

2005 ASSEMBLY BILL 767

October 17, 2005 – Introduced by Representatives WIECKERT, GARD, BERCEAU, PARISI, KERKMAN, HAHN, TURNER, VOS, CULLEN, BOYLE, ALBERS, KRAWCZYK, GUNDERSON, BALLWEG, MUSSER, GUNDRUM, WOOD, FREESE, DAVIS and HINES, cosponsored by Senator HANSEN. Referred to Committee on Energy and Utilities.

1 **AN ACT** *to amend* 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)
 2 (a) 10. and 77.92 (4); and *to create* 71.07 (3w), 71.10 (4) (cp), 71.28 (3w), 71.30
 3 (3) (dm), 71.47 (3w) and 71.49 (1) (dm) of the statutes; **relating to:** an income
 4 and franchise tax credit for using alternative energy sources to generate
 5 electricity and heat water.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit for alternative energy sources. A taxpayer may claim a credit in an amount equal to the amount of sales and use taxes the taxpayer paid in the taxable year on certain equipment and services related to generating electricity and heating water by using solar energy, wind energy, or gas from agricultural waste. In addition, a taxpayer may claim a credit in an amount equal to 10 cents per kilowatt hour for energy generated from wind, the sun, or gas from agricultural waste that is used exclusively by the taxpayer or returned to a utility as surplus energy.

For further information see the **state** 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:

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1 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:

2 71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
3 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), and (5d)
4 and not passed through by a partnership, limited liability company, or tax-option
5 corporation that has added that amount to the partnership's, company's, or
6 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

7 **SECTION 2.** 71.07 (3w) of the statutes is created to read:

8 71.07 **(3w)** ALTERNATIVE ENERGY SOURCES CREDIT. (a) *Definitions.* In this
9 subsection, "claimant" means a person who files a claim under this subsection.

10 (b) *Filing claims.* Subject to the limitations provided under this subsection, a
11 claimant may claim as a credit against the taxes imposed under s. 71.02 or 71.08, up
12 to the amount of those taxes, the following amounts:

13 1. An amount equal to the taxes imposed under subch. III of ch. 77 that the
14 claimant paid in the taxable year on the purchase of any of the following:

15 a. Equipment, including integrated balance of system components, that
16 captures solar energy, wind energy, or gas from livestock manure and other
17 agricultural waste and converts such energy or gas into electricity, if the rated
18 capacity of all such equipment at the point of interconnection does not exceed 25,000
19 watts of alternating or direct current.

20 b. Equipment that captures and uses solar energy for domestic water heating,
21 including balance of system components, if the maximum output of such equipment,
22 per installation, does not exceed a rated output of 35,000,000 British thermal units
23 per day.

24 c. A solar domestic hot water service.

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1 d. Professional services for the design, installation, maintenance, and repair
2 of equipment and systems as described in subds. 1. a. to c.

3 2. An amount equal to 10 cents per kilowatt hour for energy generated in the
4 taxable year from any of the sources listed in subd. 1. a. to c., if the energy is used
5 exclusively by the claimant or returned to a utility as surplus energy.

6 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
7 corporations may not claim the credit under this subsection, but the eligibility for,
8 and the amount of, the credit are based on their payment of amounts under par. (b).
9 A partnership, limited liability company, or tax-option corporation shall compute
10 the amount of credit that each of its partners, members, or shareholders may claim
11 and shall provide that information to each of them. Partners, members of limited
12 liability companies, and shareholders of tax-option corporations may claim the
13 credit in proportion to their ownership interests.

14 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
15 s. 71.28 (4), applies to the credit under this subsection.

16 **SECTION 3.** 71.10 (4) (cp) of the statutes is created to read:

17 71.10 (4) (cp) Alternative energy sources credit under s. 71.07 (3w).

18 **SECTION 4.** 71.21 (4) of the statutes is amended to read:

19 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
20 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), and (5b) and passed through
21 to partners shall be added to the partnership's income.

22 **SECTION 5.** 71.26 (2) (a) of the statutes is amended to read:

23 71.26 (2) (a) *Corporations in general.* The “net income” of a corporation means
24 the gross income as computed under the Internal Revenue Code as modified under
25 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit

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1 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
2 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
3 under this paragraph at the time that the taxpayer first claimed the credit plus the
4 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
5 (1ds), (1dx), (3g), (3n), (3t), (3w), and (5b) and not passed through by a partnership,
6 limited liability company, or tax-option corporation that has added that amount to
7 the partnership's, limited liability company's, or tax-option corporation's income
8 under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or other
9 disposition of assets the gain from which would be wholly exempt income, as defined
10 in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and minus
11 deductions, as computed under the Internal Revenue Code as modified under sub.
12 (3), plus or minus, as appropriate, an amount equal to the difference between the
13 federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or
14 otherwise disposed of in a taxable transaction during the taxable year, except as
15 provided in par. (b) and s. 71.45 (2) and (5).

16 **SECTION 6.** 71.28 (3w) of the statutes is created to read:

17 71.28 (3w) ALTERNATIVE ENERGY SOURCES CREDIT. (a) *Definitions.* In this
18 subsection, "claimant" means a person who files a claim under this subsection.

19 (b) *Filing claims.* Subject to the limitations provided under this subsection, a
20 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the
21 amount of those taxes, the following amounts:

22 1. An amount equal to the taxes imposed under subch. III of ch. 77 that the
23 claimant paid in the taxable year on the purchase of any of the following:

24 a. Equipment, including integrated balance of system components, that
25 captures solar energy, wind energy, or gas from livestock manure and other

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1 agricultural waste and converts such energy or gas into electricity, if the rated
2 capacity of all such equipment at the point of interconnection does not exceed 25,000
3 watts of alternating or direct current.

4 b. Equipment that captures and uses solar energy for domestic water heating,
5 including balance of system components, if the maximum output of such equipment,
6 per installation, does not exceed a rated output of 35,000,000 British thermal units
7 per day.

8 c. A solar domestic hot water service.

9 d. Professional services for the design, installation, maintenance, and repair
10 of equipment and systems as described in subds. 1. a. to c.

11 2. An amount equal to 10 cents per kilowatt hour for energy generated in the
12 taxable year from any of the sources listed in subd. 1. a. to c., if the energy is used
13 exclusively by the claimant or returned to a utility as surplus energy.

14 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
15 corporations may not claim the credit under this subsection, but the eligibility for,
16 and the amount of, the credit are based on their payment of amounts under par. (b).
17 A partnership, limited liability company, or tax-option corporation shall compute
18 the amount of credit that each of its partners, members, or shareholders may claim
19 and shall provide that information to each of them. Partners, members of limited
20 liability companies, and shareholders of tax-option corporations may claim the
21 credit in proportion to their ownership interests.

22 (d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under
23 sub. (4), applies to the credit under this subsection.

24 **SECTION 7.** 71.30 (3) (dm) of the statutes is created to read:

25 71.30 (3) (dm) Alternative energy sources credit under s. 71.28 (3w).

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1 **SECTION 8.** 71.34 (1) (g) of the statutes is amended to read:

2 71.34 **(1)** (g) An addition shall be made for credits computed by a tax–option
3 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
4 (3n), (3t), (3w), and (5b) and passed through to shareholders.

5 **SECTION 9.** 71.45 (2) (a) 10. of the statutes is amended to read:

6 71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit
7 computed under s. 71.47 (1dd) to (1dx), (3n), (3w), and (5b) and not passed through
8 by a partnership, limited liability company, or tax–option corporation that has added
9 that amount to the partnership’s, limited liability company’s, or tax–option
10 corporation’s income under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit
11 computed under s. 71.47 (1), (3), (3t), (4), and (5).

12 **SECTION 10.** 71.47 (3w) of the statutes is created to read:

13 71.47 **(3w)** ALTERNATIVE ENERGY SOURCES CREDIT. (a) *Definitions.* In this
14 subsection, “claimant” means a person who files a claim under this subsection.

15 (b) *Filing claims.* Subject to the limitations provided under this subsection, a
16 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
17 amount of those taxes, the following amounts:

18 1. An amount equal to the taxes imposed under subch. III of ch. 77 that the
19 claimant paid in the taxable year on the purchase of any of the following:

20 a. Equipment, including integrated balance of system components, that
21 captures solar energy, wind energy, or gas from livestock manure and other
22 agricultural waste and converts such energy or gas into electricity, if the rated
23 capacity of all such equipment at the point of interconnection does not exceed 25,000
24 watts of alternating or direct current.

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1 b. Equipment that captures and uses solar energy for domestic water heating,
2 including balance of system components, if the maximum output of such equipment,
3 per installation, does not exceed a rated output of 35,000,000 British thermal units
4 per day.

5 c. A solar domestic hot water service.

6 d. Professional services for the design, installation, maintenance, and repair
7 of equipment and systems as described in subds. 1. a. to c.

8 2. An amount equal to 10 cents per kilowatt hour for energy generated in the
9 taxable year from any of the sources listed in subd. 1. a. to c., if the energy is used
10 exclusively by the claimant or returned to a utility as surplus energy.

11 (c) *Limitations.* Partnerships, limited liability companies, and tax–option
12 corporations may not claim the credit under this subsection, but the eligibility for,
13 and the amount of, the credit are based on their payment of amounts under par. (b).
14 A partnership, limited liability company, or tax–option corporation shall compute
15 the amount of credit that each of its partners, members, or shareholders may claim
16 and shall provide that information to each of them. Partners, members of limited
17 liability companies, and shareholders of tax–option corporations may claim the
18 credit in proportion to their ownership interests.

19 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
20 s. 71.28 (4), applies to the credit under this subsection.

21 **SECTION 11.** 71.49 (1) (dm) of the statutes is created to read:

22 71.49 (1) (dm) Alternative energy sources credit under s. 71.47 (3w).

23 **SECTION 12.** 77.92 (4) of the statutes is amended to read:

24 77.92 (4) “Net business income,” with respect to a partnership, means taxable
25 income as calculated under section 703 of the Internal Revenue Code; plus the items

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1 of income and gain under section 702 of the Internal Revenue Code, including taxable
2 state and municipal bond interest and excluding nontaxable interest income or
3 dividend income from federal government obligations; minus the items of loss and
4 deduction under section 702 of the Internal Revenue Code, except items that are not
5 deductible under s. 71.21; plus guaranteed payments to partners under section 707
6 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
7 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (3w), and (5b); and
8 plus or minus, as appropriate, transitional adjustments, depreciation differences,
9 and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding
10 income, gain, loss, and deductions from farming. “Net business income,” with respect
11 to a natural person, estate, or trust, means profit from a trade or business for federal
12 income tax purposes and includes net income derived as an employee as defined in
13 section 3121 (d) (3) of the Internal Revenue Code.

SECTION 13. Initial applicability.

(1) This act first applies to taxable years beginning on January 1, 2006.

(END)