



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-0997/P6
JK&MPG:kjf:jm

DOA:.....Quinn, BB0318 - Jobs credit and economic development credit consolidation

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

Under current law, a person may claim the economic development tax credit for eligible activities in economically distressed areas of the state, as determined by WEDC. Currently, a person may also claim a jobs tax credit equal to 10 percent of the wages paid to employees whose wages satisfy certain thresholds. Both credits are administered by WEDC.

This bill eliminates the economic development tax credit and the jobs tax credit and creates the business development credit, which is a refundable tax credit. Under the business development credit, a person certified by FWDA may claim all of the following:

1. An amount equal to up to 10 percent of the amount of wages that the person paid to an employee in a full-time position in a taxable year.
2. An amount equal to up to 5 percent of the amount of wages that the person paid to an employee in a full-time position in a taxable year, if the eligible position is offered at the claimant's business in an economically distressed area, as determined by FWDA.
3. An amount equal to up to 50 percent of the person's costs incurred to undertake certain job-training activities.

4. An amount equal to up to 3 percent of the person's personal property investment and 5 percent of the person's real property investment in certain capital investment projects.

5. An amount determined by the corporation as a percentage of wages paid to a full-time employee performing corporate headquarters functions if the person locates or retains its headquarters in Wisconsin.

FWDA may allocate up to \$10,000,000 to the business development tax credit in any calendar year and may carry forward unused amounts.

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

SECTION 1. 20.835 (2) (bg) of the statutes is created to read:

20.835 (2) (bg) *Business development credit.* A sum sufficient to make the payments under ss. 71.07 (3y) (d) 2., 71.28 (3y) (d) 2., and 71.47 (3y) (d) 2.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 2. 71.05 (6) (a) 15. of the statutes is amended to read:

71.05 (6) (a) 15. Except as provided under s. 71.07 (3p) (c) 5., the amount of the credits computed under s. 71.07 (~~2dd~~), (~~2de~~), (~~2di~~), (~~2dj~~), (~~2dL~~), (2dm), (~~2dr~~), (~~2ds~~), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (3y), (4k), (4n), (5e), (5f), (5h), (5i), (5j), (5k), (5r), (5rm), (6n), and (8r) and not passed through by a partnership, limited liability company, or tax-option corporation that has added that amount to the partnership's, company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

****NOTE: This is reconciled s. 71.05 (6) (a) 15. This SECTION has been affected by drafts with the following LRB numbers:-0997/P3 and -1018/P1.

SECTION 3. 71.07 (2dy) (d) 4. of the statutes is created to read:

71.07 (2dy) (d) 4. Credits claimed under this subsection for taxable years beginning after December 31, 2008, and before January 1, 2016, may be carried forward for taxable years beginning after December 31, 2015.

SECTION 4. 71.07 (3q) (d) 3. of the statutes is created to read:

71.07 (3q) (d) 3. Credits claimed under this subsection for taxable years beginning after December 31, 2008, and before January 1, 2016, may be carried forward for taxable years beginning after December 31, 2015.

SECTION 5. 71.07 (3y) of the statutes is created to read:

71.07 (3y) BUSINESS DEVELOPMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person certified to receive tax benefits under s. 235.308.
2. "Eligible position" has the meaning given in s. 235.308 (1) (a).

(b) *Filing claims.* Subject to the limitations provided in this subsection and s. 235.308, for taxable years beginning after December 31, 2015, a claimant may claim as a credit against the tax imposed under ss. 71.02 and 71.08 all of the following:

1. The amount of wages that the claimant paid to an employee in an eligible position in the taxable year, not to exceed 10 percent of such wages, as determined by the Forward Wisconsin Development Authority under s. 235.308.

2. The amount of wages that the claimant paid to an employee in an eligible position in the taxable year, not to exceed 5 percent of such wages, if the employee is employed in an eligible position at the claimant's business in an economically distressed area, as determined by the Forward Wisconsin Development Authority.

3. The amount of training costs that the claimant incurred under s. 235.305 (4) (a) 3., not to exceed 50 percent of such costs, as determined by the Forward Wisconsin Development Authority.

4. The amount of the personal property investment, not to exceed 3 percent of such investment, and the amount of the real property investment, not to exceed 5 percent of such investment, in a capital investment project that satisfies s. 235.308 (4) (a) 4., as determined by the Forward Wisconsin Development Authority.

(c) *Limitations.* 1. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interests.

2. No credit may be allowed under this subsection unless the claimant includes with the claimant's return a copy of the claimant's certification for tax benefits under s. 235.308.

(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under ss. 71.02 and 71.08, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bg).

SECTION 6. 71.08 (1) (intro.) of the statutes is amended to read:

71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married couple filing jointly, trust, or estate under s. 71.02, not considering the credits under ss. 71.07 (1), ~~(2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2dy), (3m), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (3y), (4k), (5b), (5d), (5e), (5f), (5h), (5i), (5j), (5n), (6), (6e), (8r), (9e), (9m), and (9r), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3), (3n), (3t), and (3w), 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx),~~

(1dy), (2m), (3), (3n), (3t), and (3w), 71.57 to 71.61, and 71.613 and subch. VIII and payments to other states under s. 71.07 (7), is less than the tax under this section, there is imposed on that natural person, married couple filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative minimum tax computed as follows:

****NOTE: This is reconciled s. 71.08 (1) (intro.). This SECTION has been affected by drafts with the following LRB numbers:-0997/P3 and -1018/P1.

SECTION 7. 71.10 (4) (i) of the statutes is amended to read:

71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland preservation credit under ss. 71.57 to 71.61, farmland preservation credit, 2010 and beyond under s. 71.613, homestead credit under subch. VIII, farmland tax relief credit under s. 71.07 (3m), dairy manufacturing facility investment credit under s. 71.07 (3p), jobs tax credit under s. 71.07 (3q), meat processing facility investment credit under s. 71.07 (3r), woody biomass harvesting and processing credit under s. 71.07 (3rm), food processing plant and food warehouse investment credit under s. 71.07 (3rn), business development credit under s. 71.07 (3y), film production services credit under s. 71.07 (5f), film production company investment credit under s. 71.07 (5h), veterans and surviving spouses property tax credit under s. 71.07 (6e), enterprise zone jobs credit under s. 71.07 (3w), beginning farmer and farm asset owner tax credit under s. 71.07 (8r), earned income tax credit under s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes withheld under subch. X.

SECTION 8. 71.21 (4) (a) of the statutes is amended to read:

71.21 (4) (a) The amount of the credits computed by a partnership under s. 71.07 (~~2dd~~), (~~2de~~), (~~2di~~), (~~2dj~~), (~~2dL~~), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (3y), (4k), (4n), (5e), (5f), (5g), (5h), (5i), (5j), (5k),

(5r), (5rm), (6n), and (8r) and passed through to partners shall be added to the partnership's income.

****NOTE: This is reconciled s. 71.21 (4) (a). This SECTION has been affected by drafts with the following LRB numbers:-0997/P3 and -1018/P1.

SECTION 9. 71.28 (1dy) (d) 4. of the statutes is created to read:

71.28 **(1dy)** (d) 4. Credits claimed under this subsection for taxable years beginning after December 31, 2008, and before January 1, 2016, may be carried forward for taxable years beginning after December 31, 2015.

SECTION 10. 71.28 (3q) (d) 3. of the statutes is created to read:

71.28 **(3q)** (d) 3. Credits claimed under this subsection for taxable years beginning after December 31, 2008, and before January 1, 2016, may be carried forward for taxable years beginning after December 31, 2015.

SECTION 11. 71.28 (3y) of the statutes is created to read:

71.28 **(3y)** BUSINESS DEVELOPMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person certified to receive tax benefits under s. 235.308.
2. "Eligible position" has the meaning given in s. 235.308 (1) (a).

(b) *Filing claims.* Subject to the limitations provided in this subsection and s. 235.308, for taxable years beginning after December 31, 2015, a claimant may claim as a credit against the tax imposed under ss. 71.02 and 71.08 all of the following:

1. The amount of wages that the claimant paid to an employee in an eligible position in the taxable year, not to exceed 10 percent of such wages, as determined by the Forward Wisconsin Development Authority under s. 235.308.

2. The amount of wages that the claimant paid to an employee in an eligible position in the taxable year, not to exceed 5 percent of such wages, if the employee

is employed in an eligible position at the claimant's business in an economically distressed area, as determined by the Forward Wisconsin Development Authority.

3. The amount of training costs that the claimant incurred under s. 235.308 (4) (a) 3., not to exceed 50 percent of such costs, as determined by the Forward Wisconsin Development Authority.

4. The amount of the personal property investment, not to exceed 3 percent of such investment, and the amount of the real property investment, not to exceed 5 percent of such investment, in a capital investment project that satisfies s. 235.308 (4) (a) 4., as determined by the Forward Wisconsin Development Authority.

(c) *Limitations.* 1. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interests.

2. No credit may be allowed under this subsection unless the claimant includes with the claimant's return a copy of the claimant's certification for tax benefits under s. 235.308.

(d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.23, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for

payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bg).

SECTION 12. 71.30 (3) (f) of the statutes is amended to read:

71.30 **(3)** (f) The total of farmland preservation credit under subch. IX, farmland tax relief credit under s. 71.28 (2m), dairy manufacturing facility investment credit under s. 71.28 (3p), jobs credit under s. 71.28 (3q), meat processing facility investment credit under s. 71.28 (3r), woody biomass harvesting and processing credit under s. 71.28 (3rm), food processing plant and food warehouse investment credit under s. 71.28 (3rn), enterprise zone jobs credit under s. 71.28 (3w), business development credit under s. 71.28 (3y), film production services credit under s. 71.28 (5f), film production company investment credit under s. 71.28 (5h), beginning farmer and farm asset owner tax credit under s. 71.28 (8r), and estimated tax payments under s. 71.29.

SECTION 13. 71.34 (1k) (g) of the statutes is amended to read:

71.34 **(1k)** (g) An addition shall be made for credits computed by a tax-option corporation under s. 71.28 (~~1dd~~), (~~1de~~), (~~1di~~), (~~1dj~~), (~~1dL~~), (1dm), (1ds), (1dx), (1dy), (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (3y), (4), (5), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), (6n), and (8r) and passed through to shareholders.

****NOTE: This is reconciled s. 71.34 (1k) (g). This SECTION has been affected by drafts with the following LRB numbers:-0997/P3 and -1018/P1.

SECTION 14. 71.45 (2) (a) 10. of the statutes is amended to read:

71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit computed under s. 71.47 (~~1dd~~) (1dm) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3w), (3y), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), (6n), (8r), and (9s) and not passed through by a partnership, limited liability company, or tax-option

corporation that has added that amount to the partnership's, limited liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

****NOTE: This is reconciled s. 71.45 (2) (a) 10. This SECTION has been affected by drafts with the following LRB numbers:-0997/P3 and -1018/P1.

SECTION 15. 71.47 (1dy) (d) 4. of the statutes is created to read:

71.47 (1dy) (d) 4. Credits claimed under this subsection for taxable years beginning after December 31, 2008, and before January 1, 2016, may be carried forward for taxable years beginning after December 31, 2015.

SECTION 16. 71.47 (3q) (d) 3. of the statutes is created to read:

71.47 (3q) (d) 3. Credits claimed under this subsection for taxable years beginning after December 31, 2008, before January 1, 2016, may be carried forward for taxable years beginning after December 31, 2015.

SECTION 17. 71.47 (3y) of the statutes is created to read:

71.47 (3y) BUSINESS DEVELOPMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person certified to receive tax benefits under s. 235.308.
2. "Eligible position" has the meaning given in s. 235.308 (1) (a).

(b) *Filing claims.* Subject to the limitations provided in this subsection and s. 235.308, for taxable years beginning after December 31, 2015, a claimant may claim as a credit against the tax imposed under ss. 71.02 and 71.08 all of the following:

1. The amount of wages that the claimant paid to an employee in an eligible position in the taxable year, not to exceed 10 percent of such wages, as determined by the Forward Wisconsin Development Authority under s. 235.308.

2. The amount of wages that the claimant paid to an employee in an eligible position in the taxable year, not to exceed 5 percent of such wages, if the employee

is employed in an eligible position at the claimant's business in an economically distressed area, as determined by the Forward Wisconsin Development Authority.

3. The amount of training costs that the claimant incurred under s. 235.308 (4) (a) 3., not to exceed 50 percent of such costs, as determined by the Forward Wisconsin Development Authority.

4. The amount of the personal property investment, not to exceed 3 percent of such investment, and the amount of the real property investment, not to exceed 5 percent of such investment, in a capital investment project that satisfies s. 235.308 (4) (a) 4., as determined by the Forward Wisconsin Development Authority.

(c) *Limitations.* 1. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interests.

2. No credit may be allowed under this subsection unless the claimant includes with the claimant's return a copy of the claimant's certification for tax benefits under s. 235.308.

(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.43, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for

payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bg).

SECTION 18. 71.49 (1) (f) of the statutes is amended to read:

71.49 (1) (f) The total of farmland preservation credit under subch. IX, farmland tax relief credit under s. 71.47 (2m), dairy manufacturing facility investment credit under s. 71.47 (3p), jobs credit under s. 71.47 (3q), meat processing facility investment credit under s. 71.47 (3r), woody biomass harvesting and processing credit under s. 71.47 (3rm), food processing plant and food warehouse investment credit under s. 71.47 (3rn), enterprise zone jobs credit under s. 71.47 (3w), business development credit under s. 71.47 (3y), film production services credit under s. 71.47 (5f), film production company investment credit under s. 71.47 (5h), beginning farmer and farm asset owner tax credit under s. 71.47 (8r), and estimated tax payments under s. 71.48.

SECTION 19. 76.637 (5) of the statutes is created to read:

76.637 (5) SUNSET. No credit may be claimed under this section for taxable years beginning after December 31, 2015, except that credits certified by the Forward Wisconsin Development Authority before January 1, 2016, may be claimed for taxable years beginning after December 31, 2015.

SECTION 20. 235.30 (7) (e) of the statutes is created to read:

235.30 (7) (e) In s. 235.308, “tax benefits” means the business development tax credit under ss. 71.07 (3y), 71.28 (3y), and 71.47 (3y).

SECTION 21. 235.308 of the statutes is created to read:

235.308 Business development tax credit. (1) DEFINITION. In this section, “eligible position” means a full-time job offered by a person certified under sub. (2).

(2) CERTIFICATION. (a) The authority may certify a person to receive tax benefits under this section if all of the following apply:

1. The person is operating or intends to operate a business in this state.

2. The person applies under this section and enters into a contract with the authority.

(b) The certification of a person under par. (a) may remain in effect for no more than 10 cumulative years.

(3) ELIGIBILITY FOR TAX BENEFITS. A person is eligible to receive tax benefits if, in each year for which the person claims tax benefits under this section, the person increases net employment in this state in the person's business above the net employment in this state in the person's business during the year before the person was certified under sub. (2), as determined by the authority under its policies and procedures.

(4) AWARDS, LIMITS, EXPIRATION. (a) The authority may award all of the following tax benefits to a person certified under sub. (2):

1. An amount equal to up to 10 percent of the amount of wages that the person paid to an employee in an eligible position in the taxable year.

2. An amount equal to up to 5 percent of the amount of wages that the person paid to an employee in an eligible position in the taxable year, if the eligible position is offered at the claimant's business in an economically distressed area, as determined by the authority.

3. An amount equal to up to 50 percent of the person's training costs incurred to undertake activities to enhance an employee's general knowledge, employability, and flexibility in the workplace; to develop skills unique to the person's workplace

or equipment; or to develop skills that will increase the quality of the person's product.

4. An amount equal to up to 3 percent of the person's personal property investment and 5 percent of the person's real property investment in a capital investment project, if the project involves a total capital investment of at least \$1,000,000 or, if less than \$1,000,000, the project involves a capital investment that is equal to at least \$10,000 per employee employed on the project.

5. An amount, as determined by the authority, equal to a percentage of the amount of wages that the person paid to an employee in an eligible position in the taxable year, if the eligible position was created or retained in connection with the person's location or retention of the person's corporate headquarters in Wisconsin and the job duties associated with the eligible position involve the performance of corporate headquarters functions.

(b) Subject to a reallocation by the authority under s. 235.15 (3) (d), the authority may allocate up to \$10,000,000 in tax benefits under this section in any calendar year. Any unused allocation may be carried forward.

(5) DUTIES. (a) The authority shall notify the department of revenue, on at least a quarterly basis, when the authority certifies a person to receive tax benefits.

(b) The authority shall notify the department of revenue within 30 days of revoking a certification made under sub. (2).

(c) The authority may require a person to repay any tax benefits the person claims for a year in which the person failed to maintain an eligible position required by an agreement under sub. (2) (b).

(d) The authority shall determine the maximum amount of the tax credits under ss. 71.07 (3y), 71.28 (3y), and 71.47 (3y) that a certified business may claim and shall notify the department of revenue of this amount on at least a quarterly basis.

(e) The authority shall annually verify the information submitted to it by the person claiming tax benefits under ss. 71.07 (3y), 71.28 (3y), and 71.47 (3y).

(f) The authority shall adopt policies and procedures for the implementation and operation of this section.

SECTION 22. 238.16 (6) of the statutes is created to read:

238.16 (6) SUNSET. No tax benefits may be awarded under this section after June 30, 2015.

SECTION 23. 238.303 (4) of the statutes is created to read:

238.303 (4) SUNSET. No tax benefits may be awarded under ss. 238.301 to 238.306 after June 30, 2015.

(END)