

**ORDER OF THE
DEPARTMENT OF COMMERCE
CREATING RULES**

The Wisconsin Department of Commerce adopts an order to create chapter Comm 126 relating to the annual Wisconsin Angel Network grant under section 560.255 of the Statutes, and to capital connections grants and venture seed fund grants under section 560.277 of the Statutes, and affecting small businesses.

Rule Summary

1. Statutes Interpreted.

Sections 560.255 and 560.277, as created in 2009 Wisconsin Act 28.

2. Statutory Authority.

Sections 227.11 (2) (a), 560.255 and 560.277 (4) and (5).

3. Explanation of Agency Authority.

Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting the provisions of any Statute administered by the Department. Section 560.255 directs the Department to promulgate rules for administering Wisconsin Angel Network grants. Sections 560.277 (4) and (5) direct the Department to promulgate rules for administering capital connections grants and venture seed fund grants, and for establishing a Wisconsin venture fund advisory council.

4. Related Statute or Rule.

The Department has various rules for administering several economic development programs, but those rules do not specifically include the rule text in this order for (1) the Wisconsin Angel Network, (2) connecting business ventures and entrepreneurs with capital, (3) institutions that fund new businesses or determine proof of concept and feasibility of new business ideas, and (4) a Venture Fund Advisory Council.

5. Plain Language Analysis.

The rules in this order set forth the criteria the department will use for (1) providing an annual grant to the Wisconsin Angel Network, (2) funding eligible institutions that connect business ventures and entrepreneurs with capital, (3) providing matching funds to eligible institutions that fund new businesses or determine proof of concept and feasibility of new business ideas, and (4) establishing and interacting with a Venture Fund Advisory Council.

6. Summary of, and Comparison With, Existing or Proposed Federal Regulations.

The Department is not aware of any existing or proposed federal regulation that addresses the content of these rules.

7. Comparison With Rules in Adjacent States.

WISCONSIN ANGEL NETWORK (WAN)

Iowa: The Venture Network of Iowa provides a forum through which inventors and entrepreneurs interact in the hope of forging profitable, long-term business relationships. VNI has been a catalyst in the formation of new, viable businesses throughout Iowa by facilitating networking meetings for Iowa entrepreneurs, investors and business advisors. However, no state-level rules were found for VNI.

The remaining adjacent states typically have organizations like the Wisconsin Technology Council that houses WAN, but do not have a program like WAN to support angel networks.

Illinois: The Illinois Venture Capital Association is a nonprofit trade organization for Illinois venture-capital and private-equity professionals. IVCA enhances the growth of Illinois' \$77 billion venture-capital and private-equity community by advocating on behalf of the industry. IVCA promotes institutional investment in local private equity firms, provides networking opportunities for Midwest-based firms, supports public-policy initiatives for making Illinois an appealing financial center, shares up-to-the-minute news on local venture-capital/private-equity firms and professional service providers, facilitates intermediaries' and entrepreneurs' identification of appropriate venture-capital or private-equity firms for a given investment, and communicates the substantial economic value of a strong private-equity community. No state-level rules were found for IVCA.

Minnesota: The Minnesota High Tech Association supports the growth, sustainability and global competitiveness of Minnesota's technology-based economy through advocacy, collaboration and education. MHTA advocates for technology growth that benefits the full spectrum of technology companies as well as organizations which are dependent on technology. No state-level rules were found for MHTA.

Michigan: Michigan provides funds for the Michigan Venture Capital Association, which advocates for the private-equity/venture-capital industry. MVCA is a nonprofit trade organization designed to bring together venture-capital industry participants. The organization's goal is to grow and sustain a vibrant venture-capital community. Membership includes private-venture capital funds, corporate-venture capital funds, private-equity firms, angel investors, and entrepreneurial infrastructure participants. MVCA is a vehicle to bring together industry participants and to provide a concerted voice for Michigan's venture-capital industry. The

Michigan Economic Development Corporation is a founding member of MVCA and has aggressively supported the growth of angel networks to fill the gap in seed-stage financing. No state-level rules were found for MVCA.

CAPITAL CONNECTIONS GRANTS AND VENTURE SEED FUND GRANTS

Iowa: No similar state-level program or rules were found.

Illinois: No similar state-level program or rules were found.

Minnesota: No similar state-level program or rules were found.

Michigan: The Venture Michigan Fund invests in venture-capital firms that target seed and early-stage investments. Moneys for the \$95 million fund are provided by private investors who receive State-based single-business tax credits for investing in the fund. The 21st Century Investment Fund is funded by \$109 million of tobacco-settlement money. This fund invests in both venture-capital and private-equity companies and in both Michigan companies and out-of-state companies. No state-level rules were found for either of these programs.

8. Summary of Factual Data and Analytical Methodologies.

The data and methodology for developing these rules were derived from and consisted of (1) applying the corresponding provisions in 2009 Wisconsin Act 28; (2) incorporating applicable best practices the Department has developed in administering similar programs for economic development and business development; and (3) reviewing Internet-based sources of related federal, state, and private-sector information.

9. Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of an Economic Impact Report.

The primary document that was used to determine the effect of the rules on small business was 2009 Wisconsin Act 28. The rules and the applicable portion of this Act apply their private-sector requirements only to entities that choose to pursue a corresponding grant. No economic impact report was prepared.

10. Effect on Small Business.

The rules are expected to result in only beneficial effects on small business because the rules only address grants for the Wisconsin Angel Network and for research institutions or nonprofit organizations that are involved in economic development.

11. Agency Contact Person.

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SECTION 1. Chapter Comm 126 is created to read:

CHAPTER Comm 126, WISCONSIN VENTURE FUND

Comm 126.01 Purpose. The purpose of this chapter is to set forth the criteria the department will use to administer the Wisconsin venture fund for the annual Wisconsin angel network grant awarded under s. 560.255, Stats., and the capital connections grants and venture seed fund grants awarded under s. 560.277, Stats.

Comm 126.02 Definitions. In this chapter:

- (1) “Department” means the department of commerce.
- (2) “Eligible business” means a for-profit early stage entity which has or will have a majority of its operations located in this state and which is determining proof of concept and feasibility of a new business idea.
- (3) “Eligible entrepreneur” means an individual who is determining proof of concept and feasibility of a new business idea for a for-profit early stage entity that has or will have a majority of its operations located in this state.
- (4) “Eligible institution” means a research institution or nonprofit organization involved in economic development.
- (5) “Eligible investment” means funding provided from a venture seed fund to an eligible business or eligible entrepreneur.
- (6) “Nonprofit” means a nonprofit corporation as defined in s. 181.0103 (17), Stats., or an organization described in 26 USC 501(c)(3) that is exempt from federal income tax under 26 USC 501(a).
- (7) “Venture seed fund” means both the venture seed fund grant and cash match that are used to make eligible investments.
- (8) “Venture seed fund grant” means funding provided by the department to an eligible institution to make eligible investments.

Comm 126.03 Wisconsin angel network. (1) From the appropriation under s. 20.143 (1) (bk), Stats., the department shall make an annual grant of \$60,000 to the Wisconsin angel network.

(2) The department and the Wisconsin angel network or its authorized representative shall annually enter into a contract that specifies the uses for the grant issued under this section, the deliverables, and the reporting and auditing requirements.

Comm 126.04 Capital connections grants. (1) From the appropriation under s. 20.143 (1) (bk), Stats., the department may award a capital connections grant to an eligible institution to fund a project that does any of the following:

(a) Expands access for Wisconsin business ventures and entrepreneurs to existing capital networks.

(b) Creates or runs a Wisconsin network to connect Wisconsin business ventures and entrepreneurs with available capital.

(c) Creates an activity, event, or strategy in this state to connect Wisconsin business ventures and entrepreneurs with available capital.

(2) Prior to receiving a grant, an eligible institution shall demonstrate that it will provide a cash match of at least 50% of eligible project costs from sources other than the state.

Comm 126.05 Venture seed fund grants. (1) From the appropriation under s. 20.143 (1) (bk), Stats., the department may award a venture seed fund grant to an eligible institution to establish a venture seed fund if the department determines the venture seed fund will do all of the following:

(a) Increase the amount of funding, or leverage private investment for an eligible business or eligible entrepreneur.

(b) Facilitate the creation of jobs in this state by an eligible business or eligible entrepreneur.

(2) An application for a venture seed fund grant shall include all of the following:

(a) Demonstration that the eligible institution has the financial, administrative, and legal capacity to administer a venture seed fund.

(b) Documentation that the eligible institution has a minimum \$1 to \$1 cash match for the venture seed fund grant, from sources other than the state, which will be placed into the venture seed fund.

(c) Agreement that the venture seed fund will be used to make eligible investments and will not be used for administration and overhead costs. Any cash match raised over the \$1 for \$1 amount in par. (b) may be used to pay for administrative and overhead costs.

(d) Agreement that all eligible investments will be in the form of a loan, convertible debt, or equity instrument.

(e) Agreement that eligible investments will not be made to eligible businesses or eligible entrepreneurs that have tax liens or delinquent taxes, are in default, or are not registered to do business in Wisconsin.

(f) Agreement that all repayments from eligible investments; proceeds from mergers, sales or acquisitions; fees; or liquidity proceeds will be deposited back into the venture seed fund, unless otherwise approved by the department.

(g) Any other items deemed necessary by the department.

Comm 126.06 Procedures, policies, and standards. The department shall prepare application materials that set forth the following requirements, as applicable, for obtaining a grant from the department under this chapter:

(1) The process for submitting applications.

(2) The criteria used for evaluating applications and determining whether to award a grant.

(3) The maximum funding levels for each grant.

(4) The terms and conditions applicable to the grants.

(5) The process for monitoring performance, including the procedures for verification of economic growth, job creation, or the number and percentage of newly created jobs for which residents of this state are hired.

(6) The reporting and servicing requirements.

(7) The process for auditing.

Note: The application manual may be obtained at no charge from the Department of Commerce, Bureau of Business Development, at P.O. Box 7970, Madison, Wisconsin 53707, or telephone 608/266-1018 or Contact Through Relay.

Note: See chapter Comm 149 for additional requirements relating to (1) contracts between the Department and recipients of economic-development grants; (2) submittal of statements for such grants; and (3) penalties for submitting false or misleading information, or for failing to comply with the terms of a contract.

Comm 126.07 Advisory Council. (1) The department shall establish a Wisconsin venture fund advisory council that shall consist of the secretary of the department of commerce, the secretary of the department of financial institutions or its designee, and other qualified persons as deemed necessary by the department.

(2) The Wisconsin venture fund advisory council shall make recommendations to the department on all of the following for grants under this chapter:

(a) A process by which the department, the department of financial institutions, and other qualified persons may review proposals.

(b) The maximum amount of the grants awarded.

(c) Requirements that applicants secure funding from sources other than the state to match a portion of the grants awarded.

(d) Monitoring of projects funded by the grants, including monitoring of job creation.

(e) Criteria for annual reports to the Wisconsin venture fund advisory council.

Note: The Department anticipates annually developing reports for the council that address the awards made; the entities' names; the purposes, terms, conditions, deliverables, and match amounts of the grants; any repayments; and the jobs created.

(END)

EFFECTIVE DATE

Pursuant to s. 227.22 (2) (intro.), Stats., these rules shall become effective on the first day of the month commencing after the date of publication in the Wisconsin administrative register.

File reference: Comm 126/rules LRac