

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2658/P1dn
PJK&MES:jld:km

April 23, 2001

Representative Miller:

1. This draft contains the first version of the reporting requirement language. Chapter 560 was not changed except for the addition of s. 560.055.
2. I patterned most of the definitions and the report contents on the Minnesota law. I'm sure you will want to make specific changes to the language to suit your purposes. Some of the Minnesota law does not really make sense for our statutes. Some of it I used even though I wasn't sure of the meaning.
3. In this draft, I required each business subsidy recipient to report to the granting agency and then required each agency to submit a report to DOA that summarizes the information the agency receives from its subsidy recipients. I'm not sure if this is how you want the information to get to DOA for its compiled report and summary. Let me know if you want anything changed.
4. In some situations in ch. 560, financial assistance is awarded by a board but paid (provided) by the department of commerce. This creates a bit of a problem because, I assume, you want only one entity to enter into the subsidy agreement, only one entity to receive a recipient's report, and only one entity to report on the subsidy to DOA. I think it makes the most sense to require the awarding, rather than the providing, entity to have criteria in place before awarding a business subsidy. I required the recipient to report to the providing agency and required both agencies to submit one report to DOA. Let me know if you want anything different. Note that I defined "grantor" as a *providing* agency.
5. I provided a general statement (s. 560.055) for the department of commerce and all boards involved with awarding grants and loans under ch. 560. I did not amend any statutory language in ch. 560 because I am not sure how you would like to handle the possible conflicts. I have identified a number of statutory sections for which there may be conflicts for various reasons, such as criteria for awarding subsidies that may conflict with criteria that the department develops under s. 16.28, requirements to make grants to particular entities that may not meet the criteria developed under s. 16.28, etc. Because the Minnesota law (and, thus, this draft) appears to allow an agency to deviate from its criteria in awarding a subsidy as long as the deviation is documented and included with the annual report, perhaps we don't need to worry about changing conflicting provisions in current law. On the other hand, you could

amend potentially conflicting provisions, such as by getting rid of awarding criteria altogether. In any case, s. 560.055 should address whether s. 16.28 or ch. 560 controls if there is a conflict. These are the sections I have identified as potentially conflicting: ss. 560.031 (4), 560.037, 560.13 (3), (5), (6), and (6m), 560.135 (5) and (7), 560.138 (2) (b), 560.14 (3) (c), 560.26, 560.605, 560.765 (3), 560.77 (1), 560.795 (3) and (4), 560.797 (2) and (6), and 560.84.

6. With regard to created s. 16.27 (3) (b) 6., I have a number of questions. The phrase “and other general tax law changes of a principally technical nature” seems vague. Many tax law changes of a “technical nature” may have a profound effect on a taxpayer’s tax liability, so the effect of this phrase may be to exclude from the definition of “business subsidy” various tax changes that you may not want to exclude from the definition. Also, I’m not sure what “general changes in the tax incremental financing (TIF) laws” means. The implication of that phrase is that there are, or may be, *some* changes to the TIF program that *would* be a subsidy. If that is the implication of the TIF language, I’m not sure how and to what extent the creation of a TIF district could be a business subsidy. Part of the difficulty with this phrase could be that the TIF program in Minnesota may function differently than the TIF program in this state.

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

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.state.wi.us