



## 2003 ASSEMBLY BILL 705

December 19, 2003 - Introduced by Representatives SCHOOFF, STASKUNAS, J. LEHMAN, TAYLOR, PLOUFF, SHILLING, RICHARDS, ALBERS, MILLER, MOLEPSKE and TURNER, cosponsored by Senators PLALE, LASSA, ERPENBACH and WIRCH. Referred to Committee on Economic Development.

1     **AN ACT to create** 20.143 (1) (dk), 20.143 (1) (ik) and 560.275 of the statutes;  
2             **relating to:** creating a technology commercialization grant and loan program,  
3             providing an exemption from emergency rule procedures, granting  
4             rule-making authority, and making an appropriation.

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### *Analysis by the Legislative Reference Bureau*

This bill creates a technology commercialization grant and loan program (program). Significant features of the program include:

#### ***Categories of grants and loans***

Under the program, the Department of Commerce (department) may provide five types of grants or loans. First, the department may make an early stage planning grant or loan. An early stage planning grant or loan provides funding to assist an applicant in completing a grant application for early stage research and development funding from the federal government or provides funding for professional services that the applicant needs to obtain as a condition of receiving early stage financing from third parties.

Second, the department may provide a matching grant or loan. A matching grant or loan provides funding for professional services related to developing a proposed technologically innovative product, process, or service or provides funding for professional services related to the accelerated commercialization of a technologically innovative product. Depending upon the type of funding sought, an applicant is eligible for a matching grant or loan only if the applicant has received

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a grant from the federal government for a substantially similar purpose or only if the applicant has received notice that such a grant has been awarded.

Third, the department may make a bridge grant or loan. An applicant is eligible for a bridge grant or loan only if the applicant has received early stage financing from third parties or a grant from the federal government to fund early stage research and development and has sought additional early stage financing from third parties or applied for an additional grant from the federal government to fund early stage research and development. A bridge grant or loan provides funding for professional services necessary to maintain the project research and management team and basic operations until the applicant's additional third party financing request or federal grant application is approved or denied.

Fourth, the department may make a venture capital grant or loan to enhance the applicant's ability to obtain early stage financing from third parties.

Finally, the department may make grants to entrepreneurial and technology transfer centers that satisfy specified criteria.

***Grant and loan amounts***

The bill specifies certain criteria the department must consider when determining the amount of an early stage planning grant or loan or a matching grant or loan. In determining the amount of an early stage planning grant or loan, the department must consider the amount of economic impact the applicant, if successful, will have in this state; the quality of any businesses assisting the applicant; the level of need demonstrated by the applicant; and the applicant's record of obtaining early stage financing in the past. In determining the amount of a matching grant or loan, the department must consider the viability of the applicant's business; the likelihood that the applicant will successfully commercialize technology; the applicant's management plan and management team; the amount of economic impact the applicant, if successful, will have in this state; and the applicant's record of obtaining early stage financing in the past.

The bill limits the amount of particular grants and loans as follows:

<i>Early stage planning grants and loans</i>	\$15,000
<i>Matching grants and loans</i>	20 percent of the project costs or \$250,000, whichever is less
<i>Bridge grants and loans</i>	75 percent of the project costs or \$100,000, whichever is less
<i>Venture capital grants and loans</i>	50 percent of the project costs or \$250,000, whichever is less

In addition, the bill limits the total amount of grants to entrepreneurial and technology transfer centers at \$500,000 annually.

***Eligibility***

Generally, the department may make a grant or loan to a small business, or individual entrepreneur who intends to form a small business, that is completing a grant application to be submitted to the federal government for the purpose of

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obtaining early stage research and development funding. The department may also make a grant or loan to an individual who is starting or developing a business which has significant growth potential, as evidenced by the potential to attract and receive early stage financing from third parties, but who needs assistance with a specific facet of starting or developing the business. In addition, the department may make a grant or loan only to an applicant that has or will have a business location in this state; that will manufacture a product substantially in this state (if the application relates to a product); that will maintain a principal place of business in this state (if the application relates to a service); and that will ensure all grant moneys will be spent in this state. Furthermore, if the applicant seeks an early stage planning grant or loan, the applicant must have funding from sources other than the state to finance at least 25% of the project costs.

These requirements do not apply to grants made to entrepreneurial and technology transfer centers.

***Appropriations***

This bill provides \$5,300,000 in GPR annually to fund grants and loans under the program. The bill also provides \$100,000 in the 2003-04 fiscal year and \$200,000 in the 2004-05 fiscal year to increase the authorized positions to the department by 2.0 FTE positions and to fund the department's activities to promote the program.

***Administration***

The bill requires the department to develop a biennial plan for awarding grants and loans under the program and to submit the plan to the governor and to the chief clerk of each house of the legislature, for distribution to the appropriate standing committees. The bill permits the department to contract with, and pay the proceeds of any grant under the program (other than a grant to an entrepreneurial and technology transfer center) directly to, any person who provides services which the grant is intended to fund. In addition, the bill requires the department to promulgate rules, including rules establishing application, reporting, auditing, and monitoring requirements.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 1           **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
2           the following amounts for the purposes indicated:

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**2003-04      2004-05**

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**20.143 Commerce, department of**

(1) ECONOMIC AND COMMUNITY DEVELOPMENT

(dk) Technology commercialization

grant and loan program; assis-

tance.

GPR      B      \$5,300,000      \$5,300,000

**SECTION 2.** 20.143 (1) (dk) of the statutes is created to read:

20.143 (1) (dk) *Technology commercialization grant and loan program; assistance.* Biennially, the amounts in the schedule for grants and loans under s. 560.275 (2).

**SECTION 3.** 20.143 (1) (ik) of the statutes is created to read:

20.143 (1) (ik) *Technology commercialization grant and loan program; repayments.* All moneys received in repayment of grants and loans made under s. 560.275 (2), to be used for grants and loans under s. 560.275 (2).

**SECTION 4.** 560.275 of the statutes is created to read:

**560.275 Technology commercialization grant and loan program. (1)**

DEFINITION. In this section, “Project costs” means the total cost of a project financed, at least in part, by a grant or loan under sub. (2), calculated as provided by rule of the department.

(2) AUTHORIZED GRANTS AND LOANS. (a) *Early stage planning grants and loans.*

The department may make a grant or loan from the appropriation under s. 20.143 (1) (dk) or (ik) for the purpose of funding professional services related to completing an application to be submitted to the federal government for the purpose of obtaining early stage research and development funding or for the purpose of funding

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1 professional services that are required to accomplish specific tasks established as a  
2 condition of receiving early stage financing from 3rd parties that is necessary for  
3 business development.

4 (b) *Matching grants and loans.* 1. The department may make a grant or loan  
5 from the appropriation under s. 20.143 (1) (dk) or (ik) for the purpose of funding  
6 professional services related to developing a proposed technologically innovative  
7 product, process, or service, if the applicant has received a grant from the federal  
8 government for a substantially similar purpose.

9 2. The department may make a grant or loan from the appropriation under s.  
10 20.143 (1) (dk) or (ik) for the purpose of funding professional services related to the  
11 accelerated commercialization of a technologically innovative product, process, or  
12 service, if the federal government has notified the applicant that the applicant will  
13 receive a grant from the federal government for a substantially similar purpose.

14 (c) *Bridge grants and loans.* The department may make a grant or loan from  
15 the appropriation under s. 20.143 (1) (dk) or (ik) to a person who has received early  
16 stage financing from 3rd parties or a grant from the federal government to fund early  
17 stage research and development and who has sought additional early stage financing  
18 from 3rd parties or applied for an additional grant from the federal government to  
19 fund early stage research and development. A grant or loan under this paragraph  
20 shall be for the purpose of funding professional services necessary to maintain the  
21 project research and management team and funding basic operations until the  
22 applicant's additional 3rd party financing request or federal grant application is  
23 approved or denied.

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1           (d) *Venture capital grants and loans.* The department may make a grant or loan  
2 from the appropriation under s. 20.143 (1) (dk) or (ik) for the purpose of enhancing  
3 the applicant's ability to obtain early stage financing from 3rd parties.

4           (e) *Entrepreneurial and technology transfer center grants.* The department  
5 may make a grant from the appropriation under s. 20.143 (1) (dk) or (ik) for the  
6 purpose of supporting any entrepreneurial and technology transfer center that  
7 satisfies all of the following criteria:

8           1. The center serves multiple regions of this state.

9           2. The center provides assistance, other than financial assistance, to  
10 entrepreneurs to facilitate business development.

11           3. The center reviews and analyzes entrepreneurial business plans and offers  
12 advice concerning the improvement of the plans.

13           4. The center provides advice to entrepreneurs concerning patent, trademark,  
14 and copyright issues.

15           5. The center provides appropriate referral services to entrepreneurs.

16           **(3) GRANT AND LOAN AMOUNTS.** (a) *Early stage planning grants and loans.* In  
17 determining the amount of a grant or loan under sub. (2) (a), the department shall  
18 consider all of the following, in addition to any other information the department  
19 considers relevant:

20           1. The amount of economic impact the applicant, if successful, will have in this  
21 state.

22           2. The quality of any businesses assisting the applicant.

23           3. The level of need demonstrated by the applicant.

24           4. The applicant's record of obtaining early stage financing in the past.

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1           (b) *Matching grants and loans.* In determining the amount of a grant or loan  
2 under sub. (2) (b), the department shall consider all of the following criteria, in  
3 addition to any other information the department considers relevant:

- 4           1. The viability of the applicant's business.
- 5           2. The likelihood that the applicant will successfully commercialize technology.
- 6           3. The applicant's management plan and management team.
- 7           4. The amount of economic impact the applicant, if successful, will have in this  
8 state.
- 9           5. The applicant's record of obtaining early stage financing in the past.

10           **(4) LIMITATIONS ON GRANT AND LOAN AMOUNTS.** (a) *Early stage planning grants*  
11 *and loans.* A grant or loan under sub. (2) (a) may not exceed \$15,000.

12           (b) *Matching grants and loans.* A grant or loan under sub. (2) (b) may not  
13 exceed 20 percent of the project costs or \$250,000, whichever is less.

14           (c) *Bridge grants and loans.* A grant or loan under sub. (2) (c) may not exceed  
15 75 percent of the project costs or \$100,000, whichever is less.

16           (d) *Venture capital grants and loans.* A grant or loan under sub. (2) (d) may not  
17 exceed 50 percent of the project costs or \$250,000, whichever is less.

18           (e) *Entrepreneurial and technology transfer grants.* The total amount of grants  
19 under sub. (2) (e) may not exceed \$500,000 in any fiscal year.

20           **(5) ELIGIBILITY.** The department may make a grant or loan under sub. (2) (a)  
21 to (d) to an applicant only if all of the following apply:

- 22           (a) The applicant:
  - 23           1. Is a small business, or individual entrepreneur who intends to form a small  
24 business, that is completing a grant application to be submitted to the federal  
25 government for the purpose of obtaining early stage research and development

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1 funding, except that if the application is for a grant under sub. (2) (b), the  
2 requirement that the applicant be completing a federal grant application does not  
3 apply; or

4 2. Is an individual who is starting or developing a business which has  
5 significant growth potential, as evidenced by the potential to attract and receive  
6 early stage financing from 3rd parties, but who needs assistance with a specific facet  
7 of starting or developing the business.

8 (b) If the applicant seeks a grant or loan under sub. (2) (a), the applicant has  
9 sufficient funding from sources other than the state to finance at least 25% of the  
10 project costs.

11 (c) The applicant has or will have a business location in this state.

12 (d) If the application relates to a product, the product will be manufactured  
13 substantially in this state.

14 (e) If the application relates to a service, the principal place of business from  
15 which the service will be sold will be located in this state.

16 (f) All grant moneys will be spent in this state.

17 **(6) GRANT AND LOAN DISTRIBUTION PLAN.** No later than December 1 of each  
18 even-numbered year, the department shall develop a biennial plan for awarding  
19 grants and loans under sub. (2) and shall submit the plan to the governor and to the  
20 chief clerk of each house of the legislature, for distribution to the appropriate  
21 standing committees under s. 13.172 (3).

22 **(7) ADMINISTRATION.** (a) *In-kind grants of services.* The department may  
23 contract with, and pay the proceeds of any grant under sub. (2) (a) to (d) directly to,  
24 any person who provides services which the grant is intended to fund.

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1           (b) *Rules.* The department shall promulgate rules to administer this section.  
2           The rules shall establish application, reporting, auditing, and monitoring  
3           requirements.

4           **SECTION 5. Nonstatutory provisions.**

5           (1) RULES.

6           (a) *Emergency rules.* Using the procedure under section 227.24 of the statutes,  
7           the department of commerce may promulgate rules required under section 560.275  
8           of the statutes, as created by this act, for the period before the effective date of the  
9           rules submitted under paragraph (b), but not to exceed the period authorized under  
10          section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a),  
11          (2) (b), and (3) of the statutes, the department is not required to provide evidence that  
12          promulgating a rule under this paragraph as an emergency rule is necessary for the  
13          preservation of the public peace, health, safety, or welfare and is not required to  
14          provide a finding of emergency for a rule promulgated under this paragraph.

15          (b) *Permanent rules.* The department of commerce shall submit in proposed  
16          form the rules required under section 560.275 of the statutes, as created by this act,  
17          to the legislative council staff under section 227.15 (1) of the statutes no later than  
18          the first day of the 4th month beginning after the effective date of this paragraph.

19          **SECTION 6. Appropriation changes.**

20          (1) AUTHORIZED POSITIONS AND PROMOTIONAL ACTIVITIES. In the schedule under  
21          section 20.005 (3) of the statutes for the appropriation to the department of commerce  
22          under section 20.143 (1) (a) of the statutes, as affected by the acts of 2003, the dollar  
23          amount is increased by \$100,000 for fiscal year 2003-04 and the dollar amount is  
24          increased by \$200,000 for fiscal year 2004-05 to increase the authorized FTE  
25          positions for the department by 2.0 GPR positions for the administration of section

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**SECTION 6**

1 560.275 of the statutes, as created by this act, and to provide funding for educational  
2 publications and instruction provided by the department to promote the technology  
3 commercialization grant and loan program.

4 (END)