2013 ASSEMBLY BILL 761

February 13, 2014 – Introduced by Representatives KUGLITSCH, KAHL, KNODL, RIPP and A. OTT. Referred to Committee on Jobs, Economy and Mining.

1 AN ACT to create 238.15 (3) (dm) of the statutes; relating to: the allocation of unused early stage seed investment credits.

Analysis by the Legislative Reference Bureau

Under this bill, the Wisconsin Economic Development Corporation (WEDC) may allocate at least 25 percent, but no more than 50 percent, of the unallocated early stage seed investment tax credits to certified investment fund managers so that the fund managers may allocate the credits to persons who make investments in certified businesses for which early stage seed investment credits may be claimed. A fund manager who receives the unallocated credits must allocate the entire amount to investors and no investor may claim the credits unless the total amount committed for investment equals or exceeds 100 percent of the amount of the credits allocated to the fund manager. Under the bill, the fund manager must pay 50 percent of all distributions from the investments as a return of capital, or a return on capital, to the state, less the amount of certain fees and costs.

Under the bill, a fund manager who receives unallocated early stage seed investment credits must report to WEDC the subsequent allocation of those credits no later than 10 days after the fund manager allocates the credits to investors. WEDC then submits the report to the joint committee on finance. The fund manager must also submit an annual report to WEDC that contains the name of each business receiving an investment and the investment amount, the number of jobs created or retained by the business, and any other information required by WEDC. WEDC also submits that report to the joint committee on finance.
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. 238.15 (3) (dm) of the statutes is created to read:

238.15 (3) (dm)  Reallocation. 1. Beginning in 2014, and in each year thereafter, the corporation may allocate at least 25 percent, but no more than 50 percent, of the unallocated credits under ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and 76.638 to investment fund managers certified under sub. (2) so that the fund managers may allocate the credits to persons who make investments in businesses certified under sub. (1) and for which credits may be claimed under s. 71.07 (5b), 71.28 (5b), 71.47 (5b), or 76.638. A certified investment fund manager wishing to receive unallocated credits under this paragraph shall apply for the credits in the manner provided by the corporation. A fund manager who receives unallocated credits under this subdivision shall allocate the entire amount to investors and no investor may claim such credits unless the total amount committed for investment by the investors and the fund equals or exceeds 100 percent of the amount of the credits allocated to the fund manager. The corporation shall certify the amount of matching capital that is invested in order to meet this requirement and that capital shall not be subject to the distribution provided in subd. 3. The corporation shall not consider the reinvestment of any proceeds of a prior investment under this subdivision as matching capital.

2. For purposes of this paragraph, a fund manager shall make investments in businesses certified under sub. (1) no later than 3 years after the date on which the fund manager allocates credits received under subd. 1. The fund manager shall keep
the investments invested in one or more businesses certified under sub. (1) for 5 years.

3. With regard to the investments made as provided under this paragraph, the fund manager shall pay 50 percent of all distributions as a return of capital, or a return on capital, to the state, less the following amounts:

a. Management fees not exceeding 2 percent a year on the amount of capital invested in businesses certified under sub. (1).

b. Reasonable costs and expenses for professional services, including legal and accounting services, related to forming and operating the fund.

c. Tax distributions to equity owners related to any projected increase in federal or state taxes.

d. An amount equal to a matching capital contribution, plus 5 percent of that amount.

4. A fund manager who receives credits under subd. 1. shall retain the services of an independent 3rd party to evaluate the effectiveness of the reallocation of credits as provided under this paragraph and to ensure that funds are timely disbursed, that investments are made in businesses certified under sub. (1), and that profits are reported and disbursed under subd. 3. Annually, the independent 3rd party shall submit its evaluation to the fund manager and to the corporation and the corporation shall submit the evaluation to the joint committee on finance.

5. If a fund manager or investor fails to comply with the requirements under subd. 2., the corporation shall rescind the allocation of credits to the fund manager and recapture the amount of any such credits claimed by the investor, in the manner determined by the corporation.
6. The corporation may allocate credits as provided under subd. 1. only if all of the following apply:

   a. The corporation notifies the joint committee on finance in writing of its proposed allocation.

   b. The cochairpersons of the joint committee on finance either fail to notify the corporation, within 14 working days after the date of the corporation’s notification under subd. 6. a., that the committee has scheduled a meeting for the purpose of reviewing the proposed allocation or the cochairpersons of the joint committee on finance notify the corporation that the committee has approved the proposed allocation.

7. The corporation shall notify the department of revenue of all credits allocated to fund managers under this paragraph and the fund managers shall notify the corporation and the department of all such credits allocated to investors.

8. A fund manager who receives credits under subd. 1 shall report the allocation of credits to the corporation no later than 10 days after the allocation. The corporation shall provide the report to the joint committee on finance. On or before January 31 of each year, beginning in 2015, a fund manager who allocates credits received under subd. 1. shall submit an annual report to the corporation, prepared by an independent certified public accounting firm, containing the name of each business receiving an investment and the investment amount, the number of jobs created or retained by the business, and any other information required by the corporation. The corporation shall provide the annual report to the joint committee on finance as soon as possible after the corporation receives the report.