



State of Wisconsin
2017 - 2018 LEGISLATURE

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2017 ASSEMBLY BILL 963

February 16, 2018 - Introduced by Representatives STEINEKE, ROHRKASTE, MURPHY, TUSLER, SPIROS and PETERSEN, cosponsored by Senator ROTH. Referred to Committee on State Affairs.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.08 (1) (intro.), 71.10 (4) (i), 71.21 (4) (a),
2 71.26 (2) (a) 4., 71.30 (3) (f), 71.34 (1k) (g) and 238.12 (1); and **to create** 20.835
3 (2) (cq), 71.07 (3ym), 71.28 (3ym), 77.54 (67) and 238.165 of the statutes;
4 **relating to:** authorizing certain tax benefits for a paper products
5 manufacturer with facilities in the city of Neenah and village of Fox Crossing
6 and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill authorizes the Wisconsin Economic Development Corporation to certify a certain paper products manufacturer to claim tax credits. The business certified by WEDC under the bill may claim as income and franchise tax credits a percentage of the business's eligible payroll for full-time employees, as defined in the bill, employed at the business's facilities in the city of Neenah and village of Fox Crossing, if the employment positions exist when the bill becomes law.

The bill further authorizes WEDC to certify the paper products manufacturer for additional income and franchise tax credits, subject to certain limitations, if the business makes a significant capital expenditure at a facility specified above. The bill also creates a sales and use tax exemption for the sale of building materials, supplies, and equipment used to construct or develop facilities located at a facility specified above if the capital expenditures for constructing or developing the facilities may be claimed as income and franchise tax credits by the business certified under the bill.

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If the amount of any income and franchise tax credit under the bill exceeds the business's tax liability, the business receives a refund equal to the excess amount.

WEDC may seek repayment of tax credits that the business claims for a year in which the business failed to maintain employment levels or a significant capital investment in property required by contract between the business and WEDC. Also, WEDC must revoke the certification to claim tax credits if the business does any of the following:

1. Supplies false or misleading information to obtain the tax credits.
2. Leaves the state to conduct substantially the same business outside the state.
3. Ceases operations in the state and does not renew operation of the business or a similar business in the state within 12 months.
4. Fails to retain at least 93 percent of its full-time employees at the facilities specified above who were identified as being full-time employees of the business in the base year, as determined by WEDC.
5. Fails to retain at least 93 percent of its full-time employees employed in this state but outside the facilities specified above who were identified as being full-time employees of the business in the base year, as determined by WEDC.

A certification under the bill may remain in effect for no more than 15 years.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the *state and local* 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.** 20.835 (2) (cq) of the statutes is created to read:

2 20.835 (2) (cq) *Paper products manufacturer credit.* A sum sufficient to make
3 the payments under ss. 71.07 (3ym) (d) 2. and 71.28 (3ym) (d) 2.

4 **SECTION 2.** 71.05 (6) (a) 15. of the statutes, as affected by 2017 Wisconsin Act
5 58, is amended to read:

6 71.05 (6) (a) 15. Except as provided under s. 71.07 (3p) (c) 5., the amount of the
7 credits computed under s. 71.07 (2dm), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
8 (3rm), (3rn), (3s), (3t), (3w), (3wm), (3y), (3ym), (4k), (4n), (5e), (5f), (5h), (5i), (5j), (5k),
9 (5r), (5rm), (6n), and (8r) and not passed through by a partnership, limited liability

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1 company, or tax-option corporation that has added that amount to the partnership's,
2 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

3 **SECTION 3.** 71.07 (3ym) of the statutes is created to read:

4 71.07 (**3ym**) PAPER PRODUCTS MANUFACTURER CREDIT. (a) *Definitions*. In this
5 subsection:

6 1. "Claimant" means a person who is certified to claim tax benefits under s.
7 238.165 (2) and who files a claim under this subsection.

8 2. "Eligible payroll" means the amount of state payroll that is attributable to
9 wages paid by the claimant to full-time employees. "Eligible payroll" does not
10 include the amount of wages paid to any full-time employee that exceeds \$100,000.

11 3. "Full-time employee" has the meaning given in s. 238.165 (1m) (a).

12 4. "State payroll" means the amount of payroll apportioned to this state, as
13 determined under s. 71.25 (8).

14 5. "Wages" means wages under section 3306 (b) of the Internal Revenue Code,
15 determined without regard to any dollar limitations.

16 (b) *Filing claims; payroll*. Subject to the limitations provided in this subsection
17 and s. 238.165, a claimant may claim as a credit against the tax imposed under s.
18 71.02 or 71.08 an amount calculated as follows:

19 1. Determine the eligible payroll for the taxable year for full-time employees
20 employed by the claimant.

21 2. Multiply the amount determined under subd. 1. by 17 percent.

22 (bm) *Filing supplemental claims*. In addition to claiming the credit under par.
23 (b), and subject to the limitations under this subsection and s. 238.165, a claimant
24 may claim as a credit against the tax imposed under s. 71.02 or 71.08 an amount up

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1 to 15 percent of the claimant's significant capital expenditures in this state in the
2 taxable year, as determined under s. 238.165 (4).

3 (c) *Limitations.* 1. Partnerships, limited liability companies, and tax-option
4 corporations may not claim the credit under this subsection, but the eligibility for,
5 and the amount of, the credit are based on their payment of amounts described under
6 pars. (b) and (bm). A partnership, limited liability company, or tax-option
7 corporation shall compute the amount of credit that each of its partners, members,
8 or shareholders may claim and shall provide that information to each of them.
9 Partners, members of limited liability companies, and shareholders of tax-option
10 corporations may claim the credit in proportion to their ownership interests.

11 2. No credit may be allowed under this subsection unless the claimant includes
12 with the claimant's return a copy of the claimant's certification for tax benefits under
13 s. 238.165 (2).

14 (d) *Administration.* 1. Section 71.28 (4) (g) and (h), as it applies to the credit
15 under s. 71.28 (4), applies to the credit under this subsection.

16 2. If the allowable amount of the claim under this subsection exceeds the taxes
17 otherwise due on the claimant's income under s. 71.02, the amount of the claim that
18 is not used to offset those taxes shall be certified by the department of revenue to the
19 department of administration for payment by check, share draft, or other draft
20 drawn from the appropriation under s. 20.835 (2) (cq). Notwithstanding s. 71.82, no
21 interest shall be paid on amounts certified under this subdivision.

22 **SECTION 4.** 71.08 (1) (intro.) of the statutes, as affected by 2017 Wisconsin Act
23 58, is amended to read:

24 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
25 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under

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1 ss. 71.07 (1), (2dx), (2dy), (3m), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w),
2 (3wm), (3y), (3ym), (4k), (5b), (5d), (5e), (5f), (5h), (5i), (5j), (5n), (6), (6e), (8r), (9e),
3 (9m), and (9r), 71.28 (1dx), (1dy), (2m), (3), (3n), (3t), (3w), (3wm), ~~and (3y), and (3ym)~~,
4 71.47 (1dx), (1dy), (2m), (3), (3n), (3t), (3w), and (3y), 71.57 to 71.61, and 71.613 and
5 subch. VIII and payments to other states under s. 71.07 (7), is less than the tax under
6 this section, there is imposed on that natural person, married couple filing jointly,
7 trust or estate, instead of the tax under s. 71.02, an alternative minimum tax
8 computed as follows:

9 **SECTION 5.** 71.10 (4) (i) of the statutes, as affected by 2017 Wisconsin Acts 58
10 and 59, is amended to read:

11 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland
12 preservation credit under ss. 71.57 to 71.61, farmland preservation credit, 2010 and
13 beyond under s. 71.613, homestead credit under subch. VIII, farmland tax relief
14 credit under s. 71.07 (3m), dairy manufacturing facility investment credit under s.
15 71.07 (3p), jobs tax credit under s. 71.07 (3q), meat processing facility investment
16 credit under s. 71.07 (3r), woody biomass harvesting and processing credit under s.
17 71.07 (3rm), food processing plant and food warehouse investment credit under s.
18 71.07 (3rn), business development credit under s. 71.07 (3y), research credit under
19 s. 71.07 (4k) (e) 2. a., film production services credit under s. 71.07 (5f), film
20 production company investment credit under s. 71.07 (5h), veterans and surviving
21 spouses property tax credit under s. 71.07 (6e), enterprise zone jobs credit under s.
22 71.07 (3w), electronics and information technology manufacturing zone credit under
23 s. 71.07 (3wm), paper products manufacturer credit under s. 71.07 (3ym), beginning
24 farmer and farm asset owner tax credit under s. 71.07 (8r), earned income tax credit

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1 under s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes withheld under
2 subch. X.

3 **SECTION 6.** 71.21 (4) (a) of the statutes, as affected by 2017 Wisconsin Act 58,
4 is amended to read:

5 71.21 (4) (a) The amount of the credits computed by a partnership under s.
6 71.07 (2dm), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w),
7 (3wm), (3y), (3ym), (4k), (4n), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), (6n), and
8 (8r) and passed through to partners shall be added to the partnership's income.

9 **SECTION 7.** 71.26 (2) (a) 4. of the statutes, as affected by 2017 Wisconsin Acts
10 58 and 59, is amended to read:

11 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dm),
12 (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (3wm), (3y), (3ym),
13 (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), (6n), (8r), and (9s) and not passed
14 through by a partnership, limited liability company, or tax-option corporation that
15 has added that amount to the partnership's, limited liability company's, or
16 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

17 **SECTION 8.** 71.28 (3ym) of the statutes is created to read:

18 71.28 (3ym) PAPER PRODUCTS MANUFACTURER CREDIT. (a) *Definitions.* In this
19 subsection:

20 1. "Claimant" means a person who is certified to claim tax benefits under s.
21 238.165 (2) and who files a claim under this subsection.

22 2. "Eligible payroll" means the amount of state payroll that is attributable to
23 wages paid by the claimant to full-time employees. "Eligible payroll" does not
24 include the amount of wages paid to any full-time employee that exceeds \$100,000.

25 3. "Full-time employee" has the meaning given in s. 238.165 (1m) (a).

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1 4. “State payroll” means the amount of payroll apportioned to this state, as
2 determined under s. 71.25 (8).

3 5. “Wages” means wages under section 3306 (b) of the Internal Revenue Code,
4 determined without regard to any dollar limitations.

5 (b) *Filing claims; payroll.* Subject to the limitations provided in this subsection
6 and s. 238.165, a claimant may claim as a credit against the tax imposed under s.
7 71.23 an amount calculated as follows:

8 1. Determine the eligible payroll for the taxable year for full-time employees
9 employed by the claimant.

10 2. Multiply the amount determined under subd. 1. by 17 percent.

11 (bm) *Filing supplemental claims.* In addition to claiming the credit under par.
12 (b), and subject to the limitations under this subsection and s. 238.165, a claimant
13 may claim as a credit against the tax imposed under s. 71.23 an amount up to 15
14 percent of the claimant’s significant capital expenditures in this state in the taxable
15 year, as determined under s. 238.165 (4).

16 (c) *Limitations.* 1. Partnerships, limited liability companies, and tax-option
17 corporations may not claim the credit under this subsection, but the eligibility for,
18 and the amount of, the credit are based on their payment of amounts described under
19 pars. (b) and (bm). A partnership, limited liability company, or tax-option
20 corporation shall compute the amount of credit that each of its partners, members,
21 or shareholders may claim and shall provide that information to each of them.
22 Partners, members of limited liability companies, and shareholders of tax-option
23 corporations may claim the credit in proportion to their ownership interests.

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1 2. No credit may be allowed under this subsection unless the claimant includes
2 with the claimant's return a copy of the claimant's certification for tax benefits under
3 s. 238.165 (2).

4 (d) *Administration.* 1. Subsection (4) (g) and (h), as it applies to the credit
5 under sub. (4), applies to the credit under this subsection.

6 2. If the allowable amount of the claim under this subsection exceeds the taxes
7 otherwise due on the claimant's income under s. 71.23, the amount of the claim that
8 is not used to offset those taxes shall be certified by the department of revenue to the
9 department of administration for payment by check, share draft, or other draft
10 drawn from the appropriation under s. 20.835 (2) (cq). Notwithstanding s. 71.82, no
11 interest shall be paid on amounts certified under this subdivision.

12 **SECTION 9.** 71.30 (3) (f) of the statutes, as affected by 2017 Wisconsin Acts 58
13 and 59, is amended to read:

14 71.30 (3) (f) The total of farmland preservation credit under subch. IX,
15 farmland tax relief credit under s. 71.28 (2m), dairy manufacturing facility
16 investment credit under s. 71.28 (3p), jobs credit under s. 71.28 (3q), meat processing
17 facility investment credit under s. 71.28 (3r), woody biomass harvesting and
18 processing credit under s. 71.28 (3rm), food processing plant and food warehouse
19 investment credit under s. 71.28 (3rn), enterprise zone jobs credit under s. 71.28
20 (3w), electronics and information technology manufacturing zone credit under s.
21 71.28 (3wm), paper products manufacturer credit under s. 71.28 (3ym), business
22 development credit under s. 71.28 (3y), research credit under s. 71.28 (4) (k) 1., film
23 production services credit under s. 71.28 (5f), film production company investment
24 credit under s. 71.28 (5h), beginning farmer and farm asset owner tax credit under
25 s. 71.28 (8r), and estimated tax payments under s. 71.29.

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1 **SECTION 10.** 71.34 (1k) (g) of the statutes, as affected by 2017 Wisconsin Act 58,
2 is amended to read:

3 71.34 **(1k)** (g) An addition shall be made for credits computed by a tax-option
4 corporation under s. 71.28 (1dm), (1dx), (1dy), (3), (3g), (3h), (3n), (3p), (3q), (3r),
5 (3rm), (3rn), (3t), (3w), (3wm), (3y), (3ym), (4), (5), (5e), (5f), (5g), (5h), (5i), (5j), (5k),
6 (5r), (5rm), (6n), and (8r) and passed through to shareholders.

7 **SECTION 11.** 77.54 (67) of the statutes is created to read:

8 77.54 **(67)** The sales price from the sale of building materials, supplies, and
9 equipment and the sale of services described in s. 77.52 (2) (a) 20. to; and the storage,
10 use, or other consumption of the same property and services by; owners, lessees,
11 contractors, subcontractors, or builders if that property or service is acquired solely
12 for or used solely in the construction or development of facilities for which capital
13 expenditures may be claimed as a credit under s. 71.07 (3ym) (bm) or 71.28 (3ym)
14 (bm), as certified by the Wisconsin Economic Development Corporation.

15 **SECTION 12.** 238.12 (1) of the statutes, as affected by 2017 Wisconsin Act 58,
16 is amended to read:

17 238.12 **(1)** In this section, “tax benefits” means the credits under ss. 71.07
18 (2dm), (2dx), (3g), (3t), and (3wm), and (3ym), 71.28 (1dm), (1dx), (3g), (3t), and
19 (3wm), and (3ym), 71.47 (1dm), (1dx), (3g), and (3t), and 76.636.

20 **SECTION 13.** 238.165 of the statutes is created to read:

21 **238.165 Paper products manufacturer tax credit. (1) LEGISLATIVE**
22 **DECLARATION.** The legislature finds and determines that tax benefits provided under
23 this section to the paper products manufacturer specified under sub. (2) (a)
24 encourage economic development in this state, reduce unemployment in this state,
25 preserve business activities within this state, and preserve and increase needed

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1 capital in this state for the benefit and welfare of people throughout the state. The
2 tax benefits are therefore in the public interest and will serve a public purpose, and
3 it is the public policy of this state to provide the tax benefits under this section.

4 **(1m) DEFINITION.** In this section:

5 (a) "Full-time employee" means an individual who is employed at a facility
6 specified under sub. (2) (a) in a job for which the annual pay is at least \$30,000 and
7 who is offered retirement, health, and other benefits that are equivalent to the
8 retirement, health, and other benefits offered to an individual who is required to
9 work at least 2,080 hours per year.

10 (b) "Tax benefits" means the income and franchise tax credits under ss. 71.07
11 (3ym) and 71.28 (3ym).

12 **(2) CERTIFICATION.** The corporation may certify a business to receive tax
13 benefits under this section if all of the following apply:

14 (a) The business is a paper products manufacturer with facilities located at
15 1050 Cold Spring Road in the village of Fox Crossing and 1111 Henry Street in the
16 city of Neenah.

17 (b) The business applies under this section and enters into a contract with the
18 corporation.

19 **(3) TIME LIMIT.** A certification under sub. (2) shall remain in effect for no more
20 than 15 years.

21 **(4) ADDITIONAL TAX BENEFITS FOR SIGNIFICANT CAPITAL EXPENDITURES.** If the
22 corporation determines that a business certified under sub. (2) makes a significant
23 capital expenditure at a facility specified under sub. (2) (a), the corporation may
24 certify the business to receive additional tax benefits in an amount to be determined
25 by the corporation, but not exceeding 15 percent of the business's capital

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1 expenditures. The corporation shall, in a manner determined by the corporation,
2 allocate the tax benefits a business is certified to receive under this subsection over
3 a period of years.

4 **(6) OTHER DUTIES.** (a) The corporation shall revoke a certification under sub.
5 (2) if the business does any of the following:

6 1. Supplies false or misleading information to obtain tax benefits.

7 2. Leaves the state to conduct substantially the same business outside the
8 state.

9 3. Ceases operations in the state and does not renew operation of the business
10 or a similar business in the state within 12 months.

11 4. Fails to retain at least 93 percent of its full-time employees who were
12 identified as being full-time employees of the business in the base year, as
13 determined by the corporation.

14 5. Fails to retain at least 93 percent of its employees employed in a full-time
15 capacity in this state but not at the facilities specified under sub. (2) (a) who were
16 identified as being employees of the business so employed in the base year, as
17 determined by the corporation.

18 (b) The corporation may require a business to repay any tax benefits the
19 business claims for a year in which the business failed to maintain employment
20 levels or a significant capital investment in property required by contract between
21 the business and the corporation.

22 (c) The corporation shall determine the maximum amount of the tax benefits
23 that a certified business may claim and shall notify the department of revenue of this
24 amount. Tax benefits may be claimed for a full-time employee only if the employee

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1 is employed in a position existing on the effective date of this paragraph [LRB
2 inserts date].

3 (d) The corporation shall annually verify the information submitted to the
4 corporation for purposes of ss. 71.07 (3ym) and 71.28 (3ym).

5 (e) The corporation shall adopt policies and procedures defining “significant
6 capital expenditure” for purposes of sub. (4).

7 **SECTION 14. Initial applicability.**

8 (1) SALES AND USE TAX EXEMPTION. The treatment of section 77.54 (67) of the
9 statutes first applies to purchases made by a business after the Wisconsin Economic
10 Development Corporation enters into a contract with the business under section
11 238.165 (2) (b) of the statutes.

12 (END)