

1999 ASSEMBLY BILL 594

November 18, 1999 – Introduced by Representatives TURNER, MILLER, PLOUFF, BLACK, BOYLE, J. LEHMAN, WILLIAMS, COGGS, COLON, POCAN, CARPENTER, RYBA and MUSSER, cosponsored by Senators MOORE and PLACHE. Referred to Committee on Small Business and Economic Development.

1 **AN ACT** *to create* 560.025 of the statutes; **relating to:** maintenance of benefits
2 by a business as a condition of receiving assistance from the department of
3 commerce.

Analysis by the Legislative Reference Bureau

Under current law, the department of commerce administers various programs under which that department makes grants or loans to businesses (business assistance). Those programs include the mining economic development grant and loan program, the rapid response fund program, the employe ownership assistance grant program, the Wisconsin trade project, the rural economic development program, the business development initiative and the Wisconsin development fund program.

This bill requires any for-profit business that receives any business assistance from the department of commerce to certify on its application for the business assistance that the business has not, at any time within the five-year period preceding the date of the application, ceased or reduced any health care benefits or pension benefits provided directly or indirectly by the business to the employes of the business employed in this state and to agree, as a condition of receiving the business assistance, not to cease or reduce those benefits for five years after the date on which the business receives the business assistance.

Under the bill, any business receiving business assistance from the department of commerce that ceases or reduces any health care benefits or pension benefits provided directly or indirectly by the business to the employes of the business

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employed in this state at any time beginning five years before the date on which the business applied for the business assistance and ending five years after the date on which the business received the business assistance is subject to immediate rescission of all business assistance that was provided to the business, with the business to repay immediately any business assistance received, plus a 10% penalty and interest on the business assistance at 18% per year, and ineligibility for any further business assistance for five years after the date on which the penalty was assessed.

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.** 560.025 of the statutes is created to read:

2 **560.025 Maintenance of benefits as condition of assistance. (1)**

3 DEFINITIONS. In this section:

4 (a) “Business” means any person engaged in any activity or enterprise for profit
5 employing one or more persons in this state.

6 (b) “Business assistance” means any grant or loan provided by the department
7 under this chapter.

8 **(2) RULES OF CONDUCT.** (a) Any business that is applying for business assistance
9 shall certify on its application for the business assistance that the business has not,
10 at any time within the 5-year period preceding the date of the application, ceased
11 or reduced any health care benefits or pension benefits provided directly or indirectly
12 by the business to the employes of the business employed in this state.

13 (b) Any business that receives business assistance shall agree, as a condition
14 of receiving the business assistance, not to cease or reduce any health care benefits
15 or pension benefits provided directly or indirectly by the business to the employes of
16 the business employed in this state for 5 years after the date on which the business
17 receives the business assistance.

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1 **(3) ENFORCEMENT AND ADMINISTRATION.** (a) Before providing any business
2 assistance, the department shall determine whether the business applying for the
3 business assistance has, at any time within the 5-year period preceding the date of
4 the application, ceased or reduced any health care benefits or pension benefits
5 provided directly or indirectly by the business to the employes of the business
6 employed in this state. If the business has, at any time within the 5-year period
7 preceding the date of the application, ceased or reduced any health care benefits or
8 pension benefits provided directly or indirectly by the business to the employes of the
9 business employed in this state, the department may not provide any business to
10 that business. If the department provides business assistance to a business and later
11 determines that the business has, at any time within the 5-year period preceding the
12 date of the application or within the period between the date of the application and
13 the date of receipt of the business assistance, ceased or reduced any health care
14 benefits or pension benefits provided directly or indirectly by the business to the
15 employes of the business employed in this state, the department shall assess and
16 collect any penalties imposed under sub. (4) according to the procedure specified in
17 par. (c).

18 (b) The department shall monitor a business receiving business assistance to
19 ensure that the business does not cease or reduce any health care benefits or pension
20 benefits provided directly or indirectly by the business to the employes of the
21 business employed in this state for 5 years after the date on which the business
22 receives the business assistance. If the department determines that the business has
23 ceased or reduced any health care benefits or pension benefits provided directly or
24 indirectly by the business to the employes of the business employed in this state at
25 any time within the 5-year period beginning on the date on which the business

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1 receives the business assistance, the department shall assess and collect any
2 penalties imposed under sub. (4) according to the procedure specified in par. (c).

3 (c) The department shall assess and collect any penalties imposed under sub.
4 (4) according to the following procedure:

5 1. The department shall notify the business that is the subject of the penalty
6 that the business is in noncompliance with this section and of the penalty assessed
7 under sub. (4).

8 2. The business may, within 30 days after the date of the notice, appeal in
9 writing to the secretary, and the secretary shall enter his or her final decision within
10 30 days after receiving the appeal.

11 3. The business may, within 30 days after the secretary's decision, request a
12 contested case hearing under s. 227.42 from the department.

13 **(4) PENALTIES.** Any business receiving business assistance that ceases or
14 reduces any health care benefits or pension benefits provided directly or indirectly
15 by the business to the employees of the business employed in this state at any time
16 beginning 5 years before the date on which the business applied for the business
17 assistance and ending 5 years after the date on which the business received the
18 business assistance, is subject to all of the following penalties:

19 (a) Immediate rescission of all business assistance that was provided to the
20 business, with the business to repay that business assistance immediately, pay a
21 penalty equal to 10% of the amount of that business assistance and pay interest on
22 that business assistance at the rate of 18% per year from the date of receipt of the
23 business assistance to the date of payment of the full amount due.

24 (b) Ineligibility for any further business assistance for 5 years after the date
25 on which the department assesses the penalty.

