



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-0935/P5
JK&ZDW:wlj/cjs/jld:rs

DOA:.....Quinn, BB0305 – Historic rehabilitation tax credit annual award
cap and technical modifications

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

COMMERCE AND ECONOMIC DEVELOPMENT

ECONOMIC DEVELOPMENT

Under current law, WEDC may certify a person to claim a state tax credit to supplement the federal historic rehabilitation tax credit. Under the bill, FWDA may certify up to \$10,000,000 in any year for this tax credit and must adopt policies and procedures for evaluating claims and certifying credits. Under the bill, FWDA may not certify a person for the credit if the person has no state income tax liability, except that FWDA may certify a nonprofit entity for the credit if the nonprofit entity intends to transfer the credit to a person who has a tax liability.

The bill also requires a person to report to FWDA the number of full-time jobs created by the activity for which the person claimed a credit. If the activity creates fewer jobs than projected, the person must repay to DOR any amount of the credit in proportion to the number of jobs created compared to the number projected. In addition, if a person who claims both the state credit and the federal credit is required to repay the federal credit, the person must also repay the state credit.

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. 71.07 (9m) (i) of the statutes is created to read:

71.07 **(9m)** (i) 1. a. Except as provided in subd. 1. b., if the activity for which a person claims a credit under this subsection creates fewer full-time jobs than projected under s. 235.17 (3) (a), as reported to the department under s. 235.17 (4), the person who claimed the credit shall repay to the department any amount of the credit claimed, as determined by the department, in proportion to the number of full-time jobs created compared to the number of full-time jobs projected.

b. For purposes of subd. 1. a., the person who initially sells or transfers a credit under par. (h) is responsible for repaying the credit.

2. If a person who claims a credit under this subsection and a credit under section 47 of the Internal Revenue Code for the same qualified rehabilitation expenditures is required to repay the full amount of the credit claimed under section 47 of the Internal Revenue Code, the person shall repay to the department the amount of the credit claimed under this subsection.

SECTION 2. 71.28 (6) (i) of the statutes is created to read:

71.28 **(6)** (i) 1. a. Except as provided in subd. 1. b., if the activity for which a person claims a credit under this subsection creates fewer full-time jobs than projected under s. 235.17 (3) (a), as reported to the department under s. 235.17 (4), the person who claimed the credit shall repay to the department any amount of the credit claimed, as determined by the department, in proportion to the number of full-time jobs created compared to the number of full-time jobs projected.

b. For purposes of subd. 1. a., the person who initially sells or transfers a credit under par. (h) is responsible for repaying the credit.

2. If a person who claims a credit under this subsection and a credit under section 47 of the Internal Revenue Code for the same qualified rehabilitation expenditures is required to repay the full amount of the credit claimed under section 47 of the Internal Revenue Code, the person shall repay to the department the amount of the credit claimed under this subsection.

SECTION 3. 71.47 (6) (i) of the statutes is created to read:

71.47 (6) (i) 1. a. Except as provided in subd. 1. b., if the activity for which a person claims a credit under this subsection creates fewer full-time jobs than projected under s. 235.17 (3) (a), as reported to the department under s. 235.17 (4), the person who claimed the credit shall repay to the department any amount of the credit claimed, as determined by the department, in proportion to the number of full-time jobs created compared to the number of full-time jobs projected.

b. For purposes of subd. 1. a., the person who initially sells or transfer a credit under par. (h) is responsible for repaying the credit.

2. If a person who claims a credit under this subsection and a credit under section 47 of the Internal Revenue Code for the same qualified rehabilitation expenditures is required to repay the full amount of the credit claimed under section 47 of the Internal Revenue Code, the person shall repay to the department the amount of the credit claimed under this subsection.

SECTION 4. 235.17 (1) (b) of the statutes is created to read:

235.17 (1) (b) The authority may not certify a person for a tax credit under this subsection if the person is not subject to the taxes imposed under s. 71.02, 71.08, 71.23, or 71.43, except that the authority may certify a nonprofit entity described

under section 501 (c) (3) of the Internal Revenue Code for a tax credit under this subsection if the entity intends to sell or otherwise transfer the credit, as provided under s. 71.07 (9m) (h), 71.28 (6) (h), or 71.47 (6) (h).

****NOTE: This is reconciled s. 235.17 (1) (b). This SECTION has been affected by drafts with the following LRB numbers: -0935/P4 and -1215/P2.

SECTION 5. 235.17 (2) of the statutes is created to read:

235.17 (2) The authority may certify up to \$10,000,000 in tax credits under sub. (1) in any calendar year.

****NOTE: This is reconciled s. 235.17 (2). This SECTION has been affected by drafts with the following LRB numbers: -0935/P4 and -1215/P2.

SECTION 6. 235.17 (3) of the statutes is created to read:

235.17 (3) In determining whether to certify a person for a tax credit under sub. (1), the authority shall consider all of the following with respect to the activity for which the tax credit is claimed:

- (a) The number of full-time jobs that may be created.
- (b) The anticipated benefit to the state of the activity relative to the cost to the state of the tax credit.
- (c) The projected impact of the activity on the local economy.
- (d) Whether the activity or investments associated with the activity would occur without the tax credit.
- (e) The number of tax credits that have been certified under sub. (1) in the same county or municipality in prior years.

****NOTE: This is reconciled s. 235.17 (3). This SECTION has been affected by drafts with the following LRB numbers: -0935/P4 and -1215/P2.

SECTION 5. 235.17 (4) of the statutes is created to read:

235.17 (4) For 4 years following receipt of a tax credit under sub. (1), the original claimant shall report to the authority the total number of full-time jobs

created by the activity for which the credit was claimed. The authority shall report to the department of revenue, at least once each calendar quarter, any claimant whose activity created fewer full-time jobs than projected under sub. (3) (a). The authority shall report to the department of revenue the name, address, and tax identification number of the claimant, and the number of full-time jobs projected and created.

****NOTE: This is reconciled s. 235.17 (4). This SECTION has been affected by drafts with the following LRB numbers: -0935/P4 and -1215/P2.

SECTION 7. 235.17 (5) of the statutes is created to read:

235.17 (5) The authority shall adopt policies and procedures for the administration of this section, including all of the following:

- (a) Process by which applicants may apply for certification under sub. (1).
- (b) Certification of the tax credit, in accordance with sub. (3).
- (c) Reporting requirements for certified claimants.
- (d) Process and criteria for revocation of certification.

****NOTE: This is reconciled s. 235.17 (5). This SECTION has been affected by drafts with the following LRB numbers: -0935/P4 and -1215/P2.

SECTION 9352. Initial applicability; Other.

(1) HISTORIC REHABILITATION TAX CREDIT. The creation of sections 71.07 (9m) (i), 71.28 (6) (i), 71.47 (6) (i), and 235.17 (1) (b), (2), (3), (4), and (5) of the statutes first applies to taxable years beginning on January 1, 2016.

SECTION 9452. Effective dates; Other.

(1) HISTORIC REHABILITATION TAX CREDIT. The creation of sections 71.07 (9m) (i), 71.28 (6) (i), 71.47 (6) (i), and 235.17 (1) (b), (2), (3), (4), and (5) of the statutes takes effect on January 1, 2016.

(END)