



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2011 Wisconsin Act 7
[January 2011 Special Session
Senate Bill 6]

**Wisconsin Economic
Development Corporation**

2011 Wisconsin Act 7 creates a new authority, known as the Wisconsin Economic Development Corporation (WEDC), to develop and implement economic programs to assist companies that are investing and creating jobs in Wisconsin and to support new business start-ups and business expansion and growth in this state. Act 7 authorizes the Secretary of the Department of Administration (DOA) to transfer funds to the WEDC from the Department of Commerce (Commerce) and to abolish Commerce positions, as described below.

Board Membership

The WEDC is governed by a board that consists of the following 13 voting members:

- The Governor (who serves as chair of the board).
- Six members nominated by the Governor and confirmed by the Senate, who serve at the pleasure of the Governor.
- Three members appointed by the Senate Majority Leader (one majority party member, one minority party member, and one person employed in the private sector), who serve at the pleasure of the Majority Leader.
- Three members appointed by the Assembly Speaker (one majority party member, one minority party member, and one person employed in the private sector), who serve at the pleasure of the Speaker.

In addition, the Secretaries of DOA and the Department of Revenue serve on the board as nonvoting members.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

Board Powers and Duties

The Governor nominates a chief executive officer (CEO) of the WEDC, who is appointed with the advice and consent of the Senate and serves at the pleasure of the Governor. The board is authorized to set the CEO's compensation and to delegate to the CEO any powers and duties that the board considers proper.

The board is also authorized to do all of the following:

- Adopt, amend, and repeal any bylaws, policies, and procedures for the regulation of its affairs and the conduct of its business.
- Have a seal and alter the seal at pleasure.
- Maintain an office.
- Sue and be sued.
- Accept gifts, grants, loans, or other contributions from private or public sources.
- Establish the corporation's annual budget and monitor the fiscal management of the corporation.
- Execute contracts and other instruments required for the operation of the corporation.
- Employ any officers, agents, and employees that it may require and determine their qualifications, duties, and compensation.
- Issue notes, bonds, and any other obligations.
- Make loans and provide grants.
- Incur debt.
- Procure liability insurance.

WEDC Program Requirements

The board is required to develop and implement economic programs to provide business support and expertise and financial assistance to companies that are investing and creating jobs in Wisconsin and to support new business start-ups and business expansion and growth in the state. The board may also develop and implement any other programs related to economic development in the state.

For each program developed and implemented, the board is required to:

- Establish clear and measurable goals for the program that are tied to statutory or programmatic policy objectives.
- Establish at least one quantifiable benchmark for each program goal.

- Require that each recipient of a grant or loan under the program submit a report to the WEDC. Each contract with a recipient of a grant or loan must specify the frequency and format of the report and the performance measures to be included.
- Establish a method for evaluating the projected results of the program with actual outcomes as determined by evaluating the goals and benchmarks established for the program.
- Annually and independently verify, from a sample of grants and loans, the accuracy of the information required to be reported by grant and loan recipients.

In addition, the board must do the following with regard to recipients of grants and loans administered by the WEDC:

- Require each recipient of a grant or loan of \$100,000 or more to submit a verified statement, signed by an independent certified public accountant and the director or principal officer of the recipient, describing the recipient's expenditure of the grant or loan funds and make documents supporting the statement available for inspection.
- Recoup and withhold payments made to any recipient of a grant or loan who submits false or misleading information to the WEDC or fails to comply with the terms of a contract with the WEDC without providing satisfactory explanation for the noncompliance; the WEDC must also impose financial penalties on such recipients.

Inclusion in Wisconsin Retirement System

Act 7, through a partial veto by the Governor, includes the WEDC in the Wisconsin Retirement System, which allows WEDC employees to participate in group insurance and other benefit programs offered by the state to its employees, including state employee health insurance coverage and the state's deferred compensation program.

Appropriations Schedule

Act 7 creates a statutory appropriations schedule for fiscal years 2009-10 and 2010-11 to fund WEDC economic development activities, including a general purpose revenue (GPR), a program revenue (PR), and a federal (FED) appropriation. Act 7 does not appropriate any funds to the WEDC.

Authority of the DOA Secretary to Transfer Funds and Abolish Positions

Act 7 authorizes the DOA Secretary to transfer Commerce funds to WEDC and abolish positions at Commerce. Specifically, the DOA Secretary is authorized, before July 1, 2011, or the effective date of the 2011-13 Biennial Budget Act, whichever is later, to transfer moneys used to fund economic development programs from Commerce appropriations (including a GPR, a PR, and a FED appropriation) to the WEDC appropriations described above. The Secretary is also authorized, until July 1, 2011, to abolish any full-time equivalent Commerce position that is assigned duties relating to economic development programs.

Applicability or Inapplicability of Laws to the WEDC

Under Act 7, the WEDC board members and the CEO are subject to the State Ethics Code and must submit an annual Statement of Economic Interests. Among other provisions of current law, WEDC is also subject to:

- The Lobbying Law.
- The Open Records Law and Open Meetings Law.
- DOA and the Legislative Fiscal Bureau access to WEDC records.
- Nondiscrimination clauses in contracts.

Starting on January 1, 2012, WEDC employees will be subject to the general prohibition on dual employment by state employees. Under that prohibition, individuals employed or retained in a full-time position with an agency or authority are generally prohibited from holding any other position with a state agency or authority if they receive more than \$12,000 per year in compensation from the second agency or authority. [s. 16.417 (2) (a), Stats.]

Act 7 exempts the WEDC from a number of statutory requirements, including, for example, those relating to state energy conservation, the state building program, DOA rules on employee surveillance, and required use of alternative fuels. Projects that receive funding from WEDC would be required to comply with all building codes, zoning ordinances, and other local ordinances to the same extent that they otherwise would be.

Assistance from Commerce

Under Act 7, if requested by the WEDC board, Commerce must provide staff or other resources to assist the board in carrying out its functions. Further, to the greatest extent practicable, Commerce and the board must seek to coordinate their economic development programs.

Audit Requirements

Act 7 specifies that, as a “public body corporate and politic created by the Legislature,” WEDC is subject to auditing by the Legislative Audit Bureau (LAB). The Act also establishes two specific audit requirements with regard to WEDC:

- WEDC programs will be included in an audit that LAB is currently required to conduct, by July 1, 2012, of economic development programs administered by Commerce and seven other state agencies.
- LAB will conduct a biennial financial audit of WEDC and program evaluation audit of economic development programs administered by WEDC, beginning in 2013. WEDC is required to reimburse LAB for the cost of conducting the biennial audit.

Reports to the Legislature

Act 7 requires the WEDC to make two annual reports to the Legislature. First, WEDC is required to submit an annual report to the Legislature, by January 1 of each year, identifying the

economic development projects that the WEDC board intends to develop and implement during the forthcoming calendar year.

Second, the WEDC is required to submit an annual report by October 1 of each year to the Joint Legislative Audit Committee and the Legislature that contains the following information with regard to each economic development program administered by WEDC during the previous fiscal year:

- A description of each program.
- A comparison of expected and actual program outcomes.
- The number of grants made under the program.
- The number of loans made under the program.
- The amount of each grant and loan made under the program.
- The recipient of each grant or loan made under the program.
- The sum total of all grants and loans awarded to and received by each recipient under the program.
- Any recommended changes to the program.

Effective date: Except for the prohibition on dual employment, which takes effect on January 1, 2012, the Act takes effect on February 24, 2011.

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