



## Legislative Fiscal Bureau

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June, 2019

Joint Committee on Finance

Paper #327

### **Enterprise Zone Tax Credit Program Sum Sufficient Reestimate and Oversight of Tax Credit Programs (General Fund Taxes -- Income and Franchise Taxes)**

[LFB 2019-21 Budget Summary: Page 145, #22; and Page 452, #6]

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#### **CURRENT LAW**

The enterprise zone tax credit program provides refundable tax credits that can be claimed against the individual income tax and the corporate income/franchise tax for eligible expenses for increased employment, retaining employees, employee training, capital investment, and purchases from Wisconsin vendors. The Wisconsin Economic Development Corporation (WEDC) is responsible for designating enterprise zones, certifying taxpayers, allocating and verifying tax credits, and performing other general administrative functions related to the enterprise zone program. Under the state's accounting system, refundable enterprise zone tax credit claims are paid from a sum sufficient GPR appropriation.

Pursuant to 2017 Act 369, there is no specific limit on the number of enterprise zones which WEDC may designate. Instead, each designation is subject to approval by the Joint Committee on Finance under a 14-day passive review process. WEDC is required to notify the Committee, in writing, of its intent to designate a new enterprise zone. The notice must describe the new zone and the purpose for which WEDC proposes to designate the new zone. Each enterprise zone may exist for up to 12 years.

#### **GOVERNOR**

The bill would decrease funding by \$4,000,000 GPR in 2019-20 and by \$17,600,000 GPR in 2020-21 for the sum sufficient appropriation for refundable enterprise zone tax credits to reestimate anticipated claims during the biennium. With the adjustments, estimated total funding

would decrease from base funding of \$68,300,000 to \$64,300,000 in 2019-20 and to \$50,700,000 in 2020-21.

Further, the bill would require that each contract WEDC executes with a taxpayer under which the taxpayer may be eligible to claim tax benefits in excess of \$5,000,000 during the term of the contract include an obligation that the taxpayer promptly notify WEDC of: (a) each material change to a project subject to the contract; and (b) all effects of each material change on the contract's performance goals or requirements, including job retention, creation, or training and capital expenditures, and any effect on the timing of the taxpayer's achievement of the performance goals or requirements. WEDC would be required to notify the Committee of any material change for which WEDC receives notice and, for any contract under which a taxpayer may be eligible to claim tax benefits in excess of \$5,000,000 during the term of the contract, of any material change due to an amendment to the contract. These requirements would first apply to contracts entered into, modified, or renewed on the effective date of the bill.

## **DISCUSSION POINTS**

### **Enterprise Zone Tax Credit Sum Sufficient Reestimate**

1. Table 1 provides information regarding the current 28 enterprise zone tax credit awards that have, through May 1, 2019, been contracted by WEDC and the former Department of Commerce, including the year in which each contract was executed, the number of years over which each business can earn the credits, and the amount of credits that have been verified by WEDC/Commerce as eligible to be claimed with the Department of Revenue (DOR). Table 1 shows that the duration of enterprise zone designations has been for between four and 12 years, with an average duration of eight years per zone.

2. As shown in Table 1, contracts have ranged from \$65.0 million over a 12-year period for Mercury Marine to \$3.0 million over a four-year period for Saputo Cheese USA. WEDC/Commerce has entered into contracts to award up to \$708.1 million in enterprise zone tax credits from 2009 through 2029. To date, WEDC has verified \$298.7 million of this amount is eligible to be claimed as tax credits with DOR based upon the performance of the certified businesses.

**TABLE 1****Enterprise Zone Awards Contracted by WEDC (Millions)**

<u>Certified Business</u>	Contracted Amount of Credits	Year Awarded	Years Over which Credits Have Been Allocated	Credits Verified to Date
Mercury Marine	\$65.0	2010	2010-2021	\$51.3
Kohl's Corporation	62.5	2012	2012-2021	39.1
Quad Graphics, Inc.	61.7	2010	2010-2020	44.5
Green Bay Packaging Inc - Mill Division	60.0	2018	2018-2029	6.6
Komatsu Mining Corporation	59.5	2018	2017-2028	0.0
Oshkosh Corporation	55.0	2010	2009-2020	33.2
Fincantieri Marine Group LLC	42.0	2011	2010-2021	23.5
Kimberly-Clark Corporation	28.0	2018	2019-2023	0.0
Milwaukee Electric Tool Corporation	26.0	2016	2016-2022	7.4
Direct Supply, Inc.	22.5	2016	2017-2023	0.0
Haribo of America Manufacturing LLC	21.0	2017	2017-2028	1.3
Kwik Trip, Inc	21.0	2017	2017-2021	6.5
U.S. Venture, Inc.	20.0	2017	2017-2023	0.4
Uline, Inc.	18.6	2010	2010-2018	16.0
DRS Power & Control Technologies, Inc.	18.5	2018	2018-2025	0.0
Amazon.com	17.8	2014	2015-2018	5.2
InSinkErator	15.5	2012	2012-2019	15.1
Plexus Corp.	15.0	2011	2011-2018	12.6
Northstar Medical Technologies, LLC	14.0	2013	2014-2024	3.4
Generac Power Systems Inc	10.0	2017	2017-2021	1.9
Johnsonville Sausage, LLC	10.0	2017	2017-2021	3.4
Exact Sciences Corporation	9.0	2015	2014-2020	4.3
Weather Shield Mfg., Inc.	8.0	2013	2013-2019	6.5
ATI Ladish LLC	7.0	2018	2018-2024	1.8
Brakebush Brothers, Inc.	6.5	2017	2017-2022	1.4
Dollar General Corporation	5.5	2014	2013-2018	5.4
Trane US Inc.	5.5	2016	2016-2020	4.9
Saputo Cheese USA	<u>3.0</u>	2017	2016-2019	<u>2.9</u>
Total	\$708.1			\$298.7

3. In 2016, 2017, and 2018, WEDC awarded contracts in the amount of \$54.0 million, \$91.5 million, and \$173.0 million, respectively.

4. Attachment 1 provides additional detail regarding how WEDC/Commerce has allocated enterprise zone credit awards. The year in which WEDC has allocated the largest amount of enterprise zone tax credits is 2019, for which \$102.1 million is allocated to businesses to be earned. Annual allocations of tax credit awards for individual companies range from \$19,000 for Saputo Cheese USA in 2018 to \$29.3 million for Komatsu Mining Corporation in 2023.

5. The cost estimate used under the bill for the enterprise zone sum sufficient GPR appropriation was based on projections of credit claims under contracts between WEDC and participating businesses through October, 2018. Since that time, WEDC entered into three new contracts which allocated \$106.0 million over a twelve-year period, including \$3.5 million in 2018

and \$14.7 million in 2019. In addition, two contracts were amended to increase awarded amounts by \$21.5 million, including \$9.5 million allocated in 2019.

6. Based upon more recent information described above, it is estimated that enterprise zone tax credits relative to the bill will be \$31,000,000 GPR higher in 2020-21 (Alternative 1). The reestimate reflects projections of credit claims for major economic development projects for which WEDC has, to date, contracted tax credit awards including recent contract amendments. With the adjustments, estimated total funding would decrease from base funding of \$68,300,000 to \$64,300,000 in 2019-20 and increase to \$81,700,000 in 2020-21.

### **Committee Oversight of Enterprise Zone Designations**

7. Typically, WEDC will certify a business as eligible via a contract that specifies a maximum amount of tax benefits that may be earned by the business by successfully completing specified goals for job creation, job retention, capital investment, employee training, and/or Wisconsin supply chain investment. The contract will delineate the amount that can be earned in each year of the contract, for a period of up to 12 years. According to WEDC, each zone has a unique eligible earning period and the length of a specific contract is dependent on the terms of each contract and each business's unique plan for investment and job growth under that project.

8. The total amount awarded and when that amount may be earned may change one or more times over the duration of a zone based on amended contracts between the certified business and WEDC. Attachment 2 shows all contract amendments for active enterprise zones. According to WEDC, there have been 34 amendments in total for currently active zones. These 34 contract amendments have increased the aggregate enterprise zone awards by \$68,500,000 and increased the aggregate duration of zones by 165 months for seven zones.

9. As shown in Attachment 2, a contract may be substantially altered and the amount of tax benefits significantly increased after the Committee has reviewed and approved a proposed enterprise zone. For example, despite changes under 2017 Act 369 which require Committee approval of enterprise zone designations, WEDC amended a contract with Fincantieri Marine Group LLC on December 17, 2018, which increased the overall award of enterprise zone tax credits by \$14.0 million and with Amazon.com on April 25, 2019, that increased the total award by \$7.5 million.

10. The bill would require WEDC to notify the Committee of any material change due to an amendment to a contract under which a taxpayer may be eligible to claim tax benefits in excess of \$5,000,000 (Alternative 2). The requirements would first apply to contracts entered into, modified, or renewed on the effective date of the bill.

11. However, as noted, current law does not require WEDC to seek approval from the Committee for a contract amendment for any of the currently open enterprise zone contracts shown in Table 1. Further, because the enterprise zone tax credit program is funded via a sum sufficient GPR appropriation, current law does not limit the amount of tax benefits that can be added via contract amendment.

12. In addition to the Governor's proposed notification requirements, the Committee could

also require approval by the Committee, under a 14-day passive review process, of any amendment to a contract which would change the total amount of tax credits awarded under a contract or would alter the allocation schedule for when such tax credits could be earned (Alternative 3). Under this alternative, WEDC would be prohibited from executing an amendment to a contract under which a certified business may be eligible to claim tax benefits in excess of \$5,000,000 during the term of the contract if the amendment would alter the amount awarded or the allocation schedule of the award, unless approved by the Committee under a 14-day passive review process. WEDC would be required to notify the Committee, in writing, of its intent to amend such a contract. The notice would need to describe the recipient and the purpose for which WEDC proposes to amend the amount awarded or scheduled to be awarded. These requirements would first apply to contracts entered into, modified, or renewed on the effective date of the bill.

13. Alternatives 2 and 3 would apply to the amendment of contracts under any of the tax credit programs administered by WEDC. This includes the enterprise zone tax credit program and the electronics and information technology manufacturing (EITM) zone tax credit program.

14. Finally, because current law already provides for certain EITM zone audit and verification requirements, including an annual evaluation by the Legislative Audit Bureau, the Committee could adopt Alternative 3 with the modification that the provisions would not apply to the EITM zone tax credit program (Alternative 4).

**ALTERNATIVES**

1. *Enterprise Zone Tax Credit Program Sum Sufficient Reestimate.* Modify the Governor's recommended funding for the enterprise zone tax credit program sum sufficient appropriation to provide an additional \$31,000,000 GPR in 2020-21. With the adjustments, estimated total funding would decrease from base funding of \$68,300,000 to \$64,300,000 in 2019-20 and increase to \$81,700,000 in 2020-21.

ALT 1	Change to	
	Base	Bill
GPR	\$9,400,000	\$31,000,000

2. *Governor's Proposed Disclosure of Contracts and Material Changes to Contracts or Projects.* Adopt Alternative 1 and adopt the Governor's proposed notification and reporting requirements for WEDC contracts under which a taxpayer may be eligible to claim tax benefits in excess of \$5,000,000.

ALT 2	Change to	
	Base	Bill
GPR	\$9,400,000	\$31,000,000

3. *Committee Review of Tax Credit Contract Amendments.* Adopt Alternatives 1 and 2 and also modify the Governor's recommendations to prohibit WEDC from executing an amendment to a contract under which a certified business may be eligible to claim tax benefits in excess of \$5,000,000 during the term of the contract if the amendment would alter the amount awarded or the allocation schedule of the award unless approved by the Committee under a 14-day passive review process. Specify that WEDC is required to notify the Committee, in writing, of its intent to amend such a contract. The notice must describe the recipient and the purpose for which WEDC proposes to amend the amount awarded or scheduled to be awarded. These requirements would first apply to contracts entered into, modified, or renewed on the effective date of the bill.

ALT 3	Change to	
	Base	Bill
GPR	\$9,400,000	\$31,000,000

4. *Committee Review of Tax Credit Contract Amendments Except for Electronics and Information Technology Manufacturing Zone.* Adopt Alternatives 1, 2, and 3 but with the modification that the provisions under Alternatives 2 and 3 would not apply to the EITM zone tax credit program.

ALT 4	Change to	
	Base	Bill
GPR	\$9,400,000	\$31,000,000

Prepared by: John D. Gentry  
 Attachments

## ATTACHMENT 1

### Allocation Schedule for Earning Enterprise Zone Tax Credits (As of May 1, 2019)

<u>Certified Business</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
Amazon.com						\$1,655,500	\$3,046,500	\$535,000	\$560,000	\$585,000	\$7,105,000
ATI Ladish LLC										1,750,000	2,275,000
Brakebush Brothers, Inc.									5,370,500	346,000	320,000
Direct Supply, Inc.									2,770,000	3,090,000	3,435,000
Dollar General Corporation								434,531	4,846,816	128,653	50,000
DRS Power & Control Technologies, Inc.										65,000	2,420,000
Exact Sciences Corporation						200,000	900,000	1,300,000	1,900,000	1,600,000	1,600,000
Fincantieri Marine Group LLC		\$948,000	\$2,138,000	\$4,650,000	\$4,966,000	3,192,000	2,506,000	2,562,000	2,531,000	2,461,000	5,046,000
Generac Power Systems Inc.									2,281,000	2,488,000	2,293,000
Green Bay Packaging Inc. - Mill Division										11,100,000	26,400,000
Haribo of America Manufacturing LLC									1,310,377		4,143,123
InSinkErator						6,785,954	3,535,568	2,667,979	2,069,000	441,500	
Johnsonville Sausage, LLC									3,797,660	1,586,000	1,718,000
Kimberly-Clark Corporation											8,500,000
Kohl's Corporation				583,000	1,414,000	6,818,600	9,506,586	9,896,728	10,187,086	6,026,000	3,068,000
Komatsu Mining Corporation									3,400,000	3,500,000	3,750,000
Kwik Trip, Inc.									6,501,000	3,686,000	4,838,000
Mercury Marine		7,662,000	10,741,000	10,014,000	7,766,000	7,552,000	2,490,000	2,526,000	2,562,000	3,099,000	3,491,000
Milwaukee Electric Tool Corporation								2,979,432	4,465,568	4,110,000	4,260,000
Northstar Medical Technologies, LLC			19,374	28,904	135,456	142,376	1,088,900	359,951	902,322	1,508,717	2,464,000
Oshkosh Corporation	\$2,496,457	8,470,543	4,812,000	4,511,000	4,176,000	2,244,000	2,408,000	4,064,000	3,792,000	5,926,000	5,100,000
Plexus Corp.				1,014,250	3,641,000	2,316,750	2,029,750	1,860,250	1,752,250	1,373,250	1,012,500
Quad Graphics, Inc.		4,937,000	6,421,000	6,800,000	5,519,000	5,508,000	4,005,000	5,630,000	5,658,000	5,698,000	5,742,000
Saputo Cheese USA								1,000,000	1,863,000	19,000	118,000
Trane US Inc.					891,000	1,910,000	749,000	722,000	668,000	560,000	
U.S. Venture, Inc.									8,157,800	2,148,000	2,207,000
Uline, Inc.		1,006,048	1,785,000	2,022,000	2,074,000	2,124,000	2,736,952	2,230,000	2,285,000	2,337,000	
Weather Shield Mfg., Inc.					<u>1,186,605</u>	<u>1,272,605</u>	<u>1,317,605</u>	<u>1,360,605</u>	<u>1,360,605</u>	<u>732,000</u>	<u>769,975</u>
<b>Total</b>	<b>\$2,496,457</b>	<b>\$23,023,591</b>	<b>\$25,916,374</b>	<b>\$29,623,154</b>	<b>\$31,769,061</b>	<b>\$41,721,785</b>	<b>\$36,319,861</b>	<b>\$40,128,476</b>	<b>\$80,990,984</b>	<b>\$66,364,120</b>	<b>\$102,125,598</b>

Source: Wisconsin Economic Development Corporation

**ATTACHMENT 1 (Continued)**

**Allocation Schedule for Earning Enterprise Zone Tax Credits  
(As of May 1, 2019)**

<u>Certified Business</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>	<u>2029</u>	<u>Grand Total</u>
Amazon.com	\$815,000	\$852,000	\$882,000	\$882,000	\$882,000						\$17,800,000
ATI Ladish LLC	1,925,000	350,000	350,000	175,000	175,000						7,000,000
Brakebush Brothers, Inc.		320,000	143,500								6,500,000
Direct Supply, Inc.	3,810,000	4,225,000	2,330,000	2,840,000							22,500,000
Dollar General Corporation	40,000										5,500,000
DRS Power & Control Technologies, Inc.	3,570,000	3,920,000	2,995,000	3,020,000	1,500,000	\$1,010,000					18,500,000
Exact Sciences Corporation	1,500,000										9,000,000
Fincantieri Marine Group LLC	5,346,000	5,654,000									42,000,000
Generac Power Systems Inc	1,502,000	1,436,000									10,000,000
Green Bay Packaging Inc - Mill Division	11,450,000	6,500,000	1,550,000	350,000	400,000	450,000	\$450,000	\$450,000	\$450,000	\$450,000	60,000,000
Haribo of America Manufacturing LLC	6,033,250	5,798,250	865,000	700,000	575,000	700,000	475,000	200,000	200,000		21,000,000
InSinkErator											15,500,000
Johnsonville Sausage, LLC	1,659,000	1,239,340									10,000,000
Kimberly-Clark Corporation	5,800,000	4,900,000	4,400,000	4,400,000							28,000,000
Kohl's Corporation	7,343,000	7,657,000									62,500,000
Komatsu Mining Corporation	4,450,000	3,900,000	1,500,000	29,300,000	1,600,000	1,600,000	1,800,000	2,200,000	2,500,000		59,500,000
Kwik Trip, Inc	3,779,000	2,196,000									21,000,000
Mercury Marine	3,529,000	3,568,000									65,000,000
Milwaukee Electric Tool Corporation	4,185,000	3,000,000	3,000,000								26,000,000
Northstar Medical Technologies, LLC	2,750,000	2,765,000	1,835,000								14,000,000
Oshkosh Corporation	7,000,000										55,000,000
Plexus Corp.											15,000,000
Quad Graphics, Inc.	5,782,000										61,700,000
Saputo Cheese USA											3,000,000
Trane US Inc.											5,500,000
U.S. Venture, Inc.	2,283,000	2,371,000	1,871,000	962,200							20,000,000
Uline, Inc.											18,600,000
Weather Shield Mfg., Inc.											8,000,000
<b>Total</b>	<b>\$84,551,250</b>	<b>\$60,651,590</b>	<b>\$21,721,500</b>	<b>\$42,629,200</b>	<b>\$5,132,000</b>	<b>\$3,760,000</b>	<b>\$2,725,000</b>	<b>\$2,850,000</b>	<b>\$3,150,000</b>	<b>\$450,000</b>	<b>\$708,100,000</b>

Source: Wisconsin Economic Development Corporation



## ATTACHMENT 2

### Enterprise Zone Tax Credit Contract Amendments (Through May 1, 2019)

<u>Certified Business</u>	<u>Amendment Contract Date</u>	<u>Initial Award Amount</u>	<u>Amended Award Amount</u>	<u>Increased Award</u>	<u>Initial Zone Duration (Months)</u>	<u>Amended Zone Duration (Months)</u>	<u>Duration Change</u>
Uline, Inc.	9/19/2017	\$18,600,000	\$18,600,000	-	108	108	0
Oshkosh Corporation	3/31/2016	35,000,000	47,000,000	\$12,000,000	120	141	21
Oshkosh Corporation	6/22/2017	47,000,000	47,000,000	-	141	141	0
Oshkosh Corporation	6/6/2018	47,000,000	55,000,000	8,000,000	141	141	0
Mercury Marine	9/25/2017	65,000,000	65,000,000	-	144	144	0
Northstar Medical Radioisotopes, LLC	11/20/2015	14,000,000	14,000,000	-	60	96	36
Northstar Medical Radioisotopes, LLC	10/3/2016	14,000,000	14,000,000	-	96	96	0
Northstar Medical Radioisotopes, LLC	1/2/2019	14,000,000	14,000,000	-	96	144	48
Quad/Graphics, Inc.	10/27/2010	46,000,000	61,700,000	15,700,000	132	132	0
Quad/Graphics, Inc.	12/20/2017	61,700,000	61,700,000	-	132	132	0
Fincantieri Marine Group LLC	5/14/2014	28,000,000	28,000,000	-	108	120	12
Fincantieri Marine Group LLC	12/14/2016	28,000,000	28,000,000	-	120	120	0
Fincantieri Marine Group LLC	12/17/2018	28,000,000	42,000,000	14,000,000	120	144	24
Plexus Corp.	7/13/2017	15,000,000	15,000,000	-	84	84	0
Kohl's Corporation	3/20/2019	62,500,000	62,500,000	-	144	144	0
Weather Shield Mfg., Inc.	12/10/2015	8,000,000	8,000,000	-	84	84	0
Weather Shield Mfg., Inc.	4/5/2017	8,000,000	8,000,000	-	84	84	0
Amazon.com	3/18/2014	7,000,000	10,300,000	3,300,000	132	132	0
Amazon.com	9/18/2015	10,300,000	10,300,000	-	132	132	0
Amazon.com	2/13/2017	10,300,000	10,300,000	-	132	132	0
Amazon.com	4/25/2019	10,300,000	17,800,000	7,500,000	132	132	0
InSinkErator	4/11/2017	15,500,000	15,500,000	-	60	60	0
Exact Sciences Corporation	2/11/2016	9,000,000	9,000,000	-	78	78	0
Exact Sciences Corporation	11/8/2016	9,000,000	9,000,000	-	78	78	0
Trane US Inc.	3/31/2015	5,500,000	5,500,000	-	60	72	12
Trane US Inc.	3/28/2017	5,500,000	5,500,000	-	72	72	0
Dollar General Corporation	11/10/2017	5,500,000	5,500,000	-	52	52	0
Milwaukee Electric Tool Corporation	5/10/2018	18,000,000	26,000,000	8,000,000	72	84	12
Milwaukee Electric Tool Corporation	11/15/2018	26,000,000	26,000,000	-	84	84	0
Direct Supply, Inc.	10/23/2017	22,500,000	22,500,000	-	84	84	0
Johnsonville Sausage, LLC	7/12/2018	10,000,000	10,000,000	-	60	60	0
Saputo Cheese USA	5/23/2018	3,000,000	3,000,000	-	36	36	0
U.S. Venture, Inc.	12/19/2017	20,000,000	20,000,000	-	84	84	0
Haribo of America Manufacturing LLC	12/6/2018	21,000,000	21,000,000	-	138	138	0
<b>Total</b>		<b>\$748,200,000</b>	<b>\$816,700,000</b>	<b>\$68,500,000</b>			<b>165</b>

Source: Wisconsin Economic Development Corporation