



## 2009 ASSEMBLY BILL 853

March 16, 2010 – Introduced by Representatives HINTZ, MOLEPSKE JR., VRUWINK, PASCH, ZIGMUNT, HIXSON, SCHNEIDER, HILGENBERG, GARTHWAITE, JORGENSEN, SOLETSKI, SINICKI, MILROY, BERCEAU, HEBL, BERNARD SCHABER, SMITH, DEXTER, CLARK, ROYS, MASON, GRIGSBY, RICHARDS, STASKUNAS and KAUFERT, cosponsored by Senators HOLPERIN, TAYLOR, HOPPER and LEIBHAM. Referred to Committee on Jobs, the Economy and Small Business.

1     **AN ACT** *to create* 71.645 and 560.2057 of the statutes; **relating to:** tax benefits  
2           for hiring new employees and granting rule-making authority.

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### ***Analysis by the Legislative Reference Bureau***

Under this bill, generally, a business that hires new full-time employees may begin receive a tax benefit, if it applies to the Department of Commerce (Commerce) to receive that benefit. Under the bill, an eligible business may, rather than submit the amount as withholding taxes, retain an amount that is equal to the increase in the business's payroll attributable to new employees with full-time jobs. A business is only eligible for the tax benefits if it employs no more than ten employees during the year. Under the bill, the Department of Revenue (DOR) considers all amounts retained as tax benefits to be amounts submitted to DOR as withholding taxes.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

3           **SECTION 1.** 71.645 of the statutes is created to read:  
4           **71.645 Job creation tax benefit.** Subject to the limitations provided in this  
5           section and s. 560.2057, and notwithstanding any other provision in this subchapter,

**ASSEMBLY BILL 853****SECTION 1**

1 for taxable years beginning after December 31, 2009, a person who is certified to  
2 receive tax benefits under s. 560.2057 (2) may, rather than submit the amount as  
3 withholding taxes, retain the amount determined under s. 560.2057 (3). The person  
4 shall report this amount to the department, in the manner prescribed by the  
5 department, and, for purposes of this chapter, the department shall treat all amounts  
6 retained under this section as if the amounts had been withheld pursuant to this  
7 subchapter.

8 **SECTION 2.** 560.2057 of the statutes is created to read:

9 **560.2057 Job creation tax benefit. (1) DEFINITIONS.** In this section:

10 (a) “Business” means any organization or enterprise operated for profit,  
11 including a proprietorship, partnership, firm, business trust, joint venture,  
12 syndicate, corporation, limited liability company, or association.

13 (b) “Eligible employee” means an individual employed in a full-time job by a  
14 person certified in sub. (2), if all of the following apply:

15 1. The individual begins employment with the person certified in sub. (2) after  
16 February 3, 2010, and before January 1, 2011.

17 2. The individual certifies to the department, in the manner prescribed by the  
18 department, that the individual has not been employed for more than 40 hours  
19 during the 60-day period ending on the date that the individual begins his or her  
20 employment with the person certified in sub. (2).

21 3. The individual is not employed by the person certified in sub. (2) to replace  
22 another employee of the person unless the other employee separated from his or her  
23 employment with the person voluntarily or unless person terminated the other  
24 employee for cause.

25 4. The individual is not an individual described in 26 USC 51 (i) (1).

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1 (c) “Full-time job” means a regular, nonseasonal full-time position, in this  
2 state, in which an individual, as a condition of employment, is required to work at  
3 least 2,080 hours per year, including paid leave and holidays. “Full-time job” does  
4 not include initial training before an employment position begins.

5 (d) “Tax benefits” means the jobs creation tax benefit under s. 71.645.

6 **(2) CERTIFICATION.** The department may certify a person to receive tax benefits  
7 under this section if all of the following apply:

8 (a) The person is operating or intends to operate a business in this state.

9 (b) The person’s business employs no more than 10 employees during the  
10 taxable year for which the person seeks to claim tax benefits under this section.

11 (c) The person applies under this section.

12 **(3) TAX BENEFITS.** The department may award to a person certified under sub.  
13 (2) tax benefits in an amount equal to the amount of the person’s payroll for  
14 employees with full-time jobs in the taxable year for which the person claims the tax  
15 benefits, as determined on a quarterly basis, minus the amount of the person’s  
16 payroll for employees with full-time jobs in 2009, as determined on a quarterly basis.  
17 A person may only receive the tax benefits under this section if the increase in the  
18 person’s payroll is attributable to hiring eligible employees.

19 **(4) LIMITATIONS.** (a) A person may not claim the tax benefits under this section  
20 and the tax credits under ss. 71.07 (3q), 71.28 (3q), and 71.47 (3q) for amounts related  
21 to the same employees.

22 (b) The maximum amount of tax benefits that may be awarded under this  
23 section is \$2,000,000.

24 (c) If an eligible employee does not work for the person certified under sub. (2)  
25 for at least 30 days during the taxable year for which the person receives the tax

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1 benefits, the person shall repay the amount of the tax benefits received for that  
2 employee in the manner prescribed by rule by the department.

3 **(5) DUTIES OF THE DEPARTMENT.** (a) The department of commerce shall notify  
4 the department of revenue when the department of commerce certifies a person to  
5 receive tax benefits.

6 (b) The department of commerce shall notify the department of revenue within  
7 30 days of revoking a certification made under sub. (2).

8 (c) The department shall annually verify the information submitted to the  
9 department by the person claiming tax benefits under s. 71.645.

10 (d) The department shall promulgate rules for the implementation and  
11 operation of this section, including rules relating to the conditions for the revocation  
12 of a certification under par. (b).

13 **SECTION 3. Nonstatutory provisions.**

14 (1) **JOB CREATION TAX BENEFITS.** The department of commerce may use the  
15 procedure under section 227.24 of the statutes to promulgate rules under section  
16 560.2057 (5) (d) of the statutes, as created by this act. Notwithstanding section  
17 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this  
18 subsection remain in effect until July 1, 2010, or the date on which permanent rules  
19 take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the  
20 statutes, the department is not required to provide evidence that promulgating a rule  
21 under this subsection as an emergency rule is necessary for the preservation of the  
22 public peace, health, safety, or welfare and is not required to provide a finding of  
23 emergency for a rule promulgated under this subsection.

24 (2) **RULES.** Notwithstanding sections 227.137 (2) and 227.138 (2) of the statutes,  
25 if the secretary of administration requires the department of commerce to prepare

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1 an economic impact report for the rules required under section 560.2057 (5) (d) of the  
2 statutes, as created by this act, the department may submit the proposed rules to the  
3 legislature for review under section 227.19 (2) of the statutes before the department  
4 completes the economic impact report and before the department receives a copy of  
5 the report and approval under section 227.138 (2) of the statutes.

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**(END)**