

2007 ASSEMBLY BILL 235

April 10, 2007 – Introduced by Representatives MOULTON, KRAMER, SHERIDAN, VAN ROY, VUKMIR, NYGREN, VRUWINK, ALBERS, MUSSER, WOOD, PETERSEN, DAVIS, M. WILLIAMS, A. OTT, PETROWSKI, LEMAHIEU, GUNDERSON, MONTGOMERY, KESTELL, MOLEPSKE, TOWNSEND, HINES and KLEEFISCH, cosponsored by Senators LASSA, ROESSLER, PLALE, DARLING, SCHULTZ and LEIBHAM. Referred to Committee on Small Business.

1 **AN ACT** *to amend* 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)
 2 (a) 10. and 77.92 (4); and *to create* 71.07 (5i), 71.10 (4) (gxx), 71.28 (5i), 71.30
 3 (3) (epa), 71.47 (5i), 71.49 (1) (epa) and 560.204 of the statutes; **relating to:** an
 4 income and franchise tax credit for workplace wellness programs, granting
 5 rule-making authority, and requiring the exercise of rule-making authority.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit for workplace wellness programs. The amount of the credit is equal to 30 percent of the amount that an employer pays in the taxable year to provide a workplace wellness program to any of the employer's employees who are employed in this state. A workplace wellness program is a health or fitness program, as defined by administrative rule by the Department of Commerce, that is provided with health risk assessments.

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:

6 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:

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

6 **SECTION 2.** 71.07 (5i) of the statutes is created to read:

7 71.07 **(5i)** WORKPLACE WELLNESS PROGRAM CREDIT. (a) *Definitions.* In this
8 subsection:

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

10 2. "Health risk assessment" means a computer-based health-promotion tool
11 consisting of a questionnaire; a biometric health screening to measure vital health
12 statistics, including blood pressure, cholesterol, glucose, weight, and height; a
13 formula for estimating health risks; an advice database; and a means to generate
14 reports.

15 3. "Workplace wellness program" means a health or fitness program, as defined
16 by rule under s. 560.204 (4), that is provided with health risk assessments and
17 includes the following programs or services:

18 a. Smoking cessation.

19 b. Weight management.

20 c. Stress management.

21 d. Worker injury prevention programs.

22 e. Health screenings.

23 f. Nutrition education.

24 g. Health or fitness incentive programs.

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1 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
2 560.204, a claimant may claim as a credit against the taxes imposed under s. 71.02,
3 up to the amount of those taxes, in each taxable year for 3 years, an amount that is
4 equal to 30 percent of the amount that the claimant paid in the taxable year to
5 provide a workplace wellness program to any of the claimant's employees who are
6 employed in this state, not including any amount paid to acquire, construct,
7 rehabilitate, remodel, or repair real property.

8 (c) *Limitations.* 1. The maximum amount of the credits that may be claimed
9 under this subsection and ss. 71.28 (5i) and 71.47 (5i) in any taxable year is
10 \$2,500,000 for all claimants who employ 50 or fewer employees in the taxable year
11 and \$2,500,000 for all claimants who employ more than 50 employees in the taxable
12 year.

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 are based on their payment of amounts under par. (b). A partnership,
16 limited liability company, or tax-option corporation shall compute the amount of
17 credit that each of its partners, members, or shareholders may claim and shall
18 provide that information to each of them. Partners, members of limited liability
19 companies, and shareholders of tax-option corporations may claim the credit in
20 proportion to their ownership interests.

21 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
22 s. 71.28 (4), applies to the credit under this subsection.

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

24 71.10 (4) (gxx) Workplace wellness program credit under s. 71.07 (5i).

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

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1 71.21 **(4)** Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
2 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5e), (5f), (5g), ~~and (5h),~~
3 and (5i) and passed through to partners shall be added to the partnership's income.

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

5 71.26 **(2)** (a) *Corporations in general.* The “net income” of a corporation means
6 the gross income as computed under the Internal Revenue Code as modified under
7 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
8 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
9 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
10 under this paragraph at the time that the taxpayer first claimed the credit plus the
11 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
12 (1ds), (1dx), (3g), (3n), (3t), (3w), (5b), (5e), (5f), (5g), ~~and (5h),~~ and (5i) and not passed
13 through by a partnership, limited liability company, or tax-option corporation that
14 has added that amount to the partnership's, limited liability company's, or
15 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount
16 of losses from the sale or other disposition of assets the gain from which would be
17 wholly exempt income, as defined in sub. (3) (L), if the assets were sold or otherwise
18 disposed of at a gain and minus deductions, as computed under the Internal Revenue
19 Code as modified under sub. (3), plus or minus, as appropriate, an amount equal to
20 the difference between the federal basis and Wisconsin basis of any asset sold,
21 exchanged, abandoned, or otherwise disposed of in a taxable transaction during the
22 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

23 **SECTION 6.** 71.28 (5i) of the statutes is created to read:

24 71.28 **(5i)** **WORKPLACE WELLNESS PROGRAM CREDIT.** (a) *Definitions.* In this
25 subsection:

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- 1 1. “Claimant” means a person who files a claim under this subsection.
- 2 2. “Health risk assessment” means a computer-based health-promotion tool
3 consisting of a questionnaire; a biometric health screening to measure vital health
4 statistics, including blood pressure, cholesterol, glucose, weight, and height; a
5 formula for estimating health risks; an advice database; and a means to generate
6 reports.
- 7 3. “Workplace wellness program” means a health or fitness program, as defined
8 by rule under s. 560.204 (4), that is provided with health risk assessments and
9 includes the following programs or services:
- 10 a. Smoking cessation.
- 11 b. Weight management.
- 12 c. Stress management.
- 13 d. Worker injury prevention programs.
- 14 e. Health screenings.
- 15 f. Nutrition education.
- 16 g. Health or fitness incentive programs.
- 17 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
18 560.204, a claimant may claim as a credit against the taxes imposed under s. 71.23,
19 up to the amount of those taxes, in each taxable year for 3 years, an amount that is
20 equal to 30 percent of the amount that the claimant paid in the taxable year to
21 provide a workplace wellness program to any of the claimant’s employees who are
22 employed in this state, not including any amount paid to acquire, construct,
23 rehabilitate, remodel, or repair real property.
- 24 (c) *Limitations.* 1. The maximum amount of the credits that may be claimed
25 under this subsection and ss. 71.07 (5i) and 71.47 (5i) in any taxable year is

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1 \$2,500,000 for all claimants who employ 50 or fewer employees in the taxable year
2 and \$2,500,000 for all claimants who employ more than 50 employees in the taxable
3 year.

4 2. Partnerships, limited liability companies, and tax–option corporations may
5 not claim the credit under this subsection, but the eligibility for, and the amount of,
6 the credit are based on their payment of amounts under par. (b). A partnership,
7 limited liability company, or tax–option corporation shall compute the amount of
8 credit that each of its partners, members, or shareholders may claim and shall
9 provide that information to each of them. Partners, members of limited liability
10 companies, and shareholders of tax–option corporations may claim the credit in
11 proportion to their ownership interests.

12 (d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under
13 sub. (4), applies to the credit under this subsection.

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

15 71.30 **(3)** (epa) Workplace wellness program credit under s. 71.28 (5i).

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

17 71.34 **(1)** (g) An addition shall be made for credits computed by a tax–option
18 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
19 (3n), (3t), (3w), (5b), (5e), (5f), (5g), ~~and (5h),~~ and (5i) and passed through to
20 shareholders.

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

22 71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit
23 computed under s. 71.47 (1dd) to (1dx), (3n), (3w), (5b), (5e), (5f), (5g), ~~and (5h),~~ and
24 (5i) and not passed through by a partnership, limited liability company, or tax–option
25 corporation that has added that amount to the partnership’s, limited liability

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1 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and
2 the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

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

4 71.47 (5i) WORKPLACE WELLNESS PROGRAM CREDIT. (a) *Definitions.* In this
5 subsection:

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

7 2. "Health risk assessment" means a computer-based health-promotion tool
8 consisting of a questionnaire; a biometric health screening to measure vital health
9 statistics, including blood pressure, cholesterol, glucose, weight, and height; a
10 formula for estimating health risks; an advice database; and a means to generate
11 reports.

12 3. "Workplace wellness program" means a health or fitness program, as defined
13 by rule under s. 560.204 (4), and includes health risk assessments and includes the
14 following programs or services:

15 a. Smoking cessation.

16 b. Weight management.

17 c. Stress management.

18 d. Worker injury prevention programs.

19 e. Health screenings.

20 f. Nutrition education.

21 g. Health or fitness incentive programs.

22 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
23 560.204, a claimant may claim as a credit against the taxes imposed under s. 71.43,
24 up to the amount of those taxes, in each taxable year for 3 years, an amount that is
25 equal to 30 percent of the amount that the claimant paid in the taxable year to

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1 provide a workplace wellness program to any of the claimant's employees who are
2 employed in this state, not including any amount paid to acquire, construct,
3 rehabilitate, remodel, or repair real property.

4 (c) *Limitations.* 1. The maximum amount of the credits that may be claimed
5 under this subsection and ss. 71.07 (5i) and 71.28 (5i) in any taxable year is
6 \$2,500,000 for all claimants who employ 50 or fewer employees in the taxable year
7 and \$2,500,000 for all claimants who employ more than 50 employees in the taxable
8 year.

9 2. Partnerships, limited liability companies, and tax-option corporations may
10 not claim the credit under this subsection, but the eligibility for, and the amount of,
11 the credit are based on their payment of amounts under par. (b). A partnership,
12 limited liability company, or tax-option corporation shall compute the amount of
13 credit that each of its partners, members, or shareholders may claim and shall
14 provide that information to each of them. Partners, members of limited liability
15 companies, and shareholders of tax-option corporations may claim the credit in
16 proportion to their ownership interests.

17 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
18 s. 71.28 (4), applies to the credit under this subsection.

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

20 71.49 (1) (epa) Workplace wellness program credit under s. 71.47 (5i).

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

22 77.92 (4) "Net business income," with respect to a partnership, means taxable
23 income as calculated under section 703 of the Internal Revenue Code; plus the items
24 of income and gain under section 702 of the Internal Revenue Code, including taxable
25 state and municipal bond interest and excluding nontaxable interest income or

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

12 **SECTION 13.** 560.204 of the statutes is created to read:

13 **560.204 Workplace wellness programs. (1)** The department shall
14 implement a program to certify workplace wellness programs under ss. 71.07 (5i),
15 71.28 (5i), and 71.47 (5i).

16 **(2)** If the department certifies a workplace wellness program under sub. (1),
17 the department shall determine the amount of workplace wellness program credits
18 to allocate to the business providing the workplace wellness program. The total
19 amount of workplace wellness program credits allocated to businesses in any year
20 may not exceed \$5,000,000. In any year, the department may not allocate more than
21 \$2,500,000 in credits to businesses with more than 50 employees, and may not
22 allocate more than \$2,500,000 in credits to businesses with 50 or fewer employees.

23 **(3)** The department shall inform the department of revenue of every business
24 whose workplace wellness program is certified under sub. (1) and the amount of
25 credits allocated to the business.

