



2013 SENATE BILL 449

1 **AN ACT** *to create* 238.3045 of the statutes; **relating to:** authorizing the transfer
2 of certain tax credits earned in connection with economic development in this
3 state.

Analysis by the Legislative Reference Bureau

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

4 **SECTION 1.** 238.3045 of the statutes is created to read:
5 **238.3045 Transferability of tax benefits.** (1) APPLICATION AND CORPORATION
6 APPROVAL. (a) An applicant for certification for tax benefits under s. 238.301 may
7 submit with its application under s. 238.301 (1) an application to the corporation on
8 a form prescribed by the corporation to transfer those tax benefits to another person
9 under this section. The application shall include the name, address, and tax
10 identification number of the person to whom the applicant intends to transfer the tax

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1 benefits and any other information the corporation requires. The corporation shall
2 notify the applicant of the corporation's determination concerning the transfer of tax
3 benefits when the corporation notifies the applicant of the corporation's certification
4 determination under s. 238.301.

5 (b) The corporation may approve the transfer of tax benefits under this section
6 if the corporation certifies the applicant under par. (a) for tax benefits under s.
7 238.301 and finds that the applicant meets at least one of the following conditions:

8 1. Is headquartered and employs at least 51 percent of its employees in this
9 state.

10 2. Intends to relocate its headquarters to this state and employ at least 51
11 percent of its employees in this state.

12 3. Intends to expand its operations in this state, and that expansion will result
13 in an increase in the number of full-time employees employed by the applicant in
14 this state in an amount equal to at least 10 percent of the applicant's full-time
15 workforce in this state at the time of application.

16 4. Intends to expand its operations in this state, and that expansion will result
17 in the applicant making a significant capital investment in property located in this
18 state, as determined by the corporation.

19 (c) 1. Subject to subd. 2., a person that receives an approval under par. (b) shall
20 transfer tax benefits in accordance with the terms of the application under par. (a)
21 after the corporation authorizes the person to claim tax benefits under s. 238.303 (2)
22 and provides the notice of eligibility under s. 238.303 (3). The notice of eligibility
23 shall contain all relevant information concerning a transfer of tax benefits under this
24 section. The person to whom tax benefits are transferred may carry forward,
25 beginning on the date of the notice of eligibility, any unused amount of the value of

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1 those tax benefits as provided under the appropriate provision in ch. 71 or in s.
2 76.636.

3 2. Tax benefits may be transferred under this paragraph only in exchange for
4 some consideration, other than money, in connection with the eligible activity for
5 which the tax benefits were initially awarded.

6 **(2) REVOCATION.** (a) If the corporation revokes a person's certification for tax
7 benefits under s. 238.305, and, at the time of revocation, that person has transferred
8 those tax benefits under this section, that person shall be liable for the full value of
9 the tax benefits, and the person to whom the tax benefits were transferred may not
10 claim any tax benefits that were not claimed prior to revocation.

11 (b) The corporation shall notify the department of revenue of a revocation of tax
12 benefits subject to par. (a), including the value of the tax benefits for which the person
13 is liable.

14 (c) The department of revenue has full power to administer tax benefits
15 transferred under this section and may take any action, conduct any proceeding, and
16 proceed as it is authorized in respect to income and franchise taxes imposed under
17 ch. 71. The income and franchise tax provisions in ch. 71 relating to assessments,
18 refunds, appeals, collection, interest, and penalties apply to tax benefits transferred
19 under this section.

20 **(3) ANNUAL REPORT.** Annually, the corporation shall submit a report to the joint
21 committee on finance that provides a detailed assessment of the progress to date of
22 the program under this section.

23 **(4) PROGRAM LIMITS AND TERMINATION.** (a) Except as provided in par. (b), the
24 corporation may not authorize the transfer of tax benefits under this section that
25 total more than \$15,000,000, and the corporation may not authorize the transfer of

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1 tax benefits after 36 months after the effective date of this paragraph [LRB inserts
2 date].

3 (b) Upon expiration of the 36-month period under par. (a), the corporation may
4 continue to authorize the transfer of tax benefits under this section for up to an
5 additional 36 months, and the corporation may authorize the transfer of up to an
6 additional \$15,000,000 in tax benefits, if the corporation determines that a
7 continuation of the program under this section will promote significant economic
8 development in this state. Before the corporation authorizes the transfer of tax
9 benefits under this paragraph, the chief executive officer of the corporation shall
10 notify the joint committee on finance in writing that the corporation intends to
11 continue authorizing the transfer of tax benefits under this section. That notice shall
12 state the reasons supporting the corporation's determination that the transfer of
13 additional tax benefits will promote significant economic development in this state.
14 If, within 14 working days after the date of that notice, the cochairpersons of the
15 committee do not notify the corporation that the committee has scheduled a meeting
16 to review the corporation's proposed continuation of the program, the corporation
17 may proceed to authorize the transfer of additional tax benefits under this section.
18 If, within 14 working days after the date of that notice, the cochairpersons of the
19 committee notify the corporation that the committee has scheduled a meeting to
20 review the proposed continuation of the program, the corporation may proceed to
21 authorize the transfer of additional tax benefits only upon approval of the committee.

SECTION 2. Initial applicability.

22 (1) This act first applies to taxable years beginning on January 1, 2014.

24 (END)