



2009 SENATE BILL 26

February 3, 2009 – Introduced by Senators HOPPER, ERPENBACH, HARSDORF and SCHULTZ, cosponsored by Representatives RIPP, A. OTT, BALLWEG, BROOKS, DAVIS, GUNDERSON, KESTELL, KNODL, MURTHA, NERISON, NYGREN, PETROWSKI, RHOADES, ROTH, SPANBAUER, STONE, STRACHOTA, SUDER, TAUCHEN, TOWNSEND, VOS, BIES and LEMAHIEU. Referred to Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue.

1 **AN ACT** *to amend* 20.835 (2) (bn), 71.07 (3p) (a) 3. (intro.), 71.07 (3p) (b), 71.07
2 (3p) (c) 2m. b., 71.07 (3p) (c) 3., 71.07 (3p) (d) 2., 71.28 (3p) (a) 3. (intro.), 71.28
3 (3p) (b), 71.28 (3p) (c) 2m. b., 71.28 (3p) (c) 3., 71.28 (3p) (d) 2., 71.47 (3p) (a) 3.
4 (intro.), 71.47 (3p) (b), 71.47 (3p) (c) 2m. b., 71.47 (3p) (c) 3., 71.47 (3p) (d) 2. and
5 560.207 (2); and *to create* 20.835 (2) (bp), 71.07 (3p) (a) 1m., 71.07 (3p) (c) 2m.
6 bm., 71.07 (3p) (c) 5., 71.07 (3p) (c) 6., 71.07 (3p) (d) 3., 71.28 (3p) (a) 1m., 71.28
7 (3p) (c) 2m. bm., 71.28 (3p) (c) 5., 71.28 (3p) (c) 6., 71.28 (3p) (d) 3., 71.47 (3p)
8 (a) 1m., 71.47 (3p) (c) 2m. bm., 71.47 (3p) (c) 5., 71.47 (3p) (c) 6. and 71.47 (3p)
9 (d) 3. of the statutes; **relating to:** allowing dairy cooperatives to claim the dairy
10 manufacturing facility investment credit and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, a person may claim a credit against the person's income or franchise tax liability that is equal to 10 percent of the amount that the person paid in the taxable year for dairy manufacturing modernization or expansion related to the claimant's dairy manufacturing operation. If the amount of the credit exceeds the amount of the person's tax liability, the person receives a refund. Under current

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law, dairy cooperatives are, generally, not subject to state income or franchise taxes and, therefore, are not eligible to claim the credit for dairy manufacturing modernization or expansion.

This bill allows the members of a dairy cooperative to claim the credit for the dairy manufacturing modernization or expansion expenses paid by the cooperative. The dairy cooperative determines the amount of the credit that each member may claim, based on the amount of milk each member delivers to the cooperative.

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.** 20.835 (2) (bn) of the statutes is amended to read:

2 20.835 (2) (bn) *Dairy manufacturing facility investment credit.* The amounts
3 in the schedule to make the payments under ss. 71.07 (3p) (d) 2., 71.28 (3p) (d) 2., and
4 71.47 (3p) (d) 2.

5 **SECTION 2.** 20.835 (2) (bp) of the statutes is created to read:

6 20.835 (2) (bp) *Dairy manufacturing facility investment credit; dairy*
7 *cooperatives.* A sum sufficient to make the payments under ss. 71.07 (3p) (d) 3., 71.28
8 (3p) (d) 3., and 71.47 (3p) (d) 3.

9 **SECTION 3.** 71.07 (3p) (a) 1m. of the statutes is created to read:

10 71.07 (3p) (a) 1m. “Dairy cooperative” means a business organized under ch.
11 185 or 193 for the purpose of obtaining or processing milk.

12 **SECTION 4.** 71.07 (3p) (a) 3. (intro.) of the statutes is amended to read:

13 71.07 (3p) (a) 3. (intro.) “Dairy manufacturing modernization or expansion”
14 means constructing, improving, or acquiring buildings or facilities, or acquiring
15 equipment, for dairy manufacturing, including the following, if used exclusively for
16 dairy manufacturing and if acquired and placed in service in this state during
17 taxable years that begin after December 31, 2006, and before January 1, 2015, or, in

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1 the case of dairy cooperatives, if acquired and placed in service in this state during
2 taxable years that begin after December 31, 2008, and before January 1, 2017:

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

4 71.07 **(3p)** (b) *Filing claims.* Subject to the limitations provided in this
5 subsection and s. 560.207, except as provided in par. (c) 5., for taxable years
6 beginning after December 31, 2006, and before January 1, 2015, a claimant may
7 claim as a credit against the taxes imposed under s. 71.02 or 71.08, up to the amount
8 of the tax, an amount equal to 10 percent of the amount the claimant paid in the
9 taxable year for dairy manufacturing modernization or expansion related to the
10 claimant's dairy manufacturing operation.

11 **SECTION 6.** 71.07 (3p) (c) 2m. b. of the statutes is amended to read:

12 71.07 **(3p)** (c) 2m. b. The maximum amount of the credits that may be claimed
13 by all claimants, other than members of dairy cooperatives, under this subsection
14 and ss. 71.28 (3p) and 71.47 (3p) in fiscal year 2008-09, and in each fiscal year
15 thereafter, is \$700,000, as allocated under s. 560.207.

16 **SECTION 7.** 71.07 (3p) (c) 2m. bm. of the statutes is created to read:

17 71.07 **(3p)** (c) 2m. bm. The maximum amount of the credits that may be claimed
18 by members of dairy cooperatives under this subsection and ss. 71.28 (3p) and 71.47
19 (3p) in fiscal year 2009-10 is \$600,000, as allocated under s. 560.207, and the
20 maximum amount of the credits that may be claimed by members of dairy
21 cooperatives under this subsection and ss. 71.28 (3p) and 71.47 (3p) in fiscal year
22 2010-11, and in each fiscal year thereafter, is \$700,000, as allocated under s.
23 560.207.

24 **SECTION 8.** 71.07 (3p) (c) 3. of the statutes is amended to read:

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1 71.07 (3p) (c) 3. Partnerships, limited liability companies, and tax-option
2 corporations, and dairy cooperatives may not claim the credit under this subsection,
3 but the eligibility for, and the amount of, the credit are based on their payment of
4 expenses under par. (b), except that the aggregate amount of credits that the entity
5 may compute shall not exceed \$200,000 for each of the entity's dairy manufacturing
6 facilities. A partnership, limited liability company, ~~or tax-option corporation,~~ or
7 dairy cooperative shall compute the amount of credit that each of its partners,
8 members, or shareholders may claim and shall provide that information to each of
9 them. Partners, members of limited liability companies, and shareholders of
10 tax-option corporations may claim the credit in proportion to their ownership
11 interest. Members of a dairy cooperative may claim the credit in proportion to the
12 amount of milk that each member delivers to the dairy cooperative, as determined
13 by the dairy cooperative.

14 **SECTION 9.** 71.07 (3p) (c) 5. of the statutes is created to read:

15 71.07 (3p) (c) 5. A claimant who is a member of a dairy cooperative may claim
16 the credit, based on amounts described under par. (b) that are paid by the dairy
17 cooperative, for taxable years beginning after December 31, 2008, and before
18 January 1, 2017.

19 **SECTION 10.** 71.07 (3p) (c) 6. of the statutes is created to read:

20 71.07 (3p) (c) 6. No credit may be allowed under this subsection unless the
21 claimant submits with the claimant's return a copy of the claimant's credit
22 certification and allocation under s. 560.207.

23 **SECTION 11.** 71.07 (3p) (d) 2. of the statutes is amended to read:

24 71.07 (3p) (d) 2. If Except as provided in subd. 3., if the allowable amount of
25 the claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08 ~~or no~~

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1 ~~tax is due under s. 71.02 or 71.08~~, the amount of the claim not used to offset the tax
2 due shall be certified by the department of revenue to the department of
3 administration for payment by check, share draft, or other draft drawn from the
4 appropriation account under s. 20.835 (2) (bn).

5 **SECTION 12.** 71.07 (3p) (d) 3. of the statutes is created to read:

6 71.07 **(3p)** (d) 3. With regard to claims that are based on amounts described
7 under par. (b) that are paid by a dairy cooperative, if the allowable amount of the
8 claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08, the
9 amount of the claim not used to offset the tax due shall be certified by the department
10 of revenue to the department of administration for payment by check, share draft,
11 or other draft drawn from the appropriation account under s. 20.835 (2) (bp).

12 **SECTION 13.** 71.28 (3p) (a) 1m. of the statutes is created to read:

13 71.28 **(3p)** (a) 1m. "Dairy cooperative" means a business organized under ch.
14 185 or 193 for the purpose of obtaining or processing milk.

15 **SECTION 14.** 71.28 (3p) (a) 3. (intro.) of the statutes is amended to read:

16 71.28 **(3p)** (a) 3. (intro.) "Dairy manufacturing modernization or expansion"
17 means constructing, improving, or acquiring buildings or facilities, or acquiring
18 equipment, for dairy manufacturing, including the following, if used exclusively for
19 dairy manufacturing and if acquired and placed in service in this state during
20 taxable years that begin after December 31, 2006, and before January 1, 2015, or, in
21 the case of dairy cooperatives, if acquired and placed in service in this state during
22 taxable years that begin after December 31, 2008, and before January 1, 2017:

23 **SECTION 15.** 71.28 (3p) (b) of the statutes is amended to read:

24 71.28 **(3p)** (b) *Filing claims.* Subject to the limitations provided in this
25 subsection and s. 560.207, except as provided in par. (c) 5., for taxable years

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1 beginning after December 31, 2006, and before January 1, 2015, a claimant may
2 claim as a credit against the taxes imposed under s. 71.23, up to the amount of the
3 tax, an amount equal to 10 percent of the amount the claimant paid in the taxable
4 year for dairy manufacturing modernization or expansion related to the claimant's
5 dairy manufacturing operation.

6 **SECTION 16.** 71.28 (3p) (c) 2m. b. of the statutes is amended to read:

7 71.28 (3p) (c) 2m. b. The maximum amount of the credits that may be claimed
8 by all claimants, other than members of dairy cooperatives, under this subsection
9 and ss. 71.07 (3p) and 71.47 (3p) in fiscal year 2008–09, and in each fiscal year
10 thereafter, is \$700,000, as allocated under s. 560.207.

11 **SECTION 17.** 71.28 (3p) (c) 2m. bm. of the statutes is created to read:

12 71.28 (3p) (c) 2m. bm. The maximum amount of the credits that may be claimed
13 by members of dairy cooperatives under this subsection and ss. 71.07 (3p) and 71.47
14 (3p) in fiscal year 2009–10 is \$600,000, as allocated under s. 560.207, and the
15 maximum amount of the credits that may be claimed by members of dairy
16 cooperatives under this subsection and ss. 71.07 (3p) and 71.47 (3p) in fiscal year
17 2010–11, and in each fiscal year thereafter, is \$700,000, as allocated under s.
18 560.207.

19 **SECTION 18.** 71.28 (3p) (c) 3. of the statutes is amended to read:

20 71.28 (3p) (c) 3. Partnerships, limited liability companies, and tax-option
21 corporations, and dairy cooperatives may not claim the credit under this subsection,
22 but the eligibility for, and the amount of, the credit are based on their payment of
23 expenses under par. (b), except that the aggregate amount of credits that the entity
24 may compute shall not exceed \$200,000 for each of the entity's dairy manufacturing
25 facilities. A partnership, limited liability company, ~~or tax-option corporation,~~ or

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1 dairy cooperative shall compute the amount of credit that each of its partners,
2 members, or shareholders may claim and shall provide that information to each of
3 them. Partners, members of limited liability companies, and shareholders of
4 tax-option corporations may claim the credit in proportion to their ownership
5 interest. Members of a dairy cooperative may claim the credit in proportion to the
6 amount of milk that each member delivers to the dairy cooperative, as determined
7 by the dairy cooperative.

8 **SECTION 19.** 71.28 (3p) (c) 5. of the statutes is created to read:

9 71.28 (3p) (c) 5. A claimant who is a member of a dairy cooperative may claim
10 the credit, based on amounts described under par. (b) that are paid by the dairy
11 cooperative, for taxable years beginning after December 31, 2008, and before
12 January 1, 2017.

13 **SECTION 20.** 71.28 (3p) (c) 6. of the statutes is created to read:

14 71.28 (3p) (c) 6. No credit may be allowed under this subsection unless the
15 claimant submits with the claimant's return a copy of the claimant's credit
16 certification and allocation under s. 560.207.

17 **SECTION 21.** 71.28 (3p) (d) 2. of the statutes is amended to read:

18 71.28 (3p) (d) 2. If Except as provided in subd. 3., if the allowable amount of
19 the claim under par. (b) exceeds the tax otherwise due under s. 71.23 ~~or no tax is due~~
20 ~~under s. 71.23,~~ the amount of the claim not used to offset the tax due shall be certified
21 by the department of revenue to the department of administration for payment by
22 check, share draft, or other draft drawn from the appropriation account under s.
23 20.835 (2) (bn).

24 **SECTION 22.** 71.28 (3p) (d) 3. of the statutes is created to read:

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1 71.28 **(3p)** (d) 3. With regard to claims that are based on amounts described
2 under par. (b) that are paid by a dairy cooperative, if the allowable amount of the
3 claim under par. (b) exceeds the tax otherwise due under s. 71.23, the amount of the
4 claim not used to offset the tax due shall be certified by the department of revenue
5 to the department of administration for payment by check, share draft, or other draft
6 drawn from the appropriation account under s. 20.835 (2) (bp).

7 **SECTION 23.** 71.47 (3p) (a) 1m. of the statutes is created to read:

8 71.47 **(3p)** (a) 1m. “Dairy cooperative” means a business organized under ch.
9 185 or 193 for the purpose of obtaining or processing milk.

10 **SECTION 24.** 71.47 (3p) (a) 3. (intro.) of the statutes is amended to read:

11 71.47 **(3p)** (a) 3. (intro.) “Dairy manufacturing modernization or expansion”
12 means constructing, improving, or acquiring buildings or facilities, or acquiring
13 equipment, for dairy manufacturing, including the following, if used exclusively for
14 dairy manufacturing and if acquired and placed in service in this state during
15 taxable years that begin after December 31, 2006, and before January 1, 2015, or, in
16 the case of dairy cooperatives, if acquired and placed in service in this state during
17 taxable years that begin after December 31, 2008, and before January 1, 2017:

18 **SECTION 25.** 71.47 (3p) (b) of the statutes is amended to read:

19 71.47 **(3p)** (b) *Filing claims.* Subject to the limitations provided in this
20 subsection and s. 560.207, except as provided in par. (c) 5., for taxable years
21 beginning after December 31, 2006, and before January 1, 2015, a claimant may
22 claim as a credit against the taxes imposed under s. 71.43, up to the amount of the
23 tax, an amount equal to 10 percent of the amount the claimant paid in the taxable
24 year for dairy manufacturing modernization or expansion related to the claimant’s
25 dairy manufacturing operation.

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1 **SECTION 26.** 71.47 (3p) (c) 2m. b. of the statutes is amended to read:

2 71.47 **(3p)** (c) 2m. b. The maximum amount of the credits that may be claimed
3 by all claimants, other than members of dairy cooperatives, under this subsection
4 and ss. 71.07 (3p) and 71.28 (3p) in fiscal year 2008-09, and in each fiscal year
5 thereafter, is \$700,000, as allocated under s. 560.207.

6 **SECTION 27.** 71.47 (3p) (c) 2m. bm. of the statutes is created to read:

7 71.47 **(3p)** (c) 2m. bm. The maximum amount of the credits that may be claimed
8 by members of dairy cooperatives under this subsection and ss. 71.07 (3p) and 71.28
9 (3p) in fiscal year 2009-10 is \$600,000, as allocated under s. 560.207, and the
10 maximum amount of the credits that may be claimed by members of dairy
11 cooperatives under this subsection and ss. 71.07 (3p) and 71.28 (3p) in fiscal year
12 2010-11, and in each fiscal year thereafter, is \$700,000, as allocated under s.
13 560.207.

14 **SECTION 28.** 71.47 (3p) (c) 3. of the statutes is amended to read:

15 71.47 **(3p)** (c) 3. Partnerships, limited liability companies, and tax-option
16 corporations, and dairy cooperatives may not claim the credit under this subsection,
17 but the eligibility for, and the amount of, the credit are based on their payment of
18 expenses under par. (b), except that the aggregate amount of credits that the entity
19 may compute shall not exceed \$200,000 for each of the entity's dairy manufacturing
20 facilities. A partnership, limited liability company, or tax-option corporation, or
21 dairy cooperative shall compute the amount of credit that each of its partners,
22 members, or shareholders may claim and shall provide that information to each of
23 them. Partners, members of limited liability companies, and shareholders of
24 tax-option corporations may claim the credit in proportion to their ownership
25 interest. Members of a dairy cooperative may claim the credit in proportion to the

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1 amount of milk that each member delivers to the dairy cooperative, as determined
2 by the dairy cooperative.

3 **SECTION 29.** 71.47 (3p) (c) 5. of the statutes is created to read:

4 71.47 (3p) (c) 5. A claimant who is a member of a dairy cooperative may claim
5 the credit, based on amounts described under par. (b) that are paid by the dairy
6 cooperative, for taxable years beginning after December 31, 2008, and before
7 January 1, 2017.

8 **SECTION 30.** 71.47 (3p) (c) 6. of the statutes is created to read:

9 71.47 (3p) (c) 6. No credit may be allowed under this subsection unless the
10 claimant submits with the claimant's return a copy of the claimant's credit
11 certification and allocation under s. 560.207.

12 **SECTION 31.** 71.47 (3p) (d) 2. of the statutes is amended to read:

13 71.47 (3p) (d) 2. If Except as provided in subd. 3., if the allowable amount of
14 the claim under par. (b) exceeds the tax otherwise due under s. 71.43 ~~or no tax is due~~
15 ~~under s. 71.43~~, the amount of the claim not used to offset the tax due shall be certified
16 by the department of revenue to the department of administration for payment by
17 check, share draft, or other draft drawn from the appropriation account under s.
18 20.835 (2) (bn).

19 **SECTION 32.** 71.47 (3p) (d) 3. of the statutes is created to read:

20 71.47 (3p) (d) 3. With regard to claims that are based on amounts described
21 under par. (b) that are paid by a dairy cooperative, if the allowable amount of the
22 claim under par. (b) exceeds the tax otherwise due under s. 71.43, the amount of the
23 claim not used to offset the tax due shall be certified by the department of revenue
24 to the department of administration for payment by check, share draft, or other draft
25 drawn from the appropriation account under s. 20.835 (2) (bp).

