

Committee Name:

Senate Committee – Economic Development, Job Creation and Housing (SC–EDJCH)

Appointments

03hr_SC–EDJCH_Appt_pt00

Committee Hearings

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Clearinghouse Rules

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Executive Sessions

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Hearing Records

03hr_ab0507

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Misc.



03hr_SC–EDJCH_Misc_pt00

Record of Committee Proceedings

03hr_SC–EDJCH_RCP_pt00

MEMORANDUM

TO: Honorable Members of the Senate Committee on Economic Development,
Job Creation and Housing

FROM: Craig Thompson, Legislative Director 
Sarah Diedrick-Kasdorf, Senior Legislative Associate 

DATE: November 12, 2003

SUBJECT: Opposition to Assembly Bill 507

The Wisconsin Counties Association (WCA) opposes Assembly Bill 507 which, beginning January 1, 2006, exempts fuel and electricity sold for use in manufacturing tangible personal property in this state from the sales tax and the use tax.

While WCA understands why the legislature may wish to provide tax breaks to those in the manufacturing sector, the loss of approximately \$2 million to county government will have a devastating impact on the thousands of citizens, including children, the elderly and the disabled, served by county government on an annual basis. In addition, services vital to economic development, including road maintenance and repair, will be impacted if funding to county governments continues to decline.

To illustrate the impact of a \$2 million loss of revenue to county government, let's examine what \$2 million purchases in services provided to residents in the state of Wisconsin:

Days in a Juvenile Correctional Institute: 10,929
Days in Winnebago Mental Health Institute: 3,454
Days in Mendota Mental Health Institute: 3,072
Days of a CIP IA Placement: 6,154
Number of Days in a County Jail: 33,333

County governments are facing very difficult budgetary decisions in crafting their 2004 budgets. The fiscal situation for 2005 and beyond looks dim. Many counties are being forced to cut services in non-mandated areas, including prevention services, in an effort to hold levy increases to a minimum. The impact of these cuts may not be felt until

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several years down the road when a lack of prevention and early intervention services turns into placements in juvenile correctional institutions, mental health institutions, etc.

The state of Wisconsin has set a precedent by fully reimbursing local governments for personal property tax exemptions for such items as computers, fax machines, etc. The Wisconsin Counties Association respectfully requests that this same consideration be given for the sales tax exemption for fuel and electricity utilized in the manufacture of tangible personal property. Restoration of this funding to counties means the continuation of vital services to our mutual constituents throughout Wisconsin.

Thank you for your consideration in this matter. If you have any questions, please do not hesitate to contact the WCA office.



**Wisconsin
Manufacturers
& Commerce**

Memo

**TO: Members of the Senate Committee on Economic Development,
Job Creation and Housing**

FROM: Joan Hansen, Director of Tax & Corporate Policy

DATE: November 12, 2003

**SUBJECT: ASA 2 to AB 507- Sales Tax Exemption for Fuel and Electricity
Used in Manufacturing**

Wisconsin Manufacturers and Commerce supports Assembly Bill 507 introduced by Representative Wieckert and co-sponsored by Senator Welch.

Under current law, manufacturers can claim a corporate income tax credit for the sales tax they pay on fuel and electricity used in the manufacturing process. AB 507 allows manufacturers to convert the credit to a sales tax exemption beginning with tax year 2006.

As a general rule, inputs into the manufacturing process are not subject to the sales tax; and the majority of states already allow for this sales tax exemption.

The sales tax exemption would benefit companies that are struggling or unprofitable whereas the current income tax credit may not. Wisconsin has lost 78,900 manufacturing jobs since July of 2000 and it's imperative to provide incentives to keep manufacturers and jobs in Wisconsin.

In its original form, AB 507 would have allowed credits that have not been used by a manufacturer as of the effective date of the shift to a sales tax exemption to be carried forward into subsequent tax years.

Unfortunately, the Administration has insisted that restrictions on the use of carry forward credits be added to the bill. These restrictions are outside the normal realm of what one would consider policy associated with the tax code – and is certainly a disturbing trend to begin. As a result, Assembly Substitute Amendment 2 now includes the following provisions:

That carry forward credits would be non-refundable and amortized over 15 years. Additionally, in order to claim the credits that have already been earned, manufacturers would have to meet one of the following tests:

- Retain at least 100% of the fulltime (at least 35 hours per week) jobs, employed by the company as the effective date of the bill.
- Have an average annual investment in Wisconsin plant and equipment equal to 2% of the total book value of the company's depreciable assets in Wisconsin.
- Have an average annual investment of at least \$5 million in Wisconsin based plants and facilities.
- Or meet other criteria determined by the Department of Commerce in consultation with the Department of Revenue.

Unfortunately, not all manufacturers may be able to meet one of the listed criteria. Certainly almost no company could meet the 100% retention criterion due to the economic downturn.

In the absence of completely removing all the criteria added by the Administration as WMC would propose, we continue to support amending the legislation to include additional criteria to allow further flexibility to ensure that businesses would not lose tax credits they have previously earned.

One possible amendment would provide that employers who pay 75% of their workforce at least 150% of federal minimum wage would also qualify to claim their credits. This would most likely provide the flexibility for some manufacturers who may fall through the cracks in the event they are not small enough for the small business exemption or large enough to meet some of the capital tests.

WMC would certainly be open to other suggestions also, but continues to be disturbed over the trend of including non-tax policy requirements to the Wisconsin tax code.

Thank you for the opportunity to appear today.

ASSEMBLY BILL 507

Sales Tax Exemption for Fuel and Electricity Used in Manufacturing

Motion:

Move to modify the provisions of Assembly Bill 507 as follows:

(a) Repeal the individual and corporate income tax credit for fuel and electricity used in manufacturing (manufacturers' sales tax credit) effective for tax years beginning on or after January 1, 2006.

(b) Disallow the use of existing credit carryforwards for manufacturers with \$25,000 or more of total unused credit carryforwards for the first two years after repeal of the credit. However, provide an income and franchise tax deduction over two years for the amount that was added back to income when the credit was first claimed.

(c) Permit companies with total existing manufacturers' sales tax credit carryforwards of less than \$25,000 to claim those credits over two years as follows: (1) 50% for tax year 2006; and (2) 50% for tax year 2007.

(d) Create a sales tax exemption for fuel and electricity used in manufacturing beginning on January 1, 2006.

(e) Create a nonrefundable income and franchise tax manufacturing investment credit, effective for tax years beginning on or after January 1, 2008, equal to 100% of total unused manufacturers' sales tax credit carryforwards held before the credit was repealed. Require the credit (100% of unused carryforwards) to be amortized over 15 years and permit unused credit amounts in any one year to be carried forward to subsequent years. Require that in order to claim the credit, a manufacturer would have to be certified by the Department of Commerce that it met one of the following criteria: (1) retention of 100% of full-time jobs [at least 35 hours per week] employed by the manufacturer in Wisconsin on the effective date of the bill; (2) average annual investment in Wisconsin beginning on January 1, 2003, equal to 2% of the book value of the manufacturer's depreciable assets in Wisconsin plants and facilities; (3) other criteria developed by Commerce, in consultation with the Department of Revenue and promulgated through administrative rules; or (4) average annual investment in Wisconsin beginning on January 1, 2003, of \$5 million.

Note:

Assembly Bill 507 would eliminate the tax credit, under the state individual and corporate income and franchise taxes, for sales taxes on fuel and electricity used in manufacturing, for tax

years that begin on or after December 31, 2004. However, tax credits claimed for tax years that begin before January 1, 2005, could be carried forward to offset future liabilities for tax years beginning after December 31, 2004. In addition, AB 507 would provide a sales tax exemption for the gross receipts from the sale of fuel and electricity used in manufacturing tangible personal property in Wisconsin. This exemption would first apply to fuel and electricity sold on or after January 1, 2005.

This motion would change the provisions of AB 507 to eliminate the manufacturers' sales tax credit on January 1, 2006. A sales tax exemption for fuel and electricity used in manufacturing would be provided beginning on that date. In addition, a new manufacturing investment credit is provided for unused manufacturers' sales tax credits.

Since the tax provisions of this motion would not take effect until January 1, 2006, there would be no fiscal effect during the current biennium. However, once the provisions became effective, the fiscal effect would have the following components: (a) sales tax exemption for fuel and electricity used in manufacturing; (b) repeal of manufacturers' sales tax credit; (c) two-year credit carryforward of unused manufacturers' sales tax credits for companies with less than \$25,000 in total unused credits; (d) two-year deduction of credit add-backs for companies with \$25,000 or more of unused manufacturers' sales tax credit carryforwards; and (e) the new manufacturers' investment credit. The tables below summarize the estimated fiscal effects.

**Estimated Annualized Fiscal Effects
(\$ in Millions)**

	Years 1-2	Years 3-17	Year 18/ Ongoing
Sales Tax Exemption	-\$31	-\$31	-\$31
Credit Repeal	22	22	22
Two-Year Credit Carryforward	-3	0	0
Two-Year Deduction	-2	0	0
New Manufacturers' Investment Credit	0	-10	0
Total	-\$14	-\$19	-\$9

**Estimated Fiscal Year Effects
(\$ in Millions)**

	2006	2007	2008	2009-22	2023	2024 and thereafter
Fiscal Year Amount	-\$6	-\$14	-\$17	-\$19	-\$14	-\$9

[Change to Bill: \$15.5 million GPR-REV]

Risch, Jay

From: Bergstrom, Leanne
Sent: Wednesday, November 12, 2003 10:42 AM
To: Risch, Jay
Subject: RE: AB 507

Yes, Senator Moore should be recorded as saying no to AB 507.
Leanne

-----Original Message-----

From: Risch, Jay
Sent: Wednesday, November 12, 2003 10:38 AM
To: Bergstrom, Leanne
Subject: AB 507

Hi Leanne,

Per your request, I will be recording Senator Moore as a "no" on this morning's committee vote to concur in AB 507. The vote will be 4-1.

Please respond to confirm this vote.

Thank you.

Jay Risch
Clerk, Senate Committee on Economic Development, Job Creation and Housing
Office of Senator Cathy Stepp

INTERNATIONAL PAPER

DAVE KLUESNER
REGIONAL PUBLIC
AFFAIRS MANAGER

16 NORTH CARROLL STREET
SUITE 800
MADISON, WI 53703-2716
PHONE 608 255 0231
FAX 608 255 0227

November 12, 2003

To the Members of the Senate Committee on Economic Development, Job Creation and Housing:

Chairperson Stepp, members of the Committee, thank you for the opportunity to appear before you this morning in support of Assembly Bill 507.

My name is Dave Kluesner. I am the regional public affairs manager for International Paper. I represent more than 1,800 IP employees at 10 business locations throughout Wisconsin.

As you are aware, our industry has been under severe economic distress for several years. Worldwide overcapacity in paper production, the collapse of several emerging markets, the strong U.S. dollar and the downturn in our own economy have all contributed to a situation where demand for our products continues to be weak, and downward pressures on price remain in place.

As a result, companies like International Paper have been forced to enact extreme cost cutting measures in order to remain viable. Within our company, every manufacturing operation and staff group has been forced to shrink operating budgets over the past several years.

For example, since March of 2000, more than \$30 million has been taken out of the operating cost structure at our pulp and paper mill in Kaukauna. That feat has been accomplished through the cooperation of labor and management. However, it was not accomplished without the loss of many high paying jobs, both hourly and salaried.

The same can be said for every other operation within the IP system. I would hazard that the same is true for most all other businesses within our industry as well.

The market conditions that led to those extremely tough decisions remain in place today. The Legislature and the Governor can take a major step towards alleviating some of that pressure by creating the sales tax exemption contained within AB 507.

Yesterday, I had the opportunity to meet with our mill manager and the union leadership in Kaukauna. We discussed this issue at length. The bottom line, they see passage of AB 507 as a way to reduce the cost of doing business for Wisconsin's manufacturers that does not translate into additional job losses.

On behalf of my fellow International Paper employees throughout Wisconsin, I respectfully urge to you pass AB 507 and do all you can to move it through the full Senate.

Thank you!

Testimony of
State Representative Steve Wieckert
Regarding
AB 507 - Fuel and Electricity Tax Exemption Bill
Before the
Senate Committee on Economic Development, Job Creation and Housing

November 12, 2003

9:00 am

400 SE

Chairwoman Stepp and Members of the Committee,

Most states allow manufacturers an exemption from sales tax from some or all materials used for the purposes of manufacturing. In Wisconsin, for example, we exempt in many cases machinery and raw materials from the sales tax. One area that is not exempt, however, is fuel and electricity. Instead of providing an exemption, Wisconsin currently provides a nonrefundable tax credit, with the ability to carry over any difference for a period of 15 years.

Unfortunately, Wisconsin's use of an income tax credit for sales taxes paid on fuel and electricity is not working as intended. Just when manufacturers need the tax reduction, they can't use it because Wisconsin's manufacturers do not always generate enough income to fully utilize this credit. In fact, DOR estimates that Wisconsin manufacturers are currently owed over \$155 million in back credits that have not been able to be used. Right now, the Department of Revenue estimates that Wisconsin companies are currently falling short of the

maximum credit by nine million dollars. That's nine million dollars companies are paying here that they wouldn't be paying if they relocated elsewhere. In economic times like these, that isn't something we want to be encouraging.

AB 507 would convert the credit into an exemption, and would allow companies to carry forward any unused credits owed to them. Because the current tax credit is tied to income, it limits the ability of manufacturers to take advantage of the credit in tough economic times when income is low or non-existent, just when manufacturers need the tax relief. Shifting to a sales tax exemption would eliminate this problem.

Wisconsin manufacturers have been hit hard by the economic downturn. Wisconsin is still heavily dependent on manufacturing to provide quality jobs for its people. We've continued to explore new ways to attract biotechnology and other high-tech businesses to Wisconsin, but we can't forget that many companies that have been in Wisconsin for years need help and assistance during these times as well. This is the core of our economy – high paying manufacturing jobs.

The paper industry is one of our key manufacturing sectors. The average salary of a Wisconsin papermaker is \$49,000, which makes it the highest average salary of any manufacturing segment. As legislators, we talk a lot about

attracting high paying jobs to our state. We must also work to retain the high paying jobs that already exist in Wisconsin.

Unfortunately, we are losing many of these jobs to other states. For example, the paper industry has been hit hard in the last three years, losing over 13% of its employment in Wisconsin. In 2000 there were over 52,000 paper industry employees in Wisconsin. Today, there are less than 45,000 of these jobs remaining in our state. In the last six months, four permanent machine shutdowns have been announced at Wisconsin paper mills.

We need to do something to help these companies compete, and to help these companies retain high paying jobs.

The key for these companies to succeed in the future is to reduce costs. Energy is a major cost to manufacturers. For example, the average energy bill for a Wisconsin paper mill is \$750,000 - \$1 million monthly. Passing AB 507 is one way that we can directly help our manufacturers reduce cost.

Energy is a significant cost for most manufacturers and it is a major cost for some key Wisconsin industries, such as pulp and paper. We have all read about natural gas shortages and price increases. These price increases can have a significant impact on the ability of companies to compete successfully.

Exempting fuel and electricity used in manufacturing from the sales tax is one way for the state to help mitigate increasing energy costs for these companies.

Thirty-one other states provide a sales tax exemption for fuel and electricity purchases used in the manufacturing process. If Wisconsin is to remain competitive with these states, it must do the same. This is a tax-leveling proposal.

2,500 to 4,000 manufacturing companies in Wisconsin will be eligible for this tax exemption. Wisconsin manufacturers employ over 517,000 people, many with high-paying jobs. We need to do what we can to help.

Converting from a credit to an exemption will cost the state some money. However, not doing this could cost us much more in the long run if we continue to lose high paying manufacturing jobs. This problem will only become worse over time. Currently, the state owes \$155 million to Wisconsin manufacturers and the number grows ever higher. Wisconsin cannot simply walk away from this obligation. We need to find a creative way to both make the change to an exemption and allow companies to recover the credit owed to them. AB 507 is the creative approach that will help manufacturers without overburdening the state.

Thank you for the opportunity to testify in support of this bill. I would be happy to take questions at this time.



Assembly Bills 507 and 508 (Tax Credit for Fuel and Electricity)

Background:

Wisconsin law currently allows a corporate or individual income tax credit for the amount of sales tax paid for fuel and electricity used in the manufacturing process. If the credit exceeds tax liability for the year, any unused portion may be carried forward up to 15 years to offset any future tax liability.

Assembly Bill 507 would convert the current credit to a sales tax exemption effective January 1, 2005. Assembly Bill 508 would allow any previously-earned tax credits to be carried forward an additional five years (a total of 20 years rather than the current 15 years).

Issues:

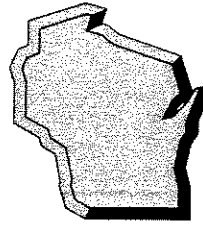
- The current tax credit is of no immediate value to firms that are experiencing an economic downturn. These companies will not be able to utilize the credit at all in an unprofitable year. If such businesses are only marginally profitable in future years, they may never fully recoup the sales tax paid on fuel and electricity due to the existing limitation on carrying the credit forward. (Ironically, the tax credit is of greatest benefit to only the most profitable companies!)
- Other components of the manufacturing process or “ingredients that are consumed or destroyed” in that process are currently exempt from the sales tax. The treatment of fuel and electricity as a credit is an aberration of state tax policy.
- Most other states exempt fuel and electricity used in manufacturing from the sales tax. Wisconsin, in fact, provides an exemption for the fuel purchased by utilities to generate power, a use comparable to manufacturing.

Status:

Pending action (10/15/03) in the Joint Committee on Finance.

WCMA Position:

Urge **SUPPORT** of Assembly Bills 507 and 508.



WISCONSIN CAST METALS ASSOCIATION

225 Regency Court, Suite 200 ■ Brookfield, WI 53045
Phone 262-432-0035 ■ Fax 262-784-2287

September 29, 2003

Senator Alberta Darling and
Representative Dean Kaufert,
Co-Chairs and Members,
Joint Committee on Finance

Dear Co-Chairs Darling and Kaufert, and Members of the Committee:


RE: Assembly Bills 507 and 508

Wisconsin law currently provides for a nonrefundable corporate income tax credit for the sales taxes paid on fuel and electricity used in the manufacturing process. Ironically, such a tax credit is of benefit to only the most profitable businesses. Firms that are experiencing an economic downturn may not be able to utilize the credit at all in an unprofitable year. Further, if these companies are only marginally profitable, they may never fully recoup the sales taxes paid on fuel and electricity due to the existing limitation on carrying the credit forward.

Assembly Bill 507 would convert the tax credit to an exemption effective 1/1/2005. This is consistent with the sales tax treatment of other ingredients "consumed or destroyed in the manufacturing process." It would also parallel the sales tax exemption for fuel used by utilities to generate power. Providing an exemption is also consistent with the way most other states deal with fuel and electricity used in manufacturing. Assembly Bill 508 allows previously-earned tax credits to be carried forward an additional 5 years (a total of 20 years rather than the current 15 years).

On behalf of Wisconsin foundries, I can assure you that the changes encompassed in Assembly Bills 507 and 508 would be a major improvement for an energy-intensive industry such as ours. Further, passage of these bills is one very tangible way the Legislature can assist the manufacturing sector in general. Thank you for your consideration of these comments and we urge your favorable action on Assembly Bills 507 and 508.

Very truly yours,


James O. White
President

INTERNATIONAL PAPER

DAVE KLUESNER
REGIONAL PUBLIC
AFFAIRS MANAGER

16 NORTH CARROLL STREET
SUITE 800
MADISON, WI 53703-2716
PHONE 608 255 0231
FAX 608 255 0227

January 13, 2004

To the Members of the Senate Committee on Economic Development, Job Creation and Housing:

Chairperson Stepp, members of the Committee, thank you for the opportunity to appear before you today. My name is Dave Kluesner. I am the regional public affairs manager for International Paper. I represent more than 1,800 IP employees at 10 business locations throughout Wisconsin.

I am here to voice my company's support for passage of Assembly Bill 508. In particular, I would like to highlight the provisions extending from 15 to 20 years the carry forward period for the income tax credit for sales tax paid on fuel and electricity consumed in manufacturing.

As was discussed during the debate over Assembly Bill 507, many manufacturers have been unable to utilize significant amounts of fuel and electricity tax credits at a time when they are most desperately needed. Such is the case for the state's pulp and paper companies, including International Paper.

The Legislature and Governor Doyle addressed the prospective problem through the creation of a new sales tax exemption for fuel and electricity consumed in manufacturing. For this, we are deeply grateful. However, there is a retroactive problem left unresolved.

The pulp and paper industry, like many manufacturing segments, has been in a severe economic downturn for several years. Many companies have fuel and electricity credit backlogs approaching or exceeding the 15-year carryover cutoff. Such is the case for International Paper.

Within our company, facilities book the value of the fuel and electricity credits as a deferred tax benefit. In effect, we book a tax prepayment for the amount of the credit earned and give the manufacturing locations the benefit of the credits. The facilities then book the credits as either miscellaneous income or a reduction in energy costs.

If AB 508 is not enacted into law, our Wisconsin plants will be required to reverse the deferred tax benefits to income as the credits expire. This would force facilities that continue to face extremely difficult economic conditions to absorb roughly \$1.75 million in credit related losses.

Our employees have already cut operating budgets to the bone. It would be extremely difficult and painful to absorb additional costs related to lost credits. The Legislature and the Governor can alleviate this pressure by extending the credit carryover period to 20 years.

On behalf of my fellow International Paper employees throughout Wisconsin, I thank you in advance for your help and support.

Relationship to Assembly Bill 507

Assembly Bill 507, which was passed by the Legislature and signed into law as Act 99, would replace the current income tax credit with a direct sales tax exemption. Because the effective date of this change is January 1, 2006, companies will continue to operate under the current credit program for another two years. Even with the current 15-year carry-forward, some companies are either unable to fully recover credits because they expire, or are nearing the point when credits would expire. This is true for some paper companies that have been facing very difficult economic challenges for at least the past eight years. Extending the carry-forward period from 15 to 20 years would prevent companies from losing credits through expiration until the sales tax exemption is fully implemented.

Conclusion

We urge your support for Assembly Bill 508.

January 2004