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**LRB-1852** 4/10/2013 8:10:57 AM Page 2

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**LRB-1852** 4/9/2013 4:28:00 PM Page 2

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**LRB-1852** 3/13/2013 10:47:34 AM Page 2

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Wanted:

As time permits

Same as LRB:

For:

**Governor 261-2163** 

By/Representing: Eileen Schoenfeldt

May Contact:

Drafter:

fknepp

Subject:

Econ. Development - misc.

**Ethics** 

Addl. Drafters:

Extra Copies:

Submit via email:

YES

Requester's email:

eileen.schoenfeldt@wisconsin.gov fern.knepp@legis.wisconsin.gov

Carbon copy (CC) to:

michael.gallagher@legis.wisconsin.gov

rick.champagne@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Conflict of interest provision for WEDC employees

**Instructions:** 

See attached

**Drafting History:** 

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Reviewed

Proofed

**Submitted** 

Jacketed

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<u>Typed</u>

#### Knepp, Fern

From:

Schoenfeldt, Eileen - GOV < Eileen. Schoenfeldt @wisconsin.gov>

Sent: To:

Thursday, March 07, 2013 9:14 AM

Subject:

Knepp, Fern; Gallagher, Michael bill draft request

Michael and Fern,

I'd like to request a bill draft that will prevent conflicts of interest by WEDC board members by requiring them to recuse themselves from certain actions in which they would have a financial interest.

Suggested language change to Ch 238:

Members of the board, and any official or employee of the corporation delegated with authority by the board, shall not take official action on a contract with which the board member has a private, direct or indirect, pecuniary interest.

Please let me know if you have any questions. Thanks!

#### Eileen Schoenfeldt

Policy Advisor
Office of Governor Scott Walker
(608) 261-2163
eileen.schoenfeldt@wisconsin.gov



## State of Misconsin 2013 - 2014 LEGISLATURE

In 3-8-2013



Metour

### PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

due: TODAY please

X

Gen

AN ACT ...; relating to: conflicts of interest for certain Wisconsin Economic

Development Corporation employees.

(WEDC)

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Analysis by the Legislative Reference Bureau

Under current law, members of the board of directors of the Wisconsin Economic Development Corporation (board) are subject to the state code of ethics for public officials and employees. Under the state code of ethics for public officials and employees, a member of the board is prohibited from taking any official action that substantially affects a matter in which the member has a substantial financial interest. Under the bill, if the board delegates its authority to contract to an employee of the Wisconsin Economic Development Corporation, the employee is prohibited from taking any official action on a contract in which the employee has a substantial financial interest.

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

**SECTION 1.** 238.02 (5) of the statutes is created to read:

238.02 (5) An employee of the corporation to whom the board delegates its authority to contract may not take any official action on a contract in which the employee has a direct or indirect substantial financial interest.

#### SECTION 1

\*\*\*\*NOTE: This subsection is based on s. 19.46 (1) (a), which applies to members of the board of WEDC. I did not include "an official" in the language because I assumed that all officials of WEDC are also employees. I also used "substantial financial interest" rather than "private pecuniary interest" to be consistent with the code of ethics provision in ch. 19. Please let me know if these changes are not consistent with your intent.

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(608-266-3561)

LRB

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## State of Misconsin 2013 - 2014 LEGISLATURE

In 3-13-2013



### PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

AN ACT to create 238.02 (5) of the statutes; relating to: onflicts of interest for

certain Wisconsin Economic Development Corporation employees

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Analysis by the Legislative Reference Bureau

Under current law, members of the board of directors (board) of the Wisconsin Economic Development Corporation (WEDC) are subject to the state code of ethics for public officials and employees. Under the state code of ethics for public officials and employees, a member of the board is prohibited from taking any official action that substantially affects a matter in which the member has a substantial financial interest. Under the bill, if the board delegates its authority to contract to an employee of the WEDC, the employee is prohibited from taking any official action on a contract in which the employee has a substantial financial interest-

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**SECTION 1.** 238.02 (5) of the statutes is created to read:

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\*

#### 2013-2014 DRAFTING INSERT FROM THE LEGISLATIVE REFERENCE BUREAU

#### Analysis

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, a member of the board or a WEDC employee to whom the board delegates its authority to contract must notify the board if the member or employee has private pecuniary interest in a contract that is being negotiated, bid for, or entered into with WEDC. The bill further provides that a member of the board or a WEDC employee who notifies the board 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.

END ANALYSIS

Ins 1-4 3

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

238.045 Private interest in public contract. A member of the board or an employee of the corporation to whom the board delegates its authority to contract shall notify the board if the member or employee has a direct or indirect, private, pecuniary interest in a contract that is being negotiated, bid for, or entered into with the corporation. A member or employee who notifies the board under this section is not authorized to participate in the member's or employee's capacity as a member of the board or an employee of the corporation in the making of the contract or to perform in regard to the contract some official function requiring the exercise of discretion on the member's or employee's part.

\*\*\*\*Note: The language about performing an official function that requires the exercise of discretion is from s. 946.13 (1) (a). If you wanted to restrict this bill only to the making of a contract, please let me know and I will remove that language.

END INS 1473

#### Knepp, Fern

From:

Schoenfeldt, Eileen - GOV < Eileen. Schoenfeldt@wisconsin.gov >

Sent:

Thursday, March 14, 2013 10:44 AM

To:

Knepp, Fern

Subject:

RE: WEDC conflicts of interest bill

Attachments:

13-1852 P2.pdf

Fern -

This version looks good. Can I please get it jacketed for both houses? Thanks!

Eileen

**From:** Knepp, Fern [mailto:Fern.Knepp@legis.wisconsin.gov]

Sent: Monday, March 11, 2013 1:30 PM

To: Schoenfeldt, Eileen - GOV

Subject: RE: WEDC conflicts of interest bill

Sounds good. Thanks.

**From:** Schoenfeldt, Eileen - GOV [mailto:Eileen.Schoenfeldt@wisconsin.gov]

Sent: Monday, March 11, 2013 1:29 PM

To: Knepp, Fern

Subject: RE: WEDC conflicts of interest bill

Fern -

Could you please call Hannah Renfro. She is the Legal Counsel at WEDC. Her number is 210-6705. She will be able to clarify the intent. Thanks!

Eileen

**From:** Knepp, Fern [mailto:Fern.Knepp@legis.wisconsin.gov]

Sent: Monday, March 11, 2013 10:24 AM

To: Schoenfeldt, Eileen - GOV

Subject: WEDC conflicts of interest bill

Eileen:

You should receive the bill draft related to conflicts of interest for WEDC employees today.

Fern

Fern F. Knepp

Legislative Attorney Wisconsin Legislative Reference Bureau P.O. Box 2037 Madison, WI 53701-2037



### State of Misconsin 2013 - 2014 LEGISLATURE

LRB-1852/Q2/1 FFK:jld:jf

In 3-14-2013

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2013 BILL

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Reger,

AN ACT to create 238.045 of the statutes; relating to: private interests in

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.

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LPS: please hidden, delete turn on hidden, turn of hidden turn of hidden turn of hidden the note, and again.

#### Knepp, Fern

From:

Schoenfeldt, Eileen - GOV < Eileen. Schoenfeldt@wisconsin.gov >

Sent:

Monday, April 08, 2013 3:58 PM

To:

Knepp, Fern

Subject:

RE: WEDC conflicts of interest bill

That is fine with us. Thank you.

Eileen

**From:** Knepp, Fern [mailto:Fern.Knepp@legis.wisconsin.gov]

Sent: Monday, April 08, 2013 3:55 PM

To: Schoenfeldt, Eileen - GOV

Subject: RE: WEDC conflicts of interest bill

Eileen-

I heard from Representative Stone's office regarding LRB-1852. I will transfer this file to his office unless I hear otherwise from you.

Thanks, Fern

**From:** Schoenfeldt, Eileen - GOV [mailto:Eileen.Schoenfeldt@wisconsin.gov]

Sent: Thursday, March 14, 2013 10:44 AM

To: Knepp, Fern

Subject: RE: WEDC conflicts of interest bill

Fern -

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Eileen

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Sent: Monday, March 11, 2013 1:30 PM

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To: Schoenfeldt, Eileen - GOV

Subject: WEDC conflicts of interest bill

Eileen:

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Fern

Fern F. Knepp

Legislative Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 261-6927
fern.knepp@legis.wisconsin.gov

#### STATE OF WISCONSIN – LEGISLATIVE REFERENCE BUREAU

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Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

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## State of Misconsin 2013 - 2014 LEGISLATURE

In 4-9-2013 19ub 4-10-2013



## 2013 BILL

I 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 bid for, or entered into with WEDC, the member or employee must notify WEDE'S legal counsel or chief executive officer who must then notify the board.

AN ACT to create 238.045 of the statutes; relating to: private interests in

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.

Onder this bill, a member of the board or a WEDC employee to whom the board delegates its authority to contract must notify the board if the member or employee has private pecuniary interest in a contract that is being negotiated, bid for, or entered into with WEDS. The bill further provides that a member of the board or a WEDC employee who notifies the board 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.

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

WEDE'S enact as légal coursel si Chief executive officer

**BILL** 

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

employee of the corporation to whom the board delegates its authority to contract corporation's legal counsel or, if the corporation's legal counsel is shall notify the board if the member or employee has a direct or indirect, private, unavailable chief pecuniary interest in a contract that is being negotiated, bid for, or entered into with executive officer the corporation. A member or employee who notifies the board under this section is not authorized to participate in the member's or employee's capacity as a member of the board or an employee of the corporation in the making of the contract or to perform in regard to the contract some official function requiring the exercise of discretion on the member's or employee's part. (corporation's legal counselor Chief executive officer

238.045 Private interest in public contract. A member of the board or an

HIT the corporation's legal counsel or chief executive officer is notified under this section, he or she shall report the name of the individual from whom he or she received the notification and the contract in which the individual has a guyate, peruniary interest to the board.

(END)

# DRAFTER'S NOTE FROM THE LEGISLATIVE REFERENCE BUREAU

LRB-1852/2dn FFK:...:...

#### To Representative Stone:

After our telephone conversation, it occurred to me that if you prefer to retain the concept of an "ethics compliance officer" without statutorily requiring the position, one alternative would be to require the CEO to designate an existing WEDC employee to be the "ethics compliance officer." The bill would then require the notification to go to the compliance officer or the CEO, if the compliance officer was unavailable. One advantage to this approach is that if someday, for whatever reason, WEDC employed outside legal counsel, the notice would stay within WEDC.

Fern Knepp Legislative Attorney Phone: (608) 261–6927

E-mail: fern.knepp@legis.wisconsin.gov

# DRAFTER'S NOTE FROM THE LEGISLATIVE REFERENCE BUREAU

LRB-1852/2dn FFK:jld:ph

April 10, 2013

#### To Representative Stone:

After our telephone conversation, it occurred to me that if you prefer to retain the concept of an "ethics compliance officer" without statutorily requiring the position, one alternative would be to require the CEO to designate an existing WEDC employee to be the "ethics compliance officer." The bill would then require the notification to go to the compliance officer or the CEO, if the compliance officer was unavailable. One advantage to this approach is that if someday, for whatever reason, WEDC employed outside legal counsel, the notice would stay within WEDC.

Fern Knepp Legislative Attorney Phone: (608) 261–6927

E-mail: fern.knepp@legis.wisconsin.gov

Champagne, F	Rick
From: Sent: To: Subject:	Gallagher, Michael Tuesday, April 23, 2013 1:49 PM Champagne, Rick FW: Rep. Stone - LRB 1852/2 request for changes
Rick: Here's an	other request re: -1852.
Thanks.	
Mike	
To: Gallagher, Mic	oril 23, 2013 1:46 PM
Hi Mike,	
I forgot that Fern i	s out of the office for the next couple of months.
Representative Sto contracts. Please see language	one has requested a change to the language in LRB 1852/2, pertaining to private interests in WEDO
Thank you,	
Marsha	
To: Knepp, Fern	ha oril 23, 2013 1:40 PM ne - LRB 1852/2 request for changes
Fern,	
Representative Sto	one would like the following language added to the bill draft LRB 1852/2:

"The board shall prohibit the corporation from entering into any contract with an entity in which an employee of the corporation has a controlling interest." inserted at the end of the statutory language from Rep. Stone's bill.

If there is any possibility of receiving the redraft in the next day or so, it would be greatly appreciated!

Thank you, and please call or email with any questions.

Marsha Dake Office of Rep. Jeff Stone 6-8590



State of Misconsin 2013 - 2014 LEGISLATURE

LRB-1852/2/3

Today

2013 BILL

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AN ACT to create 238.045 of the statutes; relating to: private interests in

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

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#### **BILL**

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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.

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

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

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

Insert 2-16

(END)

J-note



## State of Misconsin 2013 - 2014 LEGISLATURE



# ASSEMBLY SUBSTITUTE AMENDMENT, TO ASSEMBLY BILL (LRB-1852/2)

1 AN ACT to create 238.045 of the statutes; relating to: private interests in

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.

employee has a controlling interest in an entity that is negotiating, bidding for, or entering into a contract with WEDC, the employee must notify WEDC's legal counsel or chief executive officer who must then notify the board of directors of WEDO. 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:

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

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Private interest in public contract. 2 7

An employee of the corporation shall notify the corporation's legal counsel or, if the corporation's legal counsel is unavailable, the chief executive officer of the corporation if the employee has a controlling interest in an entity that is negotiating, bidding for, or entering into a contract with the corporation. If the corporation's legal counsel or chief executive officer is notified under this section, he or she shall report the name of the individual from whom he or she received the notification and the contract at issue to the board. The board shall prohibit the corporation from entering into any contract with an (end ins) entity in which an employee of the corporation has a controlling interest.

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D-Note

If I set up a procedure under which the employee Must notify the WEDC legal counsel or chief executive officer if he or she has a controlling interest in an entity that the may contract with WEDC. In this way, the board will know if an employee has a controlling interest in such an entity.

RAC

# DRAFTER'S NOTE FROM THE LEGISLATIVE REFERENCE BUREAU

LRB-1852/3dn RAC:jld:jf

April 24, 2013

I set up a procedure under which the employee must notify the WEDC legal counsel or chief executive officer if he or she has a controlling interest in an entity that may contract with WEDC. In this way, the board will know if an employee has a controlling interest in such an entity.

Rick A. Champagne Senior Legislative Attorney Phone: (608) 266–9930

E-mail: rick.champagne@legis.wisconsin.gov