State of Wisconsin
1997 - 1998 LEGISLATURE

LRB-4224/1
MES:kmg:km

1997 SENATE BILL 366

November 26, 1997 – Introduced by Senators WIRCH and SCHULTZ, cosponsored by Representatives FREESE, KREUSER, STEINBRINK, PORTER and M. LEHMAN. Referred to Committee on Economic Development, Housing and Government Operations.

AN ACT ***to renumber*** 71.78 (4) (h); and ***to create*** 20.566 (3) (go), 20.855 (4) (cm), 20.855 (4) (cn), 20.855 (4) (co), 71.10 (7e) and 71.78 (4) (h) 2. of the statutes; **relating to:** nonresident individual income tax reciprocity with the state of Illinois and making appropriations.

Analysis by the Legislative Reference Bureau

Under current law, Wisconsin allows individual income tax reciprocity with other states to the extent that all payments received by individuals who are domiciled outside Wisconsin and who derive income from the performance of personal services in Wisconsin are excluded from Wisconsin gross income if that income is subjected to an income tax in the state of domicile, and if that other state allows a similar exclusion for such payments received by Wisconsin domiciliaries, or a credit against the tax imposed by the other state on such income that is equal to the Wisconsin tax on that income.

Also under current law, this state has a separate nonresident individual income tax reciprocity agreement with the state of Minnesota. Under the agreement, whenever the income taxes on residents of one state which would have been paid to the 2nd state without reciprocity exceed the income taxes on residents of the 2nd state which would have been paid to the first state without reciprocity, the state with the net revenue loss shall receive from the other state the amount of the loss, plus interest for certain delinquent balances. The secretary of revenue may enter into agreements with Minnesota relating to the reciprocity payments and delinquency issues. The data used for computing the loss to either state shall be determined by the respective departments of revenue of both states. If agreement can't be reached on the amount of the loss, the dispute is settled by arbitration.

This bill creates similar provisions for reciprocity agreements with the state of Illinois that allow compensation from one state to the other whenever the income taxes on residents of one state which would have been paid to the 2nd state without reciprocity exceed the income taxes on residents of the 2nd state which would have been paid to the first state without reciprocity. The bill also allows the secretary of revenue to enter into agreements with Illinois relating to the reciprocity payments and delinquency issues, and it has an arbitration procedure that is similar to current law provisions that involve Minnesota. Under the bill, no compensation payments may be made unless the Wisconsin secretary of revenue and the Illinois director of taxation enter into a written reciprocity agreement.

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:

SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

				1997-98	1998-99
20.566	**Revenue, department of**				
(3)	ADMINISTRATIVE SERVICES AND SPACE RENTAL				
(go)	Reciprocity agreement and publications, Illinois	PR	A	-0-	-0-
20.855	**Miscellaneous appropriations**				
(4)	TAX, ASSISTANCE AND TRANSFER PAYMENTS				
(cn)	Illinois income tax reciprocity bench mark	GPR	A	-0-	228,900
(co)	Illinois income tax reciprocity, 1998 and 1999	GPR	A	-0-	5,500,000

SECTION 2. 20.566 (3) (go) of the statutes is created to read:

20.566 **(3)** (go) *Reciprocity agreement and publications, Illinois.* The amounts in the schedule to provide services for the Illinois income tax reciprocity agreement under s. 71.10 (7e) and for publications except as provided in par. (g) and sub. (2) (hi). All moneys received by the department of revenue in return for the provision of these services shall be credited to this appropriation.

SECTION 3. 20.855 (4) (cm) of the statutes is created to read:

20.855 **(4)** (cm) *Illinois income tax reciprocity.* For taxable years beginning after December 31, 1999, a sum sufficient to pay to the state of Illinois any losses of income taxes occurring because of income tax reciprocity between this state and Illinois and any interest payments due under s. 71.10 (7e).

SECTION 4. 20.855 (4) (cn) of the statutes is created to read:

20.855 **(4)** (cn) *Illinois income tax reciprocity bench mark.* The amounts in the schedule to fund a bench mark study by the department of revenue of the revenue loss under s. 71.10 (7e) (b).

SECTION 5. 20.855 (4) (co) of the statutes is created to read:

20.855 **(4)** (co) *Illinois income tax reciprocity, 1998 and 1999.* The amounts in the schedule to pay to the state of Illinois any losses of income taxes occurring because of income tax reciprocity between this state and Illinois, as determined under s. 71.10 (7e), for taxable years beginning after December 31, 1997, and before January 1, 2000.

SECTION 6. 71.10 (7e) of the statutes is created to read:

71.10 **(7e)** ILLINOIS INCOME TAX RECIPROCITY. (a) For purposes of income tax reciprocity reached with the state of Illinois under s. 71.05 (2), whenever the income taxes on residents of one state which would have been paid to the 2nd state without reciprocity exceed the income taxes on residents of the 2nd state which would have been paid to the first state without reciprocity, the state with the net revenue loss shall receive from the other state the amount of the loss. Interest shall be payable on all delinquent balances relating to taxable years beginning after December 31, 1999. The secretary of revenue may enter into agreements with the state of Illinois specifying the reciprocity payment due date, conditions constituting delinquency, interest rates and the method of computing interest due on any delinquent amounts.

(b) The data used for computing the loss to either state shall be determined by the respective departments of revenue of both states on or before December 1 of the year following the close of the previous calendar year. If an agreement cannot be reached as to the amount of the loss, the secretary of revenue of this state and the director of taxation of the state of Illinois shall each appoint a member of a board of arbitration and these members shall appoint a 3rd member of the board. The board shall select one of its members as chairperson. The board may administer oaths, take testimony, subpoena witnesses and require their attendance, require the production of books, papers and documents and hold hearings at such places as it considers necessary. The board shall then make a determination as to the amount to be paid the other state which shall be conclusive. This state shall pay no more than 50% of the cost of such arbitration.

(c) 1. The payments under subd. 2. may be made only if the secretary of revenue of this state and the director of taxation of the state of Illinois enter into a written agreement relating to income tax reciprocity that applies to taxable years beginning after December 31, 1997.

2. Subject to subd. 1., for taxable years beginning after December 31, 1997, and before January 1, 1999, the maximum amount that may be paid to Illinois under this

subsection is $5,500,000, which shall be the 2nd draw on anticipated revenue increases, and for taxable years beginning after December 31, 1998, and before January 1, 2000, the maximum amount that may be paid to Illinois under this subsection is $8,250,000, which shall be the first draw on anticipated revenue increases.

SECTION 7. 71.78 (4) (h) of the statutes is renumbered 71.78 (4) (h) 1.

SECTION 8. 71.78 (4) (h) 2. of the statutes is created to read:

71.78 **(4)** (h) 2. A member of the board of arbitration established under s. 71.10 (7e) or a consultant under joint contract with the states of Illinois and Wisconsin for the purpose of determining the reciprocity loss to which either state is entitled.

SECTION 9. Initial applicability.

(1) This act first applies to taxable years beginning on January 1, 1998.

(END)