

2001 DRAFTING REQUEST

Bill

Received: 10/04/2000

Received By: jkreye

Wanted: Soon

Identical to LRB:

For: Administration-Budget

By/Representing: Walker

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Alt. Drafters:

Subject: Tax Credits - miscellaneous
Tax - corp. inc. and fran.

Extra Copies: PJK

Pre Topic:

DOA:.....Walker -

Topic:

Tax credit for capital investment in a development opportunity zone in Milwaukee and authorize tax benefits on basis of another's economic activity in that zone

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	jkreye 10/09/2000	hhagen 10/17/2000	martykr 10/19/2000	_____	gretskl 10/19/2000		State
	jkreye 01/02/2001	hhagen 01/02/2001		_____			
/2	jkreye 02/02/2001	wjackson 02/04/2001	pgreensl 01/04/2001	_____	lrb_docadmin 01/04/2001		State
/3			pgreensl 02/05/2001	_____	lrb_docadmin 02/05/2001		State
/4	kahlepj	hhagen	haugeca	_____	lrb_docadmin		State

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	02/05/2001 jkreye	02/05/2001 wjackson	02/05/2001	_____	02/06/2001		
	02/06/2001	02/06/2001		_____			
/5			pgreensl	_____	lrb_docadmin		State
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Extra Copies: PJK

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Topic:

Tax credit for opportunity
Capital investment in a development zone tax credit in Milwaukee and authorize tax benefit
on basis of another's economic activity in that zone.

Instructions:

See Attached

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Topic:

Capital investment in a development zone tax credit

Instructions:

See Attached

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Extra Copies: PJK

Pre Topic:

COMMERCE

DOA:.....Walker -

Topic:

Capital investment in a development zone tax credit

Instructions:

See Attached

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FE Sent For:

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~~result in the creation of at least 50 new jobs of which 15 must be executive, administrative, or professional jobs~~

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&
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C.

Capital Investment Tax Credit

Add to the CDZ, DOZ, and EDZ programs a new Capital Investment Tax Credit (ss. 71.07, 71.28, and 71.47) similar to the old investment and location credits. Existing tax credits in the EDZ program are based on job creation and retention and environmental remediation, and do not address some new projects that are primarily capital investment projects with little job creation and environmental remediation. Such projects could include a new electric generating plant that would involve \$250 million in capital investment, and would contribute to electric reliability, but create only 50 new jobs.

The credit would be 3% of:

1. The purchase price of depreciable tangible personal property
2. The purchase price of depreciable tangible personal property expensed under section 179 of the IRC.
3. The amount expended to acquire, construct, rehabilitate, or repair real property.

71.47 (1dL) - 71.08 (1) (intro.), 71.47 (1di) (a) 4., (1ds) (a) 2.,
71.49 (1) (em), 73.03 (35)

71.28 (1dL) - 71.08 (1) (intro.), 71.26 (2) (a), (3) (n), 71.28 (1di) (a) 4., (1ds) (a) 2., 71.30 (3) (em), 71.34 (1) (g), 73.03 (35)

- 71.07 (2dL) - 71.05 (6) (a) 15., 71.07 (2di) (a) 4., (2ds) (a) 2.,
71.08 (1) (intro.), 71.10 (4) (gr), 71.21 (4),
73.03 (35), 77.92 (4)
- 71.07 (2dL)(a) - 71.07 (2dL) (ag), (ar), (bm), (c) 1., 2.
- 71.07 (2dL)(ag) - 71.07 (2dL) (a)
- 71.07 (2dL)(ar) - 71.07 (2dL) (a), (aw)
- 71.07 (2dL)(bm) - 71.07 (2dL) (a), (2ds) (dm)
- 71.07 (2dL)(c)2. - 20.835 (2) (cL), 71.07 (2dL) (c) 1., (d)
- 71.07 (2dL)(f) - 71.07 (2dL) (a)

*create
for (2dm) etc.*



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0667/1

JK&PJK:.....

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d
cjs

DOA:.....Walker - Capital investment in a development zone tax credit

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

in 10-9-00

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Do Not
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and on capital
investment to retain jobs

1 AN ACT relating to: the budget.

Analysis by the Legislative Reference Bureau

✓ COMMERCE AND ECONOMIC DEVELOPMENT

✓ ECONOMIC DEVELOPMENT

The department of commerce administers three types of development zone programs: 1) the development zone program; 2) the development opportunity zone program; and 3) the enterprise development zone program. Generally, after the department designates an area as one of the three types of development zones, a business entity that conducts or intends to conduct economic activity in the designated zone is or may be certified by the department as eligible for certain tax credits based, generally, on the creation or retention of jobs, ~~and~~ on expenses incurred to remediate environmental problems.

This bill creates an income tax and franchise tax credit for a business that is certified to receive tax benefits in ~~any of the three~~ development zones. The credit is equal to 3% of ~~the~~ the following: 1) the purchase price of tangible personal property that is used for at least 50% of its use for the business at a location in a development zone; and 2) the amount expended to acquire, construct, rehabilitate, or repair real property in a development zone. A business may claim the credit only to offset taxes that are imposed on income that is attributable to the operations of the business in the development zone.

Partnerships, limited liability companies, and tax-option corporations compute the credit but pass it on to the partners, members, and shareholders in proportion to

development opportunity zone, or enterprise development zone (development zone)

remodel 5

their ownership interests. Except for a business that is owned by an American Indian or American Indian tribe and located on a reservation, if a business claims a credit that exceeds its tax liability, the business will not receive a refund check, but the business may carry forward any remaining credit to subsequent taxable years. However, if an American Indian business claims a credit that exceeds its tax liability, that business will receive a refund check in the amount of the unused credit.

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

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

1 SECTION 1. 20.835 (2) (cp) of the statutes is created to read:

2 20.835 (2) (cp) *Development zones capital investment credit*. A sum sufficient
3 to make the payments under ss. 71.07 (2dm) (h) 2., 71.28 (1dm) (h) 2., and 71.47 (1dm)
4 (h) 2.

→ Note: Bud

5 SECTION 2. 71.05 (6) (a) 15. of the statutes is amended to read:

6 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
7 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx) and (3s) and not passed through by a
8 partnership, limited liability company or tax-option corporation that has added that
9 amount to the partnership's, company's or tax-option corporation's income under s.
10 71.21 (4) or 71.34 (1) (g).

11 SECTION 3. 71.07 (2dm) of the statutes is created to read:

12 71.07 (2dm) DEVELOPMENT ZONES CAPITAL INVESTMENT CREDIT. (a) In this
13 subsection:

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

15 2. "Previously owned property" means real property that the claimant or a
16 related person owned during the 2 years prior to the department of commerce
17 designating the place where the property is located as a development zone under s.

18 560.71, 560.795(1), or 560.797(2) and for which the claimant may not deduct a loss from the sale of the property

2. "Certified" means entitled under s. 560.795(3) to claim tax benefits or certified under s. 560.765(3) or 560.797(4).

3. "Development zone" means a development zone under s. 560.710, a development opportunity zone under s. 560.795, or an enterprise zone under s. 560.797.

1 to, or an exchange of the property with, the related person under section 267 of the
2 Internal Revenue Code, except that section 267 (b) of the Internal Revenue Code is
3 modified so that if the claimant owns any part of the property, rather than 50%
4 ownership, the claimant is subject to section 267 (a) (1) of the Internal Revenue Code
5 for purposes of this subsection.

6 (b) Subject to the limitations provided in this subsection and in s. 73.03 (35),
7 for any taxable year for which the claimant is certified for tax benefits under s.
8 ~~560.765(2)~~, a claimant may claim as a credit against the taxes imposed under s. 71.02
9 an amount that is equal to 3% of ~~one of~~ the following:

- 10 1. The purchase price of depreciable, tangible personal property.
- 11 2. The amount expended to acquire, construct, rehabilitate or repair real
12 property in a development zone under subch. VI of ch. 560.

13 (c) A claimant may claim the credit under par. (b) 1., if the tangible personal
14 property is purchased after the claimant is certified under s. ~~560.765(2)~~ and the
15 personal property is used for at least 50% of its use in the claimant's business at a
16 location in a development zone or, if the property is mobile, the property's base of
17 operations for at least 50% of its use is at a location in a development zone.

18 (d) A claimant may claim the credit under par. (b) 2. for an amount expended
19 to construct, rehabilitate or repair real property, if the person began the physical
20 work of construction, rehabilitation or repair, or any demolition or destruction in
21 preparation for the physical work, after the place where the property is located was
22 designated a development zone under s. 560.71 ^{(1560.795(1), or 560.79(2))} and if the completed project is placed
23 in service after the claimant is certified under s. ~~560.765(2)~~. In this paragraph,
24 "physical work" does not include preliminary activities such as planning, designing,

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① securing financing, researching, developing specifications or stabilizing the property
2 to prevent deterioration.

3 (e) A claimant may claim the credit under par. (b) 2. for an amount expended
4 to acquire real property, if the claimant acquires the property after the place where
5 the property is located was designated a development zone under s. 560.71; the
6 completed project is placed in service after the claimant is certified ~~under s. 560.765~~
7 ~~(2)~~; and ~~if~~ the property is not previously owned property. 560.795(1),
or 560.797(2)

8 (f) No credit is allowed under this subsection for property which is the basis for
9 a credit under sub. (2di).

10 (g) In calculating the credit under par. (b) a claimant shall reduce the amount
11 expended to acquire property by a percentage equal to the percentage of the area of
12 the real property not used for the purposes for which the claimant is certified to claim
13 tax benefits ~~under s. 560.765 (2)~~ and shall reduce the amount expended for other
14 purposes by the amount expended on the part of the property not used for the
15 purposes for which the claimant is certified to claim tax benefits ~~under s. 560.765 (2)~~.

16 (h) 1. Except as provided under subd. 2., the claimant may claim the credit
17 under par. (b), including any credits carried over, only against the taxes imposed
18 under s. 71.02 that are attributable to income from the business operations of the
19 claimant in the development zone and from directly related business operations.

20 2. If the claimant is located on an Indian reservation, as defined in s. 560.86
21 (5), and is an American Indian, as defined in s. 560.86 (1), an Indian business, as
22 defined in s. 560.86 (4), or a tribal enterprise, as defined in s. 560.86 (8), and if the
23 amount of the credit under par. (b) exceeds the taxes otherwise due from the claimant
24 under this subchapter, the amount of the credit not used as an offset against those

1 taxes shall be certified to the department of administration for payment to the
2 claimant by check, share draft, or other draft.

3 (i) Except as provided in par. (h) 2., the carry-over provisions of s. 71.28 (4) (e)
4 and (f) as they relate to the credit under s. 71.28 (4) relate to the credit under this
5 subsection.

6 (j) Partnerships, limited liability companies and tax-option corporations may
7 not claim the credit under this subsection, but the eligibility for, and the amount of,
8 that credit shall be determined on the basis of their economic activity, not that of their
9 shareholders, partners, or members. The corporation, partnership, or limited liability
10 company shall compute the amount of credit that may be claimed by each of its
11 shareholders, partners, or members and provide that information to its shareholders,
12 partners, or members. Partners, members of limited liability companies, and
13 shareholders of tax-option corporations may claim the credit based on the
14 partnership's, company's, or corporation's activities in proportion to their ownership
15 interest and may offset it against the tax attributable to their income from the
16 partnership's, company's, or corporation's business operations in the development
17 zone and against the tax attributable to their income from the partnership's,
18 company's, or corporation's directly related business operations.

19 (k) Subsection (2di) (d), (f), and (g) as it applies to the credit under that
20 subsection applies to the credit under this subsection.

21 (L) Section 71.28 (4) (g) and (h) as it applies to the credit under s. 71.28 (4)
22 applies to the credit under this subsection.

23 **SECTION 4.** 71.08 (1) (intro.) of the statutes is amended to read:

24 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
25 couple filing jointly, trust or estate under s. 71.02, not considering the credits under

1 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2fd), (3m), (3s),
2 (6) and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1fd), (2m) and
3 (3) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1fd), (2m) and (3) and
4 subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than the
5 tax under this section, there is imposed on that natural person, married couple filing
6 jointly, trust or estate, instead of the tax under s. 71.02, an alternative minimum tax
7 computed as follows:

8 **SECTION 5.** 71.10 (4) (grb) of the statutes is created to read:

9 71.10 (4) (grb) Development zones capital investment credit under s. 71.07
10 (2dm).

11 **SECTION 6.** 71.21 (4) of the statutes is amended to read:

12 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
13 (2dj), (2dL), (2dm), (2ds), (2dx) and (3s) and passed through to partners shall be
14 added to the partnership's income.

15 **SECTION 7.** 71.26 (2) (a) of the statutes is amended to read:

16 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
17 the gross income as computed under the internal revenue code as modified under
18 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
19 computed under s. 71.28 (1) and (3) to (5) plus the amount of the credit computed
20 under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds) and (1dx) and not passed
21 through by a partnership, limited liability company or tax-option corporation that
22 has added that amount to the partnership's, limited liability company's or tax-option
23 corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from
24 the sale or other disposition of assets the gain from which would be wholly exempt
25 income, as defined in sub. (3) (L), if the assets were sold or otherwise disposed of at

1 a gain and minus deductions, as computed under the internal revenue code as
2 modified under sub. (3), plus or minus, as appropriate, an amount equal to the
3 difference between the federal basis and Wisconsin basis of any asset sold,
4 exchanged, abandoned or otherwise disposed of in a taxable transaction during the
5 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

6 SECTION 8. 71.26 (3) (n) of the statutes is amended to read:

7 71.26 (3) (n) Sections 381, 382 and 383 (relating to carry-overs in certain
8 corporate acquisitions) are modified so that they apply to losses under sub. (4) and
9 credits under s. 71.28 (1di), (1dL), (1dm), (1dx) and (3) to (5) instead of to federal
10 credits and federal net operating losses.

11 SECTION 9. 71.28 (1dm) of the statutes is created to read:

12 71.28 (1dm) DEVELOPMENT ZONES CAPITAL INVESTMENT CREDIT. (a) In this
13 subsection:

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

15 2. "Previously owned property" means real property that the claimant or a
16 related person owned during the 2 years prior to the department of commerce
17 designating the place where the property is located as a development zone under s.
18 560.71^{560.795(1), or 560.797(2)} and for which the claimant may not deduct a loss from the sale of the property
19 to, or an exchange of the property with, the related person under section 267 of the
20 Internal Revenue Code, except that section 267 (b) of the Internal Revenue Code is
21 modified so that if the claimant owns any part of the property, rather than 50%
22 ownership, the claimant is subject to section 267 (a) (1) of the Internal Revenue Code
23 for purposes of this subsection.

24 (b) Subject to the limitations provided in this subsection and in s. 73.03 (35),

25 for any taxable year for which the claimant is certified for tax benefits under:

2. "Certified" means entitled under s. 560.795(3) to claim tax benefits or certified under s. 560.765(3) or 560.797(4).
3. "Development zone" means a development zone under s. 560.70, a development opportunity zone under s. 560.795, or an enterprise zone under s. 560.797.

1 ~~560.765(3)~~, a claimant may claim as a credit against the taxes imposed under s. 71.23

2 an amount that is equal to 3% of ~~one~~ of the following:

3 1. The purchase price of depreciable, tangible personal property.

remodel

4 2. The amount expended to acquire, construct, rehabilitate or repair real
5 property in a development zone under subch. VI of ch. 560.

6 (c) A claimant may claim the credit under par. (b) 1., if the tangible personal
7 property is purchased after the claimant is certified ~~under s. 560.765(3)~~ and the
8 personal property is used for at least 50% of its use in the claimant's business at a
9 location in a development zone or, if the property is mobile, the property's base of
10 operations for at least 50% of its use is at a location in a development zone.

11 (d) A claimant may claim ~~the credit~~ under par. (b) 2. for an amount expended
12 to construct, rehabilitate or repair real property, if the person began the physical
13 work of construction, rehabilitation ~~or repair~~, or any demolition or destruction in
14 preparation for the physical work, after the place where the property is located was
15 designated a development zone under s. 560.71 ^{560.795(1), or 560.797(2)} and if the completed project is placed
16 in service after the claimant is certified ~~under s. 560.765(3)~~. In this paragraph,
17 "physical work" does not include preliminary activities such as planning, designing,
18 securing financing, researching, developing specifications, or stabilizing the property
19 to prevent deterioration.

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remodeling

20 (e) A claimant may claim the credit under par. (b) 2. for an amount expended
21 to acquire real property, if the claimant acquires the property after the place where
22 the property is located was designated a development zone under s. 560.71; the
23 completed project is placed in service after the claimant is certified ~~under s. 560.765~~
24 ~~(3)~~; and ~~if~~ the property is not previously owned property.

560.795(1), or
560.797(2)

1 (f) No credit is allowed under this subsection for property which is the basis for
2 a credit under sub. (1d).

3 (g) In calculating the credit under par. (b) a claimant shall reduce the amount
4 expended to acquire property by a percentage equal to the percentage of the area of
5 the real property not used for the purposes for which the claimant is certified to claim
6 ~~tax benefits under s. 560.765 (3)~~ and shall reduce the amount expended for other
7 purposes by the amount expended on the part of the property not used for the
8 purposes for which the claimant is certified to claim tax benefits under s. 560.765 (3).

9 (h) 1. Except as provided under subd. 2., the claimant may claim the credit
10 under par. (b), including any credits carried over, only against the taxes imposed
11 under s. 71.23 that are attributable to income from the business operations of the
12 claimant in the development zone and from directly related business operations.

13 2. If the claimant is located on an Indian reservation, as defined in s. 560.86
14 (5), and is ~~an American Indian, as defined in s. 560.86 (1)~~, an Indian business, as
15 defined in s. 560.86 (4), or a tribal enterprise, as defined in s. 560.86 (8), and if the
16 amount of the credit under par. (b) exceeds the taxes otherwise due from the claimant
17 under this subchapter, the amount of the credit not used as an offset against those
18 taxes shall be certified to the department of administration for payment to the
19 claimant by check, share draft, or other draft.

20 (i) Except as provided in par. (h) 2., the carry-over provisions of sub. (4) (e) and
21 (f) as they relate to the credit under sub. (4) relate to the credit under this subsection.

22 (j) Partnerships, limited liability companies, and tax-option corporations may
23 not claim the credit under this subsection, but the eligibility for, and the amount of,
24 that credit shall be determined on the basis of their economic activity, not that of their
25 shareholders, partners, or members. The corporation, partnership, or limited liability

1 company shall compute the amount of credit that may be claimed by each of its
 2 shareholders, partners, or members and provide that information to its shareholders,
 3 partners, or members. Partners, members of limited liability companies, and
 4 shareholders of tax-option corporations may claim the credit based on the
 5 partnership's, company's, or corporation's activities in proportion to their ownership
 6 interest and may offset it against the tax attributable to their income from the
 7 partnership's, company's, or corporation's business operations in the development
 8 zone and against the tax attributable to their income from the partnership's,
 9 company's, or corporation's directly related business operations.

10 (k) Subsection (1di) (d), (f) and (g) as it applies to the credit under that
 11 subsection applies to the credit under this subsection.

12 (L) Subsection (4) (g) and (h) as it applies to the credit under sub. (4) applies
 13 to the credit under this subsection.

14 **SECTION 10.** 71.30 (3) (emb) of the statutes is created to read:

15 71.30 (3) (emb) Development zones capital investment credit under s. 71.28
 16 (1dm).

17 **SECTION 11.** 71.34 (1) (g) of the statutes is amended to read:

18 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
 19 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx) and (3)
 20 and passed through to shareholders.

21 **SECTION 12.** 71.47 (1dm) of the statutes is created to read:

22 71.47 (1dm) DEVELOPMENT ZONES CAPITAL INVESTMENT CREDIT. (a) In this
 23 subsection:

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

4

1 2. "Previously owned property" means real property that the claimant or a
 2 related person owned during the 2 years prior to the department of commerce
 3 designating the place where the property is located as a development zone under s.
 4 560.71^{1560.795(1), or 560.797(2)} and for which the claimant may not deduct a loss from the sale of the property
 5 to, or an exchange of the property with, the related person under section 267 of the
 6 Internal Revenue Code, except that section 267 (b) of the Internal Revenue Code is
 7 modified so that if the claimant owns any part of the property, rather than 50%
 8 ownership, the claimant is subject to section 267 (a) (1) of the Internal Revenue Code
 9 for purposes of this subsection.

10 (b) Subject to the limitations provided in this subsection and in s. 73.03 (35),
 11 for any taxable year for which the claimant is certified ~~for tax benefits under s.~~
 12 ~~560.765(3)~~, a claimant may claim as a credit against the taxes imposed under s. 71.43

13 an amount that is equal to 3% of ~~one of~~ the following:

- 14 1. The purchase price of depreciable, tangible personal property. *remodel*
- 15 2. The amount expended to acquire, construct, rehabilitate or repair real
 16 property in a development zone under subch. VI of ch. 560.

17 (c) A claimant may claim the credit under par. (b) 1., if the tangible personal
 18 property is purchased after the claimant is certified ~~under s. 560.765(3)~~ and the
 19 personal property is used for at least 50% of its use in the claimant's business at a
 20 location in a development zone or, if the property is mobile, the property's base of
 21 operations for at least 50% of its use is at a location in a development zone.

22 (d) A claimant may ~~claim the credit~~ under par. (b) 2. for an amount expended
 23 to construct, rehabilitate *remodel* or repair real property, if the person began the physical
 24 work of construction, rehabilitation *remodeling* or repair, or any demolition or destruction in
 25 preparation for the physical work, after the place where the property is located was

2. "Certified" means entitled under s. 560.795(3) to claim tax benefits or certified under s. 560.765(3) or 560.797(4).
 3. "Development zone" means a development zone under s. 560.79, a development opportunity zone under s. 560.795, or an enterprise zone under s. 560.797.

SECTION 12

560.795(1), or 560.797(2)

1 designated a development zone under s. 560.71 and if the completed project is placed
2 in service after the claimant is certified under s. 560.765 (3). In this paragraph,
3 "physical work" does not include preliminary activities such as planning, designing,
4 securing financing, researching, developing specifications, or stabilizing the property
5 to prevent deterioration.

6 (e) A claimant may claim the credit under par. (b) 2. for an amount expended
7 to acquire real property, if the claimant acquires the property after the place where
8 the property is located was designated a development zone under s. 560.71; the
9 completed project is placed in service after the claimant is certified under s. 560.765
10 (3); and if the property is not previously owned property.

560.795(1), or 560.797(2)

11 (f) No credit is allowed under this subsection for property which is the basis for
12 a credit under sub. (1di).

13 (g) In calculating the credit under par. (b) a claimant shall reduce the amount
14 expended to acquire property by a percentage equal to the percentage of the area of
15 the real property not used for the purposes for which the claimant is certified to claim
16 tax benefits under s. 560.765 (3) and shall reduce the amount expended for other
17 purposes by the amount expended on the part of the property not used for the
18 purposes for which the claimant is certified to claim tax benefits under s. 560.765 (3).

19 (h) 1. Except as provided under subd. 2., the claimant may claim the credit
20 under par. (b), including any credits carried over, only against the taxes imposed
21 under s. 71.43 that are attributable to income from the business operations of the
22 claimant in the development zone and from directly related business operations.

23 2. If the claimant is located on an Indian reservation, as defined in s. 560.86
24 (5), and is an American Indian, as defined in s. 560.86 (1), an Indian business, as
25 defined in s. 560.86 (4), or a tribal enterprise, as defined in s. 560.86 (8), and if the

1 amount of the credit under par. (b) exceeds the taxes otherwise due from the claimant
2 under this subchapter, the amount of the credit not used as an offset against those
3 taxes shall be certified to the department of administration for payment to the
4 claimant by check, share draft or other draft.

5 (i) Except as provided in par. (h) 2., the carry-over provisions of s. 71.28 (4) (e)
6 and (f) as they relate to the credit under s. 71.28 (4) relate to the credit under this
7 subsection.

8 (j) Partnerships, limited liability companies, and tax-option corporations may
9 not claim the credit under this subsection, but the eligibility for, and the amount of,
10 that credit shall be determined on the basis of their economic activity, not that of their
11 shareholders, partners, or members. The corporation, partnership, or limited liability
12 company shall compute the amount of credit that may be claimed by each of its
13 shareholders, partners, or members and provide that information to its shareholders,
14 partners, or members. Partners, members of limited liability companies, and
15 shareholders of tax-option corporations may claim the credit based on the
16 partnership's, company's, or corporation's activities in proportion to their ownership
17 interest and may offset it against the tax attributable to their income from the
18 partnership's, company's or corporation's business operations in the development
19 zone and against the tax attributable to their income from the partnership's,
20 company's, or corporation's directly related business operations.

21 (k) Subsection (1)(d), (f), and (g) as it applies to the credit under that
22 subsection applies to the credit under this subsection.

23 (L) Section 71.28 (4) (g) and (h) as it applies to the credit under s. 71.28 (4)
24 applies to the credit under this subsection.

25 **SECTION 13.** 71.49 (1) (emb) of the statutes is created to read:

1 71.49 (1) (emb) Development zones capital investment credit under s. 71.47 ✓
2 (1dm).

3 **SECTION 14.** 73.03 (35) of the statutes is amended to read:

4 73.03 (35) To deny a portion of a credit claimed under s. 71.07 (2dd), (2de), (2di),
5 (2dj), (2dL), (2dm) ✓, (2dr), (2ds) or (2dx), 71.28 (1dd), (1de), (1di), (1dj), (1dm) ✓, (1dL),
6 (1ds), (1dx) or (4) (am) or 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1dm) ✓, (1ds), (1dx) or
7 (4) (am) if granting the full amount claimed would violate a requirement under s.
8 560.785 or would bring the total of the credits granted to that claimant under all of
9 those subsections over the limit for that claimant under s. 560.768, 560.795 (2) (b)
10 or 560.797 (5) (b).

11 **SECTION 15.** 77.92 (4) of the statutes is amended to read:

12 77.92 (4) “Net business income”, with respect to a partnership, means taxable
13 income as calculated under section 703 of the Internal Revenue Code; plus the items
14 of income and gain under section 702 of the Internal Revenue Code, including taxable
15 state and municipal bond interest and excluding nontaxable interest income or
16 dividend income from federal government obligations; minus the items of loss and
17 deduction under section 702 of the Internal Revenue Code, except items that are not
18 deductible under s. 71.21; plus guaranteed payments to partners under section 707
19 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
20 (2di), (2dj), (2dL), (2dm) ✓, (2dr), (2ds), (2dx) and (3s); and plus or minus, as
21 appropriate, transitional adjustments, depreciation differences and basis
22 differences under s. 71.05 (13), (15), (16), (17) and (19); but excluding income, gain,
23 loss and deductions from farming. “Net business income”, with respect to a natural
24 person, estate or trust, means profit from a trade or business for federal income tax

INSERT 15-2

1 purposes and includes net income derived as an employee as defined in section 3121
2 (d) (3) of the Internal Revenue Code.

3 **SECTION 9344. Initial applicability; revenue.**

4 (1) DEVELOPMENT ZONES CAPITAL INVESTMENT CREDIT. The treatment of sections
5 20.835 (2) (cp), 71.05 (6) (a) 15., 71.07 (2dm), 71.08 (1) (intro.), 71.10 (4) (grb), 71.21
6 (4), 71.26 (2) (a), 71.26 (3) (n), 71.28 (1dm), 71.30 (3) (emb), 71.34 (1) (g), 71.47 (1dm),
7 71.49 (1) (emb), 73.03 (35), ~~77.92 (4)~~ of the statutes first applies to taxable years
8 beginning on January 1 of the year in which this subsection takes effect, except that
9 if this subsection takes effect after July 31 the treatment of sections 20.835 (2) (cp),
10 71.05 (6) (a) 15., 71.07 (2dm), 71.08 (1) (intro.), 71.10 (4) (grb), 71.21 (4), 71.26 (2) (a),
11 71.26 (3) (n), 71.28 (1dm), 71.30 (3) (emb), 71.34 (1) (g), 71.47 (1dm), 71.49 (1) (emb),
12 73.03 (35), ~~77.92 (4)~~ of the statutes first applies to taxable years beginning on
13 January 1 of the year following the year in which this subsection takes effect.

14 (END)

~~560.70(7)~~, 560.70(7), 560.75(8), 560.795(3)(d),
and 560.797(4)(g)

INSERT 15-2

Section #. 560.70 (7) of the statutes is amended to read:

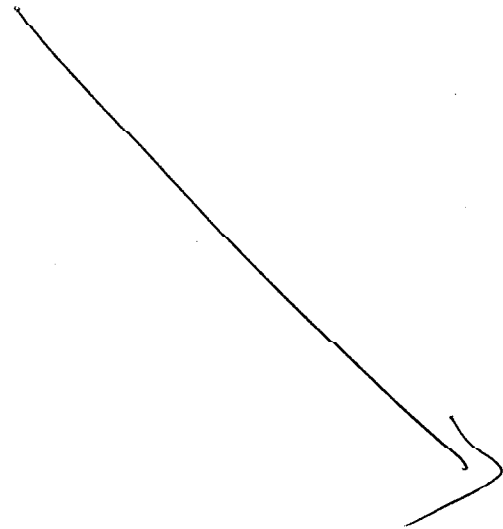
and the development zones capital investment credit under ss. 71.07(2dm), 71.28(1dm), and 71.47(1dm)

560.70 (7) "Tax benefits" means the development zones credit under ss. 71.07 (2dx), 71.28 (1dx), and 71.47 (1dx), except that in s. 560.795, "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) and 71.47 (1dx).

scored comma

History: 1987 a. 328, 411; 1991 a. 39; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9.

the development zones capital investment credit under ss. 71.07(2dm), 71.28(1dm), and 71.47(1dm),

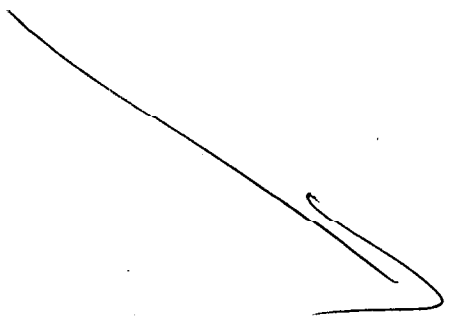


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Section #. 560.75 (8) of the statutes is amended to read:

560.75 (8) Annually verify information submitted to the department under s. 71.07^{(2dx) or}, 71.28^{(1dx) or}, 71.47^{(1dx) or}, ^{(1dx) or}

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.

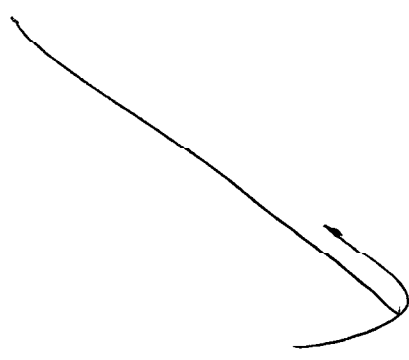


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Section #. 560.795 (3) (d) of the statutes is amended to read:

560.795 (3) (d) The department annually shall verify information submitted to the department under s. 71.07 ~~(2di)~~ or ~~(2dx)~~, 71.28 ~~(1di)~~ or ~~(1dx)~~, or 71.47 ~~(1di)~~ or ~~(1dx)~~.

History: 1993 a. 232; 1995 a. 2; 1995 a. 27 ss. 6936p, 6936r, 9130 (4); 1997 a. 3, 27; 1999 a. 9, 32.



(INSERT 15-2)

Section #. 560.797 (4) (g) of the statutes is amended to read:

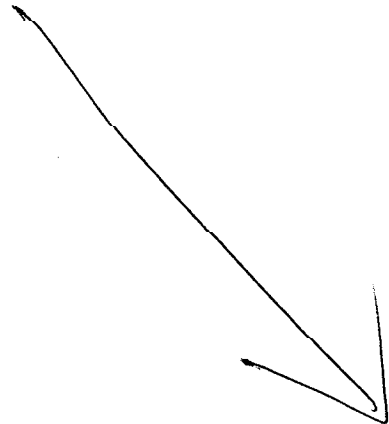
560.797 (4) (g) The department annually shall verify information submitted to the department under s. 71.07^Y(2dx), 71.28^Y(1dx), or 71.47^Y(1dx).

History: 1995 a. 27 ss. 6936s to 6936v, 9130 (4); 1995 a. 209, 227, 417; 1997 a. 3, 27, 39; 1999 a. 9, 32.

(2dm) or

(1dm) or

(1dm) or



END INSERT



State of Wisconsin
2001 - 2002 LEGISLATURE

Soon

LRB-0667/1
JK&PJK/hmh/ajs:km

Stays

DOA:.....Walker – Capital investment in a development zone tax credit
FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

m 1-02-01

SOON

do not go

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau
COMMERCE AND ECONOMIC DEVELOPMENT
ECONOMIC DEVELOPMENT

The department of commerce administers three types of development zone programs: 1) the development zone program; 2) the development opportunity zone program; and 3) the enterprise development zone program. Generally, after the department designates an area as one of the three types of development zones, a business entity that conducts or intends to conduct economic activity in the designated zone is or may be certified by the department as eligible for certain tax credits based, generally, on the creation or retention of jobs, on expenses incurred to remediate environmental problems, and on capital investment to retain jobs.

This bill creates an income tax and franchise tax credit for a business that is certified to receive tax benefits in a development zone, development opportunity zone, or enterprise development zone (development zone). The credit is equal to 3% of the following: 1) the purchase price of tangible personal property that is used for at least 50% of its use for the business at a location in a development zone; and 2) the amount expended to acquire, construct, rehabilitate, remodel, or repair real property in a development zone. A business may claim the credit only to offset taxes that are imposed on income that is attributable to the operations of the business in the development zone.

Partnerships, limited liability companies, and tax-option corporations compute the credit but pass it on to the partners, members, and shareholders in

proportion to their ownership interests. ~~Except for a business that is owned by an American Indian or American Indian tribe and located on a reservation, if a business claims a credit that exceeds its tax liability, the business will not receive a refund check, but the business may carry forward any remaining credit to subsequent taxable years. However, if an American Indian business claims a credit that exceeds its tax liability, that business will receive a refund check in the amount of the unused credit.~~ ^{1/11}

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

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

~~SECTION 1. 20.835 (2) (cp) of the statutes is created to read:~~

~~20.835 (2) (cp) *Development zones capital investment credit*. A sum sufficient to make the payments under ss. 71.07 (2dm) (h) 2., 71.28 (1dm) (h) 2., and 71.47 (1dm) (h) 2.~~

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 2. 71.05 (6) (a) 15. of the statutes is amended to read:

71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx) and (3s) and not passed through by a partnership, limited liability company or tax-option corporation that has added that amount to the partnership's, company's or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

SECTION 3. 71.07 (2dm) of the statutes is created to read:

71.07 (2dm) DEVELOPMENT ZONES CAPITAL INVESTMENT CREDIT. (a) In this subsection:

1. "Claimant" means a person who files a claim under this subsection.
2. "Certified" means entitled under s. 560.795 (3) to claim tax benefits or certified under s. 560.765 (3) or 560.797 (4).

1 3. “Development zone” means a development zone under s. 560.70, a
2 development opportunity zone under s. 560.795, or an enterprise zone under s.
3 560.797.

4 4. “Previously owned property” means real property that the claimant or a
5 related person owned during the 2 years prior to the department of commerce
6 designating the place where the property is located as a development zone under s.
7 560.71, 560.795 (1), or 560.797 (2) and for which the claimant may not deduct a loss
8 from the sale of the property to, or an exchange of the property with, the related
9 person under section 267 of the Internal Revenue Code, except that section 267 (b)
10 of the Internal Revenue Code is modified so that if the claimant owns any part of the
11 property, rather than 50% ownership, the claimant is subject to section 267 (a) (1) of
12 the Internal Revenue Code for purposes of this subsection.

13 (b) Subject to the limitations provided in this subsection and in s. 73.03 (35),
14 for any taxable year for which the claimant is certified, a claimant may claim as a
15 credit against the taxes imposed under s. 71.02 an amount that is equal to 3% of the
16 following:

- 17 1. The purchase price of depreciable, tangible personal property.
- 18 2. The amount expended to acquire, construct, rehabilitate, remodel, or repair
19 real property in a development zone under subch. VI of ch. 560.

20 (c) A claimant may claim the credit under par. (b) 1., if the tangible personal
21 property is purchased after the claimant is certified and the personal property is
22 used for at least 50% of its use in the claimant’s business at a location in a
23 development zone or, if the property is mobile, the property’s base of operations for
24 at least 50% of its use is at a location in a development zone.

SECTION 3

1 (d) A claimant may claim the credit under par. (b) 2. for an amount expended
 2 to construct, rehabilitate, remodel, or repair real property, if the person began the
 3 physical work of construction, rehabilitation, remodeling, or repair, or any
 4 demolition or destruction in preparation for the physical work, after the place where
 5 the property is located was designated a development zone under s. 560.71, 560.795
 6 (1), or 560.797 (2) ¹⁰² ~~and~~ if the completed project is placed in service after the claimant
 7 is certified. In this paragraph, "physical work" does not include preliminary
 8 activities such as planning, designing, securing financing, researching, developing
 9 specifications, or stabilizing the property to prevent deterioration.

10 *if the property is not previously owned property and*
 (e) A claimant may claim the credit under par. (b) 2. for an amount expended
 11 to acquire real property, if the claimant acquires the property after the place where
 12 the property is located was designated a development zone under s. 560.71, 560.797
 13 (1), or 560.797 (2) ¹⁰² ~~and~~ the completed project is placed in service after the claimant is
 14 certified ~~and~~ *if the property is not previously owned property.*

15 (f) No credit is allowed under this subsection for property which is the basis for
 16 a credit under sub. (2d).

17 (g) In calculating the credit under par. (b) a claimant shall reduce the amount
 18 expended to acquire property by a percentage equal to the percentage of the area of
 19 the real property not used for the purposes for which the claimant is certified and
 20 shall reduce the amount expended for other purposes by the amount expended on the
 21 part of the property not used for the purposes for which the claimant is certified.

22 (h) ~~12~~ *Except as provided under subd. 2,* ^I the claimant may claim the credit
 23 under par. (b), including any credits carried over, only against the taxes imposed
 24 under s. 71.02 that are attributable to income from the business operations of the
 25 claimant in the development zone and from directly related business operations.

1 2. If the claimant is located on an Indian reservation, as defined in s. 560.86
2 (5), and is an American Indian, as defined in s. 560.86 (1), an Indian business, as
3 defined in s. 560.86 (4), or a tribal enterprise, as defined in s. 560.86 (8), and if the
4 amount of the credit under par. (b) exceeds the taxes otherwise due from the claimant
5 under this subchapter, the amount of the credit not used as an offset against those
6 taxes shall be certified to the department of administration for payment to the
7 claimant by check, share draft, or other draft.

8 (i) ~~Except as provided in par. (h) 2,~~ the carry-over provisions of s. 71.28 (4) (e)
9 and (f) as they relate to the credit under s. 71.28 (4) relate to the credit under this
10 subsection.

11 (j) Partnerships, limited liability companies, and tax-option corporations may
12 not claim the credit under this subsection, but the eligibility for, and the amount of,
13 that credit shall be determined on the basis of their economic activity, not that of their
14 shareholders, partners, or members. The corporation, partnership, or limited
15 liability company shall compute the amount of credit that may be claimed by each
16 of its shareholders, partners, or members and provide that information to its
17 shareholders, partners, or members. Partners, members of limited liability
18 companies, and shareholders of tax-option corporations may claim the credit based
19 on the partnership's, company's, or corporation's activities in proportion to their
20 ownership interest and may offset it against the tax attributable to their income from
21 the partnership's, company's, or corporation's business operations in the
22 development zone and against the tax attributable to their income from the
23 partnership's, company's, or corporation's directly related business operations.

24 (k) Subsection (2di) (d), (f), and (g) as it applies to the credit under that
25 subsection applies to the credit under this subsection.

1 (L) Section 71.28 (4) (g) and (h) as it applies to the credit under s. 71.28 (4)
2 applies to the credit under this subsection.

3 **SECTION 4.** 71.08 (1) (intro.) of the statutes is amended to read:

4 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
5 couple filing jointly, trust or estate under s. 71.02, not considering the credits under
6 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2fd), (3m), (3s),
7 (6) and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1fd), (2m) and
8 (3) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1fd), (2m) and (3) and
9 subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than the
10 tax under this section, there is imposed on that natural person, married couple filing
11 jointly, trust or estate, instead of the tax under s. 71.02, an alternative minimum tax
12 computed as follows:

13 **SECTION 5.** 71.10 (4) (grb) of the statutes is created to read:

14 71.10 (4) (grb) Development zones capital investment credit under s. 71.07
15 (2dm).

16 **SECTION 6.** 71.21 (4) of the statutes is amended to read:

17 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
18 (2dj), (2dL), (2dm), (2ds), (2dx) and (3s) and passed through to partners shall be
19 added to the partnership's income.

20 **SECTION 7.** 71.26 (2) (a) of the statutes is amended to read:

21 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
22 the gross income as computed under the internal revenue code as modified under
23 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
24 computed under s. 71.28 (1) and (3) to (5) plus the amount of the credit computed
25 under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds) and (1dx) and not passed

1 through by a partnership, limited liability company or tax-option corporation that
2 has added that amount to the partnership's, limited liability company's or tax-option
3 corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from
4 the sale or other disposition of assets the gain from which would be wholly exempt
5 income, as defined in sub. (3) (L), if the assets were sold or otherwise disposed of at
6 a gain and minus deductions, as computed under the internal revenue code as
7 modified under sub. (3), plus or minus, as appropriate, an amount equal to the
8 difference between the federal basis and Wisconsin basis of any asset sold,
9 exchanged, abandoned or otherwise disposed of in a taxable transaction during the
10 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

11 **SECTION 8.** 71.26 (3) (n) of the statutes is amended to read:

12 71.26 (3) (n) Sections 381, 382 and 383 (relating to carry-overs in certain
13 corporate acquisitions) are modified so that they apply to losses under sub. (4) and
14 credits under s. 71.28 (1di), (1dL), (1dm), (1dx) and (3) to (5) instead of to federal
15 credits and federal net operating losses.

16 **SECTION 9.** 71.28 (1dm) of the statutes is created to read:

17 71.28 (1dm) DEVELOPMENT ZONES CAPITAL INVESTMENT CREDIT. (a) In this
18 subsection:

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

20 2. "Certified" means entitled under s. 560.795 (3) to claim tax benefits or
21 certified under s. 560.765 (3) or 560.797 (4).

22 3. "Development zone" means a development zone under s. 560.70, a
23 development opportunity zone under s. 560.795, or an enterprise zone under s.
24 560.797.

1 4. “Previously owned property” means real property that the claimant or a
2 related person owned during the 2 years prior to the department of commerce
3 designating the place where the property is located as a development zone under s.
4 560.71, 560.795 (1), or 560.797 (2) and for which the claimant may not deduct a loss
5 from the sale of the property to, or an exchange of the property with, the related
6 person under section 267 of the Internal Revenue Code, except that section 267 (b)
7 of the Internal Revenue Code is modified so that if the claimant owns any part of the
8 property, rather than 50% ownership, the claimant is subject to section 267 (a) (1) of
9 the Internal Revenue Code for purposes of this subsection.

10 (b) Subject to the limitations provided in this subsection and in s. 73.03 (35),
11 for any taxable year for which the claimant is certified, a claimant may claim as a
12 credit against the taxes imposed under s. 71.23 an amount that is equal to 3% of the
13 following:

- 14 1. The purchase price of depreciable, tangible personal property.
- 15 2. The amount expended to acquire, construct, rehabilitate, remodel, or repair
16 real property in a development zone under subch. VI of ch. 560.

17 (c) A claimant may claim the credit under par. (b) 1., if the tangible personal
18 property is purchased after the claimant is certified and the personal property is
19 used for at least 50% of its use in the claimant’s business at a location in a
20 development zone or, if the property is mobile, the property’s base of operations for
21 at least 50% of its use is at a location in a development zone.

22 (d) A claimant may claim the credit under par. (b) 2. for an amount expended
23 to construct, rehabilitate, remodel, or repair real property, if the person began the
24 physical work of construction, rehabilitation, remodeling, or repair, or any
25 demolition or destruction in preparation for the physical work, after the place where

1 the property is located was designated a development zone under s. 560.71, 560.795
 2 (1), or 560.797 (2) ^{1, or} and if the completed project is placed in service after the claimant
 3 is certified. In this paragraph, "physical work" does not include preliminary
 4 activities such as planning, designing, securing financing, researching, developing
 5 specifications or stabilizing the property to prevent deterioration.

6 *if the property is not previously owned property and*
 (e) A claimant may claim the credit under par. (b) 2. for an amount expended
 7 to acquire real property, *if* the claimant acquires the property after the place where
 8 the property is located was designated a development zone under s. 560.71, 560.795
 9 (1), or 560.797 (2) ^{1, or if} the completed project is placed in service after the claimant is
 10 certified; ~~and the property is not previously owned property.~~

11 (f) No credit is allowed under this subsection for property which is the basis for
 12 a credit under sub. (1d).

13 (g) In calculating the credit under par. (b) a claimant shall reduce the amount
 14 expended to acquire property by a percentage equal to the percentage of the area of
 15 the real property not used for the purposes for which the claimant is certified and
 16 shall reduce the amount expended for other purposes by the amount expended on the
 17 part of the property not used for the purposes for which the claimant is certified.

18 ~~(h) 1. Except as provided under subd. 2,~~ ¹ the claimant may claim the credit
 19 under par. (b), including any credits carried over, only against the taxes imposed
 20 under s. 71.23 that are attributable to income from the business operations of the
 21 claimant in the development zone and from directly related business operations.

22 ~~2. If the claimant is located on an Indian reservation, as defined in s. 560.86~~
 23 ~~(5), and is an Indian business, as defined in s. 560.86 (4), or a tribal enterprise, as~~
 24 ~~defined in s. 560.86 (8), and if the amount of the credit under par. (b) exceeds the taxes~~
 25 ~~otherwise due from the claimant under this subchapter, the amount of the credit not~~

1 ~~used as an offset against those taxes shall be certified to the department of~~
2 ~~administration for payment to the claimant by check, share draft, or other draft.~~

3 (i) ~~Except as provided in par. (h) 2,~~ the carry-over provisions of sub. (4) (e) and
4 (f) as they relate to the credit under sub. (4) relate to the credit under this subsection.

5 (j) Partnerships, limited liability companies, and tax-option corporations may
6 not claim the credit under this subsection, but the eligibility for, and the amount of,
7 that credit shall be determined on the basis of their economic activity, not that of their
8 shareholders, partners, or members. The corporation, partnership, or limited
9 liability company shall compute the amount of credit that may be claimed by each
10 of its shareholders, partners, or members and provide that information to its
11 shareholders, partners, or members. Partners, members of limited liability
12 companies, and shareholders of tax-option corporations may claim the credit based
13 on the partnership's, company's, or corporation's activities in proportion to their
14 ownership interest and may offset it against the tax attributable to their income from
15 the partnership's, company's, or corporation's business operations in the
16 development zone and against the tax attributable to their income from the
17 partnership's, company's, or corporation's directly related business operations.

18 (k) Subsection (1di) (d), (f), and (g) as it applies to the credit under that
19 subsection applies to the credit under this subsection.

20 (L) Subsection (4) (g) and (h) as it applies to the credit under sub. (4) applies
21 to the credit under this subsection.

22 **SECTION 10.** 71.30 (3) (emb) of the statutes is created to read:

23 71.30 (3) (emb) Development zones capital investment credit under s. 71.28
24 (1dm).

25 **SECTION 11.** 71.34 (1) (g) of the statutes is amended to read:

1 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
2 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx) and (3)
3 and passed through to shareholders.

4 **SECTION 12.** 71.47 (1dm) of the statutes is created to read:

5 71.47 (1dm) DEVELOPMENT ZONES CAPITAL INVESTMENT CREDIT. (a) In this
6 subsection:

7 1. “Claimant” means a person who files a claim under this subsection.

8 2. “Certified” means entitled under s. 560.795 (3) to claim tax benefits or
9 certified under s. 560.765 (3) or 560.797 (4).

10 3. “Development zone” means a development zone under s. 560.70, a
11 development opportunity zone under s. 560.795, or an enterprise zone under s.
12 560.797.

13 4. “Previously owned property” means real property that the claimant or a
14 related person owned during the 2 years prior to the department of commerce
15 designating the place where the property is located as a development zone under s.
16 560.71, 560.795 (1), or 560.797 (2) and for which the claimant may not deduct a loss
17 from the sale of the property to, or an exchange of the property with, the related
18 person under section 267 of the Internal Revenue Code, except that section 267 (b)
19 of the Internal Revenue Code is modified so that if the claimant owns any part of the
20 property, rather than 50% ownership, the claimant is subject to section 267 (a) (1) of
21 the Internal Revenue Code for purposes of this subsection.

22 (b) Subject to the limitations provided in this subsection and in s. 73.03 (35),
23 for any taxable year for which the claimant is certified, a claimant may claim as a
24 credit against the taxes imposed under s. 71.43 an amount that is equal to 3% of the
25 following:

SECTION 12

1 1. The purchase price of depreciable, tangible personal property.

2 2. The amount expended to acquire, construct, rehabilitate, remodel, or repair
3 real property in a development zone under subch. VI of ch. 560.

4 (c) A claimant may claim the credit under par. (b) 1., if the tangible personal
5 property is purchased after the claimant is certified and the personal property is
6 used for at least 50% of its use in the claimant's business at a location in a
7 development zone or, if the property is mobile, the property's base of operations for
8 at least 50% of its use is at a location in a development zone.

9 (d) A claimant may claim the credit under par. (b) 2. for an amount expended
10 to construct, rehabilitate, remodel, or repair real property, if the person began the
11 physical work of construction, rehabilitation, remodeling, or repair, or any
12 demolition or destruction in preparation for the physical work, after the place where
13 the property is located was designated a development zone under s. 560.71, 560.795

14 (1), or 560.797 (2) ^{or} ~~and~~ if the completed project is placed in service after the claimant
15 is certified. In this paragraph, "physical work" does not include preliminary
16 activities such as planning, designing, securing financing, researching, developing
17 specifications, or stabilizing the property to prevent deterioration.

18 *if the property is not previously owned property and*
(e) A claimant may claim the credit under par. (b) 2. for an amount expended

19 to acquire real property, ^{if} if the claimant acquires the property after the place where
20 the property is located was designated a development zone under s. 560.71, 560.795

21 (1), or 560.797 (2) ^{or if} the completed project is placed in service after the claimant is
22 certified, ~~and the property is not previously owned property.~~

23 (f) No credit is allowed under this subsection for property which is the basis for
24 a credit under sub. (1d).

1 (g) In calculating the credit under par. (b) a claimant shall reduce the amount
2 expended to acquire property by a percentage equal to the percentage of the area of
3 the real property not used for the purposes for which the claimant is certified and
4 shall reduce the amount expended for other purposes by the amount expended on the
5 part of the property not used for the purposes for which the claimant is certified.

6 (h) ~~1. Except as provided under subd. 2,~~ ^F the claimant may claim the credit
7 under par. (b), including any credits carried over, only against the taxes imposed
8 under s. 71.43 that are attributable to income from the business operations of the
9 claimant in the development zone and from directly related business operations.

10 ~~2. If the claimant is located on an Indian reservation, as defined in s. 560.86~~
11 ~~(5), and is an Indian business, as defined in s. 560.86 (4), or a tribal enterprise, as~~
12 ~~defined in s. 560.86 (8), and if the amount of the credit under par. (b) exceeds the taxes~~
13 ~~otherwise due from the claimant under this subchapter, the amount of the credit not~~
14 ~~used as an offset against those taxes shall be certified to the department of~~
15 ~~administration for payment to the claimant by check, share draft, or other draft.~~

16 (i) ~~Except as provided in par. (h) 2,~~ ^F the carry-over provisions of s. 71.28 (4) (e)
17 and (f) as they relate to the credit under s. 71.28 (4) relate to the credit under this
18 subsection.

19 (j) Partnerships, limited liability companies, and tax-option corporations may
20 not claim the credit under this subsection, but the eligibility for, and the amount of,
21 that credit shall be determined on the basis of their economic activity, not that of their
22 shareholders, partners, or members. The corporation, partnership, or limited
23 liability company shall compute the amount of credit that may be claimed by each
24 of its shareholders, partners, or members and provide that information to its
25 shareholders, partners, or members. Partners, members of limited liability

1 companies, and shareholders of tax-option corporations may claim the credit based
2 on the partnership's, company's, or corporation's activities in proportion to their
3 ownership interest and may offset it against the tax attributable to their income from
4 the partnership's, company's or corporation's business operations in the
5 development zone and against the tax attributable to their income from the
6 partnership's, company's, or corporation's directly related business operations.

7 (k) Subsection (1di) (d), (f), and (g) as it applies to the credit under that
8 subsection applies to the credit under this subsection.

9 (L) Section 71.28 (4) (g) and (h) as it applies to the credit under s. 71.28 (4)
10 applies to the credit under this subsection.

11 **SECTION 13.** 71.49 (1) (emb) of the statutes is created to read:

12 71.49 (1) (emb) Development zones capital investment credit under s. 71.47
13 (1dm).

14 **SECTION 14.** 73.03 (35) of the statutes is amended to read:

15 73.03 (35) To deny a portion of a credit claimed under s. 71.07 (2dd), (2de), (2di),
16 (2dj), (2dL), (2dm), (2dr), (2ds) or (2dx), 71.28 (1dd), (1de), (1di), (1dj), (1dm), (1dL),
17 (1ds), (1dx) or (4) (am) or 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx) or
18 (4) (am) if granting the full amount claimed would violate a requirement under s.
19 560.785 or would bring the total of the credits granted to that claimant under all of
20 those subsections over the limit for that claimant under s. 560.768, 560.795 (2) (b)
21 or 560.797 (5) (b).

22 **SECTION 15.** 77.92 (4) of the statutes is amended to read:

23 77.92 (4) "Net business income", with respect to a partnership, means taxable
24 income as calculated under section 703 of the Internal Revenue Code; plus the items
25 of income and gain under section 702 of the Internal Revenue Code, including taxable

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

13 **SECTION 16.** 560.70 (7) of the statutes is amended to read:

14 560.70 (7) “Tax benefits” means the development zones credit under ss. 71.07
15 (2dx), 71.28 (1dx), and 71.47 (1dx) and the development zones capital investment
16 credit under ss. 71.07 (2dm), 71.28 (1dm), and 71.47 (1dm), except that in s. 560.795,
17 “tax benefits” means the development zones investment credit under ss. 71.07 (2di),
18 71.28 (1di), and 71.47 (1di), the development zones capital investment credit under
19 ss. 71.07 (2dm), 71.28 (1dm), and 71.47 (1dm), and the development zones credit
20 under ss. 71.07 (2dx), 71.28 (1dx) and 71.47 (1dx).

21 **SECTION 17.** 560.75 (8) of the statutes is amended to read:

22 560.75 (8) Annually verify information submitted to the department under s.
23 71.07 (2dm) or (2dx), 71.28 (1dm) or (1dx), or 71.47 (1dm or (1dx).

24 **SECTION 18.** 560.795 (3) (d) of the statutes is amended to read:

1 560.795 (3) (d) The department annually shall verify information submitted
2 to the department under s. 71.07 (2di), (2dm), or (2dx), 71.28 (1di), (1dm), or (1dx),
3 or 71.47 (1di), (1dm), or (1dx).

4 **SECTION 19.** 560.797 (4) (g) of the statutes is amended to read:

5 560.797 (4) (g) The department annually shall verify information submitted
6 to the department under s. 71.07 (2dm) or (2dx), 71.28 (1dm) or (1dx), or 71.47 (1dm)
7 or (1dx).

8 **SECTION 9344. Initial applicability; revenue.**

9 (1) DEVELOPMENT ZONES CAPITAL INVESTMENT CREDIT. The treatment of sections
10 ~~20.835 (2) (a)~~ 71.05 (6) (a) 15., 71.07 (2dm), 71.08 (1) (intro.), 71.10 (4) (grb), 71.21
11 (4), 71.26 (2) (a), 71.26 (3) (n), 71.28 (1dm), 71.30 (3) (emb), 71.34 (1) (g), 71.47 (1dm),
12 71.49 (1) (emb), 73.03 (35), 77.92 (4), 560.70 (7), 560.75 (8), 560.795 (3) (d), and
13 560.797 (4) (g) of the statutes first applies to taxable years beginning on January 1
14 of the year in which this subsection takes effect, except that if this subsection takes
15 effect after July 31 the treatment of sections ~~20.835 (2) (a)~~ 71.05 (6) (a) 15., 71.07
16 (2dm), 71.08 (1) (intro.), 71.10 (4) (grb), 71.21 (4), 71.26 (2) (a), 71.26 (3) (n), 71.28
17 (1dm), 71.30 (3) (emb), 71.34 (1) (g), 71.47 (1dm), 71.49 (1) (emb), 73.03 (35), 77.92
18 (4), 560.70 (7), 560.75 (8), 560.795 (3) (d), and 560.797 (4) (g) of the statutes first
19 applies to taxable years beginning on January 1 of the year following the year in
20 which this subsection takes effect.

21

(END)

Kreye, Joseph

From: Walker, William
Sent: Friday, February 02, 2001 12:28 PM
To: Kreye, Joseph; Kahler, Pam
Subject: Last Minute Change

Please change LRB-0643 (DOZ in Milwaukee) to allow credits for capital investment *in the Milwaukee DOZ only*.

Recall that LRB-0667 was the draft that allowed capital investment tax credits for all development zones.

We just want the credit in the Milwaukee DOZ.

Sorry and thanks.

Bill Walker
Executive Policy and Budget Analyst
Department of Administration
(608) 266-7329

7/07
should only apply to (2 di) & its
counterparts?

combine 643 with 667

Kreye, Joseph

From: Walker, William
Sent: Saturday, February 03, 2001 2:20 PM
To: Kahler, Pam; Kreye, Joseph
Subject: RE: budget drafts

Joe & Pam,

First, the in/out list you received was sent before the decision was made on the capital investment credit in the Milwaukee DOZ. Therefore, the In/Out status of 0667 and 0643 on that list are not controlling for this issue.

Second, what we want is this:

- Create a Milwaukee DOZ as is done in 0643.
- Allow a third party to claim credits based on the economic activity of another (applicable to the Milwaukee DOZ only)
- Allow businesses in the Milwaukee DOZ (and no other zones) to receive credits based on capital investment.

I don't care which draft goes into which as long as those three things happen.

Ok?

-----Original Message-----

From: Kahler, Pam
Sent: Friday, February 02, 2001 6:42 PM
To: Walker, William
Subject: budget drafts

Hi, Bill:

I just went through the preliminary in/out list and noticed that LRB-0667 (which is the capital investment credit) is out but LRB-0643 (which is the Milwaukee DOZ) is in. I'm confused. Joe and I just combined LRB-0643 into LRB-0677 this afternoon so that the credit would apply only in the Milwaukee DOZ. That would require LRB-0667 to be "in" and LRB-0643 to "out." Did you want that credit to apply only in the Milwaukee DOZ and not in any of the other zones at all? I think we misunderstood - we thought you meant that the other DOZ's wouldn't get the credit. Joe or I will call you tomorrow (probably Joe).

If you have any redraft instructions for me this weekend, please leave a message on my voice mail. Thanks!

++++
Pamela J. Kahler
Legislative Attorney
Legislative Reference Bureau
(608) 266-2682

Kreye, Joseph

From: Walker, William
Sent: Friday, February 02, 2001 3:00 PM
To: Kahler, Pam; Kreye, Joseph
Subject: Technology zones

1856

Pam,

Following up on my phone call.

Make the two changes we discussed:

- 560.96(3)(b)5 change "riskiness" to "economic viability"
- 560.96(5) Include the criteria for actual zone designation in the rule making authority section.

Also, tell me what you think of Commerce's next request. Is it a simple administrative change that we can make without difficulty or is it more substantive?

560.96(4) (b) The department shall verify information submitted to the department under ss. 71.07 (3g) (b), and 71.47 (3g) (b).

Comment:

The 71.28 language leads one to believe that a certified business is eligible for the full amounts of 1.2.&3. And the business will make the claim on their annual tax forms then under (b) DOR will notify commerce of the amounts of those claims. Yet under 560.96 (4) (b), commerce is asked to verify the information similar to the present system of tax credits. This language makes it difficult to manage the number of credits. **Section 11. 73.03 (35m)** To deny a portion of a credit claimed underRefers to the 5 million cap which if gone doesn't matter, however, difficult to manage if claims go directly to revenue.

Suggestion:

Commerce certifies the business for a certain amount of tax credits over the 3-5 year period. Annually the business must submit an annual project report to commerce, which will contain but not limited to items 1.2. & 3 above. Verification will be issued by commerce as to the amount of tax credits the business is eligible for in any given year. This will be submitted to DOR in order to claim the tax credits. (Similar to present system).

Bill Walker
Executive Policy and Budget Analyst
Department of Administration
(608) 266-7329

2001 DRAFTING REQUEST

Bill

Received: 10/03/2000

Received By: kahlepj

Wanted: As time permits

Identical to LRB:

For: Administration-Budget 6-7329

By/Representing: Walker

This file may be shown to any legislator: NO

Drafter: kahlepj

May Contact:

Alt. Drafters: jkreye

Subject: Econ. Development - misc.

Extra Copies: Commerce

Pre Topic:

DOA:..... Walker -

Topic:

Designate a development opportunity zone in Milwaukee and authorize tax benefits on basis of another's economic activity in that zone

Instructions:

See Attached

COMBINED WITH 0667/3

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kahlepj 10/06/2000	gilfokm 10/09/2000					State
/P1	kahlepj 01/10/2001 jkreye 01/10/2001	jdye 01/11/2001	martykr 10/10/2000		lrb_docadmin 10/10/2000		State
/1			rschluet 01/11/2001		lrb_docadmin 01/12/2001		State
/2	kahlepj 01/26/2001	gilfokm 01/26/2001	rschluet 01/26/2001		lrb_docadmin 01/26/2001		

FE Sent For:

<END>

2001 DRAFTING REQUEST

Bill

Received: **10/03/2000**

Received By: **kahlepj**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-7329**

By/Representing: **Walker**

This file may be shown to any legislator: **NO**

Drafter: **kahlepj**

May Contact:

Alt. Drafters: **jkreye**

Subject: **Econ. Development - misc.**

Extra Copies: **Commerce**

Pre Topic:

DOA:.....Walker -

Topic:

Designate a development opportunity zone in Milwaukee and authorize tax benefits on basis of another's economic activity in that zone

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kahlepj 10/06/2000	gilfokm 10/09/2000					State
/P1	kahlepj 01/10/2001 jkreye 01/10/2001	jdyer 01/11/2001	martykr 10/10/2000		lrb_docadmin 10/10/2000		State
/1			rschluet 01/11/2001		lrb_docadmin 01/12/2001		

*2-1/KMG
26-01*

*26-1 Sp6
26-1*

2001 DRAFTING REQUEST

Bill

Received: 10/03/2000

Received By: kahlepj

Wanted: As time permits

Identical to LRB:

For: Administration-Budget 6-7329

By/Representing: Walker

This file may be shown to any legislator: NO

Drafter: kahlepj

May Contact:

Alt. Drafters:

Subject: Econ. Development - misc.

Extra Copies: Commerce

Pre Topic:

DOA:.....Walker -

Topic:

Designate a development opportunity zone in Milwaukee

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kahlepj 10/06/2000	gilfokm 10/09/2000					State
/P1		<i>1/11 jld</i>	martykr 10/10/2000 <i>[Signature]</i>		lrb_docadmin 10/10/2000		

FE Sent For:

1-11-1

[Signature]
1-11-1

<END>

2001 DRAFTING REQUEST

Bill

Received: 10/03/2000

Received By: kahlepj

Wanted: As time permits

Identical to LRB:

For: Administration-Budget 6-7329

By/Representing: Walker

This file may be shown to any legislator: NO

Drafter: kahlepj

May Contact:

Alt. Drafters:

Subject: Econ. Development - misc.

Extra Copies:

Pre Topic:

DOA:.....Walker -

Topic:

Designate a development opportunity zone in Milwaukee

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1?	kahlepj	10/1-10/9 King	RM 10	10/10 RM 10			

FE Sent For:

<END>

High

PJK

Development Opportunity Zone -- City of Milwaukee. This change creates a new development opportunity zone under s. 560.795, Stats., in the City of Milwaukee with a tax credit limit of \$4.7 million.

E. Development Opportunity Zone -- City of Milwaukee

Create a new development opportunity zone under s. 560.795, Stats., in the City of Milwaukee with a tax credit limit of \$4.7 million.



PI
King

DOA:.....Walker – Designate a development opportunity zone in Milwaukee
FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

SOON
(10-6)
D-note

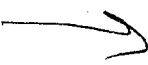
do not
gen cat

1 AN ACT relating to: a development opportunity zone in the city of Milwaukee.

Analysis by the Legislative Reference Bureau
COMMERCE AND ECONOMIC DEVELOPMENT

ECONOMIC DEVELOPMENT

The department of commerce administers three types of development zone programs: 1) the development zone program; 2) the development opportunity zone program; and 3) the enterprise development zone program. Generally, after an area is designated as one of the three types of development zones, a person or corporation that conducts or that intends to conduct economic activity in the designated zone is or may be certified by the department as eligible for certain tax credits, which are based on the creation or retention of jobs, on expenses incurred to remediate environmental problems, and on significant capital investment to retain jobs. The bill designates an area in the city of Milwaukee as a development opportunity zone and authorizes ~~that~~ up to \$4,700,000 ~~may~~ be claimed in tax credits for economic activity in the zone.



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

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

1 SECTION 1. 560.795 (1) (e) of the statutes is created to read:

2 560.795 (1) (e) An area in the city of Milwaukee, the legal description of which
3 is provided to the department by the local governing body of the city of Milwaukee.

4 SECTION 2. 560.795 (2) (a) of the statutes is amended to read:

5 560.795 (2) (a) Except as provided in par. (d), the designation of each area under
6 sub. (1) (a), (b) and, (c), and (e) as a development opportunity zone shall be effective
7 for 36 months, with the designation of the areas under sub. (1) (a) and (b) beginning
8 on April 23, 1994, and the designation of the area under sub. (1) (c) beginning on
9 April 28, 1995, and the designation of the area under sub. (1) (e) beginning on the
10 effective date of this paragraph [revisor inserts date]. Except as provided in par.
11 (d), the designation of the area under sub. (1) (d) as a development opportunity zone
12 shall be effective for 84 months, beginning on January 1, 2000.

History: 1993 a. 232; 1995 a. 2; 1995 a. 27 ss. 6936p, 6936r, 9130 (4); 1997 a. 3, 27; 1999 a. 9, 32.

****NOTE: The instructions did not provide how long the designation for the area in the city of Milwaukee should last, so I used the most usual amount of time: 36 months. The instructions also did not indicate whether the designation should begin on a particular date, so I used the effective date of the budget act. Let me know if you need any changes.

13 SECTION 3. 560.795 (2) (b) 5. of the statutes is created to read:

14 560.795 (2) (b) 5. The limit for tax benefits for the development opportunity
15 zone under sub. (1) (e) is \$4,700,000.

16 SECTION 4. 560.795 (3) (a) 4. of the statutes is created to read:

17 560.795 (3) (a) 4. Any corporation that is conducting or that intends to conduct
18 economic activity in a development opportunity zone under sub. (1) (e) and that, in
19 conjunction with the local governing body of the city in which the development
20 opportunity zone is located, submits a project plan as described in par. (b) to the

21 department no later than the effective date of this subdivision [revisor inserts

the first day of the 7th month beginning after

1 date], shall be entitled to claim tax benefits while the area is designated as a
2 development opportunity zone.

← *****NOTE:** The date in this subdivision will be the effective date of the budget act unless you want it to be another, specific date.

3 **SECTION 5.** 560.795 (3) (b) 7. of the statutes is amended to read:

4 560.795 (3) (b) 7. The corporation's plans to make reasonable attempts to hire
5 employees from the targeted target population.

History: 1993 a. 232; 1995 a. 2; 1995 a. 27 ss. 6936p, 6936r, 9130 (4); 1997 a. 3, 27; 1999 a. 9, 32.

← *****NOTE:** There are a number of "targeted" population references besides this one (five others). Would you like me to change them to "target" population?

6

(END)

in ch. 560

first day of the 7th month beginning after the

See the defined term at s. 560.70(6)

D - note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0643/rdn

PJK.....

PI
mg

Bill:

In looking over some of the other statutes that are related to this topic, it appears to me that we may need an amendment to s. 560.785 (1) (bm). Should the type of zone referred to in that paragraph be a development opportunity zone under s. 560.795, rather than an enterprise development zone under s. 560.797? See the definition of "tax benefits" in s. 560.70 (7). If tax credits may be based on investment for zones under s. 560.795, it seems that the significant capital investment referred to in s. 560.785 (1) (bm) should apply to development opportunity zones (s. 560.795) instead of enterprise development zones (s. 560.797).

Pamela J. Kahler
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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0643/P1dn
PJK:kmg:km

October 10, 2000

Bill:

In looking over some of the other statutes that are related to this topic, it appears to me that we may need an amendment to s. 560.785 (1) (bm). Should the type of zone referred to in that paragraph be a development opportunity zone under s. 560.795, rather than an enterprise development zone under s. 560.797? See the definition of "tax benefits" in s. 560.70 (7). If tax credits may be based on investment for zones under s. 560.795, it seems that the significant capital investment referred to in s. 560.785 (1) (bm) should apply to development opportunity zones (s. 560.795) instead of enterprise development zones (s. 560.797).

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

Kahler, Pam

From: Walker, William
Sent: Saturday, January 06, 2001 2:31 PM
To: Kahler, Pam
Subject: FW: LRB 0642/P1

Julie Keal's replies on the 3rd party certification provision (your questions at the end for reference).

-----Original Message-----

From: Keal, Julie
Sent: Thursday, January 04, 2001 1:30 PM
To: Walker, William
Subject: LRB 0642/P1

For ease of explanation, we'll call the business that doesn't create the jobs, but wants to claim the credit -- Business A. The business that produces the jobs, but doesn't claim a credit is Business B.

We need to be able to do three things with this draft:

1. Certify Business A as an EDZ, CDZ, or DOZ business.
2. Business A needs to be able to claim tax credits.
3. We need to be able to revoke Business A where appropriate.

CERTIFYING

1. Business A will be certified under s. 560.766. Business B will not be certified at all. We are concerned that if we certify B, they will somehow think that they can claim credits, whereas they actually cannot.
2. Business A will just submit the usual application for the program (answer to question 2).
3. We will need a change to 560.768 (1) (b) 2. that allows us to establish a limit on tax benefits based on the job creation of another person. This should answer question 6.
4. Add persons certified under 560.766 to 560.745 (3) (a) and (b). This should answer question 5.
5. I'm not comfortable with the language in 560.766 about certifying a person that "is not conducting and that does not intend to conduct economic activity in a development zone." It makes it sound like Business A has no financial connection to the zone. We would not certify such business in this case. The typical scenario will be that Business A is a developer that does a ton of work on the building and site. Business B then moves in and creates the jobs. We certify A to claim credits based on those jobs, and A then passes the benefit through to B in the form of reduced rent or something similar. Anyway, it appears to me that when the term "economic activity" is used, it is used to mean economic activity that is the basis (i.e., job creation or ER expenses) for a tax credit claim. My suggestion would be to define "economic activity" as that, and then leave it in 766 as is.

REVOCACTION

1. Revocation language needs to be statutory.

2. We should be able to revoke them for submitting false or misleading info, the failure to pass tax benefits through to Business B, and ceasing to do business in the zone.

ALLOCATION AND CLAIMING OF TAX CREDITS

*1. Chapter 71 needs to have a few changes in the claiming language -- 71.07 (2dx) (b) and (d), for example.

2. We also need some changes to 560.785 (1) (b), (bm), (c), and (d). These sections enable us to determine how much to allocate per job to a business for creating or retaining. We need it say something like "causing to be created or retained"

Regarding Question 4 -- we certify a business based on proposed job creation, but the claiming of the tax credits comes after the jobs have been actually created and maintained. Therefore, Business A cannot really benefit from the credit until B has created and maintained the jobs.

Julie Keal
Policy Analyst
Wisconsin Department of Commerce
(608)266-6748

Julie,

Pam Kahler has several questions relating to granting development zone credits to a person based on the economic activity of another person.

Could you get back to me on these as quick as you can? Thanks. (My comments in green below.)

Bill Walker
Executive Policy and Budget Analyst
Department of Administration
(608) 266-7329

Bill,

1. I made the assumption that both the party conducting the economic activity and the party being certified for tax benefits based on the other party's activity would be certified for tax benefits. Is that correct? If so, are the tax benefits allocated between the two parties? How are they allocated?

[I'd suggest only granting the tax benefits to one party or the other.]

2. Do you want to specify what the party being certified for tax benefits based on another party's activity must submit to the department for certification?

[I'd suggest letting this be set by rule.]

3. Do you want to specify whether and on what basis a party being certified for tax

71.07 (2di) (a) (intro)
71.28 (1di)
71.47 (1di)
↓
(a) 2.
(d) 1.
(b)
(g)

benefits based on another party's activity may have his or her benefit entitlement revoked?

[I'd suggest doing rules but see number 4 below.]

4. Since a party may claim tax benefits for intending to conduct economic activity in a zone, is it possible for a party to be certified for tax benefits based on another party's intention to conduct economic activity that never occurs? As drafted in this bill, the other party must actually be conducting economic activity. But what if the other party leaves the zone and has his or her benefit entitlement revoked? Would the party certified on the basis of that party's activity also have his or her entitlement revoked? Is the party being certified for tax benefits based on another party's activity entitled to claim tax benefits for as long as the party conducting the activity is entitled to claim the benefits? These issues could be addressed in rules promulgated under s. 560.785.

[I'd suggest a statutory provision revoking certification for the 3rd party as soon as the 1st party loses certification with other issues dealt with by rule.]

5. Do you want to amend s. 560.745 (3) (a) and (b) by adding a person certified under s. 560.766 (1)?

[I'd say yes.]

6. Section 560.768 applies only to a person certified under s. 560.765 (3). Except for s. 560.768 (1) (a), the language is really not applicable to a person certified under s. 560.766 (1). Do you want anything similar to s. 560.768 for a person certified under s. 560.766 (1)?

[?]

Kahler, Pam

From: Kahler, Pam
Sent: Wednesday, November 29, 2000 4:41 PM
To: Walker, William
Subject: RE: Milwaukee DOZ

That's right. No change needs to be made for Milwaukee DOZ to claim the investment credit. The relevant section for the answer to the question is s. 560.70 (7), which defines "tax benefits" in s. 560.795 - which would include any new development opportunity zone added - to include the investment credit under the three statutes cited.

Pam

-----Original Message-----

From: Walker, William
Sent: Wednesday, November 29, 2000 3:34 PM
To: Kahler, Pam
Subject: FW: Milwaukee DOZ

Point from Commerce regarding LRB Draft: 01-0643/P1 Designate a development opportunity zone in Milwaukee.

-----Original Message-----

From: Keal, Julie
Sent: Wednesday, November 29, 2000 9:56 AM
To: Walker, William
Subject: Milwaukee DOZ

One more bit of info for drafting:

The Milwaukee DOZ needs to be able to claim the investment credit under s. 71.07 (2di), 71.28 (1di), and 71.47 (1di). I think that this works under current law -- since we resurrected the credit in the last budget for all DOZs when we did the Kenosha DOZ -- and that no change is needed to add it for Milwaukee. You might just want to check this out with the drafter, though, to make sure that I'm reading it right. Thanks.

Julie Keal
Policy Analyst
Wisconsin Department of Commerce
(608)266-6748

Kahler, Pam

From: Walker, William
Sent: Tuesday, January 09, 2001 1:23 PM
To: Kahler, Pam; Kreye, Joseph
Subject: LRB Draft: 01-0642/P1 Authorize certification of a person for tax credits on the basis of another person's economic activity

Modification to LRB-0642:

Please limit the applicability of the new provisions to the development opportunity zone that is created in LRB-0643 (the Milwaukee Grand Avenue Mall zone). I.e., the only development zone to which the 3rd party stuff should apply is the Milwaukee DOZ.

Thanks!

Bill Walker
Executive Policy and Budget Analyst
Department of Administration
(608) 266-7329