



2011 ASSEMBLY BILL 3

January 14, 2011 - Introduced by Representatives ENDSLEY, KNODL, RIPP, PRIDEMORE, KESTELL, SPANBAUER, RIVARD, LEMAHIEU, KLEEFISCH, THIESFELDT and MURSAU, cosponsored by Senators LEIBHAM, HOPPER, ZIPPERER, GALLOWAY, TAYLOR, OLSEN, LAZICH, DARLING, WANGGAARD and SCHULTZ. Referred to Committee on Jobs, Economy and Small Business.

- 1 **AN ACT to create** 71.645 and 560.2057 of the statutes; **relating to:** tax incentives
2 for job creation, providing an exemption from emergency rule procedures, and
3 granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under this bill, generally, a business that increases its net employment by at least 15 full-time employees in any taxable year may begin to receive a tax benefit, if it applies to the Department of Commerce (Commerce) to receive that benefit. Under the bill, an eligible business may, rather than submit the amount as withholding taxes, retain an amount that is equal to the withholding taxes that the business is required to pay on wages earned by each full-time employee, as certified by Commerce, in the year for which the business claims the tax benefit, multiplied by the employee's applicable tax rate. A business may claim the benefit for only five years, unless the business can demonstrate to Commerce that it needs an additional five-year extension. Under the bill, the Department of Revenue (DOR) considers all amounts retained as tax benefits to be amounts submitted to DOR as withholding taxes.

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:

ASSEMBLY BILL 3**SECTION 1**

1 **SECTION 1.** 71.645 of the statutes is created to read:

2 **71.645 Job creation tax benefit.** Subject to the limitations provided in this
3 section and s. 560.2057, and notwithstanding any other provision in this subchapter,
4 for taxable years beginning after December 31, 2010, a person who is certified to
5 receive tax benefits under s. 560.2057 (2) may, rather than submit the amount as
6 withholding taxes, retain the amount determined under s. 560.2057 (4) (b). The
7 person shall report this amount to the department, in the manner prescribed by the
8 department, and, for purposes of this chapter, the department shall treat all amounts
9 retained under this section as if the amounts had been withheld pursuant to this
10 subchapter.

11 **SECTION 2.** 560.2057 of the statutes is created to read:

12 **560.2057 Jobs creation tax benefit. (1) DEFINITIONS.** In this section:

13 (a) “Business” means any organization or enterprise operated for profit,
14 including a proprietorship, partnership, firm, business trust, joint venture,
15 syndicate, corporation, limited liability company, or association.

16 (b) “Eligible employee” means a person employed in a full-time job by a person
17 certified in sub. (2).

18 (c) “Full-time job” means a regular, nonseasonal full-time position in which an
19 individual, as a condition of employment, is required to work at least 2,080 hours per
20 year, including paid leave and holidays. “Full-time job” does not include initial
21 training before an employment position begins.

22 (d) “Tax benefits” means the jobs creation tax benefit under s. 71.645.

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

25 (a) The person is operating or intends to operate a business in this state.

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1 (b) The business satisfies the eligibility criteria established by the department
2 by rule under sub. (5) (d).

3 (c) The person applies under this section.

4 **(3) ELIGIBILITY FOR TAX BENEFITS.** A person certified under sub. (2) may receive
5 tax benefits under this section if, in the first year for which the person claims tax
6 benefits under this section, the person increases net employment in the person's
7 business by at least 15 eligible employees.

8 **(4) DURATION AND DETERMINATION OF BENEFITS.** (a) 1. Except as provided in subd.
9 2., the certification of a person under sub. (2) may remain in effect for no more than
10 5 cumulative years.

11 2. The department may extend the certification of a person under this section
12 for an additional 5 years if the department determines the business has a
13 demonstrated need for the extension.

14 (b) The department may award to a person certified under sub. (2) tax benefits
15 for each eligible employee hired as provided under sub. (3) in an amount equal to the
16 withholding taxes that the person is required to pay under subch. X of ch. 71 on wages
17 earned by each eligible employee in the year for which the tax benefit is claimed,
18 multiplied by the rate under s. 71.06 that applies to that employee.

19 **(5) DUTIES OF THE DEPARTMENT.** (a) The department of commerce shall notify
20 the department of revenue when the department of commerce certifies a person to
21 receive tax benefits.

22 (b) The department of commerce shall notify the department of revenue within
23 30 days of revoking a certification made under sub. (2).

24 (c) The department shall annually verify the information submitted to the
25 department by the person claiming tax benefits under s. 71.645.

ASSEMBLY BILL 3**SECTION 2**

1 (d) The department shall promulgate rules for the implementation and
2 operation of this section, including rules relating to the following:

3 1. Criteria to be satisfied by a business for a person operating the business to
4 be eligible for certification under sub. (2).

5 2. Minimum wages to be paid to an eligible employee by a person employing
6 that employee in order for that person to obtain and retain certification under sub.
7 (2).

8 3. Conditions for the revocation of a certification under par. (b).

9 **SECTION 3. Nonstatutory provisions.**

10 (1) **JOB CREATION TAX INCENTIVES.** The department of commerce may use the
11 procedure under section 227.24 of the statutes to promulgate rules under section
12 560.2057 (5) (d) of the statutes, as created by this act. Notwithstanding section
13 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this
14 subsection remain in effect until July 1, 2011, or the date on which permanent rules
15 take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the
16 statutes, the department is not required to provide evidence that promulgating a rule
17 under this subsection as an emergency rule is necessary for the preservation of the
18 public peace, health, safety, or welfare and is not required to provide a finding of
19 emergency for a rule promulgated under this subsection.

20 (2) **RULES.** Notwithstanding sections 227.137 (2) and 227.138 (2) of the statutes,
21 if the secretary of administration requires the department of commerce to prepare
22 an economic impact report for the rules required under section 560.2057 (5) (d) of the
23 statutes, as created by this act, the department may submit the proposed rules to the
24 legislature for review under section 227.19 (2) of the statutes before the department

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1 completes the economic impact report and before the department receives a copy of
2 the report and approval under section 227.138 (2) of the statutes.

3 (END)