

## 2011 DRAFTING REQUEST

### Bill

Received: **09/09/2011**

Received By: **fknepp**

Wanted: **As time permits**

Companion to LRB:

For: **Governor 261-6787**

By/Representing: **Nate Yahn**

May Contact:

Drafter: **fknepp**

Subject: **Econ. Development - bus. dev.**

Adl. Drafters: **jkreye**

Extra Copies:

Submit via email: **YES**

Requester's email: **nate.yahn@wisconsin.gov**

Carbon copy (CC:) to: **fern.knepp@legis.wisconsin.gov**

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### Pre Topic:

No specific pre topic given

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### Topic:

WEDC- tax credit program changes

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### Instructions:

See attached

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*<END>*  
*re-submitted for corrected e-mail*

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FE Sent For:

<END>

## Knepp, Fern

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**From:** Gallagher, Michael  
**Sent:** Friday, September 09, 2011 9:50 AM  
**To:** Kreye, Joseph; Knepp, Fern  
**Subject:** FW: WEDC Tax Credit Statute Changes Bill Package

I don't know if I mentioned this, but Nate had said to hold off on this draft. Well, I have the go-ahead now. I will enter it. Fern, may be we can sit down early next week and divvy up the economic development stuff.

Thanks.

---

**From:** Yahn, Nate - DOA [mailto:Nate.Yahn@wisconsin.gov]  
**Sent:** Thursday, September 08, 2011 4:48 PM  
**To:** Gallagher, Michael  
**Subject:** RE: WEDC Tax Credit Statute Changes Bill Package

Mike,

Please proceed with creating a draft with the instructions attached from the previous email.

Thanks again.

Nate

### Nate Yahn

*Policy Assistant for Economic Development  
Office of the Governor  
Phone: 608-261-6787*

---

**From:** Yahn, Nate - DOA  
**Sent:** Tuesday, August 30, 2011 11:32 PM  
**To:** Gallagher, Michael - LEGIS  
**Cc:** Schoenfeldt, Eileen - GOV  
**Subject:** WEDC Tax Credit Statute Changes Bill Package

Hi Mike,

I'll follow up this email with a phone call tomorrow morning, if you are available, but just wanted to send you notes and instructions regarding WEDC's proposed changes to the statutes relating to the tax credit programs.

Attached, is a package that covers 7 different issues, all relating to tax credit programs administered by the WEDC. Please combine all 7 issues into one-single bill draft, of course when you are able.

Please let me know if you have any questions or thoughts about the attached document, and again, I will call you tomorrow morning further explaining this request.

Also, forgive me, if this request should have been sent to a different attorney. Our hope is that this drafted legislation will be available to be introduced at some point this fall (I know you are extremely busy, however, and I apologize for the short notice).

9/9/2011

Thank you very much.

Nate

**Nate Yahn**

*Policy Assistant for Economic Development*

*Office of the Governor*

*Phone: 608-261-6787*

*Email: [nate.yahn@wisconsin.gov](mailto:nate.yahn@wisconsin.gov)*



# **WEDC TAX CREDIT BILL PROPOSAL**

## **Proposed Tax Credit Changes to Wisconsin Statutes**

The Wisconsin Department of Commerce is proposing a number of changes to the Wisconsin statutes which will enable the Department to more effectively administer the programs. The proposed changes address the definition of full-time jobs to make it uniform for all the tax credit programs. The second change requested addresses job retention. Currently, the Economic Development Tax Credit does not allow job retention as a qualifying activity. In the current economic climate, it is imperative that job retention be a key to growing Wisconsin's economy. The Department is also requesting changes in the compensation and benefits language of the Enterprise Zone Tax Credit. Currently, law requires that when a business relocates from out of state that the company must pay compensation at least favorable to what was being paid in the previous state. This is unnecessary because the Enterprise Zone Tax Credit program requires that the business provide an acceptable level of compensation and it should relate to Wisconsin comparables. The next two requested changes address capital investment levels and repealing the original equipment manufacturers requirement which would provide the Department more flexibility in awarding tax credits under the Enterprise Zone Tax Credit program. Finally, the Department is requesting a few technical changes to AB 40 (Budget Bill). The requested changes will enable the Department to effectively administer moving Wisconsin towards the goal of job creation and retention.



### **Issue: Full-time Jobs**

**Current Law:** Wisconsin statutes allow the Department of Commerce to award tax credits for job creation under the Jobs Tax Credit, Economic Development Tax Credit, Enterprise Zone Tax Credit and Development Opportunity Zone tax credits programs

**Problem:** All four programs define full-time employment status as requiring an employee to work 2,080 hours per year. However, the Economic Development Tax Credit and Enterprise Zone Tax Credit definitions allow Commerce to grant exceptions to that requirement for employees working no fewer than 37.5 hours per week.

There is an increasing trend among businesses to assign full-time status and provide full-time benefits to employees working fewer than 37.5 hours per week. In many cases, it is the employees' preference to work fewer hours. Some businesses also fall under federal safety regulations that limit certain employees' hours to fewer than 37.5 per week. Continued application of the 37.5 hour standard prevents Commerce from offering tax incentives to some businesses creating jobs with full-time benefits.

#### **Solution:**

- 1) Repeal the requirement that full-time employees must work at least 37.5 hours per week, replacing it with language that would allow Commerce to provide incentives for the creation of positions that provide full-time benefits, even if the employees are working less than 37.5 hours per week.
- 2) Amend the existing definitions of "full-time job" and "full-time employee" to make these definitions uniform for all four tax credit programs.

#### **560.2055(1)(c)**

(c) "Full-time job" means a regular, nonseasonal full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays, and for which the individual receives pay that is equal to at least 150 percent of the federal minimum wage and benefits that are not required by federal or state law. "Full-time job" does not include initial training before an employment position begins.

(d) The department may specify circumstances under which the department may grant exceptions to the requirement under par. (c) that a full-time job means a job in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, but under no circumstances may a full-time job mean a job in which an individual does not receive benefits acceptable to the department.

#### **560.70(2m)(b)**

(2m) (a) Except as provided in par. (b), "full-time job" means a regular, nonseasonal full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays, and for which the individual receives pay that is equal to at least 150% of the federal minimum wage and benefits that are not required by federal or state law. "Full-time job" does not include initial training before an employment position begins.

(b) The department may specify circumstances under which the department may grant exceptions to the requirement under par. (a) that a full-time job means a job in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, but under no circumstances may a full-time job mean a job in which an individual does not receive benefits acceptable to the department.

Deleted: by rule

Deleted: , as a condition of employment, is required to work less than 37.5 hours per week

**560.799(1)(am)**

(am) 1. Except as provided in subd. 2., "full-time employee" means an individual who is employed in a regular, nonseasonal job and who, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays.

2. The department may specify circumstances under which the department may grant exceptions to the requirement under subd. 1. that a full-time employee means an individual who, as a condition of employment, is required to work at least 2,080 hours per year, but under no circumstances may a full-time employee mean an individual who does not receive benefits acceptable to the department.

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**71.07(2dx)4.**

**71.28(1dx)4.**

**71.47(1dx)4.**

**76.636(1)(d)**

"Full-time job" means a regular, nonseasonal full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays, and for which the individual receives pay that is equal to at least 150% of the federal minimum wage and receives benefits that are not required by federal or state law.

"Full-time job" does not include initial training before an employment position begins. The department of commerce may specify circumstances under which the department of commerce may grant exceptions to the requirement that a full-time job means a job in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, but under no circumstances may a full-time job mean a job in which an individual does not receive benefits acceptable to the department of commerce.



**Issue: Job Retention**

**Current Law:** Wisconsin statutes allow the Department of Commerce to award tax credits for job creation, capital investment, training and the location/retention of corporate headquarter facilities under the Economic Development Tax Credit program.

**Problem:** The Economic Development Tax Credit (EDTC) program was designed prior to the current economic recession. At that time, Commerce's focus was on the creation of new jobs. The current economy has seen the loss of thousands of existing jobs, putting an added emphasis on the preservation of existing jobs in Wisconsin. Although the EDTC program allows the Commerce to award retention credits for headquarters jobs, the department is unable to assist businesses in retaining non-headquarters jobs.

**Solution:** Add statutory language creating a job retention component within the existing EDTC program.

**560.702**

(5) JOB RETENTION PROJECT. A project that maintains for a period of time established by the department a specific number of existing full-time jobs provided by the person.



**Issue: Compensation and Benefits**

**Current Law:** Wisconsin statutes require that a business relocating to Wisconsin provide its Wisconsin employees with pay and benefits at the same level or higher than pay and benefits provided to its out-of-state employees, in order to be certified for Enterprise Zone tax credits.

**Problem:** This requirement is unnecessary, since Commerce already requires that a business provide its enterprise zone employees with an acceptable level of compensation and benefits to be considered for Enterprise Zone tax credits.

**Solution:** Repeal the language requiring comparison of Wisconsin wages and benefits to those provided to out-of-state employees.

**560.799(5)(b)**

(b) A business that relocates to an enterprise zone from outside this state,

**Deleted:** , if the business offers compensation and benefits to its employees working in the zone for the same type of work that are at least as favorable as those offered to its employees working outside the zone, as determined by the department

**Current Law:** Wisconsin statutes require that a business expanding its operations within Wisconsin provide new employees with pay and benefits at the same level or higher than pay and benefits provided to its existing Wisconsin employees, in order to be certified for Enterprise Zone tax credits.

**Problem:** This requirement is unnecessary, since Commerce already requires that a business provide its enterprise zone employees with an acceptable level of compensation and benefits to be considered for Enterprise Zone tax credits.

**Solution:** Repeal the language requiring comparison of Wisconsin wages and benefits to those provided to existing Wisconsin employees.

**560.799(5)(c)1.**

- 1. The business will increase its personnel by at least 10 percent and the following applies:
  - a. The business enters into an agreement with the department to claim tax benefits only for years during which the business maintains the increased level of personnel.

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**Deleted:** apply

**Deleted:** b. The business offers compensation and benefits for the same type of work to its employees working in the enterprise zone that are at least as favorable as those offered to its employees working in this state but outside the zone, as determined by the department.



**Issue: Capital Investment**

**Current Law:** Wisconsin statutes require that the level of capital investment in property in an enterprise zone be at least 10 percent of the business' gross revenues in the preceding tax year attributable to business activities in Wisconsin.

**Problem:** Tax benefits for businesses making substantial investments in Wisconsin should be evaluated on the level of the investment, not on the relation of the investment to the businesses' gross revenues in Wisconsin. Since Enterprise Zone awards typically involve Wisconsin's largest businesses, the high level of gross revenue could prohibit Commerce from allocating investment credits for very large and worthwhile projects.

**Solution:** Repeal the language requiring comparison of capital investment to a business' gross revenue attributable to its Wisconsin activities.

**560.799(5)(c)2.**

2. The business makes a significant capital investment in property located in the enterprise zone and the following apply:

**Deleted:** all of

**Deleted:** a. The value of the capital investment is equal to at least 10 percent of the business' gross revenues in the preceding tax year attributable to business activities in this state.¶



**Issue: Compensation and Benefits**

**Current Law:** Wisconsin statutes require that a business making a capital investment in property in an enterprise zone employ employees in the enterprise zone with pay and benefits at the same level or

higher than pay and benefits provided to its other Wisconsin employees, in order to be certified for Enterprise Zone tax credits.

**Problem:** This requirement is unnecessary, since Commerce already requires that a business provide its enterprise zone employees with an acceptable level of compensation and benefits to be considered for Enterprise Zone tax credits.

**Solution:** Repeal the language requiring comparison of Wisconsin wages and benefits to those provided to existing Wisconsin employees.

560.799(5)(c)2.c.

**Deleted:** c. The business offers compensation and benefits for the same type of work to its employees working in the zone that are at least as favorable as those offered to its employees working in the state but outside the zone, as determined by the department. ¶



**Issue: Repeal Original Equipment Manufacturing Requirement**

**Current Law:** Wisconsin statutes requires that a business have at least 500 employees or be an original equipment manufacturer with a significant Wisconsin supply chain to be considered for job retention tax credits under the Enterprise Zone program.

**Problem:** An original equipment manufacturer (OEM) manufactures products or components that are purchased by another company and retailed under the second company's brand name. By restricting job retention tax credits to OEM, this language prevents Commerce from using the Enterprise Zone program to help non-OEM companies retain significant numbers of existing jobs in Wisconsin.

**Solution:** Repeal the requirement that businesses must be original equipment manufacturers in order to qualify for job retention tax credits under the Enterprise Zone program.

**560.799(5)(d)1.**

1. The business is a manufacturer with a significant supply chain in the state, as determined by the department by rule.

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**Issue: Changes needed resulting from AB 40**

**AB 40 Proposal:**

1) Under current law, calculation of payroll tax credits under the Jobs Tax Credit program requires Commerce to disregard the first \$20,000 of annual earnings for employees in a Tier I county or municipality and to disregard the first \$30,000 of annual earnings for employees in a



Tier II county or municipality. Statutes also define an eligible employee as one earning no more than \$100,000 per year.

Under this bill, the Tier I and Tier II designations would be repealed, along with the minimum \$20,000 and \$30,000 annual earning levels and the definition of an eligible employee as one earning no more than \$100,000 per year.

2) This bill moves language dealing with the creation of new jobs from 560.2055(3) to 560.2055(3)(c), adding the word "and" before existing language relating to training activities.

3) AB40 preserves language that "in each year for which the person claims tax benefits ... the person increases net employment in the person's business".

**Problem:**

1) This bill does not eliminate the final reference to Tier I and II counties and municipalities, which become meaningless without the minimum \$20,000 and \$30,000 annual earning levels.

2) This use of "and" between the job creation and training language limits awards under the Jobs program to businesses carrying out projects that result in both job creation and training activities. In the past, Commerce has been able to use this program to assist businesses that have been creating jobs, but not necessarily training employees, as well as businesses that have significant training projects, but no job creation.

3) The language regarding an increase in net employment in each year the business claims tax credits is ambiguous. It could be interpreted to mean that there must be some increase in employment in every year that Commerce disburses tax credits. It could also be interpreted as requiring that a business show an increase over the base year employment level in each year that it receives credits.

**Solution:**

1) Repeal the remaining references to tier I and tier II counties or municipalities.

2) Remove the training language from 560.2055(3)(c) and move it to a new section.

3) Add language clarifying the meaning of increase in net employment.

**560.2055(3)(c) - as amended by AB 40**

(c) ~~The person increases net employment or maintains increased net employment in the person's business.~~

~~(d) The person improves the job-related skills of any eligible employee, trains any eligible employee on the use of job-related new technologies, or provides job-related training to any eligible employee whose employment with the person represents the employee's first full-time job.~~

**Deleted:** In a tier I county or municipality or a tier II county or municipality, t

**Deleted:** and improves the job-related skills of any eligible employee, trains any eligible employee on the use of job-related new technologies, or provides job-related training to any eligible employee whose employment with the person represents the employee's first full-time job.

**AB 40 Proposal:** Under current law, Commerce has the ability to certify Jobs Tax Credits at a rate of up to 10% of the wages for each eligible employee.

This bill would repeal "up to", requiring Commerce to certify Jobs Tax Credits at 10% for all recipients.

**Problem:** By requiring that all payroll credits be awarded at a rate of 10 percent, AB 40 takes away Commerce's flexibility to tailor awards to fit the scope of the applicant's project.

**Solution:** Restore "up to" in the statutes.

**560.2055(4)(b)1. - as amended by AB40**

1. The corporation may award to a person certified under sub. (20) tax benefits for each eligible employee in an amount equal to up to 10 percent of the wages paid by the person to that employee or \$10,000, whichever is less.

**Knepp, Fern**

---

**From:** Yahn, Nate - DOA [Nate.Yahn@wisconsin.gov]

**Sent:** Tuesday, September 13, 2011 4:29 PM

**To:** Knepp, Fern

**Subject:** RE: WEDC Tax Credit Statute Changes Bill Package

No. Because the salaries were not removed in the budget, the tier I and tier II references should remain in statute and not be repealed.

Sorry for the confusion on this part.

Nate

**Nate Yahn**

*Policy Assistant for Economic Development  
Office of the Governor  
Phone: 608-261-6787*

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**From:** Knepp, Fern [mailto:Fern.Knepp@legis.wisconsin.gov]

**Sent:** Tuesday, September 13, 2011 4:20 PM

**To:** Yahn, Nate - DOA

**Subject:** RE: WEDC Tax Credit Statute Changes Bill Package

Nate,

I have a quick question about the WEDC tax credit request. The final section of the request, titled changes needed resulting from AB40, states that remaining references to tier I and tier II counties or municipalities should be removed because they are meaningless without the minimum required salaries of \$20,000 and \$30,000. However, AB40 was amended to retain the minimum required salaries for tier I and tier II counties or municipalities. Is it your intent to remove tier I and tier II counties or municipalities from the jobs tax credit in this bill?

Thanks,  
Fern

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**From:** Yahn, Nate - DOA [mailto:Nate.Yahn@wisconsin.gov]

**Sent:** Sunday, September 11, 2011 2:00 AM

**To:** Knepp, Fern

**Subject:** RE: WEDC Tax Credit Statute Changes Bill Package

Hi Fern,

Thanks for taking this work in-addition-to what I'm sure is quite the long list.

I was wondering, are you currently working on any other drafts from the governor's office? If so, what are they? If not, please make this priority if able, as we would like this draft to be introduced in the very near future/as soon as possible.

As always, thanks for all the work you and the rest of your staff does as well.

Nate

**Nate Yahn**

9/13/2011

*Policy Assistant for Economic Development  
Office of the Governor  
Phone: 608-261-6787  
Email: [nate.yahn@wisconsin.gov](mailto:nate.yahn@wisconsin.gov)*

---

**From:** Gallagher, Michael [Michael.Gallagher@legis.wisconsin.gov]  
**Sent:** Friday, September 09, 2011 1:25 PM  
**To:** Yahn, Nate - DOA  
**Cc:** Knepp, Fern - LEGIS  
**Subject:** RE: WEDC Tax Credit Statute Changes Bill Package

Nate:

Fern Knepp, who also drafts in economic development, will be the primary drafter on this request.

Mike

**Michael P. Gallagher**  
Legislative Attorney  
Legislative Reference Bureau  
(608) 267-7511  
[michael.gallagher@legis.wisconsin.gov](mailto:michael.gallagher@legis.wisconsin.gov)

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**From:** Yahn, Nate - DOA [mailto:Nate.Yahn@wisconsin.gov]  
**Sent:** Thursday, September 08, 2011 4:48 PM  
**To:** Gallagher, Michael  
**Subject:** RE: WEDC Tax Credit Statute Changes Bill Package

Mike,

Please proceed with creating a draft with the instructions attached from the previous email.

Thanks again.

Nate

**Nate Yahn**  
*Policy Assistant for Economic Development  
Office of the Governor  
Phone: 608-261-6787*

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**From:** Yahn, Nate - DOA  
**Sent:** Tuesday, August 30, 2011 11:32 PM  
**To:** Gallagher, Michael - LEGIS  
**Cc:** Schoenfeldt, Eileen - GOV  
**Subject:** WEDC Tax Credit Statute Changes Bill Package

Hi Mike,

I'll follow up this email with a phone call tomorrow morning, if you are available, but just wanted to send you notes and instructions regarding WEDC's proposed changes to the statutes relating to the tax credit programs.

9/13/2011

Attached, is a package that covers 7 different issues, all relating to tax credit programs administered by the WEDC. Please combine all 7 issues into one-single bill draft, of course when you are able.

Please let me know if you have any questions or thoughts about the attached document, and again, I will call you tomorrow morning further explaining this request.

Also, forgive me, if this request should have been sent to a different attorney. Our hope is that this drafted legislation will be available to be introduced at some point this fall (I know you are extremely busy, however, and I apologize for the short notice).

Thank you very much.

Nate

**Nate Yahn**

*Policy Assistant for Economic Development*

*Office of the Governor*

*Phone: 608-261-6787*

*Email: [nate.yahn@wisconsin.gov](mailto:nate.yahn@wisconsin.gov)*



1  
RMR

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

in 9-16  
due Wed 9-21  
Gen Cat

js

1 AN ACT...; relating to: tax credit programs administered by the Wisconsin  
2 Economic Development Corporation.

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

Under current law, the Wisconsin Economic Development Corporation (WEDC) administers the jobs tax credit, the economic development tax credit, the development opportunity zone tax credit, and the enterprise zone tax credit (tax credit programs). This bill makes various changes to these tax credit programs.

***Definition of "full-time job"***

Under current law, each of the tax credit programs defines a "full-time job" as a job in which an individual must work 2,080 hours per year as a condition of his or her employment. However, for purposes of the enterprise zone tax credit program and the economic development tax credit program, WEDC is currently authorized to make an exception to the 2,080 hour requirement for individuals who work at a job not less than 37.5 hours per week. Under this bill, the definition of "full-time job" in each of the tax credit programs provides that WEDC may make an exception to the 2,080 hours per year requirement as long as the employed individual receives benefits that are acceptable to the corporation.

***Jobs Tax Credit***

Under current law, WEDC may certify a person to claim the jobs tax credit if the person operates or intends to operate a business in Wisconsin, will increase its net employment in Wisconsin, and will pay annual wages to a full-time employee for whom the person claims tax benefits of at least \$20,000 in Tier I counties or

municipalities and at least \$30,000 in Tier II counties or municipalities. A person certified under the program may receive per-employee tax benefits in the amount of 10 percent of the wages paid to a full-time employee who meets the wage requirement for the county or municipality. A person certified under the program may also receive tax benefits for providing job training to its employees.

Under this bill, a person certified for the jobs tax credit program may receive per-employee tax benefits up to 10 percent of the wages paid to a full-time employee who meets the wage requirements for the county or municipality. This bill also authorizes WEDC to certify a person to claim the jobs tax credit if the person maintains increased net employment in the person's business.

**Economic Development Tax Credit**

Under current law, in order for WEDC to certify a person to claim the economic development tax credit, the person must enter into a contract with WEDC to undertake one of the following eligible activities in the state:

- 1. A job creation project that results in the creation and maintenance of full-time jobs. ✓
- 2. A project that involves a significant investment of capital, as defined by WEDC, by the person in new equipment, machinery, real property, or depreciable personal property. ✓
- 3. A project that involves significant investments in the training or reeducation of employees, as defined by WEDC, for the purpose of improving the productivity or competitiveness of the business of the person. ✓
- 4. A project that will result in the location or retention of a person's corporate headquarters in Wisconsin or that will result in the retention of employees if the person's corporate headquarters are located in Wisconsin. ✓

Under this bill, in addition to the existing eligible activities, WEDC may certify a person who enters into a contract with WEDC to undertake a project that maintains a specific number of full-time jobs regardless of whether the jobs are located at the person's headquarters.

**Enterprise Zone Tax Credit.**

Under current law, WEDC is authorized to designate up to 20 areas in the state as enterprise zones. Currently, WEDC may certify any of the following businesses to claim the enterprise zone tax credit:

- 1. A business that relocates to an enterprise zone from outside the state, if the business offers compensation and benefits to its employees working in the zone for the same type of work that are at least as favorable as those offered outside the zone.
- 2. A business that expands its operations in an enterprise zone, increases its personnel by at least 10%, and enters into an agreement with WEDC to claim tax benefits only for years during which the business maintains the increased level of personnel. The business must offer compensation and benefits for the same type of work to its employees working in the enterprise zone that are at least as favorable as those offered to its employees working in Wisconsin but outside the zone.
- 3. A business that expands its operations in an enterprise zone and that makes a capital investment in property located in the enterprise zone if (a) the value of the capital investment is equal to at least 10% of the business's gross revenues from

percent

Star: leave as typed

to its employees working

full-time

existing

STET: leave as typed

business in the state in the preceding tax year; (b) the business enters into an agreement with WEDC to claim tax benefits only for years during which the business maintains the capital investment; and (c) the business offers compensation and benefits for the same type of work to its employees in the zone that are at least as favorable as those offered to employees working in Wisconsin, but outside the zone.

4. A business that retains jobs in an enterprise zone, but only if the business makes a significant capital investment in property located in the zone, and either (a) the business is an original equipment manufacturer with a significant supply chain in Wisconsin or (b) more than 500 full-time employees are employed by the business in the enterprise zone.

This bill makes the following changes to the requirements for certification to claim the enterprise zone tax credit:

enterprise

1. For a business that relocates to this state, this bill removes the requirement that the business offer compensation and benefits to its employees working in the zone for the same type of work that are at least as favorable as those offered outside the zone.

to its employees working

2. For a business that retains jobs in the enterprise zone, the bill eliminates the requirement that the business be an original equipment manufacturer with a significant supply chain in Wisconsin and allows certification for a business that is any type of manufacturer with a significant supply chain in Wisconsin.

must be

3. For a business that expands its operations in an enterprise zone, this bill removes the requirement that the business offer compensation and benefits for the same type of work to its employees working in the enterprise zone that are at least as favorable as those offered to its employees working in Wisconsin but outside the zone. Additionally, this bill eliminates the requirement that the value of a qualifying capital investment in an enterprise zone be at least 10% of the business's gross revenues. Under this bill, a business that expands operations in an enterprise zone may qualify for the enterprise zone tax credit by making a significant capital investment, as determined by WEDC.

Percent

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

must be

Insert 3-1

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

1 SECTION 1. 238.16 (1) (c) of the statutes, as affected by 2011 Wisconsin Act 32,  
2 is renumbered 238.16 (1) (c) 1. and amended to read:

3 238.16 (1) (c) 1. "Full-time Except as provided in subd. 2., "full-time job" means  
4 a regular, nonseasonal full-time position in which an individual, as a condition of  
5 employment, is required to work at least 2,080 hours per year, including paid leave



1           **SECTION 14.** 238.399 (5) (d) 1. of the statutes, as affected by 2011 Wisconsin Act  
2           32, is amended to read:

3           238.399 (5) (d) 1. The business is ~~an original equipment~~ a manufacturer with  
4           a significant supply chain in the state, as determined by the corporation ~~by rule.~~

**History:** 2005 a. 361; 2007 a. 20, 97, 100; 2009 a. 11, 28, 266, 267; 2011 a. 26; 2011 a. 32 s. 3437; Stats. 2011 s. 238.399; s. 13.92 (1) (bm) 2., (2) (i).

5

**(END)**

Insert 7-5

↑  
strike

Ins 4-11

as affected by 2011 Wisconsin Act 32,

Section #. 238.16 (3) (intro.) of the statutes is amended to read:

238.16 (3) ELIGIBILITY FOR TAX BENEFITS. (intro.) A person certified under sub. (2) may receive tax benefits under this section if, in each year for which the person claims tax benefits under this section, the person increases net employment in the person's business, and one of the following applies:

History: 2009 a. 28, 265; 2011 a. 32 ss. 2864, 3357 to 3366; Stats. 2011 s. 238.16.

or maintains  
increased net employment

End Ins. 4-11

1 and holidays, and for which the individual receives pay that is equal to at least 150  
2 percent of the federal minimum wage and benefits that are not required by federal  
3 or state law. "Full-time job" does not include initial training before an employment  
4 position begins.

5 History: 2009 a. 28, 265; 2011 a. 32 ss. 2864, 3357 to 3366; Stats. 2011 s. 238.16. <sup>^</sup> X

SECTION 2. 238.16 (1) (c) 2. of the statutes is created to read:

6 238.16 (1) (c) 2. The corporation may specify circumstances under which the  
7 corporation may grant exceptions to the requirement under subd. 1. that a full-time  
8 job means a position in which an individual, as a condition of employment, is  
9 required to work at least 2,080 hours per year, but under no circumstances may a  
10 full-time job mean a position in which a individual does not receive benefits  
11 acceptable to the corporation.

Ins  
A-11

12 SECTION 3. 238.16 (3) (am) of the statutes, as affected <sup>e created</sup> by 2011 Wisconsin Act  
13 32, is amended to read:

14 238.16 (3) (am) The person increases net employment or maintains increased  
15 net employment in the person's business.

16 History: 2009 a. 28, 265; 2011 a. 32 ss. 2864, 3357 to 3366; Stats. 2011 s. 238.16. ✓

17 SECTION 4. 238.16 (4) (b) 1. (intro.) of the statutes, as affected by 2011 Wisconsin  
18 Act 32, is amended to read:

19 238.16 (4) (b) 1. (intro.) The corporation may award to a person certified under  
20 sub. (2) tax benefits for each eligible employee in an amount equal to <sup>that does</sup> ~~not to exceed~~  
21 10 percent of the wages paid by the person to that employee or \$10,000, whichever  
22 is less, if that employee earned wages in the year for which the tax benefit is claimed  
equal to one of the following:

23 History: 2009 a. 28, 265; 2011 a. 32 ss. 2864, 3357 to 3366; Stats. 2011 s. 238.16. ✓

24 SECTION 5. 238.30 (intro.) of the statutes, as affected by 2011 Wisconsin Act 32,  
is amended to read:

1           **238.30 Definitions.** (intro.) In this section and ss. ~~238.31~~ 238.301 to 238.395:

History: 1987 a. 328, 411; 1991 a. 39; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2005 a. 259; 2009 a. 2, 28; 2011 a. 32 ss. 3408 to 3409; Stats. 2011 s. 238.30; 2011 a. 37 s. 2; s. 13.92 (2) (i).

2           **SECTION 6.** 238.30 (2m) (b) of the statutes, as affected by 2011 Wisconsin Act  
3           32, is amended to read:

4           **238.30 (2m) (b)** The corporation may ~~adopt a rule specifying~~ specify  
5           circumstances under which the corporation may grant exceptions to the requirement  
6           under par. (a) that a full-time job means a job in which an individual, as a condition  
7           of employment, is required to work at least 2,080 hours per year, but under no  
8           circumstances may a full-time job mean a job in which an individual, ~~as a condition~~  
9           of employment, is required to work less than 37.5 hours per week does not receive  
10          benefits acceptable to the corporation.

History: 1987 a. 328, 411; 1991 a. 39; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9; 2001 <sup>A</sup>16; 2005 a. 259; 2009 a. 2, 28; 2011 a. 32 ss. 3408 to 3409; Stats. 2011 s. 238.30; 2011 a. 37 s. 2; s. 13.92 (2) (i).

11          **SECTION 7.** 238.302 (1m) of the statutes is created to read: /

12          **238.302 (1m) JOBS RETENTION PROJECT.** A project that maintains, for a period  
13          of time established by the corporation, a specific number <sup>has</sup> (determined by the person <sup>is</sup>)  
14          of existing full-time jobs provided by the person.

15          **SECTION 8.** 238.399 (1) (am) 2. of the statutes, as affected by 2011 Wisconsin  
16          Act 32, is amended to read:

17          **238.399 (1) (am) 2.** The corporation may ~~by rule specify~~ circumstances under  
18          which the corporation may grant exceptions to the requirement under subd. 1. that  
19          a full-time employee means an individual who, as a condition of employment, is  
20          required to work at least 2,080 hours per year, but under no circumstances may a  
21          full-time employee mean an individual who, ~~as a condition of employment, is~~  
22          ~~required to work less than 37.5 hours per week~~ does not receive benefits acceptable  
23          to the corporation.

x

1 SECTION 9. 238.399 (5) (b) of the statutes, as affected by 2011 Wisconsin Act 32,  
2 is amended to read:

3 238.399 (5) (b) A business that relocates to an enterprise zone from outside this  
4 state, ~~if the business offers compensation and benefits to its employees working in~~  
5 ~~the zone for the same type of work that are at least as favorable as those offered to~~  
6 ~~its employees working outside the zone, as determined by the corporation.~~

History: 2005 a. 361; 2007 a. 20, 97, 100; 2009 a. 11, 28, 266, 267; 2011 a. 26; 2011 a. 32 s. 3437; Stats. 2011 s. 238.399; s. 13.92 (1) (bm) 2., (2) (i).

7 SECTION 10. 238.399 (5) (c) 1. (intro.) and a. of the statutes, as affected by 2011  
8 Wisconsin Act 32, are consolidated, renumbered 238.399 (5) (c) 1. and amended to  
9 read:

10 238.399 (5) (c) 1. The business will increase its personnel by at least 10 percent  
11 and ~~all of the following apply: a. The~~ the business enters into an agreement with the  
12 corporation to claim tax benefits only for years during which the business maintains  
13 the increased level of personnel.

History: 2005 a. 361; 2007 a. 20, 97, 100; 2009 a. 11, 28, 266, 267; 2011 a. 26; 2011 a. 32 s. 3437; Stats. 2011 s. 238.399; s. 13.92 (1) (bm) 2., (2) (i).

14 SECTION 11. 238.399 (5) (c) 1. b. of the statutes, as affected by 2011 Wisconsin  
15 Act 32, is repealed.

16 SECTION 12. 238.399 (5) (c) 2. (intro.) and b. of the statutes, as affected by 2011  
17 Wisconsin Act 32, are consolidated, renumbered 238.399 (5) (c) 2. and amended to  
18 read:

score → as determined by the corporation

19 238.399 (5) (c) 2. The business makes a significant capital investment) in  
20 property located in the enterprise zone and ~~all of the following apply: b. The~~ the  
21 business enters into an agreement with the corporation to claim tax benefits only for  
22 years during which the business maintains the capital investment.

History: 2005 a. 361; 2007 a. 20, 97, 100; 2009 a. 11, 28, 266, 267; 2011 a. 26; 2011 a. 32 s. 3437; Stats. 2011 s. 238.399; s. 13.92 (1) (bm) 2., (2) (i).

23 SECTION 13. 238.399 (5) (c) 2. a. and c., as affected by 2011 Wisconsin Act 32,  
24 of the statutes are repealed.

x

x

x

x

2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2858/lins  
JK:.....

Insert 3 - 1

SW

✓

1 SECTION 1. 71.07 (2dx) (a) 4. of the statutes is amended to read:  
2 71.07 (2dx) (a) 4. ~~“Full-time job” means a regular, nonseasonal full-time~~  
3 ~~position in which an individual, as a condition of employment, is required to work at~~  
4 ~~least 2,080 hours per year, including paid leave and holidays, and for which the~~  
5 ~~individual receives pay that is equal to at least 150% of the federal minimum wage~~  
6 ~~and receives benefits that are not required by federal or state law. “Full-time job”~~  
7 ~~does not include initial training before an employment position begins~~ has the  
8 meaning given in s. 238.16 (1) (c).

History: 1987 a. 312; 1987 a. 411 ss. 63, 79 to 82, 85, 86; 1987 a. 419, 422; 1989 a. 31, 44, 56, 100, 359; 1991 a. 39, 269, 292; 1993 a. 16, 112, 204, 471, 491; 1995 a. 27 ss. 3377m to 3393m, 9116 (5); 1995 a. 209, 227, 400, 453; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9, 10, 32; 1999 a. 150 s. 672; 1999 a. 198; 2001 a. 16, 109; 2003 a. 72, 99, 135, 183, 255, 267, 326; 2005 a. 25, 49, 72, 74, 97, 177, 254, 361, 387, 479, 483, 487; 2007 a. 11, 20, 96, 97, 100; 2009 a. 2, 11, 28, 180, 185, 265, 267, 269, 276, 294, 295, 332, 401; 2011 a. 15, 32; s. 13.92 (1) (bm) 2; s. 35.17 correction in (2dr) (a), (5n).

9 SECTION 2. 71.28 (1dx) (a) 4. of the statutes is amended to read:  
10 71.28 (1dx) (a) 4. ~~“Full-time job” means a regular, nonseasonal full-time~~  
11 ~~position in which an individual, as a condition of employment, is required to work at~~  
12 ~~least 2,080 hours per year, including paid leave and holidays, and for which the~~  
13 ~~individual receives pay that is equal to at least 150% of the federal minimum wage~~  
14 ~~and receives benefits that are not required by federal or state law. “Full-time job”~~  
15 ~~does not include initial training before an employment position begins~~ has the  
16 meaning given in s. 238.16 (1) (c).

History: 1987 a. 312; 1987 a. 411 ss. 88, 130 to 139; 1987 a. 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292; 1993 a. 16, 112, 232, 491; 1995 a. 2; 1995 a. 27 ss. 3399r to 3404c, 9116 (5); 1995 a. 209, 227; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326; 2005 a. 25, 74, 97, 361, 387, 452, 479, 483, 487; 2007 a. 20, 96, 97, 100; 2009 a. 2, 11, 28, 180, 185, 265, 267, 269, 276, 294, 295, 332, 401; 2011 a. 3, 15, 32; s. 13.92 (1) (bm) 2; s. 35.17 correction in (1dm) (a) 1.

17 SECTION 3. 71.47 (1dx) (a) 4. of the statutes is amended to read:  
18 71.47 (1dx) (a) 4. ~~“Full-time job” means a regular, nonseasonal full-time~~  
19 ~~position in which an individual, as a condition of employment, is required to work at~~  
20 ~~least 2,080 hours per year, including paid leave and holidays, and for which the~~  
21 ~~individual receives pay that is equal to at least 150% of the federal minimum wage~~

1 ~~and receives benefits that are not required by federal or state law. "Full-time job"~~  
2 ~~does not include initial training before an employment position begins~~ has the  
3 meaning given in s. 238.16 (1) (c).

History: 1987 a. 312, 411, 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292, 315; 1993 a. 16, 112; 1995 a. 27 ss. 3407m to 3412m, 9116 (5); 1995 a. 209, 227, 417; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 325; 2005 a. 25, 74, 97, 361, 387, 452, 479, 483, 487; 2007 a. 20, 96, 97, 100; 2009 a. 2, 11, 28, 180, 185, 265, 267, 269, 276, 294, 295, 332, 401; 2011 a. 3, 15, 32; s. 13.92 (1) (b) m) 2.

4 **SECTION 4. 76.636 (1) (d) of the statutes is amended to read:**

5 **76.636 (1) (d) "Full-time job"** ~~means a regular, nonseasonal, full-time position~~  
6 ~~in which an individual, as a condition of employment, is required to work at least~~  
7 ~~2,080 hours per year, including paid leave and holidays, and for which the individual~~  
8 ~~receives pay that is equal to at least 150 percent of the federal minimum wage and~~  
9 ~~receives benefits that are not required by federal or state law. "Full-time job" does~~  
10 ~~not include initial training before an employment position begins~~ has the meaning  
11 given in s. 238.16 (1) (c).

History: 2005 a. 259; 2007 a. 20, 97; 2009 a. 180; 2011 a. 32.

**Insert 7 - 5**

12 **SECTION 5. Initial applicability.**

13 (1) This act first applies to taxable years beginning on January 1, 2012.

**Knepp, Fern**

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**From:** Yahn, Nate - DOA [Nate.Yahn@wisconsin.gov]  
**Sent:** Saturday, October 08, 2011 8:25 PM  
**To:** Knepp, Fern  
**Subject:** FW: Draft review: LRB 11-2858/1 Topic: WEDC- tax credit program changes  
**Attachments:** LRB-2858\_1.pdf; WEDC Changes to Tax Credit Bill 100811.doc

Hi Fern,

WEDC just got back to me and has requested some minor changes to the original draft that is attached.

An explanation and summary of these changes are attached as well.

Please let me know if you have any questions, and again, thanks for working on this for us.

Nate

**Nate Yahn**

*Policy Assistant for Economic Development*

*Office of the Governor*

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**From:** Basford, Sarah [Sarah.Basford@legis.wisconsin.gov]  
**Sent:** Wednesday, September 21, 2011 3:14 PM  
**To:** Yahn, Nate - DOA  
**Subject:** Draft review: LRB 11-2858/1 Topic: WEDC- tax credit program changes

**State of Wisconsin - Legislative Reference Bureau**  
**One East Main Street - Suite 200 - Madison**

**The attached draft was prepared at your request. Please review it carefully to ensure that it satisfies your intent.** If you have any questions concerning the draft or would like to have it redrafted, please contact Fern Knepp, Legislative Attorney, at (608) 261-6927, at [fern.knepp@legis.wisconsin.gov](mailto:fern.knepp@legis.wisconsin.gov), or at One East Main Street, Suite 200.

**If you would like to jacket the draft for introduction, please click on the appropriate button below. Please select only one button.** If you wish to introduce this draft in both houses please contact the drafting attorney to have a companion bill drafted.

**Jacket for the  
ASSEMBLY**

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SENATE**

**Please allow one day for jacketing. If this is a "rush" please make a note in your response e-mail**

10/12/2011



**so we are aware that we need to give this request a high priority.**

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will submit a request to DOA when the draft is introduced. You may obtain a fiscal estimate on the draft prior to introduction by contacting our program assistants at [LRB.Legal@legis.wisconsin.gov](mailto:LRB.Legal@legis.wisconsin.gov) or at (608) 266-3561. If you requested a fiscal estimate on an earlier version of this draft and would like to obtain a fiscal estimate on the current version before it is introduced, you will need to request a revised fiscal estimate from our program assistants.

**Please call our program assistants at (608) 266-3561 if you have any questions regarding this email.**

## WEDC Changes to Tax Credit Bill

### **1. Inconsistencies with employee pay requirements to be eligible for Jobs Tax Credits. S. 238.16 (1) (c)**

**Problem:** Under the Jobs Tax Credit, S. 238.16 (1) (c) defines full-time job eligibility as a job in which an individual receives pay that is equal to at least 150 percent of the federal minimum wage. This amount equals \$22,620. But, under S. 238.16 (3) (a), eligibility is defined as “an eligible employee for whom the person claims a tax credit will earn at least \$20,000 in wages from the person in the year for which the credit is claimed.” This language creates inconsistencies in determining eligibility for the Jobs Tax Credit.

In order to make the eligible employee’s minimum pay consistent, S. 238.16 (1) (c) should be changed to reflect the minimum pay of \$20,000 instead of at least 150 percent of the federal minimum wage.

**Solution:** On page 5, line 17 and 18 currently read “and holidays, and for which the individual receives pay that is equal to at least 150 percent of the federal minimum wage and benefits that are not required by federal or state law.”

Change to: “and holidays, and for which the individual receives pay that is equal to at least \$20,000 in wages and receives benefits that are not required by federal or state law.”

### **2. Add “Environmental remediation” as an eligible activity under the Economic Development Tax Credit. S. 238.302, 71.07 (2dy)**

**Problem:** Businesses are reluctant to invest in brownfield redevelopment, due to the uncertain costs of environmental remediation. As federal EPA brownfield funding decreases, there is an increased need for state incentives to assist with the redevelopment of contaminated areas.

Environmental remediation tax credits were a significant component of the former Enterprise Development Zone, Community Development Zone and Agricultural Development Zone programs. Although the environmental remediation activity was not included when those programs were consolidated as the Economic Development Tax Credit Program, restoration of this activity will provide another needed tool to help businesses expand on brownfield sites, leading to additional job growth.

**Solution:** Include “Environmental remediation” as an eligible activity under S. 238.02 and 71.07 (2dy). Language was developed for the Development Zones Credit under S. 71.07 (2dx):

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71.07 (2dx) (1) "Brownfield" means an industrial or commercial facility the expansion or redevelopment of which is complicated by environmental contamination.

71.07 (2dx) (3) "Environmental remediation" means removal or containment of environmental pollution, as defined in s. 299.01 (4), and restoration of soil or groundwater that is affected by environmental pollution, as defined in s. 299.01 (4), in a brownfield if that removal, containment or restoration fulfills the requirement under sub. (2de) (a) 1. and investigation unless the investigation determines that remediation is required and that remediation is not undertaken.

71.07 (2dx) (5) (1) Fifty percent of the amount expended for environmental remediation in a development zone.

*ignore*

### **3. Make the Economic Development Tax Credit refundable. S. 238.30-306, 71.07 (2dy)**

**Problem:** In early 2011, the Legislature recognized the importance of the Economic Development Tax Credit Program as a tool to stimulate business expansion and job growth by allocating an additional \$25 million to the program. As the Qualified Production Activities Credit is phased in, the value of non-refundable Economic Development Tax Credits decreases significantly for manufacturers and agribusinesses. Beginning in 2013, non-refundable tax credits will lose 25% of their value annually until the phase-in of the Qualified Production Activities Credit is completed. Businesses have become aware of the diminishing value of these tax credits and are beginning to reject offers of non-refundable tax credits. This effectively renders the \$65.3 million in remaining Economic Development Tax Credits virtually useless.

#### **Summary of the Qualified Production Activities Credit:**

For taxable years beginning after December 31, 2012, 2011 Act 32 created a non-refundable Qualified Production Activities Credit. The credit would equal a specified percentage of the claimant's qualified production activities income, as defined under the Internal Revenue Code, that is derived from property assessed as manufacturing or agricultural property in Wisconsin, as defined under state property tax law. Under the corporate income and franchise tax and for insurance companies, the credit would be the lesser of a specified percentage of the claimant's:

- Qualified production activities income, as defined under the federal Internal Revenue Code, derived from manufacturing or agricultural property, in Wisconsin, as defined under state property law;
- Income apportioned to Wisconsin for state corporate income and franchise tax purpose; or

- Taxable income for corporate income and franchise tax purposes.

The specified tax credit percentages are as follows:

- 1.875% for tax for tax years beginning after December 31, 2012, and before January 1, 2014;
- 3.75% for tax for tax years beginning after December 31, 2013, and before January 1, 2015;
- 5.526% for tax for tax years beginning after December 31, 2014, and before January 1, 2016;
- 7.5% for tax for tax years beginning after December 31, 2015.

Unused credits may be carried forward up to 15 years to offset future tax.

**Solution:** Effective for tax years beginning after December 31, 2012, convert all allocated and unallocated Economic Development Tax Credits from non-refundable to refundable tax credits.