



## Legislative Fiscal Bureau

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September 5, 2017

TO: Members  
Wisconsin Legislature

FROM: Bob Lang, Director

SUBJECT: Amendment to August 2017 Engrossed Special Session Assembly Bill 1:  
Foxconn/Fiserv Legislation

On August 17, 2017, the Assembly adopted ASA 1, as amended by AA 24, and passed Special session AB 1 on a vote of 59 to 30 with 6 pairs. The bill was engrossed and has been scheduled for executive action by the Joint Committee on Finance on September 5.

This memorandum describes changes to the engrossed bill as contained in Senate Amendment \_\_ (LRBa1140).

The amendment would increase funding under the bill by \$5.0 million GPR in 2017-18.

BL/sas  
Attachment

## **SUMMARY OF AMENDMENT**

### **GEOGRAPHIC LIMIT FOR AN EITM ZONE**

Under the bill, WEDC could not designate more than one EITM zone. The amendment would specify that the zone would be located in this state and could not include any area outside this state.

### **GEOGRAPHIC LIMIT FOR EITM ZONE PAYROLL CREDITS**

The amendment would prohibit WEDC from certifying a business to claim EITM zone payroll credits for services performed outside this state.

### **CONTRACT REQUIREMENT FOR EITM ZONE CREDITS**

The amendment would require WEDC to contract with a business certified to receive refundable EITM zone tax credits.

### **HIRING GOALS FOR EITM ZONE CAPITAL EXPENDITURES CREDITS**

The amendment would specify that, before certifying a business to receive EITM zone capital expenditure credits, WEDC would have to attempt to ensure that the business has sought, and is seeking, to satisfy certain hiring goals in this state, as identified by WEDC, in connection with the business's capital expenditures in the zone.

### **LAB EVALUATION OF EITM ZONE CREDITS**

The amendment would require that, beginning in 2018, annually for five years, the Legislative Audit Bureau (LAB) evaluate the process used by WEDC to verify information submitted to it regarding eligibility for EITM zone credits and evaluate whether WEDC appropriately verified, in accordance with statutory and contractual requirements, the amount of EITM zone credits eligible claimants may claim. The amendment would require WEDC to cooperate with the LAB for purposes of performing this audit.

### **INCREASE THE NUMBER OF ENTERPRISE ZONES**

The bill would allow WEDC to designate up to 35 enterprise zones, instead of 30 under current law. The amendment would delete this provision and maintain current law.

### **EXPENDITURE RESTRAINT BUDGET TEST**

The amendment would modify the budget test under the expenditure restraint program to accommodate expenditures of payments from the grant program created under the bill. That

program would make payments for local government expenditures associated with development occurring in an EITM zone. The expenditure restraint program provides state aid payments to municipalities that have a municipal purpose tax rate in excess of five mills (\$5.00 per thousand of full value) and limit the rate of year-to-year growth in their general fund budgets. For purposes of the latter requirement, certain expenditures, such as principal and interest payments on long-term debt, are excluded from municipal budgets. This amendment would also exclude expenditures made with payments from the grant program created under the bill.

### **PROHIBIT DONOR TIF DISTRICTS FOR EITM ZONE DISTRICTS**

Modify the bill to prohibit a city or village with an EITM TIF district from using that district as a donor district for another TIF district.

### **FINANCING COSTS AS ELIGIBLE TIF PROJECT COSTS**

Modify the bill to include payments made by a city or village to a county or other municipality that issue obligations to finance the project costs of a TIF districts with in an electronics and informational technology manufacturing (EITM) zone as an financing cost that is a eligible project cost.

### **COUNTY SALES TAX REVENUE BONDS**

The bill would authorize a county in which an EITM zone is designated to issue bonds whose principal and interest are paid only through the county sales tax. The bill would also modify current law that specifies that the county sales tax may only be imposed for the purpose of reducing the property tax levy to allow for the issuance of such bonds. In addition, the bill would specify that if such bonds are issued, the county would be without power to repeal the local sales tax or obstruct the collection of the tax until the principal and interest payments have been made or provided for.

The amendment would modify this provision to provide that the bonds would be issued under the current law statutes governing municipal revenue obligations (Chapter 66 of the statutes), rather than the current law statutes governing municipal bonds (Chapter 67 of the statutes). Under the amendment the bonds could have up to a 40-year maturity, while under the bill the bonds could have up to a 20-year maturity, with certain exceptions for sewerage bonds that could have a longer maturity (50 years).

### **MORAL OBLIGATION PLEDGE**

Under the bill, the Secretary of Administration is authorized to contract with a local governmental unit to implement the proposed \$10 million in state grants and related local matching funds for local government costs associated with development occurring in an EITM. The amendment would extend this authorization to contract to the moral obligation pledge that would be created under the bill.

## **I-94 NORTH-SOUTH CORRIDOR PROJECT**

The bill would authorize \$252,400,000 in general fund-supported, general obligation bonds, which could be used for the I-94 North-South corridor project in the southeast Wisconsin freeway megaprojects program. The bill would specify that DOT could not expend the proceeds of these bonds unless the state receives an award of federal moneys for the I-94 North-South corridor project section and submits a request to expend the bond proceeds to the Joint Committee on Finance. The Committee would have to meet to approve, or modify and approve, such a plan, no later than 14 days after having received the plan.

Modify the bill to specify that if, within 14 days of receiving the request, the Committee receives an objection to the request, the Committee would have to vote to approve or deny the request within 30 days following the date on the objection. Further, specify that if the Committee does not object to the request or vote to deny the request, the request is approved.

## **WETLAND MITIGATION ESCROW PROGRAM**

The bill would authorize compensatory wetland mitigation through the following activities: (a) purchase of credits from a wetland mitigation bank located in Wisconsin; (b) participation in the Wisconsin Wetland Conservation Trust (WWCT) in-lieu fee (ILF) program; (c) completion of wetland mitigation in Wisconsin; or (d) participation in the escrow program. The escrow program under s. 281.36(3s) of the statutes allowed participants to deposit funds into an escrow account for future use in mitigation projects, prior to implementation of the WWCT. Under current law, the escrow program has been discontinued since the WWCT received federal approval from the U.S. Army Corps of Engineers in November, 2014. Participants now purchase mitigation credits through the ILF program instead of depositing funds into an escrow account.

The amendment would delete reference to the escrow program as an option for conducting compensatory wetland mitigation, clarifying language in the bill to exclude the now defunct program.

## **WORKFORCE DEVELOPMENT**

The bill would create a continuing GPR appropriation under the Department of Workforce Development (DWD) for a worker training and employment program. Under the bill, of the amounts appropriated in the 2019-21 biennium, DWD must allocate \$20,000,000 to provide funding, through grants or other means, to facilitate worker training and employment in the state. The bill provides no funding for the program in the 2017-19 biennium. DWD would be required to consult with the Wisconsin Technical College System Board and the WEDC in implementing the worker training and employment program. Prior to spending any appropriated funds, DWD would be required to submit to the Joint Committee on Finance a plan for implementing the program and DWD could not expend any funds appropriated for the program except in accordance with the plan as approved by the Joint Committee on Finance. DWD would have all other powers necessary to implement a worker training and employment program, including the power to audit and inspect the records of grant recipients. The Department would be required to submit, annually, by December 31, a report to the Governor and the co-chairs of the Joint Committee on Finance

providing an account of DWD's activities and expenditures for the worker training and employment program during the preceding year.

The amendment would specify that institutions of higher education, as defined in s. 106.57 (1) (c), would be eligible to apply for and receive worker training and employment program grants made by DWD. Under s. 106.57, an institution of higher education includes campuses in the UW System, campuses within the Technical College System, and private, nonprofit institutions that are members of the Wisconsin Association of Independent Colleges and Universities.

## **GRANTS FOR LOCAL GOVERNMENT EXPENDITURES**

Modify the bill to increase funding for grants for local government expenditures from \$10 million GPR in 2017-18 to \$15 million GPR. In addition, include technical college districts in the definition of local governmental units eligible to receive grants.

## **DIRECT REVIEW OF DECISIONS RELATING TO ELECTRONICS AND INFORMATION TECHNOLOGY MANUFACTURING ZONE**

The amendment would modify the bill to specify that the Wisconsin Supreme Court take direct jurisdiction of an appeal related to a decision related to electronics and information technology manufacturing zones. Specifically, any party has the right of immediate appeal to the Supreme Court from any order of a Circuit Court vacating, enjoining, reviewing, or otherwise relating to a decision by a state or local official, board, commission, condemnor, authority, or department concerning an electronics and information technology manufacturing zone. Under the amendment, the parties and the court are generally required to proceed according to the rules governing procedure in the Court of Appeals, except as otherwise ordered by the Supreme Court in a particular case. Unless otherwise ordered by the Supreme Court, the parties are required to comply with the requirements for form of papers specified in statutes (s. 809.81).

Further, any order of a Circuit Court vacating, enjoining, reviewing, or otherwise relating to a decision by a state or local official, board, commission, condemnor, authority, or department concerning an electronics and information technology manufacturing zone designated must be stayed automatically upon the filing of an appeal. Any party to the proceeding may apply to the Supreme Court to request that the stay be modified or vacated.

Under current law, Supreme Court review is a matter of judicial discretion, not of right, and is granted only when special and important reasons are presented. Statutes specify that the "following, while neither controlling nor fully measuring the court's discretion, indicate criteria that will be considered:" (a) a real and significant question of federal or state constitutional law is presented; (b) the petition for review demonstrates a need for the Supreme Court to consider establishing, implementing or changing a policy within its authority; (c) a decision by the Supreme Court will help develop, clarify or harmonize the law, and 1. the case calls for the application of a new doctrine rather than merely the application of well-settled principles to the factual situation, or 2. the question presented is a novel one, the resolution of which will have statewide impact, or 3. the question presented is not factual in nature but rather is a question of law of the type that is likely to recur unless resolved by the supreme court; (d) the Court of Appeals' decision is in

conflict with controlling opinions of the United States Supreme Court or the Wisconsin Supreme Court or other Court of Appeals' decisions; or (e) the Court of Appeals' decision is in accord with opinions of the Supreme Court or the Court of Appeals but due to the passage of time or changing circumstances, such opinions are ripe for reexamination.