



State of Wisconsin
2011 – 2012 LEGISLATURE

January 2011 Special Session



LRBs0012/1
JK:cjs:ph

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

8 b. With respect to partners and members of limited liability companies, for
9 taxable years beginning after December 31, 2010, for 2 consecutive taxable years
10 beginning with the taxable year in which the partnership's or limited liability
11 company's business locates to this state from another state or another country and
12 begins doing business in this state, as defined in s. 71.22 (1r), and subject to the
13 limitations provided under subd. 47. d. and e., the partner's or member's distributive
14 share of taxable income as calculated under section 703 of the Internal Revenue
15 Code; plus the items of income and gain under section 702 of the Internal Revenue
16 Code, including taxable state and municipal bond interest and excluding nontaxable
17 interest income or dividend income from federal government obligations; minus the
18 items of loss and deduction under section 702 of the Internal Revenue Code, except
19 items that are not deductible under s. 71.21; plus guaranteed payments to partners
20 under section 707 (c) of the Internal Revenue Code; plus the credits claimed under
21 s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n),
22 (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r),
23 (5rm), and (8r); and plus or minus, as appropriate, transitional adjustments,
24 depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and
25 (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 or another country and begins doing business in this state, as
7 defined in s. 71.22 (1r), and subject to the limitations provided under subd. 47. d. and
8 e., the shareholder’s distributive share of the entity’s net income or loss as
9 determined under this chapter, including interest income from federal, state, and
10 municipal government obligations, multiplied by the apportionment fraction
11 determined in s. 71.25 (6m) and subject to s. 71.25 (9) or by separate accounting. No
12 amounts subtracted under this subdivision may be included in the modification
13 under par. (b) 9. or 9m.

14 d. No modification may be made under this subdivision if the person,
15 partnership, limited liability company, or tax–option corporation has done business
16 in this state during any of the 2 taxable years preceding the first taxable year in
17 which the modification would otherwise be allowed.

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

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

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

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

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

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

4 71.28 **(9s)** RELOCATED BUSINESS CREDIT. (a) *Definition.* In this subsection:

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

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

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

17 (c) *Limitations.* 1. No person may claim a credit under this subsection if the
18 person has done business in this state during any of the 2 taxable years preceding
19 the first taxable year in which the person would otherwise be eligible to claim a credit
20 under par. (b).

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

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

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

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

2 71.30 **(3)** (ex) Relocated business credit under s. 71.28 (9s).

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

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

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

12 71.47 **(9s)** RELOCATED BUSINESS CREDIT. (a) *Definition.* In this subsection:

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

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

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

