

Fiscal Estimate - 2023 Session

Original Updated Corrected Supplemental

LRB Number 23-2470/1	Introduction Number SB-0162
Description a sole proprietor employee tax credit and granting rule-making authority	
Fiscal Effect	
State: <input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations </div> <div style="width: 30%;"> <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues </div> <div style="width: 30%;"> <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs </div> </div>	
Local: <input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> 1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> <div style="width: 30%;"> 3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> <div style="width: 30%;"> 5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts </div> </div>	
Fund Sources Affected Affected Ch. 20 Appropriations <input type="checkbox"/> GPR <input checked="" type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	
Agency/Prepared By DOA/ Chris Paul (608) 264-9775	Authorized Signature Robin Malicki (608) 264-9576
Date 5/23/2023	

Fiscal Estimate Narratives

DOA 5/23/2023

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Description a sole proprietor employee tax credit and granting rule-making authority					

Assumptions Used in Arriving at Fiscal Estimate

Senate Bill 162 (SB-162) creates a tax credit program administered by the Wisconsin Economic Development Corporation (WEDC) for sole proprietors to receive tax credits for the first full-time employee employed by their sole proprietorship. This nonrefundable credit would cover 100% of wages paid to the eligible employee, or \$10,000, whichever is less, in the first taxable year of hire. In the second taxable year of employment this credit would be an amount equal to 50% of that employee's wages, or \$5,000, whichever is less. In the third and final taxable year, the credit would be an amount equal to 25% of that employee's wages, or \$2,500, whichever is less. The maximum credit that all sole proprietors may claim in all taxable years is \$20 million and the Wisconsin Department of Revenue (DOR) must prorate the amount allowed to each claimant if it exceeds the total lifetime limit (of \$20 million).

The U.S. Department of the Treasury (Treasury) issued a Final Rule (FR) to implement the Coronavirus State and Local Fiscal Recovery Fund (SLFRF) under section 602 of the Social Security Act, as amended by the federal American Rescue Plan Act of 2021 (ARPA). The State's Recovery Fund amount under the program is \$2,533,160,626.50, and the Department of Administration (Department) is responsible for its administration.

Under ARPA, states are prohibited from utilizing funds under the SLFRF program to either directly or indirectly fund tax reductions (the "tax offset" provision). To enforce the tax offset provision of ARPA, Treasury promulgated a rule that specified the circumstances that would constitute a breach of the statutory prohibition against utilizing SLFRF distributions to fund tax reductions and therefore require repayment of SLFRF funds distributed by the federal government up to the violation amount. The rule created several concepts that govern the analysis of whether a tax reduction would be a violation that would trigger repayment.

The first of these is a concept of "baseline tax revenue" that is defined as Fiscal Year 2018-19 tax revenue, as specified by the U.S. Census Bureau definition of state tax revenue, adjusted in each subsequent fiscal year by the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States. The Census Bureau definition of state tax revenue includes a variety of taxes and fees that are not included in Wisconsin's definition of general fund tax revenue and is therefore meaningfully more expansive. Among other revenue sources included in this definition are motor fuel taxes, motor vehicle registration and title fees, the economic development surcharge, a variety of professional licensing fees and natural resource fees.

The second of these is a concept of a "covered change," that involves reductions in net taxes that result from a reduction in rates, a rebate, deduction, a credit or otherwise enacted after March 3, 2021, that exceed a de minimis threshold of 1 percent of baseline tax revenue.

If a state reports actual revenues that are below the reported baseline tax revenues for a fiscal year, two tests are conducted to determine whether a state must repay SLFRF distributions to the federal government due to a breach of the tax offset provision. The first test is whether there are "covered changes". Since the State of Wisconsin has already enacted more than \$1 billion annually in covered tax changes in tax reductions since March 3, 2021, this condition would be satisfied, and this bill would also constitute a covered change under the Treasury rule. If there are covered changes, the second test is whether the state has (1) sufficient organic revenue growth above the baseline or (2) offsetting revenue increases and spending reductions to fund the covered tax changes.

The Department is responsible for regular reporting to Treasury related to compliance with these provisions.

The organic revenue growth in excess of the inflation-adjusted baseline tax revenues for the current fiscal year and the following two fiscal years are as follows under current estimates of tax revenues and fees subject to the Census Bureau definition of taxes as well as current economic assumptions:

Fiscal Year 2022-23: \$981.6 million

Fiscal Year 2023-24: \$542.7 million

Fiscal Year 2024-25: \$918.0 million

DOR estimates that the bill's provisions would reduce tax collections by approximately \$13.3 million in tax year 2023 and would reach the \$20 million limit in 2024, requiring DOR to prorate credit amounts to allocate the balance of the credit in that year. As such, there is no anticipated fiscal impact to the Department resulting from SB-162, if analyzed independent of any other tax change.

Any additional tax changes adopted by the Legislature for these fiscal years would need to be assessed in sum total with this bill to determine whether and to what extent repayment would be required, such as tax revenue increases that would offset the total State Recovery Fund repayment required herein.

If the sum total of this bill as well as additional tax changes implemented during the covered period exceed the estimated remaining organic revenue growth and there is an absence of offsetting covered tax revenue increases or expenditure reductions, this bill and other tax changes would cause the state to breach the statutory prohibition against utilizing SLFRF to fund tax reductions. In the event that sufficient tax reduction legislation is enacted to reduce revenues below the inflation-adjusted baseline, the enactment of this bill and other bills would force the repayment of the deficiency in revenues relative to the baseline up to a maximum cumulative exposure of the \$2.5 billion State Recovery Fund amount.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2023 Session

Detailed Estimate of Annual Fiscal Effect

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Description a sole proprietor employee tax credit and granting rule-making authority	
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):	
II. Annualized Costs:	
	Annualized Fiscal Impact on funds from:
	Increased Costs Decreased Costs
A. State Costs by Category	
State Operations - Salaries and Fringes	\$
(FTE Position Changes)	
State Operations - Other Costs	
Local Assistance	
Aids to Individuals or Organizations	
TOTAL State Costs by Category	\$
B. State Costs by Source of Funds	
GPR	
FED	
PRO/PRS	
SEG/SEG-S	
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)	
	Increased Rev
	Decreased Rev
GPR Taxes	\$
GPR Earned	
FED	
PRO/PRS	
SEG/SEG-S	
TOTAL State Revenues	\$
NET ANNUALIZED FISCAL IMPACT	
	<u>State</u>
	<u>Local</u>
NET CHANGE IN COSTS	\$
NET CHANGE IN REVENUE	\$
Agency/Prepared By	
Authorized Signature	
Date	
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	5/23/2023