



1997 SENATE BILL 10

January 15, 1997 - Introduced by Senators CHVALA, BURKE, RISSER, C. POTTER and CLAUSING, cosponsored by Representatives BALDWIN, R. YOUNG and BLACK. Referred to Committee on Labor, Transportation and Financial Institutions.

1 **AN ACT to amend** 66.521 (4m) (title), 66.521 (4m) (a), 66.521 (4m) (b), 66.521 (10)
2 (b), 234.65 (3) (a) 2., 560.034 (1), 560.034 (2), 560.034 (3) and 560.034 (5) (a); and
3 **to create** 13.94 (1) (dp), 66.521 (4m) (a) 3., 560.033, 560.16 (3) (g) and 560.605
4 (1) (em) of the statutes; **relating to:** rules of conduct for a business receiving
5 business assistance from the department of commerce and a business entering
6 into an industrial development revenue bonding agreement with a
7 municipality, the employment impact estimates required to be submitted by
8 such a business and providing penalties.

Analysis by the Legislative Reference Bureau

Under current law, the department of commerce (DOC) makes grants and loans to businesses for various purposes including employe ownership assistance studies, technology development, research for potential commercial applications, customized labor training, recycling and major economic development. Currently, cities, villages and towns (municipalities) may enter into revenue agreements with businesses under which the municipality issues industrial development revenue (IDR) bonds to fund the construction by those businesses of industrial projects.

This bill requires any business that receives \$25,000 or more in grants, loans or subsidies from DOC or that receives \$25,000 or more in federal tax exemptions as

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a result of the issuance of IDR bonds (business assistance) to comply with the following rules of conduct:

1. To pay every employe of the business employed in this state not less than an annual wage of \$16,000 or its hourly equivalent, with that amount to be adjusted annually by DOC in proportion to any change in the federal poverty line.

2. To provide health insurance for every employe of the business employed in this state and to cover the cost of premiums for that insurance, with the employer to be granted a credit for the cost of health care provided of up to \$1 per hour against the wage required to be paid to an employe.

3. Not to eliminate any employment positions in this state when the employer moves any part of its operations to another state and not to cease all operations in this state and move to another state.

Any business receiving \$25,000 or more in business assistance that fails to comply with those rules of conduct is subject to the following penalties:

1. Immediate rescission of all business assistance that was provided to the business, with the business to repay immediately any business assistance received, plus a 10% penalty and interest on the business assistance at 18%.

2. If the failure to comply occurs within 10 years after the business enters into a revenue agreement for the issuance of IDR bonds, a penalty equal to the federal tax exemption received by the business as a result of the revenue agreement, plus an additional 10% penalty and interest on the federal tax exemption received at 18%.

3. Ineligibility for any further business assistance for 10 years.

Under current law, a business that enters into a revenue agreement for the issuance of IDR bonds by a municipality must give notice to DOC specifying the number of jobs that the business expects to be eliminated, created or maintained on the project site and elsewhere in the state as a result of the project (employment impact estimate). DOC then must make its own employment impact estimate and issue that estimate to the municipality before the municipality may issue the IDR bonds. The business then must submit to DOC, within 12 months after the project is completed or 2 years after the loan or IDR bonds are issued, whichever is sooner, an employment impact statement of the jobs actually eliminated, created or maintained as a result of the project.

This bill requires employment impact estimates and statements to be prepared not only in connection with the issuance of IDR bonds, but also when DOC provides a grant, loan or subsidy under any of the programs mentioned above. The bill also requires an employment impact estimate or statement to include not only the number of jobs, but also the types of jobs, with wage rates and benefits, that are estimated to be or have been eliminated, maintained or created as a result of any business assistance provided by DOC or a municipality. Finally, the bill requires a business to submit employment impact statements to DOC annually for the duration of the business assistance and for 5 years after the end of the business assistance.

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For further information see the *state and local* 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:

1 **SECTION 1.** 13.94 (1) (dp) of the statutes is created to read:

2 13.94 (1) (dp) Annually, perform a performance audit of the implementation of
3 s. 560.033 by the department of commerce.

4 **SECTION 2.** 66.521 (4m) (title) of the statutes is amended to read:

5 66.521 (4m) (title) ~~JOB PROTECTION~~ EMPLOYMENT IMPACT ESTIMATES AND RULES OF
6 CONDUCT COMPLIANCE.

7 **SECTION 3.** 66.521 (4m) (a) of the statutes is amended to read:

8 66.521 (4m) (a) A municipality may ~~not~~ enter into a revenue agreement with
9 any person ~~unless~~ only if all of the following conditions are met:

10 1. The person, at least 30 days prior to entering into the revenue agreement,
11 has given a notice of intent to enter into the agreement, ~~on a form prescribed under~~
12 ~~s. 560.034 (1), to the department of commerce and to any collective bargaining agent~~
13 ~~in this state with whom the person has a collective bargaining agreement; and~~ as
14 required under s. 560.033 (3) (a) 1.

15 2. The municipality has received an estimate issued under s. 560.034 (5) (a),
16 ~~and the department of commerce has estimated whether the project which the~~
17 ~~municipality would finance under the revenue agreement is expected to eliminate,~~
18 ~~create or maintain jobs on the project site and elsewhere in this state and the net~~
19 ~~number of jobs expected to be eliminated, created or maintained as a result of the~~
20 ~~project.~~

21 **SECTION 4.** 66.521 (4m) (a) 3. of the statutes is created to read:

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1 66.521 (4m) (a) 3. If the amount of federal tax exemption that the person
2 receives as a result of the revenue agreement equals \$25,000 or more, the person
3 agrees to comply with the rules of conduct specified in s. 560.033 (2).

4 **SECTION 5.** 66.521 (4m) (b) of the statutes is amended to read:

5 66.521 (4m) (b) Any revenue agreement which an eligible participant enters
6 into with a municipality to finance a project shall require the eligible participant to
7 submit to the department of commerce ~~within 12 months after the project is~~
8 ~~completed or 2 years after a revenue bond is issued to finance the project, whichever~~
9 ~~is sooner~~ annually for the duration of the project and for 5 years after the completion
10 of the project, on a form prescribed under s. 560.034 (1), the ~~net number and type of~~
11 ~~jobs, with the wage rates and benefits for those jobs,~~ eliminated, created or
12 maintained on the project site and elsewhere in this state as a result of the project.

13 **SECTION 6.** 66.521 (10) (b) of the statutes is amended to read:

14 66.521 (10) (b) Upon the adoption of an initial resolution under this section,
15 public notice of such adoption shall be given to the electors of the municipality prior
16 to the issuance of the bonds therein described, by publication as a class 1 notice,
17 under ch. 985. The notice need not set forth the full contents of the resolution, but
18 shall state the maximum amount of the bonds; the name of the eligible participant;
19 the purpose of the bonds; the ~~net number and types of jobs, with the wage rates and~~
20 ~~benefits for those jobs,~~ which the project which the municipality would finance with
21 the bond issue is expected to eliminate, create or maintain on the project site and
22 elsewhere in this state which is required to be shown by the proposed eligible
23 participant on the form submitted under ~~sub. (4m) (a) 1.~~ s. 560.033 (3) (a) 1.; and that
24 the resolution was adopted under this section. A form of the public notice shall be
25 attached to the initial resolution. Prior to adoption of the initial resolution, the open

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1 meeting notice given to members of the public under s. 19.84 shall indicate that
2 information with respect to the job impact of the project will be available at the time
3 of consideration of the initial resolution. No other public notice of the authorization,
4 issuance or sale of bonds under this section is required.

5 **SECTION 7.** 234.65 (3) (a) 2. of the statutes is amended to read:

6 234.65 (3) (a) 2. The authority has received an estimate issued under s. 560.034
7 (5) (b), and the department of commerce has estimated ~~whether~~ the number and
8 types of jobs, with the wage rates and benefits for those jobs, that the project which
9 the authority would finance under the loan is expected to eliminate, create or
10 maintain jobs on the project site and elsewhere in this state ~~and the net number of~~
11 ~~jobs expected to be eliminated, created or maintained as a result of the project.~~

12 **SECTION 8.** 560.033 of the statutes is created to read:

13 **560.033 Business assistance recipient rules of conduct. (1) DEFINITIONS.**

14 In this section:

15 (a) "Business" means any person engaged in any activity or enterprise for profit
16 employing one or more persons in this state.

17 (b) "Business assistance" means amounts received under a revenue agreement
18 entered into by a municipality under s. 66.521 or a grant or loan provided by the
19 department under s. 560.16, 560.62, 560.625, 560.63, 560.65 or 560.66.

20 (c) "Poverty line" means the nonfarm federal poverty line for the continental
21 United States, as defined and revised annually by the federal department of labor
22 under 42 USC 9902 (2).

23 **(2) RULES OF CONDUCT.** Any business that receives \$25,000 or more in business
24 assistance shall agree, as a condition of receiving that business assistance, to comply
25 with the following rules of conduct:

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1 (a) To pay every employe of the business employed in this state not less than
2 an annual wage of \$16,000 or an amount determined by the department under this
3 paragraph or the hourly equivalent of that annual wage. The department shall
4 adjust that annual wage every year within 30 days after the federal department of
5 labor publishes its annual revision of the poverty line. The adjustment shall be in
6 proportion to any change in the poverty line since the effective date of the amount
7 established under this paragraph or the effective date of the last adjustment of that
8 amount under this paragraph.

9 (b) To provide health insurance for every employe of the business employed in
10 this state and to cover the cost of premiums for that insurance. The department shall
11 grant a credit of up to \$1 per hour against the wage required to be paid under par.

12 (a) for the cost of health insurance provided under this paragraph.

13 (c) 1. Not to eliminate any employment positions in this state when the
14 employer moves any part of its operations to a site in another state.

15 2. Not to cease all operations in this state and move those operations to another
16 state.

17 **(3) EMPLOYMENT IMPACT ESTIMATES.** (a) The department or a municipality may
18 provide business assistance to a business only if all of the following conditions are
19 met:

20 1. The business, at least 30 days before entering into the agreement governing
21 the receipt of the business assistance, has given a notice of intent to enter into the
22 agreement, on a form prescribed under s. 560.034 (1), to the department and to any
23 collective bargaining agent in this state with whom the business has a collective
24 bargaining agreement.

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1 2. The subunit of the department or the municipality providing the business
2 assistance has received an estimate issued under s. 560.034 (5). A business that
3 receives business assistance is not required to satisfy an estimate made under this
4 subdivision.

5 (b) A business assistance agreement that a business enters into with the
6 department or a municipality to finance a project shall require that the business
7 submit to the department annually for the duration of the business assistance and
8 for 5 years after the end of the business assistance, on a form prescribed under s.
9 560.034 (1), the number and types of jobs, with the wage rates and benefits for those
10 jobs, eliminated, created or maintained on the project site and elsewhere in this state
11 as a result of the project.

12 **(4) ENFORCEMENT AND ADMINISTRATION.** (a) The subunit of the department of
13 commerce or the municipality providing business assistance to a business shall
14 notify the department of the amount of business assistance provided to the business
15 and shall provide to the department any other information that is necessary to
16 implement this section. The department shall monitor all businesses receiving
17 business assistance for compliance with sub. (2), shall determine whether any
18 business receiving business assistance is not in compliance with sub. (2) and shall
19 assess and collect any penalties imposed under sub. (5) according to the following
20 procedure:

21 1. The department shall notify the business and the subunit of the department
22 or the municipality providing the business assistance that the business is in
23 noncompliance with sub. (2) and of the penalty assessed under sub. (5).

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1 2. The business may, within 30 days after the date of the notice, appeal in
2 writing to the secretary and the secretary shall enter his or her final decision within
3 30 days after receiving the appeal.

4 3. The business may, within 30 days after the secretary's decision, request a
5 contested case hearing under s. 227.42 from the department.

6 (b) The department shall contract with the legislative audit bureau to conduct
7 an annual performance audit of the implementation of this section. The legislative
8 audit bureau shall file the audit in the manner described in s. 13.94 (1) (b).

9 **(5) PENALTIES.** Any business that is subject to the rules of conduct under sub.
10 (2) and that fails to comply with any of those rules is subject to all of the following
11 penalties:

12 (a) Immediate rescission of all business assistance that was provided to the
13 business, with the business to repay immediately all business assistance that was
14 received by the business, plus a penalty equal to 10% of that business assistance and
15 interest on that business assistance at the rate of 18% per year from the date of
16 receipt of the business assistance to the date of payment of the amount due.

17 (b) If the failure to comply with the rules of conduct under sub. (2) occurs within
18 10 years after the business enters into a revenue agreement, as defined in s. 66.521
19 (2) (L), a penalty equal to the amount of the federal tax exemption received, plus an
20 additional penalty equal to 10% of the federal tax exemption received and interest
21 on the federal tax exemption received at the rate of 18% per year from the date of the
22 federal tax exemption to the date of payment of the amount due.

23 (c) Ineligibility for any further business assistance for 10 years after the date
24 of noncompliance as determined by the department.

25 **SECTION 9.** 560.034 (1) of the statutes is amended to read:

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1 560.034 (1) The department shall prescribe the notice forms to be used under
2 ss. ~~66.521 (4m) (a) 1. and 234.65 (3) (a) 1. and 560.033 (3) (a).~~ The department shall
3 include on the forms a requirement for information on the number and types of jobs,
4 with the wage rates and benefits for those jobs, that the person submitting the notice
5 expects to be eliminated, created or maintained on the project site and elsewhere in
6 this state by the project which is the subject of the notice. The department shall
7 prescribe the forms to be used under ss. ~~66.521 (4m) (b) and 234.65 (3r) and 560.033~~
8 ~~(3) (b).~~

9 **SECTION 10.** 560.034 (2) of the statutes is amended to read:

10 560.034 (2) If the department receives a notice under s. ~~66.521 (4m) (a)~~ 560.033
11 (3) (a), the department shall estimate, no later than 20 days after receipt of the notice,
12 whether the number and types of jobs, with the wage rates and benefits for those jobs,
13 that the project which is the subject of the notice is expected to eliminate, create or
14 maintain jobs on the project site and elsewhere in this state ~~and the net number of~~
15 ~~jobs expected to be eliminated, created or maintained as a result of the project.~~

16 **SECTION 11.** 560.034 (3) of the statutes is amended to read:

17 560.034 (3) If the department receives a notice under s. 234.65 (3) (a) 1., the
18 department shall estimate, no later than 20 days after receipt of the notice, ~~whether~~
19 the number and types of jobs, with the wage rates and benefits for those jobs, that
20 the project which is the subject of the notice is expected to eliminate, create or
21 maintain jobs on the project site and elsewhere in this state ~~and the net number of~~
22 ~~jobs expected to be eliminated, created or maintained as a result of the project.~~

23 **SECTION 12.** 560.034 (5) (a) of the statutes is amended to read:

24 560.034 (5) (a) Under sub. (2), to the subunit of the department or the city,
25 village or town ~~which will issue the bonds~~ that is providing the business assistance,

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1 as defined in s. 560.033 (1) (b), to finance the project which is the subject of the
2 estimate.

3 **SECTION 13.** 560.16 (3) (g) of the statutes is created to read:

4 560.16 (3) (g) A written commitment from the group that if the group receives
5 a loan under this section of \$25,000 or more and purchases or improves an existing
6 business, the business will comply with the requirements specified in s. 560.033 (2).

7 **SECTION 14.** 560.605 (1) (em) of the statutes is created to read:

8 560.605 (1) (em) If the grant or loan is for \$25,000 or more, the eligible recipient
9 receiving the grant or loan agrees to comply with the requirements of s. 560.033 (2).

10 **SECTION 15. Initial applicability.**

11 (1) This act first applies to business assistance, as defined in section 560.033
12 (1) (b) of the statutes, as created by this act, on the effective date of this subsection.

13 (END)