



2009 ASSEMBLY BILL 904

March 26, 2010 - Introduced by Representatives MASON, MOLEPSKE JR., GRIGSBY, SHILLING, VRUWINK, TURNER, ZEPNICK, FIELDS and BERCEAU, cosponsored by Senators LASSA, HOLPERIN, LEHMAN, TAYLOR, KREITLOW and VINEHOUT. Referred to Committee on Energy and Utilities.

1 **AN ACT to amend** 20.143 (1) (c), 20.143 (1) (gm), 20.143 (1) (ie), 20.143 (1) (m),
2 20.143 (1) (n) and 196.374 (3) (a); and **to create** 16.54 (14), 20.143 (1) (hr),
3 20.143 (1) (mr), 196.374 (2) (a) 2. e., 196.374 (2) (a) 4. and 560.128 of the
4 statutes; **relating to:** loans to manufacturing businesses for energy
5 improvements, job creation, retooling, or clean energy production; the
6 administration of energy utility programs; providing an exemption from
7 emergency rule procedures; requiring the exercise of emergency rule-making
8 procedures; and making appropriations.

Analysis by the Legislative Reference Bureau

This bill authorizes the Department of Commerce (department) to make loans to manufacturing businesses for any of the following activities: 1) implementing energy efficiency measures in their facilities, 2) retooling to manufacture products that support the green economy, 3) expanding or establishing domestic clean energy manufacturing, or 4) creating or retaining workers engaged in the preceding activities.

The bill requires the department to promulgate rules that set clear job-creation standards for loan recipients, establish minimum energy savings requirements, give priority to existing manufacturing businesses, and ensure that loans will be

ASSEMBLY BILL 904

distributed throughout the state. Under the bill, work paid for with loan proceeds must be performed by contractors and subcontractors who agree to pay employees who perform the work not less than the prevailing wage, as defined under current law applicable to certain municipal public works projects.

Funding for loans under the bill comes from current appropriations that fund a variety of economic development programs, including appropriations that receive repayments of loans made by the department under other economic development programs and under the program created in the bill, and from certain federal moneys received by the state. Under the bill, the governor must deposit federal moneys that could be used to assist manufacturing businesses in the state retool for, or expand, production of clean energy in an appropriation account that funds loans under the program created by the bill, unless the moneys are otherwise appropriated and subject to applicable federal restrictions.

Current law requires investor-owned electric and natural gas utilities (energy utilities) to spend a specified percentage of their operating revenues on certain energy efficiency and renewable resource programs (energy utility programs). Current law also requires the energy utilities to contract with one or more persons to administer the energy utility programs. The Public Service Commission (PSC) has certain oversight duties regarding the energy utility programs, including approving contracts for administration of the energy utility programs. This bill requires the energy utility programs to include components for implementing energy efficiency or renewable resource measures in manufacturing business facilities that are consistent with the objectives under the loan program described above. The bill requires a person with whom the energy utilities contract for administering the energy utility programs to ensure coordination between the loan program and the energy utility programs that are directed towards industrial and manufacturing customers of energy utilities. The bill also requires such a person to submit annual reports to the PSC and the department regarding the energy utility programs that are directed towards such customers. In addition, the bill requires the PSC to cooperate with the department to ensure coordination between the energy utility programs and the loan program.

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.** 16.54 (14) of the statutes is created to read:
2 16.54 (14) Subsections (1) to (8) do not apply to federal moneys made available
3 to the state that could be utilized to assist manufacturing businesses in the state
4 retool for, or expand, production of clean energy. Unless otherwise appropriated by

ASSEMBLY BILL 904

1 law, and subject to any applicable restrictions under federal law, the governor shall
2 deposit such federal moneys in the appropriation account under s. 20.143 (1) (mr).

3 **SECTION 2.** 20.143 (1) (c) of the statutes, as affected by 2009 Wisconsin Act 28,
4 is amended to read:

5 20.143 (1) (c) *Wisconsin development fund; grants, loans, reimbursements, and*
6 *assistance.* Biennially, the amounts in the schedule for grants under s. 560.145; for
7 loans under s. 560.128; for grants and loans under s. 560.275 (2) and subch. V of ch.
8 560; for reimbursements under s. 560.167; for the costs specified in s. 560.607; for the
9 loan under 1999 Wisconsin Act 9, section 9110 (4); and for the grants under 1995
10 Wisconsin Act 27, section 9116 (7gg), 1995 Wisconsin Act 119, section 2 (1), 1997
11 Wisconsin Act 27, section 9110 (6g), 2003 Wisconsin Act 33, section 9109 (1d) and
12 (2q), 2007 Wisconsin Act 20, section 9108 (4u), (6c), (7c), (7f), (8c), (8i), (9i), and (10q),
13 2009 Wisconsin Act 2, section 9110 (2) and (3), and 2009 Wisconsin Act 28, section
14 9110 (17q).

15 **SECTION 3.** 20.143 (1) (gm) of the statutes, as affected by 2009 Wisconsin Act
16 28, is amended to read:

17 20.143 (1) (gm) *Administration of grants and loans.* All moneys received from
18 origination fees under ss. 560.138 (7), 560.139 (4), 560.305 (2), and 560.68 (3), and
19 from transfer fees under s. 560.205 (3) (e), for administering the programs under ss.
20 560.138, 560.139, and 560.304 and under subch. V of ch. 560 ~~and~~, for the costs of
21 underwriting grants and loans awarded under ss. 560.138, 560.139, and 560.304 and
22 under subch. V of ch. 560, and for loans under s. 560.128.

23 **SECTION 4.** 20.143 (1) (hr) of the statutes is created to read:

ASSEMBLY BILL 904**SECTION 4**

1 20.143 (1) (hr) *Loans to manufacturing businesses; repayments.* All moneys
2 received from repayments of loans under s. 560.128, to be used for loans to
3 manufacturing businesses under s. 560.128.

4 **SECTION 5.** 20.143 (1) (ie) of the statutes, as affected by 2009 Wisconsin Act 28,
5 is amended to read:

6 20.143 (1) (ie) *Wisconsin development fund, repayments.* All moneys received
7 in repayment of grants or loans under s. 560.085 (4) (b), 1985 stats., s. 560.10, 2005
8 stats., s. 560.147, 2005 stats., s. 560.16, 1995 stats., s. 560.165, 1993 stats., s. 560.275
9 (2), s. 560.62, 2005 stats., s. 560.63, 2005 stats., s. 560.66, 2005 stats., ss. 560.145,
10 560.157, and 560.45, subch. V of ch. 560, 1989 Wisconsin Act 336, section 3015 (1m),
11 1989 Wisconsin Act 336, section 3015 (2m), 1989 Wisconsin Act 336, section 3015
12 (3gx), 1997 Wisconsin Act 27, section 9110 (7f), 1997 Wisconsin Act 310, section 2
13 (2d), 1999 Wisconsin Act 9, section 9110 (4), and 2007 Wisconsin Act 20, section 9108
14 (5x), not appropriated under par. (gv) to be used for grants and loans under s. 560.275
15 (2), s. 560.45, and subch. V of ch. 560, for loans under s. 560.128, for the loan under
16 1999 Wisconsin Act 9, section 9110 (4), for the grant under 2001 Wisconsin Act 16,
17 section 9110 (7g), for the grants under 2003 Wisconsin Act 33, section 9109 (1d) and
18 (2q), for the study under 2009 Wisconsin Act 28, section 9110 (15u), and for
19 reimbursements under s. 560.167.

20 **SECTION 6.** 20.143 (1) (m) of the statutes is amended to read:

21 20.143 (1) (m) *Federal aid, state operations.* All moneys received from the
22 federal government as authorized by the governor under s. 16.54, for state operations
23 and for loans under s. 560.128.

24 **SECTION 7.** 20.143 (1) (mr) of the statutes is created to read:

ASSEMBLY BILL 904

1 20.143 (1) (mr) *Loans to manufacturing businesses*. All moneys received from
2 the federal government for assisting manufacturing businesses in retooling for, or
3 expanding, production of clean energy and deposited by the governor under s. 16.54
4 (14), to be used for loans under s. 560.128.

5 **SECTION 8.** 20.143 (1) (n) of the statutes is amended to read:

6 20.143 (1) (n) *Federal aid, local assistance*. All moneys received from the
7 federal government, as authorized by the governor under s. 16.54, for local assistance
8 and for loans under s. 560.128.

9 **SECTION 9.** 196.374 (2) (a) 2. e. of the statutes is created to read:

10 196.374 (2) (a) 2. e. Components to implement energy efficiency or renewable
11 energy measures in facilities of manufacturing businesses in this state that are
12 consistent with the objectives under s. 560.128 (1) (a).

13 **SECTION 10.** 196.374 (2) (a) 4. of the statutes is created to read:

14 196.374 (2) (a) 4. A person contracted to administer the programs under subd.
15 1. shall ensure coordination between the programs directed towards industrial and
16 manufacturing customers under subd. 1. and the program under s. 560.128.
17 Annually, a person contracted to administer the programs under subd. 1. shall
18 submit a report to the commission and to the department of commerce regarding the
19 programs directed towards industrial and manufacturing customers under subd. 1.

20 **SECTION 11.** 196.374 (3) (a) of the statutes is amended to read:

21 196.374 (3) (a) *In general*. The commission shall have oversight of programs
22 under sub. (2). The commission shall maximize coordination of program delivery,
23 including coordination between programs under subs. (2) (a) 1., (b) 1. and 2., and (c)
24 and (7), ordered programs, low-income weatherization programs under s. 16.957,
25 renewable resource programs under s. 196.378, and other energy efficiency or

ASSEMBLY BILL 904**SECTION 11**

1 renewable resource programs. The commission shall cooperate with the department
2 of natural resources to ensure coordination of energy efficiency and renewable
3 resource programs with air quality programs and to maximize and document the air
4 quality improvement benefits that can be realized from energy efficiency and
5 renewable resource programs. The commission shall cooperate with the department
6 of commerce to ensure coordination of energy efficiency and renewable resource
7 programs under sub. (2) (a) 2. e. with the loan program under s. 560.128 (1) (a).

8 **SECTION 12.** 560.128 of the statutes is created to read:

9 **560.128 Loans to manufacturing businesses. (1)** From the appropriations
10 under s. 20.143 (1) (c), (gm), (hr), (ie), (m), (mr), and (n), the department may make
11 a loan to a manufacturing business in this state to do any of the following:

12 (a) Implement energy efficiency or renewable energy measures in their
13 facilities to enhance their competitiveness.

14 (b) Retool existing facilities to manufacture products that support the green
15 economy.

16 (c) Expand or establish domestic clean energy manufacturing operations.

17 (d) Create or retain jobs for workers engaged in activities under pars. (a) to (c).

18 **(2)** The department shall promulgate rules establishing eligibility criteria that
19 do all of the following:

20 (a) Set clear job-creation standards for loan recipients.

21 (b) Establish minimum energy savings that an eligible manufacturer must
22 expect will result from the loan's utilization.

23 (c) Give priority to existing manufacturing businesses.

24 (d) Ensure that loans under this section will be distributed to manufacturing
25 businesses throughout the state.

ASSEMBLY BILL 904

1 (e) Requires all work paid for with the proceeds of a loan under this section be
2 performed by a contractor or subcontractor that agrees to pay all employees
3 performing work paid for with the proceeds of a loan under this section who would
4 be entitled to receive the prevailing wage rate under s. 66.0903, if the improvement
5 or application were a project of public works under s. 66.0903, not less than the
6 prevailing wage rate determined under s. 66.0903 (3) or (6).

7 **SECTION 13. Nonstatutory provisions.**

8 (1) Using the procedure under section 227.24 of the statutes, the department
9 of commerce shall promulgate rules required under section 560.128 (2) of the
10 statutes, as created by this act, for the period before the effective date of the
11 permanent rules promulgated under that section, but not to exceed the period
12 authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding
13 section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department of commerce is
14 not required to provide evidence that promulgating a rule under this subsection as
15 an emergency rule is necessary for the preservation of public peace, health, safety,
16 or welfare and is not required to provide a finding of an emergency for a rule
17 promulgated under this subsection.

18

(END)