Legislative Fiscal Bureau

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August 14, 2017

TO: Members
Wisconsin Legislature

FROM: Bob Lang, Director

SUBJECT: Assembly Substitute Amendment 1 to SS AB 1: Foxconn/Fiserv

On August 11, 2017, Assembly Substitute Amendment 1 to August 2017 Special Session Assembly Bill 1 was introduced by Representatives Neylon, Vos, Steineke, and Nygren.

This memorandum summarizes the changes that the Assembly Substitute Amendment 1 (ASA 1) would make to the bill.

SUMMARY

REFUNDABLE TAX CREDITS

Designation of Zones and Certification of Businesses for Tax Benefits

ASA 1 would delete the provisions of the bill that would require WEDC to specify whether an EITM zone is located in a tier I or tier II county or municipality, and delete the provisions in the bill that would require WEDC to adopt policies and procedures defining each tier.

Hiring of Wisconsin Residents

ASA 1 would require WEDC, to the extent possible, to attempt to include terms in any agreement negotiated between it and a business certified for EITM zone credits that encourage the business's hiring of Wisconsin residents.

EITM Zone Payroll Tax Credit

ASA 1 would modify the definition of "zone payroll" for purposes of the EITM payroll credit to mean the amount of state payroll that is attributable to wages paid by the claimant, rather than any wages paid, to eligible full-time employees.

Under the bill, for purposes of the EITM zone payroll tax credit, a "full-time employee" would mean an individual who is employed in a regular, nonseasonal job and who, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays. However, WEDC could grant exceptions to the requirement that a full-time employee means an individual who, as a condition of employment, is required to work at least 2,080 hours per year if: (a) the individual is employed in a job for which the annual pay is more than the amount determined by multiplying 2,080 by 150% of the federal minimum wage ($22,620); and (b) the individual is offered retirement, health, and other benefits that are equivalent to the retirement, health, and other benefits offered to an individual who is required to work at least 2,080 hours per year.

ASA 1 would delete this provision. Instead, a "full-time employee" would mean an individual who is employed in a job for which the annual pay is at least $30,000 and who is offered retirement, health, and other benefits that are equivalent to the retirement, health, and other benefits offered to an individual who is required to work at least 2,080 hours per year.

Supplemental Credit for Capital Expenditures

ASA 1 would make technical corrections to the EITM significant capital expenditure tax credit statutes to specify that the credit can be claimed <u>up to 15%</u> of the business's capital expenditures, rather than <u>an amount equal to 15%.</u>

Clawback Provisions

Current law specifies that WEDC may not certify a person to receive certain tax benefits unless it enters into an agreement with the person that requires the person to repay the tax benefits if, within five years after being certified to receive them, the person ceases to conduct the relevant economic activity in this state and commences substantially the same economic activity outside this state. However, the current definition of "tax benefits" under this provision does not include the existing enterprise zone credits and the Foxconn bill would not include the new EITM zone credits. ASA 1 would amend the Foxconn bill so that this provision would apply to the new EITM zone credits but not to the enterprise zone credits.

POSITION FOR WEDC

ASA 1 would require WEDC's Board of Directors to hire a full-time employee who would be known as the electronics manufacturing small business development director. The director's duties would have to include coordinating with the economic development liaison in DOA and providing outreach to local economic development organizations. This provision would have no effect after December 31, 2022.

ASA 1 would provide additional expenditure authority in WEDC's economic development fund; operations and programs SEG appropriation of $110,000 annually for the electronics manufacturing small business development director position. Under current law, WEDC is provided a sum certain, continuing SEG appropriation from the economic development fund equal to the amounts identified in the appropriation schedule ($21,776,000 annually), which funds its operations and economic development programs. The revenue source for the economic development fund is the economic development surcharge imposed on C corporations and tax-option corporations. [This provision would need to be reconciled with the provision in the 2017-19 budget bill recommended by the Governor and adopted by Joint Finance that would modify WEDC's current appropriation structure.]

PUBLIC SERVICE COMMISSION

Market-Based Public Utility Rates

ASA 1 would modify the provision of the bill for market-based public utility rates to require the PSC, rather than the electric public utility providing the customer service, to determine that the utility customer is eligible for an EITM zone tax credit.

Certificates of Authority and Certificates of Public Convenience

ASA 1 would modify the bill's provision relating to certificates of authority to specify that the public utility project is primarily to provide service to a new customer within an EITM zone, as opposed to a project in such a zone. As a result, the project could involve utility infrastructure outside a zone so long as the project results in the provision of service to a new customer in a zone.

NATURAL RESOURCES

Navigable Stream Permitting

ASA 1 would modify bill language to align descriptions of activities to be exempted from certain permitting requirements under Chapter 30 of the statutes (navigable waterways). Specifically, it would modify the treatments of s. 30.123 (bridges and culverts) and s. 30.19 (enlargement of artificial waterways and grading of waterway banks) to apply exemptions as "related to the construction, access or operation of a new manufacturing facility" in an EITM zone. The bill would create exemptions under those two sections using different terms, namely: (a) using "required for" instead of "relating to"; and (b) in the treatment of s. 30.19, applying the exemption to "construction, access, and operation."

Wetlands Permitting Exemption

ASA 1 would specify that if the in-lieu fee (ILF) program is used to compensate for adverse impacts to wetland functional values under the permitting exemptions the bill would create, DNR would be required to identify and consider compensatory mitigation that could be conducted within the same watershed, and mitigation may be located outside the watershed only upon agreement of DNR and the person receiving the permitting exemption. (Current law and program procedures require U.S. Army Corps of Engineers approval for ILF mitigation projects outside the local watershed.)

DNR Regulatory Authority

ASA 1 would specify DNR is to ensure conditions of applicable permits, licenses, and approvals under the Department's jurisdiction are met for all activities related to the construction, access, or operation of a new manufacturing facility in an EITM zone, except as specifically provided otherwise in the bill. Specify the compliance requirement includes, but is not limited to, licenses, permits, and approvals under several statutory chapters and any associated DNR administrative rules.

TIF DISTRICT IN AN EITM ZONE

Under current law, a city or village can only create a new TIF district if there is a finding that the equalized value of the proposed district plus the value increment of all existing districts does not exceed 12% of the total equalized value of property within the city or village. The bill would not count the equalized value of an EITM TIF district in the calculation of this 12% limit. The Substitute Amendment would modify the bill to specify that the 12% limit finding would not apply to a resolution creating an EITM TIF district, and if the creating city or village creates another TIF district, only the value increment of the EITM TIF district would not be included in the calculation of the 12% limit.

ASA 1 would modify the bill to require that before the creating city or village may incur project costs for any territory that is located outside of the EITM TIF district, but that is in the same county as the district, the city or village must obtain certification from DOA specifying that DOA believes the proposed expenditure benefits the district.

In addition, ASA 1 would modify the bill to specify that the creating city or village may incur project costs for any of the following, provided that the expenditures benefit the district: (a) territory that is located in the same county as the district; and (b) the cost of constructing or expanding fire stations, purchasing police and fire equipment, and the cost of general government operating expenses, provided that the total of such expenditures do not exceed 15% of the total positive tax increments received by the creating city or village over the district's lifetime. Further, ASA 1 would specify that any capital expenditures under this provision may only be made for the first 84 months following the district's creation, and any expenditures for constructing or expanding fire stations may be made only for fire stations located within a one-mile radius of the EITM zone.

Finally, ASA 1 would modify the bill to exempt an EITM TIF district from the current law requirement that no expenditure may be made later than five years before the unextended termination date of the TIF district by allowing any expenditure allowed under current law to be made up to 30 years after the district is created.

DEPARTMENT OF ADMINISTRATION

Economic Development Liaison

ASA 1 would specify that the economic development liaison position created under DOA would be a project position (rather than a permanent position) with an end date of December 31, 2022. Under current law (230.27(1)), a project position may not exist for more than four years. ASA 1 would specify that the four-year limit would not apply to this position. In addition, the substitute amendment would assign the project position to executive salary group 4 (rather than executive salary group 3), for which the annual salary range specified in the current state compensation plan is $76,066 to $125,528.

Municipal Incorporation

ASA 1 would specify that once a petition is filed under s. 66.0203(2)(b) of the statutes for incorporation of territory, no territory within the town may be annexed by any city or village under ss. 66.0217 or 66.0219 of the statutes until 30 days after one of the following occurs (a) the petition is dismissed by the circuit court or the Incorporation Review Board; (b) all appeals of the petition dismissal are exhausted; or (c) an incorporation referendum is held in the town. The substitute amendment would also specify that once a petition is filed to incorporate a town adjacent to a first class city or a resolution is adopted by a town board of a town contiguous to a third class city to provide for a referendum on the question of incorporation as a village, no territory within the town may be annexed by any city or village until 30 days after the referendum is held in the town. In addition, ASA 1 would authorize a town that is adjacent to a city or village that contains an EITM zone to incorporate as a city or village if the town approves an incorporation referendum. Under the substitute amendment, no other current law procedures (including hearings, circuit court review, and Incorporation Review Board analysis) would apply to such incorporation of a town adjacent to a city or village that contains an EITM zone.

STATE MORAL OBLIGATION PLEDGE

ASA 1 would modify the bill provisions relating to grants for local government expenditures and a state moral obligation pledge to define "local governmental unit" to mean a city, village, or county that contains any part of an EITM zone designated under the bill. In addition, for purposes of a state moral obligation pledge under the bill, ASA 1 would define "municipal obligation" using the current law definition under Chapter 67 of the statutes relating to municipal borrowing and municipal bonds, where municipal obligation includes every lawful promise or engagement in writing by a municipality to pay at a specified future time a specified sum of money (as under the bill, the local governmental unit's municipal obligation must be issued to finance costs related to development occurring in or for the benefit of such a zone).

ASA 1 would modify the bill provisions relating to a state moral obligation pledge to delete the bill provision requiring the Secretary of Administration to approve the local governmental unit's obligation before it is issued, to instead require the Secretary to designate the moral obligation pledge for the local governmental unit's municipal obligation before it is issued, based on a plan that the local governmental unit would submit to the Department on a form prescribed by the Department. In addition, ASA 1 would delete a bill provision that authorized the Secretary to contract with a local governmental unit to implement the state moral obligation pledge.

In addition, ASA 1 would delete the bill provision that specifies that the moral obligation pledge would apply to up to 40% of the of the principal and interest and, instead, provide that no more than 40% of a local governmental unit's aggregate municipal obligations under this bill provision could be subject to a moral obligation pledge. Require that the proceeds of municipal obligations issued by a local governmental unit under this bill provision be used to finance costs related to development occurring in or for the benefit of such a zone.

Finally, ASA 1 would modify the bill to create a legislative determination that the provision of assistance by state agencies to a local governmental unit under the grant and moral obligation provisions, any appropriation of funds to a local governmental unit, and the moral obligation pledge serve a substantial statewide public purpose by assisting the development of such a zone, by encouraging economic development, by reducing unemployment, and by bringing needed capital into the state for the benefit and welfare of people throughout the state.

COUNTY SALES TAX REVENUE BONDS

ASA 1 would modify the bill to authorize a county in which an EITM zone is designated to issue bonds whose principal and interest are paid only through the county sales tax. The Substitute Amendment would also modify current law that specifies that the county sales tax may only be imposed for the purpose of reducing the property tax levy to allow for the issuance of such bonds. In addition, ASA 1 would specify that if such bonds are issued, the county would be without power to repeal the local sales tax or obstruct the collection of the tax until the principal and interest payments have been made or provided for.

DEPARTMENT OF WORKFORCE DEVELOPMENT

ASA 1 would create a continuing GPR appropriation under the Department of Workforce Development (DWD) for a worker training and employment program. Under ASA 1, of the amounts appropriated in the 2019-21 biennium, DWD must allocate $20,000,000 to provide funding, through grants or other means, to facilitate worker training and employment in the state. The bill provides no funding for the program in the 2017-19 biennium.

Under ASA 1, DWD would be required to consult with the Wisconsin Technical College System Board and the Wisconsin Economic Development Corporation in implementing the worker training and employment program. Prior to expending any appropriated funds, DWD would be required to submit to the Joint Committee on Finance a plan for implementing the program. The Department could not expend any funds appropriated for the program except in accordance with the plan as approved by the Joint Committee on Finance. DWD would have all other powers necessary to implement a worker training and employment program, including the power to audit and inspect the records of grant recipients. The Department would be required to submit, annually, by December 31, a report to the Governor and the co-chairs of the Joint

Committee on Finance providing an account of DWD's activities and expenditures for the electronic technology manufacturing work force program during the preceding fiscal year.

HIGHER EDUCATION WORKFORCE DEVELOPMENT STRATEGIES

ASA 1 would modify the bill to require the Board of Regents of the UW System and the Wisconsin Technical College System Board to consult together on strategies to address long-term workforce development issues for the future economy, including strategies for the fields of engineering, computer science, and electronic technology manufacturing. The Substitute Amendment would require the Boards to submit a joint report to the Joint Committee on Finance and the appropriate standing committees generally responsible for higher education and workforce development legislation that includes recommendations to address long-term workforce development issues no later than December 1, 2017.

I-94 NORTH-SOUTH CORRIDOR PROJECT

The bill would authorize $252.4 million in general fund-supported borrowing that would be contingent on the state receiving an award of federal moneys for the I-94 North-South corridor project in southeast Wisconsin.

ASA 1 would modify the bill to require DOT to receive Joint Committee on Finance approval in order to expend the proceeds of the $252.4 million in general fund-supported, general obligation bonds that would be authorized for the I-94 North-South corridor project. In order to receive this approval, DOT would be required to submit a plan for the expenditure of the bond proceeds to the Committee. No later than 14 days after receiving such a plan, the Committee would be required to meet to approve or modify and approve the plan.

FISCAL EFFECT OF ASA 1 TO SS AB 1

The Substitute Amendment would make two changes to the state fiscal effect of the bill. First, ASA 1 would increase WEDC's Economic Development Fund segregated appropriation by $110,000 annually, beginning in 2017-18 to fund a full-time electronics manufacturing small business development director. The position would not be required after December 31, 2022.

Second, the Substitute Amendment would create an appropriation and indicate that DWD, beginning in the 2019-21 biennium, must allocate $20.0 million of the amounts appropriated to facilitate worker training and employment.

In addition, under current law, counties have the authority to impose a 0.5% county sales and use tax for the purpose of reducing the property tax levy or costs that could otherwise be paid from the property tax levy. The Substitute Amendment would also allow a county containing an EITM zone to use the revenues from a 0.5% county sales and use taxes to repay bonds issued by the county. Kenosha County currently imposes a 0.5% county sales and use tax, but Racine County does not. The Substitute Amendment would expand the allowable use of revenues for Kenosha County's existing sales and use tax and would expand the purposes for which Racine County could impose the current law 0.5% sales and use tax.

The Substitute Amendment would allow a city or village to incur expenditures related to an EITM district associated with the costs of constructing or expanding fire stations within a one-mile radius of the district, purchasing police and fire equipment, and for the general government operating expenses. The district could only incur costs for the capital expenditures for up to seven years after the district is created. The district could also incur costs for territory located outside the district but in the same county as the district, but prior to these costs being incurred, DOA would have to certify that the costs benefit the district. The costs could then be repaid with tax increments generated in the EITM TIF district, but could not exceed 15% of the total positive tax increments received by the city or village creating the district over the life of the district. This provision would allow the tax increments (equal to the value increment of an EITM TIF district multiplied by the tax rates of the overlying taxing jurisdictions of that district) to pay for these operating and police and fire capital costs related to the development in the EITM district. By allowing these costs to be repaid by the tax increments of the district, these provisions of the Substitute Amendment would extend the length of time it would take to repay the costs of an EITM district compared to the bill. However, similar to the bill, the maximum life of an EITM district would continue to be 30 years.

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