



2013 SENATE BILL 168

April 30, 2013 – Introduced by Senators LEIBHAM and LASSA, cosponsored by Representatives STONE and BARCA. Referred to Committee on Economic Development and Local Government.

- 1 **AN ACT** *to create* 238.045 of the statutes; **relating to:** private interests in
2 Wisconsin Economic Development Corporation contracts.

Analysis by the Legislative Reference Bureau

Under current law, it is a felony for a public officer or public employee to, in the officer's or employee's private capacity, negotiate, bid for, or enter into a contract in which the officer or employee has a private pecuniary interest if, at the same time the officer or employee is authorized to participate, in his or her public capacity, in the making of the contract or to exercise a discretionary official function related to the contract. Current law also prohibits a state public official, including a member of the board of directors (board) of the Wisconsin Economic Development Corporation (WEDC), from taking any official action that substantially affects a matter in which the state public official has a substantial financial interest.

Under this bill, if a member of the board or a WEDC employee to whom the board delegates its authority to contract has a private pecuniary interest in a contract that is being negotiated, bid for, or entered into with WEDC, the member or employee must notify WEDC's legal counsel or chief executive officer who must then notify the board. The bill further provides that a member of the board or a WEDC employee who notifies WEDC's legal counsel or chief executive officer that he or she has such a private pecuniary interest in a contract is not authorized to participate, in his or her public capacity, in the making of the contract or to exercise an official function that requires the exercise of discretion in regard to the contract.

In addition, under this bill, if a WEDC employee has a controlling interest in an entity that is negotiating, bidding for, or entering into a contract with WEDC, the

SENATE BILL 168

employee must notify WEDC's legal counsel or chief executive officer who must then notify the board. The bill provides that the board must prohibit WEDC from entering into any contract with an entity in which a WEDC employee has a controlling interest.

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

1 **SECTION 1.** 238.045 of the statutes is created to read:

2 **238.045 Private interest in public contract.** (1) A member of the board
3 or an employee of the corporation to whom the board delegates its authority to
4 contract shall notify the corporation's legal counsel or, if the corporation's legal
5 counsel is unavailable, the chief executive officer of the corporation if the member or
6 employee has a direct or indirect, private, pecuniary interest in a contract that is
7 being negotiated, bid for, or entered into with the corporation. If the corporation's
8 legal counsel or chief executive officer is notified under this section, he or she shall
9 report the name of the individual from whom he or she received the notification and
10 the contract in which the individual has a private, pecuniary interest to the board.
11 A member or employee who notifies the corporation's legal counsel or chief executive
12 officer under this section is not authorized to participate in the member's or
13 employee's capacity as a member of the board or an employee of the corporation in
14 the making of the contract or to perform in regard to the contract some official
15 function requiring the exercise of discretion on the member's or employee's part.

16 **(2)** An employee of the corporation shall notify the corporation's legal counsel
17 or, if the corporation's legal counsel is unavailable, the chief executive officer of the
18 corporation if the employee has a controlling interest in an entity that is negotiating,
19 bidding for, or entering into a contract with the corporation. If the corporation's legal
20 counsel or chief executive officer is notified under this section, he or she shall report

SENATE BILL 168

1 the name of the individual from whom he or she received the notification and the
2 contract at issue to the board. The board shall prohibit the corporation from entering
3 into any contract with an entity in which an employee of the corporation has a
4 controlling interest.

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(END)