

1987 Senate Bill 265

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1987 Wisconsin Act 328

AN ACT to amend 13.94 (4) (a) 1, 71.02 (1) (bg) 15, 71.02 (1) (c) (intro.), 71.09 (12r) (a), 71.60 (1) (intro.), 71.65 (1) (L) and 71.65 (2) (g); and to create subchapter V of chapter 560, 20.835 (2) (cm), 20.835 (2) (cn), 49.50 (7g) (h) and (i), 71.05 (1) (a) 32, 71.05 (1) (b) 17, 71.09 (12di), 71.09 (12dj), 71.09 (12dL), 71.09 (12ds), 71.09 (12r) (h), 71.11 (44) (c) 13, 71.65 (1) (go) and (gp), 71.65 (2) (fb) and (fc) and 73.03 (35) of the statutes, relating to creating a development zone program, creating tax benefits in respect to development zones, granting rule-making authority and making appropriations.

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

SECTION 1. 13.94 (4) (a) 1 of the statutes is amended to read:

13.94 (4) (a) 1. Every state department, board, examining board, commission, independent agency, council or office in the executive branch of state government; all bodies created by the legislature in the legislative or judicial branch of state government; any public body corporate and politic created by the legislature; every provider of medical assistance under ch. 49; vocational, technical and adult education district boards; development zones designated under s. 560.71; every county department under s. 51.42 or 51.437; every nonprofit corporation or cooperative to which moneys are specifically appropriated by state law; and every corporation, institution, association or other organization which receives more than 50% of its annual budget from appropriations made by state law, including subgrantee or subcontractor recipients of such funds.

SECTION 2. 20.835 (2) (cm) of the statutes is created to read:

20.835 (2) (cm) *Development zones jobs credit.* A sum sufficient to make the payments under s. 71.09 (12dj) (d).

SECTION 3. 20.835 (2) (cn) of the statutes is created to read:

20.835 (2) (cn) *Development zones sales tax credit.* A sum sufficient to make the payments under s. 71.09 (12ds) (c).

SECTION 4. 49.50 (7g) (h) and (i) of the statutes are created to read:

49.50 (7g) (h) The department shall establish a grant diversion project in a county in which a development zone is designated under subch. V of ch. 560, upon the request of that county.

(i) Upon notification from the department of development under s. 560.75 (11) that a development zone has been designated, the department shall do all of the following:

1. Provide the department of development with information about whether a grant diversion project is

established in the county or counties where the development zone is located.

2. If a grant diversion project has been established in a county where the development zone is located, provide information about how the grant diversion project is administered.

3. With the department of development and the local governing body administering the development zone, help employers in the development zone to participate in the grant diversion project.

SECTION 5. 71.02 (1) (bg) 15 of the statutes, as created by 1987 Wisconsin Act 27, is amended to read:

71.02 (1) (bg) 15. Sections 381, 382 and 383 (relating to carry-overs in certain corporate acquisitions) are modified so that they apply to losses under s. 71.06 and credits under ss. 71.043 and 71.09 (12di), (12dL), (12m), (12r) and (12rf) instead of to federal credits and federal net operating losses.

SECTION 6. 71.02 (1) (c) (intro.) of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

71.02 (1) (c) (intro.) "Net income" means gross income, as computed under the internal revenue code, minus the amount of recapture under s. 71.09 (12di) (e), plus the amount of credit computed under ss. 71.043 and 71.09 (12di), (12dj), (12dL), (12ds), (12m), (12r) and (12rf) plus the amount of losses from the sale or other disposition of assets the gain from which would be wholly exempt income, as defined in par. (bg) 13, if the assets were sold or otherwise disposed of at a gain and minus deductions, as computed under the internal revenue code, plus or minus, as appropriate, an amount equal to the difference between the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned or otherwise disposed of in a taxable transaction during the taxable year, except as provided in s. 71.01 (4) (a) and except as follows:

SECTION 7. 71.05 (1) (a) 32 of the statutes is created to read:

71.05 (1) (a) 32. The amount of the credits claimed under s. 71.09 (12di), (12dj), (12dL) and (12ds).

SECTION 8. 71.05 (1) (b) 17 of the statutes is created to read:

71.05 (1) (b) 17. The amount of recapture under s. 71.09 (12di) (e).

SECTION 9. 71.09 (12di) of the statutes is created to read:

71.09 (12di) DEVELOPMENT ZONES INVESTMENT CREDIT. (a) Except as provided in par. (f) and s. 73.03 (35), for any taxable year for which the person is certified under s. 560.765 (3) for tax benefits, any person may claim as a credit against taxes otherwise due under this chapter 2.5% of the amount expended to purchase tangible personal property, or 1.75% of the amount expended to purchase tangible personal property that is expensed under section 179 of the internal revenue code for purposes of the taxes under this chapter, except that:

1. The investment must be in property that is used only in the conduct of business operations at a location in a development zone under subch. V of ch. 560 or, if the property is mobile, the base of operations of the property must be a location in a development zone.

2. The credit under this subsection may be claimed only by the person who purchased the property the investment in which is the basis for the credit.

3. If the credit is claimed for used property, the claimant may not have used the property at a location outside the development zone.

4. No credit is allowed under this subsection for property which is the basis for a credit under sub. (12dL).

(b) The credit, including any credits carried over, may be offset only against the amount of the tax otherwise due under this chapter attributable to income from the business operations of the claimant in the development zone and against the tax attributable to income from directly related business operations of the claimant. Partnerships and tax-option corporations may not claim the credit under this subsection. Partners and shareholders of tax-option corporations may claim the partnership's or corporation's credit in proportion to their ownership interest and may offset it against the tax attributable to their income from business operations in the development zone and against the tax attributable to income from directly related business operations.

(c) The carry-over provisions of sub. (12r) (f) and (g) as they relate to the credit under that subsection relate to the credit under this subsection and apply as if the development zone continued to exist.

(d) No credit may be allowed under this subsection unless the claimant includes with the claimant's return:

1. A copy of the claimant's certification for tax benefits under s. 560.765 (3).

2. A statement from the department of development verifying the amount of the investment and verifying that the investment fulfills the requirements under par. (a).

(e) The recapture provisions under section 47 (a) (5) of the internal revenue code as amended to December 31, 1985, as they apply to the credit under section 46 of the internal revenue code, apply to the credit under this subsection, except that those provisions also apply if the property for which the credit is claimed is moved out of the development zone or, for mobile property, if the base of operations is moved out of the zone.

(f) If the certificate for tax benefits of a person who has claimed a credit under this subsection is revoked or the development zone in respect to which a person has claimed a credit under this subsection ceases to exist:

1. That person may claim no credits under this subsection for the taxable year that includes the day on which the certification is revoked or the zone ceases to exist.

2. That person may carry over no unused credits from previous taxable years to the taxable year that includes the day on which the certification is revoked or the zone ceases to exist or to succeeding taxable years.

(g) If a person who has claimed a credit under this subsection ceases business operations in the development zone during any of the taxable years that that zone exists, that person may not carry over to any taxable year following the year during which operations cease any unused credits from the taxable year during which operations cease or from previous taxable years.

(h) Subsection (12r) (j) and (k) as it applies to the credit under that subsection applies to the credit under this subsection.

SECTION 10. 71.09 (12dj) of the statutes is created to read:

71.09 (12dj) DEVELOPMENT ZONES JOBS CREDIT. (a) In this subsection:

1. "Dislocated farmer" means a person who immediately before becoming unemployed was a farmer and who meets the definition of a dislocated worker under 29 USC 1652 (a) (4).

2. "Person unemployed as a result of a business facility closing" means a person who is not currently employed in a full-time job and who has been unemployed for a period of 60 days or more within the last 2 years as a result of a business facility closing in this state. In this subdivision, "a business facility closing" means termination, within one year, of at least 50% of the employes of a business that before that termination had at least 20 full-time employes.

3. "Person whose unemployment benefits have expired" means a person who is not currently employed in a full-time job, who has received unemployment compensation benefits under ch. 108 for 60 days or more within the last 2 years and whose unemployment compensation benefits have expired.

(am) Except as provided under par. (f) or s. 73.03 (35), for any taxable year for which the person is certi-

fied under s. 560.765 (3) for tax benefits, any person may claim as a credit against taxes otherwise due under this chapter an amount calculated as follows:

1. Modify “member of a targeted group”, as defined in section 51 (d) of the internal revenue code, to include dislocated farmers, persons unemployed as a result of a business action subject to s. 109.07 (1) and persons whose unemployment benefits have expired.

2. Modify “designated local agency”, as defined in section 51 (d) (15) of the internal revenue code, to include the job training partnership act organization for the area that includes the development zone in which the employee in respect to whom the credit under this subsection is claimed works and the department of development if the criteria used for certification are the same as those used by the person who is the designated local agency for the purposes of that section.

3. Modify the rule for certification under section 51 (d) (16) (A) of the internal revenue code to allow certification within the 30-day period beginning with the first day of employment of the employee by the claimant.

4. Modify “qualified wages” as defined in section 51 (b) of the internal revenue code to exclude wages that are paid to employees for work at any location that is not in a development zone under subch. V of ch. 560 and to exclude wages paid to leased or rented employees by the person to whom they are leased or rented. For purposes of this subdivision, mobile employees work at their base of operations and leased or rented employees work at the location where they perform services.

5. Calculate the credit under section 51 of the internal revenue code.

6. For persons for whom a credit may be claimed under subd. 5, modify “qualified wages” under section 51 (b) of the internal revenue code so that those wages are based on the wages attributable to service rendered during the one-year period beginning with the date one year after the date on which the individual begins work for the employer.

7. Modify section 51 of the internal revenue code as under subds. 1 to 4.

8. Calculate the credit under section 51 of the internal revenue code based on qualified wages for the 2nd year as determined under subds. 6 and 7.

9. Add the amounts under subds. 5 and 8.

(b) In computing the credit under this subsection, the wages of leased or rented employees may be claimed only by their employer, not by the person to whom they are rented or leased.

(c) The credit under this subsection may not be claimed by partnerships and tax-option corporations but may be claimed by partners and shareholders of tax-option corporations in proportion to their ownership interests.

(d) If the allowable amount of the credit under par. (am) exceeds the taxes otherwise due under this chapter on or measured by the claimant’s income, the

amount of the credit not used as an offset against those taxes shall be certified to the department of administration for payment to the claimant by check, share draft or other draft.

(e) No credit may be allowed under this subsection unless the claimant includes with the claimant’s return:

1. A copy of the claimant’s certification for tax benefits under s. 560.765 (3).

2. Federal withholding forms or equivalent information for the wages paid to employees for whom the credit under this subsection is claimed.

3. A statement from the department of development verifying the information under subd. 2 and verifying that the employees were hired for work only in a development zone or are mobile employees whose base of operations is in a development zone.

4. A copy of any claims for the credit under section 51 of the internal revenue code that are based on wages that also are the basis for a claim under this subsection.

(f) The rules under sub. (12di) (f) and (g) as they apply to the credit under that subsection apply to the credit under this subsection.

(g) Subsection (12r) (j) and (k) as it applies to the credit under that subsection applies to the credit under this subsection.

SECTION 11. 71.09 (12dL) of the statutes is created to read:

71.09 (12dL) DEVELOPMENT ZONES LOCATION CREDIT. (a) Except as provided under par. (f) or s. 73.03 (35), for any taxable year for which the person is certified under s. 560.765 (3) for tax benefits, any person may claim as a credit against taxes otherwise due under this chapter an amount equal to 2.5% of the amount expended, in respect to projects begun after the designation of a development zone under s. 560.71, to acquire, construct, rehabilitate, remodel or repair real property in a development zone under subch. V of ch. 560.

(b) No credit is allowed under this subsection for property which is the basis for a credit under sub. (12di).

(c) The credit under par. (a), including any credits carried over, may be offset only against the amount of the tax otherwise due under this chapter attributable to income from the business operations of the claimant in the development zone and against the tax attributable to income from directly related business operations.

(d) The carry-over provisions of sub. (12r) (f) and (g) as they relate to the credit under that subsection relate to the credit under this subsection and apply as if the development zone continued to exist.

(e) Partnerships and tax-option corporations may not claim the credit under this subsection. Partners and shareholders of tax-option corporations may claim the partnership’s or corporation’s credit in pro-

portion to their ownership interest and may offset it against the tax attributable to their income from business operations in the development zone and against the tax attributable to income from directly related business operations.

(f) Subsection (12di) (d), (f) and (g) as it applies to the credit under that subsection applies to the credit under this subsection.

(g) Subsection (12r) (j) and (k) as it applies to the credit under that subsection applies to the credit under this subsection.

SECTION 12. 71.09 (12ds) of the statutes is created to read:

71.09 (12ds) DEVELOPMENT ZONES SALES TAX CREDIT. (a) In this subsection:

1. "Development zone" means a zone designated under s. 560.71.

2. "Eligible property" means construction materials and supplies and other materials used to construct, rehabilitate, repair or remodel real property located in a development zone and investment credit property.

3. "Investment credit property" means tangible personal property that is purchased by a person who uses it at a location in a development zone and that is eligible for the credit under sub. (12di).

(b) Except as provided in par. (e) and s. 73.03 (35), for any taxable year for which the person is certified under s. 560.765 (3) for tax benefits, any person may claim as a credit against taxes otherwise due under this chapter the taxes paid under subchs. III and V of ch. 77 on their purchases, leases and rentals of eligible property. Partnerships and tax-option corporations may not claim the credit under this subsection. Partners and shareholders of tax-option corporations may claim the partnership's or corporation's credit in proportion to their ownership interest.

(c) If the allowable amount of the credit under par. (b) exceeds the taxes otherwise due under this chapter on or measured by the claimant's income, the amount of the credit not used as an offset against those taxes shall be certified to the department of administration for payment to the claimant by check, share draft or other draft.

(d) No credit may be allowed under this subsection unless the claimant submits with the claimant's return:

1. A copy of the claimant's certification for tax benefits under s. 560.765 (3).

2. A statement from the department of development verifying the amount of taxes paid under subchs. III and V of ch. 77 for eligible property by the claimant.

3. Copies of original invoices, receipts or equivalent records that show the amount of taxes paid under subchs. III and V of ch. 77 for eligible property by the claimant.

(e) The rules under sub. (12di) (f) and (g) as they apply to the credit under that subsection apply to the credit under this subsection.

(f) Subsection (12r) (j) and (k) as it applies to the credit under that subsection applies to the credit under this subsection.

SECTION 13. 71.09 (12r) (a) of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

71.09 (12r) (a) *Credit*. For taxable year 1986 and subsequent years, any corporation may credit against taxes otherwise due under this chapter an amount equal to 5%, or 10% in the case of research conducted exclusively in a development zone under subch. V of ch. 560, of the amount obtained by subtracting from the corporation's qualified research expenses, as defined in section 41 of the internal revenue code, except that "qualified research expenses" includes only expenses incurred by the claimant, incurred for research conducted in this state for the taxable year the corporation's base period research expenses, as defined in section 41 of the internal revenue code. A claim for a 10% credit may be allowed only if the claimant submits with the claimant's return a copy of the claimant's certification for tax benefits under s. 560.765 (3) and a statement from the department of development verifying the claimant's qualified research expenses for research conducted exclusively in a development zone. The rules under sub. (12di) (f) and (g) as they apply to the credit under that subsection apply to claims for the 10% credit. Section 73.03 (35) applies to the 10% credit.

SECTION 14. 71.09 (12r) (h) of the statutes is created to read:

71.09 (12r) (h) *End of benefits*. The rules under sub. (12di) (f) and (g) as they apply to the credit under that subsection apply to the increase in the credit under this subsection caused by conducting research exclusively in a development zone.

SECTION 15. 71.11 (44) (c) 13 of the statutes is created to read:

71.11 (44) (c) 13. The secretary of development and employes of that department to the extent necessary to administer the development zone program under subch. V of ch. 560.

SECTION 16. 71.60 (1) (intro.) of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

71.60 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married couple filing jointly, trust or estate under s. 71.01 (1), not considering the credits under s. 71.09 (7), (7m) ~~and~~ (11), (12di), (12dj), (12dL) and (12ds) and payments to other states under s. 71.09 (8), is less than the tax under this section, there is imposed on that natural person, married couple filing jointly, trust or estate, instead of the tax under s. 71.01 (1), an alternative minimum tax computed as follows:

SECTION 17. 71.65 (1) (go) and (gp) of the statutes are created to read:

71.65 (1) (go) Development zones investment credit under s. 71.09 (12di).

(gp) Development zones location credit under s. 71.09 (12dL).

SECTION 18. 71.65 (1) (L) of the statutes, as affected by 1987 Wisconsin Act 92, is amended to read:

71.65 (1) (L) The total of claim of right credit under s. 71.09 (12cr), farmland preservation credit under s. 71.09 (11), homestead credit under s. 71.09 (7), development zones sales tax credit under s. 71.09 (12ds), development zones jobs credit under s. 71.09 (12dj), estimated tax payments under s. 71.21 and taxes withheld under s. 71.19.

SECTION 19. 71.65 (2) (fb) and (fc) of the statutes are created to read:

71.65 (2) (fb) Development zones investment credit under s. 71.09 (12di).

(fc) Development zones location credit under s. 71.09 (12dL).

SECTION 20. 71.65 (2) (g) of the statutes is amended to read:

71.65 (2) (g) The total of farmland preservation credit under s. 71.09 (11), the development zones sales tax credit under s. 71.09 (12ds), the development zones jobs credit under s. 71.09 (12dj) and estimated tax payments under s. 71.22.

SECTION 21. 73.03 (35) of the statutes is created to read:

73.03 (35) To deny a portion of a credit claimed under s. 71.09 (12di), (12dj), (12dL) or (12ds) or a portion of the additional 5% credit claimed under s. 71.09 (12r) (a) if granting the full amount claimed would bring the total of the credits granted to that claimant under that subsection, or the total of the credits granted to that claimant under all of those subsections, over the limit for that claimant under s. 560.768.

SECTION 22. Subchapter V of chapter 560 of the statutes is created to read:

CHAPTER 560

SUBCHAPTER V

DEVELOPMENT ZONE PROGRAM

560.70 Definitions. In this subchapter:

(1) "Business incubator" means a person who operates a facility designed to encourage the growth of new businesses, if at least 2 of the following apply:

(a) Space in the facility is rented at a rate lower than the market rate in the community.

(b) Shared business services are provided in the facility.

(c) Management and technical assistance are available at the facility.

(d) Businesses using the facility may obtain financial capital through a direct relationship with at least one financial institution.

(2) "Development zone program" means the program administered under this subchapter.

(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 or towns or the elected governing body of a federally recognized American Indian tribe or band in this state.

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

(6) "Target population" means the residents of a development zone and persons who are members of targeted groups for the purposes of the credit under s. 71.09 (12dj).

(7) "Tax benefits" means the development zones investment credit under s. 71.09 (12di), the development zones jobs credit under s. 71.09 (12dj), the development zones location credit under s. 71.09 (12dL), the development zones sales tax credit under s. 71.09 (12ds) and the additional 5% credit under s. 71.09 (12r) (a).

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

(a) A local governing body nominates the area as described in s. 560.72.

(b) The department has evaluated the local governing body's application as described in s. 560.725.

(c) The department approves the development zone plan submitted under s. 560.73.

(cm) The department has complied with s. 560.723.

(d) The area meets the applicable requirements under s. 560.735.

(e) The area fulfills 2 of the following requirements:

1. The unemployment rate in the area is at least 150% of the state average for the 18 months immediately preceding the application.

2. At least 40% of the persons residing in the area are members of households that have household income levels at or below 80% of the statewide median household income.

3. The assessed value of real property in the area in the most recent assessment is less than the assessed value of that property in the assessment 2 years before the most recent assessment.

4. The area is in a location that qualifies for federal urban development action grants.

5. The percentage of households receiving aid to families with dependent children under s. 49.19 in the area is significantly higher than the percentage of households receiving aid to families with dependent children in this state.

6. In the 18 months immediately preceding the application, at least 5% of the members of the workforce in the city, village or town governed by the governing body submitting the application were permanently laid off by their employer.

(2) In determining whether an area meets the requirements under sub. (1) (e) or s. 560.735, the department may rely on any data provided by the

local governing body which the department determines is relevant.

(3) The department shall do all of the following:

(a) Determine the number of development zones designated under sub. (1) but may not designate more than 8 development zones.

(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 one development zone that is at least partially within an Indian reservation.

560.72 Application by local governing bodies. (1) A local governing body may nominate an area as a development zone, 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 and to develop a development zone plan under s. 560.73 (1).

(2) A local governing body may nominate the area as a development zone by submitting an application to the department in a form prescribed by the department. 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 2 of the criteria under s. 560.71 (1) (e), including data on the requirements the area does not meet.

(d) Evidence that the area meets the applicable requirements of s. 560.735.

(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 jobs available to the targeted population.

(i) Any other information required by the department.

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

(3) Two or more local governing bodies may submit a joint application nominating a single area as a development zone, subject to s. 560.735 (2).

(4) The governing body of a county may submit an application jointly with a local governing body of a city, village, town or Indian reservation located in the county, if the county complies with sub. (1).

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

560.723 Review of boundary. The department shall notify the joint committee on finance in writing of any boundary proposed for an area nominated as a development zone. The department may designate the proposed boundary if, within 14 days after the notification, the joint committee on finance does not schedule a meeting for the purpose of reviewing the proposed boundary. Any meeting under this section shall be scheduled by the joint committee on finance within 30 days after receiving the initial notification of the department. If the joint committee on finance schedules a meeting for the purpose of reviewing the boundary of the area, the department may not approve the boundary without the approval of the joint committee on finance.

560.725 Evaluation by department. (1) The department shall evaluate applications received under s. 560.72 (2) to (4) and development zone plans received under s. 560.73 (1) and (2) according to the following criteria:

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

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

(c) The local governing body's proposal for the use of existing economic development programs and other resources to increase investment and economic development in the area.

(d) The local governing body's plans to do all of the following:

1. Improve services in the area.

2. Eliminate obstacles to economic development.

3. Expedite regulatory proceedings and the procedures for issuing permits or licenses.

4. Provide technical assistance to businesses.

5. Improve the level of cooperation between the private sector and local, or tribal government.

6. Establish an advisory board and provide or designate staff for the advisory board under s. 560.763.

(e) The local governing body's commitment not to recruit businesses which engage in economic activity that violates s. 560.78 (1).

(f) The effect of making the area a development zone on jobs available to the targeted population.

(g) The needs of other areas of this state.

(h) Any other factors the department considers relevant.

(2) Subject to s. 560.735 (5), the department may reduce the size of an area nominated as a development zone, if the department determines the boundaries as

proposed by the local governing body in an application under s. 560.72 (2) to (4) are inconsistent with the purpose of the development zone program. Any nominated area which is reduced under this subsection need not comply with s. 560.735 (1), (3) and (4).

(3) After evaluating an application submitted under s. 560.72 (2) to (4), the department may approve the application, subject to any reduction in the size of the nominated area under sub. (2). If the department approves the application, the department shall notify the local governing body and request the local governing body to submit a development zone plan under s. 560.73 (1).

560.73 Development zone plan. (1) Not more than 3 months after receiving notification from the department that an application has been approved under s. 560.725 (3), a local governing body shall submit a development zone plan to the department. The development zone plan shall include all of the following information:

(a) Current public and private economic development activity in the area and a description of how the activity would be coordinated with the administration of the area as a development zone.

(b) How existing available economic development programs will be used in the area.

(c) How the local governing body plans to do all of the following:

1. Improve services in the area.
2. Eliminate obstacles to economic development.
3. Expedite regulatory proceedings and the procedures for issuing permits or licenses.
4. Provide technical assistance to businesses.
5. Improve the level of cooperation between the private sector and local or tribal government.
6. Establish an advisory board and provide or designate staff for the advisory board under s. 560.763.

(d) Current land use patterns and the effect of anticipated economic development on land use patterns in the area.

(e) The effect of making the area a development zone on jobs available to the targeted population.

(f) Any changes in ordinances, or expenditures of the city, village, town or American Indian tribe or band to facilitate economic development.

(g) How the local governing body intends to assess the effectiveness of its development zone plan submitted under this subsection.

(h) A description of how the local governing body shall attempt not to recruit businesses which engage in economic activity that violates s. 560.78 (1).

(i) 1. Whether a grant diversion project has been established in the county in which the area is located and, if a grant diversion project has not been established, how the local governing body intends to work with the county and the department of health and social services to establish a grant diversion project.

2. How the local governing body will work with the county and department of health and social services to promote and encourage participation in the grant diversion project by employers in the development zone.

(2) If 2 or more local governing bodies submit a joint application under s. 560.72 (3), the local governing bodies shall submit a joint development zone plan under this section.

(3) After review based on the relevant criteria under s. 560.725 (1), the department may approve a development zone plan. If the department approves a development zone plan, the department shall designate the area nominated by the local governing body as a development zone, subject to s. 560.71, and notify the local governing body.

560.735 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 5% 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 5% 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 4,000, 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).

(3) Except as provided in sub. (4), an area that is not part of a metropolitan statistical area may not be nominated or designated as a development zone unless the population of the area, as estimated under s. 16.96, is at least 1,000 and not more than 5,000.

(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 an reservation.

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

(6) (a) Except in a 1st class city, 2 separate areas may be nominated or designated as one development zone, if all of the 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 2 of the criteria listed in s. 560.71 (1) (e) 1 to 6.

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

(b) In a 1st class city, not more than 4 separate areas may be nominated or designated as one development zone, if par. (a) 1 to 3 applies.

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

560.74 Change in boundary and size of development zones. (1) At any time after a development zone is designated by the department, a local governing body may submit an application to change the boundaries of the development zone. The local governing body shall submit a revised development zone plan, described in s. 560.73 (1), with its application for a boundary change. 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 department may require the local governing body to submit additional information.

(2) The department may approve an application for a boundary change if the development zone, as affected by the boundary changes, meets the applicable requirements of s. 560.735 and 2 of the criteria under s. 560.71 (1) (e) 1 to 6.

(3) If the department 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. 560.745 (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 department 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. 560.745 (1) (a). The department 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. 560.745 (1) (b).

560.745 Duration, renewal and expiration. (1) (a) The designation of an area as a development zone shall be effective for 84 months, beginning on the day the department notifies the local governing body under s. 560.73 (3) of the designation.

(b) The local governing body may apply to the department for up to 3 12-month extensions of the designation. The department shall promulgate rules establishing criteria for approving an extension of a designation of an area as a development zone under this subsection.

(2) (a) When the department designates a development zone under s. 560.71, it shall establish a limit for tax benefits for the development zone determined by allocating to the development zone, under rules promulgated by the department, a portion of \$14,000,000.

(b) Annually the department shall estimate the amount of foregone 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 after December 31 of the calendar year which includes the day on which the department determines that the foregone tax revenues under par. (b) will equal or exceed the limit for the development zone established under par. (a). The department shall immediately notify the local governing body of a change in the expiration date of the development zone under this paragraph.

560.75 Additional duties of the department. The department 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.

(3) By October 1 of each year beginning with 1989, prepare a report on the effectiveness and results of the development zone program for each fiscal year during which the development zone program is conducted; and submit a copy of that report to the governor and to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2).

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

(5) Help local governing bodies prepare applications for development zones and development zone plans.

(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 department or local governing bodies on ways to improve the development zone program.

(7) Prepare forms for the certification described under s. 560.765 (5).

(8) Verify information submitted to the department of revenue under s. 71.09 (12di) (d) 2, (12dj) (e) 3, (12dL) (f), (12ds) (d) 2 and (12r) (a).

(9) (a) Except as provided in par. (b), ensure that at all times in each development zone at least 50% of the

tax benefits in the development zone is used for development zones jobs credits under s. 71.09 (12dj).

(b) With respect to a development zone located in a 1st class city, ensure that at all times in the development zone at least 65% of the tax benefits in the development zone is used for development zones jobs credits under s. 71.09 (12dj).

(10) Enter into an agreement with the local governing body of a 1st class city where a development zone is designated under s. 560.71 (3) (c) 1 to provide efficient administration of the development zone program within the development zone.

(11) For the purposes of s. 49.50 (7g) (h) and (i), notify the department of health and social services when a development zone has been established and of which local governing body helps administer the development zone.

560.763 Duties of local governing bodies; advisory boards. (1) If an area nominated by a local governing body is designated as a development zone under s. 560.71, the local governing body shall do all of the following:

(a) Appoint a 5-member advisory board described in sub. (3).

(b) Promote economic development within the development zone.

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

(2) The local governing body may provide staff for the advisory board described in sub. (3) or appoint a private nonprofit organization, with expertise in economic development, to provide staff for the advisory board.

(3) (a) An advisory board appointed under sub. (1) (a) shall assist and advise the local governing body with respect to all of the following:

1. Implementation of the development zone plan prepared under s. 560.73.

2. The local governing body's duties under sub. (1) (b) and (c).

(b) 1. Subject to subds. 2 and 3, members of the advisory board shall serve 5-year terms. At least one member of the advisory board shall live in the development zone.

2. Of the initial members of the advisory board:

a. Two shall be appointed for one-year terms.

b. Two shall be appointed for 2-year terms.

c. One shall be appointed for a 3-year term.

3. The terms of all members of the advisory board shall end when the designation of an area as a development zone expires under s. 560.745.

(4) The local governing body of a 1st class city where a development zone is designated under s. 560.71 (3) (c) 1 shall enter into an agreement with the department to provide efficient administration of the development zone program within the development zone.

560.765 Certification for tax benefits. The department 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 plan.

(2) Determine whether a person applying for tax benefits engages or will engage in economic activity which violates s. 560.78 (1).

(3) (a) Subject to s. 560.78, certify persons who are eligible to claim tax benefits while an area is designated as a development zone, according to the following criteria:

1. 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.

2. The person's commitment not to engage in economic activity that violates s. 560.78 (1).

3. The number of 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).

4. The person's plans to make reasonable attempts to hire employes from the targeted population.

5. 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.

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

7. Whether the person's proposed economic activity is consistent with the development zone plan.

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

9. The likelihood that tax benefits claimed by the person will enable the department to meet the requirements of s. 560.75 (9).

10. Any other criteria established under rules promulgated by the department.

(b) Certify business incubators that are eligible to claim tax benefits, if all of the following apply:

1. At least 50% of the small businesses housed in the small business incubator have received or participated in any of the following:

a. Federal targeted jobs tax credits under section 51 of the internal revenue code.

b. A job training partnership program under 29 USC 1502.

c. Any other program, similar to the program described in subd. 2, established to increase the employment opportunities of disadvantaged individuals.

2. The business incubator has housed businesses described in subd. 1 for at least 6 months before the designation of the development zone under s. 560.71.

3. The business incubator's facility is located in, or within 5 miles of, the development zone.

(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 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 jobs described in par. (e) that are or will likely be held by members of the targeted population.

(g) The limit under s. 560.768 on tax benefits the person may claim while an area is designated as a development zone.

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

560.768 Limits on tax benefit to certified person. (1)

(a) The department shall establish a limit on the maximum amount of tax benefits a person certified under s. 560.765 (3) may claim while an area is designated as a development zone. The limit may specify a minimum amount of the total tax benefits that may be used exclusively for the credit under s. 71.09 (12dj), subject to s. 560.75 (9).

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

1. Consider all of the criteria described in s. 560.765 (3) (a) 1 to 5.

2. Establish a limit which does not greatly exceed a recommended limit, established under rules promulgated by the department based on the cost, number and types of jobs that will be created, retained or upgraded, including jobs available to members of the targeted population, as a result of the economic activity of the person certified under s. 560.765 (3).

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

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

(b) Revises the certification required under s. 560.765 (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 department may reduce a limit established under sub. (1) or (2) if the department determines that any of the following apply:

1. The limit is not consistent with the criteria listed under s. 560.765 (3) 1 to 5.

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

(b) The department 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.

560.77 Revocation of certification. (1) The department shall revoke the certification of a person certified under s. 560.765 (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. 560.78 (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 department shall notify the department of revenue within 30 days of revoking a certification under sub. (1).

560.78 Certification prohibited in certain cases. (1) Subject to sub. (2), no person may be certified under s. 560.765 (3), or a person's certification may be revoked under s. 560.77, 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 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.

(2) Subsection (1) does not apply, after a hearing, if the department determines that any of the following apply:

(a) The total number of jobs provided by the person in this state would be reduced if the person were not certified under s. 560.765 (3) or if the person's certification were revoked.

(b) The situation is extraordinary.

560.79 Audit. The legislative audit bureau shall conduct an audit of the development zone program no later than 36 months after designation of the first development zone under s. 560.71.

SECTION 23. Nonstatutory provisions; development. (1) **DEVELOPMENT ZONE; RULES.** The department of development shall submit the proposed rules required under sections 560.745 (1) (b) and (2) (a),

560.765 (3) (a) 10 and 560.768 (1) (b) 2 of the statutes, as created by this act, to the legislative council under section 227.15 (1) of the statutes no later than the first day of the 7th month beginning after the effective date of this subsection.

SECTION 24. Appropriation changes; development.

(1) **DEVELOPMENT ZONE PROGRAM.** The appropriation to the department of development under section 20.143 (1) (a) of the statutes, as affected by the acts of 1987, is increased by \$44,700 for fiscal year 1987-88 and by \$129,600 for fiscal year 1988-89 to fund 2.0

FTE GPR positions and 1.0 FTE GPR project position for the purposes of performing the responsibilities assigned to the department of development under subchapter V of chapter 560 of the statutes, as created by this act.

SECTION 25. Initial applicability. The treatment of sections 71.02 (1) (bg) 15 and (c) (intro.), 71.05 (1) (a) 32 and (b) 17, 71.09 (12di), (12dj), (12dL), (12ds) and (12r) (a) and (h) and 71.65 (1) (go), (gp) and (L) and (2) (fb), (fc) and (g) of the statutes first applies to taxable year 1988.
