AN ACT to create 20.192 (1) (g), 73.16 and 238.14 of the statutes; relating to: clean technology grants and making an appropriation.

Analysis by the Legislative Reference Bureau

Under this bill, a portion of withholding taxes collected from certain “qualifying companies” is used to pay for clean technology grants. Under the bill, a qualifying company is identified by the company’s principal business activity code under the North American Industry Classification System. The bill directs the Department of Revenue (DOR) to determine in July 2012 the total amount of withholding taxes due and payable from qualifying companies for the period beginning on July 1, 2011 and ending on June 30, 2012. Then, in each fiscal year, beginning with the fiscal year that begins on July 1, 2012, DOR must credit to the appropriation for clean technology grants an amount equal to 50 percent of the withholding taxes due and payable from qualifying companies that exceeds the total amount for the period beginning on July 1, 2011 and ending on June 30, 2012. DOR may not credit any amounts to that appropriation after December 31, 2022.

Under the bill, the Wisconsin Economic Development Corporation (WEDC) is required to establish a clean technology grant program under which WEDC uses taxes collected from “qualifying companies” to provide grants to certified clean technology companies, research institutions, and organizations affiliated with research institutions that arrange for the sale or licensure of clean technology research projects (technology transfer organizations). Under the bill, WEDC may certify a clean technology company if WEDC determines that the company meets all of the following conditions:
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1. The company is a qualifying company.
2. The company’s headquarters and principal business operations are located in Wisconsin.
3. The company, including any affiliate, employs at least 75 percent of its employees in this state.
4. The company is in need of capital.
5. The company is developing clean technology or clean technology research methods, as determined by WEDC, and demonstrates to WEDC that the company has the potential to generate high levels of successful investment performance and increase employment in this state.
6. Any other condition established by WEDC.

Before making a clean technology grant to a certified clean technology company, WEDC must enter into a contract with the company that includes the following requirements:
1. The company must use the grant for research and development related to clean technology or clean technology research methods.
2. During the term of the contract, the certified clean technology company may not relocate its headquarters outside of Wisconsin without the WEDC’s approval.

The bill requires WEDC to establish criteria for awarding clean technology grants to research institutions and technology transfer organizations.

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

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

SECTION 1. 20.192 (1) (g) of the statutes is created to read:

20.192 (1) (g) Clean technology grants. All monies received under ss. 73.16 (2) (b) and 238.14 (2) (c), for the grant program under s. 238.14.

SECTION 2. 73.16 of the statutes is created to read:

73.16 Clean technologies. (1) In this section, “qualifying company” means a person whose principal business activity code in the North American Industry Classification System, 2007 edition, published by the federal office of management and budget, is one of the following: 221111, hydroelectric power generation; 221119, other electric power generation; 221330, steam and air-conditioning supply; 237110, water and sewer line and related structures construction; 237130, power and
communication line and related structures construction; 238220, plumbing, heating, and air-conditioning contractors; 311221, wet corn milling; 311222, soybean processing; 311223, other oilseed processing; 325188, all other basic inorganic chemical manufacturing; 325193, ethyl alcohol manufacturing; 325199, all other basic organic chemical manufacturing; 325221, cellulosic organic fiber manufacturing; 325311, nitrogenous fertilizer manufacturing; 325312, phosphatic fertilizer manufacturing; 325314, fertilizer (mixing only) manufacturing; 325320, pesticide and other agricultural chemical manufacturing; 325411, medicinal and botanical manufacturing; 325412, pharmaceutical preparation manufacturing; 325413, in-vitro diagnostic substance manufacturing; 325414, biological product (except diagnostic) manufacturing; 333414, heating equipment (except warm air furnaces) manufacturing; 333611, turbine and turbine generator set units manufacturing; 334413, semiconductor and related device manufacturing; 334510, electromedical and electrotherapeutic apparatus manufacturing; 334512, automatic environmental control manufacturing for residential, commercial, and appliance use; 334516, analytical laboratory instrument manufacturing; 334517, irradiation apparatus manufacturing; 335312, motor and generator manufacturing; 335911, storage battery manufacturing; 335999, all other miscellaneous electrical equipment and component manufacturing; 336111, automobile manufacturing; 339112, surgical and medical instrument manufacturing; 339113, surgical appliance and supplies manufacturing; 339114, dental equipment and supplies manufacturing; 339115, ophthalmic goods manufacturing; 339116, dental laboratories; 423720, plumbing and heating equipment and supplies (hydronics) merchant wholesalers; 541380, testing laboratories; 541620, environmental consulting services; 541690, other scientific and technical consulting services;
541712, research and development in the physical engineering and life sciences (except biotechnology); 621511, medical laboratories; or 621512, diagnostic imaging centers.

(2) (a) In July 2012, the department of revenue shall determine the total amount of withholding taxes due and payable under subch. X of ch. 71 from qualifying companies during the period beginning on July 1, 2011, and ending on June 30, 2012.

(b) Subject to par. (d), in each fiscal year, beginning with the fiscal year that begins on July 1, 2012, the department of revenue shall credit to the appropriation account under s. 20.192 (1) (g) an amount equal to 50 percent of the amount of withholding taxes due and payable under subch. X of ch. 71 from qualifying companies in that fiscal year that exceeds the amount determined under par. (a). The department may credit such amounts on a quarterly basis based on the department’s estimate of the withholding taxes due and payable by qualifying companies.

(c) A person who is subject to withholding taxes under subch. X of ch. 71 shall indicate to the department of revenue whether it is a qualifying company for purposes of this section in the manner determined by the department.

(d) The department of revenue may not credit amounts under this section on or after December 31, 2022.

SECTION 3. 238.14 of the statutes is created to read:

238.14 Clean technology grants. (1) Definitions. In this section:

(a) “Certified clean technology company” means a person certified by the corporation under sub. (3).

(b) “Qualifying company” has the meaning given in s. 73.16 (1).
(c) “Research institution” means an entity located and operating in this state that is any of the following:

1. A nonprofit, accredited institution of higher education.
2. A nonprofit teaching hospital.
3. A private, nonprofit medical and research center.

(d) “Technology transfer organization” means an entity located and operating in this state that is affiliated with a research institution that arranges for the sale or licensure of a clean technology research project to a third-party entity, which is commonly a commercial enterprise, and to which the research institution has delegated the responsibility for technology transfer.

(2) **GRANTS.** (a) The corporation shall develop and implement a program to award clean technology grants to certified clean technology companies, research institutions, and technology transfer organizations from the appropriation under s. 20.192 (1) (g) for the purpose of developing clean technologies with the intent of accelerating the development of new products and services.

(b) Before awarding a grant to a certified clean technology company under the program established under par. (a), the corporation shall enter into a contract with the certified clean technology company. In addition to any other terms required or negotiated by the corporation, the contract shall include all of the following conditions:

1. The certified clean technology company shall use the grant for research and development related to clean technology or clean technology research methods, as determined by the corporation.
2. Unless approved by the corporation, the certified clean technology company may not relocate its headquarters outside of this state during the term of the contract under this paragraph.

(c) The corporation may charge a fee to a research institution or technology transfer organization that applies for a grant under the program established under par. (a) or to an applicant for certification under sub. (3). Fees collected under this paragraph shall be credited to the appropriation account under s. 20.192 (1) (g).

(3) Certified clean technology companies. (a) Application. A person may apply to the corporation on a form prescribed by the corporation for certification under this subsection. The application shall include all of the following:

1. The name, address, and tax identification number of the person.

2. A description of the principal business activities of the person and the locations at which those activities are conducted.


4. Any other information the corporation requires.

(b) Certification. The corporation may certify a person that submits an application under par. (a) to be eligible to receive a grant under this section if the corporation determines that the person meets all of the following conditions:

1. The person is a qualifying company.

2. The person is headquartered in, and has its principal business operations located in, this state.

3. The person, including any affiliate, employees at least 75 percent of its employees in this state.
4. The person is in need of capital.

5. The person is developing clean technology or clean technology research methods, as determined by the corporation, and the person demonstrates to the corporation’s satisfaction that the person has the potential to generate high levels of successful investment performance and to increase employment in this state.

6. The person meets any other conditions established by the corporation.

(4) POLICIES AND PROCEDURES. The corporation shall establish policies and procedures for the administration of this section, including policies and procedures related to all of the following:

(a) Criteria for determining the amount of individual grants awarded under the program established under sub. (2).

(b) Eligibility criteria for awarding grants to research institutions and technology transfer organizations under the program established under sub. (2).