



State of Wisconsin  
2011 – 2012 LEGISLATURE

January 2011 Special Session



LRBs0011/1  
JK:cjs:jf

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO ASSEMBLY BILL 3**

January 18, 2011 – Offered by JOINT COMMITTEE ON FINANCE.

1     **AN ACT** *to amend* 71.26 (2) (a) 4. and 71.45 (2) (a) 10.; and *to create* 71.05 (6)  
2           (b) 47., 71.26 (2) (a) 10., 71.28 (9s), 71.30 (3) (ex), 71.47 (9s) and 71.49 (1) (ex)  
3           of the statutes; **relating to:** income and franchise tax deductions and credits  
4           for businesses that relocate to this state and granting rule-making authority.

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

5           **SECTION 1.** 71.05 (6) (b) 47. of the statutes is created to read:

6           71.05 (6) (b) 47. a. In this subdivision, “locates to this state” means moving  
7           either 51 percent or more of the workforce payroll of the business or at least \$200,000  
8           of wages, as defined in section 3121 of the Internal Revenue Code, paid to such  
9           workforce to Wisconsin during the first taxable year to which a modification under  
10          this subdivision relates.

11          am. For taxable years beginning after December 31, 2010, for 2 consecutive  
12          taxable years beginning with the taxable year in which the claimant’s business

1 locates to this state from another state and begins doing business in this state, as  
2 defined in s. 71.22 (1r), and subject to the limitations provided under subd. 47. d. and  
3 e., the profit or loss from a trade or business as reported on federal income tax return  
4 schedules C and F or their equivalents, plus ordinary gain or loss on the sale of  
5 business assets, as determined under s. 71.01 (6), but not less than zero, multiplied  
6 by the apportionment fraction determined in s. 71.04 (4) and subject to s. 71.04 (7).

7       b. With respect to partners and members of limited liability companies, for  
8 taxable years beginning after December 31, 2010, for 2 consecutive taxable years  
9 beginning with the taxable year in which the partnership's or limited liability  
10 company's business locates to this state from another state and begins doing  
11 business in this state, as defined in s. 71.22 (1r), and subject to the limitations  
12 provided under subd. 47. d. and e., the partner's or member's distributive share of  
13 taxable income as calculated under section 703 of the Internal Revenue Code; plus  
14 the items of income and gain under section 702 of the Internal Revenue Code,  
15 including taxable state and municipal bond interest and excluding nontaxable  
16 interest income or dividend income from federal government obligations; minus the  
17 items of loss and deduction under section 702 of the Internal Revenue Code, except  
18 items that are not deductible under s. 71.21; plus guaranteed payments to partners  
19 under section 707 (c) of the Internal Revenue Code; plus the credits claimed under  
20 s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n),  
21 (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r),  
22 (5rm), and (8r); and plus or minus, as appropriate, transitional adjustments,  
23 depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and  
24 (19), multiplied by the apportionment fraction determined in s. 71.04 (4) and subject

1 to s. 71.04 (7) or by separate accounting. No amounts subtracted under this subd.  
2 47. b. may be included in the modification under par. (b) 9. or 9m.

3 c. With respect to shareholders of a tax–option corporation, for taxable years  
4 beginning after December 31, 2010, for 2 consecutive taxable years beginning with  
5 the taxable year in which the tax–option corporation’s business locates to this state  
6 from another state and begins doing business in this state, as defined in s. 71.22 (1r),  
7 and subject to the limitations provided under subd. 47. d. and e., the shareholder’s  
8 distributive share of the entity’s net income or loss as determined under this chapter,  
9 including interest income from federal, state, and municipal government  
10 obligations, multiplied by the apportionment fraction determined in s. 71.25 (6m)  
11 and subject to s. 71.25 (9) or by separate accounting. No amounts subtracted under  
12 this subdivision may be included in the modification under par. (b) 9. or 9m.

13 d. No modification may be made under this subdivision if the person,  
14 partnership, limited liability company, or tax–option corporation has done business  
15 in this state during any of the 10 taxable years preceding the first taxable year in  
16 which the modification would otherwise be allowed.

17 e. The department shall promulgate rules to administer this subdivision.

18 **SECTION 2.** 71.26 (2) (a) 4. of the statutes is amended to read:

19 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),  
20 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),  
21 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), and (8r), and (9s)  
22 and not passed through by a partnership, limited liability company, or tax–option  
23 corporation that has added that amount to the partnership’s, limited liability  
24 company’s, or tax–option corporation’s income under s. 71.21 (4) or 71.34 (1k) (g).

25 **SECTION 3.** 71.26 (2) (a) 10. of the statutes is created to read:

1           71.26 (2) (a) 10. Minus the amount computed under 71.05 (6) (b) 47. b.

2           **SECTION 4.** 71.28 (9s) of the statutes is created to read:

3           71.28 (9s) RELOCATED BUSINESS CREDIT. (a) *Definition.* In this subsection:

4           1. “Claimant” means a person who files a claim under this subsection.

5           2. “Locates to this state” means moving either 51 percent or more of the  
6 workforce payroll of the business or at least \$200,000 of wages, as defined in section  
7 3121 of the Internal Revenue Code, paid to such workforce to Wisconsin during the  
8 first taxable year to which a credit under this subsection relates.

9           (b) *Filing claims.* Subject to the limitations provided under this subsection, for  
10 taxable years beginning after December 31, 2010, for 2 consecutive taxable years  
11 beginning with the taxable year in which the claimant’s business locates to this state  
12 from another state and begins doing business in this state, a claimant may claim as  
13 a credit against the taxes imposed under s. 71.23, up to the amount of the taxes, the  
14 amount of the claimant’s tax liability under this subchapter after applying all other  
15 allowable credits, deductions, and exclusions.

16           (c) *Limitations.* 1. No person may claim a credit under this subsection if the  
17 person has done business in this state during any of the 10 taxable years preceding  
18 the first taxable year in which the person would otherwise be eligible to claim a credit  
19 under par. (b).

20           2. Partnerships, limited liability companies, and tax–option corporations may  
21 not claim the credit under this subsection.

22           (d) *Administration.* 1. Subsection (4) (g) and (h), as it applies to the credit  
23 under sub. (4), applies to the credit under this subsection.

24           2. The department shall promulgate rules to administer this subsection.

25           **SECTION 5.** 71.30 (3) (ex) of the statutes is created to read:

1           71.30 **(3)** (ex) Relocated business credit under s. 71.28 (9s).

2           **SECTION 6.** 71.45 (2) (a) 10. of the statutes is amended to read:

3           71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit  
4           computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn),  
5           (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), ~~and (8r)~~, and (9s) and not passed  
6           through by a partnership, limited liability company, or tax–option corporation that  
7           has added that amount to the partnership’s, limited liability company’s, or  
8           tax–option corporation’s income under s. 71.21 (4) or 71.34 (1k) (g) and the amount  
9           of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

10          **SECTION 7.** 71.47 (9s) of the statutes is created to read:

11          71.47 **(9s)** RELOCATED BUSINESS CREDIT. (a) *Definition.* In this subsection:

12           1. “Claimant” means a person who files a claim under this subsection.

13           2. “Locates to this state” means moving either 51 percent or more of the  
14           workforce payroll of the business or at least \$200,000 of wages, as defined in section  
15           3121 of the Internal Revenue Code, paid to such workforce to Wisconsin during the  
16           first year to which a credit under this subsection relates.

17           (b) *Filing claims.* Subject to the limitations provided under this subsection, for  
18           taxable years beginning after December 31, 2010, for 2 consecutive taxable years  
19           beginning with the taxable year in which the claimant’s business locates to this state  
20           from another state and begins doing business in this state, a claimant may claim as  
21           a credit against the taxes imposed under s. 71.43, up to the amount of the taxes, the  
22           amount of the claimant’s tax liability under this subchapter after applying all other  
23           allowable credits, deductions, and exclusions.

24           (c) *Limitations.* 1. No person may claim a credit under this subsection if the  
25           person has done business in this state during any of the 10 taxable years preceding

1 the first taxable year in which the person would otherwise be eligible to claim a credit  
2 under par. (b).

3 2. Partnerships, limited liability companies, and tax–option corporations may  
4 not claim the credit under this subsection.

5 (d) *Administration.* 1. Section 71.28 (4) (g) and (h), as it applies to the credit  
6 under s. 71.28 (4), applies to the credit under this subsection.

7 2. The department shall promulgate rules to administer this subsection.

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

9 71.49 (1) (ex) Relocated business credit under s. 71.47 (9s).

10 **SECTION 9. Nonstatutory provisions.**

11 (1) REQUIRED GENERAL FUND BALANCE. Section 20.003 (4) of the statutes does not  
12 apply to the action of the legislature in enacting this act.

13 (END)