

**Senate Bill 296, relating to investment in venture capital investment firms, a grant to a high-technology business development corporation.**

This bill passed the Senate Committee on Economic Development and Corrections (2-1) on October 31.

Senator Chvala has a simple amendment he would like you to offer (LRB 0928/1). The amendment makes some changes suggested by SWIB to allay their concerns about not infringing on their ability to invest state dollars in whatever manner they choose.

**Your motion should be introduction and adoption of LRB 0928/1 and passage as amended of SB 296.**

MO# LRB 0928/1

BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
ROSENZWEIG	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
HUBER	Y	N	A
COGGS	Y	N	A

AYE 15 NO 1 ABS \_\_\_\_\_

MO# LRB 0931/1

BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
ROSENZWEIG	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
HUBER	Y	N	A
COGGS	Y	N	A

AYE 5 NO 11 ABS \_\_\_\_\_

MO# passage as amended

1	BURKE	<del>Y</del>	N	A
	DECKER	<del>Y</del>	N	A
	MOORE	<del>Y</del>	N	A
2	SHIBILSKI	<del>Y</del>	N	A
	PLACHE	<del>Y</del>	N	A
	WIRCH	<del>Y</del>	N	A
	DARLING	Y	<del>N</del>	A
	ROSENZWEIG	Y	<del>N</del>	A
	GARD	Y	<del>N</del>	A
	KAUFERT	Y	<del>N</del>	A
	ALBERS	Y	<del>N</del>	A
	DUFF	Y	<del>N</del>	A
	WARD	Y	<del>N</del>	A
	HUEBSCH	Y	<del>N</del>	A
	HUBER	<del>Y</del>	N	A
	COGGS	<del>Y</del>	N	A

AYE 8 NO 8 ABS \_\_\_\_\_

**Swiderski, Julie**

**From:** Burnett, Douglas  
**Sent:** Monday, November 05, 2001 12:42 PM  
**To:** Swiderski, Julie  
**Cc:** Mason, Tony; Shanovich, Ron  
**Subject:** Simple amendment to SB 296

The simple amendment (LRBa0928) addresses technical concerns raised by State of Wisconsin Investment Board that the bill could infringe on the Board's duties as a fiduciary to invest funds prudently.

It accomplishes this by requiring the board to "make an effort to commit" at least \$50 million in venture capital funds, rather than mandating the investments. The attorney general has issued an opinion indicating that a mandate is not enforceable, so this amendment recognizes that. It also adds language which allows the board to invest anywhere in the state, to recognize the reality that start-ups can occur anywhere. It also adds federally recognized Indian reservations to the list of areas the Board should attempt to invest the venture capital funds.

{The stripes are on their way to Julie now}



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## Legislative Fiscal Bureau

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

November 5, 2001

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Bill 296: State of Wisconsin Investment Board Venture Capital Investments/Grant to High-Technology Business Investment Corporation

Senate Bill 296 would require the State of Wisconsin Investment Board (SWIB) to make certain venture capital investments. In addition, the bill would authorize Commerce to make a grant from the Wisconsin Development Fund to the Wisconsin High-Technology Business Development Corporation.

Senate Bill 296 was introduced on October 26, 2001, and referred to the Senate Committee on Economic Development and Commerce. On October 31, 2001, that Committee held a public hearing on the bill and then recommended it for passage on a vote of 2 to 1. On the same day, the bill was referred to the Joint Committee on Finance.

### **State of Wisconsin Investment Board**

Under current law, SWIB may invest up to 2% of the admitted assets of the Fixed Retirement Investment Trust and the Variable Retirement Investment Trust in loans, securities and investments of corporations and limited liability companies that are in the venture capital stage. The approximate current value of both Retirement Trusts is \$59.6 billion; consequently, the current statutory ceiling on the value of all SWIB venture capital investments is approximately \$1.2 billion. Currently, SWIB has approximately \$210 million actually invested in its venture capital portfolio. In some cases, SWIB may also have made commitments to invest additional amounts in current venture capital portfolios. These future commitments are not reflected in the current \$210 million figure.

Senate Bill 296 would require that before June 30, 2004, SWIB must invest \$50,000,000 in venture capital investment firms. The \$50 million would be in addition to any amounts that SWIB would have invested in such firms before enactment of the bill.

In selecting the investment firms in which to invest the funds, SWIB would be required to consider all of the following:

1. The experience of the venture capital investment firms in making investments.
2. The commitment of the venture capital investment firms to making venture capital investments in the health care and biotechnology industries.
3. The willingness of the venture capital investment firms to make at least 75% of the investments in businesses headquartered in this state.
4. Whether the venture capital investment firms have a place of business in this state.
5. The overall experience of the venture capital investment firms in making investments in businesses that are in the venture capital stage.
6. The relationships that the venture capital investment firms have with technology transfer organizations, such as the Wisconsin Alumni Research Foundation, Inc.
7. The ability of the venture capital investment firms to do lead and follow-on investments.

Under SB 296, SWIB could only invest the funds in businesses located in the areas of: Green Bay, Eau Claire, Madison, Janesville-Beloit, La Crosse, Stevens Point-Marshfield, Racine-Kenosha, Milwaukee, Sheboygan-Manitowoc, Superior, the Fox River Valley, and Wausau. Under the bill, these areas would be defined by SWIB.

#### **Wisconsin High-Technology Development Corporation**

SB 296 would authorize Commerce to make a grant of up to \$2,500,000 in 2001-02 from the Wisconsin Development Fund (WDF) to the Wisconsin High-Technology Business Development Corporation (Corporation) if all of the following apply:

1. The Corporation uses the grant proceeds for a media campaign that identifies Wisconsin as the leader in biotechnology and to recruit biotechnology businesses for start-up or expansion in the state.
2. The Corporation submits to Commerce a plan for the use of grant proceeds and the Secretary of Commerce approves the plan.

3. The Corporation contributes matching funds equal to the amount of grant proceeds.

4. The Corporation agrees in writing to submit to Commerce, within six months after spending the full amount of the grant, a report detailing how the grant proceeds were used.

The high-technology business development corporation program was created by 1999 Wisconsin Act 106. Commerce is required to organize and assist in maintaining a high-technology business development corporation as a nonstock, nonprofit corporation under Wisconsin law for the exclusive purpose of promoting and supporting the creation, development and retention of science-based and technology-based businesses in the state. A board of directors consisting of at least 14 members including the Secretary of Commerce (or designee), the Director of Wisconsin Technical College System (or designee) and the President of the University of Wisconsin System (or designee) governs the high-technology development corporation. Commerce is authorized to make grants to the high-technology business development corporation if all of the following apply: (a) the corporation submits an expenditure plan to the Department detailing the proposed use of the grant proceeds and the Secretary of Commerce approves the plan; (b) the corporation enters into a written agreement with Commerce that specifies the conditions for the use of grant proceeds, including reporting and auditing requirements; (c) the corporation provides matching funds equal to 50% of the grant proceeds; (d) the corporation provides Commerce with any information requested concerning private funding the corporation has received or will receive for the purposes detailed in the expenditure plan (e) the corporation agrees in writing to submit to the Department, within six months after spending the full amount of the grant, a report detailing how the grant proceeds were used. Annual base level funding of \$250,000 is provided for grants to the high-technology business development corporation. Commerce made a required one-time grant of \$50,000 in 2000-01 to the high technology business development corporation to fund the start-up and administrative expenses of the corporation. Commerce made an additional grant of \$200,000 in 2000-01 and is authorized to provide \$250,000 annually thereafter from a GPR appropriation created for this purpose.

In November, 2000, the Governor appointed 26 members to the Wisconsin Technology and Entrepreneurs Council to promote development of science- and technology-based businesses in the state. The Council was formed to be a nonprofit corporation and the Council's board of directors approved the formation as a nonprofit corporation in January, 2001. As noted, Commerce awarded the Council a grant of \$50,000 to fund start-up and administrative costs.

The statutes require the high-technology business corporation to establish and implement programs that are focused on key elements necessary for the success of high-technology firms, including entrepreneurs, businesses, professional services, seed and venture capital, universities and state government. In appointing members to the Wisconsin Technology and Entrepreneurs Council, the Governor indicated that the corporation would establish and implement programs that are crucial for the success of high-technology companies, such as attracting seed and venture capital. The Council would also serve as a key link between the state's colleges and universities and the business and expertise and capital offered by the financial services industry.

## **FISCAL EFFECT**

The bill would allow Commerce to make a one-time grant of up to \$2.5 million in 2001-02 from the Wisconsin Development Fund (WDF) GPR appropriation. The WDF is provided over \$10 million annually (\$5,953,800 GPR and \$4,050,000 in program revenue repayments) for grants and loans to Wisconsin companies for business development and labor training.

Prepared by: Ron Shanovich and Tony Mason



## Legislative Fiscal Bureau

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November 5, 2001

TO: Senator Brian Burke  
Room 317 East, State Capitol

FROM: Tony Mason, Supervising Analyst

SUBJECT: Senate Amendment [LRBa0928/1] to Senate Bill 296

Senate Amendment [LRBa0928/1] to Senate Bill 296 would make the following changes with respect to the venture capital investment responsibilities of the State of Wisconsin Investment Board (SWIB) under Senate Bill 296.

Under the bill, SWIB would be required to invest \$50,000,000 in venture capital investment firms. The amount required to be invested would be in addition to any other amounts already invested in venture capital firms before the effective date of the provision. Senate Amendment [LRBa0928/1] would specify that SWIB "make an effort to commit" an amount "not less than" \$50,000,000 in venture capital firms. The amendment would also delete inconsistent language requiring SWIB to make this investment.

Senate Amendment [LRBa0928/1] would specify that when SWIB selects the venture capital firms in which to invest the funds, the Board would be subject to the current law standard of responsibility that governs the placement and management of funds. This standard of responsibility requires SWIB to: (1) invest with the care, skill, prudence and diligence that a prudent person acting in a similar capacity with the same resources would exercise; (2) diversify the investments to minimize the risk of large losses; and (3) administer the invested assets solely to fulfill the purposes of each trust or fund at a reasonable cost.

Under the bill, SWIB would be required to invest in firms making venture capital investments in health care and biotechnology. Senate Amendment [LRBa0928/1] would add "other technological industries" to this enumeration of firms in which the venture capital funds could be invested.



Under the bill, SWIB could only invest the funds in businesses located in the areas of: Green Bay, Eau Claire, Madison, Janesville-Beloit, La Crosse, Stevens Point-Marshfield, Racine-Kenosha, Milwaukee, Sheboygan-Manitowoc, Superior and the Fox River Valley. Senate Amendment [LRBa0928/1] would add federally recognized Indian reservations to this enumeration.

Senate Amendment [LRBa0928/1] would also stipulate that none of the investment provisions contained in the bill would limit the authority of SWIB to make any other investments that are otherwise authorized by law or restrict the Board's (or any venture capital investment firm's) authority to make investments in any area of the state.

BL/TM/lah