HOWARD MARKLEIN

STATE SENATOR • 17TH SENATE DISTRICT

March 7, 2018
Senate Committee on Revenue, Financial Institutions, & Rural Issues
Testimony on Senate Bill 783

Good Morning!

Thank you committee members for hearing Senate Bill 783 (SB 783), which eliminates the additional capital based fee for certain foreign corporations when they apply for a certificate of authority to transact business, a certificate of withdrawal or when they file their annual report with the Department of Financial Institutions (DFI).

I would like to thank Rep. Zimmerman for working with me on this bill that will level the playing field for startups and help attract new businesses.

A 'foreign corporation' is any business that is incorporated in another state, but wishes to conduct business in Wisconsin. The exemption from this additional capital based fee is narrowly drafted so that only Qualified New Business Ventures (QNBV) would be eligible.

To qualify as a QNBV, a 'foreign corporation' must:

- Be headquartered in Wisconsin;
- Have fewer than 100 employees;
- At least 51 percent of workers are employed in the state;
- Has been in operation for less than 10 consecutive years; and
- Has the potential for increasing jobs, capital investment, or both and meets other criteria related to innovation and technology as defined in WI Statues 238.15 (1).

SB 783 does not eliminate the need for a certificate of authority to transact business. All businesses must pay this fee ($100) in Wisconsin. However, a 'foreign corporation' pays $100, plus $3 per $1,000 for any capital over $60,000. For example, a new business is interested in relocating to Wisconsin, and plans to invest $8,000,000, before conducting any business in our state, they would have to pay $23,920 for their certificate of authority.

According to the Wisconsin Technology Council, Wisconsin is the only state that taxes startups before they earn any revenue.

Thank you again for hearing SB 783, and your timely action on this proposal.

Capitol Office: Post Office Box 7882 • Madison, WI 53707-7882 • (608) 266-0703 • Toll-Free: (800) 978-8008 • Fax: (608) 282-3557
District Phone: (608) 588-5632 • Sen.Marklein@legis.wi.gov

SHANNON ZIMMERMAN

STATE REPRESENTATIVE • 30th ASSEMBLY DISTRICT

Chairman Marklein and Committee Members,

Thank you so much for taking the time to listen my testimony on Senate Bill 783/Assembly Bill 897, which will benefit Wisconsin based entrepreneurs.

Senate Bill 783/Assembly Bill 897 removes an onerous filing fee for Wisconsin based small businesses incorporated in other states. Under current law, any business incorporated in another state is considered 'foreign' for state law purposes, even if that 'foreign' corporation is physically located in Wisconsin and employs Wisconsin workers. This situation is not unusual, as many businesses incorporate in Delaware to take advantage of the business court system.

All businesses must pay a fee for the authority to transact business in this state, which is $100. However, if you are a 'foreign corporation you are assessed an additional capital-based fee of $3 per every $1000 spent over $60,000 (so an $8,000,000 investment would pay a fee of $23,920). This fee was increased last during the Doyle administration from $2 to 3$ per $1000

This is money that must be payed pre-revenue, meaning before you have made a dime you are assessed thousands of dollars. As an entrepreneur myself, I can say how that is money not being spent on employees, equipment or anything else a business needs to thrive.

According to the Wisconsin Technology Council, Wisconsin is the only state that taxes startups before they even make a dime. In fact, we don't know of any providence in Canada that does this. This is not what we want Wisconsin to be known for.

As Wisconsin lawmakers we can all agree that we should be doing our best to encourage Wisconsin entrepreneurs. To achieve that goal, this bill takes the existing definition of a 'qualified new business venture' (QNBV), and says that any company that meets these requirements is exempt from the fee. A QNBV meets the following criteria:

- Is headquartered in Wisconsin;
- Has fewer than 100 employees;
- At least 51 percent of workers are employed in Wisconsin;
- Has been in in operation for less than ten consecutive years; and
- Has the potential for increasing jobs, capital investment, or both and meets other criteria related to innovation and technology as defined in Wi Statues 238.15 (1).

As you can see from the criteria, this bill is targeted to help small, Wisconsin companies. This is a simple, pro-business bill that will help spur investment in Wisconsin while maintaining the same rules for large, established companies. I urge your consideration and welcome any questions you may have. Thank you.

P.O. Box 8953 • Madison, Wisconsin 53708-8953 • (608) 266-1526 • Toll Free: (888) 529-0030
Rep.Zimmerman@legis.wi.gov

WISCONSIN TECHNOLOGY COUNCIL

March 7, 2018

TO: Members of the Senate Committee on Revenue, Financial Institutions and Rural Issues
FROM: Tom Still, president, Wisconsin Technology Council
RE: Assembly Bill 897

Dear Chairman Marklein and members of the committee:

Under current law, a for-profit corporation incorporated in another state or country is taxed on the capital it raises. That's not a tax on earned revenue from sales of products but a tax on the capital raised from investors itself, the capital raised to grow the business and hire employees.

Wisconsin is perhaps the only state that taxes private investments in so-called "foreign corporations," which are C Corporations most often registered in the state of Delaware. Many U.S. companies incorporate in The First State: Nearly two-thirds of all Fortune 500 companies are incorporated in Delaware and three-quarters of all initial public offerings in the United States involve Delaware companies.

Companies don't do so to dodge taxes at home, as state tax laws in Wisconsin and elsewhere largely boil down to a test of where the company physically does business, hires workers and makes sales.

Rather, they do so because Delaware's incorporation process is modern and efficient. Politicians of both parties in Delaware understand the importance of keeping the state's corporate law up to date, and Delaware courts are renowned for their expertise and expedited dockets.

Investors in Wisconsin prefer to invest in C-corporations over any other type of entity, including LLCs. As a result, many startup companies in Wisconsin are, or eventually do transfer to a C Corporation. Like similar companies in other states, many of Wisconsin's homegrown "C Corps" are incorporated in Delaware.

This bill eliminates this tax only for companies that meet the test of Wisconsin's Qualified New Business Venture program, also known as the "Act 255" investor tax credits law because of how the law was titled when it passed. This QNBV law is one of Wisconsin's most successful strategies for spurring the growth of young companies for the past decade or so. It's a rigorous vetting process that, once completed, earns the angel and venture capital equivalent of a "Good Housekeeping Seal of Approval" for young companies.

Since it took effect in 2005, the Act 255 program has prompted at least $466 million in private investments in emerging companies that have earned QNBV status through the Wisconsin

Economic Development Corp. (previously, the Wisconsin Department of Commerce) and has created nearly 1,200 new jobs in the past six years alone.

Each year at the Tech Council, we attempt to track all Wisconsin companies that raise funding each year. The data below covers 2015 and 2016:

2015	2016
128 companies $209 million raised	137 companies $276 million raised
86 of those are QNBV Companies: • 26 LLCs • 39 Domestic C-Corps • 21 Foreign C-Corps	83 of those are QNBV Companies: • 29 LLCs • 25 Domestic C-Corps • 29 Foreign C-Corps
21 Foreign C-Corps $60.3 million in funding	**29 Foreign C-Crops** $92.6 million in funding
$180,815 total in taxes	**$278,011 total in taxes**

While a tax of $3 for every $1,000 raised, exceeding $60,000, seems a small number, every dollar matters for those young startups. The taxes paid would have been used to grow the business by doing market research, pay suppliers and landlords, maybe even hire the next few employees, and all taxable under Wisconsin law.

If Wisconsin wants to build a truly competitive capital market, eliminating archaic barriers to investment would help. Ending Wisconsin's tax on investments in so-called "foreign corporations" would signal to investors everywhere that Wisconsin understands what it takes to build young companies.

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