b) The demolition of any structures, buildings or other improvements located on an eligible site or facility.

(c) The removal of abandoned containers, as defined in s. 292.41 (1), from an eligible site or facility.

(d) Asbestos abatement activities, as defined in s. 254.11 (2), conducted as part of activities described in par. (b) on an eligible site or facility.

(e) The removal of underground hazardous substance storage tank systems.

(f) The removal of underground petroleum product storage tank systems.

**(4) APPLICATION FOR GRANT.** The applicant shall submit an application on a form prescribed by the corporation and shall include any information that the corporation finds necessary to calculate the amount of a grant.

**(5) GRANT CRITERIA.** The corporation shall consider the following criteria when determining whether to award a grant:

(a) The local governmental unit’s demonstrated commitment to performing and completing necessary environmental remediation activities on the eligible site, including the local governmental unit’s financial commitment.

(b) The degree to which the project will have a positive impact on public health and the environment.

(c) Other criteria that the corporation finds necessary to calculate the amount of a grant.

**(6) LIMITATION OF GRANT.** The total amount of all grants awarded to a local governmental unit in a fiscal year under this section shall be limited to an amount equal to 15% of the available funds appropriated under s. 20.192 (1) (s) for the fiscal year.

**(7) MATCHING FUNDS.** The corporation may not distribute a grant unless the applicant contributes matching funds equal to 20% of the grant. Matching funds may be in the form of cash or in-kind contribution or both.

**History:** 1999 a. 9; 2001 a. 16, 30; 2011 a. 32 s. 2990r; Stats. 2011 s. 238.133; 2013 a. 20.

**238.135 Grants to regional economic development organizations.** The corporation shall award annual grants to regional economic development organizations to fund marketing activities. The amount of each grant may not exceed \$100,000 or the amount of matching funds the organization obtains from sources other than the corporation or the state, whichever is less.

**History:** 2011 a. 32.

**238.15 Early stage business investment program.**

**(1) ANGEL INVESTMENT TAX CREDITS.** The corporation shall implement a program to certify businesses for purposes of s. 71.07 (5d). A business desiring certification shall submit an application to the corporation in each taxable year for which the business desires certification. The business shall specify in its application the investment amount it wishes to raise and the corporation may certify the business and determine the amount that qualifies for purposes of s. 71.07 (5d). The corporation may certify or recertify a business for purposes of s. 71.07 (5d) only if the business satisfies all of the following conditions:

(a) It has its headquarters in this state.

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

(f) It has the potential for increasing jobs in this state, increasing capital investment in this state, or both, and any of the following apply:

1. It is engaged in, or has committed to engage in, innovation in any of the following:

a. Manufacturing, biotechnology, nanotechnology, communications, agriculture, or clean energy creation or storage technology.

b. Processing or assembling products, including medical devices, pharmaceuticals, computer software, computer hardware, semiconductors, any other innovative technology products, or other products that are produced using manufacturing methods that are enabled by applying proprietary technology.

c. Services that are enabled by applying proprietary technology.

2. It is undertaking pre-commercialization activity related to proprietary technology that includes conducting research, developing a new product or business process, or developing a service that is principally reliant on applying proprietary technology.

(g) It is not primarily engaged in real estate development, insurance, banking, lending, lobbying, political consulting, professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants, wholesale or retail trade, leisure, hospitality, transportation, or construction, except construction of power production plants that derive energy from a renewable resource, as defined in s. 196.378 (1) (h).

(h) At the time it is initially certified under this subsection, it has less than 100 employees.

(j) At the time it is initially certified under this subsection, it has been in operation in this state for not more than 10 consecutive years.

(k) For taxable years beginning before January 1, 2008, it has not received more than \$1,000,000 in investments that have qualified for tax credits under s. 71.07 (5d).

(km) It has not received aggregate private equity investment in cash of more than \$10,000,000 before it is initially certified under this subsection.

(kn) For taxable years beginning after December 31, 2007 and before January 1, 2011, it has not received more than \$4,000,000

in investments that have qualified for tax credits under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47 (5b), and 76.638.

(L) For taxable years beginning after December 31, 2010, it has not received more than \$8,000,000 in investments that have qualified for tax credits under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47 (5b), and 76.638.

(m) 1. It agrees that it will not relocate outside of this state during the 3 years after it receives an investment for which a person may claim a tax credit under s. 71.07 (5d) and agrees to pay the corporation a penalty, in an amount determined under subd. 2., if the business relocates outside of this state during that 3-year period. For the purposes of this paragraph, a business relocates outside of this state when the business locates more than 51 percent of any of the following outside of this state:

- a. The business's employees.
  - b. The business's total payroll.
  - c. The activities of the business's headquarters, as determined by the corporation.
2. The amount of a penalty payment under subd. 1. is any of the following:

- a. If the relocation occurs less than 12 months after the investment, 100 percent of the tax credit that was claimed under s. 71.07 (5d) as the result of the investment.
- b. If the relocation occurs 12 months or more after the investment but less than 24 months after the investment, 80 percent of the tax credit that was claimed under s. 71.07 (5d) as the result of the investment.
- c. If the relocation occurs 24 months or more after the investment but less than 36 months after the investment, 60 percent of the tax credit that was claimed under s. 71.07 (5d) as the result of the investment.

(2) **EARLY STAGE SEED INVESTMENT TAX CREDITS.** The corporation shall implement a program to certify investment fund managers for purposes of ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and 76.638. An investment fund manager desiring certification shall submit an application to the corporation. The investment fund manager shall specify in the application the investment amount that the manager wishes to raise and the corporation may certify the manager and determine the amount that qualifies for purposes of ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and 76.638. In determining whether to certify an investment fund manager, the corporation shall consider the investment fund manager's experience in managing venture capital funds, the past performance of investment funds managed by the applicant, the expected level of investment in the investment fund to be managed by the applicant, and any other relevant factors. The corporation may certify only investment fund managers that commit to consider placing investments in businesses certified under sub. (1).

(3) **ADMINISTRATION.** (a) *List of certified businesses and investment fund managers.* The corporation shall maintain a list of businesses certified under sub. (1) and investment fund managers certified under sub. (2) and shall permit public access to the lists through the corporation's Internet Web site.

(b) *Notification of department of revenue.* The corporation shall notify the department of revenue of every certification issued under subs. (1) and (2) and the date on which any such certification is revoked or expires.

(d) *Rules.* The corporation, in consultation with the department of revenue, shall adopt rules to administer this section. The rules shall further define "bona fide angel investment" for purposes of s. 71.07 (5d) (a) 1. The rules shall limit the aggregate amount of tax credits under s. 71.07 (5d) that may be claimed for investments in businesses certified under sub. (1) at \$3,000,000 per calendar year for calendar years beginning after December 31, 2004, and before January 1, 2008, \$5,500,000 per calendar year for calendar years beginning after December 31, 2007, and before January 1, 2010, \$6,500,000 for calendar year 2010, and \$20,000,000 per calendar year for calendar years beginning after December 31, 2010, plus, for taxable years beginning after

December 31, 2010, an additional \$250,000 for tax credits that may be claimed for investments in nanotechnology businesses certified under sub. (1). The rules shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and 76.638 that may be claimed for investments paid to fund managers certified under sub. (2) at \$3,500,000 per calendar year for calendar years beginning after December 31, 2004, and before January 1, 2008, \$6,000,000 per calendar year for calendar years beginning after December 31, 2007, and before January 1, 2010, \$8,000,000 for calendar year 2010, and \$20,500,000 per calendar year for calendar years beginning after December 31, 2010, plus, for taxable years beginning after December 31, 2010, an additional \$250,000 for tax credits that may be claimed for investments in nanotechnology businesses certified under sub. (1). The rules shall also provide that, for calendar years beginning after December 31, 2007, a person who receives a credit under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47 (5b), or 76.638 must keep the investment in a certified business, or with a certified fund manager, for no less than 3 years, unless the person's investment becomes worthless, as determined by the corporation, during the 3-year period or the person has kept the investment for no less than 12 months and a bona fide liquidity event, as determined by the corporation, occurs during the 3-year period. The rules shall permit the corporation to reallocate credits under this section that are unused in any calendar year to a person eligible for tax benefits, as defined under s. 238.16 (1) (d), if all of the following apply:

1. The corporation notifies the joint committee on finance in writing of its proposed reallocation.

2. One of the following is true:

a. The cochairpersons of the joint committee on finance fail to notify the corporation, within 14 working days after the date of the corporation's notification under subd. 1., that the committee has scheduled a meeting for the purpose of reviewing the proposed reallocation.

b. The cochairpersons of the joint committee on finance notify the corporation that the committee has approved the proposed reallocation.

(e) *Transfer.* A person who is eligible to claim a credit under s. 71.07 (5b), 71.28 (5b), 71.47 (5b), or 76.638 may sell or otherwise transfer the credit to another person who is subject to the taxes or fees imposed under s. 71.02, 71.23, 71.47, or subch. III of ch. 76, if the person receives prior authorization from the investment fund manager and the manager then notifies the corporation and the department of revenue of the transfer and submits with the notification a copy of the transfer documents. No person may sell or otherwise transfer a credit as provided in this paragraph more than once in a 12-month period. The corporation may charge any person selling or otherwise transferring a credit under this paragraph a fee equal to 1 percent of the credit amount sold or transferred.

**History:** 2003 a. 255; 2005 a. 49, 97; 2007 a. 20, 125; 2009 a. 2, 265, 276; 2011 a. 32 s. 3356; Stats. 2011 s. 238.15; 2011 a. 213.

**238.16 Jobs tax credit. (1) DEFINITIONS.** In this section:

(a) 1. Except as provided in subd. 2., "business" means any organization or enterprise operated for profit, including a sole proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation, limited liability company, or association.

2. "Business" does not include a store or shop in which retail sales is the principal business.

(b) "Eligible employee" means a person employed in a full-time job by a person certified under sub. (2).

(c) 1. Except as provided in subd. 2., "full-time job" means a regular, nonseasonal full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays, and for which the individual receives pay that is equal to at least 150 percent of the federal minimum wage and benefits that are not required by federal or state law. "Full-time job" does not include initial training before an employment position begins.

2. The corporation may grant exceptions to the requirement under subd. 1. that a full-time job means a position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year if all of the following apply:

a. The annual pay for the position is more than the amount determined by multiplying 2,080 by 150 percent of the federal minimum wage.

b. An individual in the position is offered retirement, health, and other benefits that are equivalent to the retirement, health, and other benefits offered to an individual who is required to work at least 2,080 hours per year.

(d) “Tax benefits” means the jobs tax credit under ss. 71.07 (3q), 71.28 (3q), and 71.47 (3q).

(2) The corporation may certify a person to receive tax benefits under this section if all of the following apply:

(a) The person is operating or intends to operate a business in this state.

(b) The person applies under this section and enters into a contract with the corporation.

(3) **ELIGIBILITY FOR TAX BENEFITS.** A person certified under sub. (2) may receive tax benefits under this section if, in each year for which the person claims tax benefits under this section, the person increases net employment in this state in the person’s business above the net employment in this state in the person’s business during the year before the person was certified under sub. (2), as determined by the corporation under its policies and procedures, and one of the following applies:

(a) In a tier I county or municipality, an eligible employee for whom the person claims a tax credit will earn at least the amount determined by multiplying 2,080 by 150 percent of the federal minimum wage in wages from the person in the year for which the credit is claimed.

(b) In a tier II county or municipality, an eligible employee for whom the person claims a tax credit will earn at least \$30,000 in wages from the person in the year for which the credit is claimed.

(c) In a tier I county or municipality or a tier II county or municipality, the person improves the job-related skills of any eligible employee, trains any eligible employee on the use of job-related new technologies, or provides job-related training to any eligible employee whose employment with the person represents the employee’s first full-time job.

(4) **DURATION, LIMITS, AND EXPIRATION.** (a) The certification of a person under sub. (2) may remain in effect for no more than 10 cumulative years.

(b) 1. The corporation may award to a person certified under sub. (2) tax benefits for each eligible employee in an amount equal to up to 10 percent of the wages paid by the person to that employee or \$10,000, whichever is less, if that employee earned wages in the year for which the tax benefit is claimed equal to one of the following:

a. In a tier I county or municipality, at least the amount determined by multiplying 2,080 by 150 percent of the federal minimum wage.

b. In a tier II county or municipality, at least \$30,000.

2. The corporation may award to a person certified under sub. (2) tax benefits in an amount to be determined by the corporation for costs incurred by the person to undertake the training activities described in sub. (3) (c).

(c) Subject to a reallocation by the corporation pursuant to rules adopted under s. 238.15 (3) (d), the corporation may allocate up to \$5,000,000 in tax benefits under this section in any calendar year, except that beginning on July 1, 2011, the corporation may allocate up to \$10,000,000 in tax benefits under this section in any calendar year.

(5) **DUTIES OF THE CORPORATION.** (a) The corporation shall notify the department of revenue when the corporation certifies a person to receive tax benefits.

(b) The corporation shall notify the department of revenue within 30 days of revoking a certification made under sub. (2).

(c) The corporation may require a person to repay any tax benefits the person claims for a year in which the person failed to maintain employment required by an agreement under sub. (2) (b).

(d) The corporation shall determine the maximum amount of the tax credits under ss. 71.07 (3q), 71.28 (3q), and 71.47 (3q) that a certified business may claim and shall notify the department of revenue of this amount.

(e) The corporation shall annually verify the information submitted to the corporation by the person claiming tax benefits under ss. 71.07 (3q), 71.28 (3q), and 71.47 (3q).

(f) The corporation shall adopt policies and procedures for the implementation and operation of this section, including policies and procedures relating to the following:

1. The definitions of a tier I county or municipality and a tier II county or municipality. The corporation may consider all of the following information when establishing the definitions required under this subdivision:

a. Unemployment rate.

b. Percentage of families with incomes below the poverty line established under 42 USC 9902 (2).

c. Median family income.

d. Median per capita income.

e. Other significant or irregular indicators of economic distress, such as a natural disaster or mass layoff.

2. A schedule of additional tax benefits for which a person who is certified under sub. (2) and who incurs costs related to job training under sub. (3) (c) may be eligible.

3. Conditions for the revocation of a certification under par. (b).

4. Conditions for the repayment of tax benefits under par. (c).

5. Determining a change in net employment in a person’s business.

**History:** 2009 a. 28, 265; 2011 a. 32 ss. 2864, 3357 to 3366; Stats. 2011 s. 238.16; 2011 a. 88; 2013 a. 20, 145.

**238.17 Historic rehabilitation tax credit.** For taxable years beginning after December 31, 2013, the corporation may certify a person to claim a tax credit under s. 71.07 (9m), 71.28 (6), or 71.47 (6), if the corporation determines that the person is conducting an eligible activity under s. 71.07 (9m), 71.28 (6), or 71.47 (6). No person may claim a tax credit under s. 71.07 (9m), 71.28 (6), or 71.47 (6) without first being certified under this section. The corporation shall notify the department of revenue no later than January 15 of each year of the amount of the credits certified under this section and the name, address, and tax identification number of each person certified to claim the credit. The corporation shall notify the department of revenue of any revoked certification no later than 2 months after the revocation date.

**History:** 2013 a. 62.

**238.23 Technology zones. (1)** In this section, “tax credit” means a credit under s. 71.07 (2di), (2dm), (2dx), or (3g), 71.28 (1di), (1dm), (1dx), or (3g), or 71.47 (1di), (1dm), (1dx), or (3g).

(2) (a) Except as provided in par. (c), the corporation may designate up to 8 areas in the state as technology zones. A business that is located in a technology zone and that is certified by the corporation under sub. (3) is eligible for a tax credit as provided in sub. (3).

(b) The designation of an area as a technology zone shall be in effect for 10 years from the time that the corporation first designates the area. Not more than \$5,000,000 in tax credits may be claimed in a technology zone, except that the corporation may allocate the amount of unallocated airport development zone tax credits, as provided under s. 238.3995 (3) (b), to technology zones for which the \$5,000,000 maximum allocation is insufficient. The corporation may change the boundaries of a technology zone dur-

ing the time that its designation is in effect. A change in the boundaries of a technology zone does not affect the duration of the designation of the area or the maximum tax credit amount that may be claimed in the technology zone.

(c) No area may be designated as a technology zone under this subsection on or after March 6, 2009.

**(3)** (a) Except as provided in par. (e), the corporation may certify for tax credits in a technology zone a business that satisfies all of the following requirements:

1. The business is located in the technology zone.
2. The business is a new or expanding business.
3. The business is a high–technology business.

(b) In determining whether to certify a business under this subsection, the corporation shall consider all of the following:

1. How many new jobs the business is likely to create.
2. The extent and nature of the high technology used by the business.
3. The likelihood that the business will attract related enterprises.
4. The amount of capital investment that the business is likely to make in the state.
5. The economic viability of the business.

(c) When the corporation certifies a business under this subsection, the corporation shall establish a limit on the amount of tax credits that the business may claim. Unless its certification is revoked, and subject to the limit on the tax credit amount established by the corporation under this paragraph, a business that is certified may claim a tax credit for 3 years, except that a business that experiences growth, as determined for that business by the corporation under par. (d) and sub. (5) (e), may claim a tax credit for up to 5 years.

(d) The corporation shall enter into an agreement with a business that is certified under this subsection. The agreement shall specify the limit on the amount of tax credits that the business may claim, the extent and type of growth, which shall be specific to the business, that the business must experience to extend its eligibility for a tax credit, the business' baseline against which that growth will be measured, any other conditions that the business must satisfy to extend its eligibility for a tax credit, and reporting requirements with which the business must comply.

(e) No business may be certified under this subsection on or after March 6, 2009.

**(4)** (a) The corporation shall notify the department of revenue of all the following:

1. A technology zone's designation.
2. A business's certification and the limit on the amount of tax credits that the business may claim.
3. The extension or revocation of a business's certification.

(b) The corporation shall annually verify information submitted to the corporation under ss. 71.07 (2di), (2dm), (2dx), and (3g), 71.28 (1di), (1dm), (1dx), and (3g), and 71.47 (1di), (1dm), (1dx), and (3g).

**(5)** The corporation shall adopt rules for the operation of this section, including rules related to all the following:

- (a) Criteria for designating an area as a technology zone.
- (b) A business's eligibility for certification, including definitions for all of the following:
  1. New or expanding business.
  2. High–technology business.
- (c) Certifying a business, including use of the factors under sub. (3) (b).
- (d) Standards for establishing the limit on the amount of tax credits that a business may claim.
- (e) Standards for extending a business's certification, including what measures, in addition to job creation, the corporation will

use to determine the growth of a specific business and how the corporation will establish baselines against which to measure growth.

- (f) Reporting requirements for certified businesses.
- (g) The exchange of information between the corporation and the department of revenue.
- (h) Reasons for revoking a business's certification.
- (i) Standards for changing the boundaries of a technology zone.

**History:** 2001 a. 16, 104; 2007 a. 183; 2009 a. 2; 2011 a. 32 s. 3448; Stats. 2011 s. 238.23.

**238.25 Assistance to loan recipients.** The corporation shall assist new businesses and small businesses receiving the assistance of the Wisconsin Housing and Economic Development Authority in locating sources of venture capital and in obtaining the state and federal licenses and permits necessary for business operations.

**History:** 2011 a. 32 s. 3305; Stats. 2011 s. 238.25; 2011 a. 214.

**238.26 Report to investment board.** No later than September 30 of each even–numbered year, the corporation shall submit to the investment board a report describing the types of investments in businesses in this state that will have the greatest likelihood of enhancing economic development in this state.

**History:** 2011 a. 32 s. 3329.

## SUBCHAPTER II

### TAX INCENTIVES FOR BUSINESS DEVELOPMENT

**238.30 Definitions.** In this section and ss. 238.301 to 238.395 and 238.398:

**(2)** “Development zone program” means the program administered under this subchapter.

**(2g)** “Eligible activity” means an activity described under s. 238.302.

**(2m)** (a) Except as provided in par. (b), “full–time job” means a regular, nonseasonal full–time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays, and for which the individual receives pay that is equal to at least 150% of the federal minimum wage and benefits that are not required by federal or state law. “Full–time job” does not include initial training before an employment position begins.

(b) The corporation may grant exceptions to the requirement under par. (a) that a full–time job means a position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year if all of the following apply:

1. The annual pay for the position is more than the amount determined by multiplying 2,080 by 150 percent of the federal minimum wage.

2. An individual in the position is offered retirement, health, and other benefits that are equivalent to the retirement, health, and other benefits offered to an individual who is required to work at least 2,080 hours per year.

**(3)** “Indian reservation” has the meaning given in s. 139.30 (9).

**(4)** “Local governing body” means the governing body of one or more cities, villages, towns, or counties or the elected governing body of a federally recognized American Indian tribe or band in this state.

**(4m)** “Member of a targeted group” means a person who resides in an area designated by the federal government as an economic revitalization area, a person who is employed in an unsubsidized job but meets the eligibility requirements under s. 49.145 (2) and (3) for a Wisconsin Works employment position, a person who is employed in a trial job, as defined in s. 49.141 (1) (n), 2011 stats., or in a trial employment match program job, as defined in s. 49.141 (1) (n), a person who is eligible for child care assistance



under s. 49.155, a person who is a vocational rehabilitation referral, an economically disadvantaged youth, an economically disadvantaged veteran, a supplemental security income recipient, a general assistance recipient, an economically disadvantaged ex-convict, a dislocated worker, as defined in 29 USC 2801 (9), or a food stamp recipient, if the person has been certified in the manner under 26 USC 51 (d) (13) (A) by a designated local agency, as defined in 26 USC 51 (d) (12).

(5) “Metropolitan statistical area” means a federal standard metropolitan statistical area but does not include areas located within Indian reservations.

(6) “Target population” means persons who are members of targeted groups for the purposes of the credit under ss. 71.07 (2dx), 71.28 (1dx), 71.47 (1dx), and 76.636.

(7) (a) Except as provided in pars. (b), (c), and (d), “tax benefits” means the development zones credit under ss. 71.07 (2dx), 71.28 (1dx), 71.47 (1dx), and 76.636.

(b) 1. Except as provided in subd. 2., in s. 238.395, “tax benefits” means the development zones investment credit under ss. 71.07 (2di), 71.28 (1di), and 71.47 (1di) and the development zones credit under ss. 71.07 (2dx), 71.28 (1dx), 71.47 (1dx), and 76.636. With respect to the development opportunity zones under s. 238.395 (1) (e) and (f), “tax benefits” also means the development zones capital investment credit under ss. 71.07 (2dm), 71.28 (1dm), and 71.47 (1dm).

2. With respect to the development opportunity zones under s. 238.395 (1) (g), (h), and (i), “tax benefits” means the development zone credits under ss. 71.07 (2dx), 71.28 (1dx), 71.47 (1dx), and 76.636 and the development zones capital investment credit under ss. 71.07 (2dm), 71.28 (1dm), and 71.47 (1dm).

(c) In s. 238.398, “tax benefits” means the development zones capital investment credit under ss. 71.07 (2dm), 71.28 (1dm), and 71.47 (1dm) and the development zones credits under ss. 71.07 (2dx), 71.28 (1dx), 71.47 (1dx), and 76.636.

(d) In ss. 238.301 to 238.306, “tax benefits” means the economic development tax credit under ss. 71.07 (2dy), 71.28 (1dy), 71.47 (1dy), and 76.637.

**History:** 1987 a. 328, 411; 1991 a. 39; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2005 a. 259; 2009 a. 2, 28; 2011 a. 32 ss. 3408 to 3409; Stats. 2011 s. 238.30; 2011 a. 37 s. 1; 2013 a. 20; 2013 a. 166 s. 58; 2013 a. 168.

**238.301 Certification for tax benefits. (1) APPLICATION.** Any person may apply to the corporation on a form prepared by the corporation for certification under this section. The application shall include all of the following:

- (a) The name and address of the person.
- (b) The federal tax identification number of the person.
- (c) The names and addresses of the locations where the person conducts business and a description of the business activities conducted at those locations.
- (d) A description of each eligible activity conducted or proposed to be conducted by the person.
- (e) Other information required by the corporation or the department of revenue.

(2) (a) The corporation may certify a person who submits an application under sub. (1) if, after conducting an investigation, the corporation determines that the person is conducting or intends to conduct at least one eligible activity.

(b) The corporation shall provide a person certified under this section and the department of revenue with a copy of the certification.

(3) **CONTRACT.** A person certified under this section shall enter into a written contract with the corporation. The contract shall include provisions that detail all of the following:

- (a) A description of each eligible activity being conducted or proposed to be conducted by the person.

(b) Whether any of the eligible activities will occur in an economically distressed area, as designated by the corporation under s. 238.304 (1).

(c) Whether any of the eligible activities will benefit members of a targeted group, as determined by the corporation under s. 238.304 (2).

(d) A compliance schedule that includes a sequence of anticipated actions to be taken or goals to be achieved by the person before the person may receive tax benefits under s. 238.303.

(e) The reporting requirements with which the person must comply.

(f) If feasible, a determination of the tax benefits the person will be authorized to claim under s. 238.303 (2) if the person fulfills the terms of the contract.

**History:** 2009 a. 2; 2011 a. 32 s. 3410; Stats. 2011 s. 238.301.

**238.302 Eligible activities.** A person who conducts or proposes to conduct any of the following may be certified under s. 238.301 (2):

(1) **JOB CREATION PROJECT.** A project that creates and maintains for a period of time established by the corporation by rule full-time jobs in addition to any existing full-time jobs provided by the person.

(2) **CAPITAL INVESTMENT PROJECT.** A project that involves a significant investment of capital, as defined by the corporation by rule under s. 238.306 (2) (b), by the person in new equipment, machinery, real property, or depreciable personal property.

(3) **EMPLOYEE TRAINING PROJECT.** A project that involves significant investments in the training or reeducation of employees, as defined by the corporation by rule under s. 238.306 (2) (c), by the person for the purpose of improving the productivity or competitiveness of the business of the person.

(4) **PROJECT RELATED TO PERSONS WITH CORPORATE HEADQUARTERS IN WISCONSIN.** A project that will result in the location or retention of a person’s corporate headquarters in Wisconsin or that will result in the retention of employees holding full-time jobs in Wisconsin if the person’s corporate headquarters are located in Wisconsin.

**History:** 2009 a. 2; 2011 a. 32 s. 3411; Stats. 2011 s. 238.302.

**238.303 Limits on tax benefits and claiming tax benefits. (1) LIMITS.** (a) Except as provided in pars. (am) and (b), and subject to a reallocation by the corporation pursuant to rules adopted under s. 238.15 (3) (d), the total tax benefits available to be allocated by the corporation under ss. 238.301 to 238.306 may not exceed the sum of the tax benefits remaining to be allocated under s. 560.71 to 560.785, 2009 stats., s. 560.797, 2009 stats., s. 560.798, 2009 stats., s. 560.7995, 2009 stats., and s. 560.96, 2009 stats., on March 6, 2009, plus \$100,000,000.

**NOTE:** Section 238.303 (1) (title) was renumbered from s. 560.703 (1) (title) by the legislative reference bureau under s. 13.92 (1) (bm) 2.

(am) The corporation may initially allocate only \$61,000,000 of the additional \$100,000,000 in tax benefits specified in par. (a). Before the corporation allocates the remaining \$39,000,000 in tax benefits specified in par. (a), the corporation shall submit its plan for such allocation, including a report that describes the intended use of the tax benefits, to the joint committee on finance. If the cochairpersons of the committee do not notify the corporation within 14 working days after the date of the corporation’s submittal that the committee has scheduled a meeting for the purpose of reviewing the plan, the plan may be implemented and the remaining amount may be allocated as proposed by the corporation. If, within 14 working days after the date of the corporation’s submittal, the cochairpersons of the committee notify the corporation that the committee has scheduled a meeting for the purpose of reviewing the proposed plan, the plan may be implemented and the remaining amount allocated only upon approval of the committee.

(b) The corporation may submit to the joint committee on finance a request in writing to exceed the total tax benefits specified in par. (a). The corporation shall submit with its request a justification for seeking an increase under this paragraph. The joint committee on finance, following its review, may approve or disapprove an increase in the total tax benefits available to be allocated under ss. 238.301 to 238.306.

(2) **AUTHORITY TO CLAIM TAX BENEFITS.** The corporation may authorize a person certified under s. 238.301 (2) to claim tax benefits only after the person has submitted a report to the corporation that documents to the satisfaction of the corporation that the person has complied with the terms of the contract under s. 238.301 (3) and the requirements of any applicable rules adopted under s. 238.306 (2).

(3) **NOTICE OF ELIGIBILITY.** The corporation shall provide to the person and to the department of revenue a notice of eligibility to receive tax benefits that reports the amount of tax benefits for which the person is eligible.

**History:** 2009 a. 2, 265; 2011 a. 4; 2011 a. 32 ss. 3412 to 3415; Stats. 2011 s. 238.303; 2013 a. 20; s. 13.92 (1) (bm) 2.

**238.304 Eligible activities in economically distressed areas and benefiting members of targeted groups.** The corporation may authorize a person certified under s. 238.301 (2) to claim additional tax benefits under s. 238.303 if, after conducting an investigation, the corporation determines any of the following:

(1) The person conducts at least one eligible activity in an area designated by the corporation as economically distressed. In designating an area as economically distressed under this subsection, the corporation shall follow the methodology established by rule under s. 238.306 (2) (e).

(2) The person conducts at least one eligible activity that benefits, creates, retains, or significantly upgrades full-time jobs for, that trains, or that reeducates, members of a targeted group.

**History:** 2009 a. 2; 2011 a. 32 s. 3416; Stats. 2011 s. 238.304.

**238.3045 Transferability of tax benefits.** (1) **APPLICATION AND CORPORATION APPROVAL.** (a) An applicant for certification for tax benefits under s. 238.301 may submit with its application under s. 238.301 (1) an application to the corporation on a form prescribed by the corporation to transfer those tax benefits to another person under this section. The application shall include the name, address, and tax identification number of the person to whom the applicant intends to transfer the tax benefits and any other information the corporation requires. The corporation shall notify the applicant of the corporation's determination concerning the transfer of tax benefits when the corporation notifies the applicant of the corporation's certification determination under s. 238.301.

(b) The corporation may approve the transfer of tax benefits under this section if the corporation certifies the applicant under par. (a) for tax benefits under s. 238.301 and finds that the applicant meets at least one of the following conditions:

1. Is headquartered and employs at least 51 percent of its employees in this state.

2. Intends to relocate its headquarters to this state and employ at least 51 percent of its employees in this state.

3. Intends to expand its operations in this state, and that expansion will result in an increase in the number of full-time employees employed by the applicant in this state in an amount equal to at least 10 percent of the applicant's full-time workforce in this state at the time of application.

4. Intends to expand its operations in this state, and that expansion will result in the applicant making a significant capital investment in property located in this state, as determined by the corporation.

(c) 1. Subject to subd. 2., a person that receives an approval under par. (b) shall transfer tax benefits in accordance with the terms of the application under par. (a) after the corporation autho-

zizes the person to claim tax benefits under s. 238.303 (2) and provides the notice of eligibility under s. 238.303 (3). The notice of eligibility shall contain all relevant information concerning a transfer of tax benefits under this section. The person to whom tax benefits are transferred may carry forward, beginning on the date of the notice of eligibility, any unused amount of the value of those tax benefits as provided under the appropriate provision in ch. 71 or in s. 76.636.

2. Tax benefits may be transferred under this paragraph only in exchange for some consideration, other than money, in connection with the eligible activity for which the tax benefits were initially awarded.

(2) **REVOCACTION.** (a) If the corporation revokes a person's certification for tax benefits under s. 238.305, and, at the time of revocation, that person has transferred those tax benefits under this section, that person shall be liable for the full value of the tax benefits, and the person to whom the tax benefits were transferred may not claim any tax benefits that were not claimed prior to revocation.

(b) The corporation shall notify the department of revenue of a revocation of tax benefits subject to par. (a), including the value of the tax benefits for which the person is liable.

(c) The department of revenue has full power to administer tax benefits transferred under this section and may take any action, conduct any proceeding, and proceed as it is authorized in respect to income and franchise taxes imposed under ch. 71. The income and franchise tax provisions in ch. 71 relating to assessments, refunds, appeals, collection, interest, and penalties apply to tax benefits transferred under this section.

(3) **ANNUAL REPORT.** Annually, the corporation shall submit a report to the joint committee on finance that provides a detailed assessment of the progress to date of the program under this section.

(4) **PROGRAM LIMITS AND TERMINATION.** (a) Except as provided in par. (b), the corporation may not authorize the transfer of tax benefits under this section that total more than \$15,000,000, and the corporation may not authorize the transfer of tax benefits after 36 months after April 4, 2014.

(b) Upon expiration of the 36-month period under par. (a), the corporation may continue to authorize the transfer of tax benefits under this section for up to an additional 36 months, and the corporation may authorize the transfer of up to an additional \$15,000,000 in tax benefits, if the corporation determines that a continuation of the program under this section will promote significant economic development in this state. Before the corporation authorizes the transfer of tax benefits under this paragraph, the chief executive officer of the corporation shall notify the joint committee on finance in writing that the corporation intends to continue authorizing the transfer of tax benefits under this section. That notice shall state the reasons supporting the corporation's determination that the transfer of additional tax benefits will promote significant economic development in this state. If, within 14 working days after the date of that notice, the cochairpersons of the committee do not notify the corporation that the committee has scheduled a meeting to review the corporation's proposed continuation of the program, the corporation may proceed to authorize the transfer of additional tax benefits under this section. If, within 14 working days after the date of that notice, the cochairpersons of the committee notify the corporation that the committee has scheduled a meeting to review the proposed continuation of the program, the corporation may proceed to authorize the transfer of additional tax benefits only upon approval of the committee.

**History:** 2013 a. 184.

**238.305 Revocation of certification.** The corporation shall revoke the certification of a person who does any of the following:

(1) Supplies false or misleading information to obtain certification under s. 238.301 (2).

(2) Supplies false or misleading information to obtain tax benefits under s. 238.303.

(3) Leaves the state to conduct substantially the same business outside of the state.

(4) Ceases operations in the state and does not renew operation of the business or a similar business within 12 months.

**History:** 2009 a. 2; 2011 a. 32 s. 3417; Stats. 2011 s. 238.305.

**238.306 Responsibilities of the corporation.** The corporation shall do all of the following:

(1) **ACCOUNTABILITY.** (a) Annually verify information submitted to the department of revenue under ss. 71.07 (2dy), 71.28 (1dy), 71.47 (1dy), and 76.637 by persons certified under s. 238.301 (2) and eligible to receive tax benefits under s. 238.303.

(b) Notify and obtain written approval from the chief executive officer of the corporation for any certification under sub. (2) (j).

(2) **RULES.** Establish by rule all of the following:

(a) A schedule of hourly wage ranges to be paid, and health insurance benefits to be provided, to an employee by a person certified under s. 238.301 (2) and the corresponding per employee tax benefit for which a person certified under s. 238.301 (2) may be eligible.

(b) A definition of “significant investment of capital” for purposes of s. 238.302 (2), together with a corresponding schedule of tax benefits for which a person who is certified under s. 238.301 (2) and who conducts a project described in s. 238.302 (2) may be eligible. The corporation shall include in the definition required under this paragraph a schedule of investments that takes into consideration the size or nature of the business.

(c) A definition of “significant investments in the training or reeducation of employees” for purposes of s. 238.302 (3), together with a corresponding schedule of tax benefits for which a person who is certified under s. 238.301 (2) and who conducts a project under s. 238.302 (3) may be eligible.

(d) A schedule of tax benefits for which a person who is certified under s. 238.301 (2) and who conducts a project that will result in the location or retention of a person’s corporate headquarters in Wisconsin may be eligible.

(e) The methodology for designating an area as economically distressed under s. 238.304 (1). The methodology under this paragraph shall require the corporation to consider the most current data available for the area and for the state on the following indicators:

1. Unemployment rate.
2. Percentage of families with incomes below the poverty line established under 42 USC 9902 (2).
3. Median family income.
4. Median per capita income.
5. Average annual wage.
6. Real property values.
7. Other significant or irregular indicators of economic distress, such as a natural disaster.

(f) A schedule of additional tax benefits for which a person who is certified under s. 238.301 (2) and who conducts an eligible activity described under s. 238.304 may be eligible.

(g) Reporting requirements, minimum benchmarks, and outcomes expected of a person certified under s. 238.301 (2) before that person may receive tax benefits under s. 238.303.

(h) Policies, criteria, and methodology for allocating a portion of the tax benefits available under s. 238.303 to rural areas.

(i) Policies, criteria, and methodology for allocating a portion of the tax benefits available under s. 238.303 to small businesses.

(j) Policies and criteria for certifying a person who may be eligible for tax benefits greater than or equal to \$3,000,000.

(k) Procedures for implementing ss. 238.301 to 238.306.

(3) **REPORTING.** Annually, 6 months after the report has been submitted under s. 238.07 (2), submit to the joint legislative audit

committee and to the appropriate standing committees of the legislature under s. 13.172 (3) a comprehensive report assessing the program under ss. 238.301 to 238.306. The report under this subsection shall update the applicable information provided in the report under s. 238.07 (2).

**History:** 2009 a. 2; 2011 a. 32 s. 3418; Stats. 2011 s. 238.306.

**238.31 Designation of development zone. (1)** The corporation may designate an area as a development zone if all of the following apply:

(ac) The corporation has invited a local governing body to nominate the area under s. 238.315.

(am) A local governing body nominates the area as described in s. 238.32.

(b) The corporation has evaluated the local governing body’s application as described in s. 238.325.

(d) The area meets the applicable requirements under s. 238.335.

(e) The corporation determines all of the following:

1. That designation of the area as a development zone will serve a public purpose.

2. That designation of the area as a development zone will likely retain or increase employment in the area.

3. That economic development in the area is not likely to occur or continue without the corporation’s designation of the area as a development zone.

4. That the area meets at least 3 of the following criteria:

a. The unemployment rate in the area is higher than the state average for the 18 months immediately preceding the date on which the application under s. 238.32 (2) or (3) was submitted to the corporation.

b. The percentage of persons residing in the area who are members of households with household income levels at or below 80% of the statewide median household income is higher than the state average.

c. The percentage of households in the area receiving unemployment insurance under ch. 108, relief funded by a relief block grant under ch. 49, or aid to families with dependent children under s. 49.19 is higher than the state average.

d. In the 36 months immediately preceding the date on which the application under s. 238.32 (2) or (3) was submitted to the corporation, a number of workers in the area were permanently laid off by their employer or became unemployed as a result of a business action subject to s. 109.07 (1m).

e. An employer in the vicinity of the area has given public notice under s. 109.07 (1m) (a) of either a business closing or a mass layoff of at least 25 employees, or 25% of the employees, of a business, whichever is greater, that will result in a number of workers in the area being laid off permanently.

f. Property values in the area have been declining.

g. There has been a decline in the population in the area.

(1m) In making a determination under sub. (1) (e), the corporation shall consider all of the following:

(a) The extent of poverty, unemployment, or other factors contributing to general economic hardship in the area.

(b) The prospects for new investment and economic development in the area.

(c) The amount of investment that is likely to result from the designation of the area as a development zone.

(d) The number of full-time jobs that are likely to be created or retained in the area as a result of its designation as a development zone.

(e) The number of full-time jobs that are likely to be available to the target population as a result of the designation of the area as a development zone.

(f) The competitive effect of designating the area as a development zone on other businesses in the vicinity of the area.

- (g) The needs of other areas of the state.
- (h) Any other factors that the corporation considers relevant.

**(2)** In determining whether an area meets the requirements under sub. (1) (e) or s. 238.335, the corporation may rely on any data provided by the local governing body that the corporation determines is relevant.

**(3)** The corporation shall do all of the following:

(a) Determine the number of development zones designated under sub. (1) but may not designate more than 22 development zones over the life of the program.

(b) Divide the number of development zones as evenly as possible between metropolitan statistical areas and areas that are not metropolitan statistical areas.

(c) 1. Designate at least one development zone that is entirely within a 1st class city.

2. Designate at least 2 development zones that are each at least partially within an Indian reservation.

3. Of the development zones that are designated after April 25, 1996, designate one that is in an urban area.

**(4)** No development zone may be designated under this section after March 6, 2009.

**History:** 1987 a. 328; 1989 a. 31, 336; 1993 a. 16; 1995 a. 209; 1997 a. 27, 39, 103; 2009 a. 2, 87; 2011 a. 32 s. 3419; Stats. 2011 s. 238.31.

**238.315 Invitation to nominate area.** If the corporation determines that an area has experienced or is about to experience economic distress, the corporation may invite local governing bodies in the area to nominate the area as a development zone.

**History:** 1997 a. 103; 2011 a. 32 s. 3420; Stats. 2011 s. 238.315.

**238.32 Application by local governing bodies. (1)** A local governing body may nominate an area as a development zone, if the corporation has invited the governing body to nominate the area under s. 238.315 and if the governing body does all of the following:

(a) Holds at least one public hearing on the issue of designating the area as a development zone.

(b) Adopts a resolution or ordinance authorizing it to nominate the area under this section.

**(2)** A local governing body may nominate the area as a development zone by submitting an application to the corporation in a form prescribed by the corporation. The application shall include all of the following:

(a) A copy of the ordinance or resolution authorizing the local governing body to nominate the area as a development zone.

(b) Transcripts of the public hearing under sub. (1) (a).

(c) Evidence that the area meets at least 3 of the criteria under s. 238.31 (1) (e) 4.

(d) Evidence that the area meets the applicable requirements of s. 238.335.

(e) A description of the land use patterns in the area including:

1. A detailed map of the area.

2. Information about vacant buildings or land available for development.

(f) A description of past and present economic development activities in the area under local, state, or federal programs.

(g) A description of the local governing body's goals for the economic development of the area.

(h) An assessment of the effect of making the area a development zone on full-time jobs available to the targeted population.

(i) Any other information required by the corporation.

(j) Any other information the local governing body considers relevant.

**(3)** Two or more local governing bodies may submit a joint application nominating an area as a development zone, subject to s. 238.335 (2), if each local governing body complies with subs. (1) and (2).

**(5)** The corporation may permit a local governing body to revise an application that the corporation determines is inadequate or incomplete.

**History:** 1987 a. 328; 1995 a. 209; 1997 a. 27, 103; 2011 a. 32 s. 3421; Stats. 2011 s. 238.32.

**238.325 Evaluation by corporation. (1)** The corporation shall evaluate applications received under s. 238.32 (2) and (3).

**(2)** Subject to s. 238.335 (5), the corporation may reduce the size of an area nominated as a development zone, if the corporation determines the boundaries as proposed by the local governing body in an application under s. 238.32 (2) or (3) are inconsistent with the purpose of the development zone program. Any nominated area which is reduced under this subsection need not comply with s. 238.335 (1) and (4).

**(3)** After evaluating an application submitted under s. 238.32 (2) or (3), the corporation may approve the application, subject to any reduction in the size of the nominated area under sub. (2). If the corporation approves the application, the corporation shall designate the area as a development zone, subject to s. 238.31, and notify the local governing body.

**History:** 1987 a. 328; 1995 a. 209; 1997 a. 103; 2011 a. 32 s. 3422; Stats. 2011 s. 238.325.

**238.335 Boundaries and size of development zones.**

**(1)** An area that is located within a metropolitan statistical area may not be nominated or designated as a development zone unless all of the following apply:

(a) The area contains less than 10% of the valuation of the property of the city, village, or town, as determined under s. 70.57, in which the area is located.

(b) If the area is located within a 1st class city, the population of the area as estimated under s. 16.96 is not less than 4,000 and not more than 10% of the city's population, as estimated under s. 16.96.

(c) If the area is located within a village, town, or city other than a 1st class city, the population of the area is not less than 1,000 nor more than 10,000, as estimated under s. 16.96.

**(2)** If an area is located within the boundaries of 2 or more cities, villages, or towns, the property value of the cities, villages, or towns under sub. (1) (a) shall be combined for the purposes of sub. (1).

**(4)** An area that is located within the boundaries of an Indian reservation may not be nominated or designated as a development zone unless the population of the area, as estimated under s. 16.96, is less than or equals 5,000.

**(5)** Except as provided in sub. (6), an area may not be nominated or designated a development zone unless all of the following apply:

(a) The area has a continuous border following natural or man-made boundaries such as streets, highways, rivers, municipal limits, or limits of a reservation.

(b) The area consists of contiguous blocks, census blocks, or similar units.

**(6)** (a) Except as provided in pars. (b) and (c), 2 separate areas may be nominated or designated as one development zone, if all of the following apply:

1. Each of the areas has a continuous border following natural or man-made boundaries and consists of contiguous blocks, census blocks, or similar units.

2. Each area meets at least 3 of the criteria listed in s. 238.31 (1) (e) 4.

3. Considered together, the areas meet the requirements of sub. (1).

(b) Except as provided in par. (c), in a 1st class city, up to 8 separate areas may be nominated or designated as one development zone, if par. (a) 1. to 3. applies.

(c) If an application is submitted by the governing body of a county under s. 238.32 (2) or (3), up to 4 separate areas may be

nominated or designated as one development zone, if par. (a) 1. to 3. applies.

**(6m)** An area that is comprised of entire counties may be nominated or designated as one development zone only if the population of the entire area does not exceed 75,000.

**(6r)** Subject to the population limit under sub. (6m), if an area that is nominated or designated as a development zone is comprised of one or more entire counties and a city, village, or town is partially located in the area and partially located outside of the area, the entire city, village, or town shall be part of the nominated or designated area.

**(7)** The corporation may waive the requirements of this section in a particular case, if the corporation determines that application of the requirement is impractical with respect to a particular development zone.

**History:** 1987 a. 328; 1989 a. 56; 1995 a. 209; 1997 a. 27; 2011 a. 32 s. 3423; Stats. 2011 s. 238.335.

**238.34 Change in boundary and size of development zones.** **(1)** Except as provided under sub. (6), at any time after a development zone is designated by the corporation, a local governing body may submit an application to change the boundaries of the development zone. If the boundary change reduces the size of a development zone, the local governing body shall explain why the area excluded should no longer be in a development zone. The corporation may require the local governing body to submit additional information.

**(2)** The corporation may approve an application for a boundary change if the development zone, as affected by the boundary changes, meets the applicable requirements of s. 238.335 and 3 of the criteria under s. 238.31 (1) (e) 4.

**(3)** If the corporation approves an application for a boundary change under sub. (2), it shall do all of the following:

(a) Redetermine the limit on the tax benefits for the development zone established under s. 238.345 (2) (a).

(b) Notify the local governing body which submitted the application of the change in the boundary or tax benefits limit of the development zone.

**(4)** The change in the boundaries or tax benefits limit of a development zone shall be effective on the day the corporation notifies the local governing body under sub. (3) (b).

**(5)** No change in the boundaries of a development zone may affect the duration of an area as a development zone under s. 238.345 (1) (a). The corporation may consider a change in the boundary of a development zone when evaluating an application for an extension of the designation of an area as a development zone under s. 238.345 (1) (b).

**(6)** The corporation may not accept any applications under sub. (1) to change the boundaries of a development zone designated under s. 238.31 on or after March 6, 2009.

**History:** 1987 a. 328; 1995 a. 209; 1997 a. 103; 2009 a. 2; 2011 a. 32 s. 3425; Stats. 2011 s. 238.34.

**238.345 Duration, renewal and expiration.** **(1)** (a) The designation of an area as a development zone shall be effective for 240 months, beginning on the day the corporation notifies the local governing body under s. 238.325 (3) of the designation.

(b) The local governing body may apply to the corporation for one 60-month extension of the designation. The corporation shall adopt rules establishing criteria for approving an extension of a designation of an area as a development zone under this subsection. No applications may be accepted by the corporation under this paragraph on or after March 6, 2009.

(c) Paragraphs (a) and (b) apply to designations of areas as development zones that are in effect on June 2, 2000, or that are made on or after June 2, 2000.

**(2)** (a) When the corporation designates a development zone under s. 238.31, it shall establish a limit for tax benefits for the

development zone determined by allocating to the development zone a portion of \$38,155,000.

(am) Notwithstanding par. (a), the corporation may increase the established limit for tax benefits for a development zone. The corporation may not increase the limit for tax benefits established for any development zone designated under s. 238.31 on or after March 6, 2009.

(b) Annually the corporation shall estimate the amount of forgone state revenue because of tax benefits claimed by persons in each development zone.

(c) Notwithstanding sub. (1), the designation of an area as a development zone shall expire on the earlier of the following:

1. Ninety days after the day on which the corporation determines that the forgone tax revenues under par. (b) will equal or exceed the limit for the development zone established under par. (a) or (am).

2. The day that the corporation withdraws its designation of an area as a development zone under sub. (3).

(d) The corporation shall immediately notify the local governing body of a change in the expiration date of the development zone under par. (c).

**(3)** The corporation may withdraw the designation of an area as a development zone if any of the following applies:

(a) No person is certified as eligible to receive tax benefits under s. 238.365 (3) during the 12-month period beginning on the day the area is designated as a development zone and the corporation determines that the local governing body that nominated the zone is not in compliance with s. 238.363.

(b) No person is certified as eligible to receive tax benefits under s. 238.365 (3) during the 24-month period beginning on the day the area is designated a development zone.

**History:** 1987 a. 328; 1989 a. 31, 336; 1993 a. 16; 1995 a. 209; 1997 a. 27, 103; 1999 a. 9, 32, 193; 2009 a. 2; 2011 a. 32 s. 3426; Stats. 2011 s. 238.345; 2013 a. 166.

**238.35 Additional duties of the corporation.** The corporation shall do all of the following:

**(1)** Monitor and evaluate the implementation of the development zone program.

**(2)** Apply to the federal government for assistance for the development zone program.

**(4)** Help eligible persons apply for and obtain tax benefits.

**(5)** Help local governing bodies prepare applications for development zones.

**(6)** Notify University of Wisconsin small business development centers, the Wisconsin housing and development centers, the central administration of all University of Wisconsin campuses and regional planning commissions about the development zone program and encourage those entities to provide advice to the corporation or local governing bodies on ways to improve the development zone program.

**(7)** Prepare forms for the certification described under s. 238.365 (5).

**(8)** Annually verify information submitted to the corporation under s. 71.07 (2dx), 71.28 (1dx), 71.47 (1dx), or 76.636.

**(10)** Enter into an agreement with the local governing body of a 1st class city where a development zone is designated under s. 238.31 (3) (c) 1. to provide efficient administration of the development zone program within the development zone.

**History:** 1987 a. 328; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 16; 1995 a. 27 ss. 6936, 9130 (4); 1995 a. 209; 1997 a. 3, 27, 103; 1999 a. 9; 2005 a. 259; 2011 a. 32 s. 3427; Stats. 2011 s. 238.35.

**238.363 Duties of local governing bodies.** **(1)** If an area nominated by a local governing body is designated as a development zone under s. 238.31, the local governing body shall do all of the following:

(b) Promote economic development within the development zone.

(c) Assist the corporation in the administration of the development zone program.

(4) The local governing body of a 1st class city where a development zone is designated under s. 238.31 (3) (c) 1. shall enter into an agreement with the corporation to provide efficient administration of the development zone program within the development zone.

**History:** 1987 a. 328; 1995 a. 209; 2011 a. 32 s. 3428; Stats. s. 238.363.

**238.365 Certification for tax benefits.** The corporation shall do all of the following:

(1) Evaluate the likelihood that a person applying for tax benefits engages or will engage in economic activity consistent with the development zone application.

(2) Determine whether a person applying for tax benefits engages or will engage in economic activity that violates s. 238.38 (1).

(3) Subject to s. 238.38, certify persons who are eligible to claim tax benefits while an area is designated as a development zone, according to the following criteria:

(a) The likelihood that the person will continue to conduct economic activity in the area following expiration of the designation of the area as a development zone.

(b) The person's commitment not to engage in economic activity that violates s. 238.38 (1).

(bm) The person's commitment to use techniques or processes that reduce or eliminate the use of ozone-depleting substances that are listed as class I substances under 42 USC 7671a.

(c) The number of full-time jobs that will be created, retained, or substantially upgraded as a result of the person's economic activity in relation to the amount of tax benefits estimated for the person under sub. (4).

(d) The person's plans to make reasonable attempts to hire employees from the targeted population.

(e) The amount the person proposes to invest in a business, or spend on the construction, rehabilitation, repair, or remodeling of a building, located within the development zone.

(f) The likelihood that the person's economic activity will attract other forms of economic activity to the development zone.

(g) Whether the person's proposed economic activity is consistent with the development zone application.

(h) The effects of the person's proposed investment on the economic and social well-being of the targeted population.

(j) Any other criteria established under rules adopted by the corporation.

(4) Within 3 months after a person is certified under sub. (3), estimate the amount of tax benefits that the person will claim while an area is designated as a development zone.

(5) Provide a person certified under sub. (3) and the department of revenue with a copy of the certification. The certification shall include all of the following:

(a) The name and address of the person's business.

(b) The appropriate Wisconsin tax identification number of the person.

(c) The names and addresses of other locations outside of the development zone where the person conducts business and a description of the business activities conducted at those locations.

(d) The estimated total investment of the person in the development zone.

(e) The estimated number of full-time jobs that will be created, retained, or significantly upgraded in the development zone because of the person's business.

(f) An estimate of the number or percentage of full-time jobs described in par. (e) that are or will likely be held by members of the targeted population.

(g) The limit under s. 238.368 on tax benefits the person may claim while an area is designated as a development zone.

(h) Other information required by the corporation or the department of revenue.

**History:** 1987 a. 328; 1989 a. 31; 1993 a. 243; 1997 a. 27, 103; 2011 a. 32 s. 3429; Stats. s. 238.365.

**238.368 Limits on tax benefit to certified person. (1)**

(a) The corporation shall establish a limit on the maximum amount of tax benefits a person certified under s. 238.365 (3) may claim while an area is designated as a development zone.

(b) When establishing a limit on tax benefits under par. (a), the corporation shall do all of the following:

1. Consider all of the criteria described in s. 238.365 (3) (a) to (e).

2. Establish a limit which does not greatly exceed a recommended limit, established under rules adopted by the corporation based on the cost, number and types of full-time jobs that will be created, retained, or upgraded, including full-time jobs available to members of the targeted population, as a result of the economic activity of the person certified under s. 238.365 (3).

(2) The corporation may, upon request, increase a limit on tax benefits established under sub. (1) if the corporation does all of the following:

(a) Complies with sub. (1) (b) with respect to the proposed increase.

(b) Revises the certification required under s. 238.365 (5) and provides a copy of the revised form to the department of revenue and the person whose limit is increased under this subsection.

(3) (a) The corporation may reduce a limit established under sub. (1) or (2) if the corporation determines that any of the following applies:

1. The limit is not consistent with the criteria listed under s. 238.365 (3) (a) to (e).

2. The information on which the limit is based was inaccurate or significantly misestimated.

(b) The corporation shall notify the department of revenue and the person whose limit on tax benefits is reduced under par. (a) and provide a written explanation to the person of the reasons for reducing the limit.

**History:** 1987 a. 328; 1989 a. 31, 56; 1997 a. 27; 2005 a. 253; 2011 a. 32 s. 3430; Stats. 2011 s. 238.368.

**238.37 Revocation of certification. (1)** The corporation shall revoke the certification of a person certified under s. 238.365 (3) if the person does any of the following:

(a) Supplies false or misleading information to obtain certification.

(b) Becomes subject to revocation under s. 238.38 (1).

(c) Leaves the development zone to conduct substantially the same business outside of the development zone.

(d) Ceases operations in the development zone and does not renew operation of the trade or business or a similar trade or business in the development zone within 12 months.

(2) The corporation shall notify the department of revenue within 30 days of revoking a certification under sub. (1).

**History:** 1987 a. 328; 2011 a. 32 s. 3431; Stats. 2011 s. 238.37.

**238.38 Certification prohibited in certain cases.**

(1) Except as provided in subs. (2) and (3), no person may be certified under s. 238.365 (3), or a person's certification may be revoked under s. 238.37, if the proposed new business, expansion of an existing business, or other proposed economic activity in a development zone would do or does any of the following:

(a) Result in the direct loss of full-time jobs at another of the person's business locations in this state outside of the development zone.

(b) Likely result in the direct transfer of employees from a business location in this state to a business location in the development zone.

(1m) No person may be certified under s. 238.365 (3) on or after March 6, 2009.

(2) Subsection (1) does not apply if, after a hearing, the corporation, or the local governing body under sub. (3) (a), determines that any of the following applies:

(a) The total number of full-time jobs provided by the person in this state would be reduced if the person were not certified under s. 238.365 (3) or if the person's certification were revoked.

(b) The situation is extraordinary.

(3) (a) Except as provided in pars. (b) and (c), if the economic activity for which a person is seeking certification under s. 238.365 (3) is the relocation of a business into a development zone from a location that is outside the development zone but within the limits of a city, village, town, or federally recognized American Indian reservation in which that development zone is located, the local governing body that nominated that area as a development zone under s. 238.32 shall determine whether sub. (2) (a) or (b) applies.

(b) Only the corporation may determine whether sub. (2) (a) or (b) applies to a business relocation described in par. (a) if the business relocation would likely result in the loss of full-time jobs at or transfer of employees from a business location that is in this state but outside the limits of any city, village, town, or federally recognized American Indian reservation in which the development zone is located.

(c) No local governing body may make any determination under this subsection on or after March 6, 2009.

**History:** 1987 a. 328; 1993 a. 275; 1997 a. 27; 2005 a. 253; 2009 a. 2; 2011 a. 32 s. 3432; Stats. 2011 s. 238.38.

**238.385 Rules on eligibility for tax benefits. (1)** For the development zone program under ss. 238.30 and 238.31 to 238.38, the development opportunity zone program under s. 238.395, and the enterprise development zone program under s. 238.397, the corporation shall adopt rules that further define a person's eligibility for tax benefits. The rules shall do at least all of the following:

(a) Limit a person's eligibility to claim tax benefits for retaining full-time jobs to those jobs that likely would not have been retained but for the tax benefits.

(b) Allow a person to claim up to \$8,000 in tax benefits during the time that an area is designated as a development zone, as a development opportunity zone, or as an enterprise development zone for creating a full-time job that is filled by a member of the target population.

(bm) Allow a person to claim up to \$8,000 in tax benefits during the time that an area is designated as an enterprise development zone for retaining a full-time job if the corporation determines that the person made a significant capital investment to retain the full-time job.

(c) Allow a person to claim up to \$6,000 in tax benefits during the time that an area is designated as a development zone, as a development opportunity zone, or as an enterprise development zone for any of the following:

1. Creating a full-time job that is filled by an individual who is a Wisconsin resident and who is not a member of the target population.

2. Retaining a full-time job that is filled by an individual who is a Wisconsin resident and who is not a member of the target population.

(d) Except for a person claiming tax benefits only for environmental remediation under s. 71.07 (2dx) (b) 1., 71.28 (1dx) (b) 1., 71.47 (1dx) (b) 1., or 76.636, require at least 25% of the tax benefits claimed by a person to be based on creating or retaining full-time jobs.

(e) Require at least one-third of the tax benefits claimed by a person that are based on creating full-time jobs to be based on creating full-time jobs that are filled by members of the target population.

(f) Specify how long a full-time job that is created or retained by a person must be maintained in order for the person to claim tax benefits for the full-time job.

(g) Generally provide incentives for the retention of employees filling full-time jobs upon which tax benefits are based.

(h) Provide that a person's eligibility to claim tax benefits for environmental remediation under s. 71.07 (2dx) (b) 1., 71.28 (1dx) (b) 1., 71.47 (1dx) (b) 1., or 76.636 is not based on creating or retaining jobs.

(2) The corporation may by rule specify circumstances under which the corporation may grant exceptions to any of the following:

(a) The requirements specified under sub. (1) (d) and (e).

(b) The requirement under ss. 238.30 (2m) and 238.397 (1) (am) that an individual's pay must equal at least 150% of the federal minimum wage.

(c) The requirement under ss. 238.30 (2m) and 238.397 (1) (am) that an individual's position must be regular, nonseasonal, and full-time and that the individual must be required to work at least 2,080 hours per year, including paid leave and holidays.

**History:** 1997 a. 27, 41; 1999 a. 9; 2005 a. 259; 2009 a. 2; 2011 a. 32 s. 3433; Stats. 2011 s. 238.385.

**238.395 Development opportunity zones. (1) DESIGNATION OF DEVELOPMENT OPPORTUNITY ZONES.** The following areas are designated as development opportunity zones:

(a) An area in the city of Beloit, the legal description of which is provided to the corporation by the local governing body of the city of Beloit.

(b) An area in the city of West Allis, the legal description of which is provided to the corporation by the local governing body of the city of West Allis.

(c) An area in the city of Eau Claire, the legal description of which is provided to the corporation by the local governing body of the city of Eau Claire.

(d) An area in the city of Kenosha, the legal description of which is provided to the corporation by the local governing body of the city of Kenosha.

(e) An area in the city of Milwaukee, the legal description of which is provided to the corporation by the local governing body of the city of Milwaukee.

(f) For the Gateway Project, an area in the city of Beloit, the legal description of which is provided to the corporation by the local governing body of the city of Beloit.

(g) An area in the city of Janesville, the legal description of which is provided to the corporation by the local governing body of the city of Janesville.

(h) An area in the city of Kenosha, the legal description of which is provided to the corporation by the local governing body of the city of Kenosha.

(i) An area in the city of Beloit, the legal description of which is provided to the corporation by the local governing body of the city of Beloit.

(2) **DURATION, LIMITS AND EXPIRATION.** (a) Except as provided in par. (d), the designation of each area under sub. (1) (a), (b), and (c) as a development opportunity zone shall be effective for 36 months, with the designation of the areas under sub. (1) (a) and (b) beginning on April 23, 1994, and the designation of the area under sub. (1) (c) beginning on April 28, 1995. Except as provided in par. (d), the designation of each area under sub. (1) (d) and (e) as a development opportunity zone shall be effective for 84 months, with the designation of the area under sub. (1) (d) beginning on January 1, 2000, and the designation of the area under sub. (1) (e) beginning on September 1, 2001. Except as provided in par. (d), the designation of the area under sub. (1) (f) as a development opportunity zone shall be effective for 108 months, beginning on September 1, 2001. Except as provided in pars. (d) and

(e), the designation of each area under sub. (1) (g) and (h) as a development opportunity zone shall be effective for 60 months, beginning on the date on which the area is designated under sub. (1). Except as provided in pars. (d) and (e), the designation of the area under sub. (1) (i) shall be effective for 60 months, beginning on August 1, 2011.

(b) 1. The limit for tax benefits for the development opportunity zone under sub. (1) (a) is \$7,000,000.

2. The limit for tax benefits for the development opportunity zone under sub. (1) (b) is \$3,000,000.

3. The limit for tax benefits for the development opportunity zone under sub. (1) (c) is \$3,000,000.

4. The limit for tax benefits for the development opportunity zone under sub. (1) (d) is \$7,000,000.

5. The limit for tax benefits for the development opportunity zone under sub. (1) (e) is \$4,700,000.

6. The limit for tax benefits for the development opportunity zone under sub. (1) (f) is \$6,700,000.

7. Except as provided in par. (e) 1., the limit for tax benefits for the development opportunity zone under sub. (1) (g) is \$5,000,000.

8. Except as provided in par. (e) 2., the limit for tax benefits for the development opportunity zone under sub. (1) (h) is \$5,000,000.

9. Except as provided in par. (e) 3., the limit for tax benefits for the development opportunity zone under sub. (1) (i) is \$5,000,000.

(c) Annually, the corporation shall estimate the amount of forgone state revenue because of tax benefits claimed by persons in each development opportunity zone.

(d) 1. Notwithstanding pars. (a) and (e), the designation of an area as a development opportunity zone shall expire 90 days after the day on which the corporation determines that the forgone tax revenues under par. (c) will equal or exceed the limit for the development opportunity zone.

2. The corporation shall immediately notify the local governing body of the city in which the development opportunity zone is located of a change in the expiration date of the development opportunity zone under this paragraph.

(e) 1. The corporation may extend the designation of an area under sub. (1) (g) as a development opportunity zone for an additional 60 months if the corporation determines that an extension under this subdivision would support economic development within the city. If the corporation extends the designation of the area as a development opportunity zone, the limit for tax benefits for the development opportunity zone under sub. (1) (g) is increased by \$5,000,000.

2. The corporation may extend the designation of an area under sub. (1) (h) as a development opportunity zone for an additional 60 months if the corporation determines that an extension under this subdivision would support economic development within the city. If the corporation extends the designation of the area as a development opportunity zone, the limit for tax benefits for the development opportunity zone under sub. (1) (h) is increased by \$5,000,000.

3. The corporation may extend the designation of an area under sub. (1) (i) as a development opportunity zone for an additional 60 months if the corporation determines that an extension will support economic development within the city. If the corporation grants an extension under this subdivision, the limit for tax benefits for the development opportunity zone under sub. (1) (i) is increased by \$5,000,000.

**(3) APPLICATION AND ENTITLEMENT TO TAX BENEFITS.** (a) 1. Any person that is conducting or that intends to conduct economic activity in a development opportunity zone under sub. (1) (a) or (b) and that, in conjunction with the local governing body of the city in which the development opportunity zone is located, sub-

mits a project plan as described in par. (b) to the corporation no later than 6 months after April 23, 1994, shall be entitled to claim tax benefits while the area is designated as a development opportunity zone.

2. Any person that is conducting or that intends to conduct economic activity in a development opportunity zone under sub. (1) (c) and that, in conjunction with the local governing body of the city in which the development opportunity zone is located, submits a project plan as described in par. (b) to the corporation no later than 6 months after April 28, 1995, shall be entitled to claim tax benefits while the area is designated as a development opportunity zone.

3. Any person that is conducting or that intends to conduct economic activity in a development opportunity zone under sub. (1) (d) and that, in conjunction with the local governing body of the city in which the development opportunity zone is located, submits a project plan as described in par. (b) to the corporation no later than July 1, 2000, shall be entitled to claim tax benefits while the area is designated as a development opportunity zone.

4. Any person that is conducting or that intends to conduct economic activity in a development opportunity zone under sub. (1) (e), (f), (g), (h), or (i) and that, in conjunction with the local governing body of the city in which the development opportunity zone is located, submits a project plan as described in par. (b) to the corporation shall be entitled to claim tax benefits while the area is designated as a development opportunity zone.

(b) A project plan under par. (a) shall include all of the following:

1. The name and address of the person's business for which tax benefits will be claimed.

2. The appropriate federal tax identification number of the person.

3. The names and addresses of other locations outside of the development opportunity zone where the person conducts business and a description of the business activities conducted at those locations.

4. The amount that the person proposes to invest in a business, or spend on the construction, rehabilitation, repair, or remodeling of a building, located within the development opportunity zone.

5. The estimated total investment of the person in the development opportunity zone.

6. The number of full-time jobs that will be created, retained, or substantially upgraded as a result of the person's economic activity in relation to the amount of tax benefits estimated for the person.

7. The person's plans to make reasonable attempts to hire employees from the targeted population.

8. A description of the commitment of the local governing body of the city in which the development opportunity zone is located to the person's project.

9. Other information required by the corporation or the department of revenue.

(c) The corporation shall notify the department of revenue of all persons entitled to claim tax benefits under this subsection.

(d) The corporation annually shall verify information submitted to the corporation under s. 71.07 (2di), (2dm), or (2dx), 71.28 (1di), (1dm), or (1dx), 71.47 (1di), (1dm), or (1dx), or 76.636.

**(4) (a)** The corporation shall revoke the entitlement of a person to claim tax benefits under sub. (3) if the person does any of the following:

1. Supplies false or misleading information to obtain the tax benefits.

2. Leaves the development opportunity zone to conduct substantially the same business outside of the development opportunity zone.



3. Ceases operations in the development opportunity zone and does not renew operation of the trade or business or a similar trade or business in the development opportunity zone within 12 months.

(b) The corporation shall notify the department of revenue within 30 days after revoking an entitlement under par. (a).

**(5) CERTIFICATION BASED ON THE ACTIVITY OF ANOTHER.** (a) The corporation may certify for tax benefits a person that is conducting economic activity in the development opportunity zone under sub. (1) (e) or (f) and that is not otherwise entitled to claim tax benefits if all of the following apply:

1. The person's economic activity is instrumental in enabling another person to conduct economic activity in the development opportunity zone under sub. (1) (e) or (f).

2. The corporation determines that the economic activity of the other person under subd. 1. would not have occurred but for the involvement of the person to be certified for tax benefits under this subsection.

3. The person to be certified for tax benefits under this subsection will pass the benefits through to the other person conducting the economic activity under subd. 1., as determined by the corporation.

4. The other person conducting the economic activity under subd. 1. does not claim tax benefits under sub. (3).

(b) A person intending to claim tax benefits under this subsection shall submit to the corporation an application, in the form required by the corporation, containing information required by the corporation and by the department of revenue.

(c) The corporation shall notify the department of revenue of all persons certified to claim tax benefits under this subsection.

(d) The corporation annually shall verify information submitted to the corporation under s. 71.07 (2dm) or (2dx), 71.28 (1dm) or (1dx), 71.47 (1dm) or (1dx), or 76.636.

(e) The corporation shall revoke the entitlement of a person to claim tax benefits under this subsection if the person does any of the following:

1. Supplies false or misleading information to obtain the tax benefits.

2. Ceases operations in the development opportunity zone under sub. (1) (e) or (f).

3. Does not pass the benefits through to the other person conducting the economic activity under par. (a) 1., as determined by the corporation.

(f) The corporation shall notify the department of revenue within 30 days after revoking an entitlement under par. (e).

**History:** 1993 a. 232; 1995 a. 2; 1995 a. 27 ss. 6936p, 6936r, 9130 (4); 1997 a. 3, 27; 1999 a. 9, 32; 2001 a. 16, 104; 2003 a. 33; 2005 a. 259; 2007 a. 20; 2009 a. 28; 2011 a. 32 s. 3434; Stats. 2011 s. 238.395; 2011 a. 37 ss. 2 to 6; 2013 a. 166 ss. 52, 53, 59, 76.

### 238.397 Enterprise development zone program.

**(1) DEFINITIONS.** In this section:

(a) "Environmental pollution" has the meaning given in s. 299.01 (4).

(aj) "Environmental remediation" has the meaning given in s. 71.07 (2dx) (a) 3.

(am) "Full-time job" has the meaning given in s. 238.30 (2m).

(b) "Project" means economic activity in the state.

(c) "Target population" has the meaning given in s. 238.30 (6).

(d) "Tax benefits" has the meaning given in s. 238.30 (7).

**(2) CRITERIA FOR DESIGNATION AS AN ENTERPRISE DEVELOPMENT ZONE.** (a) Subject to pars. (c), (d), and (e), the corporation may designate an area as an enterprise development zone for a project if the corporation determines all of the following:

1. That the project serves a public purpose.

2. That the project will likely retain or increase employment in the state.

3. That the project is not likely to occur or continue without the corporation's designation of the area as an enterprise development zone.

4. That the project will likely positively affect an area that meets at least 3 of the following criteria:

a. The unemployment rate in the area is higher than the state average for the 18 months immediately preceding the date on which the application under sub. (3) was submitted to the corporation.

b. The percentage of persons residing in the area who are members of households with household income levels at or below 80% of the statewide median household income is higher than the state average.

c. The percentage of households in the area receiving unemployment insurance under ch. 108, relief funded by a relief block grant under ch. 49 or aid to families with dependent children under s. 49.19 is higher than the state average.

d. In the 36 months immediately preceding the date on which the application under sub. (3) was submitted to the corporation, a number of workers in the area were permanently laid off by their employer or became unemployed as a result of a business action subject to s. 109.07 (1m).

e. An employer in the vicinity of the area has given public notice under s. 109.07 (1m) (a) of either a business closing or a mass layoff of at least 25 employees, or 25% of the employees, of a business, whichever is greater, that will result in a number of workers in the area being laid off permanently.

f. Property values in the area have been declining.

g. There has been a decline in the population in the area.

(b) In making a determination under par. (a), the corporation shall consider all of the following:

1. The extent of poverty, unemployment, or other factors contributing to general economic hardship in the area.

2. The prospects for new investment and economic development in the area.

3. The amount of investment that is likely to result from the project.

4. The number of full-time jobs that are likely to be created as a result of the project.

5. The number of full-time jobs that are likely to be available to the target population as a result of the project.

6. The competitive effect of designating the area as an enterprise development zone on other businesses in the area.

7. The needs of other areas of the state.

8. Any other factors that the corporation considers relevant.

(bg) Notwithstanding par. (a) and subject to pars. (c), (d), and (e), the corporation may designate an area as an enterprise development zone for a project if the corporation determines all of the following:

1. That the project serves a public purpose.

2. That the project is not likely to occur or continue without the corporation's designation of the area as an enterprise development zone.

3. That the project will likely provide for significant environmental remediation.

(br) In making a determination under par. (bg), the corporation shall consider all of the following:

1. The factors specified in par. (b) 1. to 8.

2. The environmental remediation that is likely to result from the project.

(c) The corporation may not designate as an enterprise development zone, or as any part of an enterprise development zone, an area that is located within the boundaries of an area that is designated as a development opportunity zone under s. 238.395, the designation of which is in effect.

(d) The corporation may not designate more than 98 enterprise development zones unless the corporation obtains the approval of

the joint committee on finance to do so. Of the enterprise development zones that the corporation designates, at least 10 shall be designated under par. (bg).

(e) The corporation may not designate any area as an enterprise development zone on or after March 6, 2009.

**(3) APPLICATION AND PROJECT PLAN.** (a) A person that conducts or that intends to conduct a project and that desires to have the area in which the project is or is to be conducted designated as an enterprise development zone for the purpose of claiming tax benefits may submit to the corporation an application and a project plan.

(b) A project plan under par. (a) shall include all of the following:

1. The name and address of the person's business for which tax benefits will be claimed.
2. The appropriate Wisconsin tax identification number of the person.
3. The names and addresses of other locations outside of the area proposed to be designated as an enterprise development zone where the person conducts business and a description of the business activities conducted at those locations.
4. The amount that the person proposes to invest in a business; to spend on the construction, rehabilitation, repair, or remodeling of a building; or to spend on the removal or containment of, or the restoration of soil or groundwater affected by, environmental pollution; in the area proposed to be designated as an enterprise development zone.
5. The estimated total investment of the person in the enterprise development zone.
6. The estimated number of full-time jobs that will be created, retained, or substantially upgraded as a result of the person's project in relation to the amount of tax benefits estimated for the person.
7. The person's plans to make reasonable attempts to hire employees from the target population.
8. The estimated number of full-time jobs that will be filled by members of the target population.
10. The boundaries or legal description of the area proposed to be designated as an enterprise development zone.
11. Any other information required by the corporation or the department of revenue.

(c) The corporation may not accept or approve any applications or project plans submitted under par. (a) on or after March 6, 2009.

**(4) DESIGNATION, CERTIFICATION AND ADDITIONAL DUTIES.** (a) Except as provided in par. (h), if the corporation approves a project plan under sub. (3) and designates the area in which the person submitting the project plan conducts or intends to conduct the project as an enterprise development zone under the criteria under sub. (2), the corporation shall certify the person as eligible for tax benefits.

(c) When the corporation designates an area as an enterprise development zone for a project, the corporation shall notify the governing body of any city, village, town, or federally recognized American Indian tribe or band in which the area is located of the area's designation.

(d) The corporation shall notify the department of revenue of all persons entitled to claim tax benefits under this section, except that the corporation shall notify the office of the commissioner of insurance of all persons entitled to claim the credit under s. 76.636.

(f) The tax benefits for which a person is certified as eligible under this subsection are not transferable to another person, business, or location, except to the extent permitted under section 383 of the internal revenue code.

(g) The corporation annually shall verify information submitted to the corporation under s. 71.07 (2dx), 71.28 (1dx), 71.47 (1dx), or 76.636.

(h) No person may be certified under this subsection on or after March 6, 2009.

**(5) DURATION AND LIMITS.** (a) When the corporation designates an area as an enterprise development zone under this section, the corporation shall specify the length of time, not to exceed 84 months, that the designation is effective, subject to par. (d) and sub. (6).

(b) When the corporation designates an area as an enterprise development zone under this section, the corporation shall establish a limit, not to exceed \$3,000,000, for tax benefits for the enterprise development zone.

(c) Annually, the corporation shall estimate the amount of forgone state revenue because of tax benefits claimed by persons in each enterprise development zone.

(d) 1. Notwithstanding the length of time specified by the corporation under par. (a), the designation of an area as an enterprise development zone shall expire 90 days after the day on which the corporation determines that the forgone tax revenues under par. (c) will equal or exceed the limit established for the enterprise development zone.

2. The corporation shall immediately notify the department of revenue and the governing body of any city, village, town, or federally recognized American Indian tribe or band in which the enterprise development zone is located of a change in the expiration date of the enterprise development zone under this paragraph.

**(6) REVOCATION OF ENTITLEMENT.** (a) The corporation shall revoke the entitlement of a person to claim tax benefits under this section, and the designation of the area as an enterprise development zone shall expire, if the person does any of the following:

1. Supplies false or misleading information to obtain the tax benefits.
2. Leaves the enterprise development zone to conduct substantially the same business outside of the enterprise development zone.
3. Ceases operations in the enterprise development zone and does not renew operation of the trade or business or a similar trade or business in the enterprise development zone within 12 months.

(b) The corporation shall notify the department of revenue within 30 days after revoking an entitlement under par. (a).

**History:** 1995 a. 27 ss. 6936s to 6936v, 9130 (4); 1995 a. 209, 227, 417; 1997 a. 3, 27, 39; 1999 a. 9, 32; 2005 a. 25, 259; 2009 a. 2, 87; 2011 a. 32 s. 3435; Stats. 2011 s. 238.397.

**238.398 Agricultural development zone. (1)** In this section, "rural municipality" means any of the following:

- (a) A city, town, or village that is located in a county with a population density of less than 150 persons per square mile.
- (b) A city, town, or village with a population of 6,000 or less.

**(2)** (a) Except as provided under par. (c), the corporation may designate one area in the state as an agricultural development zone. The area must be located in a rural municipality. An agricultural business that is located in an agricultural development zone and that is certified by the corporation under sub. (3) is eligible for tax benefits as provided in sub. (3).

(b) The designation of an area as an agricultural development zone shall be in effect for 10 years from the time that the corporation first designates the area. Not more than \$5,000,000 in tax benefits may be claimed in an agricultural development zone, except that the corporation may allocate the amount of unallocated airport development zone tax credits, as provided under s. 238.3995 (3) (b), to agricultural development zones for which the \$5,000,000 maximum allocation is insufficient. The corporation may change the boundaries of an agricultural development zone during the time that its designation is in effect. A change in the

boundaries of an agricultural development zone does not affect the duration of the designation of the area or the maximum tax benefit amount that may be claimed in the agricultural development zone.

(c) No area may be designated as an agricultural development zone on or after March 6, 2009.

(3) (a) Except as provided under par. (c), the corporation may certify for tax benefits in an agricultural development zone a new or expanding agricultural business that is located in the agricultural development zone. In determining whether to certify a business under this subsection, the corporation shall consider, among other things, the number of jobs that will be created or retained by the business.

(b) When the corporation certifies an agricultural business under this subsection, the corporation shall establish a limit on the amount of tax benefits that the business may claim. The corporation shall enter into an agreement with the business that specifies the limit on the amount of tax benefits that the business may claim and reporting requirements with which the business must comply.

(c) No business may be certified under this subsection on or after March 6, 2009.

(4) (a) The corporation shall notify the department of revenue of all the following:

1. An agricultural development zone's designation.
2. A business's certification and the limit on the amount of tax benefits that the business may claim.
3. The revocation of a business's certification.

(b) The corporation shall annually verify information submitted to the corporation under s. 71.07 (2dm) or (2dx), 71.28 (1dm) or (1dx), 71.47 (1dm) or (1dx), or 76.636.

(5) The corporation shall adopt rules for the operation of this section, including rules related to all the following:

- (a) Criteria for designating an area as an agricultural development zone.
- (b) Criteria for certifying a business for tax benefits.
- (c) Standards for establishing the limit on the amount of tax benefits that a business may claim.
- (d) Reporting requirements for certified businesses.
- (e) The exchange of information between the corporation and the department of revenue.
- (f) Reasons for revoking a business's certification.
- (g) Standards for changing the boundaries of an agricultural development zone.

**History:** 2001 a. 16, 104; 2005 a. 259; 2007 a. 183; 2009 a. 2; 2011 a. 32 s. 3436; Stats. 2011 s. 238.398.

**238.399 Enterprise zone. (1) DEFINITIONS.** In this section:

(am) 1. Except as provided in subd. 2., "full-time employee" means an individual who is employed in a regular, nonseasonal job and who, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays.

2. The corporation may grant exceptions to the requirement under subd. 1. that a full-time employee means an individual who, as a condition of employment, is required to work at least 2,080 hours per year if all of the following apply:

- a. The individual is employed in a job for which the annual pay is more than the amount determined by multiplying 2,080 by 150 percent of the federal minimum wage.
- b. The individual is offered retirement, health, and other benefits that are equivalent to the retirement, health, and other benefits offered to an individual who is required to work at least 2,080 hours per year.

(bm) "Personnel" means all of the following:

1. A business' employees in an enterprise zone.
2. Individuals who provide services to a business as independent contractors in this state.

(c) "Tax benefits" means the income and franchise tax credits under ss. 71.07 (3w), 71.28 (3w), and 71.47 (3w).

(3) DESIGNATION OF ENTERPRISE ZONES; CRITERIA. (a) The corporation may designate not more than 20 enterprise zones.

(b) In determining whether to designate an area under par. (a), the corporation shall consider all of the following:

1. Indicators of the area's economic need, which may include data regarding household income, average wages, the condition of property, housing values, population decline, job losses, infrastructure and energy support, the rate of business development, and the existing resources available to the area.

2. The effect of designation on other initiatives and programs to promote economic and community development in the area, including job retention, job creation, job training, and creating high-paying jobs.

(bm) The corporation shall specify whether an enterprise zone designated under par. (a) is located in a tier I county or municipality or a tier II county or municipality.

(c) The corporation shall, to the extent possible, give preference to the greatest economic need.

(d) Notwithstanding pars. (b) and (c), the corporation shall designate as enterprise zones at least 3 areas comprising political subdivisions whose populations total less than 5,000 and at least 2 areas comprising political subdivisions whose populations total 5,000 or more but less than 30,000. In designating an enterprise zone under this paragraph, the corporation may consider indicators of an area's economic need and the effect of designation on other economic development activities.

(4) TIME LIMITS; REPORTING. A designation under sub. (3) may remain in effect for no more than 12 years.

(5) CERTIFICATION. The corporation may certify for tax benefits any of the following:

- (a) A business that begins operations in an enterprise zone.
- (b) A business that relocates to an enterprise zone from outside this state, if the business offers compensation and benefits to its employees working in the zone for the same type of work that are at least as favorable as those offered to its employees working outside the zone, as determined by the corporation.

(c) A business that expands operations in an enterprise zone, but only if any of the following apply:

1. The business will increase its personnel by at least 10 percent and all of the following apply:

- a. The business enters into an agreement with the corporation to claim tax benefits only for years during which the business maintains the increased level of personnel.

- b. The business offers compensation and benefits for the same type of work to its employees working in the enterprise zone that are at least as favorable as those offered to its employees working in this state but outside the zone, as determined by the corporation.

2. The business makes a significant capital investment in property located in the enterprise zone and all of the following apply:

- b. The business enters into an agreement with the corporation to claim tax benefits only for years during which the business maintains the capital investment.

- c. The business offers compensation and benefits for the same type of work to its employees working in the zone that are at least as favorable as those offered to its employees working in this state but outside the zone, as determined by the corporation.

(d) A business that retains jobs in an enterprise zone, but only if the business makes a significant capital investment in property located in the enterprise zone and, unless the property is located in an enterprise zone designated under sub. (3) (d), at least one of the following applies:

1. The business is a manufacturer with a significant supply chain in the state, as determined by the corporation.

2. More than 500 full-time employees are employed by the business in the enterprise zone.

(e) A business located in an enterprise zone if the business purchases tangible personal property, items, property, or goods under s. 77.52 (1) (b), (c), or (d), or services from Wisconsin vendors, as determined by the corporation.

**(5m) ADDITIONAL TAX BENEFITS FOR SIGNIFICANT CAPITAL EXPENDITURES.** If the corporation determines that a business certified under sub. (5) makes a significant capital expenditure in the enterprise zone, the corporation may certify the business to receive additional tax benefits in an amount to be determined by the corporation, but not exceeding 10 percent of the business' capital expenditures. The corporation shall, in a manner determined by the corporation, allocate the tax benefits a business is certified to receive under this subsection over the remainder of the time limit of the enterprise zone under sub. (4).

**(6) OTHER DUTIES.** (a) The corporation shall notify the department of revenue when the corporation certifies a business to receive tax benefits.

(b) The corporation shall revoke a certification under sub. (5) if the business does any of the following:

1. Supplies false or misleading information to obtain tax benefits.
2. Leaves the enterprise zone to conduct substantially the same business outside of the enterprise zone.
3. Ceases operations in the enterprise zone and does not renew operation of the business or a similar business in the enterprise zone within 12 months.

(c) The corporation shall notify the department of revenue within 30 days of a revocation under par. (b).

(d) The corporation may require a business to repay any tax benefits the business claims for a year in which the business failed to maintain employment levels or a significant capital investment in property required by an agreement under sub. (5) (c).

(e) The corporation shall determine the maximum amount of the tax credits under ss. 71.07 (3w), 71.28 (3w), and 71.47 (3w) that a certified business may claim and shall notify the department of revenue of this amount.

(f) The corporation shall annually verify the information submitted to the corporation under ss. 71.07 (3w), 71.28 (3w), or 71.47 (3w).

(g) The corporation shall adopt policies and procedures specifying all of the following:

1. The definitions of a tier I county or municipality and a tier II county or municipality. The corporation may consider all of the following information when establishing the definitions required under this subdivision:
  - a. Unemployment rate.
  - b. Percentage of families with incomes below the poverty line established under 42 USC 9902 (2).
  - c. Median family income.
  - d. Median per capita income.
  - e. Other significant or irregular indicators of economic distress, such as a natural disaster or mass layoff.

2m. The definition of "significant capital investment" for purposes of sub. (5).

3. The definition of "significant capital expenditure" for purposes of sub. (5m).

**History:** 2005 a. 361; 2007 a. 20, 97, 100; 2009 a. 11, 28, 266, 267; 2011 a. 26; 2011 a. 32 s. 3437; Stats. 2011 s. 238.399; 2013 a. 20; 2013 a. 166 ss. 54, 60, 76.

**238.3995 Airport development zones. (1) DEFINITIONS.** In this section:

(a) "Airport development project" means a business that locates or expands in an area designated as an airport development zone in this state.

(b) "Full-time job" has the meaning given in s. 238.30 (2m).

(c) "Target population" has the meaning given in s. 238.30 (6).

(d) "Tax benefits" means the development zones capital investment credit under ss. 71.07 (2dm), 71.28 (1dm), and 71.47 (1dm) and the development zones credit under ss. 71.07 (2dx), 71.28 (1dx), and 71.47 (1dx).

**(2) DESIGNATION OF AN AIRPORT DEVELOPMENT ZONE.** (a) Subject to pars. (c) and (e), the corporation may designate an area as an airport development zone if the corporation determines all of the following:

1. That an airport development project is desired for the area, as evidenced by a resolution of the governing body of each county, city, village, and town in which territory of the airport development zone will be located.
2. That the airport development project serves a public purpose.
3. That the airport development project will likely retain or increase employment in the state.
4. That the airport development project is not likely to occur or continue without the corporation designation of the area as an airport development zone.
5. That the airport development project will likely positively affect the area.
6. That an airport is located in the area designated as an airport development zone, that the airport has at least 2 runways at the time of the designation, and that the airport's primary runway is at least 5,000 feet in length and its secondary runway is at least 3,000 feet in length.

(b) In making a determination under par. (a), the corporation shall consider all of the following:

1. The extent of poverty, unemployment, or other factors contributing to general economic hardship in the area.
2. The prospects for new investment and economic development in the area.
3. The amount of investment that is likely to result from the airport development project.
4. The number of full-time jobs that are likely to be created as a result of the airport development project.
5. The number of full-time jobs that are likely to be available to the target population as a result of the project.
6. The competitive effect of designating the area as an airport development zone on other businesses in the area.
7. The needs of other areas of the state.
8. Any other factors that the corporation considers relevant.

(c) 1. The corporation may not designate as an airport development zone, or as any part of an airport development zone, an area that is located within the boundaries of an area that is designated as a development zone under s. 238.31, as a development opportunity zone under s. 238.395, or as an enterprise development zone under s. 238.397.

2. The corporation shall give the department of transportation the opportunity to review and comment on any proposed designation under this subsection and the department of transportation may deny any such designation if the department of transportation determines that the designation would compromise the airport's safety or utility. The department of transportation may also review and comment on any land use or compatibility issues related to any proposed designation under this subsection.

3. A proposed designation under this subsection shall comply with all relevant local ordinances.

(d) Notwithstanding pars. (a) to (c), and except as provided in par. (e), the corporation shall designate as an airport development zone the area within the boundaries of Adams, Fond du Lac, Green Lake, Juneau, Langlade, Lincoln, Marathon, Marquette, Menominee, Oneida, Portage, Price, Shawano, Taylor, Waupaca, Wausara, Winnebago, Wood, and Vilas counties.

(e) No area may be designated as an airport development zone under this subsection on or after March 6, 2009.

**(3) DURATION OF DESIGNATION; LIMITS ON TAX BENEFITS.** (a) When the corporation designates an area as an airport development zone, the corporation shall specify the length of time, not to exceed 84 months, that the designation is effective, subject to par. (d). The corporation shall notify each person certified for tax benefits in an airport development zone, the department of revenue, the department of transportation, the Wisconsin Housing and Economic Development Authority, and the governing body of each county, city, village, town, and federally recognized American Indian tribe or band in which territory of the airport development zone is located of the designation of and expiration date of the airport development zone.

(b) When the corporation designates an area as an airport development zone, the corporation shall establish a limit, not to exceed \$3,000,000, for tax benefits applicable to the airport development zone, except that the corporation shall limit the amount of tax benefits applicable to the airport development zone designated under sub. (2) (d) to \$750,000. The total tax benefits applicable to all airport development zones may not exceed \$9,000,000, less any amount allocated to technology zones under s. 238.23 (2) (b) and to agricultural development zones under s. 238.398 (2) (b), and except that the total amount allocated to all technology zones under s. 238.23 (2) (b) and to all agricultural development zones under s. 238.398 (2) (b), may not exceed \$6,000,000. The corporation may not reallocate amounts as provided under this paragraph on or after January 1, 2010, except that the corporation may, after 48 months from the month of any designation under this section, evaluate the area designated as an airport development zone and reallocate the amount of available tax benefits.

(c) Annually, the corporation shall estimate the amount of forgone state revenue because of tax benefits claimed by persons in each airport development zone.

(d) 1. Notwithstanding the length of time specified by the corporation under par. (a), the designation of an area as an airport development zone shall expire 90 days after the day on which the corporation determines that the forgone tax revenues estimated under par. (c) will equal or exceed the limit established for the airport development zone.

2. The corporation shall immediately notify each person certified for tax benefits in an airport development zone, the department of revenue, the department of transportation, the Wisconsin Housing and Economic Development Authority, and the governing body of each county, city, village, town, and federally recognized American Indian tribe or band in which territory of the airport development zone is located of a change in the expiration date of the airport development zone under this paragraph.

**(4) CERTIFICATION FOR TAX BENEFITS.** (a) A person that intends to operate a place of business in an airport development zone may submit to the corporation an application and a business plan. The business plan shall include all of the following:

1. The name and address of the person's business for which tax benefits will be claimed.
2. The appropriate Wisconsin tax identification number of the person.
3. The names and addresses of other locations outside of the airport development zone where the person conducts business and

a description of the business activities conducted at those locations.

4. The amount that the person proposes to invest in the place of business or to spend on the construction, rehabilitation, repair, or remodeling of a building in the airport development zone.

5. The estimated total investment of the person in the airport development zone.

6. The estimated number of full-time jobs that will be created, retained, or substantially upgraded as a result of the person's place of business in the airport development zone in relation to the amount of tax benefits estimated for the person.

7. The person's plans to make reasonable attempts to hire employees from the target population.

8. The estimated number of full-time jobs that will be filled by members of the target population.

10. Any other information required by the corporation or the department of revenue.

(am) A person that intends to operate a business in the airport development zone designated under sub. (2) (d) may submit to the corporation an application and a business plan that includes all of the information required under par. (a). In approving business plans submitted under this paragraph, the corporation shall give higher priority to airport development projects located or proposed to be located in areas that have a low median household income, as determined by the corporation.

(ar) The corporation may not accept or approve any applications or business plans submitted under par. (a) on or after March 6, 2009.

(b) 1. Except as provided in subd. 2., if the corporation approves a business plan under par. (a) or (am), the corporation shall certify the person as eligible for tax benefits. The corporation shall notify the department of revenue within 30 days of certifying a person under this paragraph.

2. No person may be certified under this paragraph on or after March 6, 2009.

(c) The corporation shall revoke a person's certification under par. (b) when the designation of the applicable airport development zone expires or if the person does any of the following:

1. Supplies false or misleading information to obtain the tax benefits.

2. Leaves the airport development zone to conduct substantially the same business outside of the airport development zone.

3. Ceases operations in the airport development zone and does not renew operation of the business or a similar business in the airport development zone within 12 months.

(d) The corporation shall notify the department of revenue within 30 days after revoking a certification under par. (c).

(e) The tax benefits for which a person is certified as eligible under par. (b) are not transferable to another person, business, or location, except to the extent permitted under section 383 of the Internal Revenue Code.

**(5) VERIFICATION OF INFORMATION.** The corporation annually shall verify information submitted to the corporation under ss. 71.07 (2dm) and (2dx), 71.28 (1dm) and (1dx), and 71.47 (1dm) and (1dx) as it relates to airport development zones.

**History:** 2005 a. 487; 2007 a. 96 s. 131; 2007 a. 183; 2009 a. 2; 2011 a. 32 s. 3438; Stats. 2011 s. 238.3995.