



## 2007 ASSEMBLY BILL 763

February 4, 2008 - Introduced by Representatives DAVIS, STEINBRINK, A. OTT, ALBERS, BALLWEG, GARTHWAITE, GRONEMUS, HAHN, JORGENSEN, MURSAU, MUSSER, NASS, NERISON, PETROWSKI, SUDER, TAUCHEN, VRUWINK and M. WILLIAMS, cosponsored by Senators VINEHOUT, KAPANKE, HARSDFORF and OLSEN. Referred to Committee on Agriculture.

1     **AN ACT** *to amend* 20.835 (2) (bn), 71.07 (3p) (a) 3. (intro.), 71.07 (3p) (b), 71.07  
2     (3p) (c) 2m. b., 71.07 (3p) (c) 3., 71.07 (3p) (d) 2., 71.28 (3p) (a) 3. (intro.), 71.28  
3     (3p) (b), 71.28 (3p) (c) 2m. b., 71.28 (3p) (c) 3., 71.28 (3p) (d) 2., 71.47 (3p) (a) 3.  
4     (intro.), 71.47 (3p) (b), 71.47 (3p) (c) 2m. b., 71.47 (3p) (c) 3., 71.47 (3p) (d) 2. and  
5     560.207 (2); and *to create* 20.835 (2) (bp), 71.07 (3p) (a) 1m., 71.07 (3p) (c) 2m.  
6     bm., 71.07 (3p) (c) 5., 71.07 (3p) (d) 3., 71.28 (3p) (a) 1m., 71.28 (3p) (c) 2m. bm.,  
7     71.28 (3p) (c) 5., 71.28 (3p) (d) 3., 71.47 (3p) (a) 1m., 71.47 (3p) (c) 2m. bm., 71.47  
8     (3p) (c) 5. and 71.47 (3p) (d) 3. of the statutes; **relating to:** allowing dairy  
9     cooperatives to claim the dairy manufacturing facility investment credit and  
10    making an appropriation.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a person may claim a credit against the person's income or franchise tax liability that is equal to 10 percent of the amount that the person paid in the taxable year for dairy manufacturing modernization or expansion related to the claimant's dairy manufacturing operation. If the amount of the credit exceeds the amount of the person's tax liability, the person receives a refund. Under current

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law, dairy cooperatives are, generally, not subject to state income or franchise taxes and, therefore, are not eligible to claim the credit for dairy manufacturing modernization or expansion.

This bill allows the members of a dairy cooperative to claim the credit for the dairy manufacturing modernization or expansion expenses paid by the cooperative. The dairy cooperative determines the amount of the credit that each member may claim, based on the amount of milk each member delivers to the cooperative.

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

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

1           **SECTION 1.** 20.835 (2) (bn) of the statutes, as created by 2007 Wisconsin Act 20,  
2 is amended to read:

3           20.835 (2) (bn) *Dairy manufacturing facility investment credit.* The amounts  
4 in the schedule to make the payments under ss. 71.07 (3p) (d) 2., 71.28 (3p) (d) 2., and  
5 71.47 (3p) (d) 2.

6           **SECTION 2.** 20.835 (2) (bp) of the statutes is created to read:

7           20.835 (2) (bp) *Dairy manufacturing facility investment credit; dairy*  
8 *cooperatives.* A sum sufficient to make the payments under ss. 71.07 (3p) (d) 3., 71.28  
9 (3p) (d) 3., and 71.47 (3p) (d) 3.

10          **SECTION 3.** 71.07 (3p) (a) 1m. of the statutes is created to read:

11          71.07 (3p) (a) 1m. “Dairy cooperative” means a business organized under ch.  
12 185 or 193 for the purpose of obtaining or processing milk.

13          **SECTION 4.** 71.07 (3p) (a) 3. (intro.) of the statutes, as created by 2007 Wisconsin  
14 Act 20, is amended to read:

15          71.07 (3p) (a) 3. (intro.) “Dairy manufacturing modernization or expansion”  
16 means constructing, improving, or acquiring buildings or facilities, or acquiring  
17 equipment, for dairy manufacturing, including the following, if used exclusively for

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1 dairy manufacturing and if acquired and placed in service in this state during  
2 taxable years that begin after December 31, 2006, and before January 1, 2015, or, in  
3 the case of dairy cooperatives, if acquired and placed in service in this state during  
4 taxable years that begin after December 31, 2008, and before January 1, 2017:

5 **SECTION 5.** 71.07 (3p) (b) of the statutes, as created by 2007 Wisconsin Act 20,  
6 is amended to read:

7 71.07 **(3p)** (b) *Filing claims.* Subject to the limitations provided in this  
8 subsection and s. 560.207, except as provided in par. (c) 5., for taxable years  
9 beginning after December 31, 2006, and before January 1, 2015, a claimant may  
10 claim as a credit against the taxes imposed under s. 71.02 or 71.08, up to the amount  
11 of the tax, an amount equal to 10 percent of the amount the claimant paid in the  
12 taxable year for dairy manufacturing modernization or expansion related to the  
13 claimant's dairy manufacturing operation.

14 **SECTION 6.** 71.07 (3p) (c) 2m. b. of the statutes, as created by 2007 Wisconsin  
15 Act 20, is amended to read:

16 71.07 **(3p)** (c) 2m. b. The maximum amount of the credits that may be claimed  
17 by all claimants, other than members of dairy cooperatives, under this subsection  
18 and ss. 71.28 (3p) and 71.47 (3p) in fiscal year 2008-09, and in each fiscal year  
19 thereafter, is \$700,000, as allocated under s. 560.207.

20 **SECTION 7.** 71.07 (3p) (c) 2m. bm. of the statutes is created to read:

21 71.07 **(3p)** (c) 2m. bm. The maximum amount of the credits that may be claimed  
22 by members of dairy cooperatives under this subsection and ss. 71.28 (3p) and 71.47  
23 (3p) in fiscal year 2009-10 is \$600,000, as allocated under s. 560.207, and the  
24 maximum amount of the credits that may be claimed by members of dairy  
25 cooperatives under this subsection and ss. 71.28 (3p) and 71.47 (3p) in fiscal year

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1 2010-11, and in each fiscal year thereafter, is \$700,000, as allocated under s.  
2 560.207.

3 **SECTION 8.** 71.07 (3p) (c) 3. of the statutes, as created by 2007 Wisconsin Act  
4 20, is amended to read:

5 71.07 **(3p)** (c) 3. Partnerships, limited liability companies, and tax-option  
6 corporations, and dairy cooperatives may not claim the credit under this subsection,  
7 but the eligibility for, and the amount of, the credit are based on their payment of  
8 expenses under par. (b), except that the aggregate amount of credits that the entity  
9 may compute shall not exceed \$200,000 for each of the entity's dairy manufacturing  
10 facilities. A partnership, limited liability company, ~~or tax-option corporation,~~ or  
11 dairy cooperative shall compute the amount of credit that each of its partners,  
12 members, or shareholders may claim and shall provide that information to each of  
13 them. Partners, members of limited liability companies, and shareholders of  
14 tax-option corporations may claim the credit in proportion to their ownership  
15 interest. Members of a dairy cooperative may claim the credit in proportion to the  
16 amount of milk that each member delivers to the dairy cooperative, as determined  
17 by the dairy cooperative.

18 **SECTION 9.** 71.07 (3p) (c) 5. of the statutes is created to read:

19 71.07 **(3p)** (c) 5. A claimant who is a member of a dairy cooperative may claim  
20 the credit, based on amounts described under par. (b) that are paid by the dairy  
21 cooperative, for taxable years beginning after December 31, 2008, and before  
22 January 1, 2017.

23 **SECTION 10.** 71.07 (3p) (d) 2. of the statutes, as created by 2007 Wisconsin Act  
24 20, is amended to read:

**ASSEMBLY BILL 763****SECTION 10**

1           71.07 (3p) (d) 2. If Except as provided in subd. 3., if the allowable amount of  
2 the claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08 ~~or no~~  
3 ~~tax is due under s. 71.02 or 71.08~~, the amount of the claim not used to offset the tax  
4 due shall be certified by the department of revenue to the department of  
5 administration for payment by check, share draft, or other draft drawn from the  
6 appropriation account under s. 20.835 (2) (bn).

7           **SECTION 11.** 71.07 (3p) (d) 3. of the statutes is created to read:

8           71.07 (3p) (d) 3. With regard to claims that are based on amounts described  
9 under par. (b) that are paid by a dairy cooperative, if the allowable amount of the  
10 claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08, the  
11 amount of the claim not used to offset the tax due shall be certified by the department  
12 of revenue to the department of administration for payment by check, share draft,  
13 or other draft drawn from the appropriation account under s. 20.835 (2) (bp).

14           **SECTION 12.** 71.28 (3p) (a) 1m. of the statutes is created to read:

15           71.28 (3p) (a) 1m. “Dairy cooperative” means a business organized under ch.  
16 185 or 193 for the purpose of obtaining or processing milk.

17           **SECTION 13.** 71.28 (3p) (a) 3. (intro.) of the statutes, as created by 2007  
18 Wisconsin Act 20, is amended to read:

19           71.28 (3p) (a) 3. (intro.) “Dairy manufacturing modernization or expansion”  
20 means constructing, improving, or acquiring buildings or facilities, or acquiring  
21 equipment, for dairy manufacturing, including the following, if used exclusively for  
22 dairy manufacturing and if acquired and placed in service in this state during  
23 taxable years that begin after December 31, 2006, and before January 1, 2015, or, in  
24 the case of dairy cooperatives, if acquired and placed in service in this state during  
25 taxable years that begin after December 31, 2008, and before January 1, 2017:

**ASSEMBLY BILL 763****SECTION 14**

1           **SECTION 14.** 71.28 (3p) (b) of the statutes, as created by 2007 Wisconsin Act 20,  
2 is amended to read:

3           71.28 **(3p)** (b) *Filing claims.* Subject to the limitations provided in this  
4 subsection and s. 560.207, except as provided in par. (c) 5., for taxable years  
5 beginning after December 31, 2006, and before January 1, 2015, a claimant may  
6 claim as a credit against the taxes imposed under s. 71.23, up to the amount of the  
7 tax, an amount equal to 10 percent of the amount the claimant paid in the taxable  
8 year for dairy manufacturing modernization or expansion related to the claimant's  
9 dairy manufacturing operation.

10           **SECTION 15.** 71.28 (3p) (c) 2m. b. of the statutes, as created by 2007 Wisconsin  
11 Act 20, is amended to read:

12           71.28 **(3p)** (c) 2m. b. The maximum amount of the credits that may be claimed  
13 by all claimants, other than members of dairy cooperatives, under this subsection  
14 and ss. 71.07 (3p) and 71.47 (3p) in fiscal year 2008–09, and in each fiscal year  
15 thereafter, is \$700,000, as allocated under s. 560.207.

16           **SECTION 16.** 71.28 (3p) (c) 2m. bm. of the statutes is created to read:

17           71.28 **(3p)** (c) 2m. bm. The maximum amount of the credits that may be claimed  
18 by members of dairy cooperatives under this subsection and ss. 71.07 (3p) and 71.47  
19 (3p) in fiscal year 2009–10 is \$600,000, as allocated under s. 560.207, and the  
20 maximum amount of the credits that may be claimed by members of dairy  
21 cooperatives under this subsection and ss. 71.07 (3p) and 71.47 (3p) in fiscal year  
22 2010–11, and in each fiscal year thereafter, is \$700,000, as allocated under s.  
23 560.207.

24           **SECTION 17.** 71.28 (3p) (c) 3. of the statutes, as created by 2007 Wisconsin Act  
25 20, is amended to read:

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1           71.28 (3p) (c) 3. Partnerships, limited liability companies, and tax-option  
2 corporations, and dairy cooperatives may not claim the credit under this subsection,  
3 but the eligibility for, and the amount of, the credit are based on their payment of  
4 expenses under par. (b), except that the aggregate amount of credits that the entity  
5 may compute shall not exceed \$200,000 for each of the entity's dairy manufacturing  
6 facilities. A partnership, limited liability company, ~~or tax-option corporation, or~~  
7 dairy cooperative shall compute the amount of credit that each of its partners,  
8 members, or shareholders may claim and shall provide that information to each of  
9 them. Partners, members of limited liability companies, and shareholders of  
10 tax-option corporations may claim the credit in proportion to their ownership  
11 interest. Members of a dairy cooperative may claim the credit in proportion to the  
12 amount of milk that each member delivers to the dairy cooperative, as determined  
13 by the dairy cooperative.

14           **SECTION 18.** 71.28 (3p) (c) 5. of the statutes is created to read:

15           71.28 (3p) (c) 5. A claimant who is a member of a dairy cooperative may claim  
16 the credit, based on amounts described under par. (b) that are paid by the dairy  
17 cooperative, for taxable years beginning after December 31, 2008, and before  
18 January 1, 2017.

19           **SECTION 19.** 71.28 (3p) (d) 2. of the statutes, as created by 2007 Wisconsin Act  
20 20, is amended to read:

21           71.28 (3p) (d) 2. If Except as provided in subd. 3., if the allowable amount of  
22 the claim under par. (b) exceeds the tax otherwise due under s. 71.23 ~~or no tax is due~~  
23 ~~under s. 71.23~~, the amount of the claim not used to offset the tax due shall be certified  
24 by the department of revenue to the department of administration for payment by

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1 check, share draft, or other draft drawn from the appropriation account under s.  
2 20.835 (2) (bn).

3 **SECTION 20.** 71.28 (3p) (d) 3. of the statutes is created to read:

4 71.28 **(3p)** (d) 3. With regard to claims that are based on amounts described  
5 under par. (b) that are paid by a dairy cooperative, if the allowable amount of the  
6 claim under par. (b) exceeds the tax otherwise due under s. 71.23, the amount of the  
7 claim not used to offset the tax due shall be certified by the department of revenue  
8 to the department of administration for payment by check, share draft, or other draft  
9 drawn from the appropriation account under s. 20.835 (2) (bp).

10 **SECTION 21.** 71.47 (3p) (a) 1m. of the statutes is created to read:

11 71.47 **(3p)** (a) 1m. “Dairy cooperative” means a business organized under ch.  
12 185 or 193 for the purpose of obtaining or processing milk.

13 **SECTION 22.** 71.47 (3p) (a) 3. (intro.) of the statutes, as created by 2007  
14 Wisconsin Act 20, is amended to read:

15 71.47 **(3p)** (a) 3. (intro.) “Dairy manufacturing modernization or expansion”  
16 means constructing, improving, or acquiring buildings or facilities, or acquiring  
17 equipment, for dairy manufacturing, including the following, if used exclusively for  
18 dairy manufacturing and if acquired and placed in service in this state during  
19 taxable years that begin after December 31, 2006, and before January 1, 2015, or, in  
20 the case of dairy cooperatives, if acquired and placed in service in this state during  
21 taxable years that begin after December 31, 2008, and before January 1, 2017:

22 **SECTION 23.** 71.47 (3p) (b) of the statutes, as created by 2007 Wisconsin Act 20,  
23 is amended to read:

24 71.47 **(3p)** (b) *Filing claims.* Subject to the limitations provided in this  
25 subsection and s. 560.207, except as provided in par. (c) 5., for taxable years



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1 beginning after December 31, 2006, and before January 1, 2015, a claimant may  
2 claim as a credit against the taxes imposed under s. 71.43, up to the amount of the  
3 tax, an amount equal to 10 percent of the amount the claimant paid in the taxable  
4 year for dairy manufacturing modernization or expansion related to the claimant's  
5 dairy manufacturing operation.

6 **SECTION 24.** 71.47 (3p) (c) 2m. b. of the statutes, as created by 2007 Wisconsin  
7 Act 20, is amended to read:

8 71.47 (3p) (c) 2m. b. The maximum amount of the credits that may be claimed  
9 by all claimants, other than members of dairy cooperatives, under this subsection  
10 and ss. 71.07 (3p) and 71.28 (3p) in fiscal year 2008-09, and in each fiscal year  
11 thereafter, is \$700,000, as allocated under s. 560.207.

12 **SECTION 25.** 71.47 (3p) (c) 2m. bm. of the statutes is created to read:

13 71.47 (3p) (c) 2m. bm. The maximum amount of the credits that may be claimed  
14 by members of dairy cooperatives under this subsection and ss. 71.07 (3p) and 71.28  
15 (3p) in fiscal year 2009-10 is \$600,000, as allocated under s. 560.207, and the  
16 maximum amount of the credits that may be claimed by members of dairy  
17 cooperatives under this subsection and ss. 71.07 (3p) and 71.28 (3p) in fiscal year  
18 2010-11, and in each fiscal year thereafter, is \$700,000, as allocated under s.  
19 560.207.

20 **SECTION 26.** 71.47 (3p) (c) 3. of the statutes, as created by 2007 Wisconsin Act  
21 20, is amended to read:

22 71.47 (3p) (c) 3. Partnerships, limited liability companies, ~~and~~ tax-option  
23 corporations, and dairy cooperatives may not claim the credit under this subsection,  
24 but the eligibility for, and the amount of, the credit are based on their payment of  
25 expenses under par. (b), except that the aggregate amount of credits that the entity

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1 may compute shall not exceed \$200,000 for each of the entity's dairy manufacturing  
2 facilities. A partnership, limited liability company, ~~or~~ tax-option corporation, or  
3 dairy cooperative shall compute the amount of credit that each of its partners,  
4 members, or shareholders may claim and shall provide that information to each of  
5 them. Partners, members of limited liability companies, and shareholders of  
6 tax-option corporations may claim the credit in proportion to their ownership  
7 interest. Members of a dairy cooperative may claim the credit in proportion to the  
8 amount of milk that each member delivers to the dairy cooperative, as determined  
9 by the dairy cooperative.

10 **SECTION 27.** 71.47 (3p) (c) 5. of the statutes is created to read:

11 71.47 (3p) (c) 5. A claimant who is a member of a dairy cooperative may claim  
12 the credit, based on amounts described under par. (b) that are paid by the dairy  
13 cooperative, for taxable years beginning after December 31, 2008, and before  
14 January 1, 2017.

15 **SECTION 28.** 71.47 (3p) (d) 2. of the statutes, as created by 2007 Wisconsin Act  
16 20, is amended to read:

17 71.47 (3p) (d) 2. If Except as provided in subd. 3., if the allowable amount of  
18 the claim under par. (b) exceeds the tax otherwise due under s. 71.43 ~~or no tax is due~~  
19 ~~under s. 71.43~~, the amount of the claim not used to offset the tax due shall be certified  
20 by the department of revenue to the department of administration for payment by  
21 check, share draft, or other draft drawn from the appropriation account under s.  
22 20.835 (2) (bn).

23 **SECTION 29.** 71.47 (3p) (d) 3. of the statutes is created to read:

24 71.47 (3p) (d) 3. With regard to claims that are based on amounts described  
25 under par. (b) that are paid by a dairy cooperative, if the allowable amount of the

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1 claim under par. (b) exceeds the tax otherwise due under s. 71.43, the amount of the  
2 claim not used to offset the tax due shall be certified by the department of revenue  
3 to the department of administration for payment by check, share draft, or other draft  
4 drawn from the appropriation account under s. 20.835 (2) (bp).

5 **SECTION 30.** 560.207 (2) of the statutes, as created by 2007 Wisconsin Act 20,  
6 is amended to read:

7 560.207 (2) If the department of commerce certifies a taxpayer under sub. (1),  
8 the department of commerce shall determine the amount of credits to allocate to that  
9 taxpayer. The total amount of dairy manufacturing facility investment credits  
10 allocated to taxpayers in fiscal year 2007-08 may not exceed \$600,000 and the total  
11 amount of dairy manufacturing facility investment credits allocated to taxpayers  
12 who are not members of dairy cooperatives in fiscal year 2008-09, and in each fiscal  
13 year thereafter, may not exceed \$700,000. The total amount of dairy manufacturing  
14 facility investment credits allocated to taxpayers who are members of dairy  
15 cooperatives in fiscal year 2009-10 may not exceed \$600,000 and the total amount  
16 of dairy manufacturing facility investment credits allocated to taxpayers who are  
17 members of dairy cooperatives in fiscal year 2010-11, and in each fiscal year  
18 thereafter, may not exceed \$700,000.

19

(END)