



2003 ASSEMBLY BILL 413

June 13, 2003 - Introduced by Representatives GARD, ZIEGELBAUER, NASS, J. FITZGERALD, GUNDRUM, LEMAHIEU, JESKEWITZ, OLSEN, TOWNS, NISCHKE, HUEBSCH, WEBER, JENSEN, GROTHMAN, M. LEHMAN, GIELOW, MUSSER, KRAWCZYK, BALOW, ALBERS, MONTGOMERY, AINSWORTH, KREIBICH, WIECKERT, BIES, KAUFERT, OWENS, GRONEMUS, SUDER, VUKMIR, VAN ROY, HUNDERTMARK, UNDERHEIM, HAHN, GUNDERSON, LADWIG, MCCORMICK, VRAKAS, D. MEYER, HINES, LOTHIAN, PETTIS, KESTELL, M. WILLIAMS and OTT, cosponsored by Senators STEPP, KANAVAS, PANZER, BRESKE, KEDZIE, LEIBHAM, DARLING, WELCH, A. LASEE, ZIEN, M. MEYER, BROWN and ROESSLER. Referred to Joint Committee on Finance.

1 **AN ACT to renumber and amend** 71.04 (4), 71.04 (8) (b), 71.25 (6), 71.25 (10)
2 (b) and 71.45 (3) (b); **to amend** 71.04 (5) (intro.), 71.04 (6) (intro.), 71.04 (7) (d),
3 71.04 (8) (c), 71.04 (10), 71.25 (7) (intro.), 71.25 (8) (intro.), 71.25 (9) (d), 71.25
4 (10) (c), 71.25 (11), 71.45 (3) (intro.), 71.45 (3) (a) and 71.45 (3m); and **to create**
5 71.04 (4) (a), 71.04 (4) (b), 71.04 (4) (c), 71.04 (4) (d), 71.04 (4) (e), 71.04 (4m),
6 71.25 (6) (a), 71.25 (6) (b), 71.25 (6) (c), 71.25 (6) (d), 71.25 (6) (e), 71.25 (6m),
7 71.45 (3d) and 71.45 (3e) of the statutes; **relating to:** single sales factor
8 apportionment of income for corporate income tax and franchise tax purposes
9 and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, when computing corporate income taxes and franchise taxes, a formula is used to attribute a portion of a corporation's income to this state. The formula has three factors: a sales factor, a property factor, and a payroll factor. The sales factor represents 50% of the formula and the property and payroll factors each represent 25% of the formula. When computing income taxes and franchise taxes for an insurance company, a formula with a premium factor and a payroll factor is used to attribute a portion of an insurance company's income to this state.

ASSEMBLY BILL 413

Under this bill, beginning on January 1, 2008, the sales factor will be the only factor used to attribute a portion of a corporation's income to this state. The property and payroll factors will be decreased, and eventually phased out, over four years as the sales factor is increased and becomes the only factor. Beginning on January 1, 2008, the premium factor will be the only factor used to attribute a portion of an insurance company's income to this state. The payroll factor will be decreased, and eventually phased out, over four years as the premium factor is increased and becomes the only factor.

Under current law, the income of an electric or gas utility is apportioned by rules established by the Department of Revenue (DOR). Under the bill, for taxable years beginning after December 31, 2005, and before January 1, 2008, the income of an electric or gas utility is apportioned in the same manner as the income of a corporation under the bill. Beginning on January 1, 2008, the sales factor will be the only factor used to attribute a portion of the income of an electric or gas utility to this state.

Under current law, the income of a financial organization is apportioned, for corporate income tax and franchise tax purposes, by rules established by DOR. Under the bill, for taxable years beginning after December 31, 2005, and before January 1, 2008, the income of a financial organization is apportioned by multiplying that income by a fraction that includes a sales factor representing more than 50% of the fraction, as determined by rule by DOR. For taxable years beginning after December 31, 2007, the income of a financial organization is apportioned by using a sales factor, as determined by DOR.

Under current law and under the bill, the income of air carriers and pipeline companies is apportioned by rules established by DOR.

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:

1 **SECTION 1.** 71.04 (4) of the statutes is renumbered 71.04 (4) (intro.) and
2 amended to read:

3 **71.04 (4) NONRESIDENT ALLOCATION AND APPORTIONMENT FORMULA.** (intro.)
4 Nonresident individuals and nonresident estates and trusts engaged in business
5 within and without the state shall be taxed only on such income as is derived from
6 business transacted and property located within the state. The amount of such
7 income attributable to Wisconsin may be determined by an allocation and separate

ASSEMBLY BILL 413

1 accounting thereof, when the business of such nonresident individual or nonresident
2 estate or trust within the state is not an integral part of a unitary business, but the
3 department of revenue may permit an allocation and separate accounting in any case
4 in which it is satisfied that the use of such method will properly reflect the income
5 taxable by this state. In all cases in which allocation and separate accounting is not
6 permissible, the determination shall be made in the following manner: for all
7 businesses except air carriers, financial organizations, pipeline companies, public
8 utilities, railroads, sleeping car companies and car line companies there shall first
9 be deducted from the total net income of the taxpayer the part thereof (less related
10 expenses, if any) that follows the situs of the property or the residence of the
11 recipient. The remaining net income shall be apportioned to ~~Wisconsin~~ this state by
12 use of an ~~apportionment fraction composed of a sales factor representing 50% of the~~
13 ~~fraction, a property factor representing 25% of the fraction and a payroll factor~~
14 ~~representing 25% of the fraction.~~ the following:

15 **SECTION 2.** 71.04 (4) (a) of the statutes is created to read:

16 71.04 (4) (a) For taxable years beginning before January 1, 2006, an
17 apportionment fraction composed of a sales factor under sub. (7) representing 50%
18 of the fraction, a property factor under sub. (5) representing 25% of the fraction, and
19 a payroll factor under sub. (6) representing 25% of the fraction.

20 **SECTION 3.** 71.04 (4) (b) of the statutes is created to read:

21 71.04 (4) (b) For taxable years beginning after December 31, 2005, and before
22 January 1, 2007, an apportionment fraction composed of a sales factor under sub. (7)
23 representing 60% of the fraction, a property factor under sub. (5) representing 20%
24 of the fraction, and a payroll factor under sub. (6) representing 20% of the fraction.

25 **SECTION 4.** 71.04 (4) (c) of the statutes is created to read:

ASSEMBLY BILL 413**SECTION 4**

1 71.04 (4) (c) For taxable years beginning after December 31, 2006, and before
2 January 1, 2008, an apportionment fraction composed of a sales factor under sub. (7)
3 representing 80% of the fraction, a property factor under sub. (5) representing 10%
4 of the fraction, and a payroll factor under sub. (6) representing 10% of the fraction.

5 **SECTION 5.** 71.04 (4) (d) of the statutes is created to read:

6 71.04 (4) (d) For taxable years beginning after December 31, 2007, an
7 apportionment fraction composed of the sales factor under sub. (7).

8 **SECTION 6.** 71.04 (4) (e) of the statutes is created to read:

9 71.04 (4) (e) For taxable years beginning after December 31, 2005, and before
10 January 1, 2008, the apportionment fraction for the remaining net income of a
11 financial organization shall include a sales factor that represents more than 50% of
12 the apportionment fraction, as determined by rule by the department. For taxable
13 years beginning after December 31, 2007, the apportionment fraction for the
14 remaining net income of a financial organization is composed of a sales factor, as
15 determined by rule by the department.

16 **SECTION 7.** 71.04 (4m) of the statutes is created to read:

17 71.04 (4m) APPORTIONMENT FORMULA COMPUTATION. (a) 1. For taxable years
18 beginning before January 1, 2008, if both the numerator and the denominator of the
19 sales factor under sub. (7) related to a taxpayer's remaining net income are zero, the
20 sales factor under sub. (7) is eliminated from the apportionment formula to
21 determine the taxpayer's remaining net income under sub. (4).

22 2. For taxable years beginning after December 31, 2007, if both the numerator
23 and the denominator of the sales factor under sub. (7) related to a taxpayer's
24 remaining net income are zero, none of the taxpayer's remaining net income is
25 apportioned to this state.

ASSEMBLY BILL 413

1 (b) 1. For taxable years beginning before January 1, 2008, if the numerator of
2 the sales factor under sub. (7) related to a taxpayer's remaining net income is a
3 negative number and the denominator of the sales factor under sub. (7) related to a
4 taxpayer's remaining net income is a positive number, a negative number, or zero,
5 the sales factor under sub. (7) is zero.

6 2. For taxable years beginning after December 31, 2007, if the numerator of the
7 sales factor under sub. (7) related to a taxpayer's remaining net income is a negative
8 number and the denominator of the sales factor under sub. (7) related to a taxpayer's
9 remaining net income is a positive number, a negative number, or zero, none of the
10 taxpayer's remaining net income is apportioned to this state.

11 (c) 1. For taxable years beginning before January 1, 2008, if the numerator of
12 the sales factor under sub. (7) related to a taxpayer's remaining net income is a
13 positive number and the denominator of the sales factor under sub. (7) related to a
14 taxpayer's remaining net income is zero or a negative number, the sales factor under
15 sub. (7) is one.

16 2. For taxable years beginning after December 31, 2007, if the numerator of the
17 sales factor under sub. (7) related to a taxpayer's remaining net income is a positive
18 number and the denominator of the sales factor under sub. (7) related to a taxpayer's
19 remaining net income is zero or a negative number, all of the taxpayer's remaining
20 net income is apportioned to this state.

21 **SECTION 8.** 71.04 (5) (intro.) of the statutes is amended to read:

22 71.04 (5) PROPERTY FACTOR. (intro.) For purposes of sub. (4) and for taxable
23 years beginning before January 1, 2008:

24 **SECTION 9.** 71.04 (6) (intro.) of the statutes is amended to read:

ASSEMBLY BILL 413**SECTION 9**

1 71.04 (6) PAYROLL FACTOR. (intro.) For purposes of sub. (4) and for taxable years
2 beginning before January 1, 2008:

3 **SECTION 10.** 71.04 (7) (d) of the statutes is amended to read:

4 71.04 (7) (d) Sales, other than sales of tangible personal property, are in this
5 state if the income-producing activity is performed in this state. If the
6 income-producing activity is performed both in and outside this state the sales shall
7 be divided between those states having jurisdiction to tax such business in
8 proportion to the direct costs of performance incurred in each such state in rendering
9 this service. Services performed in states which do not have jurisdiction to tax the
10 business shall be deemed to have been performed in the state to which compensation
11 is allocated by ~~sub. s.~~ 71.04 (6), 2001 stats.

12 **SECTION 11.** 71.04 (8) (b) of the statutes is renumbered 71.04 (8) (b) 1. and
13 amended to read:

14 71.04 (8) (b) 1. ~~Public~~ For taxable years beginning before January 1, 2006,
15 “public utility”, as used in this section, means any business entity described under
16 subd. 2. and any business entity which owns or operates any plant, equipment,
17 property, franchise, or license for the transmission of communications or the
18 production, transmission, sale, delivery, or furnishing of electricity, water or steam,
19 the rates of charges for goods or services of which have been established or approved
20 by a federal, state or local government or governmental agency. “Public

21 2. In this section, for taxable years beginning after December 31, 2005, “public
22 utility” also means any business entity providing service to the public and engaged
23 in the transportation of goods and persons for hire, as defined in s. 194.01 (4),
24 regardless of whether or not the entity’s rates or charges for services have been

ASSEMBLY BILL 413

1 established or approved by a federal, state or local government or governmental
2 agency.

3 **SECTION 12.** 71.04 (8) (c) of the statutes is amended to read:

4 71.04 (8) (c) The net business income of railroads, sleeping car companies, car
5 line companies, pipeline companies, financial organizations, air carriers, and public
6 utilities requiring apportionment shall be apportioned pursuant to rules of the
7 department of revenue, but the income taxed is limited to the income derived from
8 business transacted and property located within the state.

9 **SECTION 13.** 71.04 (10) of the statutes is amended to read:

10 71.04 (10) DEPARTMENT MAY WAIVE FACTOR. Where, in the case of any nonresident
11 individual or nonresident estate or trust engaged in business ~~within in~~ and ~~without~~
12 ~~the~~ outside of this state of Wisconsin and required to apportion its income as provided
13 in this section, it shall be shown to the satisfaction of the department of revenue that
14 the use of any one of the 3 factors provided under sub. (4) gives an unreasonable or
15 inequitable final average ratio because of the fact that such nonresident individual
16 or nonresident estate or trust does not employ, to any appreciable extent in its trade
17 or business in producing the income taxed, the factors made use of in obtaining such
18 ratio, this factor may, with the approval of the department of revenue, be omitted in
19 obtaining the final average ratio which is to be applied to the remaining net income.
20 This subsection does not apply to taxable years beginning after December 31, 2007.

21 **SECTION 14.** 71.25 (6) of the statutes is renumbered 71.25 (6) (intro.) and
22 amended to read:

23 71.25 (6) ALLOCATION AND SEPARATE ACCOUNTING AND APPORTIONMENT FORMULA.
24 (intro.) Corporations engaged in business within and without the state shall be taxed
25 only on such income as is derived from business transacted and property located

ASSEMBLY BILL 413**SECTION 14**

1 within the state. The amount of such income attributable to Wisconsin may be
2 determined by an allocation and separate accounting thereof, when the business of
3 such corporation within the state is not an integral part of a unitary business, but
4 the department of revenue may permit an allocation and separate accounting in any
5 case in which it is satisfied that the use of such method will properly reflect the
6 income taxable by this state. In all cases in which allocation and separate accounting
7 is not permissible, the determination shall be made in the following manner: for all
8 businesses except air carriers, financial organizations, pipeline companies, public
9 utilities, railroads, sleeping car companies, car line companies and corporations or
10 associations that are subject to a tax on unrelated business income under s. 71.26 (1)
11 (a) there shall first be deducted from the total net income of the taxpayer the part
12 thereof (less related expenses, if any) that follows the situs of the property or the
13 residence of the recipient. The remaining net income shall be apportioned to
14 Wisconsin this state by use of ~~an apportionment fraction composed of a sales factor~~
15 ~~under sub. (9) representing 50% of the fraction, a property factor under sub. (7)~~
16 ~~representing 25% of the fraction and a payroll factor under sub. (8) representing 25%~~
17 ~~of the fraction.~~ the following:

18 **SECTION 15.** 71.25 (6) (a) of the statutes is created to read:

19 71.25 (6) (a) For taxable years beginning before January 1, 2006, an
20 apportionment fraction composed of a sales factor under sub. (9) representing 50%
21 of the fraction, a property factor under sub. (7) representing 25% of the fraction, and
22 a payroll factor under sub. (8) representing 25% of the fraction.

23 **SECTION 16.** 71.25 (6) (b) of the statutes is created to read:

24 71.25 (6) (b) For taxable years beginning after December 31, 2005, and before
25 January 1, 2007, an apportionment fraction composed of a sales factor under sub. (9)

ASSEMBLY BILL 413

1 representing 60% of the fraction, a property factor under sub. (7) representing 20%
2 of the fraction, and a payroll factor under sub. (8) representing 20% of the fraction.

3 **SECTION 17.** 71.25 (6) (c) of the statutes is created to read:

4 71.25 (6) (c) For taxable years beginning after December 31, 2006, and before
5 January 1, 2008, an apportionment fraction composed of a sales factor under sub. (9)
6 representing 80% of the fraction, a property factor under sub. (7) representing 10%
7 of the fraction, and a payroll factor under sub. (8) representing 10% of the fraction.

8 **SECTION 18.** 71.25 (6) (d) of the statutes is created to read:

9 71.25 (6) (d) For taxable years beginning after December 31, 2007, an
10 apportionment fraction composed of the sales factor under sub. (9).

11 **SECTION 19.** 71.25 (6) (e) of the statutes is created to read:

12 71.25 (6) (e) For taxable years beginning after December 31, 2005, and before
13 January 1, 2008, the apportionment fraction for the remaining net income of a
14 financial organization shall include a sales factor that represents more than 50% of
15 the apportionment fraction, as determined by rule by the department. For taxable
16 years beginning after December 31, 2007, the apportionment fraction for the
17 remaining net income of a financial organization is composed of a sales factor, as
18 determined by rule by the department.

19 **SECTION 20.** 71.25 (6m) of the statutes is created to read:

20 71.25 (6m) APPORTIONMENT FORMULA COMPUTATION. (a) 1. For taxable years
21 beginning before January 1, 2008, if both the numerator and the denominator of the
22 sales factor under sub. (9) related to a taxpayer's remaining net income are zero, the
23 sales factor under sub. (9) is eliminated from the apportionment formula to
24 determine the taxpayer's remaining net income under sub. (6).

ASSEMBLY BILL 413**SECTION 20**

1 2. For taxable years beginning after December 31, 2007, if both the numerator
2 and the denominator of the sales factor under sub. (9) related to a taxpayer's
3 remaining net income are zero, none of the taxpayer's remaining net income is
4 apportioned to this state.

5 (b) 1. For taxable years beginning before January 1, 2008, if the numerator of
6 the sales factor under sub. (9) related to a taxpayer's remaining net income is a
7 negative number and the denominator of the sales factor under sub. (9) related to a
8 taxpayer's remaining net income is a positive number, a negative number, or zero,
9 the sales factor under sub. (9) is zero.

10 2. For taxable years beginning after December 31, 2007, if the numerator of the
11 sales factor under sub. (9) related to a taxpayer's remaining net income is a negative
12 number and the denominator of the sales factor under sub. (9) related to a taxpayer's
13 remaining net income is a positive number, a negative number, or zero, none of the
14 taxpayer's remaining net income is apportioned to this state.

15 (c) 1. For taxable years beginning before January 1, 2008, if the numerator of
16 the sales factor under sub. (9) related to a taxpayer's remaining net income is a
17 positive number and the denominator of the sales factor under sub. (9) related to a
18 taxpayer's remaining net income is zero or a negative number, the sales factor under
19 sub. (9) is one.

20 2. For taxable years beginning after December 31, 2007, if the numerator of the
21 sales factor under sub. (9) related to a taxpayer's remaining net income is a positive
22 number and the denominator of the sales factor under sub. (9) related to a taxpayer's
23 remaining net income is zero or a negative number, all of the taxpayer's remaining
24 net income is apportioned to this state.

25 **SECTION 21.** 71.25 (7) (intro.) of the statutes is amended to read:

ASSEMBLY BILL 413

1 71.25 (7) PROPERTY FACTOR. (intro.) For purposes of sub. ~~(5)~~ (6) and for taxable
2 years beginning before January 1, 2008:

3 **SECTION 22.** 71.25 (8) (intro.) of the statutes is amended to read:

4 71.25 (8) PAYROLL FACTOR. (intro.) For purposes of sub. ~~(5)~~ (6) and for taxable
5 years beginning before January 1, 2008:

6 **SECTION 23.** 71.25 (9) (d) of the statutes is amended to read:

7 71.25 (9) (d) Sales, other than sales of tangible personal property, are in this
8 state if the income-producing activity is performed in this state. If the
9 income-producing activity is performed both in and outside this state the sales shall
10 be divided between those states having jurisdiction to tax such business in
11 proportion to the direct costs of performance incurred in each such state in rendering
12 this service. Services performed in states which do not have jurisdiction to tax the
13 business shall be deemed to have been performed in the state to which compensation
14 is allocated by ~~sub. s. 71.25 (8), 2001 stats.~~

15 **SECTION 24.** 71.25 (10) (b) of the statutes is renumbered 71.25 (10) (b) 1. and
16 amended to read:

17 71.25 (10) (b) 1. In this section, for taxable years beginning before January 1,
18 2006, “public utility” means any business entity described under subd. 2. and any
19 business entity which owns or operates any plant, equipment, property, franchise,
20 or license for the transmission of communications or the production, transmission,
21 sale, delivery, or furnishing of electricity, water or steam the rates of charges for
22 goods or services of which have been established or approved by a federal, state or
23 local government or governmental agency. “Public

24 2. In this section, for taxable years beginning after December 31, 2005, “public
25 utility” also means any business entity providing service to the public and engaged

ASSEMBLY BILL 413**SECTION 24**

1 in the transportation of goods and persons for hire, as defined in s. 194.01 (4),
2 regardless of whether or not the entity's rates or charges for services have been
3 established or approved by a federal, state or local government or governmental
4 agency.

5 **SECTION 25.** 71.25 (10) (c) of the statutes is amended to read:

6 71.25 (10) (c) The net business income of railroads, sleeping car companies, car
7 line companies, pipeline companies, financial organizations, air carriers, and public
8 utilities requiring apportionment shall be apportioned pursuant to rules of the
9 department of revenue, but the income taxed is limited to the income derived from
10 business transacted and property located within the state.

11 **SECTION 26.** 71.25 (11) of the statutes is amended to read:

12 71.25 (11) DEPARTMENT MAY WAIVE FACTOR. Where, in the case of any corporation
13 engaged in business ~~within in~~ and ~~without the~~ outside of this state of Wisconsin and
14 required to apportion its income as provided in sub. (6), it shall be shown to the
15 satisfaction of the department of revenue that the use of any one of the 3 factors
16 provided in sub. (6) gives an unreasonable or inequitable final average ratio because
17 of the fact that such corporation does not employ, to any appreciable extent in its
18 trade or business in producing the income taxed, the factors made use of in obtaining
19 such ratio, this factor may, with the approval of the department of revenue, be
20 omitted in obtaining the final average ratio which is to be applied to the remaining
21 net income. This subsection does not apply to taxable years beginning after
22 December 31, 2007.

23 **SECTION 27.** 71.45 (3) (intro.) of the statutes is amended to read:

24 71.45 (3) APPORTIONMENT. (intro.) ~~With respect~~ Except as provided in sub. (3d),
25 to determine Wisconsin income for purposes of the franchise tax, domestic insurers

ASSEMBLY BILL 413

1 ~~not engaged in the sale of life insurance but which~~ that, in the taxable year, have
2 collected received premiums, other than life insurance premiums, written on
3 subjects of for insurance on property or risks resident, located or to be performed
4 outside this state, ~~there shall be subtracted from~~ multiply the net income figure
5 derived by application of sub. (2) (a) ~~to arrive at Wisconsin income constituting the~~
6 ~~measure of the franchise tax an amount calculated by multiplying such adjusted~~
7 ~~federal taxable income~~ by the arithmetic average of the following 2 percentages:

8 **SECTION 28.** 71.45 (3) (a) of the statutes is amended to read:

9 71.45 (3) (a) The Subject to sub. (3d), the percentage of total determined by
10 dividing the sum of direct premiums written on ~~all property and risks for insurance~~
11 other than life insurance, with respect to all property and risks resident, located, or
12 to be performed in this state, and assumed premiums written for reinsurance, other
13 than life insurance, with respect to all property and risks resident, located, or to be
14 performed in this state, by the sum of direct premiums written for insurance on all
15 property and risks, other than life insurance, wherever located during the taxable
16 year, as reflects, and assumed premiums written on insurance for reinsurance on all
17 property and risks, other than life insurance, where the subject of insurance was
18 resident, located or to be performed outside this state wherever located. In this
19 paragraph, "direct premiums" means direct premiums as reported for the taxable
20 year on an annual statement that is filed by the insurer with the commissioner of
21 insurance under s. 601.42 (1g) (a). In this paragraph, "assumed premiums" means
22 assumed reinsurance premiums from domestic insurance companies as reported for
23 the taxable year on an annual statement that is filed with the commissioner of
24 insurance under s. 601.42 (1g) (a).

ASSEMBLY BILL 413**SECTION 29**

1 **SECTION 29.** 71.45 (3) (b) of the statutes is renumbered 71.45 (3) (b) 1. and
2 amended to read:

3 71.45 **(3)** (b) 1. The Subject to sub. (3d), the percentage of determined by
4 dividing the payroll, exclusive of life insurance payroll, paid in this state in the
5 taxable year by total payroll, exclusive of life insurance payroll, paid everywhere in
6 the taxable year as ~~reflects such compensation paid outside this state.~~
7 Compensation.

8 2. Under subd. 1., payroll is paid outside in this state if the individual's service
9 is performed entirely outside in this state; or the individual's service is performed
10 both ~~within and without~~ in and outside of this state, but the service performed ~~within~~
11 outside of this state is incidental to the individual's service ~~without~~ in this state; or
12 some service is performed ~~without~~ in this state and the base of operations, or if there
13 is no base of operations, the place from which the service is directed or controlled is
14 ~~without~~ in this state, or the base of operations or the place from which the service is
15 directed or controlled is not in any state in which some part of the service is
16 performed, but the individual's residence is ~~outside~~ in this state.

17 **SECTION 30.** 71.45 (3d) of the statutes is created to read:

18 71.45 **(3d)** PHASE IN; DOMESTIC INSURERS. (a) For taxable years beginning after
19 December 31, 2005, and before January 1, 2007, a domestic insurer that is subject
20 to apportionment under sub. (3) and this subsection shall multiply the net income
21 figure derived by the application of sub. (2) by an apportionment fraction composed
22 of the percentage under sub. (3) (a) representing 60% of the fraction and the
23 percentage under sub. (3) (b) 1. representing 40% of the fraction.

24 (b) For taxable years beginning after December 31, 2006, and before January
25 1, 2008, a domestic insurer that is subject to apportionment under sub. (3) and this

ASSEMBLY BILL 413

1 subsection shall multiply the net income figure derived by the application of sub. (2)
2 by an apportionment fraction composed of the percentage under sub. (3) (a)
3 representing 80% of the fraction and the percentage under sub. (3) (b) 1. representing
4 20% of the fraction.

5 (c) For taxable years beginning after December 31, 2007, a domestic insurer
6 that is subject to apportionment under sub. (3) and this subsection shall multiply the
7 net income figure derived by the application of sub. (2) by the percentage under sub.
8 (3) (a).

9 **SECTION 31.** 71.45 (3e) of the statutes is created to read:

10 71.45 (3e) APPORTIONMENT FORMULA COMPUTATION. (a) 1. For taxable years
11 beginning before January 1, 2008, if both the numerator and the denominator used
12 to determine the percentage under sub. (3) (a) related to a taxpayer's net income are
13 zero, the percentage under sub. (3) (a) is eliminated from the apportionment formula
14 to determine the taxpayer's income under sub. (3).

15 2. For taxable years beginning after December 31, 2007, if both the numerator
16 and the denominator used to determine the percentage under sub. (3) (a) related to
17 a taxpayer's net income are zero, none of the taxpayer's net income is apportioned
18 to this state.

19 (b) 1. For taxable years beginning before January 1, 2008, if the numerator
20 used to determine the percentage under sub. (3) (a) related to a taxpayer's net income
21 is a negative number and the denominator used to determine the percentage under
22 sub. (3) (a) related to a taxpayer's net income is a positive number, a negative number,
23 or zero, the percentage under sub. (3) (a) is zero.

24 2. For taxable years beginning after December 31, 2007, if the numerator used
25 to determine the percentage under sub. (3) (a) related to a taxpayer's net income is

ASSEMBLY BILL 413**SECTION 31**

1 a negative number and the denominator used to determine the percentage under
2 sub. (3) (a) related to a taxpayer's net income is a positive number, a negative number,
3 or zero, none of the taxpayer's net income is apportioned to this state.

4 (c) 1. For taxable years beginning before January 1, 2008, if the numerator used
5 to determine the percentage under sub. (3) (a) related to a taxpayer's net income is
6 a positive number and the denominator used to determine the percentage under sub.
7 (3) (a) related to a taxpayer's net income is zero or a negative number, the percentage
8 under sub. (3) (a) is one.

9 2. For taxable years beginning after December 31, 2007, if the numerator used
10 to determine the percentage under sub. (3) (a) related to a taxpayer's net income is
11 a positive number and the denominator used to determine the percentage under sub.
12 (3) (a) related to a taxpayer's net income is zero or a negative number, all of the
13 taxpayer's net income is apportioned to this state.

14 **SECTION 32.** 71.45 (3m) of the statutes is amended to read:

15 71.45 (3m) ARITHMETIC AVERAGE. The Except as provided in sub. (3d), the
16 arithmetic average of the 2 percentages referred to in sub. (3) shall be applied to the
17 net income figure arrived at by the successive application of sub. (2) (a) and (b) with
18 respect to Wisconsin insurers to which sub. (2) (a) and (b) applies and which have
19 collected received premiums, other than life insurance premiums, written upon for
20 insurance, other than life insurance, where the subject of such insurance was on
21 property or risks resident, located or to be performed outside this state, to arrive at
22 Wisconsin income constituting the measure of the franchise tax.

23 **SECTION 33. Nonstatutory provisions; revenue.**

24 (1) INCOME APPORTIONMENT FOR FINANCIAL ORGANIZATIONS; RULES. The
25 department of revenue shall submit in proposed form rules related to the

