SENATE BILL 459 (LRB -3809)

An Act to repeal 234.01 (4n) (a) 3m. a. to d., 234.01 (4n) (a) 3m. e., 234.01 (4n) (b) 1., 234.01 (4n) (b) 2., 234.65 (1) (e), 234.65 (1) (f), 234.65 (1) (gm), 234.65 (1) (gp), 234.65 (2) (a) 2., 234.65 (2) (c), 234.65 (3) (a), 234.65 (3) (b), 234.65 (3) (d), 234.65 (3) (g), 234.65 (5) (b), 238.11 (3) and 238.11 (5) (b); to renumber 234.65 (5) (a), 234.65 (5) (c), 234.65 (5) (d) and 234.65 (5) (e); to renumber and amend 234.01 (4n) (a) 3m. (intro.), 234.01 (4n) (b) (intro.) and 234.65 (5) (intro.); to consolidate, renumber and amend 238.11 (5) (intro.) and (a); to amend 66.1103 (4m) (a) 2., 234.01 (4n) (a) 1., 234.01 (4n) (a) 3., 234.01 (4n) (a) 4., 234.65 (1) (a), 234.65 (1) (c), 234.65 (1) (g), 234.65 (1m), 234.65 (2) (a) 4., 234.65 (3) (intro.), 234.65 (3) (am), 234.65 (3) (dg), 234.65 (3g), 234.65 (3m), 234.65 (3r), 238.11 (1) and 238.25; and to create 234.65 (3) (bm) of the statutes; relating to: economic development activities of the Wisconsin Housing and Economic Development Authority.

2012

02-10.	S.	Introduced by Senators **Leibham**, **Lassa** and **Jauch**; cosponsored by Representatives **Litjens**, **Brooks**, **Endsley**, **Fields**, **Kerkman**, **Marklein**, **Molepske Jr**, **Petryk** and **Spanbauer**.	
02-10.	S.	Read first time and referred to committee on Economic Development and Veterans and Military Affairs	696
02-16.	S.	Public hearing held.	
02-22.	S.	Executive action taken.	
02-23.	S.	Report passage recommended by committee on Economic Development and Veterans and Military Affairs, Ayes 7, Noes 0	736
02-23.	S.	Available for scheduling.	
02-29.	S.	Representative Loudenbeck added as a cosponsor	746
03-05.	S.	Placed on calendar 3-6-2012 pursuant to Senate Rule 18(1)	756
03-06.	S.	Read a second time	767
03-06.	S.	Senate amendment 1 offered by Senator Leibham **(LRB a2661)**	767
03-06.	S.	Senate amendment 1 **adopted**	767
03-06.	S.	Ordered to a third reading	767
03-06.	S.	Rules suspended	767
03-06.	S.	Read a third time and **passed**, Ayes 33, Noes 0	767
03-06.	S.	Ordered immediately messaged	770
03-06.	A.	Received from Senate	876
03-06.	A.	Read first time and referred to committee on Rules	878
03-06.	A.	Assembly amendment 1 offered by Representative Krusick **(LRB a2682)**	874
03-06.	A.	Made a special order of business at 11:40 A.M. on 3-13-2012 pursuant to Assembly Resolution 22	895
03-15.	A.	Read a second time.	
03-15.	A.	Assembly amendment 1 laid on table, Ayes 92, Noes 1, Paired 2.	
03-15.	A.	Representatives Young, Barca and Bewley added as cosponsors.	
03-15.	A.	Assembly amendment 2 offered by Representative Krusick **(LRB a2971)**.	
03-15.	A.	Assembly amendment 2 laid on table, Ayes 86, Noes 5.	
03-15.	A.	Ordered to a third reading.	
03-15.	A.	Rules suspended.	
03-15.	A.	Read a third time and **concurred in**, Ayes 88, Noes 5.	
03-15.	A.	Ordered immediately messaged.	
03-16.	S.	Received from Assembly concurred in.	

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2011
ENROLLED BILL

11en S B-459

ADOPTED DOCUMENTS:

☒ **Orig** ☐ **Engr** ___ **SubAmdt** ___ **11** -3809/2

Amendments to above (if none, write "NONE"): SA1 — a2661/1

Corrections - show date (if none, write "NONE"): None

Topic Rel

3-19-12
Date

Enrolling Drafter

[rev: 1/27/11 2011enroll(fm)]

State of Wisconsin
2011 – 2012 LEGISLATURE

LRB–3809/2
TKK:jld:jm

2011 SENATE BILL 459

February 10, 2012 – Introduced by Senators LEIBHAM, LASSA and JAUCH, cosponsored by Representatives LITJENS, BROOKS, ENDSLEY, FIELDS, KERKMAN, MARKLEIN, MOLEPSKE JR, PETRYK and SPANBAUER. Referred to Committee on Economic Development and Veterans and Military Affairs.

AN ACT ***to repeal*** 234.01 (4n) (a) 3m. a. to d., 234.01 (4n) (a) 3m. e., 234.01 (4n) (b) 1., 234.01 (4n) (b) 2., 234.65 (1) (e), 234.65 (1) (f), 234.65 (1) (gm), 234.65 (1) (gp), 234.65 (2) (a) 2., 234.65 (2) (c), 234.65 (3) (a), 234.65 (3) (b), 234.65 (3) (d), 234.65 (3) (g), 234.65 (5) (b), 238.11 (3) and 238.11 (5) (b); ***to renumber*** 234.65 (5) (a), 234.65 (5) (c), 234.65 (5) (d) and 234.65 (5) (e); ***to renumber and amend*** 234.01 (4n) (a) 3m. (intro.), 234.01 (4n) (b) (intro.) and 234.65 (5) (intro.); ***to consolidate, renumber and amend*** 238.11 (5) (intro.) and (a); ***to amend*** 66.1103 (4m) (a) 2., 234.01 (4n) (a) 1., 234.01 (4n) (a) 3., 234.01 (4n) (a) 4., 234.65 (1) (a), 234.65 (1) (c), 234.65 (1) (g), 234.65 (1m), 234.65 (2) (a) 4., 234.65 (3) (intro.), 234.65 (3) (am), 234.65 (3) (dg), 234.65 (3g), 234.65 (3m), 234.65 (3r), 238.11 (1) and 238.25; and ***to create*** 234.65 (3) (bm) of the statutes; **relating**

1 **to:** economic development activities of the Wisconsin Housing and Economic
2 Development Authority.

Analysis by the Legislative Reference Bureau

This bill makes several changes to the laws governing economic development activities conducted by the Wisconsin Housing and Economic Development Authority (WHEDA).

Under current law, WHEDA may issue negotiable bonds and notes to finance economic development activities, including making economic development loans to finance economic development projects. Current law defines an economic development project to include land, plant, or equipment for facilities for all of the following: 1) manufacturing activities specified under a standard industrial classification manual published by the federal government printing office; 2) the retail sale of goods or services to consumers if the facilities are located in certain areas such as a tax incremental district, an environmental remediation tax incremental district, or a business incubator; 3) research and development activities relating to production of tangible products; and 4) activities of a long–term nature, such as research and development performed by firms engaged in manufacturing activities or firms engaged in research and development of manufactured products. This bill changes those portions of the definition of economic development project to include land, plant, or equipment for facilities for the following: 1) manufacturing or commercial real estate activities; 2) the retail sale of goods or services; 3) research and development activities; and 4) activities of a long–term nature, such as research and development or long–term working capital.

Current law permits WHEDA to issue not more than $200,000,000 in aggregate principal amount of bonds and notes for economic development activities. Current law also imposes certain limits on the total amounts of bonds and notes issued by WHEDA for other purposes, including for housing rehabilitation and for veterans housing loans and other veterans assistance programs, but provides that those limits do not apply to bonds and notes issued by WHEDA for economic development activities. This bill permits WHEDA to issue not more than $150,000,000 in aggregate principal amount of bonds and notes for economic development activities in any fiscal year. The bill also eliminates the exception to the applicability of certain limits on the amounts of bonds and notes issued by WHEDA for bonds and notes issued for economic development activities.

2011 Wisconsin Act 7 created the Wisconsin Economic Development Corporation (WEDC), a public entity authorized to develop and implement programs to provide support, expertise, and financial assistance to companies, including businesses seeking to begin or expand operations in this state, and to develop and implement other programs related to economic development in this state. Prior to the creation of WEDC, the Department of Commerce (Commerce) had responsibility over many economic development activities in Wisconsin. 2011 Wisconsin Act 32 (Act 32) transferred responsibility over economic development activities from Commerce

to WEDC, including a requirement that WEDC consent to the issuance by WHEDA of bonds and notes to finance economic development activities. Act 32 also required WEDC to adopt rules to implement the financing of economic development loans by WHEDA and required businesses that received an economic development loan from WHEDA to submit a report to WEDC. Current law prohibits WHEDA from financing an economic development loan unless the business that would have received the loan notified WEDC of its intent to sign the contract. This bill eliminates the role of WEDC in overseeing the identified aspects of WHEDA's economic development activities and requires a business that receives an economic development loan to report directly to WHEDA.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 66.1103 (4m) (a) 2. of the statutes, as affected by 2011 Wisconsin
2 Act 32, is amended to read:
3 66.1103 **(4m)** (a) 2. The municipality or county has received an estimate issued
4 under s. 238.11 (5) ~~(a)~~, and the Wisconsin Economic Development Corporation has
5 estimated whether the project which the municipality or county would finance under
6 the revenue agreement is expected to eliminate, create, or maintain jobs on the
7 project site and elsewhere in this state and the net number of jobs expected to be
8 eliminated, created, or maintained as a result of the project.
9 **SECTION 2.** 234.01 (4n) (a) 1. of the statutes is amended to read:
10 234.01 **(4n)** (a) 1. Facilities for manufacturing <u>or commercial real estate</u>
11 activities ~~specified under division D, standard industrial classification manual,~~
12 ~~federal office of management and budget, as published by the federal government~~
13 ~~printing office~~.
14 **SECTION 3.** 234.01 (4n) (a) 3. of the statutes is amended to read:
15 234.01 **(4n)** (a) 3. Facilities for the storage or distribution of products of
16 manufacturing activities ~~under subd. 1.~~, materials, components, or equipment.

SECTION 4. 234.01 (4n) (a) 3m. (intro.) of the statutes is renumbered 234.01 (4n) (a) 3m. and amended to read:

234.01 **(4n)** (a) 3m. Facilities for the retail sale of goods or services ~~to consumers if any of the following:~~.

SECTION 5. 234.01 (4n) (a) 3m. a. to d. of the statutes are repealed.

SECTION 6. 234.01 (4n) (a) 3m. e. of the statutes, as affected by 2011 Wisconsin Act 32, is repealed.

SECTION 7. 234.01 (4n) (a) 4. of the statutes is amended to read:

234.01 **(4n)** (a) 4. Facilities for research and development activities ~~relating to production of tangible products~~.

SECTION 8. 234.01 (4n) (b) (intro.) of the statutes is renumbered 234.01 (4n) (b) and amended to read:

234.01 **(4n)** (b) Activities of a long–term nature, such as research and development~~, performed by any of the following:~~ or long–term working capital.

SECTION 9. 234.01 (4n) (b) 1. of the statutes is repealed.

SECTION 10. 234.01 (4n) (b) 2. of the statutes is repealed.

SECTION 11. 234.65 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

234.65 **(1)** (a) ~~With the consent of the Wisconsin Economic Development Corporation and subject to par. (f), the~~ The authority may issue its negotiable bonds and notes to finance its economic development activities authorized or required under this chapter, including financing economic development loans.

SECTION 12. 234.65 (1) (c) of the statutes is amended to read:

234.65 **(1)** (c) The authority may not issue more than ~~$200,000,000~~ $150,000,000 in aggregate principal amount of bonds and notes under this section

in any fiscal year, excluding bonds and notes issued to refund outstanding bonds or notes issued under this section. INS. SA1-1

SECTION 13. 234.65 (1) (e) of the statutes is repealed.

SECTION 14. 234.65 (1) (f) of the statutes, as affected by 2011 Wisconsin Act 32, is repealed.

SECTION 15. 234.65 (1) (g) of the statutes is amended to read:

234.65 **(1)** (g) In granting loans under this section the authority shall give preference to businesses which are more than 50% owned or controlled by women or minorities, to businesses that, together with all of their affiliates, subsidiaries and parent companies, have current gross annual sales of $5,000,000 or less or that employ ~~25~~ 250 or fewer persons and to new businesses that have less than 50% of their ownership held or controlled by another business and have their principal business operations in this state.

SECTION 16. 234.65 (1) (gm) of the statutes is repealed.

SECTION 17. 234.65 (1) (gp) of the statutes is repealed.

SECTION 18. 234.65 (1m) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

234.65 **(1m)** The ~~Wisconsin Economic Development Corporation~~ authority shall~~, in consultation with the authority,~~ adopt ~~rules and~~ procedures to implement sub. (3).

SECTION 19. 234.65 (2) (a) 2. of the statutes is repealed.

SECTION 20. 234.65 (2) (a) 4. of the statutes is amended to read:

234.65 **(2)** (a) 4. The number of financial institutions participating in the economic development ~~loan program~~ project.

SECTION 21. 234.65 (2) (c) of the statutes is repealed.

1 **SECTION 22.** 234.65 (3) (intro.) of the statutes is amended to read:

2 234.65 **(3)** (intro.) ~~Except as provided in sub. (3g), the~~ The authority may
3 finance an economic development loan only if all of the following conditions are met:

4 **SECTION 23.** 234.65 (3) (a) of the statutes, as affected by 2011 Wisconsin Act 32,
5 is repealed.

6 **SECTION 24.** 234.65 (3) (am) of the statutes, as affected by 2011 Wisconsin Act
7 32, is amended to read:

8 234.65 **(3)** (am) The authority has ~~received an estimate issued under s. 238.11~~
9 ~~(5) (b), and the Wisconsin Economic Development Corporation has~~ estimated
10 whether the project that the authority would finance under the loan is expected to
11 eliminate, create, or maintain jobs on the project site and elsewhere in this state and
12 the net number of jobs expected to be eliminated, created, or maintained as a result
13 of the project.

14 **SECTION 25.** 234.65 (3) (b) of the statutes is repealed.

15 **SECTION 26.** 234.65 (3) (bm) of the statutes is created to read:

16 234.65 **(3)** (bm) One or more other financial institutions participate in the
17 economic development project.

18 **SECTION 27.** 234.65 (3) (d) of the statutes is repealed.

19 **SECTION 28.** 234.65 (3) (dg) of the statutes is amended to read:

20 234.65 **(3)** (dg) The authority shall not assume ~~primary~~ unsecured or
21 uncollateralized risk for any economic development loan.

22 **SECTION 29.** 234.65 (3) (g) of the statutes is repealed.

23 **SECTION 30.** 234.65 (3g) of the statutes is amended to read:

24 234.65 **(3g)** (a) Nothing in sub. (3) ~~(a) or~~ (am) may be considered to require a
25 business signing a loan contract to satisfy an estimate under sub. (3) (am).

(b) Paragraph (a) and sub. (3) ~~(a) and~~ (am) do not apply to a person engaged in the business of operating a railroad or to an economic development loan to finance an economic development project described under s. 234.01 (4n) (c).

SECTION 31. 234.65 (3m) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

234.65 **(3m)** An economic development loan may not be made unless the ~~Wisconsin Economic Development Corporation~~ authority complies with sub. (1m) and certifies that each loan complies with sub. (3).

SECTION 32. 234.65 (3r) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

234.65 **(3r)** Any economic development loan that a business receives from the authority under this section to finance a project shall require the business to submit to the ~~Wisconsin Economic Development Corporation~~ authority within 12 months after the project is completed or 2 years after a loan is issued to finance the project, whichever is sooner~~, on a form prescribed under s. 234.11 (1),~~ the net number of jobs eliminated, created, or maintained on the project site and elsewhere in this state as a result of the project. This subsection does not apply to an economic development loan to finance an economic development project described under s. 234.01 (4n) (c).

SECTION 33. 234.65 (5) (intro.) of the statutes, as affected by 2011 Wisconsin Act 32, is renumbered 234.65 (4) (c) (intro.) and amended to read:

234.65 **(4)** (c) (intro.) ~~On or before July 1, 1985, and every July 1 thereafter, the Wisconsin Economic Development Corporation shall submit to the chief clerk of each house of the legislature, for distribution to the appropriate standing committees under s. 13.172 (3), a report that addresses the~~ The effects of lending under this section in the following areas:

1 **SECTION 34.** 234.65 (5) (a) of the statutes is renumbered 234.65 (4) (c) 1.

2 **SECTION 35.** 234.65 (5) (b) of the statutes is repealed.

3 **SECTION 36.** 234.65 (5) (c) of the statutes is renumbered 234.65 (4) (c) 2.

4 **SECTION 37.** 234.65 (5) (d) of the statutes is renumbered 234.65 (4) (c) 3.

5 **SECTION 38.** 234.65 (5) (e) of the statutes is renumbered 234.65 (4) (c) 4.

6 **SECTION 39.** 238.11 (1) of the statutes, as affected by 2011 Wisconsin Act 32,
7 is amended to read:

8 238.11 **(1)** The corporation shall prescribe the notice forms to be used under ~~ss.~~
9 s. 66.1103 (4m) (a) 1. ~~and 234.65 (3) (a).~~ The corporation shall include on the forms
10 a requirement for information on the number of jobs the person submitting the notice
11 expects to be eliminated, created, or maintained on the project site and elsewhere in
12 this state by the project which is the subject of the notice. The corporation shall
13 prescribe the forms to be used under ~~ss.~~ s. 66.1103 (4m) (b) ~~and 234.65 (3r)~~.

14 **SECTION 40.** 238.11 (3) of the statutes, as affected by 2011 Wisconsin Act 32,
15 is repealed.

16 **SECTION 41.** 238.11 (5) (intro.) and (a) of the statutes, as affected by 2011
17 Wisconsin Act 32, are consolidated, renumbered 238.11 (5) and amended to read:

18 238.11 **(5)** The corporation shall issue an estimate made: ~~(a) Under~~ under sub.
19 (2)~~,~~ to the city, village, town, or county which will issue the bonds to finance the
20 project which is the subject of the estimate.

21 **SECTION 42.** 238.11 (5) (b) of the statutes, as affected by 2011 Wisconsin Act 32,
22 is repealed.

23 **SECTION 43.** 238.25 of the statutes, as affected by 2011 Wisconsin Act 32, is
24 amended to read:

1 **238.25 Assistance to loan recipients.** The corporation shall assist new
2 businesses and small businesses receiving ~~economic development loans under s.~~
3 ~~234.65 (1) (a) or~~ the assistance of the Wisconsin Housing and Economic Development
4 Authority in locating sources of venture capital and in obtaining the state and federal
5 licenses and permits necessary for business operations.

6 **(END)**

State of Wisconsin
2011 – 2012 LEGISLATURE

LRBa2661/1
TKK:jld:ph

SENATE AMENDMENT 1,

TO 2011 SENATE BILL 459

March 6, 2012 – Offered by Senator LEIBHAM.

SA 1-1

At the locations indicated, amend the bill as follows:

1. Page 4, line 23: delete the material beginning with that line and ending with page 5, line 2, and substitute:

"SECTION **12g.** 234.65 (1) (c) of the statutes is renumbered 234.65 (1) (c) 1. and amended to read:

234.65 **(1)** (c) 1. The authority may ~~not~~ issue not more than ~~$200,000,000~~ $150,000,000 in aggregate principal amount of bonds and notes under this section, excluding bonds and notes issued to refund outstanding bonds or notes issued under this section, in each of the 3 consecutive fiscal years beginning after the effective date of this subdivision .... [LRB inserts date], and, except as provided in subd. 2., may not issue bonds and notes under this section after the last day of the 3rd fiscal year that begins after the effective date of this subdivision .... [LRB inserts date].

SECTION **12r.** 234.65 (1) (c) 2. of the statutes is created to read:

1 234.65 **(1)** (c) 2. If, after the last day of the 3rd fiscal year that begins after the
2 effective date of this subdivision .... [LRB inserts date], the authority determines that
3 a continuation of the program under this section will promote significant economic
4 development in this state, the authority may seek approval from the joint committee
5 on finance to issue additional bonds and notes under this section by submitting to
6 the committee a written request that states the reasons supporting the authority's
7 determination that the issuance of additional bonds and notes will promote
8 significant economic development in this state. If, within 14 working days after the
9 date of that written request, the cochairpersons of the committee do not notify the
10 authority that the committee has scheduled a meeting to review the authority's
11 proposal to issue additional bonds and notes under this section, the authority may
12 proceed to issue not more than $150,000,000 in aggregate principal bonds and notes
13 under this section, excluding bonds and notes issued to refund outstanding bonds or
14 notes issued under this section, in each of the 3 consecutive fiscal years beginning
15 with the fiscal year in which approval is obtained under this subdivision. If, within
16 14 working days after the date of that written request, the cochairpersons of the
17 committee notify the authority that the committee has scheduled a meeting to review
18 the authority's proposal to issue additional bonds and notes under this section, the
19 authority may issue bonds and notes under this section only upon approval of the
20 committee.".
21 **(END)**