WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO

2011 Senate Bill 463	Senate Amendments 1 and 4
Memo published: March 15, 2012	*Contact*: Mary Matthias, Senior Staff Attorney (266-0932)

CURRENT LAW

Under current law, angel investment tax credits are nonrefundable tax credits equal to 25% of a claimant's bona fide angel investment made directly in business certified by the Wisconsin Economic Development Corporation (WEDC). Early stage seed investment tax credits are nonrefundable tax credits equal to 25% of a claimant's investment paid to a fund manager that the fund manager invests in a business certified under the angel investment tax credit program. After December 31, 2010, the aggregate amount of tax credits that may be issued for the angel investment and early stage seed investment tax credit programs in a given calendar year is $20 million and $20.5 million, respectively. In addition, the angel investment tax credit program is limited to a total cap of $47.5 million.

WEDC may certify a business under the angel investment and early stage seed investment tax credit programs if the business satisfies all of the following criteria:

- It has its headquarters in this state.
- At least 51% of the employees employed by the business are employed in this state.
- It has the potential for increasing jobs in this state, increasing capital investment in this state, or both, and either of the following apply:
  - It is engaged in, or has committed to engage in, innovation in specified manufacturing, biotechnology, nanotechnology, communications, agriculture, or clean energy creation or storage technology; processing or assembling specified products using manufacturing methods that are enabled by applying proprietary technology; or services that are enabled by applying proprietary technology; or

One East Main Street, Suite 401 • P.O. Box 2536 • Madison, WI 53701-2536
(608) 266-1304 • Fax: (608) 266-3830 • Email: leg.council@legis.state.wi.us
http://www.legis.state.wi.us/lc

  - It is undertaking pre-commercialization activity related to proprietary technology that includes conducting research, developing a new product or business process, or developing a service that is principally reliant on applying proprietary technology.

- It is not primarily engaged in real estate development, insurance, banking, lending, lobbying, political consulting, professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants, wholesale or retail trade, leisure, hospitality, transportation, or construction, except construction of power production plants that derive energy from a renewable resource.

- It has fewer than 100 employees.

- It has been in operation in this state for not more than 10 consecutive years.

- It has not received an aggregate private equity investment in cash of more than $10 million prior to being certified as a qualified new business venture.

- For taxable years beginning after December 31, 2010, it has not received more than $8 million in investments that have qualified for angel investment or early stage seed investment tax credits.

Under current law, no person may receive a credit under the angel investment or early stage seed investment tax credit programs unless the person's investment is kept in a certified business, or with a certified fund manager, for no less than three years.

2011 SENATE BILL 463

2011 Senate Bill 463 makes several changes to the angel investment and early stage seed investment tax credit programs. First, it repeals the $47.5 million total limit on tax credits that may be issued under the angel investment tax credit program. It does not modify the $20 million limit on the amount of tax credits that may be awarded under that program during a given calendar year.

Second, the bill modifies the requirements for certification of businesses under the programs. Specifically, it adds a requirement that a certified business must agree to stay in Wisconsin for three years, or be subject to certain penalties. In addition, it makes the following certification requirements applicable only to the initial certification of the business:

- The requirement to have fewer than 100 employees.

- The requirement to have not received an aggregate private equity investment in cash of more than $10 million prior to being certified as a qualified new business venture.

- The requirement to have been in operation in this state for not more than 10 consecutive years.

Finally, the bill modifies a requirement under current law that a person who receives a tax credit under the angel investment or early stage seed investment tax credit programs must maintain the investment for at least three years. Specifically, it exempts investors from the three-year investment requirement in the event that the investment becomes worthless, as determined by WEDC, or a bona fide liquidity event occurs, as determined by WEDC.

Senate Amendment 1

Senate Amendment 1 to 2011 Senate Bill 463 amends several provisions in ch. 71, Stats., to account for the changes made under the bill. Specifically, it adds cross-references in ch. 71, Stats., to reflect the change under the bill that exempts investors from the requirement to maintain investments for three years in the event that the investment becomes worthless or a bona fide liquidity event occurs.

Senate Amendment 4

Senate Amendment 4 reinstates the $47.5 million total limit on tax credits that may be issued under the angel investment tax credit program.

Legislative History

Senate Amendment 1 was offered by Senator Leibham on February 23, 2012. Senate Amendment 4 was offered by Senator Leibham on March 6, 2012. On March 6, 2012, the Senate adopted both amendments on voice votes and passed the bill, as amended, on a vote of Ayes, 32; Noes, 1.

MM:ty