

State of Wisconsin



January 2011 Special Session
Senate Bill 6

Date of enactment: **February 9, 2011**
Date of publication*: **February 23, 2011**

2011 WISCONSIN ACT 7

(Vetoed in Part)

AN ACT *to amend* 1.12 (1) (b), 13.172 (1), 13.48 (13) (a), 13.62 (2), 13.94 (1) (mm), 13.94 (4) (a) 1., 13.95 (intro.), 16.002 (2), 16.004 (4), 16.004 (5), 16.004 (12) (a), 16.045 (1) (a), 16.15 (1) (ab), 16.41 (4), 16.417 (1) (a), 16.417 (1) (b), 16.52 (7), 16.528 (1) (a), 16.53 (2), 16.54 (9) (a) 1., 16.765 (1), 16.765 (2), 16.765 (5), 16.765 (6), 16.765 (7) (intro.), 16.765 (7) (d), 16.765 (8), 16.85 (2), 16.865 (8), **40.02 (28), 40.02 (36)**, 71.26 (1) (be), 77.54 (9a) (a), 100.45 (1) (dm), 101.177 (1) (d), 230.03 (3), 281.75 (4) (b) 3. and 285.59 (1) (b); and *to create* 13.48 (10) (b) 6., 13.48 (12) (b) 5., 13.94 (1) (dr), 13.94 (1s) (c) 5., 19.42 (10) (sm), 19.42 (13) (om), 20.192, 40.02 (54) (m), 70.11 (38r) and chapter 238 of the statutes; **relating to:** creation of an authority, to be known as the Wisconsin Economic Development Corporation, and making appropriations.

Vetoed
In Part

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

SECTION 1. 1.12 (1) (b) of the statutes is amended to read:

1.12 (1) (b) "State agency" means an office, department, agency, institution of higher education, the legislature, a legislative service agency, the courts, a judicial branch agency, an association, society, or other body in state government that is created or authorized to be created by the constitution or by law, for which appropriations are made by law, excluding the Health Insurance Risk-Sharing Plan Authority and the Wisconsin Economic Development Corporation.

SECTION 2. 13.172 (1) of the statutes is amended to read:

13.172 (1) In this section, "agency" means an office, department, agency, institution of higher education, association, society, or other body in state government

created or authorized to be created by the constitution or any law, that is entitled to expend moneys appropriated by law, including the legislature and the courts, and any authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 233, 234, 238, or 279.

SECTION 3. 13.48 (10) (b) 6. of the statutes is created to read:

13.48 (10) (b) 6. Projects of the Wisconsin Economic Development Corporation.

SECTION 4. 13.48 (12) (b) 5. of the statutes is created to read:

13.48 (12) (b) 5. A facility constructed by or for the Wisconsin Economic Development Corporation.

SECTION 5. 13.48 (13) (a) of the statutes is amended to read:

13.48 (13) (a) Except as provided in par. (b) or (c), every building, structure or facility that is constructed for the benefit of or use of the state, any state agency, board, commission or department, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Naviga-

* Section 991.11, WISCONSIN STATUTES 2009-10 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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tional System Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic Development Corporation, or any local professional baseball park district created under subch. III of ch. 229 if the construction is undertaken by the department of administration on behalf of the district, shall be in compliance with all applicable state laws, rules, codes and regulations but the construction is not subject to the ordinances or regulations of the municipality in which the construction takes place except zoning, including without limitation because of enumeration ordinances or regulations relating to materials used, permits, supervision of construction or installation, payment of permit fees, or other restrictions.

SECTION 6. 13.62 (2) of the statutes is amended to read:

13.62 (2) “Agency” means any board, commission, department, office, society, institution of higher education, council, or committee in the state government, or any authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 232, 233, 234, 237, 238, or 279, except that the term does not include a council or committee of the legislature.

SECTION 7. 13.94 (1) (dr) of the statutes is created to read:

13.94 (1) (dr) Biennially, beginning in 2013, conduct a financial audit of the Wisconsin Economic Development Corporation and a program evaluation audit of the economic development programs administered by the Wisconsin Economic Development Corporation under ch. 238. The legislative audit bureau shall file a copy of each audit report under this paragraph with the distributees specified in par. (b).

SECTION 8. 13.94 (1) (mm) of the statutes is amended to read:

13.94 (1) (mm) No later than July 1, 2012, prepare a financial and performance evaluation audit of the economic development programs administered by the department of commerce, the University of Wisconsin System, the department of agriculture, trade and consumer protection, the department of natural resources, the Wisconsin Housing and Economic Development Authority, the Wisconsin Economic Development Corporation, the department of tourism, the technical college system, and the department of transportation. In this paragraph, economic development program has the meaning given in s. 560.001 (1m). The legislative audit bureau shall file a copy of the report of the audit under this paragraph with the distributees specified in par. (b).

SECTION 9. 13.94 (1s) (c) 5. of the statutes is created to read:

13.94 (1s) (c) 5. The Wisconsin Economic Development Corporation for the cost of the audit required to be performed under sub. (1) (dr).

SECTION 10. 13.94 (4) (a) 1. of the statutes is amended to read:

13.94 (4) (a) 1. Every state department, board, examining board, affiliated credentialing board, commission, independent agency, council or office in the executive branch of state government; all bodies created by the legislature in the legislative or judicial branch of state government; any public body corporate and politic created by the legislature including specifically the Wisconsin Quality Home Care Authority, the Fox River Navigational System Authority, the Lower Fox River Remediation Authority, and the Wisconsin Aerospace Authority, the Wisconsin Economic Development Corporation, a professional baseball park district, a local professional football stadium district, a local cultural arts district and a long-term care district under s. 46.2895; every Wisconsin works agency under subch. III of ch. 49; every provider of medical assistance under subch. IV of ch. 49; technical college district boards; every county department under s. 51.42 or 51.437; every nonprofit corporation or cooperative or unincorporated cooperative association to which moneys are specifically appropriated by state law; and every corporation, institution, association or other organization which receives more than 50% of its annual budget from appropriations made by state law, including subgrantee or subcontractor recipients of such funds.

SECTION 11. 13.95 (intro.) of the statutes is amended to read:

13.95 Legislative fiscal bureau. (intro.) There is created a bureau to be known as the “Legislative Fiscal Bureau” headed by a director. The fiscal bureau shall be strictly nonpartisan and shall at all times observe the confidential nature of the research requests received by it; however, with the prior approval of the requester in each instance, the bureau may duplicate the results of its research for distribution. Subject to s. 230.35 (4) (a) and (f), the director or the director’s designated employees shall at all times, with or without notice, have access to all state agencies, the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic Development Corporation, and the Fox River Navigational System Authority, and to any books, records, or other documents maintained by such agencies or authorities and relating to their expenditures, revenues, operations, and structure.

SECTION 12. 16.002 (2) of the statutes is amended to read:

16.002 (2) “Departments” means constitutional offices, departments, and independent agencies and includes all societies, associations, and other agencies of state government for which appropriations are made by law, but not including authorities created in subch. II of ch. 114 or subch. III of ch. 149 ~~and or in chs. ch.~~ 52, 231, 232, 233, 234, 235, 237, ~~and~~ 238, or 279.

SECTION 13. 16.004 (4) of the statutes is amended to read:

16.004 (4) **FREEDOM OF ACCESS.** The secretary and such employees of the department as the secretary designates may enter into the offices of state agencies and authorities created under subch. II of ch. 114 or subch. III of ch. 149 and under chs. 52, 231, 233, 234, 237, 238, and 279, and may examine their books and accounts and any other matter that in the secretary's judgment should be examined and may interrogate the agency's employees publicly or privately relative thereto.

SECTION 14. 16.004 (5) of the statutes is amended to read:

16.004 (5) **AGENCIES AND EMPLOYEES TO COOPERATE.** All state agencies and authorities created under subch. II of ch. 114 or subch. III of ch. 149 and under chs. 52, 231, 233, 234, 237, 238, and 279, and their officers and employees, shall cooperate with the secretary and shall comply with every request of the secretary relating to his or her functions.

SECTION 15. 16.004 (12) (a) of the statutes is amended to read:

16.004 (12) (a) In this subsection, "state agency" means an association, authority, board, department, commission, independent agency, institution, office, society, or other body in state government created or authorized to be created by the constitution or any law, including the legislature, the office of the governor, and the courts, but excluding the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic Development Corporation, and the Fox River Navigational System Authority.

SECTION 16. 16.045 (1) (a) of the statutes is amended to read:

16.045 (1) (a) "Agency" means an office, department, independent agency, institution of higher education, association, society, or other body in state government created or authorized to be created by the constitution or any law, that is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 232, 233, 234, 235, 237, 238, or 279.

SECTION 17. 16.15 (1) (ab) of the statutes is amended to read:

16.15 (1) (ab) "Authority" has the meaning given under s. 16.70 (2), but excludes the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic Development Corporation, and the Health Insurance Risk-Sharing Plan Authority.

SECTION 18. 16.41 (4) of the statutes is amended to read:

16.41 (4) In this section, "authority" means a body created under subch. II of ch. 114 or subch. III of ch. 149 or under ch. 52, 231, 233, 234, 237, 238, or 279.

SECTION 19. 16.417 (1) (a) of the statutes is amended to read:

16.417 (1) (a) "Agency" means an office, department, independent agency, institution of higher education, association, society, or other body in state government created or authorized to be created by the constitution or any law, that is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority or the body created under subch. III of ch. 149 or under ch. 238.

SECTION 20. 16.417 (1) (a) of the statutes, as affected by 2011 Wisconsin Act (this act), is amended to read:

16.417 (1) (a) "Agency" means an office, department, independent agency, institution of higher education, association, society, or other body in state government created or authorized to be created by the constitution or any law, that is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority or the body created under subch. III of ch. 149 ~~or under ch. 238~~.

SECTION 21. 16.417 (1) (b) of the statutes is amended to read:

16.417 (1) (b) "Authority" means a body created under subch. II of ch. 114 or ch. 52, 231, 232, 233, 234, 235, 237, 238, or 279.

SECTION 22. 16.52 (7) of the statutes is amended to read:

16.52 (7) **PETTY CASH ACCOUNT.** With the approval of the secretary, each agency that is authorized to maintain a contingent fund under s. 20.920 may establish a petty cash account from its contingent fund. The procedure for operation and maintenance of petty cash accounts and the character of expenditures therefrom shall be prescribed by the secretary. In this subsection, "agency" means an office, department, independent agency, institution of higher education, association, society, or other body in state government created or authorized to be created by the constitution or any law, that is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 233, 234, 237, 238, or 279.

SECTION 23. 16.528 (1) (a) of the statutes is amended to read:

16.528 (1) (a) "Agency" means an office, department, independent agency, institution of higher education, association, society, or other body in state government created or authorized to be created by the constitution or any law, that is entitled to expend moneys appropriated by law, including the legislature and the

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courts, but not including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 233, 234, 237, 238, or 279.

SECTION 24. 16.53 (2) of the statutes is amended to read:

16.53 (2) IMPROPER INVOICES. If an agency receives an improperly completed invoice, the agency shall notify the sender of the invoice within 10 working days after it receives the invoice of the reason it is improperly completed. In this subsection, “agency” means an office, department, independent agency, institution of higher education, association, society, or other body in state government created or authorized to be created by the constitution or any law, that is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 233, 234, 237, 238, or 279.

SECTION 25. 16.54 (9) (a) 1. of the statutes is amended to read:

16.54 (9) (a) 1. “Agency” means an office, department, independent agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law, which is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 233, 234, 237, 238, or 279.

SECTION 26. 16.765 (1) of the statutes is amended to read:

16.765 (1) Contracting agencies, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Health Insurance Risk–Sharing Plan Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic Development Corporation, and the Bradley Center Sports and Entertainment Corporation shall include in all contracts executed by them a provision obligating the contractor not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01 (5), sexual orientation as defined in s. 111.32 (13m), or national origin and, except with respect to sexual orientation, obligating the contractor to take affirmative action to ensure equal employment opportunities.

SECTION 27. 16.765 (2) of the statutes is amended to read:

16.765 (2) Contracting agencies, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Health Insurance Risk–Sharing Plan Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care Authority,

the Wisconsin Economic Development Corporation, and the Bradley Center Sports and Entertainment Corporation shall include the following provision in every contract executed by them: “In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01 (5), sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the contractor further agrees to take affirmative action to ensure equal employment opportunities. The contractor agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the non-discrimination clause”.

SECTION 28. 16.765 (5) of the statutes is amended to read:

16.765 (5) The head of each contracting agency and the boards of directors of the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Health Insurance Risk–Sharing Plan Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic Development Corporation, and the Bradley Center Sports and Entertainment Corporation shall be primarily responsible for obtaining compliance by any contractor with the nondiscrimination and affirmative action provisions prescribed by this section, according to procedures recommended by the department. The department shall make recommendations to the contracting agencies and the boards of directors of the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Health Insurance Risk–Sharing Plan Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic Development Corporation, and the Bradley Center Sports and Entertainment Corporation for improving and making more effective the nondiscrimination and affirmative action provisions of contracts. The department shall promulgate such rules as may be necessary for the performance of its functions under this section.

SECTION 29. 16.765 (6) of the statutes is amended to read:

16.765 (6) The department may receive complaints of alleged violations of the nondiscrimination provisions of such contracts. The department shall investigate and determine whether a violation of this section has

occurred. The department may delegate this authority to the contracting agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Health Insurance Risk–Sharing Plan Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic Development Corporation, or the Bradley Center Sports and Entertainment Corporation for processing in accordance with the department’s procedures.

SECTION 30. 16.765 (7) (intro.) of the statutes is amended to read:

16.765 (7) (intro.) When a violation of this section has been determined by the department, the contracting agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Health Insurance Risk–Sharing Plan Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic Development Corporation, or the Bradley Center Sports and Entertainment Corporation, the contracting agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Health Insurance Risk–Sharing Plan Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic Development Corporation, or the Bradley Center Sports and Entertainment Corporation shall:

SECTION 31. 16.765 (7) (d) of the statutes is amended to read:

16.765 (7) (d) Direct the violating party to take immediate steps to prevent further violations of this section and to report its corrective action to the contracting agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Health Insurance Risk–Sharing Plan Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic Development Corporation, or the Bradley Center Sports and Entertainment Corporation.

SECTION 32. 16.765 (8) of the statutes is amended to read:

16.765 (8) If further violations of this section are committed during the term of the contract, the contracting agency, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Health Insurance Risk–Sharing Plan Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic Development Corporation, or the Bradley Center Sports and Entertainment Corporation may permit the violating party to complete the contract, after complying with this section, but thereafter the contracting agency, the Fox River Navigational

System Authority, the Wisconsin Aerospace Authority, the Health Insurance Risk–Sharing Plan Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic Development Corporation, or the Bradley Center Sports and Entertainment Corporation shall request the department to place the name of the party on the ineligible list for state contracts, or the contracting agency, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Health Insurance Risk–Sharing Plan Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic Development Corporation, or the Bradley Center Sports and Entertainment Corporation may terminate the contract without liability for the uncompleted portion or any materials or services purchased or paid for by the contracting party for use in completing the contract.

SECTION 33. 16.85 (2) of the statutes is amended to read:

16.85 (2) To furnish engineering, architectural, project management, and other building construction services whenever requisitions therefor are presented to the department by any agency. The department may deposit moneys received from the provision of these services in the account under s. 20.505 (1) (kc) or in the general fund as general purpose revenue — earned. In this subsection, “agency” means an office, department, independent agency, institution of higher education, association, society, or other body in state government created or authorized to be created by the constitution or any law, which is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 233, 234, 237, 238, or 279.

SECTION 34. 16.865 (8) of the statutes is amended to read:

16.865 (8) Annually in each fiscal year, allocate as a charge to each agency a proportionate share of the estimated costs attributable to programs administered by the agency to be paid from the appropriation under s. 20.505 (2) (k). The department may charge premiums to agencies to finance costs under this subsection and pay the costs from the appropriation on an actual basis. The department shall deposit all collections under this subsection in the appropriation account under s. 20.505 (2) (k). Costs assessed under this subsection may include judgments, investigative and adjustment fees, data processing and staff support costs, program administration costs, litigation costs, and the cost of insurance contracts under sub. (5). In this subsection, “agency” means an office, department, independent agency, institution of higher education, association, society, or other body in state government created or authorized to be created by the constitution or any law, that is entitled to expend moneys appropriated by law, including the legislature and the

courts, but not including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 232, 233, 234, 235, 237, 238, or 279.

SECTION 35. 19.42 (10) (sm) of the statutes is created to read:

19.42 (10) (sm) The members of the board of directors of the Wisconsin Economic Development Corporation employed in the private sector who are appointed by the speaker of the assembly and the senate majority

leader.

SECTION 36. 19.42 (13) (om) of the statutes is created to read:

19.42 (13) (om) The members of the board of directors of the Wisconsin Economic Development Corporation employed in the private sector who are appointed by the speaker of the assembly and the senate majority leader.

SECTION 37. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

			2009–10	2010–11
20.192	Wisconsin Economic Development Corporation			
(1)	PROMOTION OF ECONOMIC DEVELOPMENT			
(a)	Operations and programs	GPR C	–0–	–0–
(k)	Transferred general fund moneys from department of commerce	PR–S C	–0–	–0–
(m)	Federal aid; programs	PR–F C	–0–	–0–

SECTION 38. 20.192 of the statutes is created to read:

20.192 Wisconsin Economic Development Corporation. There is appropriated to the Wisconsin Economic Development Corporation for the following program:

(1) PROMOTION OF ECONOMIC DEVELOPMENT. (a) *Operations and programs.* As a continuing appropriation, the amounts in the schedule for the operations of the Wisconsin Economic Development Corporation and for funding economic development programs developed and implemented under s. 238.03.

(k) *Transferred general fund moneys from department of commerce.* All moneys transferred under 2011 Wisconsin Act (this act), section 9155 (2), for the operations of the Wisconsin Economic Development Corporation and for funding economic development programs developed and implemented under s. 238.03.

(m) *Federal aid; programs.* All moneys received from the federal government as authorized by the governor under s. 16.54, for the purposes of funding programs administered by the Wisconsin Economic Development Corporation.

40.51 (7) and 40.61 (3). “Employer” does not include a local cultural arts district created under subch. V of ch. 229. Each employer shall be a separate legal jurisdiction for OASDHI purposes.

**Vetoed
In Part**

SECTION 40. 40.02 (36) of the statutes is amended to read:

40.02 (36) “Governing body” means the legislature or the head of each state agency with respect to employees of that agency for the state, the common council in cities, the village board in villages, the town board in towns, the county board in counties, the school board in school districts, or the board, commission, or other governing body having the final authority for any other unit of government, for any agency or instrumentality of 2 or more units of government, for any federated public library system established under s. 43.19 whose territory lies within a single county with a population of 500,000 or more, for a local exposition district created under subch. II of ch. 229, for the Wisconsin Economic Development Corporation created under ch. 238, or for a long-term care district created under s. 46.2895, but does not include a local cultural arts district created under subch. V of ch. 229.

SECTION 41. 40.02 (54) (m) of the statutes is created to read:

40.02 (54) (m) The Wisconsin Economic Development Corporation, but only if the corporation elects to become a participating employer under s. 40.21 (1).

**Vetoed
In Part**

SECTION 42. 70.11 (38r) of the statutes is created to read:

70.11 (38r) ECONOMIC DEVELOPMENT CORPORATION. All property owned by the Wisconsin Economic Development Corporation, provided that use of the property is primarily related to the purposes of the Wisconsin Economic Development Corporation.

**Vetoed
In Part**

SECTION 39. 40.02 (28) of the statutes is amended to read:

40.02 (28) “Employer” means the state, including each state agency, any county, city, village, town, school district, other governmental unit or instrumentality of 2 or more units of government now existing or hereafter created within the state, any federated public library system established under s. 43.19 whose territory lies within a single county with a population of 500,000 or more, a local exposition district created under subch. II of ch. 229, the Wisconsin Economic Development Corporation created under ch. 238, a transit authority created under s. 66.1039, and a long-term care district created under s. 46.2895, except as provided under ss.

SECTION 43. 71.26 (1) (be) of the statutes is amended to read:

71.26 (1) (be) *Certain authorities.* Income of the University of Wisconsin Hospitals and Clinics Authority, of the Health Insurance Risk–Sharing Plan Authority, of the Wisconsin Quality Home Care Authority, of the Fox River Navigational System Authority, of the Wisconsin Economic Development Corporation, and of the Wisconsin Aerospace Authority.

SECTION 44. 77.54 (9a) (a) of the statutes is amended to read:

77.54 (9a) (a) This state or any agency thereof, the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Health Insurance Risk–Sharing Plan Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic Development Corporation, and the Fox River Navigational System Authority.

SECTION 45. 100.45 (1) (dm) of the statutes is amended to read:

100.45 (1) (dm) “State agency” means any office, department, agency, institution of higher education, association, society, or other body in state government created or authorized to be created by the constitution or any law which is entitled to expend moneys appropriated by law, including the legislature and the courts, the Wisconsin Housing and Economic Development Authority, the Bradley Center Sports and Entertainment Corporation, the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Health and Educational Facilities Authority, the Wisconsin Aerospace Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic Development Corporation, and the Fox River Navigational System Authority.

SECTION 46. 101.177 (1) (d) of the statutes is amended to read:

101.177 (1) (d) “State agency” means any office, department, agency, institution of higher education, association, society, or other body in state government created or authorized to be created by the constitution or any law, that is entitled to expend moneys appropriated by law, including the legislature and the courts, the Wisconsin Housing and Economic Development Authority, the Bradley Center Sports and Entertainment Corporation, the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic Development Corporation, and the Wisconsin Health and Educational Facilities Authority, but excluding the Health Insurance Risk–Sharing Plan Authority and the Lower Fox River Remediation Authority.

SECTION 47. 230.03 (3) of the statutes is amended to read:

230.03 (3) “Agency” means any board, commission, committee, council, or department in state government or a unit thereof created by the constitution or statutes if

such board, commission, committee, council, department, unit, or the head thereof, is authorized to appoint subordinate staff by the constitution or statute, except a legislative or judicial board, commission, committee, council, department, or unit thereof or an authority created under subch. II of ch. 114 or subch. III of ch. 149 or under ch. 52, 231, 232, 233, 234, 235, 237, 238, or 279. “Agency” does not mean any local unit of government or body within one or more local units of government that is created by law or by action of one or more local units of government.

SECTION 48. Chapter 238 of the statutes is created to read:

CHAPTER 238

WISCONSIN ECONOMIC DEVELOPMENT CORPORATION

238.01 Definitions. In this chapter, except as otherwise provided:

(1) “Board” means the board of directors of the corporation.

(2) “Corporation” means the Wisconsin Economic Development Corporation.

(3) “Economic development program” means a program or activity having the primary purpose of encouraging the establishment and growth of business in this state, including the creation and retention of jobs.

238.02 Creation and organization of corporation.

(1) There is created an authority, which is a public body corporate and politic, to be known as the “Wisconsin Economic Development Corporation.” The members of the board shall consist of the governor, who shall serve as chairperson of the board, and 6 members nominated by the governor, and with the advice and consent of the senate appointed, to serve at the pleasure of the governor; 3 members appointed by the speaker of the assembly, consisting of one majority and one minority party representative to the assembly, appointed as are the members of standing committees in the assembly, and one person employed in the private sector, to serve at the speaker’s pleasure; and 3 members appointed by the senate majority leader, consisting of one majority and one minority party senator, appointed as are members of standing committees in the senate, and one person employed in the private sector, to serve at the majority leader’s pleasure. The secretary of administration and the secretary of revenue shall also serve on the board as nonvoting members.

(2) A majority of the voting members of the board constitutes a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Action may be taken by the board upon a vote of a majority of the voting members present.

(3) A chief executive officer shall be nominated by the governor, and with the advice and consent of the senate appointed, to serve at the pleasure of the governor. The board may delegate to the chief executive officer any

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powers and duties the board considers proper. The chief executive officer shall receive such compensation as may be determined by the board.

238.03 Duties of board. (1) The board shall 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 Wisconsin. The board may also develop and implement any other programs related to economic development in Wisconsin.

(2) For each program developed and implemented by the board, the board shall do all of the following:

(a) Establish clear and measurable goals for the program that are tied to statutory or programmatic policy objectives.

(b) Establish at least one quantifiable benchmark for each program goal described in par. (a).

(c) Require that each recipient of a grant or loan under the program submit a report to the corporation. Each contract with a recipient of a grant or loan under the program must specify the frequency and format of the report to be submitted to the corporation and the performance measures to be included in the report.

(d) Establish a method for evaluating the projected results of the program with actual outcomes as determined by evaluating the information described in pars. (a) and (b).

(e) Annually and independently verify, from a sample of grants and loans, the accuracy of the information required to be reported under par. (c).

(3) The board shall require for each program developed and implemented by the board all of the following:

(a) That each recipient of a grant or loan under the program of at least \$100,000 submit to the corporation a verified statement describing the recipient's expenditure of the grant or loan funds, signed by both an independent certified public accountant and the director or principal officer of the recipient to attest to the accuracy of the verified statement. The board shall also require the recipient of such a grant or loan to make available for inspection the documents supporting the verified statement. The board must include the requirement in the contract with grant or loan recipients.

(b) That the board, if a recipient of a grant or loan under the program submits false or misleading information to the corporation or fails to comply with the terms of a contract entered into with the corporation, without providing satisfactory explanation for the noncompliance, do all of the following:

1. Recoup payments made to the recipient.
2. Withhold future payments to be made to the recipient.
3. Impose a financial penalty on the recipient.

238.04 Powers of board. The board shall have all the powers necessary or convenient to carry out the pur-

poses and provisions of this chapter. In addition to all other powers granted the board under this chapter, the board may specifically:

(1) Adopt, amend, and repeal any bylaws, policies, and procedures for the regulation of its affairs and the conduct of its business.

(2) Have a seal and alter the seal at pleasure.

(3) Maintain an office.

(4) Sue and be sued.

(5) Accept gifts, grants, loans, or other contributions from private or public sources.

(6) Establish the corporation's annual budget and monitor the fiscal management of the corporation.

(7) Execute contracts and other instruments required for the operation of the corporation.

(8) Employ any officers, agents, and employees that it may require and determine their qualifications, duties, and compensation.

(9) Issue notes, bonds, and any other obligations.

(10) Make loans and provide grants.

(11) Incur debt.

(12) Procure liability insurance.

(13) Elect to become a participating employer in the Wisconsin Retirement System under s. 40.21 (1).

**Vetoed
In Part**

238.05 Department of commerce assistance and coordination. (1) If requested by the board, the department of commerce shall provide staff or other resources to assist the board in carrying out the purposes and provisions of this chapter.

(2) To the greatest extent practicable, the department of commerce and the board shall seek to coordinate their economic development programs.

238.06 Liability limited. Neither the state nor any political subdivision of the state, nor any officer, employee, or agent of the state or a political subdivision of the state who is acting within the scope of employment or agency, is liable for any debt, obligation, act, or omission of the corporation.

238.07 Submission of annual reports to legislature. (1) Annually, by January 1, the board shall submit to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), a report identifying the economic development projects that the board intends to develop and implement during the current calendar year.

(2) Annually, no later than October 1, the board shall submit to the joint legislative audit committee and the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), a report for the previous fiscal year on each of the economic development programs of the corporation that contains all of the following:

- (a) A description of each program.
- (b) A comparison of expected and actual program outcomes.
- (c) The number of grants made under the program.

(d) The number of loans made under the program.

(e) The amount of each grant and loan made under the program.

(f) The recipient of each grant or loan made under the program.

(g) The sum total of all grants and loans awarded to and received by each recipient under the program.

(h) Any recommended changes to the program.

(3) The board shall make readily accessible to the public on an Internet-based system the information required under sub. (2).

SECTION 49. 281.75 (4) (b) 3. of the statutes is amended to read:

281.75 (4) (b) 3. An authority created under subch. II of ch. 114 or ch. 52, 231, 233, 234, ~~or 237~~, or 238.

SECTION 50. 285.59 (1) (b) of the statutes is amended to read:

285.59 (1) (b) “State agency” means any office, department, agency, institution of higher education, association, society, or other body in state government created or authorized to be created by the constitution or any law which is entitled to expend moneys appropriated by law, including the legislature and the courts, the Wisconsin Housing and Economic Development Authority, the Bradley Center Sports and Entertainment Corporation, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic

Development Corporation, and the Wisconsin Health and Educational Facilities Authority.

SECTION 9155. Nonstatutory provisions; Other.

(1) ABOLITION OF DEPARTMENT OF COMMERCE POSITIONS. Notwithstanding section 16.505 (1) of the statutes, before July 1, 2011, the secretary of administration may abolish any full-time equivalent position or portion thereof that is funded from the general fund from revenues appropriated under section 20.143 of the statutes and that is assigned duties relating to economic development programs of the department of commerce.

(2) TRANSFER OF MONEYS FROM THE DEPARTMENT OF COMMERCE TO THE WISCONSIN ECONOMIC DEVELOPMENT CORPORATION. Before July 1, 2011, or the effective date of the 2011–2013 biennial budget act, whichever is later, the secretary of administration may transfer moneys from any general fund appropriation under section 20.143 (1) or (4) of the statutes that are used to fund economic development programs of the department of commerce to the appropriation under section 20.192 (1) (k) of the statutes, as created by this act. The secretary may not transfer any moneys under this subsection if the transfer of those moneys would violate a condition imposed by the federal government on the expenditure of the moneys or if the transfer would violate the federal or state constitution.

SECTION 9455. Effective dates; Other.

(1) DUAL EMPLOYMENT. The treatment of section 16.417 (1) (a) (by SECTION 20) and (b) of the statutes takes effect on January 1, 2012.