

2007 ASSEMBLY BILL 65

February 13, 2007 – Introduced by Representatives WIECKERT, A. OTT, MUSSER, HAHN, LOTHIAN, PETROWSKI, TOWNSEND and F. LASEE, cosponsored by Senators PLALE, SCHULTZ, DARLING and ROESSLER. Referred to Committee on Colleges and Universities.

1 **AN ACT** *to renumber* 231.01 (4m) (a) and (b); *to amend* 71.05 (6) (a) 15., 71.21
2 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2) (a) 10., 77.92 (4), 231.01 (4m) (intro.) and
3 231.01 (5w); and *to create* 71.07 (6f), 71.10 (4) (cf), 71.28 (6f), 71.30 (3) (dn),
4 71.47 (6f), 71.49 (1) (dn) and 231.01 (4m) (bm) of the statutes; **relating to:**
5 creating a nonrefundable individual and corporate income tax credit based on
6 interest received from bonds or notes issued by the Wisconsin Health and
7 Educational Facilities Authority for purposes related to an educational facility
8 and authorizing the Wisconsin Health and Educational Facilities Authority to
9 issue bonds to finance a project undertaken by the Wisconsin Association of
10 Independent Colleges and Universities related to an educational facility.

Analysis by the Legislative Reference Bureau

Under current law, the Wisconsin Health and Educational Facilities Authority (WHEFA) may issue bonds to finance any project undertaken by an educational institution for an educational facility. This bill creates a nonrefundable individual income tax credit for the amount of interest income received by a claimant (an individual, a sole proprietor, a partner of a partnership, a member of a limited

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liability company, or a shareholder of a tax–option corporation), multiplied by the claimant’s marginal tax rate, on bonds issued by WHEFA, on or after the effective date of the bill, to finance any project undertaken for an educational facility.

The bill also creates a nonrefundable corporate income and franchise tax credit, for 7.9 percent of the interest income received by corporations on bonds to which the individual income tax credit applies.

An educational institution is currently defined to mean a corporation, agency, or association that is authorized by state law to provide or operate an educational facility. The bill expands that definition to include the Wisconsin Association of Independent Colleges and Universities. An educational facility is currently defined to mean a private, nonprofit, regionally accredited, postsecondary educational institution. The bill expands that definition to include an institution, place, building, or other structure used by the Wisconsin Association of Independent Colleges and Universities solely for providing one or more supporting services to one or more educational institutions.

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

2 71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
3 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5d), ~~and~~
4 (5e), (5f), ~~and (5h), and (6f)~~ and not passed through by a partnership, limited liability
5 company, or tax–option corporation that has added that amount to the partnership’s,
6 company’s, or tax–option corporation’s income under s. 71.21 (4) or 71.34 (1) (g).

7 **SECTION 2.** 71.07 (6f) of the statutes is created to read:

8 71.07 **(6f)** WHEFA EDUCATIONAL FACILITY BOND TAX CREDIT. (a) *Definitions.* In
9 this subsection:

10 1. “Bond” means a bond or note issued by the Wisconsin Health and
11 Educational Facilities Authority under s. 231.03 (6) (c), on or after the effective date
12 of this subdivision [revisor inserts date], to finance any project undertaken for an
13 educational facility.

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1 2. “Claimant” means an individual, a sole proprietor, a partner, a member of
2 a limited liability company, or a shareholder of a tax–option corporation who owns
3 a bond and who files a claim under this subsection.

4 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
5 claimant may claim as a credit against the tax imposed under s. 71.02 or 71.08, up
6 to the amount of those taxes, the interest received from a bond in the taxable year
7 to which the claim under this subsection relates, multiplied by the claimant’s
8 marginal tax rate.

9 (c) *Limitations.* 1. No credit may be allowed under this subsection unless it
10 is claimed within the time period under s. 71.75 (2).

11 2. For a claimant who is an individual, who is a part–year resident of this state,
12 and who is a single person or a married person filing a separate return, multiply the
13 credit for which the claimant is eligible under par. (b) by a fraction the numerator of
14 which is the individual’s Wisconsin adjusted gross income and the denominator of
15 which is the individual’s federal adjusted gross income. If a claimant is married and
16 files a joint return, and if the claimant or the claimant’s spouse, or both, are
17 part–year residents of this state, multiply the credit for which the claimant is eligible
18 under par. (b) by a fraction the numerator of which is the couple’s joint Wisconsin
19 adjusted gross income and the denominator of which is the couple’s joint federal
20 adjusted gross income.

21 3. Partnerships, limited liability companies, and tax–option corporations may
22 not claim the credit under this subsection, but the eligibility for, and the amount of,
23 the credit that may be claimed by each of their partners, members, or shareholders
24 are based on their receipt of interest under par. (b). A partnership, limited liability
25 company, or tax–option corporation shall compute the amount of interest income that

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1 each of its partners, members, or shareholders may claim, based on the proportion
2 of their ownership interest, and shall provide that information to each of them.

3 (d) *Administration.* Subsection (9e) (d), to the extent that it applies to the credit
4 under that subsection, applies to the credit under this subsection.

5 **SECTION 3.** 71.10 (4) (cf) of the statutes is created to read:

6 71.10 (4) (cf) The Wisconsin Health and Educational Facilities Authority
7 educational facility bond tax credit under s. 71.07 (6f).

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

9 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
10 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5e), (5f), (5g), and (5h),
11 and (6f) and passed through to partners shall be added to the partnership's income.

12 **SECTION 5.** 71.26 (2) (a) of the statutes is amended to read:

13 71.26 (2) (a) *Corporations in general.* The “net income” of a corporation means
14 the gross income as computed under the Internal Revenue Code as modified under
15 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
16 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
17 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
18 under this paragraph at the time that the taxpayer first claimed the credit plus the
19 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
20 (1ds), (1dx), (3g), (3n), (3t), (3w), (5b), (5e), (5f), (5g), and (5h), and (6f) 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
23 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount
24 of losses from the sale or other disposition of assets the gain from which would be
25 wholly exempt income, as defined in sub. (3) (L), if the assets were sold or otherwise

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1 disposed of at a gain and minus deductions, as computed under the Internal Revenue
2 Code as modified under sub. (3), plus or minus, as appropriate, an amount equal to
3 the 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 6.** 71.28 (6f) of the statutes is created to read:

7 71.28 (6f) WHEFA EDUCATIONAL FACILITY BOND TAX CREDIT. (a) *Definitions.* In
8 this subsection:

9 1. “Bond” means a bond or note issued by the Wisconsin Health and
10 Educational Facilities Authority under s. 231.03 (6), on or after the effective date of
11 this subdivision [revisor inserts date], to finance any project undertaken for an
12 educational facility.

13 2. “Claimant” means a corporation that owns a bond and that files a claim
14 under this subsection.

15 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
16 claimant may claim as a credit against the tax imposed under s. 71.23, up to the
17 amount of those taxes, 7.9 percent of the interest received from a bond in the taxable
18 year to which the claim under this subsection relates.

19 (c) *Limitations.* 1. No credit may be allowed under this subsection unless it
20 is claimed within the time period under s. 71.75 (2).

21 2. Partnerships, limited liability companies, and tax-option corporations may
22 not claim the credit under this subsection, but the eligibility for, and the amount of,
23 the credit that may be claimed by each of their partners, members, or shareholders
24 are based on their receipt of interest under par. (b). A partnership, limited liability
25 company, or tax-option corporation shall compute the amount of interest income that

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1 each of its partners, members, or shareholders may claim, based on the proportion
2 of their ownership interest, and shall provide that information to each of them.

3 3. Subsection (4) (e) and (f), to the extent that it applies to the credit under that
4 subsection, applies to the credit under this subsection.

5 (d) *Administration*. Subsection (4) (g), to the extent that it applies to the credit
6 under that subsection, applies to the credit under this subsection.

7 **SECTION 7.** 71.30 (3) (dn) of the statutes is created to read:

8 71.30 **(3)** (dn) The Wisconsin Health and Educational Facilities Authority
9 educational facility bond credit under s. 71.28 (6f).

10 **SECTION 8.** 71.34 (1) (g) of the statutes is amended to read:

11 71.34 **(1)** (g) An addition shall be made for credits computed by a tax-option
12 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
13 (3n), (3t), (3w), (5b), (5e), (5f), (5g), ~~and (5h)~~, and (6f) and passed through to
14 shareholders.

15 **SECTION 9.** 71.45 (2) (a) 10. of the statutes is amended to read:

16 71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit
17 computed under s. 71.47 (1dd) to (1dx), (3n), (3w), (5b), (5e), (5f), (5g), ~~and (5h)~~, and
18 (6f) and not passed through by a partnership, limited liability company, or tax-option
19 corporation that has added that amount to the partnership's, limited liability
20 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and
21 the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

22 **SECTION 10.** 71.47 (6f) of the statutes is created to read:

23 71.47 **(6f)** WHEFA EDUCATIONAL FACILITY BOND TAX CREDIT. (a) *Definitions*. In
24 this subsection:

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1 1. “Bond” means a bond or note issued by the Wisconsin Health and
2 Educational Facilities Authority under s. 231.03 (6), on or after the effective date of
3 this subdivision [revisor inserts date], to finance any project undertaken for an
4 educational facility.

5 2. “Claimant” means a corporation that owns a bond and that files a claim
6 under this subsection.

7 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
8 claimant may claim as a credit against the tax imposed under s. 71.43, up to the
9 amount of those taxes, 7.9 percent of the interest received from a bond in the taxable
10 year to which the claim under this subsection relates.

11 (c) *Limitations.* 1. No credit may be allowed under this subsection unless it
12 is claimed within the time period under s. 71.75 (2).

13 2. Partnerships, limited liability companies, and tax–option corporations may
14 not claim the credit under this subsection, but the eligibility for, and the amount of,
15 the credit that may be claimed by each of their partners, members, or shareholders
16 are based on their receipt of interest under par. (b). A partnership, limited liability
17 company, or tax–option corporation shall compute the amount of interest income that
18 each of its partners, members, or shareholders may claim, based on the proportions
19 of their ownership interest, and shall provide that information to each of them.

20 3. Section 71.28 (4) (e) and (f), to the extent that it applies to the credit under
21 that section, applies to the credit under this subsection.

22 (d) *Administration.* Section 71.28 (4) (g), to the extent that it applies to the
23 credit under that section, applies to the credit under this subsection.

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

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1 71.49 (1) (dn) The Wisconsin Health and Educational Facilities Authority
2 educational facility bond credit under s. 71.47 (6f).

3 **SECTION 12.** 77.92 (4) of the statutes is amended to read:

4 77.92 (4) “Net business income,” with respect to a partnership, means taxable
5 income as calculated under section 703 of the Internal Revenue Code; plus the items
6 of income and gain under section 702 of the Internal Revenue Code, including taxable
7 state and municipal bond interest and excluding nontaxable interest income or
8 dividend income from federal government obligations; minus the items of loss and
9 deduction under section 702 of the Internal Revenue Code, except items that are not
10 deductible under s. 71.21; plus guaranteed payments to partners under section 707
11 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
12 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (3w), (5b), (5e), (5f),
13 (5g), ~~and (5h), and (6f)~~; and plus or minus, as appropriate, transitional adjustments,
14 depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and
15 (19); but excluding income, gain, loss, and deductions from farming. “Net business
16 income,” with respect to a natural person, estate, or trust, means profit from a trade
17 or business for federal income tax purposes and includes net income derived as an
18 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

19 **SECTION 13.** 231.01 (4m) (intro.) of the statutes is amended to read:

20 231.01 (4m) (intro.) “Educational facility” means ~~a~~ any of the following:

21 (am) A facility used for education by a private institution that is described in
22 section 501 (c) (3) of the Internal Revenue Code, ~~as defined in s. 71.22 (4), and~~ and that
23 is exempt from federal taxation under section 501 (a) of the Internal Revenue Code,
24 and that satisfies any of the following:

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1 **SECTION 14.** 231.01 (4m) (a) and (b) of the statutes are renumbered 231.01 (4m)
2 (am) 1. and 2.

3 **SECTION 15.** 231.01 (4m) (bm) of the statutes is created to read:

4 231.01 (**4m**) (bm) An institution, place, building, or other structure used by the
5 Wisconsin Association of Independent Colleges and Universities solely for providing
6 one or more supporting services to one or more institutions specified in par. (am).

7 **SECTION 16.** 231.01 (5w) of the statutes is amended to read:

8 231.01 (**5w**) “Participating educational institution” means the Wisconsin
9 Association of Independent Colleges and Universities or a corporation, agency, or
10 association ~~which~~ that is authorized by state law to provide or operate an educational
11 facility ~~and which,~~ if the Wisconsin Association of Independent Colleges and
12 Universities or the corporation, agency, or association undertakes the financing and
13 construction or acquisition of a project or undertakes the refunding or refinancing
14 of obligations or of a mortgage or of advances as provided in this chapter.

15 **SECTION 17. Initial applicability.**

16 (1) The treatment of sections 71.05 (6) (a) 15., 71.07 (6f), 71.10 (4) (cf), 71.21 (4),
17 71.26 (2) (a), 71.28 (6f), 71.30 (3) (dn), 71.34 (1) (g), 71.45 (2) (a) 10., 71.47 (6f), 71.49
18 (1) (dn), and 77.92 (4) of the statutes first applies to taxable years beginning on
19 January 1 of the year in which this subsection takes effect, except that if this
20 subsection takes effect after July 31 the treatment of sections 71.05 (6) (a) 15., 71.07
21 (6f), 71.10 (4) (cf), 71.21 (4), 71.26 (2) (a), 71.28 (6f), 71.30 (3) (dn), 71.34 (1) (g), 71.45
22 (2) (a) 10., 71.47 (6f), 71.49 (1) (dn), and 77.92 (4) of the statutes first applies to
23 taxable years beginning on January 1 of the year following the year in which this
24 subsection takes effect.

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(END)