2007 ASSEMBLY BILL 65

February 13, 2007 – Introduced by Representatives WIECKERT, A. OTT, MUSSER, HAHN, LOTHIAN, PETROWSKI, TOWNSEND and F. LASEE, cosponsored by Senators PLALE, SCHULTZ, DARLING and ROESSLER. Referred to Committee on Colleges and Universities.

AN ACT to renumber 231.01 (4m) (a) and (b); to amend 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2) (a) 10., 77.92 (4), 231.01 (4m) (intro.) and 231.01 (5w); and to create 71.07 (6f), 71.10 (4) (cf), 71.28 (6f), 71.30 (3) (dn), 71.47 (6f), 71.49 (1) (dn) and 231.01 (4m) (bm) of the statutes; relating to: creating a nonrefundable individual and corporate income tax credit based on interest received from bonds or notes issued by the Wisconsin Health and Educational Facilities Authority for purposes related to an educational facility and authorizing the Wisconsin Health and Educational Facilities Authority to issue bonds to finance a project undertaken by the Wisconsin Association of Independent Colleges and Universities related to an educational facility.

Analysis by the Legislative Reference Bureau

Under current law, the Wisconsin Health and Educational Facilities Authority (WHEFA) may issue bonds to finance any project undertaken by an educational institution for an educational facility. This bill creates a nonrefundable individual income tax credit for the amount of interest income received by a claimant (an individual, a sole proprietor, a partner of a partnership, a member of a limited
liability company, or a shareholder of a tax–option corporation), multiplied by the
claimant’s marginal tax rate, on bonds issued by WHEFA, on or after the effective
date of the bill, to finance any project undertaken for an educational facility.

The bill also creates a nonrefundable corporate income and franchise tax credit,
for 7.9 percent of the interest income received by corporations on bonds to which the
individual income tax credit applies.

An educational institution is currently defined to mean a corporation, agency,
or association that is authorized by state law to provide or operate an educational
facility. The bill expands that definition to include the Wisconsin Association of
Independent Colleges and Universities. An educational facility is currently defined
to mean a private, nonprofit, regionally accredited, postsecondary educational
institution. The bill expands that definition to include an institution, place, building,
or other structure used by the Wisconsin Association of Independent Colleges and
Universities solely for providing one or more supporting services to one or more
educational institutions.

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), (3g), (3n), (3s), (3t), (3w), (5b), (5d), and
(5e), (5f), and (5h), and (6f) and not passed through by a partnership, limited liability
company, or tax–option corporation that has added that amount to the partnership’s,
company’s, or tax–option corporation’s income under s. 71.21 (4) or 71.34 (1) (g).

SECTION 2. 71.07 (6f) of the statutes is created to read:

71.07 (6f) WHEFA EDUCATIONAL FACILITY BOND TAX CREDIT. (a) Definitions. In
this subsection:

1. “Bond” means a bond or note issued by the Wisconsin Health and
   Educational Facilities Authority under s. 231.03 (6) (c), on or after the effective date
   of this subdivision .... [revisor inserts date], to finance any project undertaken for an
   educational facility.
2. “Claimant” means an individual, a sole proprietor, a partner, a member of a limited liability company, or a shareholder of a tax-option corporation who owns a bond and who files a claim under this subsection.

(b) Filing claims. Subject to the limitations provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.02 or 71.08, up to the amount of those taxes, the interest received from a bond in the taxable year to which the claim under this subsection relates, multiplied by the claimant’s marginal tax rate.

(c) Limitations. 1. No credit may be allowed under this subsection unless it is claimed within the time period under s. 71.75 (2).

2. For a claimant who is an individual, who is a part-year resident of this state, and who is a single person or a married person filing a separate return, multiply the credit for which the claimant is eligible under par. (b) by a fraction the numerator of which is the individual’s Wisconsin adjusted gross income and the denominator of which is the individual’s federal adjusted gross income. If a claimant is married and files a joint return, and if the claimant or the claimant’s spouse, or both, are part-year residents of this state, multiply the credit for which the claimant is eligible under par. (b) by a fraction the numerator of which is the couple’s joint Wisconsin adjusted gross income and the denominator of which is the couple’s joint federal adjusted gross income.

3. 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 that may be claimed by each of their partners, members, or shareholders are based on their receipt of interest under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of interest income that
each of its partners, members, or shareholders may claim, based on the proportion
of their ownership interest, and shall provide that information to each of them.

(d) Administration. Subsection (9e) (d), to the extent that it applies to the credit
under that subsection, applies to the credit under this subsection.

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

71.10 (4) (cf) The Wisconsin Health and Educational Facilities Authority
educational facility bond tax credit under s. 71.07 (6f).

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), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5e), (5f), (5g), and (5h),
and (6f) 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 (6f) 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 5. 1. “Bond” means a bond or note issued by the Wisconsin Health and
Educational Facilities Authority under s. 231.03 (6), on or after the effective date of
this subdivision .... [revisor inserts date], to finance any project undertaken for an
educational facility.

2. “Claimant” means a corporation that owns a bond and that files a claim
under this subsection.

(b) Filing claims. Subject to the limitations provided in this subsection, a
claimant may claim as a credit against the tax imposed under s. 71.23, up to the
amount of those taxes, 7.9 percent of the interest received from a bond in the taxable
year to which the claim under this subsection relates.

(c) Limitations. 1. No credit may be allowed under this subsection unless it
is claimed within the time period under s. 71.75 (2).

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 that may be claimed by each of their partners, members, or shareholders
are based on their receipt of interest under par. (b). A partnership, limited liability
company, or tax–option corporation shall compute the amount of interest income that
each of its partners, members, or shareholders may claim, based on the proportion of their ownership interest, and shall provide that information to each of them.

3. Subsection (4) (e) and (f), to the extent that it applies to the credit under that subsection, applies to the credit under this subsection.

(d) Administration. Subsection (4) (g), to the extent that it applies to the credit under that subsection, applies to the credit under this subsection.

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

71.30 (3) (dn) The Wisconsin Health and Educational Facilities Authority educational facility bond credit under s. 71.28 (6f).

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 (6f) 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 (6f) of the statutes is created to read:

71.47 (6f) WHEFA EDUCATIONAL FACILITY BOND TAX CREDIT. (a) Definitions. In this subsection:
1. “Bond” means a bond or note issued by the Wisconsin Health and Educational Facilities Authority under s. 231.03 (6), on or after the effective date of this subdivision .... [revisor inserts date], to finance any project undertaken for an educational facility.

2. “Claimant” means a corporation that owns a bond and that files a claim under this subsection.

   (b) Filing claims. Subject to the limitations provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.43, up to the amount of those taxes, 7.9 percent of the interest received from a bond in the taxable year to which the claim under this subsection relates.

   (c) Limitations. 1. No credit may be allowed under this subsection unless it is claimed within the time period under s. 71.75 (2).

   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 that may be claimed by each of their partners, members, or shareholders are based on their receipt of interest under par. (b). A partnership, limited liability company, or tax–option corporation shall compute the amount of interest income that each of its partners, members, or shareholders may claim, based on the proportions of their ownership interest, and shall provide that information to each of them.

   3. Section 71.28 (4) (e) and (f), to the extent that it applies to the credit under that section, applies to the credit under this subsection.

   (d) Administration. Section 71.28 (4) (g), to the extent that it applies to the credit under that section, applies to the credit under this subsection.

SECTION 11. 71.49 (1) (dn) of the statutes is created to read:
71.49 (1) (dn) The Wisconsin Health and Educational Facilities Authority
educational facility bond credit under s. 71.47 (6f).

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 (6f); and plus or minus, as appropriate, transitional adjustments,
deroponations 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. 231.01 (4m) (intro.) of the statutes is amended to read:

231.01 (4m) (intro.) “Educational facility” means any of the following:

(am) A facility used for education by a private institution that is described in
section 501 (c) (3) of the Internal Revenue Code, as defined in s. 71.22 (4), and that
is exempt from federal taxation under section 501 (a) of the Internal Revenue Code,
and that satisfies any of the following:
SECTION 14. 231.01 (4m) (a) and (b) of the statutes are renumbered 231.01 (4m) (am) 1. and 2.

SECTION 15. 231.01 (4m) (bm) of the statutes is created to read:

231.01 (4m) (bm) An institution, place, building, or other structure used by the Wisconsin Association of Independent Colleges and Universities solely for providing one or more supporting services to one or more institutions specified in par. (am).

SECTION 16. 231.01 (5w) of the statutes is amended to read:

231.01 (5w) “Participating educational institution” means the Wisconsin Association of Independent Colleges and Universities or a corporation, agency, or association which is authorized by state law to provide or operate an educational facility and which, if the Wisconsin Association of Independent Colleges and Universities or the corporation, agency, or association undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of obligations or of a mortgage or of advances as provided in this chapter.

SECTION 17. Initial applicability.

(1) The treatment of sections 71.05 (6) (a) 15., 71.07 (6f), 71.10 (4) (cf), 71.21 (4), 71.26 (2) (a), 71.28 (6f), 71.30 (3) (dn), 71.34 (1) (g), 71.45 (2) (a) 10., 71.47 (6f), 71.49 (1) (dn), and 77.92 (4) of the statutes first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after July 31 the treatment of sections 71.05 (6) (a) 15., 71.07 (6f), 71.10 (4) (cf), 71.21 (4), 71.26 (2) (a), 71.28 (6f), 71.30 (3) (dn), 71.34 (1) (g), 71.45 (2) (a) 10., 71.47 (6f), 71.49 (1) (dn), and 77.92 (4) of the statutes first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect.

(END)