

98-062 COMM 106-WIS. DEVEL.
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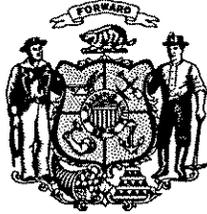
WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 98-062

AN ORDER to repeal Comm 106.41 (9), 106.61 (12), 106.63 (1), 106.81 (4) and (9), 106.82 Note and subchapter VII of chapter Comm 106; to renumber and amend Comm 106.63 (2) and (3); to amend Comm 106.40 (intro.), 106.405 (1) to (3), 106.41 (6) and (8), 106.42, 106.44 (2), 106.45, 106.48 to 106.51, 106.60, 106.61 (5), (6) and (7), 106.61 (14) and (15), 106.62 (1), 106.63 (title), 106.64 (1) and (2), 106.67 to 106.70, 106.80, 106.81 (7) and (8), 106.83 and 106.86 to 106.89; to repeal and recreate Comm 106.41 (3) and (5), 106.46, 106.47, 106.61 (2) and (12), 106.62 (2), 106.65, 106.66, 106.81 (6), (10), (12), (13) and (14), 106.82, 106.84 and 106.85; and to create Comm 106.41 (2m) and (10m), 106.61 (2m), 106.81 (13m) and (15) and 106.825, relating to the Wisconsin development fund.

Submitted by **DEPARTMENT OF COMMERCE**

04-29-98 RECEIVED BY LEGISLATIVE COUNCIL.

05-28-98 REPORT SENT TO AGENCY.

RNS:DD:kjf;jt

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

d. In s. Comm 106.41 (8), the statutory reference should be to s. 560.60 (10), Stats.

e. In s. Comm 106.41 (10m), the reference to s. 560.605 (2m), Stats., is inappropriate. The cited statutory section provision does not identify a targeted area but merely provides criteria for the board to consider in determining whether a project will be located in a targeted area. It is suggested that the definition refer to an area identified by the board as a targeted area (with a statutory reference, if appropriate). See, also, in this regard, ss. Comm 106.61 (14) and 106.81 (15).

f. In s. Comm 106.62 (2), it is suggested that "under this subchapter" be inserted after "loan."

g. Should s. Comm 106.85 also cross-reference the considerations required under s. 560.66, Stats.?

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. Comm 106.41 (6) (b) (as currently numbered), "such" should be stricken and replaced by "the."

b. Section Comm 106.45 provides no criteria for the board to use in determining whether to require a higher match. See, also, ss. Comm 106.64 (1) and (2) and 106.83.

c. In s. Comm 106.63 (1), as renumbered, the underscored "a" should be "the." Also, "case by case" should be hyphenated.

d. In s. Comm 106.67, second sentence, the stricken "the" preceding "chief" should be retained.

e. In s. Comm 106.68, third sentence, "programs" should be singular.

f. In s. Comm 106.69, first sentence, a semicolon should follow "106.68."

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CLEARINGHOUSE RULE 98-062

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. The arrangement of text in SECTIONS needs review throughout the rule. For example, the full rule citation does not precede the text of the rule and, where applicable, the title is not included. [See s. 1.04, Manual.]

b. The subsection titles set forth in s. Comm 106.405 should not be underscored. [See s. 1.05 (2) (c), Manual.]

c. In s. Comm 106.41 (2m), "given" should replace "contained." This change represents the preferred drafting style for referencing definitions contained in other rules or statutory provisions. The entire rule should be reviewed in this regard.

d. SECTION 10 should be shown as treating s. Comm 106.44 (2) (intro.). The period at the end of the clause should be a colon.

e. Section Comm 106.46 references an application manual. Will the application manual contain forms? Where may a manual be obtained? [See s. 1.09 (2), Manual.] If any portions of the manual have the effect of law and meet the definition of a rule, those portions should be promulgated as rules. [See ss. 227.01 (13) and 227.10 (1), Stats.] This comment applies to other provisions of the rule referencing an application manual as well.

f. In s. Comm 106.49, first sentence, "will be required to" can be stricken and replaced by "shall."

g. In s. Comm 106.50 (1), first sentence, “be responsible for” can be stricken as can the “ing” at the end of each verb. Also see ss. Comm 106.69 and 106.88.

h. Section Comm 106.50 (2) should be created in a separate SECTION for which the treatment clause says: “SECTION ____ . Comm 106.50 (2) is created to read:”. It should not be underscored. Also see s. Comm 106.88 (2).

i. Section Comm 106.61 (2) should read: ““Board” has the meaning given in s. 560.60 (1s), Stats.” Section 15.155 (1), Stats., is not a definition. Alternatively, the definition can simply read ““Board” means the development finance board.”

j. In the treatment clause of SECTION 25, “Comm 106.63” should precede “(1)” and the second “are” should be eliminated.

k. The numbering of the SECTIONS following the first SECTION 27 needs attention.

l. In s. Comm 106.70, second sentence, “can enter” should be stricken and replaced by “enters.”

m. SECTION 31 shows s. Comm 106.81 (8) as being amended. The subsection is repealed and recreated.

n. In SECTION 36, “(13),” which precedes the text, should be “Comm 106.81 (13m).”

o. In s. Comm 106.825, the underscoring of the text should be eliminated and “will be” should be replaced by “is”; in the second sentence, “will” should be replaced by “shall.”

p. In s. Comm 106.86, first sentence, “be required to” can be stricken. In the second sentence, “contracts” should be in the singular. In the fourth sentence, “these contracts” should be stricken and replaced by “the contract.”

q. In the treatment clause of SECTION 45, “of ch. Comm 106” should precede “is.”

r. There is no effective date clause. [See s. 1.02 (4), Manual.]

4. Adequacy of References to Related Statutes, Rules and Forms

a. The citations in the department’s analysis to statutes authorizing the rule and statutes interpreted by the rule are inadequate because of lack of specificity. The citations in the analysis should be consistent with those in the “Pursuant to” clause that precedes SECTION 1.

b. The reference in the department’s analysis to changes made by 1997 Wisconsin Act 27 should be more specific by referencing relevant SECTIONS of Act 27.

c. In s. Comm 106.40, the stricken “subchapter” should be retained. Internal cross-references to “this subchapter” should not be abbreviated. See the table in s. 1.07 (2), Manual. This comment applies to several provisions in the rule.

Pursuant to the authority vested in the Department of Commerce by ss. 560.02 (4) and 227.11 (2), Stats., The Department of Commerce hereby creates rules interpreting Subch. V, Ch. 560, Stats., as follows:

SECTION 1. Comm 106.40 (intro.) is amended to read:

Customized Labor Training
Purpose. The purpose of this ~~subchapter~~ subch. is to establish the procedure for the administration of labor training fund grants or loans by the department of development, as provided by s. 560.63, Stats.

SECTION 2. Comm 106.40¹⁵ (1) to (3) are amended to read: ✓

(1) APPLICABILITY. The provisions of this section apply to this ~~subchapter, Subchs. subch. and Subch. V, ch. 560, Stats. and VII and those provisions which relate to the recycling loan program.~~ ✓

(2) POLICY STATEMENT. As the state economic development agency, the department shall administer and coordinate economic and business development programs to foster investment, job creation, and diversification of the state's economy. The department shall provide financial and technical assistance to businesses for economic development, labor training, ~~recycling~~, and technology related projects. The department shall place special emphasis on the financing needs of small businesses, women and minority owned businesses, and firms located in targeted areas of the state. Through the use of the Wisconsin development fund, the department shall seek to maximize the use of limited funds by leveraging private investment and utilizing other sources of available funds.

(3) BIENNIAL PLAN. The department shall develop and submit funding goals to the board for awarding grants and loans that allocate available funds for economic development, labor training, ~~recycling~~ and technology related projects for each fiscal biennium. The board shall consider the recommendations of the department based upon grant and loan criteria as provided in s. 560.605, Stats., and the goals established by other state administered financial assistance programs. Following board approval and before the commencement of each odd-numbered fiscal year the department shall submit the goals to the governor and chief clerk of each house.

SECTION 3. Comm 106.41 (2m) is created to read: ✓

(2m) "Brownfields" has the meaning contained in s. 560.60 (1v), Stats.

SECTION 4. Comm 106.41 (3) and (5) are repealed and recreated to read:

(3) "Business" has the meaning contained in s. 560.60 (2), Stats.

(5) "Financial audit" means an audit performed to the requirements and satisfaction of the department.

SECTION 5. Comm 106.41 (6) is amended to read:

Wally

^{Comm} (6) "Financing is unavailable from any other source on reasonably equivalent terms" means either of the following:

~~(a) Financing has been declined for the development or early planning project.~~

(b) ~~The~~ the maturity, rate or the amount of available financing or requirements related to the financing, such as collateral, equity, closing costs, service charges and repayment schedule offered on such financing are materially different from the financing available from the wisconsin development fund.

SECTION 6. Comm 106.41 (8) is amended to read:

(8) "Job" ~~means a position providing full-time equivalent employment for one individual for one year, beginning after a project is completed. It does not include initial training before an employment position begins~~ has the meaning provided in s. 560.60 ~~(*)~~, Stats.

(10)

SECTION 7. Comm 106.41 (9) is repealed.

SECTION 8. Comm 106.41 (10m) is created to read:

^{Comm} (10m) "Targeted area" means an area identified under s. 560.605 (2m), Stats. *Needs work*

SECTION 9. Comm 106.42 is amended to read:

106.42 ELIGIBLE APPLICANTS. Any business that has made a firm commitment to locate in Wisconsin, a business that is expanding within Wisconsin, or a business that is upgrading a product, process or service that requires training for its employes in new technology and industrial skills or manufacturing processes that are new to the business and in which advances have been made, or with job training in other employment-related skills or techniques in which advances have been made for its employes may apply for a grant or loan under this subchapter subch.

SECTION 10. Comm 106.44 (2) ^(intro) is amended to read:

106.44 (2) ^(intro) As provided by s. 560.63 (3), Stats., funds shall not be available for any of the following costs incurred by a vocational, wisconsin technical college system and adult education district or by a public secondary or post-secondary institution.

SECTION 11. Comm 106.45 is amended to read:

106.45 MATCH REQUIREMENTS. The applicant shall provide a match for the grant or loan received. The match shall be in cash and shall not be less than 50% ~~25%~~ of the value of the training provided if the project for which funding is requested is located outside a targeted area eligible project costs. The board may require a higher match based on the department's

✓
evaluation of the project. Up to 20% of the contribution of a participating business may consist of funds which the business receives under the federal job training partnership act, 29 USC 1501 to 1781.

SECTION 12. Comm 106.46 and 106.47 are repealed and recreated to read:

106.46 APPLICATION CONTENT. Eligible applicants shall submit an application for funding that addresses all the instructions and items in an application manual provided by the department.

106.47 EVALUATION CRITERIA. (1) The board shall make the determinations required under s. 560.605 (1), Stats., before funding a project.

(2) The board shall consider the criteria under s. 560.605 (2), (2m), (4), (5), (5m), and (6), Stats., before funding a project.

SECTION 13. Comm 106.48, 106.49, 106.50 and 106.51 are amended to read: 7
4.7.17

106.48 CONTRACTS. Successful applicants shall be required to enter into a contract with the department for the purpose of implementing the proposed grant or loan. The ~~contracts~~ contract shall be signed by the secretary of ~~development~~ the department and the ~~chief executive officer of the business, or by their authorized representatives~~ person or persons authorized by the applicant to enter into a contract. The contract shall contain default provisions relating to ~~nonperformance of the provisions of the contract. The department may void a contract and seek a return of funds released under the contract for failure by the business to perform its obligations under the contract.~~ Amendments to these contracts may be adopted by the consent of both of the original signatories parties. However, no change may be authorized if the jobs for which the training is provided are to be moved out of state or the job classification or the skill levels are to be downgraded. Any relocation from Wisconsin to any other state of the jobs for which the training is provided or any change in the job classifications or skill level involved shall void the contract and all funds paid to date shall be refunded to the department for use in support of other applications to the fund. These restrictions apply only to jobs described in the training application provided in s. Comm 106.46 and apply only for a term subject to negotiation between the successful applicant and the department.

106.49 REPORTING AND AUDITING. Successful applicants will be required to provide the department periodic ~~financial~~ reimbursement documentation and program reports. A financial audit and final program report shall be submitted at the end of the contract. The financial audit shall be performed to the requirements and satisfaction of the department. The cost of the audit may be covered by the grant or loan except as provided under s. Comm 106.44 (2) (d). The ~~financial reports~~ reimbursement documentation, audit and the program reports shall be submitted to the department as by a date specified in the contract. The reimbursement documentation, financial audit and the program reports become the property of the department and are open to public inspection.

106.50 ADMINISTRATION. (1) The department shall be responsible for soliciting applications for the fund, reviewing applications, making recommendations to the board on the disposition of applications, entering into contracts with successful applicants, authorizing payments and otherwise implementing contractual obligations entailed in grants or loans made under the terms of this subchapter, monitoring the provision of the training, receiving and reviewing the ~~financial reports~~ reimbursement documentation and program reports submitted under s. Comm 106.49 and for collecting any repayments of grants and loans from successful applicants. The department shall report semiannually to the chairs of the economic development standing committees of the legislature on the status of the program.

ci. (2) The department may charge a successful recipient of an award of over \$200,000 an origination fee of 1.5% of the funds received under this subchapter.

106.51 BOARD OPERATIONS. The board shall consider the recommendation of the department relating to the criteria under s. Comm 106.47. The board shall approve an application before the department can enter into a contract under ~~the terms of the fund~~ this subchapter. The department shall maintain records of ~~its~~ the board proceedings and provide ~~other~~ staff support as may be necessary to the board.

SECTION 14. Comm 106.60 is amended to read:

106.60 PURPOSE. The purpose of this subchapter is to establish the procedure for the administration of technology development grants and loans and technology development ~~follow-up~~ commercialization loans by the department, as provided by ~~ss. 560.605 and s. 560.62~~, Stats.

SECTION 15. Comm 106.61 (2) is repealed and recreated to read:

(2) "Board" has the meaning contained in s. 15.155 (1), Stats.

SECTION 16. Comm 106.61 (2m) is created to read:

(2m) "Brownfields" has the meaning contained in s. 560.60 (1v), Stats.

SECTION 17. Comm 106.61 (5), (6), and (7) are amended to read:

(5) "Department" means the department of ~~development~~ commerce.

(6) "Financial audit" means an audit performed to the requirements and satisfaction of the department.

(7) "Financing is unavailable from any other source on reasonably equivalent terms" means ~~any of the following~~:

(a) ~~Financing has been declined for the project.~~

~~(b) The~~ the maturity, rate or the amount of available financing or requirements related to the financing, such as collateral, equity, closing costs, service charges and repayment schedules offered on such financing are materially different from the financing available from the Wisconsin development fund.

SECTION 18. Comm 106.61 (11) is repealed and recreated to read:

(11) "Program report" means a report to the department describing progress made toward achieving goals specified under s. Comm 106.65.

SECTION 19. Comm 106.61 (12) is repealed. *see A*

SECTION 20. Comm 106.61 (14) and (15) are amended to read:

(14) "Targeted area" means an area identified under s. 560.605 ~~(2) (f) and~~ (2m), Stats.

(15) "Technology development ~~follow-up~~ commercialization loan" means a loan made under this ~~subchapter~~ subch. as described in s. Comm 106.62 (2).

SECTION 21. Comm 106.62 (1) is amended to read:

(1) Any business or consortium with a proposed technical research project that is intended to result in the development of a new, or the improvement of an existing industrial product or process may apply for a technology development grant or loan under this subchapter.

SECTION 22. Comm 106.62 (2) is repealed and recreated to read:

(2) Any business which has successfully developed a new, or improved an existing, industrial product or process may apply for a loan for the initial commercialization of the new product or process.

SECTION 23. Comm 106.63 (title) is amended to read:

Comm 106.63 (title) GRANT AND LOAN AMOUNTS AND RESTRICTIONS

SECTION 24. Comm 106.63 (1) is repealed.

SECTION 25. Comm 106.63 (2) and (3) are renumbered (1) and (2) and are amended to read:

(1) ~~A~~ The amount of funding for a project and a determination as to whether a technology development fund project shall be funded as a grant or loan shall be at the discretion of the board. Insofar as it is practical, the board shall require repayment of technology development fund loans and technology development ~~follow-up~~ commercialization loans plus a reasonable return on the investment. The repayment provision shall be determined on a case by case basis by the board.

(2) The proceeds of a technology development ~~follow-up~~ commercialization loan may be used only to pay those costs identified in s. 560.62 (1) (b) ~~and (2m)~~, Stats., and only in accordance with the terms of the contract required under s. Comm 106.67. The terms and conditions of each technology development ~~follow-up~~ commercialization loan, including repayment terms, shall be determined on a case by case basis by the board.

SECTION 26. Comm 106.64 (1) and (2) are amended to read:

(1) The business or consortium shall provide a match for the technology development grant or loan received. The match shall not be less than 25% of the ~~value of the research eligible project costs~~. The board may establish a higher match ~~requirement to the extent that the financial documentation in the application indicates the ability on the part of the consortium to finance a greater share of the project based on the department's evaluation of the project.~~

(2) The business shall provide a match for the technology development ~~follow-up~~ commercialization loan received. The match shall not be less than 25% of the ~~cost of the eligible project costs~~. The board may require a higher match ~~to the extent that the financial documentation in the application indicates the ability on the part of the business to finance a greater share of the project based on the department's evaluation of the project.~~

SECTION 27. Comm 106.65 and 106.66 are repealed and recreated to read:

106.65 APPLICATION CONTENT. Eligible applicants shall submit an application for funding that addresses all the instructions and items in an application manual provided by the department.

106.66 EVALUATION CRITERIA. (1) The board shall make the determinations required under s. 560.605 (1), Stats., before funding a technology development grant or loan or technology development commercialization loan project.

(2) The board shall consider the criteria under s. 560.605 (2), (2m), (4), (5), (5m), and (6), Stats., before funding a technology development grant or loan or technology development commercialization loan project.

SECTION 26. Comm 106.67, 106.68, 106.69, and 106.70 are amended to read:

106.67 CONTRACTS. Each successful applicant shall enter into a contract with the department for the purpose of implementing the proposed grant or loan under this subchapter. Each contract shall be signed by the secretary of ~~development~~ the department and ~~the chief executive officer of the eligible recipient, or by the authorized representative of the eligible recipient~~ person or persons authorized by the applicant to enter into a contract. ~~The contract shall contain default provisions relating to nonperformance of the provisions of the contract. The department may void a contract and seek a return of any funds released under the contract for failure by the grant or loan recipient to perform its obligations under the contract.~~

106.68 REPORTING AND AUDITING. A successful applicant for a grant or loan under this subchapter shall provide the department periodic financial reimbursement documentation and program reports. A financial audit and final program report shall be submitted at the end of each contract. The financial audit shall be performed to the satisfaction of the department. The cost of the audit may be covered by the grant or loan. The reimbursement documentation, financial audit and the programs reports shall be submitted to the department by a date specified in the contract. The reimbursement documentation, financial audit and the program reports become the property of the department and are open to public inspection.

106.69 ADMINISTRATION. The department is responsible for soliciting applications ~~from eligible applicants~~; reviewing applications; making recommendations to the board on the disposition of applications; entering into contracts with successful applicants; authorizing payments and otherwise implementing contractual obligations entailed in grants or loans made under this subchapter; receiving and reviewing the financial reports reimbursement documentation and program reports submitted under s. Comm 106.68 ~~and for collecting any repayments of loans from successful applicants.~~ The department shall report semiannually to the chairs of the economic development standing committees of the legislature on the status of the technology development fund program.

106.70 BOARD OPERATIONS. The board shall consider the recommendation of the department relating to the criteria under s. Comm 106.66. The board shall approve an application before the department can enter into a contract ~~for a grant or loan~~ under this subchapter. The department shall maintain records of ~~its~~ the board proceedings and provide ~~other~~ staff support as may be necessary to the board.

SECTION 27. Comm 106.80 is amended to read:

106.80 PURPOSE. The purpose of this subchapter is to establish a procedure for the administration of major economic development grants or loans by the department of development, as provided by s. ~~560.62, 560.63 or 560.66, Stats., that are funded under s. 20.143 (1) (d), Stats.~~

SECTION 28. Comm 106.81 (3) is repealed and recreated to read:

(3) "Business" has the meaning contained in s. 560.60 (2), Stats.

SECTION 29. Comm 106.81 (4) is repealed.

SECTION 30. Comm 106.81 (6) is repealed and recreated to read:

(6) "Financial audit" means an audit performed to the requirements and satisfaction of the department.

SECTION 31. Comm 106.81 (7) and (8) are amended to read:.

(7) "Financing is unavailable from any other source on reasonably equivalent terms" means any of the following:

~~(a) Financing has been declined for the project.~~

~~(b) The the maturity, rate or the amount of available financing or requirements related to the financing, such as collateral, equity, closing costs, service charges and repayment schedules offered on such financing are materially different from the financing available from the Wisconsin development fund.~~

(8) "Governing body" has the meaning contained in s. 560.60 (6), Stats.

SECTION 32. Comm 106.81 (9) is repealed.

SECTION 33. Comm 106.81 (10) is repealed and recreated to read:

(10) "Job" has the meaning contained in s. 560.60 (10), Stats.

SECTION 34. Comm 106.82(12) is repealed and recreated to read:

(12) "Major economic development project" has the meaning contained in s. 560.60 (11), Stats.

SECTION 35. Comm 106.81 (13) is repealed and recreated to read:

(13) "Political subdivision" has the meaning contained in s. 560.60 (13), Stats.

SECTION 36. Comm 106.81 (13m) is created to read:

(13) "Program report" means a report to the department describing the results of the project supported by a major economic development grant or loan.

SECTION 37. Comm 106.81 (14) is repealed and recreated to read:

(14) "Project" has the meaning contained in s. 560.60 (14), Stats..

SECTION 38. Comm 106.81 (15) is created to read:

(15) "Targeted area" means an area identified under s. 560.605 (2m), Stats.

SECTION 39. Comm 106.82 is repealed and recreated to read:

106.82 ELIGIBLE APPLICANTS. Any business or governing body may apply for a grant or loan under this subchapter.

SECTION 40. The note after s. Comm 106.82 is repealed.

SECTION 41. Comm 106.825 is created to read:

106.825 GRANT AND LOAN AMOUNTS AND RESTRICTIONS. The amount of funding for a project and a determination as to whether the project will be funded as a grant or loan will be at the discretion of the board. Insofar as it is practical, the board will require repayment of the funds plus a reasonable return on the investment. The repayment provision shall be determined on a case-by-case basis by the board.

SECTION 42. Comm 106.83 is amended to read:

106.83 MATCH REQUIREMENTS. Applicants shall provide a match for the grant or loan received. The match shall be in cash and shall be a minimum of 25% of the projected cost eligible project costs. The board may establish a higher match requirement based on the department's evaluation of the project. ~~A determination as to whether the project will be funded as a grant or loan will be at the discretion of the board. Insofar as it is practical, the board will require repayment of the funds plus a reasonable return on the investment. The repayment provisions shall be determined on a case-by-case basis by the board.~~

SECTION 43. Comm 106.84 and 106.85 are repealed and recreated to read:

106.84 APPLICATION CONTENT. Eligible applicants shall submit an application for funding that addresses all the instructions and items in an application manual provided by the department.

✓ 106.85 EVALUATION CRITERIA. (1) The board shall make the determinations required under s. 560.605 (1), Stats., before funding a project.

(2) The board shall consider the criteria under s. 560.605 (2), (2m), (4), (5), (5m), and (6), Stats., before funding a project.

SECTION 44. Comm 106.86, 106.87, 106.88, and 106.89 are amended to read:

✓ 106.86 CONTRACTS. Successful applicants shall be required to enter into a contract with the department for the purpose of implementing the proposed grant or loan. The contracts shall be signed by the secretary of development the department and the chief executive officer of the successful applicant, or by their authorized representatives person or persons authorized by the applicant to enter into a contract. The contract shall contain default provisions relating to nonperformance of the provisions of the contract. ~~The department may void a contract and seek a return of any funds released under the contract for failure by the business to perform its obligations under the contract.~~ Amendments to these contracts may be adopted by the consent of both of the original signatories parties. Any relocation from Wisconsin to any other state of the jobs created or retained through the project shall void the contract, and all funds paid to date shall be refunded to the department for use in support of other applications to the Wisconsin development fund. These restrictions apply only to jobs described in the project application

provided in s. Comm 106.84, and apply only for a term subject to negotiation between the successful applicant and the department.

106.87 REPORTING AND AUDITING. Successful applicants will be required to provide the department periodic financial reimbursement documentation and program reports. A financial audit and final program report shall be submitted at the end of the contract. The financial audit shall be performed to the satisfaction of the department. The cost of the audit may be covered by the grant or loan. The financial reports reimbursement documentation, audit and the program reports shall be submitted to the department by a date specified in the contract. The reimbursement documentation, financial audit and the program reports become the property of the department and are open to public inspection.

106.88 ADMINISTRATION. (1) The department shall be responsible for soliciting applications, reviewing applications, making recommendations to the board on the disposition of applications, entering into contracts with successful applicants, authorizing payments and otherwise implementing contractual obligations entailed in grants or loans made under the terms of this subchapter, monitoring project activities, receiving and reviewing the financial reports reimbursement documentation and program reports submitted under s. Comm 106.87, and for collecting any repayments of grants and loans from successful applicants. The department shall report semiannually to the chairs of the economic development standing committees of the legislature on the status of the program.

(2) The department may charge a successful recipient of an award of over \$200,000 an origination fee of 1.5% of the funds received under this subchapter.

106.89 BOARD OPERATIONS. The board shall consider the recommendations of the department relating to the criteria under s. Comm 106.85. The board shall approve an application before the department can enter into a contract under s. Comm 106.86. The department shall maintain records of the board's proceedings and provide ~~other~~ staff support as may be necessary to the board.

SECTION 45. Subchapter VII is repealed.

Handwritten note: "106.84 Comm 106" with an arrow pointing to the text above.

Handwritten signature and date: "A. J. [unclear] 3/1/83"