

1999 DRAFTING REQUEST

Assembly Amendment (AA-AB133)

Received: **05/26/99**

Received By: **kahlepj**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau 6-3847**

By/Representing: **Schug**

This file may be shown to any legislator: **NO**

Drafter: **kahlepj**

May Contact:

Alt. Drafters:

Subject: **Econ. Development - bus. dev.**

Extra Copies:

Pre Topic:

LFB:.....Schug -

Topic:

Eliminate authorization for biotechnology development finance company

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kahlepj 05/26/99	gilfokm 05/27/99		_____			
/1			jfrantze 05/27/99	_____	lrb_docadmin 05/27/99		

FE Sent For:

<END>

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1/?	kahlepj	1-5-27-99 King	J 6/5/27	J me 6/27			

FE Sent For:

<END>



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

Date: 5/25/99

DELIVER TO: Pam Kohler

Addressee Fax #: 4-8522 Addressee Phone #: _____

of Pages, Including Cover: 6 Sender's Initials: DAS

From: David Schug

Message:

please draft the following regarding WHEQA

Paper 1036 - WDRF

Alt. A 33 B3 - as amended by Motion 946
B Motion 946 - paragraph C (eliminate groundwater
guarantee program)

Paper 136 - Biotechnology

Alt. 2 (delete on recommendation)

~~Motion~~

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to provide \$1,000,000 in 1999-2000 in a biennial appropriation for administrative expenses and start-up capital for a nonprofit, nonstock biotechnology development finance company organized and maintained by WHEDA to invest in new or existing biotechnology companies in the state.

<u>Alternative 1</u>	<u>GPR</u>
1999-01 FUNDING (Change to Base)	\$1,000,000
<i>(Change to Bill)</i>	<i>\$0</i>

2. Maintain current law (the Governor could create an advisory board by executive order).

<u>Alternative 2</u>	<u>GPR</u>
1999-01 FUNDING (Change to Base)	\$0
<i>(Change to Bill)</i>	<i>-\$1,000,000</i>

Prepared by: David Schug

MO#	Y	N
Burke	Y	N
Decker	Y	N
Jauch	Y	N
Moore	Y	N
Shibitski	Y	N
Plache	Y	N
Cowles	Y	N
Panzer	Y	N
Gard	Y	N
Porter	Y	N
Kaufert	Y	N
Albers	Y	N
Duff	Y	N
Ward	Y	N
Huber	Y	N
Riley	Y	N

MO# 1035

Burke	Y
Decker	Y
Jauch	Y
Moore	Y
Shibitski	Y
Plache	Y
Cowles	Y
Panzer	Y
Gard	Y
Porter	Y
Kaufert	Y
Albers	Y
Duff	Y
Ward	Y
Huber	Y
Riley	Y

Full 8:8



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 26, 1999

Joint Committee on Finance

Paper #1035

Biotechnology Development Finance Company (WHEDA)

[LFB 1999-01 Budget Summary: Page 648, #1]

CURRENT LAW

WHEDA sells taxable and tax-exempt mortgage revenue bonds and uses the proceeds to fund loans to eligible homebuyers, housing developers and businesses at below market interest rates. The Authority also provides financing, primarily in the form of loan guarantees, for economic and agricultural development.

GOVERNOR

Provide \$1,000,000 GPR in 1999-2000 in a biennial appropriation for administrative expenses and start-up capital for a biotechnology development finance company. Authorize WHEDA to organize and maintain a nonprofit, nonstock biotechnology development finance company to invest in new or existing biotechnology (technology relating to life sciences) companies in the state. Prohibit the company from engaging in political activities. The finance company would be allowed to invest in eligible biotechnology companies by purchasing stock, convertible securities, evidences of indebtedness, warrants, subscriptions, partnership interests or membership interests. However, the finance company would be limited to a total investment in any one biotechnology company of \$200,000 or 49% ownership, whichever is less.

The board of directors of the biotechnology development finance company would consist of nine members, including: (a) the Executive Director of WHEDA (or designee); (b) the Secretary of the Department of Commerce (or designee); (c) the Secretary of the Department of Administration (or designee); (d) the Executive Director of the Investment Board (or designee); (e) the President of the UW System (or designee); (f) the President of Forward Wisconsin, Inc. (or designee); and (g) one representative each of the state's biotechnology research community, biotechnology industry, and venture capital industry. Initially, the Governor would appoint the final three representatives for five-year terms. The company would specify in its bylaws a

method of reappointing or filling vacancies for the three public members. The biotechnology development finance company would also be required to annually provide a report on its activities to the Governor and to the appropriate standing committees in the Legislature.

Eligible Borrowers. The biotechnology development finance company could invest in a biotechnology company if all of the following apply:

- a. The biotechnology company has certified that the project plans conform to all applicable environmental, zoning, building, planning and sanitation laws;
- b. There is a reasonable expectation that the biotechnology company will be successful;
- c. Private industry has not provided sufficient capital required for the project;
- d. Other investment in the project is unavailable in the traditional capital markets, or capital has been offered on terms that would preclude the success of the project;
- e. The biotechnology company reports sufficient financial data about the project, which may include a periodic audit of the project's financial records, to the biotechnology development finance company;
- f. The proceeds of the purchase will be used solely in connection with the costs of the project, which may include planning and design, land purchases, feasibility studies, equipment, and working capital, among other costs; and
- g. The biotechnology company is able to manage its project responsibilities.

WHEDA is required to advise, assist and provide administrative services, as deemed necessary, to the biotechnology development finance company, either with WHEDA staff or by contract. The Department of Commerce is also directed to advise, assist and cooperate with the biotechnology development finance company. Neither the state nor WHEDA would be liable for any debt incurred by the biotechnology development finance company.

DISCUSSION POINTS

1. The Governor's recommendation to create a biotechnology finance company is one component of an effort to address an area of the state economy that appears to be lagging. Other components include an additional Commerce staff position, an agricultural export initiative, Investment Board action and manufacturing extension center grants through the Wisconsin Development Fund. The Development Report Card for the States gave Wisconsin an "A" because of strong economic and employment growth, a low poverty rate, good equity conditions, comparatively high health care benefits and a relatively small gap between rich and poor. The state also performed well on many social and health measures in quality of life. However, the report card indicates that Wisconsin's primary weakness was the comparative lack of dynamism in the business

sector. Wisconsin received an "F" in business vitality. The state had the fourth lowest entrepreneurship, the third lowest rate of new companies and a below average rate of new jobs from young companies. Further, the approximately \$75 million of venture capital investments in Wisconsin in 1998 ranked the state 35th for such contributions.

2. The Governor recommends creating a biotechnology development finance company to invest in biotechnology projects that are unable to receive conventional financing. Several programs currently support Wisconsin's biotechnology industry. The state provides funding for biotechnology industries through the technology development grant and loan program in the Wisconsin Development Fund. The purpose of the technology development grant and loan program is to fund technical research (including biotechnology) by a business or consortium to develop new, or improve existing, industrial products or processes and to assist businesses in infrastructure development and commercialization of a new product or process. Besides funding technical research, production, marketing, or sales costs, a technology development loan may be provided to a business for working capital or fixed asset financing to develop the infrastructure of the business or for the initial commercialization of the new industrial product or process. Commerce has provided approximately \$6 million in technology development grants and loans since 1990.

3. In April, 1999, the Wisconsin Investment Board approved investing \$50 million in venture capital aimed primarily at financing biotechnology enterprises in Wisconsin. Thus, the state will be providing venture capital through the Investment Board. Some may argue that the Investment Board, with over \$55 billion in assets and professional investment management experience, is better suited to provide venture capital to the biotechnology industry than the limited WHEDA-based biotechnology development finance company under the bill.

4. 1997 Act 215 authorized the creation of a certified capital company program for companies that provide venture capital investments to early-stage small businesses in the state. The act provides tax credits to insurance companies that invest in these certified capital companies, as an incentive to increase the pool of venture capital in the state. By providing tax credits, the state reduces the risk of venture capital investment and thus promotes such investments in the state. The act takes effect on July 1, 1999, and authorizes tax credits of up to \$50 million for increased venture capital investments. Act 215 will provide additional venture capital for Wisconsin biotechnology and other early-stage small businesses.

5. Further, Wisconsin investment firms already solicit biotechnology investments for risk-oriented investors. It could be argued that state funding for similar activities may infringe on the activities of private investment firms in the state. However, the biotechnology development finance company could only invest in a biotechnology business if private industry has not provided sufficient capital required for the project and if other investment in the project is unavailable in the traditional capital market. Moreover, providing \$1 million GPR for initial investments would not saturate the market for biotechnology investment in the state. It could be argued that if the biotechnology business were viable, private capital would be available on reasonable terms. Thus, the state may be providing funding for biotechnology businesses that have a higher chance of failure. However, others would maintain that one of the purposes of WHEDA is to assist businesses

that are unable to receive assistance from other sources. The biotechnology development finance company would assume the entire risk of any investment made.

6. The Committee has adopted the Governor's recommendation to create an economic development consultant position in Commerce to assist businesses in emerging science and technology fields, such as biotechnology, in accessing venture capital. The individual would focus on science and technology businesses that are in the beginning stages of development or developing new technologies that require financing. Related activities would include helping advance business and marketing plans and identifying and meeting requirements of private and public investors and venture capitalists. The position could assist the biotechnology industry in garnering investment through current outlets, including private firms and the Investment Board, without the state providing additional funds for a biotechnology development finance company.

7. The University of Wisconsin-Madison also assists the state's biotechnology industry. The University operates a biotechnology center which includes in its operations a database listing more than 150 Wisconsin companies, 50% of which focus primarily on biotechnology. The database includes biotechnology investors in the state and is geared towards researchers, potential investors, economic development organizations, and businesses related to Wisconsin's biotechnology industry. The Wisconsin Alumni Research Foundation recruits and patents UW-Madison research discoveries and licenses new technologies to the biotechnology industry. Further, the main goal of the UW-Madison Office of University-Industry Relations is to make the scientific and technical resources of the University available to business and industry.

8. The board of directors of the WHEDA financing company is also intended to provide a link between biotechnology research and its commercial applications. Some of these links may already be provided through UW programs. An advisory board could utilize the position provided in Commerce to perform or enhance much of the same activities. The Governor, by executive order, could create an advisory board. The board could assist Commerce, WHEDA and other state agencies with linking biotechnology research and commercial applications to support the biotechnology industry in soliciting investments and linking firms with current research. Further, these activities could also be coordinated, to a lesser extent, without the formation of an advisory board, by utilizing the Commerce economic development consultant and present UW, Investment Board and other resources.

9. WHEDA currently does not provide venture capital through any program. Nor does the Authority maintain any separate entities organized by WHEDA. WHEDA officials are unable to predict the initial and ongoing administrative costs or the number of additional positions (if any) required for organizing and maintaining a biotechnology development finance company. These costs would, in part, be dependent on decisions made by the board of directors of the biotechnology development company. Although WHEDA's expertise related to providing financing for biotechnology and venture capital is limited, the mission and programs of the Authority have expanded since its creation in 1971.

ALTERNATIVES TO BASE

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[Change to Bill]	- \$1,000,000

Prepared by: David Schug



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0425/1
PJK.....
King

LFB:.....Schug - Eliminate authorization for biotechnology development
finance company

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

*SOON
(5-26-99)
D-note*

1 At the locations indicated, amend the bill as follows:

2 ✓ 1. Page 450, line 6: delete lines 6 to 13.

3 ✓ 2. Page 1108, line 10: delete the material beginning with that line and ending
4 with page 1111, line 21.

5 ✓ 3. Page 1268, line 12: delete the material beginning with that line and ending
6 with page 1269, line 10.

7 ✓ 4. Page 1473, line 18: delete lines 18 and 19.

8 (END)

*20-10-11
2-15-11
2-21-11
2-21-11*

*5-6-11
5-6-11*

D-note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb0425/dn

PJK...:.....
King

David:

This amendment deletes the biotechnology development finance company.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: Pam.Kahler@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0425/1dn
PJK:kmg:jf

May 27, 1999

David:

This amendment deletes the biotechnology development finance company.

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Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: Pam.Kahler@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

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PJK:kmg:jf

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