



State of Wisconsin
2011 - 2012 LEGISLATURE



LRBs0276/2
MPG/ARG/JK:cjs/wlj/kjf:rs

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2011 ASSEMBLY BILL 652**

March 7, 2012 – Offered by Representatives MARKLEIN, MOLEPSKE JR, KOOYENGA, BERCEAU, BROOKS, HINTZ, JORGENSEN, KERKMAN, PETRYK, SPANBAUER and TRANEL.

1 **AN ACT to amend** 15.07 (4), 20.536 (1) (k) and 25.14 (1) (a) (intro.); and **to create**
2 15.07 (1) (a) 7., 15.07 (5) (am), 15.77, 19.42 (10) (Lm), 19.42 (13) (km), 20.195,
3 25.17 (72), 25.17 (73), 25.90, 73.17, 230.08 (2) (yo) and chapter 555 of the
4 statutes; **relating to:** creation of the Wisconsin Next Generation Reserve
5 Board and Wisconsin next generation reserve fund, authorizing the State of
6 Wisconsin Investment Board to provide certain advice, services, and facilities
7 to state agencies and others, requiring the exercise of rule-making authority,
8 and making appropriations.

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

9 **SECTION 1.** 15.07 (1) (a) 7. of the statutes is created to read:
10 15.07 (1) (a) 7. The members of the Wisconsin next generation reserve board
11 appointed under s. 15.77 (1) (h) to (j) shall be appointed as provided in that section.

1 **SECTION 2.** 15.07 (4) of the statutes, as affected by 2011 Wisconsin Act 10, is
2 amended to read:

3 **15.07 (4) QUORUM.** A majority of the membership of a board constitutes a
4 quorum to do business and, unless a more restrictive provision is adopted by the
5 board, a majority of a quorum may act in any matter within the jurisdiction of the
6 board. This subsection does not apply to actions of the government accountability
7 board or the school district boundary appeal board as provided in ss. 5.05 (1e) and
8 117.05 (2) (a) or the Wisconsin next generation reserve board as provided in s. 15.77
9 (3).

10 **SECTION 3.** 15.07 (5) (am) of the statutes is created to read:

11 **15.07 (5) (am)** Members of the Wisconsin next generation reserve board, \$50
12 per day.

13 **SECTION 4.** 15.77 of the statutes is created to read:

14 **15.77 Wisconsin next generation reserve board; creation. (1)** There is
15 created a Wisconsin next generation reserve board. The board shall consist of the
16 following members:

17 (a) One member who has expertise in agriculture and is recognized for
18 outstanding knowledge and leadership in bioscience or bioscience research.

19 (b) Two members who, at the time of appointment, serve in senior management
20 positions at bioscience companies headquartered in this state that employ fewer
21 than 50 employees, including any affiliate, and who, in addition to any other
22 responsibilities, have responsibilities related to the financing of the companies.

23 (c) One member who, at the time of appointment, serves in a senior
24 management position at a bioscience company headquartered in this state that

1 employs at least 50 employees, including any affiliate, and who, in addition to any
2 other responsibilities, has responsibilities related to the financing of the company.

3 (d) One member who, at the time of appointment, serves in a senior
4 management position at a company headquartered in this state that develops or
5 manufactures medical devices and employs fewer than 50 employees, including any
6 affiliate, and who, in addition to any other responsibilities, has responsibilities
7 related to the financing of the company.

8 (e) One member who, at the time of appointment, serves in a senior
9 management position at a company headquartered in this state that develops or
10 manufactures medical devices and employs at least 50 employees, including any
11 affiliate, and who, in addition to any other responsibilities, has responsibilities
12 related to the financing of the company.

13 (f) One member who, at the time of appointment, either has at least 5 years of
14 experience directly investing in bioscience companies in this state, or represents a
15 group of individual investors that has at least 5 years of experience directly investing
16 in bioscience companies in this state.

17 (g) One member who, at the time of appointment, has at least 3 years of
18 experience in the merger and acquisition of bioscience companies.

19 (h) One member appointed by BioForward, Inc.

20 (i) One member who has expertise in bioscience or bioscience research, who
21 shall be appointed by the Board of Regents of the University of Wisconsin System and
22 who shall serve as a nonvoting member at the pleasure of the Board of Regents.

23 (j) One member who has expertise in bioscience or bioscience research, who
24 shall be appointed by the Wisconsin Association of Independent Colleges and

1 Universities and who shall serve as a nonvoting member at the pleasure of the
2 association.

3 (k) The executive director of the investment board, or his or her designee, who
4 shall serve as a nonvoting member.

5 (2) The members of the board identified in sub. (1) (a) to (h) shall be appointed
6 for 4-year terms.

7 (3) A majority of the voting members of the board constitutes a quorum for the
8 purpose of conducting its business and exercising its powers and for all other
9 purposes. Action may be taken by the board upon a vote of a majority of a quorum.

10 **SECTION 5.** 19.42 (10) (Lm) of the statutes is created to read:

11 19.42 (10) (Lm) The members of the Wisconsin next generation reserve board
12 who are appointed by BioForward, Inc., by the Board of Regents of the University of
13 Wisconsin System, and by the Wisconsin Association of Independent Colleges and
14 Universities and the executive director of the Wisconsin next generation reserve
15 board.

16 **SECTION 6.** 19.42 (13) (km) of the statutes is created to read:

17 19.42 (13) (km) The members of the Wisconsin next generation reserve board
18 who are appointed by BioForward, Inc., by the Board of Regents of the University of
19 Wisconsin System, and by the Wisconsin Association of Independent Colleges and
20 Universities and the executive director of the Wisconsin next generation reserve
21 board.

22 **SECTION 7.** 20.195 of the statutes is created to read:

23 **20.195 Wisconsin next generation reserve board.** There is appropriated
24 to the Wisconsin next generation reserve board for the following program:

1 **(1)** ASSISTANCE TO CERTIFIED BIOSCIENCE COMPANIES. (q) *General program*
2 *operations and loans, grants, and investments.* From the Wisconsin next generation
3 reserve fund, a sum sufficient to make loans and provide grants to, and make
4 investments in, certified bioscience companies as provided in ch. 555 and for general
5 program operations and administrative expenses. Not more than the following
6 amounts may be expended under this paragraph for general program operations and
7 administrative expenses:

8 1. In fiscal year 2013–14, 5 percent of the moneys in the Wisconsin next
9 generation reserve fund.

10 2. In fiscal year 2014–15, 5 percent of the moneys in the Wisconsin next
11 generation reserve fund.

12 3. In fiscal year 2015–16, 2 percent of the moneys in the Wisconsin next
13 generation reserve fund.

14 4. In fiscal year 2016–17 and in each fiscal year thereafter, 0.5 percent of the
15 moneys in the Wisconsin next generation reserve fund.

16 (r) *Additional operational or administrative expenses.* From the Wisconsin
17 next generation reserve fund, a sum sufficient equal to any amount authorized under
18 s. 555.06 for general program operations and administrative expenses.

19 **SECTION 8.** 20.536 (1) (k) of the statutes is amended to read:

20 20.536 **(1)** (k) *General program operations.* All moneys received from
21 assessments made under s. 25.187 (2) ~~and~~, from charges made under s. 25.17 (9), and
22 from assessments or charges made under s. 25.17 (72) or (73), for the purpose of
23 conducting general program operations.

24 **SECTION 9.** 25.14 (1) (a) (intro.) of the statutes is amended to read:

1 25.14 (1) (a) (intro.) There is created a state investment fund under the
2 jurisdiction and management of the board to be operated as an investment trust for
3 the purpose of managing the securities of all funds that are required by law to be
4 invested in the state investment fund, the Wisconsin next generation reserve fund,
5 and all of the state's funds specified in s. 25.17 (1), except all of the following:

6 **SECTION 10.** 25.17 (72) of the statutes is created to read:

7 25.17 (72) Have authority to provide advice and services requested by a state
8 agency, as defined in s. 20.001 (1), or authority, as defined in s. 16.417 (1) (b), or
9 business entity owned or controlled by a state agency or authority, relating to
10 managing or administering money and property controlled by the agency, authority,
11 or business entity for any purpose, including economic development in this state.
12 The scope of any advice or services provided to a state agency, authority, or business
13 entity under this subsection shall be defined by agreement between the board and
14 the agency, authority, or business entity. This agreement shall require the cost of any
15 advice or services provided by the board to be paid by the agency, authority, or
16 business entity and the agreement may authorize the board to make assessments
17 against the money and property controlled by the agency, authority, or business
18 entity or to charge the agency, authority, or business entity for the cost of any advice
19 or services provided. All moneys received by the board under this subsection shall
20 be credited to the appropriation account under s. 20.536 (1) (k).

21 **SECTION 11.** 25.17 (73) of the statutes is created to read:

22 25.17 (73) Have authority to provide facilities to any state agency, as defined
23 in s. 20.001 (1), or authority, as defined in s. 16.417 (1) (b), or business entity owned
24 or controlled by a state agency or authority, in accordance with any agreement
25 between the board and the agency, authority, or business entity. This agreement

1 shall require the cost of facilities provided by the board to be paid by the agency,
2 authority, or business entity. All moneys received by the board under this subsection
3 shall be credited to the appropriation account under s. 20.536 (1) (k).

4 **SECTION 12.** 25.90 of the statutes is created to read:

5 **25.90 Wisconsin next generation reserve fund.** There is established a
6 separate nonlapsible trust fund designated as the Wisconsin next generation reserve
7 fund. The fund shall consist of all moneys deposited in the fund under ss. 73.17,
8 555.02 (2) (c) and 555.03 (3), together with all donations, gifts, or bequests made to
9 the fund, all moneys transferred to the fund from other funds, and all income or
10 interest earned by the fund.

11 **SECTION 13.** 73.17 of the statutes is created to read:

12 **73.17 Wisconsin next generation reserve fund. (1)** In this section,
13 “qualifying company” means a person whose principal business activity code in the
14 North American Industry Classification System, 2007 edition, published by the
15 federal office of management and budget, is one of the following: 311221, 311222,
16 311223, 325193, 325199, 325221, 325311, 325312, 325314, 325320, 325411, 325412,
17 325413, 325414, 334510, 334516, 334517, 339112, 339113, 339114, 339115, 339116,
18 541380, 541711, 541712, 621491, 621493, 621511, 621512, or 622110.

19 **(2) (a)** In July 2012, the department of revenue shall determine the total
20 amount of withholding taxes due and payable under subch. X of ch. 71 from
21 qualifying companies for calendar year 2011.

22 **(b)** Subject to par. (d), on July 1, 2013, and on each July 1 thereafter, ending on
23 July 1, 2027, the department of revenue shall deposit into the Wisconsin next
24 generation reserve fund an amount equal to 95 percent of the amount of withholding

1 taxes due and payable under subch. X of ch. 71 from qualifying companies in the
2 previous calendar year that exceeds the amount determined under par. (a).

3 (c) A person who is subject to withholding taxes under subch. X of ch. 71 shall
4 indicate to the department of revenue whether it is a qualifying company for
5 purposes of this section in the manner determined by the department.

6 (d) The department of revenue shall not deposit into the Wisconsin next
7 generation reserve fund more than \$15,000,000 in fiscal year 2012-13 or
8 \$50,000,000 in any fiscal year thereafter, and the total amount deposited may not
9 exceed \$350,000,000.

10 (e) After the department of revenue deposits a total of \$350,000,000 into the
11 fund under par. (d), and subject to the requirements of this paragraph, the
12 department shall continue depositing moneys into the fund under par. (b), not to
13 exceed an additional total amount of \$150,000,000 in deposits. Before the
14 department continues those deposits, the department shall notify the joint
15 committee on finance in writing that the department intends to do so. If, within 14
16 working days after the date of that notice, the cochairpersons of the committee do not
17 notify the department that the committee has scheduled a meeting to review the
18 continuation of deposits into the fund, the department shall continue those deposits.
19 If, within 14 working days after the date of that notice, the cochairpersons of the
20 committee notify the department that the committee has scheduled a meeting to
21 review the department's continuation of deposits into the fund, the department may
22 continue those deposits only upon approval of the committee.

23 **SECTION 14.** 230.08 (2) (yo) of the statutes is created to read:

24 230.08 (2) (yo) The executive director and administrative assistant of the
25 Wisconsin next generation reserve board.

1 **SECTION 15.** Chapter 555 of the statutes is created to read:

2

CHAPTER 555

3

WISCONSIN NEXT GENERATION

4

RESERVE BOARD

5

555.01 Definitions. In this chapter:

6

(1) “Board” means the Wisconsin next generation reserve board.

7

(2) “Certified bioscience company” means a person certified by the board under
8 s. 555.03 (2).

9

(3) “Qualifying company” has the meaning given in s. 73.17 (1), except that
10 “qualifying company” does not include a business that has as its principal business
11 activity the operation of a hospital as defined in s. 50.33 (2).

12

(4) “Fund” means the Wisconsin next generation reserve fund established
13 under s. 25.90.

14

555.02 Wisconsin next generation reserve fund. (1) EXECUTIVE DIRECTOR.

15

The board shall employ an executive director who has expertise in private equity
16 investment. In reviewing candidates for executive director, the board shall consider
17 all of the following:

18

(a) The extent of the candidate’s experience and expertise in private equity
19 investment.

20

(b) The candidate’s investment experience related to start-up bioscience
21 companies.

22

(c) The candidate’s experience related to seed or early stage business
23 investments.

24

(d) Any other criteria the board considers relevant.

1 **(2) GRANTS, LOANS, AND INVESTMENTS.** (a) Subject to s. 555.055, from the
2 appropriation under s. 20.195 (1) (q), the board may make a grant or loan to a
3 certified bioscience company, or the board may make an investment directly in a
4 certified bioscience company.

5 (b) Before the board makes a grant, loan, or investment under par. (a), the
6 board shall contract with the certified bioscience company. In addition to any other
7 terms required or negotiated by the board, that contract shall include all of the
8 following conditions:

9 1. The certified bioscience company shall use a grant, loan, or investment
10 provided by the board for research and development related to biotechnology or
11 bioscience or bioscience research methods, as determined by the board by rule.

12 2. The certified bioscience company shall match the amount of the board's,
13 grant, loan, or investment with moneys the company has raised from other sources.

14 3. Unless approved by the board, the certified bioscience company may not
15 relocate its headquarters outside of this state during the term of the contract under
16 this paragraph.

17 (c) Any moneys paid to the board by a certified bioscience company shall be
18 deposited in the fund.

19 (d) The total value of all grants the board provides under this subsection in a
20 fiscal year may not equal more than 10 percent of the total value of all grants, loans,
21 and investments the board makes in that fiscal year.

22 **555.03 Certified bioscience companies.** (1) APPLICATION. Any person may
23 apply to the board on a form prescribed by the board for certification under this
24 section. The application shall include all of the following:

25 (a) The name, address, and tax identification number of the person.

1 (b) A description of the principal business activities of the person and the
2 locations at which those activities are conducted.

3 (c) The person's principal business activity code under the North American
4 Industry Classification System, 2007 edition, published by the federal office of
5 management and budget.

6 (d) Any other information the board requires.

7 **(2) CERTIFICATION.** The board may certify a person that submits an application
8 under sub. (1) to be eligible to receive a grant, loan, or investment under s. 555.02
9 if the board determines after conducting an investigation that the person meets all
10 of the following conditions:

11 (a) The person is a qualifying company.

12 (b) The person is headquartered in, and has its principal business operations
13 located in, this state.

14 (c) The person, including any affiliate, employs at least 75 percent of its
15 employees in this state.

16 (d) The person is in need of capital.

17 (e) The person is developing biotechnology or bioscience or bioscience research
18 methods, as determined by the board by rule and the person demonstrates to the
19 board's satisfaction that the person has the potential to generate high levels of
20 successful investment performance and to increase employment in this state.

21 (h) The person meets any other conditions established by the board.

22 **(3) APPLICATION FEE.** The board may charge a fee to an applicant for certification
23 under this section. The fee shall be deposited in the fund.

24 **555.04 Contracting authority.** Notwithstanding ss. 16.70 to 16.78, the
25 board may enter into any contract with the investment board as provided in s. 25.17

1 (72) and (73), including any contract relating to the furnishing of personnel or office
2 space, to be paid as provided in s. 25.17 (72) and (73), may procure insurance, and
3 may execute any other contract necessary or convenient to the performance of the
4 board's powers and duties under this chapter.

5 **555.05 Annual report.** Annually, by July 1, the board shall submit to the chief
6 clerk of each house of the legislature, for distribution to the legislature under s.
7 13.172 (2), a report that includes all of the following:

8 (1) An accounting of the revenue received in the fund under s. 73.16 (2).

9 (2) An accounting of all expenditures from the fund by the board for any
10 purpose.

11 (3) For each each certified bioscience company that received a grant, loan, or
12 investment from the board, all of the following:

13 (a) The name and address of the certified bioscience company.

14 (b) A description of the nature of the business conducted by the certified
15 bioscience company.

16 (c) The amount of the grant, loan, or investment.

17 (d) A description of the purposes for which the certified bioscience company
18 used or is using the grant, loan, or investment.

19 (e) A statement of the number of employees the certified bioscience company
20 employed on January 1 of the preceding year and the number of employees the
21 company employed on December 31 of that year.

22 (4) An accounting of the internal rate of return realized by the board on its total
23 loans to and investments in certified bioscience companies.

24 (5) An accounting of the internal rate of return realized by the board on each
25 loan to or investment in each certified bioscience company.

1 **555.055 Biennial review by joint committee on finance.** In each
2 odd-numbered year, when the board submits its report under s. 555.05, the board
3 shall submit to the joint committee on finance a copy of that report and a plan for the
4 grants, loans, and investments the board intends to make under s. 555.02 (2) during
5 the biennium that begins on July 1 of that year. The joint committee on finance may
6 approve, disapprove, or modify and approve the board's plan. If, within 14 working
7 days after the date of that submittal, the cochairpersons of the committee do not
8 notify the board that the committee has scheduled a meeting to review the board's
9 plan, the board may make grants, loans, and investments under s. 555.02 (2)
10 consistent with the board's plan. If, within 14 working days after the date of that
11 submittal, the cochairpersons of the committee notify the board that the committee
12 has scheduled a meeting to review the board's plan, the board may make grants,
13 loans, and investments under s. 555.02 (2) beginning on July 1 of that year only upon
14 approval of the committee and subject to any modification of the committee to the
15 board's plan.

16 **555.06 Expenditure of fund moneys for operational or administrative**
17 **costs.** If the board determines that the amount provided under s. 20.195 (1) (q) 1.,
18 2., 3., or 4. is not sufficient to cover the board's actual general program operations and
19 administrative expenses for a fiscal year, the board may notify the joint committee
20 on finance in writing that the board proposes to exceed that amount for those
21 purposes. That notice shall state the specific amount of additional moneys from the
22 fund that the board proposes to use for general program operations and
23 administrative expenses and the board's reasons supporting its determination that
24 its expenditure of that additional amount is necessary for those purposes. If, within
25 14 working days after the date of that notice, the cochairpersons of the committee do

1 not notify the board that the committee has scheduled a meeting to review the board's
2 proposal, the board may expend the additional amount as proposed in the board's
3 notice. If, within 14 working days after the date of that notice, the cochairpersons
4 of the committee notify the board that the committee has scheduled a meeting to
5 review the board's proposal, the board may expend the additional amount only upon
6 approval of the committee.

7 **SECTION 16. Nonstatutory provisions.**

8 (1) DEFINITION. In subsections (2) and (3), "board" means the Wisconsin next
9 generation reserve board.

10 (2) INITIAL APPOINTMENTS.

11 (a) Notwithstanding the requirement of advice and consent of the senate under
12 section 15.07 (1) (a) of the statutes, the initial members of the board nominated by
13 the governor may be provisionally appointed by the governor, subject to later senate
14 confirmation. Any provisional appointment shall be in full force until withdrawn by
15 the governor or acted upon by the senate, and if confirmed by the senate shall
16 continue for the remainder of the unexpired term of the member and until a successor
17 is appointed and qualifies. A provisional appointee may exercise all the powers and
18 duties of board membership to which the person is appointed during the time in
19 which the appointee qualifies.

20 (b) A provisional appointment made under paragraph (a) that is withdrawn by
21 the governor shall, upon withdrawal, lapse and create a vacancy for provisional
22 appointment of another initial member of the board. Any provisional appointment
23 made under paragraph (a) that is rejected by the senate shall, upon rejection, lapse
24 and create a vacancy for provisional appointment of another initial board member.

1 (c) Notwithstanding the lengths of terms specified in section 15.77 (2) of the
2 statutes, as created by this act, the initial members of the board shall be appointed
3 for the following terms:

4 1. The member appointed by the governor under section 15.77 (1) (a) of the
5 statutes, as created by this act, and one member appointed by the governor under
6 section 15.77 (1) (b) of the statutes, as created by this act, for terms expiring on July
7 1, 2014.

8 2. One member appointed by the governor under section 15.77 (1) (b) of the
9 statutes, as created by this act, and the member appointed by the governor under
10 section 15.77 (1) (c) of the statutes, as created by this act, for terms expiring on July
11 1, 2015.

12 3. The members appointed by the governor under section 15.77 (1) (d) and (e)
13 of the statutes, as created by this act, for terms expiring on July 1, 2016.

14 4. The members appointed by the governor under section 15.77 (1) (f) and (g)
15 of the statutes, as created by this act, and the member appointed by BioForward, Inc.,
16 under section 15.77 (1) (h) of the statutes, as created by this act, for terms expiring
17 on July 1, 2017.

18 (3) POSITION AUTHORIZATION. There is authorized for the board 1.0 FTE SEG
19 executive director position and 1.0 FTE SEG administrative assistant position to be
20 funded from the appropriation under section 20.195 (1) (q) of the statutes, as created
21 by this act, or from any loan under subsection (4), or both.

22 (4) INVESTMENT BOARD LOAN. The investment board may loan money to the
23 Wisconsin next generation reserve board for general program operations and
24 administrative expenses of the Wisconsin next generation reserve board. All loan

1 terms shall be specified by written agreement between the investment board and the

2 Wisconsin next generation reserve board.

3 (END)