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, PCALE, DARLING, SCHULTZ and LEIBHAM. Referred to Committee on Small Business.

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

SECTION 1. 71.05 (6) (a) 15. of the statutes is amended to read:
71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
(2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2e), (2f), (2g), (2h), (2i), (2j), (2k), and
(2l), (2m), (2n), (2o), (2p), (2q), (2r), (2s), (2t), (2u), (2v), (2w), (2x), (2y), (2z), (3a), (3b), (3c), (3d), (3e), (3f), (3g), (3h), (3i), (3j), (3k), (3l), (3m), (3n), (3o), (3p), (3q), (3r), (3s), (3t), (3u), (3v), (3w), (3x), (3y), (3z),

SECTION 1

71.07 (5i) of the statutes is created to read:

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

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

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

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

   a. Smoking cessation.

   b. Weight management.

   c. Stress management.

   d. Worker injury prevention programs.

   e. Health screenings.

   f. Nutrition education.

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

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

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

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

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

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

**SECTION 4.** 71.21 (4) of the statutes is amended to read:
71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
(2dj), (2dL), (2dm), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5e), (5f), (5g), and (5i),
and (5j) and passed through to partners shall be added to the partnership’s income.

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

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

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

71.28 (5i) WORKPLACE WELLNESS PROGRAM CREDIT. (a) Definitions. In this
subsection:
1. “Claimant” means a person who files a claim under this subsection.

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

3. “Workplace wellness program” means a health or fitness program, as defined by rule under s. 560.204 (4), that is provided with health risk assessments and includes the following programs or services:
   a. Smoking cessation.
   b. Weight management.
   c. Stress management.
   d. Worker injury prevention programs.
   e. Health screenings.
   f. Nutrition education.
   g. Health or fitness incentive programs.

(b) **Filing claims.** Subject to the limitations provided in this subsection and s. 560.204, a claimant may claim as a credit against the taxes imposed under s. 71.23, up to the amount of those taxes, in each taxable year for 3 years, an amount that is equal to 30 percent of the amount that the claimant paid in the taxable year to provide a workplace wellness program to any of the claimant’s employees who are employed in this state, not including any amount paid to acquire, construct, rehabilitate, remodel, or repair real property.

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

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

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

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

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

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

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

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

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

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

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

1. “Claimant” means a person who files a claim under this subsection.
2. “Health risk assessment” means a computer-based health-promotion tool
consisting of a questionnaire; a biometric health screening to measure vital health
statistics, including blood pressure, cholesterol, glucose, weight, and height; a
formula for estimating health risks; an advice database; and a means to generate
reports.
3. “Workplace wellness program” means a health or fitness program, as defined
by rule under s. 560.204 (4), and includes health risk assessments and includes the
following programs or services:
   a. Smoking cessation.
   b. Weight management.
   c. Stress management.
   d. Worker injury prevention programs.
   e. Health screenings.
   f. Nutrition education.
   g. Health or fitness incentive programs.

(b) **Filing claims.** Subject to the limitations provided in this subsection and s.
560.204, a claimant may claim as a credit against the taxes imposed under s. 71.43,
up to the amount of those taxes, in each taxable year for 3 years, an amount that is
equal to 30 percent of the amount that the claimant paid in the taxable year to
provide a workplace wellness program to any of the claimant’s employees who are
employed in this state, not including any amount paid to acquire, construct,
rehabilitate, remodel, or repair real property.

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

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

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

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

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

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

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

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

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

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

(3) The department shall inform the department of revenue of every business
whose workplace wellness program is certified under sub. (1) and the amount of
credits allocated to the business.
(4) The department, in consultation with the department of revenue and the department of health and family services, shall promulgate rules to administer this section.


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