2007 ASSEMBLY BILL 598

November 29, 2007 - Introduced by Representatives STRACHOTA, KERKMAN, TOWNSEND, VOS, KAUFERT, LEMAHIEU, ALBERS, HAHN and NASS, cosponsored by Senators KANAVAS, DARLING, ROESSLER, OLSEN and PLALET. Referred to Committee on Jobs and The Economy.

AN ACT to amend 71.07 (5b) (c) 1., 71.07 (5d) (c) 1., 71.28 (5b) (c) 1., 71.47 (5b) (c) 1., 560.205 (1) (f), 560.205 (1) (h) and 560.205 (3) (d) of the statutes; relating to: allocating early stage seed and angel investment credits.

Analysis by the Legislative Reference Bureau

Under current law, generally, a taxpayer may claim a credit against the taxpayer's income and franchise tax liability on certain amounts invested in new businesses under the early stage seed investment tax credit or the angel investment tax credit. Under current law, the total amount of early stage seed investment credits that taxpayers may claim for all taxable years combined is $52,500,000 and the total amount of angel investment credits that taxpayers may claim for all taxable years combined is $47,500,000. Under this bill, the total amount of early stage seed investment credits and angel investment credits that taxpayers may claim for all taxable years combined is $100,000,000.

Under current law, the Department of Commerce (Commerce) may certify businesses to receive angel investments if the businesses meet certain criteria, such as having less than 100 employees. Under the bill, for certification purposes, Commerce must give preference to businesses with less than 100 employees, but may certify businesses with 100 employees or more and allow tax credits in lesser amounts for investments in such businesses. In addition, the bill allows Commerce to certify a business that is testing or producing a product at the time that business seeks certification.
The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 71.07 (5b) (c) 1. of the statutes, as affected by 2007 Wisconsin Act 20, is amended to read:

71.07 (5b) (c) 1. Except as provided in s. 73.03 (63), the maximum amount of the credits that may be claimed under this subsection and sub. (5d) and ss. 71.28 (5b) and 71.47 (5b) for all taxable years combined is $52,500,000 $100,000,000.

SECTION 2. 71.07 (5d) (c) 1. of the statutes, as affected by 2007 Wisconsin Act 20, is amended to read:

71.07 (5d) (c) 1. Except as provided in s. 73.03 (63), the maximum amount of the credits that may be claimed under this subsection and sub. (5b) and ss. 71.28 (5b) and 71.47 (5b) for all taxable years combined is $47,500,000 $100,000,000.

SECTION 3. 71.28 (5b) (c) 1. of the statutes, as affected by 2007 Wisconsin Act 20, is amended to read:

71.28 (5b) (c) 1. Except as provided in s. 73.03 (63), the maximum amount of the credits that may be claimed under this subsection and ss. 71.07 (5b) and (5d) and 71.47 (5b) for all taxable years combined is $52,500,000 $100,000,000.

SECTION 4. 71.47 (5b) (c) 1. of the statutes, as affected by 2007 Wisconsin Act 20, is amended to read:

71.47 (5b) (c) 1. Except as provided in s. 73.03 (63), the maximum amount of the credits that may be claimed under this subsection and ss. 71.07 (5b) and (5d) and 71.28 (5b) for all taxable years combined is $52,500,000 $100,000,000.

SECTION 5. 560.205 (1) (f) of the statutes is amended to read:
560.205 (1) (f) It is engaged in, or has committed to engage in, manufacturing, agriculture, or processing or assembling products and conducting research and development or developing a new product or business process. The fact that a business is testing or producing a product at the time that the business seeks certification under this subsection shall not preclude the business from being certified under this subsection.

Section 6. 560.205 (1) (h) of the statutes is amended to read:

560.205 (1) (h) Except as provided in rules promulgated under sub. (3) (d), it has less than 100 employees.

Section 7. 560.205 (3) (d) of the statutes, as affected by 2007 Wisconsin Act 20, is amended to read:

560.205 (3) (d) Rules. The department of commerce, in consultation with the department of revenue, shall promulgate rules to administer this section. The rules shall further define “bona fide angel investment” for purposes of s. 71.07 (5d) (a) 1. The rules shall provide that, for purposes of certifying businesses under sub. (1), the department shall give preference to businesses with less than 100 employees, but may certify businesses with 100 employees or more and allow tax credits in lesser amounts, based on a sliding scale, for investments in such businesses. The rules shall limit the aggregate amount of tax credits under s. 71.07 (5d) that may be claimed for investments in businesses certified under sub. (1) at $3,000,000 per calendar year for calendar years beginning after December 31, 2004, and $5,500,000 per calendar year for calendar years beginning after December 31, 2007, and before January 1, 2009. The rules shall also limit the aggregate amount of the tax credits paid to fund managers certified under sub. (2) at $3,500,000 per calendar year for
calendar years beginning after December 31, 2004, and $6,000,000 per calendar year for calendar years beginning after December 31, 2007, and before January 1, 2009. The rules shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b) and (5d), 71.28 (5b), and 71.47 (5b) that may be claimed for investments under subs. (1) and (2) at $10,000,000 per calendar year for calendar years beginning after December 31, 2008. The rules shall also provide that, for calendar years beginning after December 31, 2007, no person may receive a credit under ss. 71.07 (5b) and (5d), 71.28 (5b), or 71.47 (5b) unless the person’s investment is kept in a certified business, or with a certified fund manager, for no less than 3 years.

SECTION 8. Initial applicability.

(1) This act first applies to taxable years beginning on January 1, 2009.