



## 2023 SENATE BILL 162

April 3, 2023 - Introduced by Senators TOMCZYK and NASS, cosponsored by Representatives SORTWELL, BEHNKE, EDMING, GREEN and RETTINGER. Referred to Committee on Universities and Revenue.

- 1 **AN ACT to create** 71.07 (11), 71.10 (4) (ga) and 238.165 of the statutes; **relating**  
2 **to:** a sole proprietor employee tax credit and granting rule-making authority.

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### *Analysis by the Legislative Reference Bureau*

This bill creates a tax credit program administered by the Wisconsin Economic Development Corporation under which a sole proprietor may receive tax credits in connection with the first full-time employee employed by the sole proprietor.

Specifically, under the bill, WEDC may certify a sole proprietor in Wisconsin to claim a nonrefundable credit to offset income taxes as follows:

1. For the first taxable year during which the sole proprietor employs an eligible employee for that entire year, an amount equal to 100 percent of the wages paid that employee in that year or \$10,000, whichever is less.

2. For the second taxable year during which the applicant employs an eligible employee for that entire year, an amount equal to 50 percent of the wages paid that employee in that year or \$5,000, whichever is less.

3. For the third taxable year during which the applicant employs an eligible employee for that entire year, an amount equal to 25 percent of the wages paid that employee in that year or \$2,500, whichever is less.

An employee is eligible under the bill if he or she is the first employee employed by the sole proprietor in a full-time job who is not the sole proprietor or a member of the sole proprietor's immediate family. The bill defines "full-time job" to mean a regular, nonseasonal full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays, and for which the individual receives pay that is equal to at least 150

**SENATE BILL 162**

percent of the federal minimum wage. Finally, the maximum amount of the credit that all sole proprietors may claim in all taxable years is \$20,000,000. Under the bill, if in any taxable year the amount of the claims exceed the maximum allowable amount of \$20,000,000, the Department of Revenue must prorate the amount that each taxpayer may claim.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 71.07 (11) of the statutes is created to read:

2           **71.07 (11) SOLE PROPRIETOR EMPLOYEE TAX CREDIT.** (a) *Definitions.* In this  
3 subsection:

4           1. "Claimant" means a person certified to receive tax benefits under s. 238.165.

5           2. "Eligible employee" has the meaning given in s. 238.165 (1) (b).

6           (b) *Filing Claims.* For taxable years beginning after December 31, 2022, and  
7 subject to the limitations provided in this subsection and s. 238.165, a claimant may  
8 claim as a credit against the tax imposed under s. 71.02 an amount as follows:

9           1. For the first taxable year during which the claimant employs an eligible  
10 employee for that entire year, 100 percent of the wages paid to that employee, not to  
11 exceed \$10,000, as determined by the Wisconsin Economic Development Corporation  
12 under s. 238.165.

13           2. For the second taxable year during which the claimant employs an eligible  
14 employee for that entire year, 50 percent of the wages paid to that employee in that  
15 year, not to exceed \$5,000, as determined by the Wisconsin Economic Development  
16 Corporation under s. 238.165.

17           3. For the third taxable year during which the claimant employs an eligible  
18 employee for that entire year, 25 percent of the wages paid to that employee in that

**SENATE BILL 162**

1 year, not to exceed \$2,500, as determined by the Wisconsin Economic Development  
2 Corporation under s. 238.165.

3 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the  
4 claimant includes with the claimant's return a copy of the claimant's certification for  
5 tax benefits under s. 238.165.

6 2. No credit may be allowed under this subsection unless it is claimed within the  
7 time period under s. 71.75 (2).

8 3. The maximum amount of the credit that all claimants may claim under this  
9 subsection in all taxable years is \$20,000,000. In any taxable year in which the total  
10 amount of the credits claimed exceeds the amount available under the cap under this  
11 subdivision, the department shall prorate the amount of the credit allowed to each  
12 claimant in the proportion that the amount available under the cap bears to the total  
13 amount of the credits claimed.

14 (d) *Administration.* Subsection (9e) (d), to the extent that it applies to the credit  
15 under that subsection, applies to the credit under this subsection.

16 **SECTION 2.** 71.10 (4) (ga) of the statutes is created to read:

17 71.10 (4) (ga) Sole proprietor employee tax credit under s. 71.07 (11).

18 **SECTION 3.** 238.165 of the statutes is created to read:

19 **238.165 Sole proprietor employee tax credit. (1) DEFINITIONS.** In this  
20 section:

21 (a) "Eligible applicant" means a sole proprietor that is eligible to receive tax  
22 benefits under this section.

23 (b) "Eligible employee" means the first person, other than the sole proprietor  
24 or a member of the sole proprietor's immediate family, who is employed in a full-time  
25 job by the sole proprietor.

**SENATE BILL 162**

1 (c) "Full-time job" means a regular, nonseasonal full-time position in which an  
2 individual, as a condition of employment, is required to work at least 2,080 hours per  
3 year, including paid leave and holidays, and for which the individual receives pay  
4 that is equal to at least 150 percent of the federal minimum wage.

5 (d) "Immediate family" means persons who are related as spouses, as siblings,  
6 or as parent and child.

7 (e) "Tax benefits" means the sole proprietor employee tax credit under under  
8 s. 71.07 (11).

9 **(2) CERTIFICATION ELIGIBILITY.** An applicant for tax benefits under this section  
10 is eligible for certification under sub. (3), subject to verification under the rules  
11 promulgated under sub. (4), if all of the following apply:

12 (a) The applicant is a sole proprietor in this state.

13 (b) No sole proprietorship owned by the applicant has received tax benefits  
14 under this section.

15 **(3) CERTIFICATION.** The corporation shall certify an eligible applicant to claim  
16 tax benefits as follows:

17 (a) For the first taxable year during which the applicant employs an eligible  
18 employee for that entire year, an amount equal to 100 percent of the wages paid that  
19 employee in that year or \$10,000, whichever is less.

20 (b) For the second taxable year during which the applicant employs an eligible  
21 employee for that entire year, an amount equal to 50 percent of the wages paid that  
22 employee in that year or \$5,000, whichever is less.

23 (c) For the third taxable year during which the applicant employs an eligible  
24 employee for that entire year, an amount equal to 25 percent of the wages paid that  
25 employee in that year or \$2,500, whichever is less.

