



2009 ASSEMBLY BILL 794

March 2, 2010 - Introduced by Representatives FRISKE, MOLEPSKE JR., MURSAU, MEYER, M. WILLIAMS, BROOKS, HRAYCHUCK, KESTELL, A. OTT, SUDER, TAUCHEN, TOWNSEND and TURNER, cosponsored by Senators KREITLOW and TAYLOR. Referred to Committee on Jobs, the Economy and Small Business.

1 **AN ACT** *to amend* 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a) 4., 71.34 (1k) (g), 71.45
2 (2) (a) 10. and 77.92 (4); and *to create* 70.11 (45), 71.07 (6f), 71.07 (6g), 71.10
3 (4) (cf), 71.10 (4) (cg), 71.28 (6f), 71.28 (6g), 71.30 (3) (af), 71.30 (3) (ag), 71.47
4 (6f), 71.47 (6g), 71.49 (1) (af), 71.49 (1) (ag) and 77.54 (58) of the statutes;
5 **relating to:** nonrefundable individual and corporate income and franchise tax
6 credits for purchasing a thermal biomass heating system and fuel for such a
7 system, property tax exemptions for thermal biomass heating systems and
8 facilities used to store fuel for such systems, and a sales and use tax exemption
9 for purchasing a thermal biomass heating system.

Analysis by the Legislative Reference Bureau

This bill creates a nonrefundable individual income tax credit, and a corporate income and franchise tax credit, for the purchase of a thermal biomass heating system (system) and a similar nonrefundable credit for the purchase of biomass fuel for such a system. Under the bill, a claimant may claim 100 percent of the cost the claimant spends for the purchase and installation of a system in the claimant's primary residence or place of business. A claimant may also claim a credit for 100 percent of the cost of fuel for a system that is installed in the claimant's primary residence or place of business.

ASSEMBLY BILL 794

To be eligible for the credit, the system must comply with all state requirements related to emissions of air contaminants, and the provisions of the federal Clean Air Act, that apply to the system on the day it is purchased. The credit related to purchasing a system, or fuel for the system, for an individual’s primary residence may not be claimed by a nonresident or part-year resident of the state. Because the credit is nonrefundable, it may be claimed only up to the amount of a taxpayer’s income or franchise tax liability.

Under the bill, a system is defined as a stove, furnace, or boiler that generates heat from biomass and provides an energy efficiency conversion of at least 75 percent. Subject to a number of exceptions, such as an exception for garbage and for certain nonvegetation-based waste, biomass is defined under the bill as a resource that derives energy from wood or plant material or residue, biological waste, crops grown for use as such a resource, or landfill gases.

The bill also creates real and personal property tax exemptions for a system and for facilities that are used to store fuel for such a system. Finally, the bill creates a sales and use tax exemption for the purchase of a system, including accessories, attachments, and repair parts.

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.** 70.11 (45) of the statutes is created to read:

2 70.11 (45) THERMAL BIOMASS HEATING SYSTEMS. (a) Thermal biomass heating
3 systems, as defined in s. 71.07 (6f) (a) 4., including accessories, attachments, and
4 repair parts, but not including equipment or components that would be present as
5 part of a conventional energy system.

6 (b) All property of a facility that is used to store fuel made from biomass, as
7 defined in s. 196.378 (1) (ar), if the fuel is sold for use in thermal biomass heating
8 systems, as defined in s. 71.07 (6f) (a) 4.

9 **SECTION 2.** 71.05 (6) (a) 15. of the statutes, as affected by 2009 Wisconsin Acts
10 2 and 28, is amended to read:

ASSEMBLY BILL 794

1 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
2 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s),
3 (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), (6f), (6g), and (8r) and not passed through by
4 a partnership, limited liability company, or tax-option corporation that has added
5 that amount to the partnership's, company's, or tax-option corporation's income
6 under s. 71.21 (4) or 71.34 (1k) (g).

7 **SECTION 3.** 71.07 (6f) of the statutes is created to read:

8 71.07 (6f) THERMAL BIOMASS HEATING SYSTEMS CREDIT. (a) *Definitions.* In this
9 subsection:

10 1. "Air quality standards" means all requirements under ch. 285 and 42 USC
11 7401 to 7671q.

12 2. "Biomass" has the meaning given in s. 196.378 (1) (ar).

13 3. "Claimant" means a person who files a claim under this subsection.

14 4. "Thermal biomass heating system" means a stove, furnace, or boiler that
15 generates heat from biomass by providing an energy efficiency conversion of at least
16 75 percent and meets any air quality standards that apply to the system on the day
17 on which it is purchased.

18 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
19 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
20 amount of those taxes, 100 percent of the installed cost of a thermal biomass heating
21 system that the claimant paid in the taxable year for a system that is installed in the
22 claimant's primary residence in this state or in the claimant's place of business in this
23 state.

ASSEMBLY BILL 794**SECTION 3**

1 (c) *Limitations.* 1. No credit may be claimed under this subsection by a
2 part-year resident or a nonresident of this state for amounts paid to install a thermal
3 biomass heating system in the claimant's primary residence in this state.

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

12 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
13 s. 71.28 (4), applies to the credit under this subsection.

14 **SECTION 4.** 71.07 (6g) of the statutes is created to read:

15 71.07 (6g) THERMAL BIOMASS FUEL CREDIT. (a) *Definitions.* In this subsection:

16 1. "Biomass" has the meaning given in s. 196.378 (1) (ar).

17 2. "Claimant" means a person who files a claims under this subsection.

18 3. "Fuel" means fuel that is made from biomass and is used to power a thermal
19 biomass heating system.

20 4. "Thermal biomass heating system" has the meaning given in sub. (6f) (a) 4.

21 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
22 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
23 amount of those taxes, 100 percent of the amount that the claimant paid in the
24 taxable year for fuel used in a thermal biomass heating system that is installed in

ASSEMBLY BILL 794

1 the claimant's primary residence in this state or in the claimant's place of business
2 in this state.

3 (c) *Limitations.* 1. No credit may be claimed under this subsection by a
4 part-year resident or a nonresident of this state for amounts paid for fuel used in a
5 thermal biomass heating system in the claimant's primary residence in this state.

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

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

16 **SECTION 5.** 71.10 (4) (cf) of the statutes is created to read:

17 71.10 (4) (cf) The thermal biomass heating systems credit under s. 71.07 (6f).

18 **SECTION 6.** 71.10 (4) (cg) of the statutes is created to read:

19 71.10 (4) (cg) The thermal biomass fuel credit under s. 71.07 (6g).

20 **SECTION 7.** 71.21 (4) of the statutes, as affected by 2009 Wisconsin Acts 2 and
21 28, is amended to read:

22 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
23 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s), (3t), (3w),
24 (5e), (5f), (5g), (5h), (5i), (5j), (5k), ~~(6f), (6g)~~, and (8r) and passed through to partners
25 shall be added to the partnership's income.

ASSEMBLY BILL 794**SECTION 8**

1 **SECTION 8.** 71.26 (2) (a) 4. of the statutes, as affected by 2009 Wisconsin Acts
2 and 28, is amended to read:

3 71.26 **(2)** (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
4 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3t),
5 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (6f), (6g), and (8r) and not passed through by
6 a partnership, limited liability company, or tax-option corporation that has added
7 that amount to the partnership's, limited liability company's, or tax-option
8 corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

9 **SECTION 9.** 71.28 (6f) of the statutes is created to read:

10 71.28 **(6f)** THERMAL BIOMASS HEATING SYSTEMS CREDIT. (a) *Definitions.* In this
11 subsection:

12 1. "Air quality standards" means all requirements under ch. 285 and 42 USC
13 7401 to 7671q.

14 2. "Biomass" has the meaning given in s. 196.378 (1) (ar).

15 3. "Claimant" means a person who files a claim under this subsection.

16 4. "Thermal biomass heating system" means a stove, furnace, or boiler that
17 generates heat from biomass by providing an energy efficiency conversion of at least
18 75 percent and meets any air quality standards that apply to the system on the day
19 on which it is purchased.

20 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
21 claimant may claim as a credit against the tax imposed under s. 71.23, up to the
22 amount of those taxes, 100 percent of the installed cost of a thermal biomass heating
23 system that the claimant paid in the taxable year for a system that is installed in the
24 claimant's place of business in this state.

ASSEMBLY BILL 794

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

9 (d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under
10 sub. (4), applies to the credit under this subsection.

11 **SECTION 10.** 71.28 (6g) of the statutes is created to read:

12 71.28 **(6g)** THERMAL BIOMASS FUEL CREDIT. (a) *Definitions.* In this subsection:

- 13 1. "Biomass" has the meaning given in s. 196.378 (1) (ar).
- 14 2. "Claimant" means a person who files a claims under this subsection.
- 15 3. "Fuel" means fuel that is made from biomass and is used to power a thermal
16 biomass heating system.
- 17 4. "Thermal biomass heating system" has the meaning given in sub. (6f) (a) 4.

18 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
19 claimant may claim as a credit against the tax imposed under s. 71.23, up to the
20 amount of those taxes, 100 percent of the amount that the claimant paid in the
21 taxable year for fuel used in a thermal biomass heating system that is installed in
22 the claimant's primary residence in this state or in the claimant's place of business
23 in this state.

24 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
25 corporations may not claim the credit under this subsection, but the eligibility for,

ASSEMBLY BILL 794**SECTION 10**

1 and the amount of, the credit are based on their payment of amounts under par. (b).
2 A partnership, limited liability company, or tax-option corporation shall compute
3 the amount of credit that each of its partners, members, or shareholders may claim
4 and shall provide that information to each of them. Partners, members of limited
5 liability companies, and shareholders of tax-option corporations may claim the
6 credit in proportion to their ownership interests.

7 (d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under
8 sub. (4), applies to the credit under this subsection.

9 **SECTION 11.** 71.30 (3) (af) of the statutes is created to read:

10 71.30 (3) (af) The thermal biomass heating systems credit under s. 71.28 (6f).

11 **SECTION 12.** 71.30 (3) (ag) of the statutes is created to read:

12 71.30 (3) (ag) The thermal biomass fuel credit under s. 71.28 (6g).

13 **SECTION 13.** 71.34 (1k) (g) of the statutes, as affected by 2009 Wisconsin Acts
14 2 and 28, is amended to read:

15 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
16 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
17 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (6f),
18 (6g), and (8r) and passed through to shareholders.

19 **SECTION 14.** 71.45 (2) (a) 10. of the statutes, as affected by 2009 Wisconsin Acts
20 2 and 28, is amended to read:

21 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
22 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3w), (5e), (5f),
23 (5g), (5h), (5i), (5j), (5k), (6f), (6g), and (8r) and not passed through by a partnership,
24 limited liability company, or tax-option corporation that has added that amount to
25 the partnership's, limited liability company's, or tax-option corporation's income

ASSEMBLY BILL 794

1 under s. 71.21 (4) or 71.34 (1k) (g) and the amount of credit computed under s. 71.47
2 (1), (3), (3t), (4), (4m), and (5).

3 **SECTION 15.** 71.47 (6f) of the statutes is created to read:

4 71.47 (6f) THERMAL BIOMASS HEATING SYSTEMS CREDIT. (a) *Definitions.* In this
5 subsection:

6 1. “Air quality standards” means all requirements under ch. 285 and 42 USC
7 7401 to 7671q.

8 2. “Biomass” has the meaning given in s. 196.378 (1) (ar).

9 3. “Claimant” means a person who files a claim under this subsection.

10 4. “Thermal biomass heating system” means a stove, furnace, or boiler that
11 generates heat from biomass by providing an energy efficiency conversion of at least
12 75 percent and meets any air quality standards that apply to the system on the day
13 on which it is purchased.

14 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
15 claimant may claim as a credit against the tax imposed under s. 71.43, up to the
16 amount of those taxes, 100 percent of the installed cost of a thermal biomass heating
17 system that the claimant paid in the taxable year for a system that is installed in the
18 claimant’s place of business in this state.

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

ASSEMBLY BILL 794**SECTION 15**

1 liability companies, and shareholders of tax-option corporations may claim the
2 credit in proportion to their ownership interests.

3 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
4 s. 71.28 (4), applies to the credit under this subsection.

5 **SECTION 16.** 71.47 (6g) of the statutes is created to read:

6 71.47 (6g) THERMAL BIOMASS FUEL CREDIT. (a) *Definitions.* In this subsection:

7 1. “Biomass” has the meaning given in s. 196.378 (1) (ar).

8 2. “Claimant” means a person who files a claims under this subsection.

9 3. “Fuel” means fuel that is made from biomass and is used to power a thermal
10 biomass heating system.

11 4. “Thermal biomass heating system” has the meaning given in sub. (6f) (a) 4.

12 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
13 claimant may claim as a credit against the tax imposed under s. 71.43, up to the
14 amount of those taxes, 100 percent of the amount that the claimant paid in the
15 taxable year for fuel used in a thermal biomass heating system that is installed in
16 the claimant’s primary residence in this state or in the claimant’s place of business
17 in this state.

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

ASSEMBLY BILL 794

1 (d) *Administration*. Section 71.28 (4) (e) to (h), as it applies to the credit under
2 s. 71.28 (4), applies to the credit under this subsection.

3 **SECTION 17.** 71.49 (1) (af) of the statutes is created to read:

4 71.49 (1) (af) The thermal biomass heating systems credit under s. 71.47 (6f).

5 **SECTION 18.** 71.49 (1) (ag) of the statutes is created to read:

6 71.49 (1) (ag) The thermal biomass fuel credit under s. 71.47 (6g).

7 **SECTION 19.** 77.54 (58) of the statutes is created to read:

8 77.54 (58) The sales price from the sale of and the storage, use, or other
9 consumption of a thermal biomass heating system, as defined in s. 71.07 (6f) (a) 4.,
10 including accessories, attachments, and repair parts, but not including equipment
11 or components that would be present as part of a conventional energy system.

12 **SECTION 20.** 77.92 (4) of the statutes, as affected by 2009 Wisconsin Acts 2 and
13 28, is amended to read:

14 77.92 (4) "Net business income," with respect to a partnership, means taxable
15 income as calculated under section 703 of the Internal Revenue Code; plus the items
16 of income and gain under section 702 of the Internal Revenue Code, including taxable
17 state and municipal bond interest and excluding nontaxable interest income or
18 dividend income from federal government obligations; minus the items of loss and
19 deduction under section 702 of the Internal Revenue Code, except items that are not
20 deductible under s. 71.21; plus guaranteed payments to partners under section 707
21 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
22 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s),
23 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (6f), (6g), and (8r); and plus or minus, as
24 appropriate, transitional adjustments, depreciation differences, and basis
25 differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,

ASSEMBLY BILL 794**SECTION 20**

1 loss, and deductions from farming. “Net business income,” with respect to a natural
2 person, estate, or trust, means profit from a trade or business for federal income tax
3 purposes and includes net income derived as an employee as defined in section 3121
4 (d) (3) of the Internal Revenue Code.

SECTION 21. Initial applicability.

5
6 (1) The treatment of section 70.11 (45) of the statutes first applies to the
7 property tax assessments as January 1, 2010.

8 (2) The treatment of sections 71.05 (6) (a) 15., 71.07 (6f) and (6g), 71.10 (4) (cf)
9 and (cg), 71.21 (4), 71.26 (2) (a) 4., 71.47 (6f) and (6g), 71.30 (3) (af) and (ag), 71.34
10 (1k) (g), 71.45 (2) (a) 10., 71.47 (6f) and (6g), and 77.92 (4) of the statutes first applies
11 to taxable years beginning on January 1 of the year in which this subsection takes
12 effect, except that if this subsection takes effect after July 31 the treatment of
13 sections 71.05 (6) (a) 15., 71.07 (6f) and (6g), 71.10 (4) (cf) and (cg), 71.21 (4), 71.26
14 (2) (a) 4., 71.28 (6f) and (6g), 71.30 (3) (af) and (ag), 71.34 (1k) (g), 71.45 (2) (a) 10.,
15 71.47 (6f) and (6g), and 77.92 (4) of the statutes first applies to taxable years
16 beginning on January 1 of the year following the year in which this subsection takes
17 effect.

18 **SECTION 22. Effective dates.** This act takes effect on the day after publication,
19 except as follows:

20 (1) The treatment of section 77.54 (58) of the statutes takes effect on the first
21 day of the 3rd month beginning after publication.

22 (END)