



Legislative Fiscal Bureau

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April 6, 2011

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: 2011 Assembly Bill 53: Commerce -- Enterprise Zone Expansion

2011 Assembly Bill 53, which would increase the number of authorized enterprise zones, was introduced on March 21, 2011, and referred to the Assembly Committee on Jobs, Economy and Small Business. On March 29, 2011, Assembly Amendment 1 to AB 53 was adopted by a vote of 10 to 2, and the bill, as amended, was recommended for passage by a vote of 12 to 0.

CURRENT LAW

The enterprise zone program provides refundable tax credits that can be claimed, under the state individual income and corporate income and franchise taxes, for eligible expenses for increased employment, retaining employees, employee training, capital investment, and purchases from Wisconsin vendors. (Under current law, the Department of Commerce is responsible for designating enterprise zones, certifying taxpayers, allocating and verifying tax credits, and performing other administrative functions related to the enterprise zone program. Those functions are described in this section. However, provisions included in 2011 Assembly Bill 40 would transfer most of Commerce's economic development functions, including administration of the enterprise zone program, to the Wisconsin Economic Development Corporation (WEDC), which was created under 2011 Wisconsin Act 7.)

Jobs Tax Credit. The enterprise zones jobs tax credit is provided to businesses that are certified by the Department of Commerce. The enterprise zones jobs tax credit is calculated as follows:

1. Determine the lesser of: (a) the number of full-time employees that are employed in an enterprise zone whose annual wages are greater than \$20,000 in a tier I county or municipality, or greater than \$30,000 in a tier II county or municipality in the tax year, minus the number of full-

time employees that were employed in the enterprise zone in the base year whose annual wages were greater than \$20,000 in a tier I county or municipality, or greater than \$30,000 in a tier II county or municipality; or (b) the number of full-time employees in the state whose annual wages are greater than \$20,000 in a tier I county or municipality, or greater than \$30,000 in a tier II county or municipality in the tax year, minus the number of full-time employees in the state in the base year whose annual wages were greater than \$20,000 in a tier I county or municipality, or greater than \$30,000 in a tier II county or municipality. ("Base year" is the year prior to the year in which the enterprise zone was created.)

2. Determine the claimant's average zone payroll ("zone payroll" excludes wage amounts that are over \$100,000) by dividing total wages for full-time employees in the zone whose annual wages are greater than \$20,000 in a tier I county or municipality, or greater than \$30,000 in a tier II county or municipality, and who the claimant employed in an enterprise zone for the tax year, by the number of employees whose annual wages are greater than \$20,000 in a tier I county or municipality, or greater than \$30,000 in a tier II county or municipality, and who the claimant employed in the enterprise zone in the tax year.

3. For employees in a tier I county or municipality subtract \$20,000 from the average wage determined under "2," and for employees in a tier II county or municipality subtract \$30,000 from the average wage determined under "2."

4. Multiply the amount determined under "3" (average wage in excess of \$20,000 a year in a tier I county or municipality, or in excess of \$30,000 a year in a tier II county or municipality) by the number determined under "1" (net number of new employees hired in the zone).

5. Multiply the amount determined under "4" by a percentage determined by Commerce, not to exceed 7%.

Payroll Tax Credit. An additional refundable tax credit can be claimed for an amount equal to the percentage, up to 7%, as determined by Commerce, of the claimant's zone payroll ("zone payroll" excludes wage amounts that are over \$100,000) paid in the tax year to full-time employees who were employed in the enterprise zone in the tax year and whose annual wages were greater than \$20,000 in a tier I county or municipality, or greater than \$30,000 in a tier II county or municipality, not including the wages paid to employees that are used to claim the enterprise zone jobs credit. The total number of employees has to equal or be greater than the number of employees in the base year. Credit claims are limited to five consecutive years.

Job Retention. A refundable tax credit can be claimed for job retention, if the business makes a significant capital investment, and is an original equipment manufacturer with a Wisconsin supply chain, or has more than 500 full-time employees in an enterprise zone.

Training Component. A supplemental, refundable credit may be claimed that is equal to the amount paid in the tax year to upgrade or improve the job-related skills of any of the claimant's full-

time employees, to train any of the claimant's full-time employees on the job-related use of new technologies, or to provide job-related training to any full-time employee whose employment with the claimant represents the employee's first full-time job. The training must be provided to employees who work in the enterprise zone

Significant Capital Expenditures. A refundable tax credit is provided equal to an amount determined by Commerce, but not exceeding 10% of the claimant's significant capital expenditures in the enterprise zone. Commerce must determine that the business investment is a significant capital expenditure, and allocate the tax benefits over the remaining life of the zone.

Purchases from Wisconsin Suppliers. A refundable credit may be claimed of up to 1% of the amount the claimant paid in the tax year to purchase goods or services from Wisconsin vendors, as determined by Commerce. A claimant cannot claim the credit for expenditures also used to claim the enterprise zone significant capital expenditures tax credit.

As noted, the credits are refundable. Therefore, if the amount of credit exceeds the claimant's income or franchise tax liability, the state issues a check to the claimant for the difference.

Commerce is required to determine the maximum amount of tax credits that a certified business can claim and notify the Department of Revenue (DOR) of the amount. Commerce is also required to verify information submitted to it that is related to enterprise zone expenses and tax credits. Claimants are required to include, with their tax returns, a copy of the certification for tax benefits and verification of expenses from Commerce. Businesses may not claim enterprise zone tax credits to the extent the basis for the credit is the basis for another tax credit claimed by the business. Commerce may require a business to repay any tax benefits the business claims for a year in which the business failed to maintain employment or capital investment levels required by the certification agreement.

Enterprise Zone Designation and Certification. Under the enterprise zone program, Commerce is authorized to designate up to 12 areas in the state as enterprise zones. A zone designation cannot last more than 12 years. Eligible businesses that conduct operations in an enterprise zone that are certified by Commerce can claim the refundable enterprise zone tax credits.

In determining whether to designate an area as an enterprise zone, Commerce is required to consider all of the following:

1. Indicators of the area's economic need, including data regarding household income, average wages, the condition of property, housing values, population decline, job losses, infrastructure and energy support, the rate of business development, and the existing resources available to the area.
2. The effect of designation on other initiatives and programs to promote economic and community development in the area, including job creation and job training, and creating high-

paying jobs.

Commerce is required to specify whether an enterprise zone is in a tier I or tier II county or municipality, and to promulgate administrative rules defining "tier I county or municipality" and "tier II county or municipality." The Department has to consider all of the following information when establishing the definitions: (1) unemployment rate; (2) percentage of families with incomes below the poverty line; (3) median family income; (4) median per capita income; and (5) other significant or irregular indicators of economic distress, such as a natural disaster or mass layoff.

To the extent possible, Commerce must give preference in designating areas to those with the greatest economic need.

Commerce is required to certify a business as eligible for the enterprise zone tax credits. The Department may certify for tax benefits any of the following:

1. A business that begins operations in an enterprise zone.
2. A business that relocates to an enterprise zone from outside the state, if the business offers compensation and benefits to its employees working in the zone for the same type of work that are at least as favorable as those offered outside the zone (as determined by Commerce).
3. A business that expands its operations in an enterprise zone, and increases its personnel by at least 10%, and enters into an agreement with Commerce to claim tax benefits only for years during which the business maintains the increased level of personnel. The business must offer compensation and benefits for the same type of work to its employees working in the enterprise zone that are at least as favorable as those offered to its employees working in Wisconsin, but outside the zone.
4. A business that expands its operations in an enterprise zone and that makes a capital investment in property located in the enterprise zone if the following apply: (a) the value of capital investment is equal to at least 10% of the business' gross revenues from business in the state in the preceding tax year; (b) the business enters into an agreement with Commerce to claim tax benefits only for years during which the business maintains the capital investment; and (c) the business offers compensation and benefits for the same type of work to its employees in the zone that are at least as favorable as those offered to employees working in Wisconsin, but outside the zone.
5. A business that retains jobs in an enterprise zone, but only if the business makes a significant capital investment in property located in the zone, and at least one of the following applies: (a) the business was an original equipment manufacturer with a significant supply chain in Wisconsin; or (b) more than 500 full-time employees were employed by the business in the enterprise zone.
6. A business that is located in an enterprise zone that purchases tangible personal

property, items, property, goods, or services from Wisconsin vendors (as determined by Commerce).

Commerce must notify DOR when it certifies a business to receive tax benefits and when it revokes certification. Commerce is required to revoke a firm's certification if the business does any of the following: (1) supplies false or misleading information to obtain tax benefits; (2) leaves the enterprise zone to conduct substantially the same business outside the zone; or (3) ceases operations in the zone, and does not renew operation of the business or a similar business in the zone within 12 months.

In general, "full-time employee" means an individual who is employed in a regular, non-seasonal job and who, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays. Commerce can specify, by rule, circumstances under which it can grant exceptions to that requirement. However, under no circumstances, would a full-time employee mean an individual who, as a condition of employment, was required to work less than 37.5 hours per week. "Personnel" means: (1) a business' employees in an enterprise zone; and (2) individuals who provide services to businesses as independent contractors. "State payroll" means the amount of payroll apportioned to this state under the income and franchise tax apportionment rules for multi-state businesses that were in effect prior to the implementation of single sales apportionment in 2008. "Zone payroll" is defined as wages paid to full-time employees for services performed in the enterprise zone. "Zone payroll" does not include the amount of compensation paid to any individual that exceeds \$100,000. The definition of "wages" is referenced to the federal Internal Revenue Code to mean all remuneration for employment, including the cash value of all remuneration (including benefits paid in a medium other than cash, with specified exceptions, such as payments to certain trusts or annuitant plans).

Currently, nine of the 12 enterprise zones have projects for which contracts have been signed. The attachment provides summary information related to each of the contracted projects. The attachment shows that that a total \$264.8 million in tax credits will be allocated to the 12 projects. However, all expenditures for which credits are claimed must be verified by Commerce. Actual expenditures and the timing of such expenditures may differ from credit allocations for a given tax year. Under 2011 Assembly Bill 40 (the 2011-13 biennial budget bill), the sum-sufficient GPR appropriation used to fund enterprise zone tax credits is estimated to be \$13,800,000 for fiscal year 2011-12 and \$34,100,000 for fiscal year 2012-13.

SUMMARY OF BILL

Assembly Bill 53 would increase the number of authorized enterprise zones by three, from 12 to 15.

ASSEMBLY AMENDMENT 1

Assembly Amendment 1 would increase the number of authorized enterprise zones to 19, rather than to 15. In addition, the amendment includes a nonstatutory provision that provides that the bill, if enacted, would be void unless 2011 Assembly Bill 2 or 2011 Senate Bill 4 was also enacted. AB 2 and SB 4 would increase the number of authorized enterprise zones to 16, and require Commerce to designate four zones in areas that met certain specified population limits. The intent of this provision is to account for the four additional enterprise zones that would be authorized under AB 2/SB 4, and the three zones authorized under the bill, for a total of 19 authorized enterprise zones. It is not clear that the provision would meet the intent of the amendment.

FISCAL EFFECT

Assembly Bill 53. AB 53 would authorize Commerce to designate three additional enterprise zones. The nine currently contracted zones were designated in 2009 and 2010, and a total of \$264.8 million in enterprise zones tax credits were allocated to zone projects. Credit allocations through 2013 are shown in the attachment. Based on experience with the enterprise zone program, the estimated fiscal effect of 2011 AB 53 would be an increase in expenditures of \$8,700,000 GPR in 2012-13 and annually thereafter during the life of the zones. Expenditures would increase because the enterprise zone tax credit is refundable.

Assembly Amendment 1. AA 1 would increase the number of authorized enterprise zones to 19, or by four over the bill. The nonstatutory provision is intended to reconcile the number of zones authorized in AB 53 with four additional zones authorized in 2011 AB 2/SB 4. However, it is not clear if the amendment would accomplish this.

If both AB 2/SB 4 and AB 53 were enacted the number of zones would be increased by a total of seven. Based on Commerce's experience in contracting projects and allocating and verifying tax credits, and on the timing of credit claims by businesses, it is assumed that eight new zone projects (including three that are currently authorized and five authorized under the bills) would have tax credit claims in fiscal year 2012-13. This would increase expenditures by an estimated \$14,500,000 GPR in 2012-13 and annually thereafter for the life of the zones. Tax credit claims of an estimated \$5,800,000 for the additional two authorized zones would be claimed beginning in 2013-14, and annually thereafter (\$20.3 million GPR annually over current law) during the life of the zones.

Another option would be to increase the number of new zones authorized in AB 2/SB 4 by seven (rather than four). This would eliminate the potential conflict between the two bills.

Prepared by: Ron Shanovich
Attachment

ATTACHMENT

Contracted Enterprise Zone Projects

Business/Location	Project	Project Components	Total Credits	Annual Credit Allocations*	Zone Life
Uline Inc./Pleasant Prairie	Establish corporate campus, including corporate headquarters and distribution center.	Training expenditures Capital investment Jobs created	Payroll tax Training Total	2010 \$1,567,000 2011 \$1,785,000 2012 \$2,022,000 2013 \$2,074,000	9 years
Republic Airways/ Milwaukee	Consolidate operations and management functions at General Mitchell International Airport.	Training expenditures Capital investment Jobs created Jobs retained	Payroll tax Training Investment Total	2010 \$4,005,475 2011 \$2,564,867 2012 \$2,602,400 2013 \$2,640,200	12 years
Mercury Marine/Fond du Lac	Consolidate operations.	Capital investment Wisconsin supply chain purchases Jobs created Jobs retained	Payroll tax Training Investment Supply chain Total	2010 \$7,662,000 2011 \$10,741,000 2012 \$10,014,000 2013 \$7,766,000	12 years
Oshkosh Corporation/Oshkosh, Appleton, Kewaunee	Compete for federal contract to manufacture the Family of Medium Tactical Vehicle (FMTV)	Capital investment Wisconsin supply chain purchases (annually) Jobs created Jobs retained	Payroll tax Investment Supply chain Total	2009 \$5,278,500 2010 \$5,688,500 2011 \$4,812,000 2012 \$4,511,000 2013 \$4,176,000	10 years
Quad Graphics, Inc./Milwaukee, Franklin, Dousman, Kohler, West Allis, Sussex, Pewaukee, Menomonee Falls, Lormira, Hartford	Consolidate operations in connection with the acquisition of World Color Press, Inc. from other states in Wisconsin	Training expenditures Capital investment Wisconsin supply chain purchases (annually) Jobs created Jobs retained	Payroll tax Investment Training Supply chain Total	2010 \$5,199,000 2011 \$6,159,000 2012 \$6,800,000 2013 \$5,519,000	11 years
Bucyrus International, Inc./Milwaukee and Surrounding Communities	Expand headquarters in connection with acquisition of Terex Corporation. Also expanded engineering, manufacturing and assembly functions.	Training expenditures Capital investment Jobs created	Payroll tax Investment Training Total	2010 \$2,333,000 2011 \$3,047,000 2012 \$2,160,000 2013 \$1,709,000	10 years
SHINE Medical Technologies Inc./Location Not Yet Determined	Establish production and processing facility.	Capital investment Jobs created	Jobs credit Investment Total	2011 \$81,000 2012 \$1,964,000 2013 \$2,178,000	10 years
Northstar Medical Radioisotopes, LLC/Location Not Yet Determined	Establish production facility.	Capital investment Jobs created	Jobs credit Investment Total	2011 \$100,000 2012 \$806,000 2013 \$4,824,000	5 years
W Solar Group, Inc./Location Not Yet Determined	Develop production and research and development facilities, and corporate headquarters.	Training expenditures Capital investment Wisconsin supply chain purchases (annually) Jobs created	Jobs credit Investment Supply chain Total	2010 \$320,000 2011 \$635,000 2012 \$4,710,000 2013 \$5,050,000	12 years

* Shows allocations through 2011-13 biennium.