



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

1 EAST MAIN, SUITE 200  
P. O. BOX 2037  
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561  
REFERENCE SECTION: (608) 266-0341  
FAX: (608) 264-6948

STEPHEN R. MILLER  
CHIEF

September 12, 2011

## MEMORANDUM

**To:** Senator Hansen

**From:** Joseph T. Kreye, Sr. Legislative Attorney, (608) 266-2263

**Subject:** Technical Memorandum to **2011 SB 137** (LRB-2156/1) by **DOR**

---

We received the attached technical memorandum relating to your bill. This copy is for your information and your file.

If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

## MEMORANDUM

July 6, 2011

**TO:** Joseph Kreye  
Legislative Reference Bureau

**FROM:** Rebecca Boldt  
Department of Revenue

**SUBJECT:** Technical Memorandum on SB 137 (LRB 2156/1) – Denying Tax Credits and Exemptions and Government Grants and Loans to Businesses That Hire Illegal Aliens

- Section 7 of the bill refers to the Department of Commerce and statutory sec. 560.286. Should this be changed to the Wisconsin Economic Development Corporation or to a different department?
- Because the \$10,000 penalty for hiring an illegal alien is located in sec. 560, it appears that it is the Department of Commerce (DOC) that administers the penalty. If this is the case, the DOC should be required to notify the Department of Revenue of persons or entities subject to the penalty so that tax credits can be disallowed. Or is it the DOC that will require the entity to repay the credits claimed to them? The Department of Revenue would need specific language to be able to recapture credits since the seven-year period in the bill is longer than the four-year statute of limitations where the Department is allowed to adjust a return.
- In the case of an individual who is a sole proprietor (e.g., farmer or small business owner) who is subject to the penalty, are all credits in Chapter 71 that are available to the individual disallowed or only those directly related to the farm or business? For example, are credits such as the itemized deduction credit, school property tax credit, married couple credit, earned income credit, credit for tax paid to another state, and homestead credit, disallowed in addition to credits directly related to the farm or business, such as development zone credit, technology zone credit, dairy investment credit, or farmland preservation credit. The author may wish to clarify this.
- After the seven-year period expires, a company may wish to amend Wisconsin income or franchise tax returns they filed during the seven-year period in order to claim the credits they were unable to claim at the time they filed those returns. Does the bill intend to allow taxpayers to amend their tax returns after the seven-year period to claim the credits they were unable to claim when they first filed the returns? If not, the following language is recommended for proposed sec. 560.286(2)a)1.:

*1. Receive any tax exemption under ch. 70 or any tax credit under ch. 71 that is applicable to a taxable year that begins within 7 years of the date the company is subject to penalties for hiring an illegal alien, regardless of the date the company applies for such exemption or credit.*

- This bill would be effective day after publication. Is it meant to apply to companies that hired illegal aliens prior to date of enactment but are still within the seven-year period? Or does it

only apply to companies that hire illegal aliens after the date of enactment? The author may wish to clarify this.

If you have any questions regarding this technical memorandum, please contact Michael Oakleaf at 261-5173 or via email at [Michael.oakleaf@revenue.wi.gov](mailto:Michael.oakleaf@revenue.wi.gov).

cc: Sen. Hansen