

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: 07/9/99

Received By: kahlepj

Wanted: Soon

Identical to LRB:

For: Legislative Fiscal Bureau 6-8849

By/Representing: Shanovich (DH)

This file may be shown to any legislator: NO

Drafter: kahlepj

May Contact:

Alt. Drafters:

Subject: Econ. Development - bus. dev.
Econ. Development - misc.

Extra Copies:

Pre Topic:

LFB:.....Shanovich (DH) -

Topic:

Require commerce to create biotechnology development finance company

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kahlepj 07/9/99	ygeller 07/9/99		_____			
/1			martykr 07/12/99	_____	lrb_docadmin 07/12/99		

FE Sent For:

<END>

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1/?	kahlepj	11/7/99 jig	km9	J.F.F. km12			

FE Sent For:

<END>

1999

Date (time) needed SOON (7-9)

LRB b 1677/1

BUDGET AMENDMENT

PJK: JG:

See form **AMENDMENTS — COMPONENTS & ITEMS.**

D. no

CONFERENCE AMENDMENT TO ASSEMBLY SUBSTITUTE AMENDMENT 1 TO 1999 ASSEMBLY BILL 133

At the locations indicated, amend the substitute amendment as follows:

#. Page 286, line 3...: delete "and 560.175" and substitute ", 560.175 and 560.28(2)(a)". ✓

#. Page, line
#. Page, line
#. Page, line

#. Page 1394, line 11...: after that line insert:
41 "SECTION 2983c. CR, 560.28" ✓

#. Page, line





State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0710/3
PJK:jlh:ch

ARC:.....Miller - Am #61, Provide funding for a biotechnology development
finance company

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 286, line 5: after "560.607;" insert "for the transfer under 1999
3 Wisconsin Act (this act), section 9210 (2e);".

4 2. Page 1205, line 3: after that line insert:

5 "SECTION 2376c. 234.64 of the statutes is created to read:

6 ~~234.64~~ **Biotechnology development finance company.** (1) In this section:

7 (a) "Biotechnology" means technology related to life sciences.

8 (b) "Capital participation instrument" means all of the following:

9 1. Any of the following or an option or other right to acquire any of the following:

10 a. Common or preferred capital stock.

560.28

- 1 b. Convertible securities.
- 2 c. Evidences of long-term or short-term indebtedness.
- 3 d. Warrants.
- 4 e. Subscriptions.
- 5 f. Partnership or membership interests.

6 2. Royalties or other lawful derivations of a capital participation instrument
7 listed under subd. 1.

8 (c) "Cost of a project" means costs associated with the design, planning and
9 implementation of a project that, in accordance with sound business and financial
10 practices, are appropriate charges to the project. The costs may include the costs of
11 planning and design, options to buy land, feasibility or other studies, equipment,
12 seed money, construction, working capital and any other costs determined by the
13 biotechnology development finance company to be necessary to the purposes of this
14 section.

15 (d) "Project" means commercial, industrial or other economic activity that is
16 undertaken by a biotechnology company in this state.

17 (2) (a) The ^{Department shall} ~~authority~~ organize and maintain a biotechnology development
18 finance company as a nonstock, nonprofit corporation under ch. 181 for the exclusive
19 purpose of investing in new or existing biotechnology companies in this state.

20 If the authority organizes a biotechnology development finance company, the authority
21 shall transfer all moneys received by the authority in the transfer under 1999
22 Wisconsin Act (this act), section 9210 (2e), ^{to the company for start-up capital and} ~~to the company for start-up capital and~~

23 for reasonable administrative expenses of the company. ^{→ Inset 2-23}

24 (b) Subject to par. (c), the biotechnology development finance company may
25 purchase a capital participation instrument of a project. The biotechnology

1 development finance company shall ensure that all of the following apply with
2 respect to a project before any investment is made in the project:

3 1. The biotechnology company has certified that the project plans conform to
4 all applicable environmental, zoning, building, planning or sanitation laws.

5 2. There is a reasonable expectation that the biotechnology company will be
6 successful.

7 3. Private industry has not provided sufficient capital required for the project.

8 4. The investment is necessary to the successful completion of the proposed
9 project because other investment in the project is unavailable in the traditional
10 capital markets, or because capital has been offered on terms that would preclude
11 the success of the project.

12 5. Provision has been made by contract for adequate reporting of financial data
13 by the project to the biotechnology development finance company. Those provisions
14 may include a requirement for an annual or other periodic audit of the project's
15 financial records.

16 6. The proceeds of the purchase will be used solely in connection with the costs
17 of the project.

18 7. The biotechnology company is able to manage its project responsibilities.

19 (c) 1. The biotechnology development finance company may not own more than
20 49% of the voting stock or other interest in any enterprise as a result of a purchase
21 under par. (b).

22 2. The total investment by the biotechnology development finance company in
23 any one biotechnology company may not exceed \$200,000.

24 (d) The findings made by the biotechnology development finance company with
25 respect to whether a project meets the conditions under par. (b) 1. to 7. are conclusive.

1 (3) The ~~authority~~ shall enter into a contract with the biotechnology
 2 development finance company. The contract shall provide that the ~~authority~~ may
 3 make use of the services of the biotechnology development finance company and that
 4 the ~~authority~~ shall advise, assist and provide administrative services to the
 5 biotechnology development finance company. The ~~authority~~ shall determine the
 6 type and scope of any administrative services provided by the ~~authority~~ to the
 7 biotechnology development finance company. The ~~authority~~ may assign employees or
 8 contract with private or state agencies to perform the administrative services. The
 9 biotechnology development finance company may not engage in political activities.

10 (4) (a) The board of directors of the biotechnology development finance
 11 company shall consist of all of the following members:

- 12 4. ~~The~~ executive director of the authority, or his or her designee.
- 13 1. ~~The~~ secretary ~~of the authority~~ or his or her designee.
- 14 2. ~~The~~ secretary of administration, or his or her designee.
- 15 3. ~~The~~ executive director of the investment board, or his or her designee.
- 16 5. The president of the University of Wisconsin System, or his or her designee.
- 17 6. The president of Forward Wisconsin, Inc., or his or her designee.
- 18 7. A representative of the state's biotechnology research community.
- 19 8. A representative of the state's biotechnology industry.
- 20 9. A representative of the state's venture capital industry.

21 (b) The members under par. (a) 7. to 9. shall serve 5-year terms and the initial
 22 members under par. (a) 7. to 9. shall be appointed by the governor. The biotechnology
 23 development finance company, in its bylaws, shall specify the method for electing
 24 new members under par. (a) 7. to 9. and for filling vacancies.

Department

Wisconsin Housing and Economic Development

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1 (5) Annually, the biotechnology development finance company shall provide a
2 report on its activities to the appropriate standing committees of each house of the
3 legislature in the manner provided under s. 13.172 (3) and to the governor.

4 (6) The assets transferred to, and the assets and liabilities of, the biotechnology
5 development finance company shall be separate from all other assets and liabilities
6 of the state, of all political subdivisions of the state and of the ~~subpoena~~. Neither the
7 state, any political subdivision of the state nor the ~~subpoena~~ guarantees any
8 obligation of or has any obligation to the biotechnology development finance
9 company. Neither the state, any political subdivision of the state nor the ~~subpoena~~
10 is liable for any debt or liability of the biotechnology development finance company.”

department

11 3. Page 1376, line 21: after that line insert:
12 "SECTION 2929c. 560.01 (2) (a) of the statutes is amended to read:
13 560.01 (2) (a) *State economic policy.* The department shall develop a state
14 economic policy. The department shall promote and provide technical assistance,
15 consultative services and other assistance to commercial, industrial and recreational
16 development and expansion; facilitate the establishment and retention of business
17 enterprises in this state, including small and minority business enterprises;
18 encourage cooperation between financial institutions and business persons to
19 encourage commercial, industrial and recreational business expansion in this state;
20 encourage creation of jobs throughout the state and especially in urban and rural
21 economically depressed areas; develop and coordinate state public and private
22 economic development plans and federal economic development assistance
23 programs affecting local governments and business and industry; advise, assist and
24 cooperate with the biotechnology development finance company under s. 234.64;

1 encourage the growth of tourism in the state; promote state products and industries
 2 in both foreign and domestic markets; provide informational clearinghouses for
 3 businesses and communities in their dealings with other state and federal agencies;
 4 advise the governor and legislature on the role of the state in state-local affairs;
 5 study the problems affecting local government relations as they impact on economic
 6 development and make recommendations for relieving these problems; develop a
 7 state-local relations policy to facilitate closer coordination and cooperation between
 8 state and local governments; advise the governor and the legislature regarding
 9 problems faced by local governments; develop an improved pattern of state-local
 10 relations; and develop recommendations for legislative or administrative action as
 11 may appear necessary.”.

12 4. Page 1573, line 10: after that line insert:

13 “(2e) TRANSFER TO HOUSING AND ECONOMIC DEVELOPMENT AUTHORITY. On the
 14 effective date of this subsection, the secretary of commerce shall transfer \$1,000,000
 15 from the appropriation account of the department of commerce under section 20.143
 16 (1) (c) of the statutes, as affected by the acts of 1999, to the Wisconsin Housing and
 17 Economic Development Authority.”.

18

(END)

D-note

Don:

This is the amendment that requires
 Commerce to establish and maintain a
 biotechnology development finance company.

PJK

Insert 2-22

no 4 From the appropriation under
S. 20. 143 (1)(c), the department
shall make a one-time grant

NO
FP

(end of ins. 2-22)

Insert 2-23

no 4 The grant under this paragraph
may not exceed \$1,000,000.

(end of ins. 2-23)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb1677/1dn
PJK:jlj:km

July 12, 1999

Ron:

This is the amendment that requires Commerce to establish and maintain a biotechnology development finance company.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: Pam.Kahler@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1677/1
PJK:jlg:km

LFB:.....Shanovich (DH) - Require commerce to create biotechnology
development finance company

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 **1.** Page 286, line 3: delete “and 560.175” and substitute “, 560.175 and 560.28
- 3 (2) (a)”.
- 4 **2.** Page 1394, line 11: after that line insert:
- 5 “SECTION 2983c. 560.28 of the statutes is created to read:
- 6 **560.28 Biotechnology development finance company.** (1) In this section:
- 7 (a) “Biotechnology” means technology related to life sciences.
- 8 (b) “Capital participation instrument” means all of the following:
- 9 1. Any of the following or an option or other right to acquire any of the following:

- 1 a. Common or preferred capital stock.
- 2 b. Convertible securities.
- 3 c. Evidences of long-term or short-term indebtedness.
- 4 d. Warrants.
- 5 e. Subscriptions.
- 6 f. Partnership or membership interests.
- 7 2. Royalties or other lawful derivations of a capital participation instrument
- 8 listed under subd. 1.

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10 implementation of a project that, in accordance with sound business and financial
11 practices, are appropriate charges to the project. The costs may include the costs of
12 planning and design, options to buy land, feasibility or other studies, equipment,
13 seed money, construction, working capital and any other costs determined by the
14 biotechnology development finance company to be necessary to the purposes of this
15 section.

16 (d) “Project” means commercial, industrial or other economic activity that is
17 undertaken by a biotechnology company in this state.

18 **(2)** (a) The department shall organize and maintain a biotechnology
19 development finance company as a nonstock, nonprofit corporation under ch. 181 for
20 the exclusive purpose of investing in new or existing biotechnology companies in this
21 state. From the appropriation under s. 20.143 (1) (c), the department shall make a
22 one-time grant to the company for start-up capital and for reasonable
23 administrative expenses of the company. The grant under this paragraph may not
24 exceed \$1,000,000.

1 (b) Subject to par. (c), the biotechnology development finance company may
2 purchase a capital participation instrument of a project. The biotechnology
3 development finance company shall ensure that all of the following apply with
4 respect to a project before any investment is made in the project:

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- 17 4. The executive director of the Wisconsin Housing and Economic Development
18 Authority, or his or her designee.
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9 the state, any political subdivision of the state nor the department guarantees any
10 obligation of or has any obligation to the biotechnology development finance
11 company. Neither the state, any political subdivision of the state nor the department
12 is liable for any debt or liability of the biotechnology development finance company.”.

13

(END)