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February 7, 2018

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Bill 668 and Assembly Bill 793: Increase the Limit on Tax Credits that May be Certified Under the Historic Rehabilitation Tax Credit

Senate Bill 668 was introduced on December 21, 2017, and was referred to the Senate Committee on Revenue, Financial Institutions, and Rural Issues. On January 17, 2018, the bill was recommended for passage by that committee on a vote of 5 to 0. The bill was referred to the Joint Committee on Finance on January 19, 2018.

Assembly Bill 793 is an identical companion bill to SB 668 that was introduced on December 27, 2017, and was referred to the Assembly Committee on Ways and Means. On January 25, 2018, the bill was recommended for passage by that committee on a vote of 15 to 0. The bill was referred to the Joint Committee on Finance on January 25, 2018.

BACKGROUND

Under current law, the supplement to federal rehabilitation tax credit may be claimed for an amount equal to 20% of qualified rehabilitation expenditures for certified historic structures and for qualified rehabilitated buildings. The state credits act as supplements to similar federal credits, which result in a total credit of 40% for certified historic structures (buildings that have historic significance) and 30% for qualified rehabilitated buildings (constructed prior to 1936). For certified historic structures, the qualified rehabilitation expenditures must be at least $50,000; and for pre-1936 buildings, such expenditures must be more than the greater of $50,000 or the claimant's adjusted basis in the building. Claimants must be certified by the Wisconsin Economic Development Corporation (WEDC) in order to claim the credits. WEDC has maintained a moratorium on certifying persons for the credit for pre-1936 buildings for applications received after June 23, 2014.

Under federal law, the Tax Cuts and Jobs Act (federal Act) repealed the credit for qualified rehabilitation expenditures paid or incurred after December 31, 2017, for pre-1936 buildings, with a transition rule that applies to certain expenditures beginning within 180 days of enactment of the federal Act. Because the state credit is a supplement to, and must be claimed at the same time as, the federal credit, the state credit for pre-1936 buildings is effectively sunset. In addition, state law automatically adopts the provision in the federal Act that modifies the timing for claiming the state credit for certified historic structures. As a result, the state credit must be claimed ratably over a five-year period beginning in the taxable year in which the building is placed in service, with a transition rule that applies to projects contracted and completed prior to tax year 2021. The provisions of the federal Act are effective for amounts paid or incurred after December 31, 2017.

As passed by the Legislature, 2017 Wisconsin Act 59 included a provision that limited the amount of historic credits that WEDC can certify a person to receive to no more than $5 million for all rehabilitation projects undertaken on the same parcel, beginning with certifications on July 1, 2018. However, the Governor's partial veto reduced the $5 million limit to $500,000. As vetoed by the Governor under Act 59 and modified by the federal Act, it is estimated that the supplement to the federal historic rehabilitation tax credit will reduce state income and franchise tax revenues under current law by $72.4 million in 2018-19, $48.5 million in 2019-20, $43.8 million in 2020-21, $35.4 million in 2021-22, $34.6 million in 2022-23, and $32.0 million in 2023-24 and annually thereafter.

SUMMARY OF BILLS

SB 668/AB 793 would increase the statutory limit for the amount of the supplement to federal historic rehabilitation credits WEDC can certify a person to claim from $500,000 to $3.5 million for all projects undertaken on the same parcel, beginning July 1, 2018.

FISCAL EFFECT

According to the Department of Revenue, it is estimated that SB 668/AB 793 would reduce state income and franchise tax revenues, as compared to current law, by an additional $3.5 million in 2018-19, $8.3 million in 2019-20, $10.6 million in 2020-21, $14.2 million in 2021-22, $19.0 million in 2022-23, and $29.4 million in 2023-24 and annually thereafter. The estimate is based on an analysis of rehabilitation projects contracted and/or certified by WEDC, as well as the expected project completion timelines for rehabilitation projects in planning and construction phases.

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