

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2007 ASSEMBLY BILL 235**

June 18, 2007 – Offered by Representative MOULTON.

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) (cs), 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.

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:
7 71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
8 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5d), and
9 (5e), (5f), ~~and (5h)~~, and (5i) and not passed through by a partnership, limited liability
10 company, or tax-option corporation that has added that amount to the partnership's,
11 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

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

1 71.07 (5i) WORKPLACE WELLNESS PROGRAM CREDIT. (a) *Definitions.* In this
2 subsection:

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

4 2. “Health risk assessment” means a computer–based health–promotion tool
5 consisting of a questionnaire; a biometric health screening to measure vital health
6 statistics, including blood pressure, cholesterol, glucose, weight, and height; a
7 formula for estimating health risks; an advice database; and a means to generate
8 reports.

9 3. “Workplace wellness program” means a health or fitness program, as defined
10 by rule under s. 560.204 (4), that is provided with health risk assessments and may
11 include any of the following programs or services:

12 a. Smoking cessation.

13 b. Weight management.

14 c. Stress management.

15 d. Worker injury prevention programs.

16 e. Health screenings.

17 f. Nutrition education.

18 g. Health or fitness incentive programs.

19 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
20 560.204, a claimant may claim as a credit against the taxes imposed under s. 71.02,
21 up to the amount of those taxes, an amount that is equal to the following:

22 1. For a workplace wellness program that the claimant first provides after
23 December 31, 2007, 30 percent of the amount that the claimant paid in the taxable
24 year to provide the workplace wellness program to the claimant’s employees who are

1 employed in this state, not including any amount paid to acquire, construct,
2 rehabilitate, remodel, or repair real property.

3 2. For a workplace wellness program that the claimant provided prior to
4 January 1, 2008, to the claimant's employees who are employed in this state, 30
5 percent of any increase in the claimant's expenditures related to expanding the
6 workplace wellness program, 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. No claimant may claim the credit under this subsection for more than 3
14 taxable years.

15 3. For purposes of par. (b) 2., the amount of a claimant's increased expenditures
16 related to expanding a workplace wellness program is the amount the claimant paid
17 to provide the workplace wellness program in the taxable year for which the claimant
18 claims a credit under par. (b) 2., less the amount that the claimant paid to provide
19 the workplace wellness program in the taxable year immediately preceding the
20 taxable year for which the claimant first claimed a credit under par. (b) 2.

21 4. 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 are based on their payment of amounts under par. (b). A partnership,
24 limited liability company, or tax-option corporation shall compute the amount of
25 credit that each of its partners, members, or shareholders may claim and shall

1 provide that information to each of them. Partners, members of limited liability
2 companies, and shareholders of tax–option corporations may claim the credit in
3 proportion to their ownership interests.

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

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

7 71.10 (4) (cs) Workplace wellness program credit under s. 71.07 (5i).

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 (5i) 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 (5i) 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

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 (5i) of the statutes is created to read:

7 **71.28 (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 may
17 include any of 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.

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. 71.23,
3 up to the amount of those taxes, an amount that is equal to the following:

4 1. For a workplace wellness program that the claimant first provides after
5 December 31, 2007, 30 percent of the amount that the claimant paid in the taxable
6 year to provide the workplace wellness program to the claimant's employees who are
7 employed in this state, not including any amount paid to acquire, construct,
8 rehabilitate, remodel, or repair real property.

9 2. For a workplace wellness program that the claimant provided prior to
10 January 1, 2008, to the claimant's employees who are employed in this state, 30
11 percent of any increase in the claimant's expenditures related to expanding the
12 workplace wellness program, not including any amount paid to acquire, construct,
13 rehabilitate, remodel, or repair real property.

14 (c) *Limitations.* 1. The maximum amount of the credits that may be claimed
15 under this subsection and ss. 71.07 (5i) and 71.47 (5i) in any taxable year is
16 \$2,500,000 for all claimants who employ 50 or fewer employees in the taxable year
17 and \$2,500,000 for all claimants who employ more than 50 employees in the taxable
18 year.

19 2. No claimant may claim the credit under this subsection for more than 3
20 taxable years.

21 3. For purposes of par. (b) 2., the amount of a claimant's increased expenditures
22 related to expanding a workplace wellness program is the amount the claimant paid
23 to provide the workplace wellness program in the taxable year for which the claimant
24 claims a credit under par. (b) 2., less the amount that the claimant paid to provide

1 the workplace wellness program in the taxable year immediately preceding the
2 taxable year for which the claimant first claimed a credit under par. (b) 2.

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

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

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

14 71.30 (3) (epa) Workplace wellness program credit under s. 71.28 (5i).

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

16 71.34 (1) (g) An addition shall be made for credits computed by a tax–option
17 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
18 (3n), (3t), (3w), (5b), (5e), (5f), (5g), ~~and (5h), and (5i)~~ and passed through to
19 shareholders.

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

21 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
22 computed under s. 71.47 (1dd) to (1dx), (3n), (3w), (5b), (5e), (5f), (5g), ~~and (5h), and~~
23 (5i) and not passed through by a partnership, limited liability company, or tax–option
24 corporation that has added that amount to the partnership’s, limited liability

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 may include
14 any of the 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, an amount that is equal to the following:

1 1. For a workplace wellness program that the claimant first provides after
2 December 31, 2007, 30 percent of the amount that the claimant paid in the taxable
3 year to provide the workplace wellness program to the claimant’s employees who are
4 employed in this state, not including any amount paid to acquire, construct,
5 rehabilitate, remodel, or repair real property.

6 2. For a workplace wellness program that the claimant provided prior to
7 January 1, 2008, to the claimant’s employees who are employed in this state, 30
8 percent of any increase in the claimant’s expenditures related to expanding the
9 workplace wellness program, not including any amount paid to acquire, construct,
10 rehabilitate, remodel, or repair real property.

11 (c) *Limitations.* 1. The maximum amount of the credits that may be claimed
12 under this subsection and ss. 71.07 (5i) and 71.28 (5i) in any taxable year is
13 \$2,500,000 for all claimants who employ 50 or fewer employees in the taxable year
14 and \$2,500,000 for all claimants who employ more than 50 employees in the taxable
15 year.

16 2. No claimant may claim the credit under this subsection for more than 3
17 taxable years.

18 3. For purposes of par. (b) 2., the amount of a claimant’s increased expenditures
19 related to expanding a workplace wellness program is the amount the claimant paid
20 to provide the workplace wellness program in the taxable year for which the claimant
21 claims a credit under par. (b) 2., less the amount that the claimant paid to provide
22 the workplace wellness program in the taxable year immediately preceding the
23 taxable year for which the claimant first claimed a credit under par. (b) 2.

24 4. Partnerships, limited liability companies, and tax-option corporations may
25 not claim the credit under this subsection, but the eligibility for, and the amount of,

1 the credit are based on their payment of amounts under par. (b). A partnership,
2 limited liability company, or tax–option corporation shall compute the amount of
3 credit that each of its partners, members, or shareholders may claim and shall
4 provide that information to each of them. Partners, members of limited liability
5 companies, and shareholders of tax–option corporations may claim the credit in
6 proportion to their ownership interests.

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

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

10 71.49 (1) (epa) Workplace wellness program credit under s. 71.47 (5i).

11 **SECTION 12.** 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), (3g), (3s), (3n), (3t), (3w), (5b), (5e), (5f),
21 (5g), ~~and (5h), and (5i)~~; and plus or minus, as appropriate, transitional adjustments,
22 depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and
23 (19); but excluding income, gain, loss, and deductions from farming. “Net business
24 income,” with respect to a natural person, estate, or trust, means profit from a trade

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

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

4 **560.204 Workplace wellness programs. (1)** The department shall
5 implement a program to certify workplace wellness programs under ss. 71.07 (5i),
6 71.28 (5i), and 71.47 (5i).

7 **(2)** If the department certifies a workplace wellness program under sub. (1),
8 the department shall determine the amount of workplace wellness program credits
9 to allocate to the business providing the workplace wellness program. The total
10 amount of workplace wellness program credits allocated to businesses in any year
11 may not exceed \$5,000,000. In any year, the department may not allocate more than
12 \$2,500,000 in credits to businesses with more than 50 employees, and may not
13 allocate more than \$2,500,000 in credits to businesses with 50 or fewer employees.

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

17 **(4)** The department, in consultation with the department of revenue and the
18 department of health and family services, shall promulgate rules to administer this
19 section.

20 **SECTION 14. Initial applicability.**

21 (1) This act first applies to taxable years beginning on January 1, 2008.

22 (END)