



**SENATE SUBSTITUTE AMENDMENT 1,
TO 2009 SENATE BILL 651**

1 **AN ACT** *to amend* 20.143 (1) (c), 20.143 (1) (gm), 20.143 (1) (ie), 20.143 (1) (m),
2 20.143 (1) (n), 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a) 4., 71.34 (1k) (g), 71.45 (2)
3 (a) 10., 77.92 (4) and 196.374 (3) (a); and **to create** 16.54 (14), 20.143 (1) (hr),
4 20.143 (1) (mr), 71.07 (5rm), 71.10 (4) (ce), 71.28 (5rm), 71.30 (3) (ce), 71.47
5 (5rm), 71.49 (1) (ce), 196.374 (2) (a) 2. e., 196.374 (2) (a) 4. and 560.128 of the
6 statutes; **relating to:** loans to manufacturing businesses for energy
7 improvements, job creation, retooling, or clean energy production; the
8 administration of energy utility programs; a water consumption tax credit;
9 providing an exemption from emergency rule procedures; requiring the
10 exercise of emergency rule-making procedures; and making appropriations.

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

11 **SECTION 1.** 16.54 (14) of the statutes is created to read:

1 16.54 (14) Subsections (1) to (8) do not apply to federal moneys made available
2 to the state that could be utilized to assist manufacturing businesses in the state
3 retool for, or expand, production of clean energy. Unless otherwise appropriated by
4 law, and subject to any applicable restrictions under federal law, the governor shall
5 deposit such federal moneys in the appropriation account under s. 20.143 (1) (mr).

6 **SECTION 2.** 20.143 (1) (c) of the statutes, as affected by 2009 Wisconsin Act 28,
7 is amended to read:

8 20.143 (1) (c) *Wisconsin development fund; grants, loans, reimbursements, and*
9 *assistance.* Biennially, the amounts in the schedule for grants under s. 560.145; for
10 loans under s. 560.128; for grants and loans under s. 560.275 (2) and subch. V of ch.
11 560; for reimbursements under s. 560.167; for the costs specified in s. 560.607; for the
12 loan under 1999 Wisconsin Act 9, section 9110 (4); and for the grants under 1995
13 Wisconsin Act 27, section 9116 (7gg), 1995 Wisconsin Act 119, section 2 (1), 1997
14 Wisconsin Act 27, section 9110 (6g), 2003 Wisconsin Act 33, section 9109 (1d) and
15 (2q), 2007 Wisconsin Act 20, section 9108 (4u), (6c), (7c), (7f), (8c), (8i), (9i), and (10q),
16 2009 Wisconsin Act 2, section 9110 (2) and (3), and 2009 Wisconsin Act 28, section
17 9110 (17q).

18 **SECTION 3.** 20.143 (1) (gm) of the statutes, as affected by 2009 Wisconsin Act
19 28, is amended to read:

20 20.143 (1) (gm) *Administration of grants and loans.* All moneys received from
21 origination fees under ss. 560.138 (7), 560.139 (4), 560.305 (2), and 560.68 (3), and
22 from transfer fees under s. 560.205 (3) (e), for administering the programs under ss.
23 560.138, 560.139, and 560.304 and under subch. V of ch. 560 and, for the costs of
24 underwriting grants and loans awarded under ss. 560.138, 560.139, and 560.304 and
25 under subch. V of ch. 560, and for loans under s. 560.128.

1 **SECTION 4.** 20.143 (1) (hr) of the statutes is created to read:

2 20.143 (1) (hr) *Loans to manufacturing businesses; repayments.* All moneys
3 received from repayments of loans under s. 560.128, to be used for loans to
4 manufacturing businesses under s. 560.128.

5 **SECTION 5.** 20.143 (1) (ie) of the statutes, as affected by 2009 Wisconsin Act 28,
6 is amended to read:

7 20.143 (1) (ie) *Wisconsin development fund, repayments.* All moneys received
8 in repayment of grants or loans under s. 560.085 (4) (b), 1985 stats., s. 560.10, 2005
9 stats., s. 560.147, 2005 stats., s. 560.16, 1995 stats., s. 560.165, 1993 stats., s. 560.275
10 (2), s. 560.62, 2005 stats., s. 560.63, 2005 stats., s. 560.66, 2005 stats., ss. 560.145,
11 560.157, and 560.45, subch. V of ch. 560, 1989 Wisconsin Act 336, section 3015 (1m),
12 1989 Wisconsin Act 336, section 3015 (2m), 1989 Wisconsin Act 336, section 3015
13 (3gx), 1997 Wisconsin Act 27, section 9110 (7f), 1997 Wisconsin Act 310, section 2
14 (2d), 1999 Wisconsin Act 9, section 9110 (4), and 2007 Wisconsin Act 20, section 9108
15 (5x), not appropriated under par. (gv) to be used for grants and loans under s. 560.275
16 (2), s. 560.45, and subch. V of ch. 560, for loans under s. 560.128, for the loan under
17 1999 Wisconsin Act 9, section 9110 (4), for the grant under 2001 Wisconsin Act 16,
18 section 9110 (7g), for the grants under 2003 Wisconsin Act 33, section 9109 (1d) and
19 (2q), for the study under 2009 Wisconsin Act 28, section 9110 (15u), and for
20 reimbursements under s. 560.167.

21 **SECTION 6.** 20.143 (1) (m) of the statutes is amended to read:

22 20.143 (1) (m) *Federal aid, state operations.* All moneys received from the
23 federal government as authorized by the governor under s. 16.54, for state operations
24 and for loans under s. 560.128.

25 **SECTION 7.** 20.143 (1) (mr) of the statutes is created to read:

1 20.143 (1) (mr) *Loans to manufacturing businesses.* All moneys received from
2 the federal government for assisting manufacturing businesses in retooling for, or
3 expanding, production of clean energy and deposited by the governor under s. 16.54
4 (14), to be used for loans under s. 560.128.

5 **SECTION 8.** 20.143 (1) (n) of the statutes is amended to read:

6 20.143 (1) (n) *Federal aid, local assistance.* All moneys received from the
7 federal government, as authorized by the governor under s. 16.54, for local assistance
8 and for loans under s. 560.128.

9 **SECTION 8b.** 71.05 (6) (a) 15. of the statutes, as affected by 2009 Wisconsin Act
10 28, is amended to read:

11 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
12 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s),
13 (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), (5rm), and (8r) and not passed through by a
14 partnership, limited liability company, or tax–option corporation that has added that
15 amount to the partnership’s, company’s, or tax–option corporation’s income under s.
16 71.21 (4) or 71.34 (1k) (g).

17 **SECTION 8c.** 71.07 (5rm) of the statutes is created to read:

18 71.07 (5rm) WATER CONSUMPTION CREDIT. (a) *Definitions.* In this subsection:

19 1. “Ccf” means 100 cubic feet.

20 2. “Claimant” means a person who files a claim under this subsection, who is
21 an industrial customer of a municipal water utility that is located in a federal
22 renewal community zone in this state, and whose average annual water
23 consumption from that utility for a 24–month period exceeds 1,000,000 Ccf.

24 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
25 taxable years beginning after December 31, 2009, and before January 1, 2020, a

1 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
2 amount of the tax, the amount determined as follows, except that the maximum
3 amount that a claimant may claim in a taxable year under this subsection is
4 \$300,000:

5 1. Subtract the claimant's 2009 water usage costs from the claimant's water
6 usage costs for the taxable year.

7 2. If the amount determined under subd. 1. is a positive number, multiply that
8 amount by 0.50.

9 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
10 corporations may not claim the credit under this subsection, but the eligibility for,
11 and the amount of, the credit are based on their payment of amounts under par. (b).
12 A partnership, limited liability company, or tax-option corporation shall compute
13 the amount of credit that each of its partners, members, or shareholders may claim
14 and shall provide that information to each of them. Partners, members of limited
15 liability companies, and shareholders of tax-option corporations may claim the
16 credit in 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 8d.** 71.10 (4) (ce) of the statutes is created to read:

20 71.10 (4) (ce) Water consumption credit under s. 71.07 (5rm).

21 **SECTION 8e.** 71.21 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is
22 amended to read:

23 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
24 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s), (3t), (3w),

1 (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5rm), and (8r) and passed through to partners
2 shall be added to the partnership's income.

3 **SECTION 8f.** 71.26 (2) (a) 4. of the statutes, as affected by 2009 Wisconsin Act
4 28, is amended to read:

5 71.26 **(2)** (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
6 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3t),
7 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5rm), and (8r) and not passed through by a
8 partnership, limited liability company, or tax-option corporation that has added that
9 amount to the partnership's, limited liability company's, or tax-option corporation's
10 income under s. 71.21 (4) or 71.34 (1k) (g).

11 **SECTION 8g.** 71.28 (5rm) of the statutes is created to read:

12 71.28 **(5rm)** WATER CONSUMPTION CREDIT. (a) *Definitions.* In this subsection:

13 1. "Ccf" means 100 cubic feet.

14 2. "Claimant" means a person who files a claim under this subsection, who is
15 an industrial customer of a municipal water utility that is located in a federal
16 renewal community zone in this state, and whose average annual water
17 consumption from that utility for a 24-month period exceeds 1,000,000 Ccf.

18 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
19 taxable years beginning after December 31, 2009, and before January 1, 2020, a
20 claimant may claim as a credit against the tax imposed under s. 71.23, up to the
21 amount of the tax, the amount determined as follows, except that the maximum
22 amount that a claimant may claim in a taxable year under this subsection is
23 \$300,000:

24 1. Subtract the claimant's 2009 water usage costs from the claimant's water
25 usage costs for the taxable year.

1 2. If the amount determined under subd. 1. is a positive number, multiply that
2 amount by 0.50.

3 (c) *Limitations.* Partnerships, limited liability companies, and tax–option
4 corporations may not claim the credit under this subsection, but the eligibility for,
5 and the amount of, the credit are based on their payment of amounts under par. (b).
6 A partnership, limited liability company, or tax–option corporation shall compute
7 the amount of credit that each of its partners, members, or shareholders may claim
8 and shall provide that information to each of them. Partners, members of limited
9 liability companies, and shareholders of tax–option corporations may claim the
10 credit in 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 8h.** 71.30 (3) (ce) of the statutes is created to read:

14 71.30 (3) (ce) Water consumption credit under s. 71.28 (5rm).

15 **SECTION 8i.** 71.34 (1k) (g) of the statutes, as affected by 2009 Wisconsin Act 28,
16 is amended to read:

17 71.34 (1k) (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), (1dy),
19 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5rm),
20 and (8r) and passed through to shareholders.

21 **SECTION 8j.** 71.45 (2) (a) 10. of the statutes, as affected by 2009 Wisconsin Act
22 28, is amended to read:

23 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
24 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3w), (5e), (5f),
25 (5g), (5h), (5i), (5j), (5k), (5rm), and (8r) and not passed through by a partnership,

1 limited liability company, or tax–option corporation that has added that amount to
2 the partnership’s, limited liability company’s, or tax–option corporation’s income
3 under s. 71.21 (4) or 71.34 (1k) (g) and the amount of credit computed under s. 71.47
4 (1), (3), (3t), (4), (4m), and (5).

5 **SECTION 8k.** 71.47 (5rm) of the statutes is created to read:

6 **71.47 (5rm) WATER CONSUMPTION CREDIT.** (a) *Definitions.* In this subsection:

7 1. “Ccf” means 100 cubic feet.

8 2. “Claimant” means a person who files a claim under this subsection, who is
9 an industrial customer of a municipal water utility that is located in a federal
10 renewal community zone in this state, and whose average annual water
11 consumption from that utility for a 24–month period exceeds 1,000,000 Ccf.

12 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
13 taxable years beginning after December 31, 2009, and before January 1, 2020, a
14 claimant may claim as a credit against the tax imposed under s. 71.43, up to the
15 amount of the tax, the amount determined as follows, except that the maximum
16 amount that a claimant may claim in a taxable year under this subsection is
17 \$300,000:

18 1. Subtract the claimant’s 2009 water usage costs from the claimant’s water
19 usage costs for the taxable year.

20 2. If the amount determined under subd. 1. is a positive number, multiply that
21 amount by 0.50.

22 (c) *Limitations.* Partnerships, limited liability companies, and tax–option
23 corporations may not claim the credit under this subsection, but the eligibility for,
24 and the amount of, the credit are based on their payment of amounts under par. (b).
25 A partnership, limited liability company, or tax–option corporation shall compute

1 the amount of credit that each of its partners, members, or shareholders may claim
2 and shall provide that information to each of them. Partners, members of limited
3 liability companies, and shareholders of tax–option corporations may claim the
4 credit in proportion to their ownership interests.

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

7 **SECTION 8L.** 71.49 (1) (ce) of the statutes is created to read:

8 71.49 (1) (ce) Water consumption credit under s. 71.47 (5rm).

9 **SECTION 8m.** 77.92 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is
10 amended to read:

11 77.92 (4) “Net business income,” with respect to a partnership, means taxable
12 income as calculated under section 703 of the Internal Revenue Code; plus the items
13 of income and gain under section 702 of the Internal Revenue Code, including taxable
14 state and municipal bond interest and excluding nontaxable interest income or
15 dividend income from federal government obligations; minus the items of loss and
16 deduction under section 702 of the Internal Revenue Code, except items that are not
17 deductible under s. 71.21; plus guaranteed payments to partners under section 707
18 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
19 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s),
20 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5rm), and (8r); and plus or minus, as
21 appropriate, transitional adjustments, depreciation differences, and basis
22 differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,
23 loss, and deductions from farming. “Net business income,” with respect to a natural
24 person, estate, or trust, means profit from a trade or business for federal income tax

1 purposes and includes net income derived as an employee as defined in section 3121
2 (d) (3) of the Internal Revenue Code.

3 **SECTION 9.** 196.374 (2) (a) 2. e. of the statutes is created to read:

4 196.374 (2) (a) 2. e. Components to implement energy efficiency or renewable
5 energy measures in facilities of manufacturing businesses in this state that are
6 consistent with the objectives under s. 560.128 (1) (a).

7 **SECTION 10.** 196.374 (2) (a) 4. of the statutes is created to read:

8 196.374 (2) (a) 4. A person contracted to administer the programs under subd.
9 1. shall ensure coordination between the programs directed towards industrial and
10 manufacturing customers under subd. 1. and the program under s. 560.128.
11 Annually, a person contracted to administer the programs under subd. 1. shall
12 submit a report to the commission and to the department of commerce regarding the
13 programs directed towards industrial and manufacturing customers under subd. 1.

14 **SECTION 11.** 196.374 (3) (a) of the statutes is amended to read:

15 196.374 (3) (a) *In general.* The commission shall have oversight of programs
16 under sub. (2). The commission shall maximize coordination of program delivery,
17 including coordination between programs under subs. (2) (a) 1., (b) 1. and 2., and (c)
18 and (7), ordered programs, low-income weatherization programs under s. 16.957,
19 renewable resource programs under s. 196.378, and other energy efficiency or
20 renewable resource programs. The commission shall cooperate with the department
21 of natural resources to ensure coordination of energy efficiency and renewable
22 resource programs with air quality programs and to maximize and document the air
23 quality improvement benefits that can be realized from energy efficiency and
24 renewable resource programs. The commission shall cooperate with the department

1 of commerce to ensure coordination of energy efficiency and renewable resource
2 programs under sub. (2) (a) 2. e. with the loan program under s. 560.128 (1) (a).

3 **SECTION 12.** 560.128 of the statutes is created to read:

4 **560.128 Loans to manufacturing businesses. (1)** From the appropriations
5 under s. 20.143 (1) (c), (gm), (hr), (ie), (m), (mr), and (n), the department may make
6 a loan to a manufacturing business in this state to do any of the following:

7 (a) Implement energy efficiency or renewable energy measures in their
8 facilities to enhance their competitiveness.

9 (b) Retool existing facilities to manufacture products that support the green
10 economy.

11 (c) Expand or establish domestic clean energy manufacturing operations.

12 (d) Create or retain jobs for workers engaged in activities under pars. (a) to (c).

13 **(2)** The department shall promulgate rules establishing eligibility criteria that
14 do all of the following:

15 (a) Set clear job–creation or job–retention standards for loan recipients.

16 (b) Establish minimum energy savings that an eligible manufacturer must
17 expect will result from the loan’s utilization.

18 (c) Give priority to existing manufacturing businesses and idle manufacturing
19 facilities.

20 (d) Ensure that loans under this section will be distributed to manufacturing
21 businesses throughout the state.

22 (e) Require all work paid for with the proceeds of a loan under this section be
23 performed by one of the following:

24 1. Employees who are paid an hourly wage that is not less than 150 percent of
25 the federal minimum wage.

