



# SHANNON ZIMMERMAN

STATE REPRESENTATIVE • 30<sup>th</sup> ASSEMBLY DISTRICT

Chairman Katsma and Committee Members,

Thank you for the opportunity to testify on Assembly Bill 897 (AB 897). This simple, pro-business bill will help spur investment in Wisconsin.

AB 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, many Wisconsin businesses incorporate in Delaware.

All businesses must pay a fee for the authority to transact business in our state, which is \$100. However, if you are a 'foreign corporation' (i.e. a Wisconsin based company registered in Delaware) 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 money must be paid pre-revenue, meaning before you make a dime you are assessed thousands of dollars. That is money not being spent on employees, equipment, rent, or anything else a business needs to thrive. **It is money not being put back into the local economy.**

According to the Wisconsin Technology Council, Wisconsin is the only state that taxes startups before they even make a single cent. Is this how we attract new entrepreneurs to Wisconsin? I think not! AB 897 tells the world that **WISCONSIN IS OPEN FOR BUSINESS!!!!**

As Wisconsin lawmakers, we can agree that we should be doing our best to encourage and support entrepreneurs. This bill achieves that goal; AB 897 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 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 Statutes 238.15 (1).

AB 897 is targeted to help small companies succeed in Wisconsin. This simple, pro-business bill will help spur investment in Wisconsin and our local economies while maintaining the same rules for large, established companies. I ask for your vote and welcome any questions you may have.

Thank you.



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# HOWARD MARKLEIN

STATE SENATOR • 17<sup>TH</sup> SENATE DISTRICT

**February 14, 2018**

## **Assembly Committee on Financial Institutions**

### **Testimony on Assembly Bill 897**

Good Afternoon!

Thank you Chairman Katsma and committee members for hearing Assembly Bill 897 (AB 897), 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 business.

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 Statutes 238.15 (1).

AB 897 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 AB 897, and your timely action on this proposal.



**February 14, 2018**

**TO: Members of the Assembly Committee on Financial Institutions**  
**FROM: Bram Daelemans, director of Investor Networks, Wisconsin Technology Council**  
**RE: Assembly Bill 897**

**Dear Chairman Katsma 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 are part 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:

<b>2015</b>	<b>2016</b>
128 companies \$209 million raised	137 companies \$276 million raised
86 of those are QNBV Companies: <ul style="list-style-type: none"> <li>• 26 LLCs</li> <li>• 39 Domestic C-Corps</li> <li>• 21 Foreign C-Corps</li> </ul>	83 of those are QNBV Companies: <ul style="list-style-type: none"> <li>• 29 LLCs</li> <li>• 25 Domestic C-Corps</li> <li>• 29 Foreign C-Corps</li> </ul>
<b>21 Foreign C-Corps</b> \$60.3 million in funding	<b>29 Foreign C-Corps</b> \$92.6 million in funding
<b>\$180,815 total in taxes</b>	<b>\$278,011 total in taxes</b>

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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**February 14, 2018**

**TO: Members of the Assembly Committee on Financial Institutions**

**FROM: Joe Kremer, CEO, Isomark LLC**

**RE: Assembly Bill 897**

**Dear Chairman Katsma and members of the committee:**

Thank you for the opportunity to testify today on behalf of AB897. Just some quick background on myself. In 1997 I graduated with a MBA in Finance and a certificate in entrepreneurship from UW Madison. Since then I have been working in the entrepreneurial economy and have been fortunate to accumulate some great experiences. I have helped launch several start-ups, raising funding and leading teams as we set out to bring new innovations to the market place. I have also had the unique opportunity to work here, at the Capitol, during the 2003-2004 session as economic development policy advisor to then assembly minority leader, Rep. Jim Kreuser. It was very enjoyable working on the bi-partisan issue of economic development, especially being involved in the crafting of what is now known as Act 255. After this period I was provided another unique opportunity at the Wisconsin Technology Council as the founding director of the Wisconsin Angel Network. During my six years at the WAN, we created a successful model focused on growing early stage investments, which increased from \$2 million in 2005 to more than \$50 million in 2010. The work we did at WAN was followed and noticed, some of our best practices were implemented by other states. We even had an impact beyond the US into Canada and the UK.

Now I am CEO of a medical device start-up, Isomark, which is taking scientific discoveries from the UW campus and working to commercialize them into the healthcare industry. Our technology detects severe infections prior to symptoms, utilizing non-invasive samples of breath. In clinical studies we have shown our biomarker provides an early warning of infection up to two days before current technologies. With infections, an advance notice just hours ahead of what is currently possible is significant. Isomark is days ahead, that is game changing. When we are successful, I am confident this amazing technology, developed on campus and funded with investor dollars along with NIH grants, State of Wisconsin grants and loans and UW Madison grants, will dramatically improve healthcare, savings thousands of lives and millions, if not billions, of healthcare dollars.

Currently I am actively raising \$6 million in a Series A funding round. It is anticipated that with our capital raise we will be switching from a Wisconsin LLC to a Delaware C-corp. This, I believe you have already heard, is standard practice and from what I understand is done so in a large part out of simplicity-- since most C-corps are in Delaware, everyone is very familiar with the particulars of the legal structure.

I was rather shocked to learn that if we make this change in structure to a Delaware C-corp, any capital we raise would be taxed. While a tax of 0.3% might not sound like much, it is quite significant. Investment dollars do not grow on trees, instead they are very hard to come by and any impediment to raising a funding round is just another straw on the proverbial camel's back. Needing to explain to would-be investors that those investment dollars would result in a taxing event for our company just adds to a list of negatives. Additionally, as every dollar is hard to come by, this tax adds to the burden of raising those dollars. Because of the difficulty in raising funding, we entrepreneurs typically raise as little as we need to, trying to keep the bar as low as possible for an investment. In the Isomark example, if we were required to pay tax on our \$6 million round, this would mean either I need to raise another \$18,000 to pay for those taxes or somehow cut our budget by that amount. In a company like ours where we need to pay for clinical trials, device development and a host of other obligations, the most likely cut to the budget that I would make is reducing salaries to make up for the tax.

It may seem like \$18,000 out of \$6 million should not be a big deal, but it is. I am already struggling with how to achieve our goals with this funding amount--needing to increase it, if even by \$18,000, just adds another hurdle that I need to get over. In a system where investors look for reasons to say no, this could be that proverbial straw. I therefore strongly support, and hope you will too, AB897.

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February 14, 2018

**TO: Members of the Assembly Committee on Financial Institutions**

**FROM: Justin Beck, CEO PerBlue Entertainment Inc.**

**RE: Assembly Bill 897**

**Dear Chairman Katsma and members of the committee:**

I am here simply to voice concern on how registration taxes provide an unneeded headwind for small companies trying to grow after they raise capital and base their operations in WI.

When I was first starting PerBlue I was very confused, why are we incorporating in Delaware? We want to stay in WI. Why as a C-corp? doesn't an LLC make more sense. Now that we've raised 10's of Millions of dollars, done M&A on the sell side and also on the buy side I understand why these 2 principles of the startup world are crucial details in the startup journey.

**Why C-corp:**

It's needed to provide clean financial and legal liability boundaries for investors, clear shareholder regulations and expectations, simplified tax reporting, and strong setup on securities so folks know what they are getting when they get a "share" of a company. Basically it is the only corporate structure that is setup with scaling and versatility in mind. If a startup is not a c-corp they are not preparing for the future, they will have a tough time raising capital, through multiple rounds and issuing employee equity without creating issues.

**Why Delaware:**

This is a harder to directly understand, main reason is that the securities and the M&A lawbook is the most comfortable and most used for pretty much everyone in the ecosystem: SF, NY, TX doesn't matter. Attornies at big firms, companies, VC's and startups and angels a like, understand Delaware corp law the best. To not incorporate in Delaware is to basically increase your legal bill and legal risk for every year in the future. It adds risk to deals and makes companies look Atypical when being approached with foreign inbound investment capital. Or purchase and M&A interest.

**Capital preservation is critical:**

A companies raise 1M and it sounds like a lot of money. But when you are building a business and you are a first time founder you need every dollar and you need to put them all to work. Taxing the capital being raised and injected in the last place we want to tax our potentially high growth companies. The QNVB is a great filter here in this bill. And this bill will fund the necessary 1 extra FTE, the bit of comp head room to make a competitive offer to get the right key staff member on the team.

Sincerely,

Justin Beck

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