2009 DRAFTING REQUEST

Bill

Received: **01/05/2010**

Wanted: **As time permits**

For: **Robin Vos (608) 266-9171**

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

Received By: **csundber**

Companion to LRB:

By/Representing: **Jennifer Toftness**

Drafter: **csundber**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Vos@legis.wisconsin.gov**

Carbon copy (CC:) to: **christopher.sundberg@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Governor's development opportunity fund

Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	csundber 02/03/2010	bkraft 02/04/2010		_______ _______			
/P1	csundber 03/05/2010	bkraft 03/05/2010	rschluet 02/04/2010	_______ _______	sbasford 02/04/2010		
/P2	csundber 03/10/2010	bkraft 03/11/2010	mduchek 03/08/2010	_______ _______	lparisi 03/08/2010		S&L
/1			jfrantze 03/11/2010	_______ _______	mbarman 03/11/2010	cduerst 03/26/2010	

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required

FE Sent For: at intro 4/23

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/1 bjk 3/11 3/11 3/10

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/1	bjk 3/5		MD 3/5				

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/?	csundber	/P1 bjk 2/4	2/4	~~jf~~ 3/8			

FE Sent For:

<END>

Sundberg, Christopher

From: Champagne, Rick
Sent: Monday, January 04, 2010 7:35 AM
To: Sundberg, Christopher; Kuczenski, Tracy; Malaise, Gordon
Subject: FW: Request for Bill Draft

Attachments: 20091229142101817.pdf

20091229142101817.pdf (2 MB)

Chris/Tracy/Gordon:

An economic development drating request. Unsure where the program would be located, butnthe govenor seems to be involved. Thanks.

Rick

-----Original Message-----
From: Toftness, Jennifer
Sent: Tuesday, December 29, 2009 3:00 PM
To: Champagne, Rick
Subject: Request for Bill Draft

Hi Rick,

I'm not sure if you are the right drafter for this, but here is my request:

Rep. Vos would like to draft legislation to create an economic development incentive fund in Wisconsin. Virginia has a program called the Governor's Development Opportunity Fund. Information on that fund is attached.

The Virginia fund grants awards based on population, unemployment rate and how many jobs created.

Rep. Vos would like to put $100 million in the fund and apply a general eligibility threshold based on population. The general guidelines set forth in the Virginia plan seem reasonable (100,000 or more: 100 new jobs/$10 million capital).

He would like to allow the Governor to have final say over this threshold, meaning he could award a larger grant notwithstanding the statutory eligibility requirements.

There is more to this email, however, we are being evacuted right now and I am leaving for vacation so I might not be able to return. I will send antoher email if possible, or please follow up with Janine Hale in my office as I'm sure you will have more questions on this draft.

Thanks!

Jenny Toftness
Office of State Representative Robin Vos 63rd Assembly District
(888) 534 0063

-----Original Message-----
From: Network Scanning
Sent: Tuesday, December 29, 2009 1:21 PM
To: Toftness, Jennifer
Subject:

This E-mail was sent from "RNPBB1A33" (MP 5500/LD255).

GOVERNOR'S DEVELOPMENT OPPORTUNITY FUND GUIDELINES

Cap amt by population Gov has ability to override

Purpose:

The Governor's Development Opportunity Fund (GOF) provides either grants or loans to localities to assist in the creation of new jobs and capital investment in accordance with criteria established by legislation. The statutory provisions for the GOF can be found at Section 2.2-115 of the Code of Virginia of 1950, as amended (the GOF Act).

Guiding Principles and Statutory Conditions:

GOF grants are made at the discretion of the Governor with the expectation that grants awarded to a locality or authority will result in a favorable decision for Virginia. Grants will only be awarded for basic projects—i.e. projects that would bring additional income into the Commonwealth. Grants will not be made for projects which have been publicly announced prior to the Governor's approval and public announcement of a grant award.

Beginning with the five fiscal years from fiscal year 2006-2007 through fiscal year 2010-2011, and for every five fiscal years' period thereafter, in general, no less than one-third of the moneys appropriated to the GOF in every such five-year period may be awarded to counties and cities having an annual average unemployment rate that is greater than the final statewide average unemployment rate for the calendar year that immediately precedes the calendar year of the award. If, however, the one-third requirement will not be met because economic development prospects in such counties and cities are unable to fulfill the applicable statutory minimum private investment and new jobs requirements, then any funds remaining in the GOF at the end of the five-year period that would have otherwise been awarded to such counties and cities shall be made available for awards in the next five fiscal years' period.

The Appropriations Act directs the Virginia Economic Development Partnership (VEDP) to give consideration to projects that (1) are in areas of high unemployment; (2) link commercial development along existing transportation/transit corridors within regions; and (3) are located near existing public infrastructure.

It is the policy of the Commonwealth that GOF proceeds will not be used for any economic development project in which a business relocates or expands its operations in one or more Virginia localities and simultaneously closes its operations or substantially reduces the number of its employees in another Virginia locality. The Secretary of Commerce and Trade will enforce this policy. Exceptions to this policy may be made, but will require that the Secretary provide written notice to the Chairmen of the Senate Finance and House Appropriations Committees, which notice will include a justification for any such exception.

Although the GOF may be used to make loans, the practice has been to use the GOF to make grants.

In assessing the amount of a GOF grant, the measure for Fiscal Stress published by the Commission on Local Government for the applicable locality will be one determining factor. Geographic diversity will be another determining factor.

Statutory Eligibility:

The GOF has several levels of qualification based on such measures as a locality's population and unemployment rate.

- General Eligibility Thresholds:
  - Population 100,000 or more: 100 new jobs / $10 million capital investment
  - Population 50,001-99,999: 50 new jobs / $5 million capital investment
  - Central cities or urban cores: 50 new jobs / $5 million capital investment
  - Population 50,000 or less: 25 new jobs / $2.5 million capital investment
  - The average wage for the new jobs must be at least equal to the prevailing average wage in the locality, excluding fringe benefits

- If the average wage is twice the prevailing average wage, the Governor may reduce the new jobs threshold to as low as one-half of the numbers shown above
- A locality's designation of its urban core or central city will be reviewed on a case-by-case basis. Criteria such as vacancy and unemployment rates in the immediate area of the proposed site will be considered in the review.

- Eligibility Thresholds in Localities with Above-Average Unemployment:
  - For localities with unemployment rates above the average statewide unemployment rate (see below for different capital investment and new job creation thresholds in localities with unemployment rates equal to or greater than 150% of the average statewide unemployment rate)
  - Capital investment and new job creation thresholds remain the same as provided above
  - Jobs may pay below the prevailing average wage in the locality, but must pay at least 85% of the prevailing average wage
  - If the average wage of the new jobs is less than 85% of the prevailing average wage, the Governor may still award a grant or loan, but the Secretary of Commerce and Trade must furnish a written explanation to the Chairmen of the Senate Finance and House Appropriations Committees setting forth the urgent need to provide a grant or loan to that project

- Eligibility Thresholds in Localities with Well Above-Average Unemployment:
  - For localities with unemployment rates equal to or greater than 150% of the average statewide unemployment rate
  - Population 100,000 or more: 75 new jobs / $7.5 million capital investment
  - Population 50,001-99,999: 35 jobs / $3.5 million investment
  - Population 50,000 or less: 15 jobs / $1.5 million investment
  - The average wage for the new jobs must be at least equal to the prevailing average wage in the locality, excluding fringe benefits
  - Qualifying localities that have created a Regional Industrial Facilities Authority will be eligible at the lowest capital

investment and new jobs creation threshold of any locality participating in that Authority

Provisions Regarding New Jobs:

VEDP expects to use a definition of *"new job"* that substantially reads as follows:

> "New job" means new permanent full-time employment of an indefinite duration at the company's facility in the locality, for which the standard fringe benefits are paid by the company for the employee, and for which the company pays an average annual wage of at least $[insert the company's projected average annual wage]. Each new job must require a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of the company's operations, which "normal year" must consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth, and positions with construction contractors, vendors, suppliers and similar multiplier or spin-off jobs shall not qualify as new jobs. New jobs for contractors or employees of contractors who are located in the Commonwealth and provide dedicated full-time service to the Company may count as New Jobs, even though the Company is not directly paying the wages or providing the fringe benefits, if the other conditions set forth in this paragraph (except the requirement that the new jobs be located at the company's facility) have been satisfied.

If there are existing jobs at the company's facility (or at a contractor's facility, if applicable), it is expected that the GOF grant performance agreement will state the number of existing jobs and will require that the new jobs be in addition to the existing jobs.

Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth, and positions with contractors, suppliers and similar multiplier or spin-off jobs will generally not qualify as new jobs.

In projects that involve job preservation, the number of "jobs saved" will be used to help determine the amount of the grant; however, the project must still meet the appropriate minimum new job *creation* threshold listed above.

If a company is relocating or expanding its operations, but is simultaneously closing or substantially reducing its operations in another Virginia locality, the jobs at the new or expanding location will count as "new jobs" only if the Secretary of Commerce and Trade agrees to this exception to the general policy and provides written notice to the Chairmen of the Senate Finance and House Appropriations Committees justifying such exception.

If the company wishes to count the new jobs created by contractors in meeting its new jobs target, as described in the last sentence of the definition of "new job," the company will be responsible for gathering and disseminating to the locality and VEDP information regarding those jobs, including whether such jobs are net "new jobs" in the Commonwealth.

Provisions Regarding Capital Investment:

"Capital investment" is used in these Guidelines to mean "private investment" under the GOF Act.

VEDP expects to use a definition of *"capital investment"* that substantially reads as follows:

> "Capital investment" means a private capital expenditure by the company in taxable real property, taxable tangible personal property, or both, at the company's facility in the locality. The capital investment must be in addition to the amount of grant proceeds (GOF or otherwise) and other incentives applied to the costs of capital assets.

VEDP is likely to determine that expenditures for maintenance or repair of existing machinery, tools and real property will not constitute a capital investment for purposes of this definition, unless the expenditures for the replacement of property result in a measurable increase in productivity.

VEDP may, in its discretion, determine that the value of machinery and equipment leased under an operating lease will qualify as a capital investment.

VEDP may, in its discretion, determine that the value of the construction or improvement of real property leased under an operating lease will qualify as a capital investment, but is likely to do so only in circumstances in which (1) the operating lease is for at least the longer of five years or twice the period of time until VEDP has estimated that the Commonwealth will "break-even" on the project, taking into account all incentives offered to the company by the Commonwealth, (2) the real property would not be constructed or improved "but for" the company's interest in leasing some or all of the facility, and (3) if for an improvement project, the improvements will significantly increase the taxable value of the property. Only that portion of the construction or improvement costs related to the portion of the facility to be leased to the company may qualify.

Capital investment generally will not include operating expenses, except operating leases to the limited extent noted above.

Capital investment may include the value of real or personal property leased under a capital lease.

The cost of the acquisition of land and existing buildings will not count toward the required capital investment thresholds, unless the land and existing buildings are being purchased from a governmental entity.

Determination of Grant Amount and Conditions:

In determining grant amounts, the following criteria will be considered: new jobs, wage levels, overall employment, capital investment, area and regional unemployment and fiscal stress, the locality's interest in the project, and industry or company growth potential.

The maximum amount of a GOF grant through June 30, 2010 is $1,500,000. In very unique circumstances, the Governor may waive this limit and offer a maximum $3 million grant for projects that the Governor has determined are of state or regional interest.

Localities may receive more than one GOF grant during a fiscal year.

Grants may be made for more than one project for a single company, but the projects must clearly represent separate investments for separate projects.

If the company has existing operations in Virginia and has closed, downsized, consolidated, or laid off employees within the past 30 months prior to the application date, there will be a strong bias toward not approving a GOF application. The company will, however, be offered an opportunity to explain such actions and to provide assurances regarding the expected new jobs and capital investment.

Grants may only be made from current appropriations and available funds and may not be committed from anticipated future appropriations.

Local Matches:

Localities must at least match dollar-for-dollar with local funds the amount requested from the GOF. Previously invested local funds, grants of moneys from other government sources, and contributions from private interests which benefit from the project's location may not be counted as part of the local match.

Local matches generally must be made within 36 months of receipt of the GOF grant proceeds and may not be spread out over more than five years.

Local Enterprise Zone incentives may be counted towards the local match where the locality makes actual expenditures after the project is announced to benefit the project.

Grants to the locality from the Tobacco Region Opportunity Fund may be used as up to one-half of the matching funds by localities experiencing fiscal stress.

Use of GOF Proceeds:

Moneys may be used for public and private utility extension or capacity development on and off site; public and private installation, extension, or capacity development of high-speed or broadband Internet access, whether on or off site; road, rail, or other transportation access costs beyond the funding capability of existing programs; site acquisition; grading, drainage, paving, and any other activity required to prepare a site for construction; construction of publicly owned buildings or build-out of publicly owned buildings; training; or grants or loans to an industrial development authority, housing and redevelopment authority, or other political subdivision for purposes directly relating to any of the foregoing. In no case may GOF proceeds be used, directly or indirectly, to pay or guarantee the payment for any rental, lease, license, or other contractual right to the use of any property. The GOF proceeds may not be used for the construction or build-out of privately owned buildings.

Application Process:

Applications should consist of two documents: (1) a letter sent by the chief appointed official of any county, city, town or other applicable political subdivision to the Executive Director of VEDP and (2) a letter sent by the company to the Executive Director of VEDP.

It is expected that the letter from the community will use the following format and include the following information:

- A summary statement presenting the importance of the project to the community and why support from the GOF is being sought;

- Amount requested and the use of the funds;

- Description of the project, including:
  - Company name and information (website, stock exchange ticker)
  - Type of operation (i.e. manufacturing, distribution, etc.)
  - Headquarters location
  - Virginia operations (if any exist)

- Sales and revenues and the timeframe in which they occurred/were generated
- What the company is planning to do in Virginia
- Employment impact on current operations in Virginia

- Location of the project including the community, and its population, current unemployment rate and prevailing average wage;

- Details of private capital investment, including but not limited to the value of property to be leased under a capital lease, or other private investments of capital that add to the local tax revenues;

- Jobs created (within 36 months of a locality receiving a grant payment), information on "jobs saved," average salary level and total yearly payroll of jobs created;

- Local and state financial participation, specifying new monies to be allocated to the project and how those funds will be used. Description of other public funds that have been or will be expended for the project such as training or past public expenditures for road, utility extension or site development;

- If the project for which a GOF grant is being requested involves the relocation of a business from one Virginia locality to another, the community applying for the grant must officially notify the community from which the business is moving. For such projects, a statement must be included in the GOF application that this notification has taken place, and must also provide the reasons for the move and the out-of-state competition; and

- Any other current or background information pertinent to the project that might assist the Governor in making an informed decision based on complete knowledge. Communities are obliged to disclose any information that could reflect negatively on the project.

It is expected that the letter from the company will use the following format and include the following information:

- An indication from the company that without support from the GOF, there is a possibility that the project could be located outside of Virginia and that only one site in Virginia is under consideration for the project;

- An indication from the company of the number of existing jobs to be retained and new jobs to be created (and saved, if any), payroll and salary levels and a statement of whether the company offers its employees a standard package of fringe benefits;

- An indication of the private capital investment to be made by the company at the facility in the community within 36 months of the expected receipt of the grant by the community;

- An affirmation that the proposed project will not result in a closing, loss of jobs, consolidation, or change to any existing operations in Virginia for the next 12 months;

- An affirmation that if the company has not closed, downsized, consolidated, or laid off employees at existing operations in Virginia within the past 12 months prior to the application date, or, if it has, additional assurances regarding the stability of the new jobs and capital investment.

VEDP's Executive Director may request company financial information for the past three years. Additionally, financial information and satisfactory evidence of a company's financial stability may be requested before a GOF grant or loan is approved. It is likely that such information will be requested and reviewed prior to a decision on whether to recommend a GOF grant for a start-up company or for a new division or operation for an existing company.

Contractual Arrangements

Since a GOF grant is awarded to a community, the community is required to enter into a performance agreement with the company before it may receive the GOF grant. This is to ensure that the company will meet the new job and capital investment levels as stated in its application and as agreed to. Neither VEDP nor the Commonwealth will be a party to the performance agreement.

The performance agreement will likely contain a date by which the community must request the GOF check, which date is likely to be 3 or 4 months after the Governor has announced that the project will be coming to Virginia. The performance agreement will likely provide that the performance agreement will be terminated if the check is not requested by that date. The community and the company would be welcome to reapply for another GOF grant, using any new criteria in place at that time and subject to the availability of funds at that time. The form to be used by the community for requesting the check is available from VEDP.

The performance agreement must include a statement that the company will achieve and maintain through a "Performance Date" the specified new job creation and capital investment targets. Generally, the Performance Date will be the date 36 months after the date by which the community needs to request the GOF check. Further, if the date by which the Commonwealth is expected to reach its "break-even point" as determined by a return-on-investment analysis prepared by VEDP, is later than the Performance Date, there will be another obligation of the company to maintain its new jobs through the break-even date. The community will be held responsible for requesting any repayments as calculated by VEDP, and for returning the GOF grant moneys repaid by the company to the Commonwealth if the performance agreement criteria are not met.

Generally, GOF grants are broken into 50% for job creation and 50% for capital investment. **The company must meet the statutory minimums for <u>both</u> jobs <u>and</u> investment detailed in the "Statutory Eligibility" section or be subject to a 100% clawback.** If the minimum statutory thresholds are met, but the jobs and/or investment targets are not met up to 90% of their goal, then there will be a clawback in proportion to the underperformance for each respective component. If the Company meets at least 90% of its new jobs <u>and</u> capital investment targets, there will be no clawback.

The performance agreement will likely contain a provision that will require a 100% clawback if at any time the community and VEDP conclude that the company will be unable to meet its new jobs and capital investment targets by the Performance Date. Such a conclusion may be based on factors such as the bankruptcy of the company, the sale or liquidation of the company, or the cessation or substantial reduction of operations by the company in the community.

The Company may not assign its rights or obligations under a GOF performance agreement without the express written approval from VEDP and the community. VEDP will consider a reassignment of rights and obligations in the event that there is a transfer to a parent company, subsidiary or sister entity, there is no net effect on new job creation and capital investment, and the benefits accruing to the locality and the Commonwealth will remain substantially the same.

Once VEDP, the locality and the company are comfortable with the language of the performance agreement, the performance agreement must be presented to the Office of the Attorney General for review as to proper legal form. The OAG will have up to seven days to provide written comments regarding the performance agreement.

If the company has not achieved at least 90% of its new jobs and capital investment targets by the Performance Date set forth in the performance agreement, the locality, in consultation with VEDP, may grant the company an extension of up to 15 months. The locality will notify VEDP of any such extension.

Upon approval of a GOF grant or loan, neither the locality nor the company shall announce or confirm the proposed project without coordination with VEDP. The new jobs and capital investment targets in the performance agreement will be used in the press release when the public announcement is made. If the targets are not used for the public announcement of the project, or if the public announcement is made by anyone other than the Governor, the grant award is subject to being reduced or withdrawn.

The basic form of a performance agreement is attached to these Guidelines.

MISCELLANEOUS

If legislation from the Virginia General Assembly directs that moneys from the GOF fund be directed to other uses, VEDP may cause the withdrawal of such moneys from the GOF fund for those uses, regardless of whether such those uses may conflict with these Guidelines.

If the Virginia General Assembly deposits federal funds into the GOF fund, and if the expenditure of those federal funds would require compliance by the locality and/or the company with various federal legal requirements, those federal legal requirements will be deemed to be read into the performance agreement.

§ 2.2-115. Governor's Development Opportunity Fund.

As used in this section, unless the context requires otherwise:

"New job" means employment of an indefinite duration, created as the direct result of the private investment, for which the firm pays the wages and standard fringe benefits for its employee, requiring a minimum of either (i) 35 hours of the employee's time a week for the entire normal year of the firm's operations, which "normal year" must consist of at least 48 weeks or (ii) 1,680 hours per year.

Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth to the location of the economic development project, positions with suppliers, and multiplier or spin-off jobs shall not qualify as new jobs. The term "new job" shall include positions with contractors provided that all requirements included within the definition of the term are met.

"Prevailing average wage" means that amount determined by the Virginia Employment Commission to be the average wage paid workers in the city or county of the Commonwealth where the economic development project is located. The prevailing average wage shall be determined without regard to any fringe benefits.

"Private investment" means the private investment required under this section.

A. There is created the Governor's Development Opportunity Fund (the Fund) to be used by the Governor to attract economic development prospects and secure the expansion of existing industry in the Commonwealth. The Fund shall consist of any funds appropriated to it by the general appropriation act and revenue from any other source, public or private. The Fund shall be established on the books of the Comptroller, and any funds remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund. The Governor shall report to the chairmen of the House Committees on Appropriations and Finance, and the Senate Committee on Finance as funds are awarded in accordance with this section.

B. Funds shall be awarded from the Fund by the Governor as grants or loans to political subdivisions. Loans shall be approved by the Governor and made in accordance with guidelines established by the Virginia Economic Development Partnership and approved by the Comptroller. Loans shall be interest-free unless otherwise determined by the Governor and shall be repaid to the Fund. The Governor may establish the interest rate to be charged; otherwise, any interest charged shall be at market rates as determined by the State Treasurer and shall be indicative of the duration of the loan. The Virginia Economic Development Partnership shall be responsible for monitoring repayment of such loans and reporting the receivables to the Comptroller as required.

Beginning with the five fiscal years from fiscal year 2006-2007 through fiscal year 2010-2011, and for every five fiscal years' period thereafter, in general, no less than one-third of the moneys appropriated to the Fund in every such five-year period shall be awarded to counties and cities having an annual average unemployment rate that is greater than the final statewide average unemployment rate for the calendar year that immediately precedes the calendar year of the award. However, if such one-third requirement will not be met because economic development prospects in such counties and cities are unable to fulfill the applicable minimum private investment and new jobs requirements set forth in this section, then any funds remaining in the Fund at the end of the five-year period that would have otherwise been awarded to such counties and cities shall be made available for awards in the next five fiscal years' period.

C. Funds may be used for public and private utility extension or capacity development on and off site; public and private installation, extension, or capacity development of high-speed or broadband Internet access, whether on or off site; road, rail, or other transportation access costs beyond the funding capability of existing programs; site acquisition; grading, drainage, paving, and any other activity required to prepare a site for construction; construction or build-out of publicly owned buildings; training; or grants or loans to an industrial development authority, housing and redevelopment authority, or other political subdivision for purposes directly relating to any of the foregoing. However, in no case shall funds from the Fund be used, directly or indirectly, to pay or guarantee the payment for any rental, lease, license, or other contractual right to the use of any property.

?

It shall be the policy of the Commonwealth that moneys in the Fund shall not be used for any economic development project in which a business relocates or expands its operations in one or more Virginia localities and simultaneously closes its operations or substantially reduces the number of its employees in another Virginia locality. The Secretary of Commerce and Trade shall enforce this policy and for any exception thereto shall promptly provide written notice to the Chairmen of the Senate Finance and House Appropriations Committees, which notice shall include a justification for any exception to such policy.

D. 1. Except as provided in this subsection, no grant or loan shall be awarded from the Fund unless the project involves a minimum private investment of $10,000,000 and creates 100 new jobs for which the average wage, excluding fringe benefits, is no less than the prevailing average wage. In localities with a population between 50,000 and 100,000, the minimum private investment shall be $5,000,000, creating 50 new jobs for which the average wage, excluding fringe benefits, is no less than the prevailing average wage. In localities with a population of 50,000 or less, the minimum private investment shall be $2,500,000, creating 25 new jobs for which the average wage, excluding fringe benefits, is no less than the prevailing average wage. Central cities or urban cores shall be treated for eligibility purposes the same as communities with a population between 50,000 and 100,000. For projects for which the average wage of the new jobs created, excluding fringe benefits, is at least twice the prevailing average wage for that locality or region, the Governor shall have the discretion to require no less than one-half the number of new jobs as set forth for that locality in this subsection.

2. Notwithstanding the provisions of subdivision D 1, if a project is to be located in a county or city whose annual average unemployment rate for the most recent calendar year is greater than the final statewide average unemployment rate for the most recent calendar year, a grant or loan may be awarded from the Fund if the average wage of the new jobs, excluding fringe benefits, will be no less than 85% of the prevailing average wage. In addition, for projects in such counties and cities, the Governor may award a grant or loan for a project paying less than 85% of the prevailing average wage but still providing customary employee benefits, only after the Secretary of Commerce and Trade has made a written finding that the economic circumstances in the area are sufficiently distressed (i.e., high unemployment or underemployment and negative economic forecasts) that assistance to the locality to attract the project is nonetheless justified. However, the minimum private investment and number of new jobs required to be created as set forth in this subsection shall still be a condition of eligibility for an award from the Fund. Such written finding shall promptly be provided to the Chairmen of the Senate Finance and House Appropriations Committees.

3. Notwithstanding the provisions of subdivision 1, if a project is to be located in a locality whose unemployment rate is one and one half times or more the state average, the minimum private investment shall be adjusted to $7,500,000 and the minimum number of new jobs created shall be adjusted to 75 jobs for which the average wage, excluding fringe benefits, is no less than the prevailing average wage. In localities with a population between 50,000 and 100,000, the minimum private investment shall be $3,500,000, creating 35 new jobs for which the average wage, excluding fringe benefits, is no less than the prevailing average wage. In localities with a population of 50,000 or less, the minimum private investment shall be $1,500,000, creating 15 new jobs for which the average wage, excluding fringe benefits, is no less than the prevailing average wage. Localities qualifying under this subdivision that have created Regional Industrial Facilities Authorities pursuant to § 15.2-6402, shall be eligible at the lowest investment and job creation threshold of any locality in that Authority.

E. 1. The Virginia Economic Development Partnership shall assist the Governor in developing objective guidelines and criteria that shall be used in awarding grants or making loans from the Fund. The guidelines and criteria shall include provisions for geographic diversity and a cap on the amount of funds to be provided to any individual project. In developing the guidelines and criteria, the Virginia Economic Development Partnership shall use the measure for Fiscal Stress published by the Commission on Local Government of the Department of Housing and Community Development for the locality in which the project is located or will be located as one method of determining the amount of assistance a locality shall receive from the Fund.

2. a. Notwithstanding any provision in this section or in the guidelines, each political subdivision that receives a grant or loan from the Fund shall enter into a contract with each business beneficiary of funds from the Fund. A person or entity shall be a business

beneficiary of funds from the Fund if grant or loan moneys awarded from the Fund by the Governor are paid to a political subdivision and (i) subsequently distributed by the political subdivision to the person or entity or (ii) used by the political subdivision for the benefit of the person or entity but never distributed to the person or entity.

b. The contract between the political subdivision and the business beneficiary shall provide in detail (i) the fair market value of all funds that the Commonwealth has committed to provide, (ii) the fair market value of all matching funds (or in-kind match) that the political subdivision has agreed to provide, (iii) how funds committed by the Commonwealth (including but not limited to funds from the Fund committed by the Governor) and funds that the political subdivision has agreed to provide are to be spent, (iv) the minimum private investment to be made and the number of new jobs to be created agreed to by the business beneficiary, (v) the average wage (excluding fringe benefits) agreed to be paid in the new jobs, (vi) the prevailing average wage, and (vii) the formula, means, or processes agreed to be used for measuring compliance with the minimum private investment and new jobs requirements.

The contract shall state the date by which the agreed upon private investment and new job requirements shall be met by the business beneficiary of funds from the Fund and may provide for the political subdivision to grant up to a 15-month extension of such date if deemed appropriate by the political subdivision subsequent to the execution of the contract. Any extension of such date granted by the political subdivision shall be in writing and promptly delivered to the business beneficiary, and the political subdivision shall simultaneously provide a copy of the extension to the Virginia Economic Development Partnership.

The contract shall provide that if the private investment and new job contractual requirements are not met by the expiration of the date stipulated in the contract, including any extension granted by the political subdivision, the business beneficiary shall be liable to the political subdivision for repayment of a portion of the funds provided under the contract. The contract shall include a formula for purposes of determining the portion of such funds to be repaid. The formula shall, in part, be based upon the fair market value of all funds that have been provided by the Commonwealth and the political subdivision and the extent to which the business beneficiary has met the private investment and new job contractual requirements. Any such funds repaid to the political subdivision that relate to the award from the Governor's Development Opportunity Fund shall promptly be paid over by the political subdivision to the Commonwealth by payment remitted to the State Treasurer. Upon receipt by the State Treasurer of such payment, the Comptroller shall deposit such repaid funds into the Governor's Development Opportunity Fund.

c. The contract shall be amended to reflect changes in the funds committed by the Commonwealth or agreed to be provided by the political subdivision.

3. Notwithstanding any provision in this section or in the guidelines, prior to executing any such contract with a business beneficiary, the political subdivision shall provide a copy of the proposed contract to the Attorney General. The Attorney General shall review

the proposed contract (i) for enforceability as to its provisions and (ii) to ensure that it is in appropriate, legal form. The Attorney General shall provide any written suggestions to the political subdivision within seven days of his receipt of the copy of the contract. The Attorney General's suggestions shall be limited to the enforceability of the contract's provisions and the legal form of the contract.

4. Notwithstanding any provision in this section or in the guidelines, a political subdivision shall not expend, distribute, pledge, use as security, or otherwise use any award from the Fund unless and until such contract as described herein is executed with the business beneficiary.

F. Within the 30 days immediately following June 30 and December 30 of each year, the Governor shall provide a report to the chairmen of the House Committees on Appropriations and Finance and the Senate Committee on Finance which shall include, but is not limited to, the following information regarding grants and loans awarded from the Fund during the immediately preceding six-month period for economic development projects: the name of the company that is the business beneficiary of the grant or loan and the type of business in which it engages; the location (county, city, or town) of the project; the amount of the grant or loan committed from the Fund and the amount of all other funds committed by the Commonwealth from other sources and the purpose for which such grants, loans, or other funds will be used; the amount of all moneys or funds agreed to be provided by political subdivisions and the purposes for which they will be used; the number of new jobs agreed to be created by the business beneficiary; the amount of investment in the project agreed to be made by the business beneficiary; the timetable for the completion of the project and new jobs created; the prevailing average wage; and the average wage (excluding fringe benefits) agreed to be paid in the new jobs.

G. The Governor shall provide grants and commitments from the Fund in an amount not to exceed the dollar amount contained in the Fund. If the Governor commits funds for years beyond the fiscal years covered under the existing appropriation act, the State Treasurer shall set aside and reserve the funds the Governor has committed, and the funds shall remain in the Fund for those future fiscal years. No grant or loan shall be payable in the years beyond the existing appropriation act unless the funds are currently available in the Fund.

(1996, cc. 590, 598, 859, § 2.1-51.6:5; 1999, cc. 787, 816; 2001, c. 844; 2006, cc. 251, 890; 2007, c. 654.)

In: 2/3/10 [Soon]

State of Wisconsin
2009 - 2010 LEGISLATURE

(P1)

LRB-4072/P1
CTS:...:...
RMNR
bjk

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA x-ref

d-note

AN ACT ...; **relating to:** authorizing the governor to award ~~grants and loans for development projects~~ gen., granting rule-making authority, and making appropriations.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

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

		2009-10	**2010-11**
20.525	**Office of the governor**		
(1)	EXECUTIVE ADMINISTRATION		
(e)	Governor's opportunity fund		

SECTION 2. 20.525 (1) (e) of the statutes is created to read:

20.525 **(1)** (e) *Governor's opportunity fund.* The amounts in the schedule for grants and loans under s. 234.037.

SECTION 3. 20.525 (1) (j) of the statutes is created to read:

20.525 **(1)** (j) *Governor's opportunity fund; repayments.* All moneys received in repayment of grants and loans under s. 234.037 for grants and loans under s. 234.037.

SECTION 4. 234.037 of the statutes is created to read:

234.037 Governor's opportunity fund; grants and loans. **(1)** In this section:

(a) "Eligible costs" means the cost of any of the following, except that "eligible costs" do not include payment or guarantee of payment for any rental, lease, license, or other contractual right to the use of property:

1. Public or private utility extension or capacity development on or off the site of the development project.

2. Public or private installation, extension, or capacity development of high-speed or broadband Internet access, whether on-site or off-site.

3. Road, rail, or other transportation access costs that exceed the funding capability of existing programs.

4. Site acquisition.

5. Grading, drainage, paving, and any other activity required to prepare a site for construction.

6. Construction or build-out of publicly owned buildings.

7. Training.

8. Grants or loans to an industrial development authority, housing and redevelopment authority, or other political subdivision for purposes directly relating to an eligible cost under subds. 1. to 7.

(b) "New job" means employment of an indefinite duration that is created as the direct result of a private investment and for which the employer pays wages and standard fringe benefits, if the employment requires an employee to work at least 1,680 hours per year or at least 35 hours per week for at least 48 weeks. "New job" does not include a position created by an employer by shifting a job function from another location in this state or a position created at an employer's supplier.

(c) "Political subdivision" means a city, village, town, or county.

(d) "Prevailing average wage" means the average wage, exclusive of the value of fringe benefits, paid to a worker in the political subdivision where an economic development project is located.

(2) (a) Subject to pars. (b) and (c), the governor may award a grant or loan from the appropriations under s. 20.525 (1) (e) and (j) to a political subdivision for eligible costs of a development project if one of the following applies:

1. The project involves a private investment of at least $10,000,000 and creates at least 100 new jobs for which the average wage, excluding fringe benefits, is not less than the prevailing average wage.

2. The project involves a private investment of at least $5,000,000; creates at least 50 new jobs for which the average wage, excluding fringe benefits, is not less than the prevailing average wage; and is located in a political subdivision with a population less than 100,000.

3. The project involves a private investment of at least $2,500,000; creates at least 25 new jobs for which the average wage, excluding fringe benefits, is not less

than the prevailing average wage; and is located in a political subdivision with a population less than 50,000.

(b) The governor may not award a grant or loan for a development project in which a business relocates or expands its operations in one or more locations in this state and simultaneously closes or substantially reduces its operations or the number of its employees in another location in this state.

(c) At least one-third of the grant moneys awarded in a fiscal biennium shall be awarded to political subdivisions whose unemployment rate in the calendar year preceding the award of the grant exceeded the average unemployment rate in this state for the same type of political subdivision.

(3) Notwithstanding sub. (2), the governor may award a grant or loan from the appropriations under s. 20.525 (1) (e) and (j) to a political subdivision for eligible costs of a development project if the authority determines that the award of a grant or loan is warranted on the basis of an evaluation of the costs and benefits to the state.

(4) A political subdivision that receives a grant or loan under this section shall enter into a contract with each business for whose benefit the grant or loan has been awarded. The contract shall specify a deadline for the business to secure the private investment and create the new jobs for which the grant or loan was awarded, except that a political subdivision may grant an extension of the deadline not to exceed 15 months from the initial deadline specified in the contract. If the business fails to secure the private investment and create the new jobs for which the grant or loan was awarded by the deadline, the contract shall require the business to repay a portion of the grant or loan. The amount of the repayment required shall be prorated according to the value of the benefit obtained by the business as a result of the grant or loan and the extent to which the business has secured the private investment and created the new jobs specified in the contract.

(5) With the advice of the authority, the governor shall develop guidelines and criteria for awarding grants or making loans under this section. The guidelines and criteria shall encourage the award of grants for projects throughout the state and shall include a cap on the amount of a grant under this section.

(END)

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4072/P1dn
CTS:...:...

L bjk

Date

Representative Vos:

This is a preliminary draft. Please review it carefully to ensure it is consistent with your intent, and note the following:

1. This draft gives WHEDA broad authority to allow the governor to award a grant or loan in circumstances where the numerical criteria are not met. Should the draft limit WHEDA's override authority to projects that nevertheless meet another set of lower numerical criteria?

2. The Virginia legislation on which this draft is based provides that central cities and urban cores are treated as communities with a population between 50,000 and 100,000. Should the draft incorporate a similar provision?

3. This draft creates, but does not fund, a biennial GPR appropriation to fund the grants and loans program. When you know the amounts you wish to insert in the schedule, or if you would like to discuss alternative funding mechanisms, please contact me.

Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail:
christopher.sundberg@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4072/P1dn
CTS:bjk:rs

February 4, 2010

Representative Vos:

This is a preliminary draft. Please review it carefully to ensure it is consistent with your intent, and note the following:

1. This draft gives WHEDA broad authority to allow the governor to award a grant or loan in circumstances where the numerical criteria are not met. Should the draft limit WHEDA's override authority to projects that nevertheless meet another set of lower numerical criteria?

2. The Virginia legislation on which this draft is based provides that central cities and urban cores are treated as communities with a population between 50,000 and 100,000. Should the draft incorporate a similar provision?

3. This draft creates, but does not fund, a biennial GPR appropriation to fund the grants and loans program. When you know the amounts you wish to insert in the schedule, or if you would like to discuss alternative funding mechanisms, please contact me.

Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail:
christopher.sundberg@legis.wisconsin.gov

Sundberg, Christopher

From: Toftness, Jennifer
Sent: Wednesday, February 17, 2010 4:06 PM
To: Sundberg, Christopher
Subject: FW: request for LRB number

1. I envision Commerce's administration of this fund to be similar to the administration that currently for the Wisconsin Development Fund. The Bureau of Business Finance and Compliance in the Division of Business Development oversees the administration of the WDF. Commerce staff review and approve applications, monitor and assess compliance with program and contract requirements, and perform other related administrative functions.

An eleven-member Development Finance Board, which is attached to Commerce, approves most WDF grants and loans. The Board consists of the Secretaries of the Departments of Commerce and Workforce Development (DWD) (or designees), the Director of the Wisconsin Technical College System (WTCS) (or designee), and six members appointed by the Governor for two-year terms representing the scientific, technical, labor, small business, minority business, and financial business communities in the state. In addition, 2007 Wisconsin Act 20 expanded the Board to include two legislative members, one appointed by the Speaker of the Assembly, and one by the Majority Leader of the Senate. All other appointed members of the Board must be confirmed by the Senate.

I don't anticipate that any input by the board will be necessary as it is the Governor who will award the grants and commerce staff should be able to adequately certify what a particular business venture is qualified to receive from the Governor's Opportunity Fund.

✓ 2. I think the Governor should be allowed to award a grant when the numerical criteria are not satisfied. I think in that case, it should come to the Joint Committee on Finance under the passive review process. I believe under 16.515, we have 2 weeks to review a request. In this instance, the passive review should be greatly shortened, allowing only a four day window for members to object. If an objection occurs, a hearing must occur within 5 days.

From: Sundberg, Christopher
Sent: Wednesday, February 17, 2010 3:39 PM
To: Toftness, Jennifer
Subject: RE: request for LRB number

A couple questions:

1. What does Commerce do to administer the fund?
2. Should the governor be permitted to award a grant or loan under circumstances where the numerical criteria are not satisfied, and if so, who decides whether the governor may do so?

From: Toftness, Jennifer
Sent: Wednesday, February 17, 2010 3:36 PM

Monday 3/8, if possible

State of Wisconsin
2009 - 2010 LEGISLATURE

(P2) LRB-4072/~~P1~~ RMNR
CTS:bjk:rs
stays

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

2009 BILL

SA x-ref

Inserts

regen

AN ACT *to create* 20.525 (1) (e), 20.525 (1) (j) and 234.037 of the statutes; **relating to:** authorizing the governor to award grants and loans for development projects, granting rule-making authority, and making appropriations.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

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

	2009-10	2010-11
20.525 Office of the governor		
(1) EXECUTIVE ADMINISTRATION		
(e) Governor's opportunity fund		

SECTION 2. 20.525 (1) (e) of the statutes is created to read:

20.525 **(1)** (e) *Governor's opportunity fund.* The amounts in the schedule for grants and loans under s. 234.037 560.095.

SECTION 3. 20.525 (1) (j) of the statutes is created to read:

20.525 **(1)** (j) *Governor's opportunity fund; repayments.* All moneys received in repayment of grants and loans under s. 234.037 560.095 for grants and loans under s. 234.037 560.095.

SECTION 4. 234.037 560.095 of the statutes is created to read:

234.037 560.095 **Governor's opportunity fund; grants and loans.** **(1)** In this section: B

(a) "Eligible costs" means the cost of any of the following, except that "eligible costs" do not include payment or guarantee of payment for any rental, lease, license, or other contractual right to the use of property:

1. Public or private utility extension or capacity development on or off the site of the development project.

2. Public or private installation, extension, or capacity development of high-speed or broadband Internet access, whether on-site or off-site.

3. Road, rail, or other transportation access costs that exceed the funding capability of existing programs.

4. Site acquisition.

5. Grading, drainage, paving, and any other activity required to prepare a site for construction.

6. Construction or build-out of publicly owned buildings.

7. Training.

8. Grants or loans to an industrial development authority, housing and redevelopment authority, or other political subdivision for purposes directly relating to an eligible cost under subds. 1. to 7.

(b) "New job" means employment of an indefinite duration that is created as the direct result of a private investment and for which the employer pays wages and standard fringe benefits, if the employment requires an employee to work at least 1,680 hours per year or at least 35 hours per week for at least 48 weeks. "New job" does not include a position created by an employer by shifting a job function from another location in this state or a position created at an employer's supplier.

(c) "Political subdivision" means a city, village, town, or county.

(d) "Prevailing average wage" means the average wage, exclusive of the value of fringe benefits, paid to a worker in the political subdivision where an economic development project is located.

(2) (a) Subject to pars. (b) and (c), the governor may award a grant or loan from the appropriations under s. 20.525 (1) (e) and (j) to a political subdivision for eligible costs of a development project if one of the following applies:

1. The project involves a private investment of at least $10,000,000 and creates at least 100 new jobs for which the average wage, excluding fringe benefits, is not less than the prevailing average wage.

2. The project involves a private investment of at least $5,000,000; creates at least 50 new jobs for which the average wage, excluding fringe benefits, is not less than the prevailing average wage; and is located in a political subdivision with a population less than 100,000.

3. The project involves a private investment of at least $2,500,000; creates at least 25 new jobs for which the average wage, excluding fringe benefits, is not less

than the prevailing average wage; and is located in a political subdivision with a population less than 50,000.

(b) The governor may not award a grant or loan for a development project in which a business relocates or expands its operations in one or more locations in this state and simultaneously closes or substantially reduces its operations or the number of its employees in another location in this state.

(c) At least one-third of the grant moneys awarded in a fiscal biennium shall be awarded to political subdivisions whose unemployment rate in the calendar year preceding the award of the grant exceeded the average unemployment rate in this state for the same type of political subdivision. INS 4-13

(3) Notwithstanding sub. (2), the governor may award a grant or loan from the appropriations under s. 20.525 (1) (e) and (j) to a political subdivision for eligible costs of a development project if the authority determines that the award of a grant or loan is warranted on the basis of an evaluation of the costs and benefits to the state.

(4) A political subdivision that receives a grant or loan under this section shall enter into a contract with each business for whose benefit the grant or loan has been awarded. The contract shall specify a deadline for the business to secure the private investment and create the new jobs for which the grant or loan was awarded, except that a political subdivision may grant an extension of the deadline not to exceed 15 months from the initial deadline specified in the contract. If the business fails to secure the private investment and create the new jobs for which the grant or loan was awarded by the deadline, the contract shall require the business to repay a portion of the grant or loan. The amount of the repayment required shall be prorated according to the value of the benefit obtained by the business as a result of the grant or loan and the extent to which the business has secured the private investment and created the new ~~jobs~~ specified in the contract.

(5) (a) With ~~the~~ advice of the authority, ~~the governor~~ department shall develop guidelines and criteria for awarding grants or making ~~loans~~ under this section. The guidelines and criteria shall encourage the award of grants for projects throughout the state and shall include a cap on the amount of a grant under this section.

INS 5-4

(END)

Insert 4-13:

all of the following apply:

(a) The governor submits to the cochairpersons of the joint committee on finance a proposal to award a grant or loan under this subsection.

(b) One of the following is true:

1. The cochairpersons of the joint committee on finance do not notify the governor that the committee has scheduled a hearing on the governor's proposal under par. (a) within 5 days after receiving the proposal.

2. The joint committee on finance approves the governor's proposal under par. (a) after a hearing.

Insert 5-6:

(b) The department shall assist the governor in the review of applications for grants and loans under this section and shall monitor and assess compliance with contracts under sub. (4).

3/8 Jenny / Vos

Redraft as /1, incorp. changes from 2/10 email (seg fund, etc.)

Sundberg, Christopher

From: Toftness, Jennifer
Sent: Thursday, February 11, 2010 4:41 PM
To: Sundberg, Christopher
Subject: Re: questions on gov. opportunity fund draft

Ahh. I assumed that was analogous to Commerce. I know we will want to leave WHEDA out of it. If anyone plays a role it will be commerce. I need to check with Rep. Vos. Ill be in touch.

----- Original Message -----
From: Sundberg, Christopher
To: Toftness, Jennifer
Sent: Thu Feb 11 16:35:34 2010
Subject: RE: questions on gov. opportunity fund draft

The materials you initially provided indicated that the VA program gave a substantial role to something called the Virginia Economic Development Partnership, an entity that appears analogous to WHEDA, so that's where WHEDA comes in. The broad role for WHEDA in the draft is basically to decide whether the governor can make a grant or loan from the fund even though the project does not satisfy the numerical criteria (i.e., a certain minimum private investment that creates so many jobs that pay at least prevailing average wage in a political subdivision with at least so many people). Let me know if you have further questions about this.

I'll be happy to start a redraft incorporating the changes you've requested.

-----Original Message-----
From: Toftness, Jennifer
Sent: Thursday, February 11, 2010 4:15 PM
To: Sundberg, Christopher
Subject: questions on gov. opportunity fund draft

Hi Chris,

I ended up going home sick. SO I will just email you.

I am confused about the WHEDA question you asked in the preliminary draft. I dont understand the role that wheda plays in this draft and was surprised to see they did have a role. Could you further explain how WHEDA has broad authority to allow the governor to make grants.

Next, instead of setting aside 1/3 for high unemployment, I'd like to break the fund up so that 1/4 is set aside for high unemployment areas, 1/4 is set aside for populations with 35,000 or less, and the other half can be directed to anything.

Please take out the prevailing wage requirement.

Please convert this to a SEG fund.

I am not planning on putting any money in the schedule. We are just going to set up the fund for right now.

Thanks,

Jenny

In: 3/10/10 Due: Friday if possible

State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-4072/~~P2~~ 1 RMNR
CTS:bjk:md
stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2009 BILL

SA x-ref

Inserts

INS A

AN ACT *to create* 20.525 (1) (e), 20.525 (1) (j) and 560.095 of the statutes; **relating to:** authorizing the governor to award grants and loans for development projects, granting rule-making authority, and making appropriations.

regen.

Analysis by the Legislative Reference Bureau

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

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

	2009-10	2010-11
20.525 Office of the governor		
(1) EXECUTIVE ADMINISTRATION		
(e) Governor's opportunity fund		

SECTION 2. 20.525 (1) (e) of the statutes is created to read:

20.525 **(1)** (e) *Governor's opportunity fund.* The amounts in the schedule for grants ~~and loans~~ under s. 560.095. to be transferred to the governor's opportunity fund

INS 2-7

SECTION 3. 20.525 (1) (j) of ~~the statutes~~ is created to read:

20.525 **(1)** (j) *Governor's opportunity fund; repayments.* All moneys received in repayment of grants and loans under s. 560.095 for grants and loans under s. 560.095.

SECTION 4. 560.095 of the statutes is created to read:

560.095 Governor's opportunity fund; grants and loans. **(1)** In this section:

(a) "Eligible costs" means the cost of any of the following, except that "eligible costs" do not include payment or guarantee of payment for any rental, lease, license, or other contractual right to the use of property:

1. Public or private utility extension or capacity development on or off the site of the development project.

2. Public or private installation, extension, or capacity development of high-speed or broadband Internet access, whether on-site or off-site.

3. Road, rail, or other transportation access costs that exceed the funding capability of existing programs.

4. Site acquisition.

5. Grading, drainage, paving, and any other activity required to prepare a site for construction.

6. Construction or build-out of publicly owned buildings.

7. Training.

8. Grants or loans to an industrial development authority, housing and redevelopment authority, or other political subdivision for purposes directly relating to an eligible cost under subds. 1. to 7.

(b) "New job" means employment of an indefinite duration that is created as the direct result of a private investment and for which the employer pays wages and standard fringe benefits, if the employment requires an employee to work at least 1,680 hours per year or at least 35 hours per week for at least 48 weeks. "New job" does not include a position created by an employer by shifting a job function from another location in this state or a position created at an employer's supplier.

(c) "Political subdivision" means a city, village, town, or county.

~~(d)~~ "Prevailing average wage" means the average wage, exclusive of the value of fringe benefits, paid to a worker in the political subdivision where an economic development project is located.

(2) (a) Subject to pars. (b) and (c) to (d), the governor may award a grant or loan from the appropriations under s. 20.525 (1) (e) and (f) (q) to a political subdivision for eligible costs of a development project if one of the following applies:

1. The project involves a private investment of at least $10,000,000 and creates at least 100 new jobs for which the average wage, excluding fringe benefits, is not less than the prevailing average wage.

2. The project involves a private investment of at least $5,000,000; creates at least 50 new jobs for which the average wage, excluding fringe benefits, is not less than the prevailing average wage; and is located in a political subdivision with a population less than 100,000.

3. The project involves a private investment of at least $2,500,000; creates at least 25 new jobs for which the average wage, excluding fringe benefits, is not less

than the prevailing average wage, and is located in a political subdivision with a population less than 50,000.

INS 4-10

(b) The governor may not award a grant or loan for a development project in which a business relocates or expands its operations in one or more locations in this state and simultaneously closes or substantially reduces its operations or the number of its employees in another location in this state.

total amount of grant and loan moneys

(c) At least one-third quarter of the grant moneys awarded in a fiscal biennium shall be awarded to political subdivisions whose unemployment rate in the calendar year preceding the award of the grant exceeded the average unemployment rate in this state for the same type of political subdivision.

(3) Notwithstanding sub. (2), the governor may award a grant or loan from the appropriations under s. 20.525 (1) (e) and (i) (9) to a political subdivision for eligible costs of a development project if all of the following apply:

(a) The governor submits to the cochairpersons of the joint committee on finance a proposal to award a grant or loan under this subsection.

(b) One of the following is true:

1. The cochairpersons of the joint committee on finance do not notify the governor that the committee has scheduled a hearing on the governor's proposal under par. (a) within 5 days after receiving the proposal.

2. The joint committee on finance approves the governor's proposal under par. (a) after a hearing.

(4) A political subdivision that receives a grant or loan under this section shall enter into a contract with each business for whose benefit the grant or loan has been awarded. The contract shall specify a deadline for the business to secure the private investment and create the new jobs for which the grant or loan was awarded, except that a political subdivision may grant an extension of the deadline not to exceed 15 months from the initial deadline specified in the contract. If the business fails to secure the private investment and create the new jobs for which the grant or loan was awarded by the deadline, the contract shall require the business to repay a portion of the grant or loan. The amount of the repayment required shall be prorated according to the value of the benefit obtained by the business as a result of the grant or loan and the extent to which the business has secured the private investment and created the new jobs specified in the contract.

(5) (a) With the advice of the department, the governor shall develop guidelines and criteria for awarding grants or making loans under this section. The guidelines and criteria shall encourage the award of grants for projects throughout the state and shall include a cap on the amount of a grant under this section.

(b) The department shall assist the governor in the review of applications for grants and loans under this section and shall monitor and assess compliance with contracts under sub. (4).

(END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4072/1ins
CTS:...:...

Insert A:

This bill authorizes the governor to award a grant or loan to a political subdivision for infrastructure improvements specified in the bill for development projects that will create new jobs.

Under the bill, the governor may award a grant or loan for any of the following: (1) a project that involves a $10,000,000 private investment and creates at least 100 new jobs, as defined in the bill; (2) a project located in a political subdivision with a population less than 100,000 that involves a $5,000,000 private investment and creates at least 50 new jobs; or (3) a project located in a political subdivision with a population less than 50,000 that involves a $2,500,000 private investment and creates at least 25 new jobs. At least one-quarter of the total amount of grant and loan moneys awarded in a fiscal biennium must be awarded to political subdivisions with unemployment rates that are higher than the statewide average unemployment rate, and at least one-quarter must be awarded to political subdivisions with populations of 35,000 or less. However, the governor may award a grant or loan notwithstanding the investment and job creation requirements or the one-quarter minimums for certain political subdivisions if the Joint Committee on Finance fails to schedule a hearing on the governor's proposal within ~~5~~ five days or approves the proposal after a hearing.

The bill requires a political subdivision that receives a grant or loan to enter into a contract with the business for whose benefit the grant or loan has been awarded that specifies a deadline for securing the private investment and creating the new jobs. A political subdivision may grant an extension of the deadline of up to 15 days, but a business that fails to meet the deadline must repay a prorated portion of the grant or loan.

The governor, with the advice of the Department of Commerce (department), must develop guidelines and criteria for grants and loans that encourage the award of grants and loans throughout the state and set a cap on the amount of grants. The department assists the governor in reviewing applications and monitors contract compliance.

Awards under the bill come from a new segregated fund, the Governor's Opportunity Fund, which consists of moneys transferred from a new sum certain appropriation created in the General Fund and of repayments of grants and loans under the program.

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

Insert 2-7:

SECTION 1. 20.525 (1) (q) of the statutes is created to read:

20.525 **(1)** (q) *Governor's opportunity fund loans.* From the governor's opportunity fund, all moneys deposited in the governor's opportunity fund for grants and loans under s. 560.095.

SECTION 2. 25.17 (1) (gd) of the statutes is created to read:

25.17 **(1)** (gd) Governor's opportunity fund (s. 25.415);

SECTION 3. 25.415 of the statutes is created to read:

25.415 Governor's opportunity fund. There is established a separate nonlapsible trust fund designated as the governor's opportunity fund, consisting of all moneys transferred under s. 20.525 (1) (e) and all moneys received in repayment of grants and loans under s. 560.095.

Insert 4-10:

(d) At least one-quarter of the total amount of grant and loan moneys awarded in a fiscal biennium shall be awarded to political subdivisions with populations of 35,000 or less.

Parisi, Lori

From: Toftness, Jennifer
Sent: Thursday, March 25, 2010 4:08 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-4072/1 Topic: Governor's development opportunity fund

Please Jacket LRB 09-4072/1 for the ASSEMBLY.