AN ACT to renumber and amend 13.94 (1) (dr); to amend 1.14 (1) (b), 13.92 (1) (b), 13.94 (1s) (c), 16.004 (17), 16.004 (18), 16.52 (6) (a), 16.53 (13) (a), 16.545 (9), 16.70 (1e), 16.765 (1), 16.765 (2), 16.765 (5), 16.765 (6), 16.765 (7) (intro.), 16.765 (7) (d), 16.765 (8), 16.84 (14), 16.847 (2) (a), 16.849, 16.855 (16) (b) 1., 16.891 (1) (a), 16.967 (1) (a), 16.97 (1m), 20.505 (5) (ke), 20.866 (2) (ws), 20.867 (3) (kd), 238.02 (1), 238.03 (2) (c), 238.03 (2) (e) and 250.20 (1) (k); and to create 13.94 (1) (dr) 1., 13.94 (1) (dr) 2., 238.02 (1g), 238.02 (1r) and 238.07 (2) (gm) of the statutes; relating to: board of directors, powers and duties, and financial audits of the Wisconsin Economic Development Corporation.

Analysis by the Legislative Reference Bureau

This bill makes a number of changes to the laws governing the Wisconsin Economic Development Corporation, including the following:

1. Currently, the board of directors of WEDC includes six members who are nominated by the governor and appointed with the advice and consent of the senate and who serve at the pleasure of the governor; three members appointed by the speaker of the assembly, consisting of one majority and one minority party representative to the assembly and one person employed in the private sector; and
SENATE BILL 873

three members appointed by the senate majority leader, consisting of one majority and one minority party senator and one person employed in the private sector.

Under the bill, the members of the board nominated by the governor no longer serve at the pleasure of the governor but serve six-year, staggered terms. In addition, the members of the board employed in the private sector and appointed by the speaker of the assembly and senate majority leader no longer serve at the pleasure of the speaker or majority leader but serve six-year terms.

2. Under current law, the WEDC board elects a chairperson from among its public members. Under the bill, the board must also elect one of its public members to serve as the board’s lead director for a two-year term. The lead director must have significant corporate management experience. Under the bill, the lead director is to chair meetings of the board in the chairperson’s absence, chair the governance committee, described below, serve as a liaison between the chairperson and the other board members, work with the chairperson to ensure adequate committee structure for any committees the board establishes, and carry out other duties as assigned by the board or the governance committee.

3. The bill further requires WEDC’s board to establish a governance committee. In addition to the lead director, who serves as chair of the governance committee, the governance committee must include two of the board’s public members. The bill directs the governance committee to develop principles for the board’s oversight of WEDC, oversee the board’s operations, recommend membership for committees the board establishes, assist the chairperson to identify qualified candidates to fill vacancies on the board, and facilitate communication between the members of the board and the chief executive officer of WEDC.

4. Under current law, the Legislative Audit Bureau is required to conduct a financial audit of WEDC every two years and a program evaluation audit of the economic development programs administered by WEDC every two years. The bill requires that the financial audit be conducted annually until June 30, 2023, after which point, the financial audit reverts to being conducted every two years.

5. Under current law, with certain exceptions, the Department of Administration must purchase, or may delegate the authority to purchase, all necessary materials, supplies, equipment, all other permanent personal property and miscellaneous capital, and contractual services for all agencies. DOA, or its delegated agents, may contract for services that can be performed more economically or efficiently by contract. With exceptions, DOA must award orders and contracts to the lowest responsible bidders or most competitive proposal. If the estimated cost of an expenditure exceeds $50,000, DOA must solicit bids or competitive sealed proposals. This bill adds WEDC to the definition of agency for purposes of state procurement so that WEDC is subject to the same laws regulating agency purchasing.
SENATE BILL 873

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:

SECTION 1. 1.14 (1) (b) of the statutes is amended to read:

1.14 (1) (b) “State agency” has the meaning given for “agency” under s. 16.70 (1e) 16.97 (1m).

SECTION 2. 13.92 (1) (b) 1. b. of the statutes is amended to read:

13.92 (1) (b) 1. b. Any agency, as defined in s. 16.70 (1e) 16.97 (1m), created under ch. 13, 14, 15, or 758.

SECTION 3. 13.94 (1) (dr) of the statutes is renumbered 13.94 (1) (dr) 3. and amended to read:

13.94 (1) (dr) 3. Biennially, beginning in 2013, conduct a financial audit of the Wisconsin Economic Development Corporation and a program evaluation audit of the economic development programs administered by the Wisconsin Economic Development Corporation under ch. 238. The legislative audit bureau shall file a copy of each audit report under this paragraph subdivision with the distributees specified in par. (b).

SECTION 4. 13.94 (1) (dr) 1. of the statutes is created to read:

13.94 (1) (dr) 1. Annually, conduct a financial audit of the Wisconsin Economic Development Corporation. The legislative audit bureau shall file a copy of each audit report under this subdivision with the distributees specified in par. (b). This subdivision does not apply after June 30, 2023.

SECTION 5. 13.94 (1) (dr) 2. of the statutes is created to read:
13.94 (1) (dr) 2. Biennially, conduct a financial audit of the Wisconsin Economic Development Corporation. The legislative audit bureau shall file a copy of each audit report under this subdivision with the distributees specified in par. (b). This subdivision applies after June 30, 2023.

**SECTION 6.** 13.94 (1s) (c) 5. of the statutes is amended to read:

13.94 (1s) (c) 5. The Wisconsin Economic Development Corporation for the cost of the audit audits required to be performed under sub. (1) (dr).

**SECTION 7.** 16.004 (17) of the statutes is amended to read:

16.004 (17) BUSINESS INTELLIGENCE AND DATA WAREHOUSING SYSTEM. The department may implement an enterprise-wide reporting, data warehousing, and data analysis system applicable to every agency, as defined in s. 16.70 (1e) 16.97 (1m), other than the legislative and judicial branches of state government.

**SECTION 8.** 16.004 (18) of the statutes is amended to read:

16.004 (18) INTERGOVERNMENTAL AFFAIRS OFFICES. The secretary may maintain intergovernmental affairs offices to conduct public outreach and promote coordination between agencies, as defined in s. 16.70 (1e) 16.97 (1m), and authorities, as defined in s. 16.70 (2).

**SECTION 9.** 16.52 (6) (a) of the statutes is amended to read:

16.52 (6) (a) Except as authorized in s. 16.74, all purchase orders, contracts, or printing orders for any agency, as defined in s. 16.70 (1e) 16.97 (1m), shall, before any liability is incurred thereon, be submitted to the secretary for his or her approval as to legality of purpose and sufficiency of appropriated and allotted funds therefor. In all cases the date of the contract or order governs the fiscal year to which the contract or order is chargeable, unless the secretary determines that the purpose of the contract or order is to prevent lapsing of appropriations or to otherwise
circumvent budgetary intent. Upon such approval, the secretary shall immediately
encumber all contracts or orders, and indicate the fiscal year to which they are
chargeable.

SECTION 10. 16.53 (13) (a) of the statutes is amended to read:

16.53 (13) (a) In this subsection, “agency” has the meaning given in s. 16.70 (1e)
16.97 (1m).

SECTION 11. 16.545 (9) of the statutes is amended to read:

16.545 (9) To initiate contacts with the federal government for the purpose of
facilitating participation by agencies, as defined in s. 16.70 (1e) 16.97 (1m), in federal
aid programs, to assist those agencies in applying for such aid, and to facilitate
influencing the federal government to make policy changes that will be beneficial to
this state. The department may assess an agency to which it provides services under
this subsection a fee for the expenses incurred by the department in providing those
services.

SECTION 12. 16.70 (1e) of the statutes is amended to read:

16.70 (1e) “Agency” means an office, department, 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, which is entitled to expend
moneys appropriated by law, including the Wisconsin Economic Development
Corporation, the legislature, and the courts, but not including an authority.

SECTION 13. 16.765 (1) of the statutes is amended to read:

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

SECTION 14. 16.765 (2) of the statutes is amended to read:

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

16.765 (5) The head of each contracting agency and the boards of directors of the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic Development Corporation, and the Bradley Center Sports and Entertainment Corporation shall be primarily responsible for obtaining compliance by any contractor with the nondiscrimination and affirmative action provisions prescribed by this section, according to procedures recommended by the department. The department shall make recommendations to the contracting agencies and the boards of directors of the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic Development Corporation, and the Bradley Center Sports and Entertainment Corporation for improving and making more effective the nondiscrimination and affirmative action provisions of contracts. The department shall promulgate such rules as may be necessary for the performance of its functions under this section.

SECTION 16. 16.765 (6) of the statutes is amended to read:

16.765 (6) The department may receive complaints of alleged violations of the nondiscrimination provisions of such contracts. The department shall investigate and determine whether a violation of this section has occurred. The department may delegate this authority to the contracting agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic Development Corporation, or the Bradley Center Sports and
Entertainment Corporation for processing in accordance with the department’s procedures.

**SECTION 17.** 16.765 (7) (intro.) of the statutes is amended to read:

16.765 (7) (intro.) When a violation of this section has been determined by the department, the contracting agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic Development Corporation, or the Bradley Center Sports and Entertainment Corporation, the contracting agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic Development Corporation, or the Bradley Center Sports and Entertainment Corporation shall:

**SECTION 18.** 16.765 (7) (d) of the statutes is amended to read:

16.765 (7) (d) Direct the violating party to take immediate steps to prevent further violations of this section and to report its corrective action to the contracting agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic Development Corporation, or the Bradley Center Sports and Entertainment Corporation.

**SECTION 19.** 16.765 (8) of the statutes is amended to read:

16.765 (8) If further violations of this section are committed during the term of the contract, the contracting agency, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic Development Corporation, or the Bradley Center Sports and
Entertainment Corporation may permit the violating party to complete the contract, after complying with this section, but thereafter the contracting agency, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic Development Corporation, or the Bradley Center Sports and Entertainment Corporation shall request the department to place the name of the party on the ineligible list for state contracts, or the contracting agency, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic Development Corporation, or the Bradley Center Sports and Entertainment Corporation may terminate the contract without liability for the uncompleted portion or any materials or services purchased or paid for by the contracting party for use in completing the contract.

Section 20. 16.84 (14) of the statutes is amended to read:

16.84 (14) Provide interagency mail delivery service for agencies, as defined in s. 16.70 (1e) 16.97 (1m). The department may charge agencies for this service. Any moneys collected shall be credited to the appropriation account under s. 20.505 (1) (kb).

Section 21. 16.847 (2) (a) of the statutes is amended to read:

16.847 (2) (a) The department may provide funding to agencies, as defined in s. 16.70 (1e) 16.97 (1m), for energy conservation construction projects at state facilities under the jurisdiction of the agencies to enhance the energy efficiency of the facilities. The department shall prescribe standards for evaluation of proposed projects and allocation of available moneys for those projects under this subsection.

Section 22. 16.849 of the statutes is amended to read:
Facility design services for state agencies. The department may provide facility design services to agencies, as defined in s. 16.70 (1e) 16.97 (1m). The department may assess a fee to agencies for which the department performs services under this section.

**SECTION 23.** 16.855 (16) (b) 1. of the statutes is amended to read:

16.855 (16) (b) 1. In this paragraph, “agency” has the meaning given in s. 16.70 (1e) 16.97 (1m).

**SECTION 24.** 16.891 (1) (a) of the statutes is amended to read:

16.891 (1) (a) “Agency” has the meaning given in s. 16.70 (1e) 16.97 (1m).

**SECTION 25.** 16.967 (1) (a) of the statutes is amended to read:

16.967 (1) (a) “Agency” has the meaning given in s. 16.70 (1e) 16.97 (1m).

**SECTION 26.** 16.97 (1m) of the statutes is amended to read:

16.97 (1m) “Agency” has the meaning given in s. 16.70 (1e) means an office, department, 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, which is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority.

**SECTION 27.** 20.505 (5) (ke) of the statutes is amended to read:

20.505 (5) (ke) Additional energy conservation construction projects. All moneys received by the department from agencies, as defined in s. 16.70 (1e) 16.97 (1m), in payment of assessments under s. 16.847 (3) for energy cost savings at state facilities, for the purpose of providing additional funding to those agencies for energy conservation construction projects at state facilities under the jurisdiction of the agencies as provided in s. 16.847 (2).
SECTION 28. 20.866 (2) (ws) of the statutes, as affected by 2017 Wisconsin Act 59, is amended to read:

20.866 (2) (ws) Administration; energy conservation projects; capital improvement fund. From the capital improvement fund, a sum sufficient for the department of administration to provide funding to agencies, as defined in s. 16.70 (1e) 16.97 (1m), for energy conservation construction projects at state facilities under the jurisdiction of the agencies pursuant to s. 16.847 (2). The state may contract public debt in an amount not exceeding $220,000,000 for this purpose.

SECTION 29. 20.867 (3) (kd) of the statutes is amended to read:

20.867 (3) (kd) Energy conservation construction projects; principal repayment, interest and rebates. All moneys received by the building commission from agencies, as defined in s. 16.70 (1e) 16.97 (1m), in payment of assessments under s. 16.847 (3), for the purpose of reimbursing s. 20.866 (1) (u) for the payment of principal and interest costs incurred in financing energy conservation construction projects at state facilities, to make the payments determined by the building commission under s. 13.488 (1) (m) that are attributable to the proceeds of obligations incurred in financing energy conservation construction projects at state facilities, and to make payments under an agreement or ancillary arrangement entered into under s. 18.06 (8) (a).

SECTION 30. 238.02 (1) of the statutes is amended to read:

238.02 (1) There is created an authority, which is a public body corporate and politic, to be known as the “Wisconsin Economic Development Corporation.” The members of the board shall consist of 6 members nominated by the governor, and with the advice and consent of the senate appointed, to serve at the pleasure of the governor for 6-year terms; 3 members appointed by the speaker of the assembly,
consisting of one majority and one minority party representative to the assembly, appointed as are the members of standing committees in the assembly, and one person employed in the private sector, to serve at the speaker’s pleasure for a 6-year term; and 3 members appointed by the senate majority leader, consisting of one majority and one minority party senator, appointed as are members of standing committees in the senate, and one person employed in the private sector, to serve at the majority leader’s pleasure for a 6-year term. The secretary of administration and the secretary of revenue shall also serve on the board as nonvoting members. The board shall elect a chairperson from among its nonlegislative voting members.

**SECTION 31.** 238.02 (1g) of the statutes is created to read:

> 238.02 (1g) (a) The board shall elect a lead director to serve for a 2-year term. The lead director shall have significant corporate management experience and shall be one of the members of the board nominated by the governor or one of the members appointed by the speaker of the assembly or senate majority leader who is employed in the private sector.

(b) The lead director shall do all of the following:

1. Chair meetings of the board in the chairperson’s absence.
2. Chair the governance committee under sub. (1r).
3. Serve as a liaison between the chairperson of the board and the other members of the board.
4. Work with the chairperson to ensure an adequate committee structure for any committee the board establishes.
5. Carry out any other duties assigned to the lead director by the board or the governance committee.

**SECTION 32.** 238.02 (1r) of the statutes is created to read:
238.02 (1r) (a) The board shall establish a governance committee. The governance committee shall consist of the lead director and 2 other members who shall be elected by the board from the members of the board nominated by the governor or the members appointed by the speaker of the assembly and senate majority leader who are employed in the private sector, or both.

(b) The governance committee shall do all of the following:

1. Develop governance principles for the board's oversight of the corporation.
2. Oversee the board's operations.
3. Recommend membership for committees the board establishes.
4. Assist the chairperson to identify qualified candidates to fill vacancies on the board.
5. Facilitate communication between the members of the board and the chief executive officer of the corporation.

SECTION 33. 238.03 (2) (c) of the statutes is amended to read:

238.03 (2) (c) Require that each recipient of a grant or loan, or allocation of a tax benefit under the program submit a report to the corporation. Each contract with a recipient of a grant or loan, or allocation of a tax benefit under the program must specify the frequency and format of the report to be submitted to the corporation and the performance measures to be included in the report.

SECTION 34. 238.03 (2) (e) of the statutes is amended to read:

238.03 (2) (e) Annually and independently verify, from a sample of grants and loans, and allocations of tax benefits, the accuracy of the information required to be reported under par. (c).

SECTION 35. 238.07 (2) (gm) of the statutes is created to read:
238.07 (2) (gm) The number of recipients of a grant, loan, or tax benefit under
the program that satisfied the requirements under s. 238.03 (2) (c) and a list that
identifies each recipient of a grant, loan, or tax benefit under the program that failed
to satisfy those requirements.

SECTION 35. 250.20 (1) (k) of the statutes is amended to read:

250.20 (1) (k) “State agency” has the meaning given in s. 16.70 (1e) 16.97 (1m).

SECTION 36. Nonstatutory provisions.

(1) TERM LIMITS; STAGGERING OF TERMS.

(a) The current members of the board of directors of the Wisconsin Economic
Development Corporation who are nominated by the governor shall no longer serve
at the pleasure of the governor but shall have terms expiring as follows, in order from
first to last based on the order in which the members were appointed:

1. The terms of 2 members shall expire on July 1, 2022.
2. The terms of 2 members shall expire on July 1, 2023.
3. The terms of 2 members shall expire on July 1, 2024.

(b) The current member of the board of directors of the Wisconsin Economic
Development Corporation who is employed in the private sector and appointed by the
speaker of the assembly shall no longer serve at the pleasure of the speaker but shall
have a term expiring on July 1, 2021.

(c) The current member of the board of directors of the Wisconsin Economic
Development Corporation who is employed in the private sector and appointed by the
senate majority leader shall no longer serve at the pleasure of the majority leader but
shall have a term expiring on July 1, 2021.

(END)