2001 SENATE BILL 460


AN ACT to amend 66.1103 (4m) (title), 66.1103 (4m) (a), 66.1103 (4m) (b), 66.1103 (10) (b), 234.65 (3) (am), 234.65 (3r), 560.034 (1), 560.034 (2) and 560.034 (3); and to create 13.94 (1) (dp), 66.1103 (4m) (a) 3., 66.1103 (4m) (bm), 560.033, 560.034 (4), 560.145 (1) (cm), 560.147 (1) (bm) and 560.605 (1) (em) of the statutes; relating to: rules of conduct for a business receiving a grant or loan from the Wisconsin development fund or proceeds from the sale of an industrial development revenue bond and the employment impact estimates required to be submitted by such a business.

Analysis by the Legislative Reference Bureau

Under current law, the department of commerce (department) makes grants and loans from a general purpose revenue appropriation known as the Wisconsin development fund to businesses for various purposes including technology development, customized labor training, major economic development, capitalization of economic development revolving loan funds, and the renovation, purchase, or construction of buildings to foster economic development. Currently, cities, villages, and towns (municipalities) may enter into revenue agreements with businesses under which the municipality issues industrial development revenue (IDR) bonds to fund the construction by those businesses of industrial projects.
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This bill requires any business that receives $25,000 or more in grants or loans from the Wisconsin development fund or that receives $25,000 or more in proceeds from the sale of IDR bonds (business assistance) to comply with the following rules of conduct:

1. To pay every employee of the business employed in this state an hourly wage that is not less than the amount determined by dividing the federal poverty line for a family of four persons (currently $17,050) by 2,080 (52 weeks in one year multiplied by 40 hours per week) and rounding the quotient to the nearest multiple of five cents, with that amount to be revised annually by the department within 30 days after the federal department of health and human services publishes its annual revision of the poverty line. Accordingly, at the current federal poverty line, a recipient of $25,000 or more in business assistance must pay its employees in this state not less than $8.20 per hour.

2. To provide health insurance for every employee of the business employed in this state and to cover the cost of premiums for that insurance, with the employer to be granted a credit for the cost of health care provided of up to $1 per hour against the wage required to be paid to an employee.

3. Not to eliminate any employment positions in this state when the employer moves any part of its operations to another state and not to cease all operations in this state and move to another state.

Any business receiving $25,000 or more in business assistance that fails to comply with those rules of conduct is subject to the following penalties:

1. 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%.

2. Ineligibility for any further business assistance for 10 years.

Under current law, a business that enters into a revenue agreement for the issuance of IDR bonds by a municipality must give notice to the department specifying the number of jobs that the business expects to be eliminated, created, or maintained on the project site and elsewhere in the state as a result of the project (employment impact estimate). The department then must make its own employment impact estimate and issue that estimate to the municipality before the municipality may issue the IDR bonds. The business then must submit to the department, within 12 months after the project is completed or two years after the IDR bonds are issued, whichever is sooner, an employment impact statement of the jobs actually eliminated, created, or maintained as a result of the project.

This bill requires employment impact estimates and statements to be prepared not only in connection with the issuance of IDR bonds, but also when the department provides a grant or loan from the Wisconsin development fund. The bill also requires an employment impact estimate or statement to include not only the number of jobs, but also the types of jobs, with wage rates and benefits, that are estimated to be or have been eliminated, created, or maintained as a result of any business assistance provided by the department or a municipality. Finally, the bill requires a business to submit employment impact statements to the department annually for the
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duration of a project financed with business assistance and for five years after the completion of the project.

For further information see the state and local 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:

SECTION 1. 13.94 (1) (dp) of the statutes is created to read:

13.94 (1) (dp) Annually, perform a performance audit of the implementation of s. 560.033 by the department of commerce.

SECTION 2. 66.1103 (4m) (title) of the statutes is amended to read:

66.1103 (4m) (title) JOB PROTECTION EMPLOYMENT IMPACT ESTIMATES AND RULES OF CONDUCT COMPLIANCE.

SECTION 3. 66.1103 (4m) (a) of the statutes is amended to read:

66.1103 (4m) (a) A municipality may not enter into a revenue agreement with any person unless all of the following conditions are met:

1. The person, at least 30 days prior to entering into the revenue agreement, has given a notice of intent to enter into the revenue agreement, on a form prescribed under s. 560.034 (1), to the department of commerce and to any collective bargaining agent in this state with whom the person has a collective bargaining agreement; and,

2. The municipality has received an estimate issued under s. 560.034 (5) (a), and the department of commerce has estimated whether the number and types of jobs, with the wage rates and benefits for those jobs, that the project which the municipality would finance under the revenue agreement is expected to eliminate, create, or maintain jobs on the project site and elsewhere in this state and the net number of jobs expected to be eliminated, created or maintained as a result of the project.
SECTION 4. 66.1103 (4m) (a) 3. of the statutes is created to read:

66.1103 (4m) (a) 3. If the proceeds from the sale of revenue bonds that the person receives in connection with the revenue agreement equal $25,000 or more, the person agrees to comply with the rules of conduct specified in s. 560.033 (2).

SECTION 5. 66.1103 (4m) (b) of the statutes is amended to read:

66.1103 (4m) (b) Any revenue agreement which an eligible participant enters into with a municipality to finance a project shall require the eligible participant to submit to the department of commerce within 12 months after the project is completed or 2 years after a revenue bond is issued to finance the project, whichever is sooner annually for the duration of the project and for 5 years after the completion of the project, on a form prescribed under s. 560.034 (1), the net number and type of jobs, with the wage rates and benefits for those jobs, eliminated, created, or maintained on the project site and elsewhere in this state as a result of the project.

SECTION 6. 66.1103 (4m) (bm) of the statutes is created to read:

66.1103 (4m) (bm) A municipality that enters into a revenue agreement with an eligible participant shall notify the department of commerce of the amount of proceeds from the sale of revenue bonds that will be provided to the eligible participant and shall provide to that department any other information that is necessary to implement s. 560.033.

SECTION 7. 66.1103 (10) (b) of the statutes is amended to read:

66.1103 (10) (b) Upon the adoption of an initial resolution under this section, public notice of the adoption shall be given to the electors of the municipality before the issuance of the bonds described in the resolution, by publication as a class 1 notice, under ch. 985. The notice need not set forth the full contents of the resolution, but shall state the maximum amount of the bonds; the name of the eligible
participant; the purpose of the bonds; the net number and types of jobs, with the wage rates and benefits for those jobs, which the project the municipality would finance with the bond issue is expected to eliminate, create, or maintain on the project site and elsewhere in this state which is required to be shown by the proposed eligible participant on the form submitted under sub. (4m) (a) 1.; and that the resolution was adopted under this section. A form of the public notice shall be attached to the initial resolution. Prior to adoption of the initial resolution, the open meeting notice given to members of the public under s. 19.84 shall indicate that information with respect to the job impact of the project will be available at the time of consideration of the initial resolution. No other public notice of the authorization, issuance or sale of bonds under this section is required.

SECTION 8. 234.65 (3) (am) of the statutes is amended to read:

234.65 (3) (am) The authority has received an estimate issued under s. 560.034 (5) (b), and the department of commerce has estimated whether the number and types of jobs, with the wage rates and benefits for those jobs, that the project that the authority would finance under the loan is expected to eliminate, create, or maintain jobs on the project site and elsewhere in this state and the net number of jobs expected to be eliminated, created or maintained as a result of the project.

SECTION 9. 234.65 (3r) of the statutes is amended to read:

234.65 (3r) Any economic development loan which a business receives from the authority under this section to finance a project shall require the business to submit to the department of commerce within 12 months after the project is completed or 2 years after a loan is issued to finance the project, whichever is sooner, on a form prescribed under s. 560.034 (1), the net number and types of jobs, with the wage rates and benefits for those jobs, eliminated, created, or maintained on the project site and
elsewhere in this state as a result of the project. This subsection does not apply to
an economic development loan to finance an economic development project described
under s. 234.01 (4n) (c).

SECTION 10. 560.033 of the statutes is created to read:

560.033 Business assistance recipient rules of conduct. (1) Definitions.

In this section:

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

(b) “Business assistance” means proceeds from the sale of revenue bonds, as
defined in s. 66.1103 (2) (m), or a grant or loan from the appropriation account under
s. 20.143 (1) (c) or (ie).

(c) “Poverty line” means the poverty guidelines for the continental United
States, as revised annually by the federal department of health and human services
under 42 USC 9902 (2).

(2) Rules of conduct. Any business that receives $25,000 or more in business
assistance shall agree, as a condition of receiving that business assistance, to comply
with the following rules of conduct:

(a) To pay every employee of the business employed in this state an hourly wage
that is not less than the amount determined by dividing the poverty line for a family
of 4 persons by 2,080 and rounding the quotient to the nearest multiple of 5 cents.
The department shall revise that hourly wage every year within 30 days after the
federal department of health and human services publishes its annual revision of the
poverty line. A revised hourly wage determined under this paragraph shall first
apply to wages earned on the first day of the first month beginning after the date on
which that hourly wage is revised.
(b) To provide health insurance for every employee of the business employed in this state and to cover the cost of premiums for that insurance. The department shall grant a credit of up to $1 per hour against the wage required to be paid under par. (a) for the cost of health insurance provided under this paragraph.

(c) 1. Not to eliminate any employment positions in this state when the employer moves any part of its operations to a site in another state.

2. Not to cease all operations in this state and move those operations to another state.

(3) EMPLOYMENT IMPACT ESTIMATES. (a) The department may provide business assistance to a business only if all of the following conditions are met:

1. The business, at least 30 days before entering into the agreement governing the receipt of the business assistance, has given a notice of intent to enter into the agreement, on a form prescribed under s. 560.034 (1), to the department and to any collective bargaining agent in this state with whom the business has a collective bargaining agreement.

2. The department has prepared an estimate under s. 560.034 (4). A business that receives business assistance is not required to satisfy an estimate made under this subdivision.

(b) An agreement that a business enters into with the department to finance a project with business assistance shall require that the business submit to the department annually for the duration of the project and for 5 years after the completion of the project, on a form prescribed under s. 560.034 (1), the number and types of jobs, with the wage rates and benefits for those jobs, eliminated, created, or maintained on the project site and elsewhere in this state as a result of the project.
(4) Enforcement and Administration. (a) The department shall monitor all businesses receiving business assistance for compliance with sub. (2), shall determine whether any business receiving business assistance is not in compliance with sub. (2), and shall assess and collect any penalties imposed under sub. (5) according to the following procedure:

1. The department shall notify the business and, if the business assistance was provided by a municipality under s. 66.1103, the municipality providing the business assistance that the business is in noncompliance with sub. (2) and of the penalty assessed under sub. (5).

2. The business may, within 30 days after the date of the notice, appeal in writing to the secretary, and the secretary shall enter a final decision within 30 days after receiving the appeal.

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

(b) The department shall contract with the legislative audit bureau to conduct an annual performance audit of the implementation of this section. The legislative audit bureau shall file the audit in the manner described in s. 13.94 (1) (b).

(5) Penalties. Any business that is subject to the rules of conduct under sub. (2) and that fails to comply with any of those rules is subject to all of the following penalties:

(a) Immediate rescission of all business assistance that was provided to the business, with the business to repay immediately all business assistance that was received by the business, plus a penalty equal to 10% of that business assistance and interest on that business assistance at the rate of 18% per year from the date of receipt of the business assistance to the date of payment of the amount due.
(b) Ineligibility for any further business assistance for 10 years after the date of noncompliance as determined by the department.

**SECTION 11.** 560.034 (1) of the statutes is amended to read:

560.034 (1) The department shall prescribe the notice forms to be used under ss. 66.1103 (4m) (a) 1. and 234.65 (3) (a), and 560.033 (3) (a). The department shall include on the forms a requirement for information on the number and types of jobs, with the wage rates and benefits for those jobs, the person submitting the notice expects to be eliminated, created, or maintained on the project site and elsewhere in this state by the project which is the subject of the notice. The department shall prescribe the forms to be used under ss. 66.1103 (4m) (b) and 234.65 (3r), and 560.033 (3) (b).

**SECTION 12.** 560.034 (2) of the statutes is amended to read:

560.034 (2) If the department receives a notice under s. 66.1103 (4m) (a), the department shall estimate, no later than 20 days after receipt of the notice, whether the number and types of jobs, with the wage rates and benefits for those jobs, that the project which is the subject of the notice is expected to eliminate, create, or maintain jobs on the project site and elsewhere in this state and the net number of jobs expected to be eliminated, created or maintained as a result of the project.

**SECTION 13.** 560.034 (3) of the statutes is amended to read:

560.034 (3) If the department receives a notice under s. 234.65 (3) (a), the department shall estimate, no later than 20 days after receipt of the notice, whether the number and types of jobs, with the wage rates and benefits for those jobs, that the project which is the subject of the notice is expected to eliminate, create, or maintain jobs on the project site and elsewhere in this state and the net number of jobs expected to be eliminated, created or maintained as a result of the project.
SECTION 14. 560.034 (4) of the statutes is created to read:

560.034 (4) If the department receives a notice under s. 560.033 (3) (a), the department shall estimate, no later than 20 days after receipt of the notice, the number and types of jobs, with the wage rates and benefits for those jobs, that the project that is the subject of the notice is expected to eliminate, create, or maintain on the project site and elsewhere in this state.

SECTION 15. 560.145 (1) (cm) of the statutes is created to read:

560.145 (1) (cm) If the grant is for $25,000 or more and the person is a business, as defined in s. 560.033 (1) (a), the person agrees in writing to comply with s. 560.033 (2).

SECTION 16. 560.147 (1) (bm) of the statutes is created to read:

560.147 (1) (bm) If the loan is for $25,000 or more and the person is a business, as defined in s. 560.033 (1) (a), the person agrees in writing to comply with s. 560.033 (2).

SECTION 17. 560.605 (1) (em) of the statutes is created to read:

560.605 (1) (em) If the grant or loan is for $25,000 or more and if the eligible recipient is a business, the eligible recipient receiving the grant or loan agrees in writing to comply with the requirements of s. 560.033 (2).

SECTION 18. Initial applicability.

(1) This act first applies to business assistance, as defined in section 560.033 (1) (b) of the statutes, as created by this act, awarded on the effective date of this subsection.

(END)