

2007 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB235)

Received: 06/07/2007

Received By: jkreye

Wanted: Soon

Identical to LRB:

For: Terry Moulton (608) 266-9172

By/Representing: matt

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax, Business - credits

Extra Copies:

Submit via email: YES

Requester's email: Rep.Moulton@legis.wisconsin.gov

Carbon copy (CC:) to: joseph.kreye@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Workplace wellness programs tax credit; technical corrections

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>
/?	jkreye 06/12/2007	jdye 06/14/2007		_____			
/P1	jkreye 06/15/2007	jdye 06/15/2007	rschluet 06/14/2007	_____	sbasford 06/14/2007		
/1			rschluet 06/15/2007	_____	sbasford 06/15/2007	sbasford 06/15/2007	

FE Sent For:

**<END>**

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/?	jkreye 06/12/2007	jdyer 06/14/2007		_____			
/P1		1/6/15 jld	rschluet 06/14/2007	_____	sbasford 06/14/2007		

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**2007 DRAFTING REQUEST**

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Received: 06/07/2007

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Wanted: **Soon**

Identical to LRB:

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By/Representing: **matt**

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

Drafter: **jkreye**

May Contact:

Addl. Drafters:

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Workplace wellness programs tax credit; technical corrections

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/?

jkreye

P1 6/14 jld

6/14 P1  
PB <END>

FE Sent For:

## Kreye, Joseph

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**From:** Seaholm, Matthew  
**Sent:** Thursday, June 07, 2007 10:03 AM  
**To:** Kreye, Joseph  
**Subject:** Sub Amendment to AB 235

Hi Joe,

There are a couple changes we are looking to make to AB 235, re: workplace wellness programs. The DOR tech memo has a couple suggestions that I think we should probably address.

The first suggestion is completely technical and if you think it is necessary we can make that change, if not, that's ok too.

The second point regarding the definition of "workplace Wellness program." I know we had talked about this before but enough people came to us with the concern that any program would require all of those things. If we can change the language to say is defined as.....and my include the following...(and then list the different services)

The third suggestion relates to how to limit the credit to three years. This one seems to be a concern of some of the committee members so we need to figure the best way to limit it and if you would give me a call when you have a chance I'd like to discuss this one with you a little more.

Thanks,

*Matt*

Matt Seaholm  
Office of Rep. Terry Moulton  
Wisconsin's 68th Assembly District  
(608) 266-9172

## Kreye, Joseph

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**From:** Seaholm, Matthew  
**Sent:** Tuesday, June 12, 2007 12:24 PM  
**To:** Kreye, Joseph  
**Subject:** RE: Sub Amendment to AB 235

Here's what I am trying to get at...for any company that starts up a program after the enacting date of this bill, they should be able to claim a credit for no more than three years...for those companies that already have a program, they should be able to claim the credit for any new expenditures relating to their wellness program...so for example if they have a smoking cessation program, but want to expand to include a weight management program, they should really only receive the credit for the new program...for many businesses they are already seeing cost savings on their programs and to give them a credit for what they are already doing doesn't really encourage anything....let me know if this makes sense and what we will need to do to accomplish this.

Thanks,  
Matt

---

**From:** Kreye, Joseph  
**Sent:** Tuesday, June 12, 2007 12:08 PM  
**To:** Seaholm, Matthew  
**Subject:** RE: Sub Amendment to AB 235

Matt,

I think we would have to define "new expenditures". What do you mean exactly?

Joe

**Joseph T. Kreye**  
Senior Legislative Attorney  
Legislative Reference Bureau  
(608) 266-2263

---

**From:** Seaholm, Matthew  
**Sent:** Tuesday, June 12, 2007 11:38 AM  
**To:** Kreye, Joseph  
**Subject:** RE: Sub Amendment to AB 235

Hi Joe,

We had discussed last week limiting the credit to three years in a more effective way. If we were to limit it to three years on "new expenditures" do you think that would alleviate the worry of a company claiming it for longer than three years and on the same costs year after year? Or do you think we would need to define new expenditures? Let me know what you think.

Thanks,  
Matt

---

**From:** Seaholm, Matthew  
**Sent:** Thursday, June 07, 2007 10:03 AM  
**To:** Kreye, Joseph  
**Subject:** Sub Amendment to AB 235

Hi Joe,

There are a couple changes we are looking to make to AB 235, re: workplace wellness programs. The DOR tech memo

has a couple suggestions that I think we should probably address.

The first suggestion is completely technical and if you think it is necessary we can make that change, if not, that's ok too.

The second point regarding the definition of "workplace Wellness program." I know we had talked about this before but enough people came to us with the concern that any program would require all of those things. If we can change the language to say is defined as.....and my include the following...(and then list the different services)

The third suggestion relates to how to limit the credit to three years. This one seems to be a concern of some of the committee members so we need to figure the best way to limit it and if you would give me a call when you have a chance I'd like to discuss this one with you a little more.

Thanks,

*Matt*

*Matt Seaholm*

*Office of Rep. Terry Moulton*

*Wisconsin's 68th Assembly District*

*(608) 266-9172*

0099/P1

stays

ASA

2007 ASSEMBLY BILL 235

FRIDAY

in 6-12-07

D-N

~~SPEN~~

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.

reger

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: ✓



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)<sup>X</sup> 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:

*may include any of* ✓

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.

ASSEMBLY BILL 235

*the following:*

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 <sup>dy</sup> 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) ~~(xxx)~~ <sup>(cs)</sup> of the statutes is created to read:

24 71.10 (4) ~~(xxx)~~ <sup>(cs)</sup> Workplace wellness program credit under s. 71.07 (5i).

25 **SECTION 4.** 71.21 (4) <sup>(cs)</sup> of the statutes is amended to read:

INSERT A

INSERT B

## ASSEMBLY BILL 235

## SECTION 4

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:

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: *may include any of*

- 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 *INSERT A* (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

*the following:* ✓

## ASSEMBLY BILL 235

INSERT B ✓

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 <sup>2</sup> 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) <sup>x</sup> 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) <sup>x</sup> 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. <sup>x</sup> 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

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

may include any of

the following:

ASSEMBLY BILL 235

INSERT A ✓

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.

INSERT B

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

**ASSEMBLY BILL 235**

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<sup>✓</sup> 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.





**2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0099/?ins  
JK:.....

**Insert A**

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.

**Insert B**

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

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

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

SD099/P/oh  
JK: jld

D-N

Moulton

Representative Moulton:  
=

LPS.

< intent component > ✓

JK

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0099/P1dn  
JK:jld:rs

June 14, 2007

Representative Moulton:

Please review this draft carefully to ensure that it is consistent with your intent.

Joseph T. Kreye  
Legislative Attorney  
Phone: (608) 266-2263  
E-mail: [joseph.kreye@legis.wisconsin.gov](mailto:joseph.kreye@legis.wisconsin.gov)



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRBs0099/P1  
JK:jld:rs

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~~PRELIMINARY DRAFT NOT READY FOR INTRODUCTION~~  
**ASSEMBLY SUBSTITUTE AMENDMENT ,  
TO 2007 ASSEMBLY BILL 235**

*in 6-15-07  
today by noon*

*Regen*

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).

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

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

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

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

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

13           a. Smoking cessation.

14           b. Weight management.

15           c. Stress management.

16           d. Worker injury prevention programs.

17           e. Health screenings.

18           f. Nutrition education.

19           g. Health or fitness incentive programs.

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

23           1. For a workplace wellness program that the claimant first provides after  
24 December 31, 2007, 30 percent of the amount that the claimant paid in the taxable  
25 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)