



2013 SENATE BILL 696

March 26, 2014 – Introduced by Senator FARROW, cosponsored by Representative TAUCHEN. Referred to Committee on Government Operations, Public Works, and Telecommunications.

1 **AN ACT to renumber and amend** 71.07 (5b) (b) 1., 71.28 (5b) (b) 1., 71.47 (5b)
2 (b) 1. and 76.638 (2); **to amend** 71.07 (5b) (b) 2., 71.07 (5d) (b) 2., 71.28 (5b) (b)
3 2., 71.47 (5b) (b) 2., 238.15 (1) (f) 1. b., 238.15 (1) (f) 1. c., 238.15 (1) (f) 2., 238.15
4 (1) (g), 238.15 (2) and 238.15 (3) (e); and **to create** 71.07 (5b) (b) 1. b., 71.07 (5d)
5 (b) 3., 71.28 (5b) (b) 1. b., 71.28 (5bm), 71.30 (3) (bp), 71.47 (5b) (b) 1. b., 71.47
6 (5bm), 71.49 (1) (bp), 76.638 (2) (b), 76.639 and 238.155 of the statutes; **relating**
7 **to:** increasing the claim amounts and altering various eligibility criteria under
8 the angel and early stage seed investment credits, authorizing the transfer of
9 angel investment tax credits, and creating a tax credit for purchases made from
10 qualified new business ventures.

Analysis by the Legislative Reference Bureau

This bill makes a number of changes to the early stage seed investment tax credit and the angel investment tax credit program, including the following:

1. Under current law, a taxpayer may claim an early stage seed investment tax credit equal to 25 percent of the taxpayer's investment paid to a fund manager that the fund manager invests in a qualified new business venture, as certified by the

SENATE BILL 696

Wisconsin Economic Development Corporation (WEDC). Also, under current law, a taxpayer may claim an angel investment tax credit equal to 25 percent of the taxpayer's bona fide angel investment in a qualified new business venture. Under the bill, with regard to the first \$1,000,000 invested by the taxpayer, a taxpayer may claim an early stage seed investment credit or an angel investment credit equal to 40 percent of the taxpayer's investment and, with regard to any amount invested after that first \$1,000,000, the taxpayer may claim a credit equal to 25 percent of the taxpayer's investment.

2. Under current law, WEDC may certify a business as a qualified new business venture if, among other eligibility criteria, the business is not primarily engaged in real estate development, insurance, banking, lending, lobbying, political consulting, professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants, wholesale or retail trade, leisure, hospitality, transportation, or, with one exception, construction. Under the bill a business is eligible for certification as a qualified new business venture if, in addition to the other eligibility criteria established under current law, the business is not primarily engaged in lobbying or political consulting.

3. Under current law, a person awarded an early stage seed investment tax credit may sell or otherwise transfer the credit to another Wisconsin taxpayer, but a person awarded the angel investment tax credit may not transfer that credit to another person. Under the bill, a person awarded the angel investment tax credit may sell or otherwise transfer the credit to another Wisconsin taxpayer.

4. Under current law, in determining whether to certify an investment fund manager for purposes of the early stage seed investment tax credit, WEDC is required to consider, among other factors, the expected level of investment in the investment fund to be managed by the investment fund manager. The bill prohibits WEDC from considering that factor.

The bill also creates a tax credit equal to 25 percent of the sales price of goods and services that the taxpayer purchases from a qualified new business venture, as certified by WEDC. The maximum amount that a taxpayer may claim as a credit for such purchases in a taxable year is \$125,000. Only corporations and insurers may claim the credit. If the amount of the credit exceeds the taxpayer's tax liability, the taxpayer does not receive a refund, but, instead, may claim the amount of any unused credit in subsequent taxable years.

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.** 71.07 (5b) (b) 1. of the statutes is renumbered 71.07 (5b) (b) 1. a. and
2 amended to read:

SENATE BILL 696

1 71.07 **(5b)** (b) 1. a. For taxable years beginning after December 31, 2004, and
2 before January 1, 2014, subject to the limitations provided under this subsection and
3 s. 238.15 or s. 560.205, 2009 stats., and except as provided in subd. 2., a claimant may
4 claim as a credit against the tax imposed under ss. 71.02 and 71.08, up to the amount
5 of those taxes, 25 percent of the claimant's investment paid to a fund manager that
6 the fund manager invests in a business certified under s. 238.15 (1) or s. 560.205 (1),
7 2009 stats.

8 **SECTION 2.** 71.07 (5b) (b) 1. b. of the statutes is created to read:

9 71.07 **(5b)** (b) 1. b. For taxable years beginning after December 31, 2013,
10 subject to the limitations provided under this subsection and s. 238.15, and except
11 as provided in subd. 2., a claimant may claim as a credit against the tax imposed
12 under ss. 71.02 and 71.08, up to the amount of those taxes, with regard to the first
13 \$1,000,000 invested by the claimant, 40 percent of the claimant's investment paid to
14 a fund manager that the fund manager invests in a business certified under s. 238.15
15 (1) and, with regard to any amount invested by the claimant in excess of that first
16 \$1,000,000, 25 percent of the claimant's investment paid to a fund manager that the
17 fund manager invests in a business certified under s. 238.15 (1).

18 **SECTION 3.** 71.07 (5b) (b) 2. of the statutes is amended to read:

19 71.07 **(5b)** (b) 2. In the case of a partnership, limited liability company, or
20 tax-option corporation, the computation of the 25 and 40 percent limitation
21 limitations under subd. 1. shall be determined at the entity level rather than the
22 claimant level and may be allocated among the claimants who make investments in
23 the manner set forth in the entity's organizational documents. The entity shall
24 provide to the department of revenue and to the department of commerce or the
25 Wisconsin Economic Development Corporation the names and tax identification

SENATE BILL 696**SECTION 3**

1 numbers of the claimants, the amounts of the credits allocated to the claimants, and
2 the computation of the allocations.

3 **SECTION 4.** 71.07 (5d) (b) 2. of the statutes is amended to read:

4 71.07 **(5d)** (b) 2. For taxable years beginning after December 31, 2007, and
5 before January 1, 2014, for the taxable year certified by the department of commerce
6 or the Wisconsin Economic Development Corporation, an amount equal to 25 percent
7 of the claimant's bona fide angel investment made directly in a qualified new
8 business venture.

9 **SECTION 5.** 71.07 (5d) (b) 3. of the statutes is created to read:

10 71.07 **(5d)** (b) 3. For taxable years beginning after December 31, 2013, for the
11 taxable year certified by the Wisconsin Economic Development Corporation, with
12 regard to the first \$1,000,000 invested by the claimant, an amount equal to 40
13 percent of the claimant's bona fide angel investment made directly in a qualified new
14 business venture and, with regard to any amount invested by the claimant in excess
15 of that first \$1,000,000, an amount equal to 25 percent of the claimant's bona fide
16 angel investment made directly in a qualified new business venture.

17 **SECTION 6.** 71.28 (5b) (b) 1. of the statutes is renumbered 71.28 (5b) (b) 1. a. and
18 amended to read:

19 71.28 **(5b)** (b) 1. a. For taxable years beginning after December 31, 2004, and
20 before January 1, 2014, subject to the limitations provided under this subsection and
21 s. 238.15 or s. 560.205, 2009 stats., and except as provided in subd. 2., a claimant may
22 claim as a credit against the tax imposed under s. 71.23, up to the amount of those
23 taxes, 25 percent of the claimant's investment paid to a fund manager that the fund
24 manager invests in a business certified under s. 238.15 (1) or s. 560.205 (1), 2009
25 stats.

SENATE BILL 696

1 **SECTION 7.** 71.28 (5b) (b) 1. b. of the statutes is created to read:

2 71.28 **(5b)** (b) 1. b. For taxable years beginning after December 31, 2013,
3 subject to the limitations provided under this subsection and s. 238.15, and except
4 as provided in subd. 2., a claimant may claim as a credit against the tax imposed
5 under s. 71.23, up to the amount of those taxes, with regard to the first \$1,000,000
6 invested by the claimant, 40 percent of the claimant's investment paid to a fund
7 manager that the fund manager invests in a business certified under s. 238.15 (1)
8 and, with regard to any amount invested by the claimant in excess of that first
9 \$1,000,000, 25 percent of the claimant's investment paid to a fund manager that the
10 fund manager invests in a business certified under s. 238.15 (1).

11 **SECTION 8.** 71.28 (5b) (b) 2. of the statutes is amended to read:

12 71.28 **(5b)** (b) 2. In the case of a partnership, limited liability company, or
13 tax-option corporation, the computation of the 25 and 40 percent limitation
14 limitations under subd. 1. shall be determined at the entity level rather than the
15 claimant level and may be allocated among the claimants who make investments in
16 the manner set forth in the entity's organizational documents. The entity shall
17 provide to the department of revenue and to the department of commerce or the
18 Wisconsin Economic Development Corporation the names and tax identification
19 numbers of the claimants, the amounts of the credits allocated to the claimants, and
20 the computation of the allocations.

21 **SECTION 9.** 71.28 (5bm) of the statutes is created to read:

22 71.28 **(5bm)** QUALIFIED PURCHASES CREDIT. (a) *Definitions.* In this subsection:

23 1. "Claimant" means a person who files a claim under this subsection.

24 2. "Qualified new business venture" means a business that is certified under
25 s. 238.15 (1).

SENATE BILL 696**SECTION 9**

1 3. "Sales price" has the meaning given in s. 77.51 (15b).

2 4. "Tangible personal property" has the meaning given in s. 77.51 (20).

3 (b) *Filing claims.* For taxable years beginning after December 31, 2013, and
4 subject to the limitations provided in this subsection, a claimant may claim as a
5 credit against the tax imposed under s. 71.23, up to the amount of those taxes, an
6 amount, as certified under s. 238.155, equal to 25 percent of the sales price of the
7 tangible personal property, goods under s. 77.52 (1) (d), and services that the
8 claimant purchased from a qualified new business venture in the taxable year.

9 (c) *Limitations.* 1. The maximum amount that a claimant may claim under this
10 subsection for a taxable year is \$125,000.

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 under s. 238.155.

13 3. The credits under this subsection may not be claimed by a partnership,
14 except a publicly traded partnership treated as a corporation under s. 71.22 (1k),
15 limited liability company, except a limited liability company treated as a corporation
16 under s. 71.22 (1k), or tax-option corporation or by partners, including partners of
17 a publicly traded partnership, members of a limited liability company or
18 shareholders of a tax-option corporation.

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

21 **SECTION 10.** 71.30 (3) (bp) of the statutes is created to read:

22 71.30 (3) (bp) Qualified purchases credit under s. 71.28 (5bm).

23 **SECTION 11.** 71.47 (5b) (b) 1. of the statutes is renumbered 71.47 (5b) (b) 1. a.

24 and amended to read:

SENATE BILL 696

1 71.47 **(5b)** (b) 1. a. For taxable years beginning after December 31, 2004, and
2 before January 1, 2014, subject to the limitations provided under this subsection and
3 s. 238.15 or s. 560.205, 2009 stats., and except as provided in subd. 2., a claimant may
4 claim as a credit against the tax imposed under s. 71.43, up to the amount of those
5 taxes, 25 percent of the claimant's investment paid to a fund manager that the fund
6 manager invests in a business certified under s. 238.15 (1) or s. 560.205 (1), 2009
7 stats.

8 **SECTION 12.** 71.47 (5b) (b) 1. b. of the statutes is created to read:

9 71.47 **(5b)** (b) 1. b. For taxable years beginning after December 31, 2013,
10 subject to the limitations provided under this subsection and s. 238.15, and except
11 as provided in subd. 2., a claimant may claim as a credit against the tax imposed
12 under s. 71.43, up to the amount of those taxes, with regard to the first \$1,000,000
13 invested by the claimant, 40 percent of the claimant's investment paid to a fund
14 manager that the fund manager invests in a business certified under s. 238.15 (1)
15 and, with regard to any amount invested by the claimant in excess of that first
16 \$1,000,000, 25 percent of the claimant's investment paid to a fund manager that the
17 fund manager invests in a business certified under s. 238.15 (1).

18 **SECTION 13.** 71.47 (5b) (b) 2. of the statutes is amended to read:

19 71.47 **(5b)** (b) 2. In the case of a partnership, limited liability company, or
20 tax-option corporation, the computation of the 25 and 40 percent limitation
21 limitations under subd. 1. shall be determined at the entity level rather than the
22 claimant level and may be allocated among the claimants who make investments in
23 the manner set forth in the entity's organizational documents. The entity shall
24 provide to the department of revenue and to the department of commerce or the
25 Wisconsin Economic Development Corporation the names and tax identification

SENATE BILL 696**SECTION 13**

1 numbers of the claimants, the amounts of the credits allocated to the claimants, and
2 the computation of the allocations.

3 **SECTION 14.** 71.47 (5bm) of the statutes is created to read:

4 71.47 (5bm) QUALIFIED PURCHASES CREDIT. (a) *Definitions.* In this subsection:

5 1. "Claimant" means a person who files a claim under this subsection.

6 2. "Qualified new business venture" means a business that is certified under
7 s. 238.15 (1).

8 3. "Sales price" has the meaning given in s. 77.51 (15b).

9 4. "Tangible personal property" has the meaning given in s. 77.51 (20).

10 (b) *Filing claims.* For taxable years beginning after December 31, 2013, and
11 subject to the limitations provided in this subsection, a claimant may claim as a
12 credit against the tax imposed under s. 71.43, up to the amount of those taxes, an
13 amount, as certified under s. 238.155, equal to 25 percent of the sales price of the
14 tangible personal property, goods under s. 77.52 (1) (d), and services that the
15 claimant purchased from a qualified new business venture in the taxable year.

16 (c) *Limitations.* 1. The maximum amount that a claimant may claim under this
17 subsection for a taxable year is \$125,000.

18 2. No credit may be allowed under this subsection unless the claimant includes
19 with the claimant's return a copy of the claimant's certification under s. 238.155.

20 3. The credits under this subsection may not be claimed by a partnership,
21 except a publicly traded partnership treated as a corporation under s. 71.22 (1k),
22 limited liability company, except a limited liability company treated as a corporation
23 under s. 71.22 (1k), or tax-option corporation or by partners, including partners of
24 a publicly traded partnership, members of a limited liability company or
25 shareholders of a tax-option corporation.

SENATE BILL 696

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 15.** 71.49 (1) (bp) of the statutes is created to read:

4 71.49 (1) (bp) Qualified purchases credit under s. 71.47 (5bm).

5 **SECTION 16.** 76.638 (2) of the statutes is renumbered 76.638 (2) (a) and
6 amended to read:

7 76.638 (2) (a) FILING CLAIMS. For taxable years beginning after December 31,
8 2008, and before January 1, 2014, subject to the limitations provided under this
9 subsection and s. 238.15 or s. 560.205, 2009 stats., an insurer may claim as a credit
10 against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67, 25 percent of
11 the insurer's investment paid to a fund manager that the fund manager invests in
12 a business certified under s. 238.15 or s. 560.205 (1), 2009 stats.

13 **SECTION 17.** 76.638 (2) (b) of the statutes is created to read:

14 76.638 (2) (b) For taxable years beginning after December 31, 2013, subject to
15 the limitations provided under this subsection and s. 238.15, an insurer may claim
16 as a credit against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67, with
17 regard to the first \$1,000,000 invested by the insurer, 40 percent of the insurer's
18 investment paid to a fund manager that the fund manager invests in a business
19 certified under s. 238.15 and, with regard to any amount invested by the insurer in
20 excess of that first \$1,000,000, 25 percent of the insurer's investment paid to a fund
21 manager that the fund manager invests in a business certified under s. 238.15.

22 **SECTION 18.** 76.639 of the statutes is created to read:

23 **76.639 Qualified purchases credit. (1) DEFINITIONS.** In this section:

24 (a) "Qualified new business venture" means a business that is certified under
25 s. 238.15 (1).

SENATE BILL 696

1 (b) "Sales price" has the meaning given in s. 77.51 (15b).

2 (c) "Tangible personal property" has the meaning given in s. 77.51 (20).

3 **(2) FILING CLAIMS.** For taxable years beginning after December 31, 2013, and
4 subject to the limitations provided in this section, an insurer may claim as a credit
5 against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67, an amount, as
6 certified under s. 238.155, equal to 25 percent of the sales price of the tangible
7 personal property, goods under s. 77.52 (1) (d), and services that the insurer
8 purchased from a qualified new business venture in the taxable year.

9 **(3) LIMITATIONS.** 1. The maximum amount that an insurer may claim under
10 this section for a taxable year is \$125,000.

11 2. No credit may be allowed under this section unless the insurer includes with
12 the insurer's return a copy of the insurer's certification under s. 238.155.

13 **(4) CARRY-FORWARD.** If the credit under sub. (2) is not entirely offset against the
14 fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise due, the unused balance
15 may be carried forward and credited against those fees for the following 15 years to
16 the extent that it is not offset by those fees otherwise due in all the years between
17 the year in which the expense was made and the year in which the carry-forward
18 credit is claimed.

19 **SECTION 19.** 238.15 (1) (f) 1. b. of the statutes is amended to read:

20 238.15 (1) (f) 1. b. Processing or assembling products, including medical
21 devices, pharmaceuticals, computer software, computer hardware, semiconductors,
22 any other innovative technology products, or other products that are produced using
23 manufacturing methods ~~that are enabled by applying proprietary technology.~~

24 **SECTION 20.** 238.15 (1) (f) 1. c. of the statutes is amended to read:

SENATE BILL 696

1 238.15 (1) (f) 1. c. ~~Services~~ Innovative services that are enabled by applying
2 ~~proprietary~~ technology.

3 **SECTION 21.** 238.15 (1) (f) 2. of the statutes is amended to read:

4 238.15 (1) (f) 2. It is undertaking pre-commercialization activity related to
5 ~~proprietary~~ technology that includes conducting research, developing a new product
6 or business process, or developing a service that is principally reliant on applying
7 ~~proprietary~~ technology.

8 **SECTION 22.** 238.15 (1) (g) of the statutes is amended to read:

9 238.15 (1) (g) It is not primarily engaged in ~~real estate development, insurance,~~
10 ~~banking, lending, lobbying, or~~ political consulting, ~~professional services provided by~~
11 ~~attorneys, accountants, business consultants, physicians, or health care~~
12 ~~consultants, wholesale or retail trade, leisure, hospitality, transportation, or~~
13 ~~construction, except construction of power production plants that derive energy from~~
14 ~~a renewable resource, as defined in s. 196.378 (1) (h).~~

15 **SECTION 23.** 238.15 (2) of the statutes is amended to read:

16 238.15 (2) **EARLY STAGE SEED INVESTMENT TAX CREDITS.** The corporation shall
17 implement a program to certify investment fund managers for purposes of ss. 71.07
18 (5b), 71.28 (5b), 71.47 (5b), and 76.638. An investment fund manager desiring
19 certification shall submit an application to the corporation. The investment fund
20 manager shall specify in the application the investment amount that the manager
21 wishes to raise and the corporation may certify the manager and determine the
22 amount that qualifies for purposes of ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and 76.638.
23 In determining whether to certify an investment fund manager, the corporation shall
24 consider the investment fund manager's experience in managing venture capital
25 funds, the past performance of investment funds managed by the applicant, ~~the~~

SENATE BILL 696**SECTION 23**

1 expected level of investment in the investment fund to be managed by the applicant,
2 and any other relevant factors. The corporation may not consider the expected level
3 of investment in the investment fund to be managed. The corporation may certify
4 only investment fund managers that commit to consider placing investments in
5 businesses certified under sub. (1).

6 **SECTION 24.** 238.15 (3) (e) of the statutes is amended to read:

7 238.15 (3) (e) *Transfer.* A person who is eligible to claim a credit under s. 71.07
8 (5b), 71.28 (5b), 71.47 (5b), or 76.638 may sell or otherwise transfer the credit to
9 another person who is subject to the taxes or fees imposed under s. 71.02, 71.23,
10 71.47, or subch. III of ch. 76, if the person receives prior authorization from the
11 investment fund manager and the manager then notifies the corporation and the
12 department of revenue of the transfer and submits with the notification a copy of the
13 transfer documents. A person who is eligible to claim a credit under s. 71.07 (5d) may
14 sell or otherwise transfer the credit to another person who is subject to the taxes or
15 fees imposed under s. 71.02 or 71.08 if the person notifies the corporation and the
16 department of revenue of the transfer and submits with the notification a copy of the
17 transfer documents. No person may sell or otherwise transfer a credit as provided
18 in this paragraph more than once in a 12-month period. The corporation may charge
19 any person selling or otherwise transferring a credit under this paragraph a fee equal
20 to 1 percent of the credit amount sold or transferred.

21 **SECTION 25.** 238.155 of the statutes is created to read:

22 **238.155 Qualified purchases tax credit. (1) DEFINITION.** In this section,
23 “qualified purchase” means the purchase from a qualified new business venture, as
24 defined in s. 238.15 (1), of tangible personal property, as defined in s. 77.51 (20), goods
25 under s. 77.52 (1) (d), or services.

