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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 3-22-11

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Gen.

1 AN ACT ...; **relating to:** creation of the Wisconsin Venture Capital Authority,
2 creation of the on Wisconsin fund and the rapid growth fund certification
3 program, both of which are to be administered by the Wisconsin Venture
4 Capital Authority, and providing a penalty, and making an appropriation.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

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

5 SECTION 1. 1.12 (1) (b) of the statutes, as affected by 2011 Wisconsin Act 7, is
6 amended to read:

7 1.12 (1) (b) "State agency" means an office, department, agency, institution of
8 higher education, the legislature, a legislative service agency, the courts, a judicial

1 branch agency, an association, society, or other body in state government that is
 2 created or authorized to be created by the constitution or by law, for which
 3 appropriations are made by law, excluding the Health Insurance Risk-Sharing Plan
 4 Authority, the Wisconsin Venture Capital Authority, and the Wisconsin Economic
 5 Development Corporation. ✓

History: 1977 c. 29; 1993 a. 414; 2003 a. 89; 2005 a. 74; 2011 a. 7.

***NOTE: We have referenced 2011 Act 10 throughout, instead of 2011 AB 11, even though Act 10 has not yet been published. Depending on what happens in the current litigation, we may have to revisit the citation to Act 10 in this draft.

6 **SECTION 2.** 13.172 (1) of the statutes, as affected by 2011 Wisconsin Acts 7 and
 7 10, is amended to read:

8 13.172 (1) In this section, "agency" means an office, department, agency,
 9 institution of higher education, association, society, or other body in state
 10 government created or authorized to be created by the constitution or any law, that
 11 is entitled to expend moneys appropriated by law, including the legislature and the
 12 courts, and any authority created in subch. II of ch. 114 or subch. III of ch. 149 or in
 13 ch. 231, 233, 234, 238, 239, or 279. ✓

History: 1983 a. 524; 1987 a. 399; 1995 a. 27; 2005 a. 74, 335; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7.

14 **SECTION 3.** 13.48 (13) (a) of the statutes, as affected by 2011 Wisconsin Acts 7
 15 and 10, is amended to read:

16 13.48 (13) (a) Except as provided in par. (b) or (c), every building, structure or
 17 facility that is constructed for the benefit of or use of the state, any state agency,
 18 board, commission or department, the University of Wisconsin Hospitals and Clinics
 19 Authority, the Fox River Navigational System Authority, the Wisconsin Venture
 20 Capital Authority, ✓ the Wisconsin Economic Development Corporation, or any local
 21 professional baseball park district created under subch. III of ch. 229 if the
 22 construction is undertaken by the department of administration on behalf of the

1 district, shall be in compliance with all applicable state laws, rules, codes and
 2 regulations but the construction is not subject to the ordinances or regulations of the
 3 municipality in which the construction takes place except zoning, including without
 4 limitation because of enumeration ordinances or regulations relating to materials
 5 used, permits, supervision of construction or installation, payment of permit fees, or
 6 other restrictions.✓

History: 1971 c. 125; 1973 c. 90; 1973 c. 243 s. 82; 1973 c. 335 s. 13; 1975 c. 39, 40, 198, 199; 1977 c. 26; 1977 c. 29 ss. 7, 8r, 1654 (8) (c); 1977 c. 325; 1977 c. 418 ss. 5, 5m, 924 (18) (c); 1979 c. 34, 221, 350; 1981 c. 341; 1983 a. 27 ss. 11 to 12n, 2202 (5); 1983 a. 36 ss. 18 to 20, 96 (3); 1983 a. 207; 1985 a. 29, 120; 1987 a. 27, 186, 395, 399; 1989 a. 31, 366; 1991 a. 39, 269, 315; 1993 a. 16, 288, 414; 1995 a. 27, 216, 225, 227; 1997 a. 5, 27, 35, 237; 1999 a. 9; 1999 a. 150 s. 672; 1999 a. 197; 2001 a. 16, 103; 2003 a. 33 ss. 25 to 26i, 9160; 2003 a. 91; 2005 a. 25, 253, 391; 2007 a. 20; 2009 a. 28, 185, 361; 2011 a. 7.

7 **SECTION 4.** 13.62 (2) of the statutes, as affected by 2011 Wisconsin Acts 7 and

8 10, is amended to read:

9 13.62 (2) "Agency" means any board, commission, department, office, society,
 10 institution of higher education, council, or committee in the state government, or any
 11 authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 232, 233,
 12 234, 237, 238, 239, or 279, except that the term does not include a council or
 13 committee of the legislature.✓

History: 1977 c. 278; 1979 c. 260 s. 94; 1979 c. 328 s. 146; 1983 a. 27, 36; 1987 a. 399; 1989 a. 338; 1991 a. 32; 1993 a. 112; 1995 a. 27; 1999 a. 9, 185; 2001 a. 16; 2005 a. 74, 335, 463; 2007 a. 1, 20, 97; 2009 a. 28; 2011 a. 7.

14 **SECTION 5.** 13.94 (1) (dx) of the statutes is created to read:

15 13.94 (1) (dx) Biennially, beginning in 2013, conduct a financial audit of the
 16 Wisconsin Venture Capital Authority and a program evaluation audit of the
 17 programs administered by the Wisconsin Venture Capital Authority under ch. 239.✓
 18 The legislative audit bureau shall file a copy of each audit report under this
 19 paragraph with the distributees specified in par. (b).✓

20 **SECTION 6.** 13.94 (1) (mm) of the statutes, as affected by 2011 Wisconsin Act 7,
 21 is amended to read:

22 13.94 (1) (mm) No later than July 1, 2012, prepare a financial and performance
 23 evaluation audit of the economic development programs administered by the

SECTION 6

1 department of commerce, the University of Wisconsin System, the department of
 2 agriculture, trade and consumer protection, the department of natural resources, the
 3 Wisconsin Housing and Economic Development Authority, the Wisconsin Venture
 4 Capital Authority, the Wisconsin Economic Development Corporation, the
 5 department of tourism, the technical college system, and the department of
 6 transportation. In this paragraph, economic development program has the meaning
 7 given in s. 560.001 (1m). The legislative audit bureau shall file a copy of the report
 8 of the audit under this paragraph with the distributees specified in par. (b).[✓]

History: 1971 c. 270 s. 104; 1971 c. 307; 1973 c. 334; 1975 c. 39, 199, 224, 421; 1977 c. 26, 29; 1977 c. 196 s. 131; 1977 c. 418; 1979 c. 34, 314, 324; 1981 c. 20, 335; 1983 a. 27, 36, 96, 381; 1985 a. 29, 57, 120, 176; 1987 a. 27, 119, 186, 320, 328, 354, 399, 403; 1989 a. 31, 122; 1991 a. 39, 269, 316; 1993 a. 16, 27, 107, 263, 399, 491; 1995 a. 27 ss. 43g to 47n, 9116 (5); 1995 a. 56, 216, 225, 274, 289; 1997 a. 27, 252; 1999 a. 9, 65, 105, 167, 197; 2001 a. 16, 105; 2003 a. 33, 111; 2005 a. 25, 74, 142, 335, 441; 2007 a. 1, 20, 96, 125, 126; 2009 a. 2, 28; 2011 a. 7.

9 **SECTION 7.** 13.94 (1s) (c) 6. of the statutes is created to read:

10 13.94 (1s) (c) ^{e 6.} 6. The Wisconsin Venture Capital Authority for the cost of the
 11 audit required to be performed under sub. (1) (dx).[✓]

12 **SECTION 8.** 13.94 (4) (a) 1. of the statutes, as affected by 2011 Wisconsin Act^e
 13 7 and 10, is amended to read:

14 13.94 (4) (a) 1. Every state department, board, examining board, affiliated
 15 credentialing board, commission, independent agency, council or office in the
 16 executive branch of state government; all bodies created by the legislature in the
 17 legislative or judicial branch of state government; any public body corporate and
 18 politic created by the legislature including specifically the Fox River Navigational
 19 System Authority, the Lower Fox River Remediation Authority, the Wisconsin
 20 Aerospace Authority, the Wisconsin Venture Capital Authority,[✓] and the Wisconsin
 21 Economic Development Corporation, a professional baseball park district, a local
 22 professional football stadium district, a local cultural arts district, and a long-term
 23 care district under s. 46.2895; every Wisconsin works agency under subch. III of ch.

1 49; every provider of medical assistance under subch. IV of ch. 49; technical college
2 district boards; every county department under s. 51.42 or 51.437; every nonprofit
3 corporation or cooperative or unincorporated cooperative association to which
4 moneys are specifically appropriated by state law; and every corporation, institution,
5 association or other organization which receives more than 50% of its annual budget
6 from appropriations made by state law, including subgrantee or subcontractor
7 recipients of such funds. ✓

History: 1971 c. 270 s. 104; 1971 c. 307; 1973 c. 334; 1975 c. 39, 199, 224, 421; 1977 c. 26, 29; 1977 c. 196 s. 131; 1977 c. 418; 1979 c. 34, 314, 324; 1981 c. 20, 335; 1983 a. 27, 36, 96, 381; 1985 a. 29, 57, 120, 176; 1987 a. 27, 119, 186, 320, 328, 354, 399, 403; 1989 a. 31, 122; 1991 a. 39, 269, 316; 1993 a. 16, 27, 107, 263, 399, 491; 1995 a. 27 ss. 43g to 47n, 9116 (5); 1995 a. 56, 216, 225, 274, 289; 1997 a. 27, 252; 1999 a. 9, 65, 105, 167, 197; 2001 a. 16, 105; 2003 a. 33, 111; 2005 a. 25, 74, 142, 335, 441; 2007 a. 1, 20, 96, 125, 126; 2009 a. 2, 28; 2011 a. 7.

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8 **SECTION 9.** 16.002 (2) of the statutes, as affected by 2011 Wisconsin Acts 7 and
9 10, is amended to read:

10 16.002 (2) "Departments" means constitutional offices, departments, and
11 independent agencies and includes all societies, associations, and other agencies of
12 state government for which appropriations are made by law, but not including
13 authorities created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 232,
14 233, 234, 235, 237, 238, 239, or 279. ✓

History: 1977 c. 196; 1983 a. 27, 189; 2001 a. 16; 2005 a. 74, 335; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7.

15 **SECTION 10.** 16.004 (4) of the statutes, as affected by 2011 Wisconsin Acts 7 and
16 10, is amended to read:

17 16.004 (4) FREEDOM OF ACCESS. The secretary and such employees of the
18 department as the secretary designates may enter into the offices of state agencies
19 and authorities created under subch. II of ch. 114 and subch. III of ch. 149 and under
20 chs. 231, 233, 234, 237, 238, 239, and 279, and may examine their books and accounts
21 and any other matter that in the secretary's judgment should be examined and may
22 interrogate the agency's employees publicly or privately relative thereto. ✓

History: 1971 c. 270; 1973 c. 333; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 196 ss. 21, 130 (3); 1977 c. 272; 1979 c. 34, 221, 357; 1981 c. 20 ss. 3v, 55d, 55m; 1983 a. 27 ss. 58, 2202 (49) (a); 1983 a. 524; 1985 a. 29; 1985 a. 332 s. 251 (3); 1987 a. 27; 1989 a. 335; 1991 a. 39, 316; 1993 a. 496; 1995 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33 ss. 140 to 141f, 9160; 2005 a. 25, 74, 335; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7.

1 **SECTION 11.** 16.004 (5) of the statutes, as affected by 2011 Wisconsin Acts 7 and
2 10, is amended to read:

3 16.004 (5) AGENCIES AND EMPLOYEES TO COOPERATE. All state agencies and
4 authorities created under subch. II of ch. 114 and subch. III of ch. 149 and under chs.
5 231, 233, 234, 237, 238, 239, and 279, and their officers and employees, shall
6 cooperate with the secretary and shall comply with every request of the secretary
7 relating to his or her functions. ✓

History: 1971 c. 270; 1973 c. 333; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 196 ss. 21, 130 (3); 1977 c. 272; 1979 c. 34, 221, 357; 1981 c. 20 ss. 3v, 55d, 55m; 1983 a. 27 ss. 58, 2202 (49) (a); 1983 a. 524; 1985 a. 29; 1985 a. 332 s. 251 (3); 1987 a. 27; 1989 a. 335; 1991 a. 39, 316; 1993 a. 496; 1995 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33 ss. 140 to 141f, 9160; 2005 a. 25, 74, 335; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7.

8 **SECTION 12.** 16.004 (12) (a) of the statutes, as affected by 2011 Wisconsin Acts
9 7 and 10, is amended to read:

10 16.004 (12) (a) In this subsection, “state agency” means an association,
11 authority, board, department, commission, independent agency, institution, office,
12 society, or other body in state government created or authorized to be created by the
13 constitution or any law, including the legislature, the office of the governor, and the
14 courts, but excluding the University of Wisconsin Hospitals and Clinics Authority,
15 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan
16 Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic
17 Development Corporation, the Wisconsin Venture Capital Authority, and the Fox
18 River Navigational System Authority. ✓

History: 1971 c. 270; 1973 c. 333; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 196 ss. 21, 130 (3); 1977 c. 272; 1979 c. 34, 221, 357; 1981 c. 20 ss. 3v, 55d, 55m; 1983 a. 27 ss. 58, 2202 (49) (a); 1983 a. 524; 1985 a. 29; 1985 a. 332 s. 251 (3); 1987 a. 27; 1989 a. 335; 1991 a. 39, 316; 1993 a. 496; 1995 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33 ss. 140 to 141f, 9160; 2005 a. 25, 74, 335; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7.

19 **SECTION 13.** 16.045 (1) (a) of the statutes, as affected by 2011 Wisconsin Acts
20 7 and 10, is amended to read:

21 16.045 (1) (a) “Agency” means an office, department, independent agency,
22 institution of higher education, association, society, or other body in state
23 government created or authorized to be created by the constitution or any law, that

1 is entitled to expend moneys appropriated by law, including the legislature and the
2 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
3 ch. 149 or in ch. 231, 232, 233, 234, 235, 237, 238, 239, or 279.✓

4 History: 1993 a. 351; 1995 a. 27; 1997 a. 73; 2001 a. 16; 2003 a. 311; 2005 a. 74, 83, 335; 2007 a. 20, 97; 2009 a. 28, 401; 2011 a. 7.

4 **SECTION 14.** 16.15 (1) (ab) of the statutes, as affected by 2011 Wisconsin Act 7 and

5 10, is amended to read:

6 16.15 (1) (ab) "Authority" has the meaning given under s. 16.70 (2), but
7 excludes the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox
8 River Remediation Authority, the Wisconsin Economic Development Corporation,
9 the Wisconsin Venture Capital Authority, and the Health Insurance Risk-Sharing
10 Plan Authority.✓

11 History: 1987 a. 292; 1989 a. 335; 1995 a. 27, 227; 1999 a. 9; 2005 a. 74; 2007 a. 20; 2009 a. 28; 2011 a. 7.

11 **SECTION 15.** 16.41 (4) of the statutes, as affected by 2011 Wisconsin Act 7 and

12 10, is amended to read:

13 16.41 (4) In this section, "authority" means a body created under subch. II of
14 ch. 114 or subch. III of ch. 149 or under ch. 231, 233, 234, 237, 238, 239, or 279.✓

15 History: 1977 c. 196 s. 130 (3); 1977 c. 272, 273; 1983 a. 27; 1987 a. 399; 1995 a. 27; 2001 a. 16; 2005 a. 74, 335; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7.

15 **SECTION 16.** 16.417 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 7,

16 is amended to read:

17 16.417 (1) (a) "Agency" means an office, department, independent agency,
18 institution of higher education, association, society, or other body in state
19 government created or authorized to be created by the constitution or any law, that
20 is entitled to expend moneys appropriated by law, including the legislature and the
21 courts, but not including an authority or the body created under subch. III of ch. 149
22 or under ch. 238 or under ch. 239.✓

23 NOTE: NOTE: Par. (a) is shown as amended eff. 1-1-12 by 2011 Wis. Act 7. Prior to 1-1-12 it reads:NOTE:

24 (a) "Agency" means an office, department, independent agency, institution of higher education, association, society, or other body in state government created or
25 authorized to be created by the constitution or any law, that is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including
an authority or the body created under subch. III of ch. 149 or under ch. 238.

History: 1987 a. 365 ss. 1, 4m; 1987 a. 399; 1989 a. 36 s. 259; 1993 a. 362; 1997 a. 27; 2001 a. 16; 2005 a. 74, 335; 2007 a. 20; 2009 a. 28; 2011 a. 7.

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SECTION 17. 16.417 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 7 and 2011 Wisconsin Act (this act), is amended to read:

16.417 (1) (a) "Agency" means an office, department, independent agency, institution of higher education, association, society, or other body in state government created or authorized to be created by the constitution or any law, that is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority or the body created under subch. III of ch. 149 or under ch. 239.

SECTION 18. 16.417 (1) (b) of the statutes, as affected by 2011 Wisconsin Acts 7 and 10, is amended to read:

16.417 (1) (b) "Authority" means a body created under subch. II of ch. 114 or ch. 231, 232, 233, 234, 235, 237, 238, 239, or 279.

Handwritten: Evs. 8-12
SECTION 19. 16.52 (7) of the statutes, as affected by 2011 Wisconsin Acts 7 and

10, is amended to read:
16.52 (7) PETTY CASH ACCOUNT. With the approval of the secretary, each agency that is authorized to maintain a contingent fund under s. 20.920 may establish a petty cash account from its contingent fund. The procedure for operation and maintenance of petty cash accounts and the character of expenditures therefrom shall be prescribed by the secretary. In this subsection, "agency" means an office, department, independent agency, institution of higher education, association, society, or other body in state government created or authorized to be created by the constitution or any law, that is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority created in

1 subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 233, 234, 237, 238, 239, or
2 279.✓

History: 1971 c. 125, 261; 1973 c. 243; 1975 c. 41 s. 52; 1977 c. 29; 1977 c. 196 s. 130 (3), (4); 1977 c. 272, 273, 418; 1979 c. 34 ss. 65 to 67, 2102 (43) (a); 1981 c. 14; 1983 a. 27 ss. 73, 74, 2202 (42); 1983 a. 368; 1985 a. 29; 1987 a. 399; 1989 a. 31, 336, 359; 1991 a. 39, 316; 1995 a. 27 ss. 296, 297, 9145 (1); 1997 a. 27; 2001 a. 16; 2003 a. 33; 2005 a. 25, 74, 335; 2007 a. 20, 97; 2009 a. 28, 276; 2011 a. 7.

3 **SECTION 20.** 16.528 (1) (a) of the statutes, as affected by 2011 Wisconsin Acts 7 and
4 10, is amended to read:

5 16.528 (1) (a) "Agency" means an office, department, independent agency,
6 institution of higher education, association, society, or other body in state
7 government created or authorized to be created by the constitution or any law, that
8 is entitled to expend moneys appropriated by law, including the legislature and the
9 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
10 ch. 149 or in ch. 231, 233, 234, 237, 238, 239, or 279.✓

History: 1985 a. 300; 1987 s. 312 s. 17; 1987 a. 399; 1989 a. 233; 1991 a. 39; 1995 a. 27, 241; 1999 a. 150 s. 672; 2001 a. 16; 2001 a. 30 s. 108; 2005 a. 74, 335; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7.

11 **SECTION 21.** 16.53 (2) of the statutes, as affected by 2011 Wisconsin Acts 7 and
12 10, is amended to read:

13 16.53 (2) IMPROPER INVOICES. If an agency receives an improperly completed
14 invoice, the agency shall notify the sender of the invoice within 10 working days after
15 it receives the invoice of the reason it is improperly completed. In this subsection,
16 "agency" means an office, department, independent agency, institution of higher
17 education, association, society, or other body in state government created or
18 authorized to be created by the constitution or any law, that is entitled to expend
19 moneys appropriated by law, including the legislature and the courts, but not
20 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
21 231, 233, 234, 237, 238, 239, or 279.✓

History: 1971 c. 100 s. 23; 1971 c. 215, 261; Sup. Ct. Order, 67 Wis. 2d 585, 773 (1975); 1975 c. 39, 164, 198, 397, 422; 1977 c. 29, 196, 418; 1979 c. 34, 221; 1981 c. 1, 20; 1983 a. 3, 27, 192, 368; 1985 a. 29, 300; 1985 a. 332 ss. 15, 251 (1); 1987 a. 399; 1989 a. 31; 1989 a. 125 ss. 1, 10; 1991 a. 39, 316; 1993 a. 80, 399; 1995 a. 27 ss. 301, 302, 9126 (19), 9130 (4); 1997 a. 3; 2001 a. 16; 2003 a. 33, 117, 171; 2005 a. 74, 335; 2007 a. 20 ss. 90b, 91, 9121 (6) (a); 2007 a. 97; 2009 a. 28; 2011 a. 7.

1 **SECTION 22.** 16.54 (9) (a) 1. of the statutes, as affected by 2011 Wisconsin Acts

2 7 and 10, is amended to read:

3 16.54 (9) (a) 1. "Agency" means an office, department, independent agency,
4 institution of higher education, association, society or other body in state
5 government created or authorized to be created by the constitution or any law, which
6 is entitled to expend moneys appropriated by law, including the legislature and the
7 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
8 ch. 149 or in ch. 231, 233, 234, 237, 238, 239, or 279. ✓

History: 1973 c. 333; 1975 c. 39 ss. 69, 732 (1); 1975 c. 224; 1977 c. 418; 1979 c. 34; 1981 c. 27; 1983 a. 27, 208, 470; 1985 a. 29; 1987 a. 4, 27, 186, 399, 403; 1989 a. 31; 1991 a. 39, 316; 1995 a. 27 ss. 303 to 307, 9126 (19); 1995 a. 132, 225; 1999 a. 9, 74; 2001 a. 16; 2003 a. 33; 2005 a. 25, 74, 335; 2007 a. 20 ss. 92b, 95, 98, 9121 (6) (a); 2007 a. 97; 2009 a. 28, 332; 2011 a. 7.

9 **SECTION 23.** 16.765 (1) of the statutes, as affected by 2011 Wisconsin Acts 7 and

10 10, is amended to read:

11 16.765 (1) Contracting agencies, the University of Wisconsin Hospitals and
12 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
13 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
14 Fox River Remediation Authority, the Wisconsin Venture Capital Authority, ✓ the
15 Wisconsin Economic Development Corporation, and the Bradley Center Sports and
16 Entertainment Corporation shall include in all contracts executed by them a
17 provision obligating the contractor not to discriminate against any employee or
18 applicant for employment because of age, race, religion, color, handicap, sex, physical
19 condition, developmental disability as defined in s. 51.01 (5), sexual orientation as
20 defined in s. 111.32 (13m), or national origin and, except with respect to sexual
21 orientation, obligating the contractor to take affirmative action to ensure equal
22 employment opportunities. ✓

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3; 2001 a. 16; 2005 a. 74, 335; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7.

1 **SECTION 24.** 16.765 (2) of the statutes, as affected by 2011 Wisconsin Acts 7 and

2 10, is amended to read:

3 16.765 (2) Contracting agencies, the University of Wisconsin Hospitals and
4 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
5 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
6 Fox River Remediation Authority, the Wisconsin Venture Capital Authority, the
7 Wisconsin Economic Development Corporation, and the Bradley Center Sports and
8 Entertainment Corporation shall include the following provision in every contract
9 executed by them: "In connection with the performance of work under this contract,
10 the contractor agrees not to discriminate against any employee or applicant for
11 employment because of age, race, religion, color, handicap, sex, physical condition,
12 developmental disability as defined in s. 51.01 (5), sexual orientation or national
13 origin. This provision shall include, but not be limited to, the following: employment,
14 upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or
15 termination; rates of pay or other forms of compensation; and selection for training,
16 including apprenticeship. Except with respect to sexual orientation, the contractor
17 further agrees to take affirmative action to ensure equal employment opportunities.
18 The contractor agrees to post in conspicuous places, available for employees and
19 applicants for employment, notices to be provided by the contracting officer setting
20 forth the provisions of the nondiscrimination clause".

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130
(4); 1995 a. 225; 1997 a. 3; 2001 a. 16; 2005 a. 74, 335; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7.

21 **SECTION 25.** 16.765 (5) of the statutes, as affected by 2011 Wisconsin Acts 7 and

22 10, is amended to read:

23 16.765 (5) The head of each contracting agency and the boards of directors of
24 the University of Wisconsin Hospitals and Clinics Authority, the Fox River

1 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
2 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
3 Authority, the Wisconsin Venture Capital Authority,[✓] the Wisconsin Economic
4 Development Corporation, and the Bradley Center Sports and Entertainment
5 Corporation shall be primarily responsible for obtaining compliance by any
6 contractor with the nondiscrimination and affirmative action provisions prescribed
7 by this section, according to procedures recommended by the department. The
8 department shall make recommendations to the contracting agencies and the boards
9 of directors of the University of Wisconsin Hospitals and Clinics Authority, the Fox
10 River Navigational System Authority, the Wisconsin Aerospace Authority, the
11 Health Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
12 Authority, the Wisconsin Venture Capital Authority,[✓] the Wisconsin Economic
13 Development Corporation, and the Bradley Center Sports and Entertainment
14 Corporation for improving and making more effective the nondiscrimination and
15 affirmative action provisions of contracts. The department shall promulgate such
16 rules as may be necessary for the performance of its functions under this section.[✓]

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3; 2001 a. 16; 2005 a. 74, 335; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7.

17 **SECTION 26. 16.765 (6)** of the statutes, as affected by 2011 Wisconsin Acts 7 and^g

18 10, is amended to read:

19 16.765 (6) The department may receive complaints of alleged violations of the
20 nondiscrimination provisions of such contracts. The department shall investigate
21 and determine whether a violation of this section has occurred. The department may
22 delegate this authority to the contracting agency, the University of Wisconsin
23 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
24 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,

1 the Lower Fox River Remediation Authority, the Wisconsin Venture Capital
2 Authority, the Wisconsin Economic Development Corporation, or the Bradley Center
3 Sports and Entertainment Corporation for processing in accordance with the
4 department's procedures. ✓

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3; 2001 a. 16; 2005 a. 74, 335; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7.

5 **SECTION 27.** 16.765 (7) (intro.) of the statutes, as affected by 2011 Wisconsin
6 Acts 7 and 10, is amended to read:

7 16.765 (7) (intro.) When a violation of this section has been determined by the
8 department, the contracting agency, the University of Wisconsin Hospitals and
9 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
10 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
11 Fox River Remediation Authority, the Wisconsin Venture Capital Authority, the
12 Wisconsin Economic Development Corporation, or the Bradley Center Sports and
13 Entertainment Corporation, the contracting agency, the University of Wisconsin
14 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
15 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
16 the Lower Fox River Remediation Authority, the Wisconsin Venture Capital
17 Authority, the Wisconsin Economic Development Corporation, or the Bradley Center
18 Sports and Entertainment Corporation shall: ✓

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3; 2001 a. 16; 2005 a. 74, 335; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7.

19 **SECTION 28.** 16.765 (7) (d) of the statutes, as affected by 2011 Wisconsin Acts 7 and
20 7 and 10, is amended to read:

21 16.765 (7) (d) Direct the violating party to take immediate steps to prevent
22 further violations of this section and to report its corrective action to the contracting
23 agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River

1 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
2 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
3 Authority, the Wisconsin Venture Capital Authority, the Wisconsin Economic
4 Development Corporation, or the Bradley Center Sports and Entertainment
5 Corporation.✓

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3; 2001 a. 16; 2005 a. 74, 335; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7.

6 **SECTION 29. 16.765 (8)** of the statutes, as affected by 2011 Wisconsin Acts 7 and

7 10, is amended to read:

8 16.765 (8) If further violations of this section are committed during the term
9 of the contract, the contracting agency, the Fox River Navigational System Authority,
10 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan
11 Authority, the Lower Fox River Remediation Authority, the Wisconsin Venture
12 Capital Authority, the Wisconsin Economic Development Corporation, or the
13 Bradley Center Sports and Entertainment Corporation may permit the violating
14 party to complete the contract, after complying with this section, but thereafter the
15 contracting agency, the Fox River Navigational System Authority, the Wisconsin
16 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
17 Fox River Remediation Authority, the Wisconsin Venture Capital Authority,✓ the
18 Wisconsin Economic Development Corporation, or the Bradley Center Sports and
19 Entertainment Corporation shall request the department to place the name of the
20 party on the ineligible list for state contracts, or the contracting agency, the Fox River
21 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
22 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
23 Authority, the Wisconsin Venture Capital Authority,✓ the Wisconsin Economic
24 Development Corporation, or the Bradley Center Sports and Entertainment

1 Corporation may terminate the contract without liability for the uncompleted
2 portion or any materials or services purchased or paid for by the contracting party
3 for use in completing the contract. ✓

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3; 2001 a. 16; 2005 a. 74, 335; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7.

4 **SECTION 30. 16.85 (2)** of the statutes, as affected by 2011 Wisconsin Acts 7 and

5 10, is amended to read:

6 16.85 (2) To furnish engineering, architectural, project management, and other
7 building construction services whenever requisitions therefor are presented to the
8 department by any agency. The department may deposit moneys received from the
9 provision of these services in the account under s. 20.505 (1) (kc) or in the general
10 fund as general purpose revenue — earned. In this subsection, “agency” means an
11 office, department, independent agency, institution of higher education, association,
12 society, or other body in state government created or authorized to be created by the
13 constitution or any law, which is entitled to expend moneys appropriated by law,
14 including the legislature and the courts, but not including an authority created in
15 subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 233, 234, 237, 238, 239, or
16 279. ✓

History: 1971 c. 42; 1973 c. 90; 1973 c. 335 s. 13; 1977 c. 29 s. 1654 (8) (c); 1979 c. 221; 1983 a. 36 s. 96 (4); 1985 a. 29; 1987 a. 142, 399; 1989 a. 31, 336; 1991 a. 39, 269, 316; 1993 a. 263; 1995 a. 27 ss. 398 to 400, 9116 (5), 9126 (19), 9130 (4); 1997 a. 27; 1999 a. 197; 2001 a. 16; 2005 a. 74, 149, 335; 2007 a. 20 ss. 115b, 9121 (6) (a); 2007 a. 97; 2009 a. 28, 185; 2011 a. 7.

17 **SECTION 31. 16.865 (8)** of the statutes, as affected by 2011 Wisconsin Acts 7 and

18 10, is amended to read:

19 ^{16.865}
19 (8) Annually in each fiscal year, allocate as a charge to each agency a
20 proportionate share of the estimated costs attributable to programs administered by
21 the agency to be paid from the appropriation under s. 20.505 (2) (k). The department
22 may charge premiums to agencies to finance costs under this subsection and pay the
23 costs from the appropriation on an actual basis. The department shall deposit all

1 collections under this subsection in the appropriation account under s. 20.505 (2) (k).
 2 Costs assessed under this subsection may include judgments, investigative and
 3 adjustment fees, data processing and staff support costs, program administration
 4 costs, litigation costs, and the cost of insurance contracts under sub. (5). In this
 5 subsection, "agency" means an office, department, independent agency, institution
 6 of higher education, association, society, or other body in state government created
 7 or authorized to be created by the constitution or any law, that is entitled to expend
 8 moneys appropriated by law, including the legislature and the courts, but not
 9 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
 10 231, 232, 233, 234, 235, 237, 238, 239, or 279. ✓

History: 1973 c. 333; 1975 c. 81, 189, 422; 1977 c. 29; 1977 c. 196 s. 130 (3); 1979 c. 34, 221; 1981 c. 20; 1985 a. 29; 1987 a. 399; 1989 a. 125; 1991 a. 39; 1993 a. 16; 1995 a. 27; 2001 a. 16; 2003 a. 33; 2005 a. 74, 335; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7.

11 **SECTION 32.** 19.42 (10) (t) of the statutes is created to read:

12 19.42 (10) (t) The executive director of the Wisconsin Venture Capital
 13 Authority and the members of the authority's board of directors who are appointed
 14 by the speaker of the assembly and the majority leader of the senate. ✓

15 **SECTION 33.** 19.42 (13) ^(p)(n) of the statutes is created to read:

16 19.42 (13) ^(p)(n) The executive director of the Wisconsin Venture Capital
 17 Authority and the members of the authority's board of directors who are appointed
 18 by the speaker of the assembly and the majority leader of the senate. ✓

19 **SECTION 34.** 20.195 of the statutes is created to read:

20 **20.195 Wisconsin Venture Capital Authority.** There is appropriated to the
 21 Wisconsin Venture Capital Authority for the following program:

22 (1) ON WISCONSIN FUND. (g) *Administration of the on Wisconsin fund.* All
 23 moneys received under s. [?] ~~JK~~ for administration of the on Wisconsin fund under
 24 subch. ^{II} ~~I~~ of ch. 239. ✓

73.033(2) ✓

Ins. 16-24

1 SECTION 35. 40.02 (54) (n) of the statutes is created to read:

2 40.02 (54) (n) The Wisconsin Venture Capital Authority.

3 SECTION 36. 70.11 (38v) of the statutes is created to read:

4 70.11 (38v) WISCONSIN VENTURE CAPITAL AUTHORITY. All property owned by the
5 Wisconsin Venture Capital Authority, provided that use of the property is primarily
6 related to the purposes of the Wisconsin Venture Capital Authority.

7 SECTION 37. 71.26 (1) (be) of the statutes, as affected by 2011 Wisconsin Acts

8 7 and 10, is amended to read:

9 71.26 (1) (be) *Certain authorities.* Income of the University of Wisconsin
10 Hospitals and Clinics Authority, of the Health Insurance Risk-Sharing Plan
11 Authority, of the Fox River Navigational System Authority, of the Wisconsin
12 Economic Development Corporation, of the Wisconsin Venture Capital Authority,
13 and of the Wisconsin Aerospace Authority.

INSERT
17-14

History: 1987 a. 312; 1987 a. 411 ss. 22, 124 to 129; 1989 a. 31, 336; 1991 a. 37, 39, 221, 269; 1993 a. 16, 112, 246, 263, 399, 437, 491; 1995 a. 27, 56, 351, 371, 380, 428; 1997 a. 27, 37, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 106, 109; 2003 a. 33, 85, 99, 135, 255, 326; 2005 a. 25, 74, 335, 361, 362, 479, 483; 2007 a. 20, 96, 97, 151, 226; 2009 a. 2, 28, 161, 165, 180, 183, 205, 265, 269, 295, 332, 344; 2011 a. 3, 5, 7; s. 13.92 (2) (i).

14 SECTION 38. 77.54 (9a) (a) of the statutes, as affected by 2011 Wisconsin Acts

15 7 and 10, is amended to read:

16 77.54 (9a) (a) This state or any agency thereof, the University of Wisconsin
17 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Health
18 Insurance Risk-Sharing Plan Authority, the Wisconsin Economic Development
19 Corporation, the Wisconsin Venture Capital Authority, and the Fox River
20 Navigational System Authority.

History: 1971 c. 64, 154, 215, 311; 1973 c. 90, 156, 240; 1975 c. 39, 96, 102, 146, 200; 1977 c. 29; 1977 c. 83 ss. 13, 26; 1977 c. 250, 368, 418; 1979 c. 1, 34, 87, 174; 1981 c. 20; 1981 c. 79 s. 18; 1981 c. 96 s. 67; 1981 c. 264; 1981 c. 282 s. 47; 1981 c. 317; 1983 a. 27 ss. 1284d to 1284p, 2202 (38); 1983 a. 189 ss. 101, 106, 329 (5), (12), (13); 1983 a. 192, 287, 405, 426, 498, 510, 538, 544; 1985 a. 29, 149, 332; 1987 a. 27; 1987 a. 312 s. 17; 1987 a. 399; 1989 a. 31, 238, 270, 335, 359; 1991 a. 37, 39, 269, 316; 1993 a. 16, 263, 332; 1995 a. 27, 125, 225, 227; 1997 a. 27, 35, 41, 184, 237, 291; 1999 a. 9, 65, 83; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 16, 103, 109; 2003 a. 99, 128; 2005 a. 25, 74, 141, 149, 335, 366, 479; 2007 a. 11, 19, 20, 97, 130; 2009 a. 2, 28, 185, 204, 330; 2011 a. 7; s. 13.92 (2) (i).

1 **SECTION 39.** 100.45 (1) (dm) of the statutes, as affected by 2011 Wisconsin Act

2 7 and 10, is amended to read:

3 100.45 (1) (dm) "State agency" means any office, department, agency,
4 institution of higher education, association, society, or other body in state
5 government created or authorized to be created by the constitution or any law which
6 is entitled to expend moneys appropriated by law, including the legislature and the
7 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
8 Center Sports and Entertainment Corporation, the University of Wisconsin
9 Hospitals and Clinics Authority, the Wisconsin Health and Educational Facilities
10 Authority, the Wisconsin Aerospace Authority, the Wisconsin Economic
11 Development Corporation, the Wisconsin Venture Capital Authority, and the Fox
12 River Navigational System Authority. ✓

History: 1989 a. 284; 1991 a. 97; 1993 a. 243; 1997 a. 27, 165; 1999 a. 31; 2001 a. 16; 2005 a. 335; 2009 a. 28; 2011 a. 7.

13 **SECTION 40.** 101.177 (1) (d) of the statutes, as affected by 2011 Wisconsin Act

14 7 and 10, is amended to read:

15 101.177 (1) (d) "State agency" means any office, department, agency,
16 institution of higher education, association, society, or other body in state
17 government created or authorized to be created by the constitution or any law, that
18 is entitled to expend moneys appropriated by law, including the legislature and the
19 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
20 Center Sports and Entertainment Corporation, the University of Wisconsin
21 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Wisconsin
22 Economic Development Corporation, the Wisconsin Venture Capital Authority, ✓ and
23 the Wisconsin Health and Educational Facilities Authority, but excluding the Health

1 Insurance Risk-Sharing Plan Authority and the Lower Fox River Remediation
2 Authority.✓

3 History: 1989 a. 284; 1991 a. 97; 1993 a. 243; 1997 a. 27; 2005 a. 74, 335; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7.

3 **SECTION 41.** 230.03 (3) of the statutes, as affected by 2011 Wisconsin Acts 7 and
4 10, is amended to read:

5 230.03 (3) "Agency" means any board, commission, committee, council, or
6 department in state government or a unit thereof created by the constitution or
7 statutes if such board, commission, committee, council, department, unit, or the
8 head thereof, is authorized to appoint subordinate staff by the constitution or
9 statute, except a legislative or judicial board, commission, committee, council,
10 department, or unit thereof or an authority created under subch. II of ch. 114 or
11 subch. III of ch. 149 or under ch. 231, 232, 233, 234, 235, 237, 238, 239, or 279.
12 "Agency" does not mean any local unit of government or body within one or more local
13 units of government that is created by law or by action of one or more local units of
14 government.✓

History: 1971 c. 270; 1973 c. 333; 1977 c. 196 ss. 24, 100; 1977 c. 418; 1981 c. 20, 26; 1983 a. 27 ss. 1604, 2200 (15); 1983 a. 409, 453, 538; 1987 a. 32; 1989 a. 31; 1991 a. 101, 147; 1993 a. 16, 254; 1995 a. 27, 255; 1997 a. 27; 1999 a. 65, 87; 2001 a. 16, 103; 2003 a. 33 ss. 2385 to 2387s, 9160; 2005 a. 22, 74, 335, 393; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7.

15 **SECTION 42.** Chapter 239 of the statutes is created to read:

16 **CHAPTER 239**

17 **WISCONSIN VENTURE CAPITAL**
18 **AUTHORITY**✓

19 **239.01 Definitions.** In this chapter, except as otherwise provided:

20 (1) "Board" means the board of directors of the authority.✓

21 (2) "Authority" means the Wisconsin Venture Capital Authority.✓

22 **239.02 Creation and organization of authority.** (1) There is created an
23 authority, that is a public body corporate and politic, to be known as the "Wisconsin

SUBCHAPTER I

GENERAL PROVISIONS

911 CAPS

1 Venture Capital Authority.”[✓] The members of the board (of directors of the authority)^e
2 shall consist of the following:

3 (a) The chief executive officer of the Wisconsin Economic Development
4 Corporation.[✓]

5 (b) The executive director of the Wisconsin Housing and Economic
6 Development Authority.[✓]

7 (c) Three persons from the private sector, at least 2 of whom shall have venture
8 capital or venture banking experience, nominated by the governor and appointed
9 with the advice and consent of the senate.[✓]

10 (d) One member appointed by the speaker of the assembly.[✓]

11 (e) One member appointed by the senate majority leader.[✓]

12 (2) The members of the board appointed by the governor, the speaker of the
13 assembly, and the senate majority leader shall serve staggered 3[↓]-year terms.[✓]

****NOTE: Do you want to specify whether the members appointed by the assembly speaker and senate majority leader are to be members from the legislature or members from the private sector?[✓] Also, note that the staggered terms are for 3 years.[✓] No length of time is specified in the drafting instructions.[✓] Please let us know if you want the terms longer.[✓] You may want to consider having those members serve at the pleasure of those legislators in any case.[✓] Finally, do you want the board to have any nonvoting members, like the secretary of administration?[✓]

14 (3) A majority of the members of the board constitutes a quorum for the purpose
15 of conducting its business and exercising its powers and for all other purposes,
16 notwithstanding the existence of any vacancies.[✓] Action may be taken by the board
17 upon a vote of a majority of the members present.[✓]

18 (4) A chairperson of the board shall be nominated by the governor, and with
19 the advice and consent of the senate appointed, to serve at the pleasure of the
20 governor.[✓]

1 (5) The board shall hire an executive director.✓ The board may delegate to the
2 executive director any powers and duties the board considers proper.✓

 ***NOTE: The drafting instructions indicate the hiring of an executive director for
the on Wisconsin fund in addition to the executive director for the authority. Is this the
intent?✓

3 **239.03 Powers of board.** The board shall have all the powers necessary or
4 convenient to carry out the purposes and provisions of this chapter. In addition to
5 all other powers granted the board under this chapter, the board may specifically:✓

6 (1) Adopt, amend, and repeal any bylaws, policies, and procedures for the
7 regulation of its affairs and the conduct of its business.✓

8 (2) Have a seal and alter the seal at pleasure.✓

9 (3) Maintain an office.✓

10 (4) Sue and be sued.✓

11 (5) Accept gifts, grants, loans, or other contributions from private or public
12 sources.✓

13 (6) Establish the annual budget of the authority and monitor its fiscal
14 management.✓

15 (7) Execute contracts and other instruments required for the operation of the
16 authority.✓

17 (8) Employ any officers, agents, and employees that it may require and
18 determine their qualifications, duties, and compensation.✓

19 (9) Issue notes, bonds, and any other obligations.✓

20 (10) Make loans and provide grants.✓

21 (11) Incur debt.✓

22 (12) Procure liability insurance.✓

1 **239.04 Liability limited.** Neither the state nor any political subdivision of
2 the state, nor any officer, employee, or agent of the state or a political subdivision of
3 the state who is acting within the scope of employment or agency, is liable for any
4 debt, obligation, act, or omission of the corporation. ✓

5 SUBCHAPTER I I
6 ON WISCONSIN FUND

7 **239.10 Definitions.** In this subchapter: ✓

8 (1) "Certified investor" means a venture capital firm certified under s. 239.13. ✓

9 (2) "Fund creditor" means any holder of a note or bond of the authority under
10 this subchapter. ✓

11 (3) "Debt service obligation" means the authority's obligation, including any
12 payment schedule, to pay principal and interest or other financing costs to a creditor
13 on a note or bond the board issues under this subchapter. ✓

14 (4) "Fund" means the on Wisconsin fund. ✓

15 **239.11 Creation of fund; management.** The board shall establish the fund
16 for the investment of capital in certified investors. All moneys appropriated under
17 s. 20.195 (1) (g) ✓ shall be credited to the fund. ✓ The legislature finds that the fund will
18 provide capital for business growth and job creation in this state that is currently not
19 sufficiently available in private financial markets and that the fund will serve a
20 public purpose. ✓

21 (1) **FUND CAPITAL; DEBT SERVICE.** (a) The board may issue, by resolution,
22 negotiable notes or bonds of any kind to finance the fund. ✓

23 (b) The authority may not, and shall plan its debt service obligations to ensure
24 that it does not, pay more than \$20,000,000 in debt service obligations in a calendar
25 year. ✓

5

15

21

Fund purpose
- Fund purpose - (1) (2) (3)

(1) (2) (3)

1 (c) The state is not liable for a debt service obligation of the authority.✓ The
2 authority's debt is not a debt of the state, and the authority may not create a debt of
3 the state.✓ Each note or bond of the authority shall contain on its face a statement
4 to that effect.✓

5 (2) EXECUTIVE DIRECTOR. The board shall hire an executive director for the fund.✓
6 The board may delegate to the fund's executive director any powers and duties the
7 board considers proper.✓

8 (3) FUND MANAGER. The board shall hire a fund manager who has expertise in
9 the venture capital or private equity industry to manage the fund's investment of
10 capital in certified investors.✓ In reviewing candidates for fund manager, the board
11 shall consider a candidate's venture capital or private equity experience, investment
12 philosophy, and the performance of any venture capital funds managed by the
13 candidate, as well as any other relevant criteria established by the board.✓ The board
14 may delegate to the fund manager any powers and duties the board considers proper.✓

15 **239.12 Investment of capital in certified investors; requirements. (1)**

16 INVESTMENT POLICY. The fund manager shall establish a fund investment policy. The
17 board shall review and approve the investment policy prior to the policy's
18 implementation and at least annually thereafter.✓

19 (2) FUND INVESTMENTS. The authority may invest capital under this subchapter
20 only in certified investors.✓ The authority may not invest more than 20 percent of the
21 fund's current assets in a single certified investor.✓

22 (3) CONTRACTS. Before the authority invests any capital in a certified investor,
23 the board shall contract with the certified investor, and in addition to any other terms
24 negotiated by the board, that contract shall include the following requirements:✓

25 (a) The certified investor may invest fund capital only in a business that:

1 1. Is headquartered in this state.✓

2 2. Employs at least 50 percent of its employees in this state.✓

3 3. Agrees to use fund capital only for research and development, the
4 introduction of a new product in the market, the business's entry into a new market,
5 or other activities that are expected to grow the business and create jobs in this state.✓

6 4. Meets any other conditions required by the authority.✓

7 (b) When a certified investor makes an investment of fund capital in a business,
8 the certified investor shall match the fund's capital contribution to that investment
9 with capital the certified investor has raised from other sources.✓

10 (c) The certified investor may not receive capital from the fund that exceeds the
11 total capital the investor has raised from other sources.✓

12 (4) SUNSET. The authority may not invest capital in a certified investor under
13 this subchapter after December 31, 2015.✓

14 **239.13 Investor certification. (1) APPLICATION.** Any person may apply to
15 the authority on a form prescribed by the authority for certification under this
16 section.✓ The application shall include the name, address, and tax identification
17 number of the person and any other information the authority requires.✓

18 (2) CERTIFICATION. The authority may certify an applicant who submits an
19 application under sub. (1)✓ to receive fund capital for investment.✓ In determining
20 whether to certify an applicant, the authority shall consider:

21 (a) The applicant's venture capital experience or other experience that qualifies
22 the applicant to receive fund capital.✓

23 (b) The past performance of investments managed by the applicant.✓

24 (c) The applicant's commitment to investing in businesses within this state.✓

1 (d) The applicant's commitment to making seed or early stage business
2 investments. ✓

3 (e) Whether the applicant is located in this state or will locate and maintain an
4 office in this state as a condition of the applicant's certification under this section. ✓

5 (3) APPLICATION FEE. The authority may charge a fee to an applicant for
6 certification under this section. ✓

76.634

7 **239.14 Tax credits to fund creditors.** In lieu of payment of its debt service
8 obligation to a fund creditor, and subject to the terms of any agreement between the
9 board and a fund creditor, the authority may award a tax credit under s. ...[JK] to a
10 fund creditor up to an amount equal to the amount the authority is unable to pay the
11 creditor under the authority's debt service obligation to the creditor in a taxable year.
12 The authority may not award a tax credit under this section before January 1, 2016.

[Handwritten scribble]

13 **239.15 Annual report.** Annually, the board shall submit to the chief clerk of
14 each house of the legislature, for distribution to the legislature under s. 13.172 (2) ✓ ↗
15 a report on the fund's performance that includes: ✓

16 (a) ^{e (1) (b)} The current investment policy of the fund. ✓

17 (b) ^{e (2) (a)} An assessment of the fund's success to date, including the fund's internal
18 rate of return on its investments in certified investors. ✓

19 (c) ^{e (3) (b)} An accounting of the total value of tax credits awarded to fund creditors
20 under s. 239.14, including a description of the circumstances leading to the award
21 of those credits and the likelihood that the authority will award additional credits
22 to fund creditors in the future.

23 (d) ^{e (4) (b)} An accounting of the tax increment revenue received by the authority to
24 date under s. ...[JK]. ✓

73.033(2)

1 (e) (5) (b) An accounting of the fund's financial status, including the opinion of an
2 independent certified public accountant. ✓

3 (f) (6) (b) The names and addresses of the certified investors in whom the fund
4 invested capital during the preceding year and an accounting of the amount of capital
5 invested in each certified investor. ✓

6 (g) (7) (b) A description, including name, address, and kind of business of the
7 businesses in which certified investors made investments during the preceding year. ✓

8 (h) (8) (b) Any recommendations the board has for improvement of the program under
9 this subchapter. ✓

10

SUBCHAPTER III
Rapid Growth Funds
Rapid Growth Funds

11
12 **239.20 Definitions.** In this subchapter: (1) "Affiliate" means any of the
13 following:

14 (a) A person who owns, controls, or holds power to vote ✓ 15 percent or more of
15 the outstanding voting securities or other voting interests of a certified rapid growth
16 fund ✓ or an insurance company or other person subject to premium tax liability. ✓

17 (b) A business, 15 percent of whose outstanding voting securities or other
18 voting ownership interests are owned, controlled, or held with power to vote by a
19 certified rapid growth fund or an insurance company or other person subject to
20 premium tax liability. ✓

21 (c) A person who controls, is controlled by, or is under common control with a
22 certified rapid growth fund or an insurance company or other person subject to
23 premium tax liability. ✓

1 (d) A business in which a certified rapid growth fund or an insurance company
2 or other person subject to premium tax liability is a partner, member, or other
3 principal. ✓

4 (e) An officer, director, employee, or agent of a certified rapid growth fund or
5 an insurance company or other person subject to premium tax liability, or an
6 immediate family member of the officer, director, employee, or agent. ✓

7 (2) "Allocation date" means the date stated in the authority's notice under s.
8 239.22 (2) (b) that approves a specific amount of designated capital and awards a
9 corresponding premium tax credit to a participating investor. ✓

10 (3) "Certified rapid growth fund" or "fund" means an entity that is certified
11 under s. 239.21. ✓

12 (4) "Designated capital" means an investment of cash by a participating
13 investor in a certified rapid growth fund that is approved by the authority under s.
14 239.22 and that fully funds either the participating investor's equity interest in a
15 certified rapid growth fund, a qualified debt instrument that a certified rapid growth
16 fund issues, or both. ✓

17 "qualified debt instrument" means a bond, note, or other obligation
18 that a certified rapid growth fund issues at par value or at a premium or discount
19 from par value that meets all of the following conditions ✓

20 (a) Has an original maturity date of at least 4 years from the date on which it
21 is issued. ✓

22 (b) Has a repayment schedule that is no faster than a level principal
23 amortization over 4 years. ✓

24 (c) Does not allow for the prepayment of interest. ✓

25 (d) Has payment and interest features that are not related to the fund's
profitability or the performance of the fund's investment portfolio. ✓

In this subsections

1 (5) "Early stage business" means a qualified business that was organized
2 within 2 years prior to the date a certified rapid growth fund first invests in that
3 business, that received, including any affiliate, gross revenue of \$2,000,000 or less
4 in the fiscal year immediately preceding that date, and that meets any other
5 conditions established by the authority.

6 (6) "Participating investor" means an insurance company or other person
7 subject to premium tax liability who the authority approves to invest designated
8 capital in a certified rapid growth fund under s. 239.22.

9 (7) "Premium tax credit" means a tax credit under s. ...[JK]

10 (8) "Premium tax liability" means being required to pay a tax under s. ...[JK]

11 (9) "Qualified business" means a business that, as of the time a certified rapid
12 growth fund or its affiliate first invests in the business under this subchapter:

13 (a) Is headquartered in, and has its principal business operations located in,
14 this state.

15 (b) Is in need of venture capital and is unable to obtain conventional financing,
16 as determined by the authority.

17 (c) Employs 100 or fewer employees, and at least 80 percent of those employees
18 are employed in this state or at least 80 percent of its payroll is paid to employees
19 employed in this state.

20 (d) Is not primarily engaged in real estate development or sales, insurance,
21 banking, lending, lobbying, political consulting, professional services, or retail sales,
22 other than direct sales of products the business itself manufactures.

23 (e) Has no prior financial relationship with, and is not an affiliate of, a certified
24 rapid growth fund or its affiliate.

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INSERT
28-10

1 (10) "Qualified investment" means a certified rapid growth fund's investment
2 of designated capital in a qualified business.✓

3 **239.21 Certification of rapid growth funds. (1) APPLICATION.** Any person
4 may apply to the authority on a form prescribed by the authority for certification
5 under this section.✓ The application shall include all of the following:

6 (a) The name, address, and tax identification number of the applicant.✓

7 (b) A description of the business activities conducted by the applicant and the
8 locations at which those activities are conducted.✓

9 (c) An audited balance sheet and the audit report, rendered within 35 days
10 prior to the date the applicant files its application with the authority, of an
11 independent auditor approved by the authority.✓

12 (d) The strategic investment plan of the applicant, and an analysis completed
13 by an economist or econometric analysis company approved by the authority that
14 shows the projected impact that investment plan is expected to have on the economy
15 of this state.✓

16 (e) Any other information the authority requires.✓

17 **(2) CERTIFICATION.** (a) The authority may certify an applicant under sub. (1)✓
18 if the applicant pays the fee specified under sub. (3)✓ and the authority determines
19 after conducting an investigation that all of the following conditions are met:

20 1. The primary activity of the applicant is the investment of cash in qualified
21 businesses.✓

22 2. The applicant owns at least \$500,000 in unencumbered cash or cash
23 equivalents.✓

1 3. At least 2 principals or persons employed to manage the funds of the
2 applicant have at least 5 years of experience in the venture capital or private equity
3 industry. ✓

4 4. The strategic investment plan of the applicant will have a beneficial impact
5 on the economy of this state. ✓

6 (b) Within 30 days after the date an applicant files an application under sub.
7 (1), ✓ the authority shall either issue a certification to the applicant or deny the
8 application and provide written notice to the applicant that states the grounds for
9 denial and includes the authority's suggestions, if any, to remove those grounds. ✓

10 (3) APPLICATION FEE. An applicant for certification under sub. (1) ✓ shall pay to
11 the authority a fee of \$7,500. ✓

12 **239.22 Participating investors; premium tax benefits. (1) APPLICATION.**

13 (a) Any insurance company or other person subject to premium tax liability ✓ may
14 submit notice that the person seeks to make an investment of designated capital in
15 a certified rapid growth fund and receive premium tax credits for that investment. ✓

16 The person's notice shall include all of the following:

- 17 1. The person's name, address, and tax identification number. ✓
- 18 2. The name and address of the certified rapid growth fund in which the person
19 proposes to make an investment of designated capitol. ^{e capital} ✓
- 20 3. The amount of the proposed investment. ✓
- 21 4. An undertaking by the person to make an investment of designated capital
22 in the amount approved by the authority within 5 business days after the person
23 receives notice of approval from the authority. ✓
- 24 5. Any other information the authority requires. ✓

1 **(2) AWARD.** (a) The authority may approve an investment of designated capital[✓]
2 in a certified rapid growth fund[✓] and award^(a) premium tax credit to a person who[✓]
3 provides notice under sub. (1) in an amount equal to 80 percent or less of the person's[✓]
4 proposed investment of designated capital.[✓]

5 (b) If the authority approves a person's proposed investment of designated[✓]
6 capital under par. (a), the authority shall notify the person and the certified rapid[✓]
7 growth fund of that approval in writing, stating the amount of the investment[✓]
8 approved by the authority, the amount of the premium tax credit the person may[✓]
9 claim, the requirements, including those under sub. (3), for making that claim, and[✓]
10 the allocation date.[✓]

11 **(3) CLAIM ELIGIBILITY AND REQUIREMENTS.** (a) A participating investor may claim[✓]
12 a premium tax credit in the amount the authority awards only after the participating[✓]
13 investor makes an investment of designated capital in the certified rapid growth[✓]
14 fund in the amount approved by the authority under sub. (2).[✓]

15 (b) A participating investor may claim up to 25 percent of the available[✓]
16 premium tax credit in a taxable year, except that a participating investor may not[✓]
17 claim any premium tax credit under this subchapter for a taxable year beginning[✓]
18 before January 1, 2014, and a premium tax credit may not be applied to quarterly[✓]
19 tax payments due during the 2014 taxable year.[✓]

20 (c) The premium tax credit to be applied in a year may not exceed the[✓]
21 participating investor's premium tax liability for that taxable year. A participating[✓]
22 investor may carry forward the unused portion of a premium tax credit until the total[✓]
23 credit is used.[✓]

24 **(4) LIMITS ON PREMIUM TAX BENEFITS.** (a) The authority may not award more[✓]
25 than \$200,000,000 in premium tax credits under this subchapter.[✓]

\$50,000,000

9

1 (b) The authority may not award more than \$50 million in premium tax credits
2 in a calendar year. ✓

3 (c) The authority may not award more than \$50,000,000 in premium tax credits
4 to a single participating investor, including its successor and any affiliate. ✓

5 (d) If, as a result of the limitations under par. (a) ✓ or (b) ✓, the authority may not
6 award the full premium tax credit based on an applicant's proposed capital
7 investment, the authority shall award the amount available for a premium tax credit
8 in order of priority based on the date the application was filed with the authority. ✓
9 If the amount of available premium tax credits is insufficient for approval of the full
10 amount of all applications for capital investments that are received by the authority
11 on the same day, the authority shall prorate the awardable amount on the basis of
12 the amount the applicant has committed to invest in the certified rapid growth fund. ✓

13 **239.23 Operation of a certified rapid growth fund. (1) REQUIRED**

14 DISCLOSURES IN SECURITIES OFFERINGS. Any offering material involving the sale of
15 securities of a certified rapid growth fund shall include all of the following
16 statements: ✓

17 (a) "By authorizing the formation of a certified rapid growth fund, the
18 Wisconsin Venture Capital Authority does not necessarily endorse the quality of
19 management or the potential for earnings of the fund and is not liable for damages
20 or losses to a participating investor in the fund. ✓ Use of the word "certified" in an
21 offering is not a recommendation or endorsement of the investment by the Wisconsin
22 Venture Capital Authority or the state." ✓

23 (b) "Investments in a prospective certified rapid growth fund prior to the time
24 the fund is certified are not eligible for a premium tax credit under section 76.634 of
25 the Wisconsin Statutes. Investments in a certified rapid growth fund are not eligible

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1 for a premium tax credit under section (...[JK]) of the Wisconsin Statutes unless the
2 proposed investment is approved by the Wisconsin Venture Capital Authority under
3 section 239.22 of the Wisconsin Statutes before the investment is made. In the event
4 that certain statutory provisions are violated, the state may require forfeiture of
5 unused premium tax credits and repayment of used premium tax credits."

6 (2) QUALIFIED INVESTMENTS. A certified rapid growth fund's qualified
7 investment shall meet all of the following requirements:

8 (a) The investment is a cash investment in a qualified business for the purchase
9 of debt, debt participation, equity, or hybrid security of any kind, including a debt
10 instrument or security that has the characteristics of debt that provides for
11 conversion into equity or an equity participation instrument such as an option or
12 warrant.

13 (b) If the investment is for the purchase of any debt or debt participation, no
14 more than 50 percent of that debt or debt participation may be used for the
15 refinancing of other debt or the buy-out of other shareholders or owners of the
16 qualified business.

17 (c) As a condition of the investment, the qualified business agrees not to
18 relocate its headquarters outside of this state as long as the certified rapid growth
19 fund continues to hold the investment.

20 (d) As a condition of the investment, the qualified business agrees to maintain
21 at least 75 percent of its employees ^{a employees} in this state as long as the certified rapid growth
22 fund continues to hold the investment.

23 (3) AUTHORITY DETERMINATIONS REGARDING QUALIFIED BUSINESSES. A certified
24 rapid growth fund may request a determination from the authority that a business
25 in which the fund proposes to invest is a qualified business or an early stage business.

1 The authority shall issue its determination in writing to the fund within a reasonable
2 time after the fund's request.✓

3 (4) SCHEDULE OF INVESTMENTS. A certified rapid growth fund shall make
4 qualified investments according to the following schedule, except that a certified
5 rapid growth fund may reinvest proceeds it receives from one qualified investment
6 in another qualified investment and apply the amount of that reinvestment toward
7 the following requirements for that other qualified investment:✓

8 (a) Within 2 years after an allocation date,✓ at least 35 percent of the designated
9 capital approved by the authority on that date is placed in qualified investments, of
10 which at least 50 percent is invested in early stage businesses.✓

11 (b) Within 4 years after an allocation date, at least 50 percent of the designated
12 capital approved by the authority on that date is placed in qualified investments, of
13 which at least 50 percent is invested in early stage businesses.✓

14 (c) Notwithstanding s. 239.24 (1) (c)✓ and (e)✓, if, within 5 years after an allocation
15 date, the certified rapid growth fund has not placed at least 80 percent of the
16 designated capital approved by the authority on that date in qualified investments,
17 of which at least 50 percent is invested in early stage businesses, the certified rapid
18 growth fund may not pay any management fee until it has made those investments.✓

19 (d) Notwithstanding s. 239.24 (1) (c)✓ and (e)✓, if, within 7 years after an
20 allocation date, the certified rapid growth fund has not placed 100 percent of the
21 designated capital approved on that date in qualified investments, of which at least
22 50 percent is invested in early stage businesses, the certified rapid growth fund may
23 not pay any management fee until it has made those investments.✓

24 (5) QUALIFIED BUSINESS RELOCATION OUT OF STATE. If within 24 months after the
25 date a qualified investment is made, the qualified business relocates its principal

1 business operations[✓] to another state and the certified rapid growth fund still holds
2 the qualified investment in the business, the amount of the fund's total designated
3 capital and qualified investments may be reduced by the amount of the qualified
4 investment in the relocated business for the purpose only of satisfying the
5 investment schedule under sub. (4)[✓]. This subsection does not apply if the relocated
6 business returns its principal business operations to this state within 90 days after
7 its initial relocation[✓].

8 (6) OTHER LIMITATIONS ON INVESTMENTS. (a) A certified rapid growth fund may
9 not invest more than 15 percent of its total designated capital in any one qualified
10 business[✓].

11 (b) A certified rapid growth fund may invest any designated capital not
12 invested in qualified investments only in the following:

- 13 1. Cash deposited in a federally insured financial institution[✓].
- 14 2. Certificates of deposit in a federally insured financial institution[✓].
- 15 3. Investment securities that are obligations of the United States or its
16 agencies, or obligations that the United States fully guarantees as to principal and
17 interest[✓].
- 18 4. Debt instruments rated at least "A" or its equivalent by a nationally
19 recognized credit rating organization, or issued or guaranteed by a business whose
20 unsecured debt is rated at least "A" or its equivalent by a nationally recognized credit
21 rating organization if that debt is not subordinated to other unsecured debt of the
22 issuer or the guarantor[✓].
- 23 5. Obligations of the state or any political subdivision of the state[✓].
- 24 6. Any other investments approved in advance in writing by the authority[✓].

****NOTE: The drafting instructions we were given, on page 9, include the following additional investment limitation: "A qualified investment may not be made at a cost to ^{stat} a RGF greater than 15 percent of the total designated capital of the RGF at the time of investment." We have not included that provision. The provision would mean that a certified rapid growth fund could never invest all of its designated capital, which does not appear to be the intent. Please let us know what is meant by including this provision, and we will attempt to achieve your intent in the draft. ✓

(6) ^{(7) (8)} RESTRICTIONS ON MANAGEMENT.

No certified rapid growth fund or its affiliate may be managed or controlled by, or have a partner, member, or other principal that is, an insurance company or other person subject to premium tax liability or an affiliate of that person or insurance company. ✓

239.24 Distributions; profit sharing fee. (1) PERMISSIBLE DISTRIBUTIONS.

A certified rapid growth fund may make only the following distributions:

(a) A distribution for the repayment of a capital contribution to an equity investor in the fund who was not a participating investor when that capital contribution was made. ✓

(b) A distribution for the cost of forming, syndicating, managing, or operating the certified rapid growth fund, including a reasonable and necessary fee paid for professional services. ✓

(c) A distribution that is an annual management fee in an amount that does not exceed 2 percent of the fund's total designated capital. ✓

(d) A distribution to cover a projected increase in state or federal taxes, including penalties and interest, for the certified rapid growth fund's equity owners if that increase is related to the fund's ownership, management, or operation. ✓

(e) A distribution that represents an accrued management fee equal to or less than 1 percent per year of the fund's total designated capital. A fund may not make a distribution under this paragraph until the fund has invested all of its designated capital. ✓

1 (f) A distribution for the repayment of principal or interest owed to a debt
2 holder of the fund, including a participating investor who is a debt holder.✓

3 (g) A distribution of any kind after the fund has placed in qualified investments
4 an amount equal to 100 percent of its designated capital, at least 50 percent of which
5 is invested in early stage businesses.✓

****NOTE: Is the intent that a distribution under par. (g) may only be made once all
of a certified rapid growth fund's designated capital is invested, or is it the intent that a
fund may make a distribution from a particular investment or group of investments once
all of the designated capital assigned by the authority on a particular allocation date is
invested (and the 50 percent rule is met as well)?✓

6 (2) PROFIT SHARING FEE. When a certified rapid growth fund makes a
7 distribution under sub. (1) (g),✓ the fund shall pay the authority a fee equal to 20
8 percent of the net profits realized on all qualified investments from which a
9 distribution is made.✓ The authority shall pay that fee to the secretary of
10 administration who shall deposit the fee in the general fund as general purpose
11 revenue—earned.✓

12 **239.25 Certified rapid growth fund reporting requirements. (1) REPORT**
13 **UPON RECEIPT OF DESIGNATED CAPITAL.** As soon as practicable after it receives
14 designated capital, a certified rapid growth fund shall submit a report to the
15 authority that includes:

16 (a) The name of the participating investor from whom the designated capital
17 was received.✓

18 (b) The amount of designated capital.✓

19 (c) The date on which the fund received the designated capital.✓

20 (2) ANNUAL REPORT. By January 31 of each year, a certified rapid growth fund
21 shall submit a report to the authority that includes:

1 (a) For each qualified investment made during the preceding year, the amount
2 of designated capital invested, the allocation date of the designated capital, the date
3 of the qualified investment, and the name and address of the business in which the
4 qualified investment was made.✓

5 (b) For each qualified business in which the fund invested during the preceding
6 year, a description of the business, including the number of employees the business
7 employed when the qualified investment was made and the number of employees the
8 business employed on December 31 of that year.✓

9 (c) A statement whether the certified rapid growth fund has invested more than
10 15 percent of its total designated capital in any one business.✓

11 (d) A detailed accounting of the certified rapid growth fund's investment
12 progress according to the schedule of investments required under s. 239.23 (4).✓

13 (e) An accounting of all distributions the certified rapid growth fund made
14 during the year.✓

15 (f) Any other information the authority requires.✓

16 **(3) FINANCIAL STATEMENT.** Within 90 days after the end of a certified rapid
17 growth fund's fiscal year, the fund shall file with the authority a copy of its annual
18 audited financial statement, including the opinion of an independent certified public
19 accountant.✓

20 **(4) RENEWAL FEE.** By January 31 of each year, a certified rapid growth fund
21 shall pay to the authority a certification renewal fee of \$5,000, unless January 31
22 falls within 6 months after the date on which the certified rapid growth fund was first
23 certified under s. 239.21.✓

****NOTE: Do you want to include a requirement that the board report to the
legislature regarding the certified rapid growth fund program, similar to the reporting
requirement for the on Wisconsin fund? ✓

1 **239.26 Compliance reviews; decertification. (1) ANNUAL COMPLIANCE**
 2 REVIEW. The authority shall review annually each certified rapid growth fund to
 3 ensure that the fund continues to satisfy the requirements of this subchapter, to
 4 ensure that the fund has not made any investment in violation of this subchapter,
 5 and to determine the status of the fund's qualified investments with respect to the
 6 schedule of investments required under s. 239.23 (4).[✓]

7 **(2) DECERTIFICATION.** (a) If the authority determines that a certified rapid
 8 growth fund is not in compliance with any provision of this subchapter, the authority
 9 shall notify the officers of the fund in writing that the fund may be subject to
 10 decertification or a monetary penalty, or both, if the fund is not brought into
 11 compliance within 120 days after the fund's receipt of the notice.[✓]

12 (b) The authority may decertify a certified rapid growth fund if, after
 13 opportunity for hearing, the authority determines that the fund is in violation of this
 14 subchapter and that the fund's violation has not been corrected to the authority's
 15 satisfaction within the period under par. (a).[✓] The authority shall notify any
 16 appropriate state agency of the decertification.[✓]

17 **(3) EFFECT OF DECERTIFICATION.** Decertification of a certified rapid growth fund
 18 has the effects specified under s. [JK] with respect to a participating investor. A
 19 certified rapid growth fund may agree to indemnify, or purchase insurance for the
 20 benefit of, a participating investor for the participating investor's losses under s.
 21[JK] due to the fund's decertification.

22 **(4) NOTICE OF RECAPTURE OR FORFEITURE.** The authority shall give written notice
 23 to each qualified investor whose premium tax credit becomes subject to recapture or
 24 forfeiture under s. ...[JK], or when a premium tax credit is no longer subject to
 25 recapture or forfeiture.

76.634(4)

***NOTE: Do you want to include a provision for a fund's voluntary decertification? ✓

1 (5) PENALTIES. The authority may fine a person who violates this subchapter
2 in an amount determined by the authority not to exceed \$25,000. ✓ In determining the
3 amount of a fine under this paragraph, ^{a subsection} the authority shall consider:

4 (a) The seriousness of the violation, including the nature, circumstances,
5 extent, and gravity of the violation. ✓

6 (b) The economic harm caused by the violation. ✓

7 (c) The person's history of previous violations. ✓

8 (d) The amount necessary to deter future violations. ✓

9 (e) The person's efforts to mitigate or correct the violation. ✓

10 SECTION 43. 281.75 (4) (b) 3. of the statutes, as affected by 2011 Wisconsin Act ✓

11 7 and 10, is amended to read:

12 281.75 (4) (b) 3. An authority created under subch. II of ch. 114 or ch. 231, 233,
13 234, 237, ~~or~~ 238, or 239. ✓

History: 1983 a. 410; 1985 a. 22, 29; 1989 a. 31; 1991 a. 39; 1993 a. 413; 1995 a. 27 ss. 4208 to 4210, 9116 (5); 1995 a. 227 s. 401; Stats. 1995 s. 281.75; 1997 a. 27; 2001 a. 16; 2005 a. 123, 335; 2007 a. 20; 2009 a. 28; 2011 a. 7.

14 SECTION 44. 285.59 (1) (b) of the statutes, as affected by 2011 Wisconsin Act ✓

15 7 and 10, is amended to read:

16 285.59 (1) (b) "State agency" means any office, department, agency, institution
17 of higher education, association, society, or other body in state government created
18 or authorized to be created by the constitution or any law which is entitled to expend
19 moneys appropriated by law, including the legislature and the courts, the Wisconsin
20 Housing and Economic Development Authority, the Bradley Center Sports and
21 Entertainment Corporation, the University of Wisconsin Hospitals and Clinics
22 Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace
23 Authority, the Wisconsin Economic Development Corporation, the Wisconsin

1 Venture Capital Authority, and the Wisconsin Health and Educational Facilities
2 Authority. ✓

3 History: 1989 a. 284; 1991 a. 97; 1993 a. 243; 1995 a. 227 s. 509; Stats. 1995 s. 285.59; 1997 a. 27; 2001 a. 16; 2005 a. 335; 2009 a. 28; 2011 a. 7.

3 **SECTION 45. Nonstatutory provisions.**

4 (1) INITIAL APPOINTMENTS.

5 (a) Notwithstanding the requirement of advice and consent of the senate under
6 section 239.02 (2) (c) and (4) of the statutes, as created by this act, the initial
7 members of the board of directors and the initial chairperson of the board of the
8 Wisconsin Venture Capital Authority nominated by the governor under that section
9 may be provisionally appointed by the governor, subject to later senate confirmation. ✓
10 Any provisional appointment shall be in full force until withdrawn by the governor
11 or acted upon by the senate, and if confirmed by the senate shall continue for the
12 remainder of the unexpired term of the member and until a successor is chosen and
13 qualifies. ✓ A provisional appointee may exercise all the powers and duties of board
14 membership to which the person is appointed during the time in which the appointee
15 qualifies. ✓

16 (b) A provisional appointment made under paragraph (a) that is withdrawn by
17 the governor shall, upon withdrawal, lapse and create a vacancy for provisional
18 appointment of another initial member of board of directors or chairperson of the
19 board of the Wisconsin Venture Capital Authority. ✓ Any provisional appointment
20 made under paragraph (a) that is rejected by the senate shall upon rejection lapse
21 and create a vacancy for nomination and appointment of another initial board
22 member or chairperson of the board under paragraph (a).

use A.R. Z

1 (c) Notwithstanding the lengths of terms specified in section 239.02 (2) of the
2 statutes, as created by this act, the initial members of the board of directors of the
3 Wisconsin Venture Capital Authority shall be appointed for the following terms:

4 1. One member appointed by the governor for a term expiring on June 30, 2014.

5 2. One member appointed by the governor and the member appointed by the
6 speaker of the assembly, for terms expiring on June 30, 2015.

7 3. One member appointed by the governor and the member appointed by the
8 majority leader of the senate, for terms expiring on July 1, 2016.

9 **SECTION 46. Effective date.**

10 (1) DUAL EMPLOYMENT. The treatment of section 16.417 (1) (a) (by SECTION 17)
11 and (b) of the statutes takes effect on January 1, 2013.

12 (END)

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under section 239.02 (1) (c) of the statutes,
as created by this act;

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1 INSERT 5-7

2 **SECTION 1.** 13.95 (intro.) of the statutes, as affected by 2011 Wisconsin Act 10,
3 is amended to read:

4 **13.95 Legislative fiscal bureau.** (intro.) There is created a bureau to be
5 known as the "Legislative Fiscal Bureau" headed by a director. The fiscal bureau
6 shall be strictly nonpartisan and shall at all times observe the confidential nature
7 of the research requests received by it; however, with the prior approval of the
8 requester in each instance, the bureau may duplicate the results of its research for
9 distribution. Subject to s. 230.35 (4) (a) and (f), the director or the director's
10 designated employees shall at all times, with or without notice, have access to all
11 state agencies, the University of Wisconsin Hospitals and Clinics Authority, the
12 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
13 the Lower Fox River Remediation Authority, the Wisconsin Venture Capital
14 Authority,[✓] the Wisconsin Economic Development Corporation, and the Fox River
15 Navigational System Authority, and to any books, records, or other documents
16 maintained by such agencies or authorities and relating to their expenditures,
17 revenues, operations, and structure.

History: 1971 c. 215; 1973 c. 333 and supp.; 1975 c. 39; 1977 c. 196 s. 131; 1977 c. 273, 418; 1979 c. 34; 1983 a. 27; 1991 a. 316; 1995 a. 27, 225; 1999 a. 185; 2001 a. 16; 2005 a. 25, 74, 335; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7.

18 **END INSERT 5-7**

19 INSERT 16-24

 ****NOTE: Do you also want to create an appropriation to cover the initial
operating costs, or both, of the authority?

20 **END INSERT 16-24**

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INS 8-9

12

SECTION 1. 16.417 (1) (b) of the statutes, as affected by 2011 Wisconsin Acts 7 and 10, is repealed and recreated to read:

16.417 (1) (b) "Authority" means a body created under subch. II of ch. 114 or ch. 231, 232, 233, 234, 235, 237, 239, or 279.

SECTION 2. 16.417 (1) (b) of the statutes, as affected by 2011 Wisconsin Act (this act), is amended to read:

16.417 (1) (b) "Authority" means a body created under subch. II of ch. 114 or ch. 231, 232, 233, 234, 235, 237, 238, 239, or 279.

END OF INS 8-9

12

INS 42-10

SECTION 3. Effective date.

(1) The treatment of section 16.417 (1) (b) (by SECTION 2) of the statutes takes effect on January 1, 2012.

END OF INS 42-10

(this is already
auto referenced)

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1 [^]
SECTION 1. 73.033 of the statutes is created to read:

2 **73.033 Rapid growth fund investments; withholding tax**
3 **determinations.** (1) The department of revenue, in consultation with the
4 Wisconsin Venture Capital Authority created under ch. 239, shall determine the
5 amount of the withholding taxes under subch. X of ch. 71 paid by each business that
6 receives an investment under s. 239.23 (2) for the first year in which each business
7 receives the investment.

8 (2) For 15 years following the first year in which a business receives an
9 investment under s. 239.23 (2), the department shall credit to the appropriation
10 account under s. 20.195 (1) (g) an amount equal to 50 percent of the annual increase,
11 if any, in withholding taxes under subch. X of ch. 71 paid by all businesses that
12 receive investments under s. 239.23 (2) over the amount determined for all such
13 businesses under sub. (1). The department shall credit the amounts determined
14 under this subsection on a quarterly basis based on its estimate of the total annual
15 increase in the withholding taxes described in this subsection.

16 [^]
SECTION 2. 76.634 of the statutes is created to read:

17 **76.634 Credit for rapid growth fund investments.** (1) DEFINITIONS. In
18 this section:

- 19 (a) "Allocation date" has the meaning given in s. 239.20 (2).
20 (b) "Certified rapid growth fund" has the meaning given in s. 239.20 (3).
21 (c) "Designated capital" has the meaning given in s. 239.20 (4).

22 (2) CREDIT. Subject to the limitations provided in this section and s. 239.22, for
23 taxable years beginning after December 31, 2013, an insurer who makes an

1 investment of designated capital and who has been awarded a credit under s. 239.22
 2 (2) (a), may claim as a credit against the fees imposed under s. 76.60, 76.63, 76.65,
 3 76.66, or 76.67, up to the amount of such fees, the amount determined under s. 239.22
 4 (2) (b).

5 (3) CARRY-FORWARD. If the credit under sub. (2) is not entirely offset against the
 6 fees under s. 76.60, 76.63, 76.65, 76.66 or 76.67 otherwise due, the unused balance
 7 may be carried forward and credited against those fees in the following years to the
 8 extent that it is not offset by those fees otherwise due in all the years between the
 9 year in which the initial credit is claimed and the year in which the carry-forward
 10 credit is claimed.

11 (4) RECAPTURE. If a certified rapid growth fund in which the insurer's
 12 designated capital has been invested is decertified under s. 239.26 (2) (b) no later
 13 than 4 years after the insurer's allocation date, and the rapid growth fund has not
 14 made the investments required under s. 239.23 (4) (a) and (b), any insurer that has
 15 received a credit under this section with respect to such decertified rapid growth fund
 16 shall repay the credit amount to the commissioner of insurance, for deposit into the
 17 general fund, and may not claim any more credits under this section with respect to
 18 the decertified rapid growth fund.

19 (5) SALE OF CREDIT. An insurer who is awarded a credit under s. 239.22 (2) (a),
 20 and who may claim the credit under this section, may sell or otherwise transfer the
 21 credit to another insurer who is subject the fees imposed under s. 76.60, 76.63, 76.65,
 22 76.66 or 76.67 if the insurer notifies the commissioner of insurance and the
 23 Wisconsin Venture Capital Authority created under ch. 239 of the sale or transfer
 24 and includes with the notification a copy of the sale or transfer documents. If a credit
 25 that has been sold or transferred under this subsection is subject to recapture under

1 sub. (4), the person who claimed the credit is liable for the repayment provided under
 2 sub. (4). No credit may be sold or transferred under this subsection until 180 days
 3 after the insurer's allocation date.

4 **SECTION 3.** 76.67 (2) of the statutes is amended to read:

5 76.67 (2) If any domestic insurer is licensed to transact insurance business in
 6 another state, this state may not require similar insurers domiciled in that other
 7 state to pay taxes greater in the aggregate than the aggregate amount of taxes that
 8 a domestic insurer is required to pay to that other state for the same year less the
 9 credits under ss. 76.634, 76.635, 76.636, 76.637, 76.638, and 76.655, except that the
 10 amount imposed shall not be less than the total of the amounts due under ss. 76.65
 11 (2) and 601.93 and, if the insurer is subject to s. 76.60, 0.375% of its gross premiums,
 12 as calculated under s. 76.62, less offsets allowed under s. 646.51 (7) or under ss.
 13 76.634, 76.635, 76.636, 76.637, 76.638, and 76.655 against that total, and except that
 14 the amount imposed shall not be less than the amount due under s. 601.93.

History: 1975 c. 372 s. 41; 1979 c. 34; 1979 c. 102 s. 26; 1979 c. 177; Stats. 1979 s. 76.67; 1983 a. 27; 1989 a. 31; 1999 a. 30; 2005 a. 74, 259; 2009 a. 2, 28.

Insert 28 -10

15 the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-15567dn
MPG/JB:f....

1/1

g nwn

Date

Jonathan Hoechst and Brian Quinn:

Please review this draft carefully to ensure that it is consistent with your intent. Also, please see the notes, including questions, imbedded in the draft.

As we discussed, you should run this draft by the capital finance office.

The draft, in part, creates a new ^{Appropriation} ~~sum sufficient~~ appropriation under s. 20.195 (1) (g) in the draft for the administration of the on Wisconsin fund. The Wisconsin Constitution, under article VIII, sections 4, 7 (2) (a), and 10, provides that public debt may be incurred only for certain purposes, primarily certain kinds of capital projects, and none of those purposes authorizes a venture capital investment program for the stimulation of start-up businesses in the state. However, those restrictions do not apply to authorities. Also, while it is impossible to predict how a court will rule in a given case, based on current case law, the new appropriation should not create a debt of the state because it does not create an absolute legal obligation on the part of the state to pay the debts of the Wisconsin Venture Capital Authority (the authority). See *State ex rel. Warren v. Nusbaum*, 59 Wis. 2d 391, 427-29, 208 N.W.2d 780 (Wis. 1973). Instead, the draft explicitly states that the authority's debt is not a debt of the state, and the authority cannot create a debt of the state. The courts tend to honor those kinds of legislative statements. See, e.g., *Nusbaum*, 59 Wis. 2d at 428-32.

While the draft does not create a legal obligation on the part of the state with respect to the authority's debts, the draft does include a "moral obligation pledge" that the legislature recognizes a moral obligation to pay the authority's debts should the authority fail to do so. While investors tend to look with favor on that kind of pledge, the Wisconsin Supreme Court has held that a moral obligation pledge does not create a legally enforceable debt of the state. See *id.*; *Wisconsin Solid Waste Recycling Authority v. Earl*, 70 Wis. 2d 464, 482, 235 N.W.2d 648 (Wis. 1975) (construing *Nusbaum*).

See (1)

Finally, while we do not usually include statements of legislative intent, purpose, or findings in the statutes, an exception to that general rule applies when there may be some question regarding the public purpose doctrine. Specifically, the courts have held that it is a fundamental constitutional requirement that the state's appropriations must be for a public purpose. *Libertarian Party of Wisconsin v. State*, 199 Wis. 2d 790, 809-10, 546 N.W. 2d 424 (Wis. 1996). Because it is possible that some may question

we could, if you choose,

Please let us know if you would like to include such a pledge.

whether the authority's investment in venture capital firms serves a public purpose, we have included a statement that the legislature finds the on Wisconsin fund is necessary and serves a public purpose. ✓ That kind of statement is also generally ✓ honored by the courts. *See Libertarian Party of Wisconsin v. State*, 199 Wis. 2d at 810 ⊙
Please let us know if you have any questions. ✓

Michael Gallagher
Legislative Attorney
Phone: (608) 267-7511
E-mail: michael.gallagher@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1556/P1dn
MPG:nwn:jf

March 29, 2011

Jonathan Hoechst and Brian Quinn:

Please review this draft carefully to ensure that it is consistent with your intent. Also, please see the notes, including questions, imbedded in the draft.

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While the draft does not create a legal obligation on the part of the state with respect to the authority's debts, we could, if you choose, include a "moral obligation pledge" that the legislature recognizes a moral obligation to pay the authority's debts should the authority fail to do so. While investors tend to look with favor on that kind of pledge, the Wisconsin Supreme Court has held that a moral obligation pledge does not create a legally enforceable debt of the state. *See id.; Wisconsin Solid Waste Recycling Authority v. Earl*, 70 Wis. 2d 464, 482, 235 N.W.2d 648 (Wis. 1975) (construing *Nusbaum*). Please let us know if you would like to include such a pledge.

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Please let us know if you have any questions.

Michael Gallagher
Legislative Attorney
Phone: (608) 267-7511
E-mail: michael.gallagher@legis.wisconsin.gov