

SUBCHAPTER VI
TAX INCENTIVES FOR BUSINESS DEVELOPMENT IN WISCONSIN

Cross Reference: See also s. Comm 112.01, Wis. adm. code.

560.70 Definitions. In this section and ss. 560.71 to 560.795:

(1) “Business incubator” means a person who operates a facility designed to encourage the growth of new businesses, if at least 2 of the following apply:

- (a) Space in the facility is rented at a rate lower than the market rate in the community.
- (b) Shared business services are provided in the facility.
- (c) Management and technical assistance are available at the facility.
- (d) Businesses using the facility may obtain financial capital through a direct relationship with at least one financial institution.

(2) “Development zone program” means the program administered under this subchapter.

(2g) “Eligible activity” means an activity described under s. 560.702.

(2m) (a) Except as provided in par. (b), “full-time job” means a regular, nonseasonal full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays, and for which the individual receives pay that is equal to at least 150% of the federal minimum wage and benefits that are not required by federal or state law. “Full-time job” does not include initial training before an employment position begins.

(b) The department may by rule specify circumstances under which the department may grant exceptions to the requirement under par. (a) that a full-time job means a job in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, but under no circumstances may a full-time job mean a job in which an individual, as a condition of employment, is required to work less than 37.5 hours per week.

(3) “Indian reservation” has the meaning given in s. 139.30 (9).

(4) “Local governing body” means the governing body of one or more cities, villages, towns or counties or the elected governing body of a federally recognized American Indian tribe or band in this state.

(4m) “Member of a targeted group” means a person who resides in an area designated by the federal government as an economic revitalization area, a person who is employed in an unsubsidized job but meets the eligibility requirements under s. 49.145 (2) and (3) for a Wisconsin Works employment position, a person who is employed in a trial job, as defined in s. 49.141 (1) (n), or in a real work, real pay project position under s. 49.147 (3m), a person who is eligible for child care assistance under s. 49.155, a person who is a vocational rehabilitation referral, an economically disadvantaged youth, an economically disadvantaged veteran, a supplemental security income recipient, a general assistance recipient, an economically disadvantaged ex-convict, a dislocated worker, as defined in 29 USC 2801 (9), or a food stamp recipient, if the person has been certified in the manner under 26 USC 51 (d) (13) (A) by a designated local agency, as defined in 26 USC 51 (d) (12).

(5) “Metropolitan statistical area” means a federal standard metropolitan statistical area but does not include areas located within Indian reservations.

(6) “Target population” means persons who are members of targeted groups for the purposes of the credit under ss. 71.07 (2dx), 71.28 (1dx), 71.47 (1dx), and 76.636.

(7) (a) Except as provided in pars. (b), (c), and (d), “tax benefits” means the development zones credit under ss. 71.07 (2dx), 71.28 (1dx), 71.47 (1dx), and 76.636.

(b) In s. 560.795, “tax benefits” means the development zones investment credit under ss. 71.07 (2di), 71.28 (1di), and 71.47 (1di) and the development zones credit under ss. 71.07 (2dx), 71.28 (1dx), 71.47 (1dx), and 76.636. With respect to the development opportunity zones under s. 560.795 (1) (e) and (f), “tax benefits” also means the development zones capital investment credit under ss. 71.07 (2dm), 71.28 (1dm), and 71.47 (1dm).

(c) In s. 560.798, “tax benefits” means the development zones capital investment credit under ss. 71.07 (2dm), 71.28 (1dm), and 71.47 (1dm) and the development zones credits under ss. 71.07 (2dx), 71.28 (1dx), 71.47 (1dx), and 76.636.

(d) In ss. 560.701 to 560.706, “tax benefits” means the economic development tax credit under ss. 71.07 (2dy), 71.28 (1dy), 71.47 (1dy), and 76.637.

History: 1987 a. 328, 411; 1991 a. 39; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2005 a. 259; 2009 a. 2.

560.701 Certification for tax benefits. (1) APPLICATION. Any person may apply to the department on a form prepared by the department for certification under this section. The application shall include all of the following:

- (a) The name and address of the person.
- (b) The federal tax identification number of the person.
- (c) The names and addresses of the locations where the person conducts business and a description of the business activities conducted at those locations.
- (d) A description of each eligible activity conducted or proposed to be conducted by the person.
- (e) Other information required by the department or the department of revenue.

(2) CERTIFICATION. (a) The department may certify a person who submits an application under sub. (1) if, after conducting an investigation, the department determines that the person is conducting or intends to conduct at least one eligible activity.

(b) The department shall provide a person certified under this section and the department of revenue with a copy of the certification.

(3) CONTRACT. A person certified under this section shall enter into a written contract with the department. The contract shall include provisions that detail all of the following:

- (a) A description of each eligible activity being conducted or proposed to be conducted by the person.
- (b) Whether any of the eligible activities will occur in an economically distressed area, as designated by the department under s. 560.704 (1).
- (c) Whether any of the eligible activities will benefit members of a targeted group, as determined by the department under s. 560.704 (2).
- (d) A compliance schedule that includes a sequence of anticipated actions to be taken or goals to be achieved by the person before the person may receive tax benefits under s. 560.703.
- (e) The reporting requirements with which the person must comply.
- (f) If feasible, a determination of the tax benefits the person will be authorized to claim under s. 560.703 (2) if the person fulfills the terms of the contract.

History: 2009 a. 2.

560.702 Eligible activities. A person who conducts or proposes to conduct any of the following may be certified under s. 560.701 (2):

(1) JOB CREATION PROJECT. A project that creates and maintains for a period of time established by the department by rule full-time jobs in addition to any existing full-time jobs provided by the person.

(2) CAPITAL INVESTMENT PROJECT. A project that involves a significant investment of capital, as defined by the department by rule under s. 560.706 (2) (b), by the person in new equipment, machinery, real property, or depreciable personal property.

(3) EMPLOYEE TRAINING PROJECT. A project that involves significant investments in the training or reeducation of employees, as defined by the department by rule under s. 560.706 (2) (c), by the person for the purpose of improving the productivity or competitiveness of the business of the person.

(4) PROJECT RELATED TO PERSONS WITH CORPORATE HEADQUARTERS IN WISCONSIN. A project that will result in the location or retention of a person's corporate headquarters in Wisconsin or that will result in the retention of employees holding full-time jobs in Wisconsin if the person's corporate headquarters are located in Wisconsin.

History: 2009 a. 2.

560.703 Limits on tax benefits and claiming tax benefits.

(1) LIMITS. (a) Except as provided in par. (b), the total tax benefits available to be allocated by the department under ss. 560.701 to 560.706 may not exceed the sum of the tax benefits remaining to be allocated under ss. 560.71 to 560.785, 560.797, 560.798, 560.7995, and 560.96 on March 6, 2009.

(b) The department may submit to the joint committee on finance a request in writing to exceed the total tax benefits specified in par. (a). The department shall submit with its request a justification for seeking an increase under this paragraph. The joint committee on finance, following its review, may approve or disapprove an increase in the total tax benefits available to be allocated under ss. 560.701 to 560.706.

(2) AUTHORITY TO CLAIM TAX BENEFITS. The department may authorize a person certified under s. 560.701 (2) to claim tax benefits only after the person has submitted a report to the department that

documents to the satisfaction of the department that the person has complied with the terms of the contract under s. 560.701 (3) and the requirements of any applicable rules promulgated under s. 560.706 (2).

(3) NOTICE OF ELIGIBILITY. The department shall provide to the person and to the department of revenue a notice of eligibility to receive tax benefits that reports the amount of tax benefits for which the person is eligible.

History: 2009 a. 2.

560.704 Eligible activities in economically distressed areas and benefiting members of targeted groups. The department may authorize a person certified under s. 560.701 (2) to claim additional tax benefits under s. 560.703 if, after conducting an investigation, the department determines any of the following:

- (1)** The person conducts at least one eligible activity in an area designated by the department as economically distressed. In designating an area as economically distressed under this subsection, the department shall follow the methodology established by rule under s. 560.706 (2) (e).
- (2)** The person conducts at least one eligible activity that benefits, creates, retains, or significantly upgrades full-time jobs for, that trains, or that reeducates, members of a targeted group.

History: 2009 a. 2.

560.705 Revocation of certification. The department shall revoke the certification of a person who does any of the following:

- (1)** Supplies false or misleading information to obtain certification under s. 560.701 (2).
- (2)** Supplies false or misleading information to obtain tax benefits under s. 560.703.
- (3)** Leaves the state to conduct substantially the same business outside of the state.
- (4)** Ceases operations in the state and does not renew operation of the business or a similar business within 12 months.

History: 2009 a. 2.

560.706 Responsibilities of the department. The department shall do all of the following:

- (1) ACCOUNTABILITY.** (a) Annually verify information submitted to the department of revenue under ss. 71.07 (2dy), 71.28 (1dy), 71.47 (1dy), and 76.637 by persons certified under s. 560.701 (2) and eligible to receive tax benefits under s. 560.703.
(b) Notify and obtain written approval from the secretary for any certification under sub. (2) (j).
- (2) RULES.** Establish by rule all of the following:
 - (a) A schedule of hourly wage ranges to be paid, and health insurance benefits to be provided, to an employee by a person certified under s. 560.701 (2) and the corresponding per employee tax benefit for which a person certified under s. 560.701 (2) may be eligible.
 - (b) A definition of “significant investment of capital” for purposes of s. 560.702 (2), together with a corresponding schedule of tax benefits for which a person who is certified under s. 560.701 (2) and who conducts a project described in s. 560.702 (2) may be eligible. The department shall include in the definition required under this paragraph a schedule of investments that takes into consideration the size or nature of the business.
 - (c) A definition of “significant investments in the training or reeducation of employees” for purposes of s. 560.702 (3), together with a corresponding schedule of tax benefits for which a person who is certified under s. 560.701 (2) and who conducts a project under s. 560.702 (3) may be eligible.
 - (d) A schedule of tax benefits for which a person who is certified under s. 560.701 (2) and who conducts a project that will result in the location or retention of a person’s corporate headquarters in Wisconsin may be eligible.
 - (e) The methodology for designating an area as economically distressed under s. 560.704 (1). The methodology under this paragraph shall require the department to consider the most current data available for the area and for the state on the following indicators:
 1. Unemployment rate.
 2. Percentage of families with incomes below the poverty line established under 42 USC 9902 (2).
 3. Median family income.
 4. Median per capita income.
 5. Average annual wage.

6. Real property values.

7. Other significant or irregular indicators of economic distress, such as a natural disaster.

(f) A schedule of additional tax benefits for which a person who is certified under s. 560.701 (2) and who conducts an eligible activity described under s. 560.704 may be eligible.

(g) Reporting requirements, minimum benchmarks, and outcomes expected of a person certified under s. 560.701 (2) before that person may receive tax benefits under s. 560.703.

(h) Policies, criteria, and methodology for allocating a portion of the tax benefits available under s. 560.703 to rural areas.

(i) Policies, criteria, and methodology for allocating a portion of the tax benefits available under s. 560.703 to small businesses.

(j) Policies and criteria for certifying a person who may be eligible for tax benefits greater than or equal to \$3,000,000.

(k) Procedures for implementing ss. 560.701 to 560.706.

(3) REPORTING. Annually, 6 months after the report has been submitted under s. 560.01 (2) (am), submit to the joint legislative audit committee and to the appropriate standing committees of the legislature under s. 13.172 (3) a comprehensive report assessing the program under ss. 560.701 to 560.706. The report under this subsection shall update the applicable information provided in the report under s. 560.01 (2) (am).

History: 2009 a. 2.