

October 1983 Spec. Sess.
Assembly Bill 6

Date of enactment: November 10, 1983
Date of publication: November 16, 1983

1983 Wisconsin Act 83
(Vetoed in Part)*

**Vetoed
in Part**

AN ACT to repeal 234.145 and 560.087; to amend 234.02 (1), 234.03 (11), (14), (19) and (20), 234.034, 234.165 (2) (a) and (b) 2, ~~234.24~~ 234.265, 234.29 and 234.80 (1) (b); and to create 15.157 (4), 20.143 (1) (h), 234.01 (3m), (4m), (4n) and (5n), 234.03 (21) to (30), 234.08 (7), 234.65 and 560.03 (17) of the statutes, relating to renaming the Wisconsin housing finance authority and expanding its functions to include economic development loans, establishing a council in the department of development, requiring reports and making an appropriation.

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

SECTION 1. Legislative declaration. It is declared that:

(1) The high cost and lack of availability of loans issued at a fixed rate of interest make it difficult for small- and medium-sized businesses in this state to continue their present employment levels or to expand employment.

(2) Unemployment puts additional pressure on this state's welfare and unemployment compensation programs and is a serious menace to the health, safety and general welfare of the residents of this state.

(3) It is in the public interest to stimulate commercial and industrial growth and to encourage increased private investment by banks, savings and loan associations, investment houses, insurance companies and other financial institutions, including pension and retirement funds, and to import private debt capital to create new economic activity which would not otherwise occur in this state.

(4) It is a valid public purpose to establish mechanisms that will encourage and increase the availability of debt capital for the expansion of business activity in this state, and thereby to increase construction, manufacturing, commerce, employment and tax revenue.

SECTION 2. 15.157 (4) of the statutes is created to read:

15.157 (4) COUNCIL ON ECONOMIC DEVELOPMENT AND EXPORT. (a) There is created in the department of development a council on economic development and export consisting of 8 members, with 2 members appointed by the secretary of development, one of whom shall have extensive experience in export loans and one of whom shall have extensive experience in marketing, 2 members appointed by the secretary of agricultural, trade

* Review of partial veto pending during the 1984 session of the legislature.

and consumer protection, one of whom shall have extensive experience in agriculture exports and one of whom shall have extensive experience in agricultural marketing, 2 members appointed by the executive director of the Wisconsin housing and economic development authority, and 2 members appointed by the governor, one of whom shall have extensive experience in public finance and one of whom shall have extensive experience in private finance. Of their 2 appointments, the secretary of development, the secretary of agriculture, trade and consumer protection, the executive director of the Wisconsin housing and economic development authority and the governor shall each appoint at least one person who is not a public employe. The council shall make recommendations on the economic development activities of the Wisconsin housing and economic development authority, including its export loan program.

(b) The council shall submit its recommendations to the secretary of development. Upon review and modification, as needed, the secretary shall submit the recommendations to the Wisconsin housing and economic development authority.

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

		1983-84	1984-85
20.143	Development, department of		
(1)	ECONOMIC AND COMMUNITY DEVELOPMENT		
(h)	Economic development and export operations	PR A	
		23,900	23,900

SECTION 4. 20.143 (1) (h) of the statutes is created to read:

20.143 (1) (h) *Economic development and export operations.* The amounts in the schedule for the department's responsibilities under ss. 234.65, 234.80 and 560.03 (17). All moneys received under ss. 234.65 (1) (f) and 234.80 (4) shall be credited to this appropriation.

SECTION 5. 234.01 (3m), (4m), (4n) ~~and (5)~~ of the statutes are created to read:

**Vetoed
in Part**

234.01 (3m) "Collateral" means a 3rd-party note, mortgage, guaranty, insurance policy, bond, letter of credit, security agreement or other instrument securing the repayment of an economic development loan or a mortgage loan.

(4m) "Economic development loan" means an advance of moneys, supported by a written promise of repayment, to finance an economic development project.

(4n) "Economic development project" means any of the following:

(a) Land, plant or equipment for any of the following:

1. Facilities for manufacturing activities specified under division D, standard industrial classification manual, federal office of management and budget, 1972 edition, as published by the federal government printing office.

2. National or regional headquarters facilities.

3. Facilities for the storage or distribution of products of manufacturing activities under subd. 1, materials, components or equipment.

3m. Facilities for the retail sale of goods or services to consumers for personal, family or household purposes if each such facility is in a tax incremental district or is the subject of an urban development action grant and will result in a net economic benefit to the state.

4. Facilities for research and development activities relating to production of tangible products.

5. Recreational and tourism facilities serving to attract visitors to this state.

6. Facilities for the production of raw agricultural commodities.

(b) Activities of a long-term nature, such as research and development, performed by any of the following:

1. Firms engaged in manufacturing activities under par. (a) 1.
2. Firms engaged in research and development of manufactured products.

**Vetoed
in Part**

~~(S) "Financial institution" means a bank, savings and loan association, credit union, insurance company, finance company, mortgage banker, community development corporation, small business investment corporation, pension fund or other lender engaged in making commercial loans in this state.~~

SECTION 6. 234.02 (1) of the statutes is amended to read:

234.02 (1) There is created a public body corporate and politic to be known as the "Wisconsin housing ~~finance and economic development~~ authority". The members of the authority shall be the secretary of development or his or her designee, and 6 public members nominated by the governor, and with the advice and consent of the senate appointed, for staggered 4-year terms commencing on the dates their predecessors' terms expire. In addition, one senator of each party and one representative to the assembly of each party appointed as are the members of standing committees in their respective houses shall serve as members of the authority. A member of the authority shall receive no compensation for services but shall be reimbursed for necessary expenses, including travel expenses, incurred in the discharge of duties. Subject to the bylaws of the authority respecting resignations, each member shall hold office until a successor has been appointed and has qualified. A certificate of appointment or reappointment of any member shall be filed with the authority and the certificate shall be conclusive evidence of the due and proper appointment.

SECTION 7. 234.03 (11), (14), (19) and (20) of the statutes are amended to read:

234.03 (11) To collect fees and charges on mortgage loans and economic development loans for the purpose of paying all or a portion of authority costs as the authority determines are reasonable and as approved by the authority.

(14) To sell collateral, mortgages and security interests at public or private sale, to modify or alter collateral, mortgages and security interests, to foreclose on any such collateral, mortgage or security interest or commence any action to protect or enforce any right conferred upon it by any law, mortgage, security agreement, contract or other agreement, and to bid for and purchase property which was the subject of such collateral, mortgage or security interest, at any foreclosure or at any other sale, to acquire and to take possession of any such property; and in such event the authority may complete, administer, pay the principal and interest on any obligations incurred in connection with such property, and dispose of and otherwise deal with, such property, in such manner as may be necessary or desirable to protect the interests of the authority therein.

(19) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purpose, to the modification of ~~the rate of interest, time of payment or any instalment of principal or interest, or any other term, of any mortgage loan, mortgage loan commitment, construction loan, temporary~~ any loan, contract or agreement of any kind to which the authority is a party.

(20) To adopt such rules and set such standards as are necessary to effectuate its corporate purpose with respect to financing economic development lending, mortgage lending, construction lending and temporary lending.

SECTION 8. 234.03 (21) to (30) of the statutes are created to read:

**Vetoed
in Part**

234.03 (21) ~~With the consent of the department of development,~~ to purchase and enter into commitments to purchase all or part of economic development loans and to lend funds to financial institutions agreeing to use the funds immediately to make economic development loans, if the authority determines that a conventional loan is unavailable on reasonably equivalent terms and conditions.

(22) To require and hold collateral to secure economic development loans and to require participating financial institutions to attest to the best of their ability to the value of the collateral.

(23) To establish other terms and conditions of economic development loans, including providing for prepayment penalties and providing for full repayment of principal and interest upon movement out of state of that part of the business operation financed by the economic development programs of the authority.

~~(24) To withhold disbursement of funds under a commitment to purchase or participate in a mortgage or economic development loan for the construction or improvement of property until the construction or improvement is completed according to the plans and specifications, a financial institution has issued an irrevocable letter of credit or a corporate surety has furnished an acceptable performance bond.~~

Vetoed
in Part

(25) To require certification from the local unit of government having jurisdiction over the location of an economic development project that the economic development project serves a public purpose and conventional financing is unavailable on reasonably equivalent terms and conditions.

(26) To establish and maintain a program within the authority, or to establish and maintain a corporation organized under ch. 180 or 181, to insure or guarantee economic development loans, collateral or bonds or notes issued under s. 234.65.

(28) To cooperate and enter into agreements with state agencies or partnerships and corporations organized under chs. 178 to 181 to promote economic development activity within this state.

(29) To follow, as it deems necessary to effectuate its corporate purpose with respect to economic development lending, the recommendations provided by the secretary of development under s. 15.157 (4).

(30) To provide administrative services for and use and pay for the use of the facilities and services of any corporation established and maintained by the authority.

SECTION 9. 234.034 of the statutes is amended to read:

234.034 Consistency with state housing plan. Subject to agreements with bondholders or noteholders, the authority shall exercise its powers and perform its duties related to housing consistent with the state housing plan under s. 560.115.

SECTION 10. 234.08 (7) of the statutes is created to read:

234.08 (7) The authority may, by resolution before issuance, declare any issue of its bonds or notes to be subject to federal income taxation.

SECTION 11. 234.145 of the statutes, as created by 1983 Wisconsin Act (Assembly Bill 451) is repealed.

SECTION 12. 234.165 (2) (a) and (b) 2 of the statutes are amended to read:

234.165 (2) (a) In this subsection, "surplus" means assets of the authority surplus fund not required to pay the cost of issuance of bonds or notes of the authority, to make financially feasible economic development loans and housing projects receiving proceeds from authority bond or note issues or to honor agreements with bondholders and noteholders, if the assets are funds withdrawn from reserve accounts established for bonds or notes issued under s. 234.18 (1) or earnings of the withdrawn funds.

(b) 2. On or before May 31 the authority shall submit to the governor a plan for expending or encumbering the surplus. The part of the plan related to housing shall be consistent with the state housing plan under s. 560.115.

~~SECTION 13. 234.24 of the statutes is amended to read:
234.24 System of accounts. Subject to agreements with noteholders and bondholders, the authority shall prescribe a system of funds and accounts.~~

Vetoed
in Part

SECTION 14. 234.265 of the statutes is amended to read:

234.265 Records of the authority. All records of the authority or any corporation established by the authority shall be open to the public, except those records relating to pending grants, economic development loans or housing projects which, in the opinion of the authority, must remain confidential to protect the competitive nature of ~~any such housing the grant, loan or project.~~

SECTION 15. 234.29 of the statutes is amended to read:

234.29 Equality of occupancy and employment. The authority shall require that occupancy of housing projects assisted under this chapter be open to all regardless of sex, race, religion, sexual orientation or creed, and that contractors and subcontractors engaged in the construction of economic development or housing projects, shall provide an equal opportunity for employment, without discrimination as to sex, race, religion, sexual orientation or creed.

SECTION 16. 234.65 of the statutes is created to read:

234.65 Economic development. (1) (a) With the consent of the department of development and subject to par. (f), 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.

(b) The limits in ss. 234.18, 234.40, 234.50, 234.60, 234.70 and 234.80 do not apply to bonds or notes issued under this section.

(c) The authority may not issue more than \$95,000,000 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.

(cm) No bonds or notes may be issued under this section after June 30, 1986, except bonds or notes issued to refund outstanding bonds and notes issued under this section.

(d) This state is not morally or legally liable on and s. 234.15 (4) does not apply to bonds or notes issued under this section, and all bonds or notes issued under this section shall contain on the face thereof a statement to that effect.

(dm) The authority has no moral or legal obligation or liability to any borrower under this section except as expressly provided by written contract.

(e) The authority shall employ the state building commission as its financial consultant to assist and coordinate the issuance of bonds and notes under this section.

(f) The authority may not issue bonds or notes under par. (a) unless it has contracted to reimburse the department of development a sum certain for the department's operating costs in carrying out its responsibilities to effectuate and promote the economic development programs created with the bonding authority in this chapter and its responsibilities under s. 560.03 (17).

(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 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.

(gm) The authority may not grant a loan in an amount greater than 4% of the amount of bonds and notes authorized under par. (c) for the benefit of a business that, together with all of its affiliates and subsidiaries and its parent company, has current gross annual sales in excess of \$5,000,000.

(gp) The authority may not refinance a loan to a business which has been a participant in a tax incremental financing district.

(1m) The department of development shall, in consultation with the authority, promulgate rules and adopt procedures, in accordance with the procedures under ch. 227, to implement subs. ~~(2) and~~ (3). **Vetoed in Part**

(2) The authority may finance an economic development loan only after considering all of the following:

(a) The extent to which an economic development project will maintain or increase employment in this state.

(b) The extent to which an economic development project will make a significant contribution to this state's economic growth and the well-being of its residents.

(c) Whether an economic development project will be located in an area of high unemployment or low average income.

(d) The number of financial institutions participating in the economic development loan program.

(e) The extent to which the activities constituting the economic development project otherwise would not occur.

(3) The authority may finance an economic development loan only if all of the following conditions are met:

(a) The economic development project will maintain or expand employment in this state.

(b) Conventional financing is unavailable for the economic development project on reasonably equivalent terms and conditions.

(c) The economic development project is or will be located in this state.

(d) The business receiving the benefits of the loan proceeds, together with all of its affiliates and subsidiaries and its parent company, has current gross annual sales of \$35,000,000 or less.

~~(dg) All such loans shall be secured with security devices for the authority's benefit in such form and amount as the authority may determine to minimize the authority's investment risk. The authority shall not assume primary risk for any economic development loan.~~ **Vetoed in Part**

(e) The economic development loan will not be used to refinance existing debt, unless it is in conjunction with an expansion of the business or job creation.

(3m) An economic development loan may not be made unless the department of development complies with sub. (1m) and certifies that each loan complies with subs. ~~(2) and~~ (3). **Vetoed in Part**

(4) In respect to the loans issued under this section, the authority shall submit to the governor, the joint committee on finance and the standing committees in each house of the legislature having jurisdiction over economic development within 6 months after the close of its fiscal year an annual report including all of the following for the fiscal year:

(a) A statement of the authority's operations, accomplishments, goals and objectives.

(b) A financial statement showing income and expenses, assets and liabilities and a schedule of its bonds and notes outstanding and the amounts redeemed and issued.

(5) On or before July 1, 1985, and every July 1 thereafter, the department of development shall submit to the appropriate standing committee of each house of the legislature, as determined by the presiding officer thereof, a report which shall address the effects of lending under this section in the following areas:

(a) Maintaining or increasing employment in this state.

(b) Contributing to this state's economic growth and the well-being of its residents.

(c) Locating economic development projects in areas of high unemployment or low average income.

(d) Obtaining the participation of a large number of financial institutions in the lending.

(e) The geographical distribution of lending in this state.

SECTION 16g. 234.80 (1) (b) of the statutes, as created by 1983 Wisconsin Act (Assembly Bill 451), is amended to read:

234.80 (1) (b) The limits in ss. 234.18, 234.40, 234.50, 234.60, 234.65 and 234.70 do not apply to bonds and notes issued under this section.

SECTION 18. 560.03 (17) of the statutes is created to read:

560.03 (17) Assist new businesses and small businesses receiving economic development loans under s. 234.65 (1) (a) or the assistance of the Wisconsin housing and economic development authority in locating sources of venture capital and in obtaining the state and federal licenses and permits necessary for business operations.

SECTION 18m. 560.087 of the statutes, as created by 1983 Wisconsin Act (Assembly Bill 451), is repealed.

SECTION 19. **Nonstatutory provisions; position authorization.** The authorized FTE positions for the department of development are increased by 1.0 PR position on the effective date of this act to be funded from the appropriation under section 20.143 (1) (h) of the statutes for the purpose of performing the responsibilities assigned to the department under this act and under section 234.80 of the statutes.

SECTION 20. **Terminology changes.** Wherever the term "housing finance authority" appears in the following sections of the statutes, the term "housing and economic development authority" is substituted: 19.42 (10) (h) and (13) (g), 20.490 (intro.), 25.17 (2) (c), 25.41 (1), 34.01 (1) and (3) to (5), 40.02 (54) (b), 45.71 (1m), 46.28 (1) (a), as affected by 1983 Wisconsin Act 27, 66.395 (6) (b), 66.40 (16), 66.402 (3), chapter 234 (title), 234.01 (1), 234.02 (title) and 560.06 (1) (a).

SECTION 21. **Program responsibility changes.** In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

A	B	C
Statute Sections	References Deleted	References Inserted
15.151 (intro.), as affected by 1983 Wis. Act 27	234.18 (2)	ch. 234

SECTION 22. **Cross-reference changes.** In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
13.09 (4), as affected by 1983 Wis. Act 27	230.08 (4)(c) and 234.25 (1)	230.08 (4)(c), 234.25 (1) and 234.65 (4)
234.03 (2m), as affected by 1983 Wis. Act 27	234.08, 234.40, 234.50, 234.60 and 234.70	234.08, 234.40, 234.50, 234.60, 234.65 and 234.70
234.40 (4), as affected by 1983 Wis. Act 27	234.18, 234.50, 234.60 or 234.70	234.18, 234.50, 234.60, 234.65 or 234.70
234.50 (4), as affected by 1983 Wis. Act 27	234.18, 234.40, 234.60 or 234.70	234.18, 234.40, 234.60, 234.65 or 234.70
234.60 (2), as affected by 1983 Wis. Act 27	234.18, 234.40, 234.50 and 234.70	234.18, 234.40, 234.50, 234.65 and 234.70
234.70 (1), as created by 1983 Wis. Act 27	234.18, 234.40, 234.50 and 234.60	234.18, 234.40, 234.50, 234.60 and 234.65