



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2011 Assembly Bill 61	Assembly Substitute Amendment 1, as Amended
<i>Memo published: October 13, 2011</i>	<i>Contact: Anna Henning, Staff Attorney (266-0292)</i>

2011 ASSEMBLY BILL 61

2011 Assembly Bill 61 creates an income and franchise tax credit for the cost of specified items that are used to construct and operate a “green data center,” defined to mean “a repository for the storage, management, and dissemination of data, if the mechanical, lighting, electrical, and computer systems of the real property in which the repository is located are designed for maximum energy efficiency and minimum environmental impact.”

The credit created under the bill is nonrefundable and may be carried forward for 15 taxable years. The total amount of credits that may be awarded under the program is \$2 million. Credits may be awarded for expenditures made from July 1, 2011 to June 30, 2014.

The credit may be claimed for cost of the following items, provided that the items are used to construct and operate a green data center:

- At least two of the following: low-emission building materials, including carpets and paints; sustainable landscaping; and an electronic waste recycling program, as defined by the Department of Commerce (Commerce).
- At least two of the following: catalytic converters on back-up generators; photovoltaics; heat pumps; or evaporative cooling.
- Equipment or equipment components that have a reduced amount, or none, of at least four of the following: mercury; cadmium; lead; chromium VI; polybrominated biphenyls; or polybrominated diphenyl ether.

The bill requires Commerce to implement a program for certifying businesses as eligible to receive the tax credit and authorizes, but does not require, Commerce to promulgate administrative rules

to administer the program. If Commerce certifies a business as eligible to receive a credit, Commerce must determine the maximum amount of tax credits the business may claim.

Finally, the bill provides an exception from rule-making procedures for emergency rules promulgated to implement the program. Specifically, the bill provides that emergency rules necessary to implement tax credit certification procedures will remain in effect until the effective date of permanent rules promulgated under the bill, or the first day of the 13th month after the effective date of the bill, whichever is sooner.

ASSEMBLY SUBSTITUTE AMENDMENT 1

Assembly Substitute Amendment 1 to Assembly Bill 61 makes changes necessitated by 2011 Wisconsin Act 7, which created the Wisconsin Economic Development Authority (WEDC), and 2011 Wisconsin Act 32 (the Biennial Budget Act), which transferred Commerce's assets and functions to WEDC and other agencies. The substitute amendment also makes several modifications to clarify definitions and eligibility criteria.

Specifically, the substitute amendment:

- Directs WEDC, rather than Commerce, to implement a program to certify businesses eligible to receive the tax credits.
- Directs WEDC to compile a list of businesses that are certified as eligible for the credit and post the list on its Internet website and to define "electronic waste recycling program."
- Allows the credit to be claimed for the costs of retrofitting a data center to become a green data center (in addition to the costs of construction of a new green data center, as provided in the bill).
- Clarifies that the credit may not be claimed for the costs of operating a green data center.
- Incorporates the list of green data center components into the definition of "green data center" and clarifies that the credit may be claimed for the purchase of any of those items.
- Provides that credit is available for expenditures made from January 1, 2012 to December 31, 2014. (Under the bill, the credit is available for expenditures made from July 1, 2011 to June 30, 2014.)
- Removes references to the promulgation of administrative rules and the exception to rule-making procedures.

ASSEMBLY AMENDMENT 1 TO ASSEMBLY SUBSTITUTE AMENDMENT 1

Assembly Amendment 1 to Assembly Substitute Amendment 1 requires WEDC to certify at least two businesses to receive a tax credit under the substitute amendment, provided that at least two eligible businesses apply for the credit. In addition, it provides that before July 1, 2012, WEDC may not allocate the entire \$2 million in authorized credits to a single business.

LEGISLATIVE HISTORY

Assembly Substitute Amendment 1 to Assembly Bill 61 was offered by Representative Strachota on October 4, 2011. Assembly Amendment 1 to Assembly Substitute Amendment 1 was offered by Representative Bernard Schaber on October 6, 2011. On October 11, 2011, the Assembly Committee on Jobs, Economy, and Small Business recommended adoption of Assembly Amendment 1 to Assembly Substitute Amendment 1 on a vote of Ayes, 12; Noes, 2, and the committee recommended adoption of Assembly Substitute Amendment 1, as amended, on a vote of Ayes, 13; Noes, 1. On the same day, the committee recommended adoption of Assembly Bill 61, as amended, on a vote of Ayes, 11; Noes, 3.

AH:jal