

2003 SENATE BILL 427

February 3, 2004 – Introduced by Senators ROESSLER, WIRCH and BRESKE, cosponsored by Representatives KESTELL, MILLER, J. WOOD, VRAKAS, BERCEAU, OTT, MOLEPSKE, TURNER, KRAWCZYK, SHILLING, SINICKI, MUSSER, VAN ROY, HINES, POPE-ROBERTS, POCAN, OLSEN and J. LEHMAN. Referred to Committee on Health, Children, Families, Aging and Long Term Care.

1 **AN ACT** *to amend* 20.433 (1) (h), 20.433 (1) (q) and 20.566 (1) (hp); and *to create*
2 25.67 (2) (a) 3., 48.982 (2e) (am) and 71.10 (5f) of the statutes; **relating to:**
3 creating an individual income tax checkoff for the children’s trust fund and
4 making appropriations.

Analysis by the Legislative Reference Bureau

Under current law, an individual income tax check-off procedure exists that allows an individual who files a return to designate any amount of additional payment or any amount of a refund due for the endangered resources program. This bill creates a similar income tax checkoff for designations to the children’s trust fund, which is a separate fund that under current law consists of contributions, gifts, grants, and bequests accepted by the Child Abuse and Neglect Prevention Board (CANPB) or by a nonstock, nonprofit corporation organized by the CANPB and of moneys received from the sale of “Celebrate Children” license plates.

Under the bill, an individual who has an income tax liability, is due a refund, or is required to file a return may designate any amount of additional payment, or any amount of a refund due, to the children’s trust fund on his or her income tax return. If an individual’s designation exceeds the amount of his or her refund, he or she must include a check with his or her tax return for the difference between the amount of the designation and the amount of the refund. If an individual who makes a contribution has a tax liability or has no tax liability and is due no refund, he or she must include a check for the amount of the designation with his or her tax return.

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The bill requires that an amount equal to the total amount of designations received, less the total cost of administering the income tax check-off procedure, be deposited in the children's trust fund, credited to an appropriation account of the CANPB and used to award grants for child abuse and neglect prevention programs, early childhood education centers, and right from the start projects, pay for the operating costs of the CANPB, and fund statewide child abuse and neglect prevention projects. The bill also authorizes the CANPB to award, from that amount and from moneys received by the CANPB from the sale of duplicate birth certificates, a grant of not more than \$100,000 in each of fiscal years 2004-05 and 2005-06 to a nonstock, nonprofit corporation organized by the CANPB for the purpose of soliciting and accepting tax-deductible contributions, grants, gifts, and bequests for the children's trust fund and requires the corporation to use the grant moneys awarded for the corporation's authorized purposes.

For further information see the *state and local* 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.** 20.433 (1) (h) of the statutes is amended to read:

2 20.433 (1) (h) *Grants to organizations.* All moneys received under s. 69.22 (1m),
3 less the amounts appropriated under par. (g), to be used for grants under s. 48.982
4 (2e) (am) to the corporation organized under s. 48.982 (2e) (a) and for grants to
5 organizations under s. 48.982 (4), (6), and (7).

6 **SECTION 2.** 20.433 (1) (q) of the statutes is amended to read:

7 20.433 (1) (q) *Children's trust fund; gifts and grants.* From the children's trust
8 fund, all moneys received as contributions, grants, gifts, and bequests for that trust
9 fund under s. 48.982 (2) (d) or (2e) (a), other than moneys received under s. 341.14
10 (6r) (b) 6., and all interest earned on moneys received under s. 341.14 (6r) (b) 6., and
11 all moneys certified under s. 71.10 (5f) (h) 3., to carry out the purposes for which made
12 and received under s. 48.982 (2m) and to provide grants under s. 48.982 (2e) (am) to
13 the corporation organized under s. 48.982 (2e) (a).

14 **SECTION 3.** 20.566 (1) (hp) of the statutes is amended to read:

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1 20.566 (1) (hp) *Administration of endangered resources; professional football*
2 *district; children's trust fund voluntary payments.* The amounts in the schedule for
3 the payment of all administrative costs, including data processing costs, incurred in
4 administering ss. 71.10 (5) and, (5e), and (5f) and 71.30 (10). All moneys certified
5 under ss. 71.10 (5) (h) 1. and 71.30 (10) (h) 1. and the moneys specified for deposit
6 in this appropriation under s. ~~ss. 71.10 (5) (h) 5., (5e) (h) 4., and (5f) (i) and 71.30 (10)~~
7 (i) shall be credited to this appropriation.

8 **SECTION 4.** 25.67 (2) (a) 3. of the statutes is created to read:

9 25.67 (2) (a) 3. Moneys received under s. 71.10 (5f).

10 **SECTION 5.** 48.982 (2e) (am) of the statutes is created to read:

11 48.982 (2e) (am) From the appropriation under s. 20.433 (1) (h) and from the
12 amount in the appropriation under s. 20.433 (1) (q) that is attributable to moneys
13 certified under s. 71.10 (5f) (h) 3., the board may award a grant of not more than
14 \$100,000 in fiscal year 2004–05 and \$100,000 in fiscal year 2005–06 to the
15 corporation organized and maintained under par. (a). The corporation shall use the
16 grant moneys awarded for the purposes specified in par. (a).

17 **SECTION 6.** 71.10 (5f) of the statutes is created to read:

18 71.10 (5f) CHILDREN'S TRUST FUND CHECKOFF. (a) *Definitions.* In this subsection:

19 1. "Children's trust fund" means the fund under s. 25.67.

20 2. "Department" means the department of revenue.

21 (b) *Voluntary payments.* 1. 'Designation on return.' Every individual filing an
22 income tax return who has a tax liability or is entitled to a tax refund may designate
23 on the return any amount of additional payment or any amount of a refund due that
24 individual for the children's trust fund.

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1 2. ‘Designation added to tax owed.’ If the individual owes any tax, the
2 individual shall remit in full the tax due and the amount designated on the return
3 for the children’s trust fund when the individual files a tax return.

4 3. ‘Designation deducted from refund.’ Except as provided in par. (d), if the
5 individual is owed a refund for that year after crediting under ss. 71.75 (9) and 71.80
6 (3), the department of revenue shall deduct the amount designated on the return for
7 the children’s trust fund from the amount of the refund.

8 (c) *Errors; failure to remit correct amount.* If an individual who owes taxes fails
9 to remit an amount equal to or in excess of the total of the actual tax due, after error
10 corrections, and the amount designated on the return for the children’s trust fund:

11 1. The department shall reduce the designation for the children’s trust fund to
12 reflect the amount remitted in excess of the actual tax due, after error corrections,
13 if the individual remitted an amount in excess of the actual tax due, after error
14 corrections, but less than the total of the actual tax due, after error corrections, and
15 the amount originally designated on the return for the children’s trust fund.

16 2. The designation for the children’s trust fund is void if the individual remitted
17 an amount equal to or less than the actual tax due, after error corrections.

18 (d) *Errors; insufficient refund.* If an individual is owed a refund which does not
19 equal or exceed the amount designated on the return for the children’s trust fund,
20 after crediting under ss. 71.75 (9) and 71.80 (3) and after error corrections, the
21 department shall reduce the designation for the children’s trust fund to reflect the
22 actual amount of the refund that the individual is otherwise owed, after crediting
23 under ss. 71.75 (9) and 71.80 (3) and after error corrections.

24 (e) *Conditions.* If an individual places any conditions on a designation for the
25 children’s trust fund, the designation is void.

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1 (f) *Void designation.* If a designation for the children’s trust fund is void, the
2 department shall disregard the designation and determine amounts due, owed,
3 refunded, and received without regard to the void designation.

4 (g) *Tax return.* The secretary of revenue shall provide a place for the
5 designations under this subsection on the individual income tax return.

6 (h) *Certification of amounts.* Annually, on or before September 15, the
7 secretary of revenue shall certify to the child abuse and neglect prevention board, the
8 department of administration, and the state treasurer:

9 1. The total amount of the administrative costs, including data processing
10 costs, incurred by the department in administering this subsection during the
11 previous fiscal year.

12 2. The total amount received from all designations for the children’s trust fund
13 made by taxpayers during the previous fiscal year.

14 3. The net amount remaining after the administrative costs, including data
15 processing costs, under subd. 1. are subtracted from the total received under subd.

16 2.

17 (i) *Appropriations.* From the moneys received from designations for the
18 children’s trust fund, an amount equal to the sum of administrative expenses,
19 including data processing costs, certified under par. (h) 1. shall be deposited in the
20 general fund and credited to the appropriation account under s. 20.566 (1) (hp), and
21 the net amount remaining that is certified under par. (h) 3. shall be deposited in the
22 children’s trust fund and credited to the appropriation under s. 20.433 (1) (q).

23 (j) *Amounts subject to refund.* Amounts designated for the children’s trust fund
24 under this subsection are not subject to refund to the taxpayer unless the taxpayer
25 submits information to the satisfaction of the department, within 18 months after

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1 the date on which the taxes are due or the date on which the return is filed, whichever
2 is later, that the amount designated is clearly in error. Any refund granted by the
3 department under this paragraph shall be deducted from the moneys received under
4 this subsection in the fiscal year for which the refund is certified.

5 **SECTION 7. Initial applicability.**

6 (1) The treatment of section 71.10 (5f) of the statutes first applies to taxable
7 years beginning on January 1 of the year in which this subsection takes effect, except
8 that if this subsection takes effect after July 31 the treatment of section 71.10 (5f)
9 of the statutes first applies to taxable years beginning on January 1 of the year
10 following the year in which this subsection takes effect.

11 (END)