



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1803/1
MES:ahe

2019 ASSEMBLY BILL 539

October 14, 2019 - Introduced by Representatives KRUG, HORLACHER, OHNSTAD, TUSLER and THIESFELDT. Referred to Committee on Ways and Means.

1 **AN ACT** *to amend* 20.566 (1) (hp), 71.10 (5s) (c) and 71.10 (5s) (e); and *to create*
2 71.10 (5fn) of the statutes; **relating to:** creating an individual income tax
3 checkoff for donations to the Wisconsin State Firefighters Memorial, Inc.

Analysis by the Legislative Reference Bureau

This bill creates an individual income tax checkoff for the Wisconsin State Firefighters Memorial, Inc., the proceeds of which support the construction, improvement, and maintenance of the fire fighters memorial. The bill requires that an amount equal to the total amount of designations received, less the total cost of administering the income tax checkoff procedure, be transferred to the corporation.

Currently, there are eight permanent checkoffs to which taxpayers may make a designation. Current law prohibits the Department of Revenue from placing more than ten checkoffs, not including temporary checkoffs, on the income tax form. Current law also requires DOR to remove from the tax forms any checkoffs that do not generate at least an average of \$50,000 of designations per year over the most recent three-year period. Formerly, a temporary checkoff for the fire fighters memorial appeared on the tax forms, but it was removed by DOR because it failed to generate the required level of designations. The checkoff created in this bill would be a permanent checkoff.

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For further information see the *state and local* 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.** 20.566 (1) (hp) of the statutes is amended to read:

2 20.566 (1) (hp) *Administration of income tax checkoff voluntary payments.* The
3 amounts in the schedule for the payment of all administrative costs, including data
4 processing costs, incurred in administering ss. 71.10 (5), (5e), (5f), (5fm), (5fn), (5g),
5 (5h), (5i), (5j), (5k), (5km), and (5m), and 71.30 (10). All moneys specified for deposit
6 in this appropriation under ss. 71.10 (5) (h) 5., (5e) (h) 4., (5f) (i), (5fm) (i), (5fn) (i),
7 (5g) (i), (5h) (i), (5i) (i), (5j) (i), (5k) (i), (5km) (i), and (5m) (i) and 71.30 (10) (i) and (11)
8 (i) shall be credited to this appropriation account.

9 **SECTION 2.** 71.10 (5fn) of the statutes is created to read:

10 71.10 **(5fn)** FIRE FIGHTERS MEMORIAL CHECKOFF, 2019 AND BEYOND. (a) *Definitions.*
11 In this subsection:

12 1. "Corporation" means the Wisconsin State Firefighters Memorial, Inc.

13 2. "Department" means the department of revenue.

14 (b) *Voluntary payments.* 1. 'Designation on return.' Subject to sub. (5s), every
15 individual filing an income tax return who has a tax liability or is entitled to a tax
16 refund may designate on the return any amount of additional payment or any
17 amount of a refund due that individual for the fire fighters memorial.

18 2. 'Designation added to tax owed.' If the individual owes any tax, the
19 individual shall remit in full the tax due and the amount designated on the return
20 for the fire fighters memorial when the individual files a tax return.

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1 3. ‘Designation deducted from refund.’ Except as provided in par. (d), if the
2 individual is owed a refund for that year after crediting under ss. 71.75 (9) and 71.80
3 (3) and (3m), the department shall deduct the amount designated on the return for
4 the fire fighters memorial from the amount of the refund.

5 (c) *Errors; failure to remit correct amount.* If an individual who owes taxes fails
6 to remit an amount equal to or in excess of the total of the actual tax due, after error
7 corrections, and the amount designated on the return for the fire fighters memorial:

8 1. The department shall reduce the designation for the fire fighters memorial
9 to reflect the amount remitted in excess of the actual tax due, after error corrections,
10 if the individual remitted an amount in excess of the actual tax due, after error
11 corrections, but less than the total of the actual tax due, after error corrections, and
12 the amount originally designated on the return for the fire fighters memorial.

13 2. The designation for the fire fighters memorial is void if the individual
14 remitted an amount equal to or less than the actual tax due, after error corrections.

15 (d) *Errors; insufficient refund.* If an individual is owed a refund that does not
16 equal or exceed the amount designated on the return for the fire fighters memorial,
17 after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections,
18 the department shall reduce the designation for the fire fighters memorial to reflect
19 the actual amount of the refund that the individual is otherwise owed, after crediting
20 under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections.

21 (e) *Conditions.* If an individual places any conditions on a designation for the
22 fire fighters memorial, the designation is void.

23 (f) *Void designation.* If a designation for the fire fighters memorial is void, the
24 department shall disregard the designation and determine amounts due, owed,
25 refunded, and received without regard to the void designation.

ASSEMBLY BILL 539**SECTION 2**

1 (g) *Tax return.* The secretary of revenue shall provide a place for the
2 designations under this subsection on the individual income tax return.

3 (h) *Certification of amounts.* Annually, on or before September 15, the
4 secretary of revenue shall certify to the department of administration and the state
5 treasurer all of the following:

6 1. The total amount of the administrative costs, including data processing
7 costs, incurred by the department in administering this subsection during the
8 previous fiscal year.

9 2. The total amount received from all designations for the fire fighters
10 memorial made by taxpayers during the previous fiscal year.

11 3. The net amount remaining after the administrative costs, including data
12 processing costs, under subd. 1. are subtracted from the total received under subd.
13 2.

14 (i) *Appropriations.* From the moneys received from designations for the fire
15 fighters memorial, an amount equal to the sum of administrative expenses,
16 including data processing costs, certified under par. (h) 1. shall be deposited in the
17 general fund and credited to the appropriation account under s. 20.566 (1) (hp), and
18 the net amount remaining that is certified under par. (h) 3. shall be transferred to
19 the corporation for the construction, improvement, and maintenance of the fire
20 fighters memorial.

21 (j) *Amounts subject to refund.* Amounts designated for the fire fighters
22 memorial under this subsection are not subject to refund to the taxpayer unless the
23 taxpayer submits information to the satisfaction of the department, within 18
24 months after the date on which the taxes are due or the date on which the return is
25 filed, whichever is later, that the amount designated is clearly in error. Any refund

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1 granted by the department under this paragraph shall be deducted from the moneys
2 received under this subsection in the fiscal year for which the refund is certified.

3 **SECTION 3.** 71.10 (5s) (c) of the statutes is amended to read:

4 71.10 **(5s)** (c) Beginning in September 2014, based on the amounts certified by
5 the secretary of revenue in August or September 2013, and 2014, as specified in subs.
6 (5) (h), (5e) (h), (5f) (h), (5fn) (h), (5g) (h), (5h) (h), (5i) (h), (5j) (h), (5k) (h), (5km) (h),
7 and (5m) (h), and for every 2-year period thereafter, the secretary of revenue shall
8 rank the checkoffs based on the total amount of designations received for each
9 checkoff for each 2-year period. For each 2-year period, beginning with 2014, the
10 secretary of revenue shall rank every checkoff that is created under this section.

11 **SECTION 4.** 71.10 (5s) (e) of the statutes is amended to read:

12 71.10 **(5s)** (e) For any taxable year that begins after December 31, 2014,
13 individuals may not make a designation for any checkoff which did not generate at
14 least an average of \$50,000 of designations per year over the most recent 3-year
15 period as certified by the secretary of revenue under subs. (5) (h) 3., (5e) (h) 2., (5f)
16 (h) 2., (5fm) (h) 2., (5fn) (h) 2., (5g) (h) 2., (5i) (h) 2., (5j) (h) 2., (5k) (h) 2., (5km) (h)
17 2., and (5m) (h) 2. Once a checkoff is affected by this paragraph, no further checkoffs
18 may be designated to that checkoff in any taxable year.

19 **SECTION 5. Initial applicability.**

20 (1) This act first applies to taxable years beginning on January 1 of the year
21 in which this subsection takes effect, except that if this subsection takes effect after
22 July 31, this act first applies to taxable years beginning on January 1 of the year
23 following the year in which this subsection takes effect.

24

(END)