



2007 ASSEMBLY BILL 935

March 11, 2008 - Introduced by Representative MOLEPSKE. Referred to Committee on Jobs and The Economy.

1 **AN ACT to renumber and amend** 560.075 (1) and 560.075 (2); **to amend**
2 560.075 (title); and **to create** 73.03 (64), 560.075 (1m) (intro.), 560.075 (1m) (a),
3 560.075 (1m) (b), 560.075 (1m) (c), 560.075 (1m) (d), 560.075 (2) (b), 560.075 (2)
4 (c), 560.075 (3), 560.075 (4) and 560.075 (5) of the statutes; **relating to:** creating
5 reporting and repayment requirements for grants, loans, and tax benefits
6 provided to businesses by the Department of Revenue and the Department of
7 Commerce.

Analysis by the Legislative Reference Bureau

This bill creates reporting and repayment requirements for recipients of grants, loans, and tax benefits (development assistance) under certain current economic development programs.

Under current law, the Department of Commerce (department) may not award development assistance unless the department enters into an agreement that requires the recipient to repay the development assistance if, within five years after receiving the development assistance, the person ceases to conduct in this state the economic activity for which the person received the development assistance and commences substantially the same economic activity outside this state.

Under the bill, the department must enter into an agreement with a recipient of development assistance that requires the recipient to repay the development

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assistance as provided under current law or if the recipient fails to make a capital investment specified in the agreement or fails to create or retain jobs as specified in the agreement. The department may agree to accept repayment of a pro rata share of development assistance.

The bill requires a recipient of development assistance to submit an annual report to the department that contains certain information about the jobs created or retained as a result of the development assistance. The department may make reasonable inspections to verify the information contained in such reports. If a recipient fails to submit a report, the department must suspend further development assistance to the recipient until the recipient submits the report. Under the bill, the department must make recipients' annual reports available to the public on the Internet.

The bill requires the department to submit an annual report to the legislature that contains certain information about development assistance provided in the preceding year. Also, the Department of Revenue must annually submit to the legislature a report identifying taxpayers who received tax benefits in the preceding year and the amount of tax benefits each taxpayer received.

For further information see the *state* 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.** 73.03 (64) of the statutes is created to read:

2 73.03 **(64)** Not later than July 1, 2010, and not later than each subsequent July
3 1, to submit to the legislature the names of all taxpayers who received tax benefits,
4 as defined in s. 560.075 (1) (e), in the preceding fiscal year and the amount of tax
5 revenue that the state did not collect in the preceding fiscal year as a result of such
6 benefits.

7 **SECTION 2.** 560.075 (title) of the statutes is amended to read:

8 **560.075** (title) ~~Repayment of grants~~ **Grants, loans, and tax benefits;**
9 **reporting requirements, development agreements, and repayments.**

10 **SECTION 3.** 560.075 (1) of the statutes is renumbered 560.075 (1m) (e) and
11 amended to read:

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1 560.075 (1m) (e) ~~In this section, “tax~~ “Tax benefits” means the credits under
2 ss. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), and (3t), 71.28
3 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3g), and (3t), 71.47 (1dd), (1de),
4 (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3g), and (3t), and 76.636.

5 **SECTION 4.** 560.075 (1m) (intro.) of the statutes is created to read:

6 560.075 (1m) (intro.) In this section:

7 **SECTION 5.** 560.075 (1m) (a) of the statutes is created to read:

8 560.075 (1m) (a) “Development assistance” means a grant or loan under this
9 chapter or tax benefits.

10 **SECTION 6.** 560.075 (1m) (b) of the statutes is created to read:

11 560.075 (1m) (b) “Full-time” means at least 35 hours per week.

12 **SECTION 7.** 560.075 (1m) (c) of the statutes is created to read:

13 560.075 (1m) (c) “New employee” does not include any of the following:

14 1. An employee who performs a job that was previously performed by another
15 employee in this state, if that job existed in this state for at least 6 months before
16 hiring the employee.

17 2. A child, grandchild, parent, or spouse of an individual who has a direct or
18 indirect ownership interest of at least 5 percent in the profits, capital, or value of a
19 business.

20 **SECTION 8.** 560.075 (1m) (d) of the statutes is created to read:

21 560.075 (1m) (d) “Part-time” means less than 35 hours per week.

22 **SECTION 9.** 560.075 (2) of the statutes is renumbered 560.075 (2) (intro.) and
23 amended to read:

24 560.075 (2) (intro.) The department may not award ~~a grant or loan under this~~
25 chapter development assistance to a person or ~~certify a person to receive tax benefits~~

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1 unless the department enters into ~~an~~ a development agreement with the person that
2 requires the person to repay the ~~grant, loan, or tax benefits if, within~~ development
3 assistance if any of the following apply:

4 (a) Within 5 years after receiving the ~~grant or loan or being certified to receive~~
5 ~~tax benefits~~ development assistance, the person ceases to conduct in this state the
6 economic activity for which the person received the ~~grant or loan or for which the~~
7 ~~person was certified to receive tax benefits~~ development assistance and commences
8 substantially the same economic activity outside this state.

9 **SECTION 10.** 560.075 (2) (b) of the statutes is created to read:

10 560.075 (2) (b) The person fails to make a capital investment specified in the
11 development agreement.

12 **SECTION 11.** 560.075 (2) (c) of the statutes is created to read:

13 560.075 (2) (c) The person fails to create or retain jobs as specified in the
14 development agreement.

15 **SECTION 12.** 560.075 (3) of the statutes is created to read:

16 560.075 (3) The department shall ensure that a recipient of development
17 assistance that violates the provisions of a development agreement repays the full
18 amount of the development assistance received, except that the department may
19 agree to accept a pro rata share of the amount of the development assistance received
20 if the department determines that such a settlement is equitable.

21 **SECTION 13.** 560.075 (4) of the statutes is created to read:

22 560.075 (4) (a) A recipient of development assistance shall annually not later
23 than December 31 of each calendar year submit to the department a progress report
24 that contains all of the following information:

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1 1. The program under which the recipient received the development assistance
2 and the value of the development assistance provided to the recipient.

3 2. The total number of employees employed by the recipient at the site for which
4 the recipient received development assistance, at the time the recipient applied for
5 development assistance and at the time the recipient prepared the progress report,
6 including the number of permanent full-time employees, the number of part-time
7 employees, the number of temporary employees, and the net loss or gain in each
8 category of employee.

9 3. The number of any new or retained employees that the recipient represented
10 in its application for development assistance would result from development
11 assistance, broken down by full-time, part-time, and temporary employees.

12 4. A statement indicating whether the recipient is in compliance with the terms
13 of any development assistance agreement into which the recipient entered.

14 5. A detailed list of the job classifications or occupations of employees that the
15 recipient intends to hire or retain in the future as a result of the development
16 assistance the recipient received and the wage the recipient pays or intends to pay
17 the employees.

18 6. A statement describing any decreases in employment in this state resulting
19 from the recipient's use of development assistance.

20 7. A certification by the recipient's chief operating officer or by an authorized
21 representative of the recipient's chief operating officer that the progress report
22 contains no knowing misrepresentation of fact material to the recipient's receipt of
23 development assistance.

24 (b) The department may make reasonable inspections to verify information
25 submitted in a progress report under par. (a).

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1 (c) If a recipient of development assistance fails to submit a timely progress
2 report under par. (a), the department shall, as soon as is practicable, suspend further
3 development assistance to the recipient that is in the department's control until the
4 recipient submits a progress report.

5 **SECTION 14.** 560.075 (5) of the statutes is created to read:

6 560.075 (5) (a) Not later than June 1, 2010, and not later than each subsequent
7 June 1, the department shall submit to the legislature and make available on the
8 department's Internet Web site the information received in progress reports in the
9 preceding calendar year.

10 (b) Not later than December 31, 2011, and not later than each subsequent
11 December 31, the department shall prepare and submit to the legislature and make
12 available on the department's Internet Web site a report detailing amounts
13 recovered by the department from recipients of development assistance that failed
14 to comply with provisions in development agreements required under sub. (2). The
15 report under this paragraph shall include all of the following information:

16 1. The number of recipients of development assistance in the preceding fiscal
17 year.

18 2. The total number of recipients of development assistance who violated the
19 terms of a development agreement in the preceding fiscal year.

20 3. The number of recipients from whom the department sought to recover
21 development assistance in the preceding fiscal year.

22 4. The number of recipients from whom the department recovered development
23 assistance in the preceding fiscal year, and the amount the department recovered
24 from each recipient.

25 **SECTION 15. Effective date.**

