



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

| | |
|---|--|
| 2017 Assembly Bill 640 | Assembly Substitute Amendment 1 and Assembly Amendment 1 to Assembly Substitute Amendment 1 |
| <i>Memo published: January 29, 2018</i> | <i>Contact: Scott Grosz, Principal Attorney Zach Ramirez, Staff Attorney</i> |

This amendment memo summarizes changes made by Assembly Substitute Amendment 1 (the substitute amendment) to 2017 Assembly Bill 640 and by Assembly Amendment 1 to the substitute amendment. Key changes relate to: (1) State of Wisconsin Investment Board (SWIB) management and consulting services; (2) qualified uses of fund moneys; (3) business reporting to the Department of Financial Institutions (DFI); (4) composition of the Innovation Fund Council; and (5) sunset of operational or administrative costs.

INNOVATION FUND

The **bill** creates a nonlapsible trust fund known as the Innovation Fund (“Fund”). In general, the bill authorizes the Wisconsin Economic Development Corporation (WEDC) to administer specified economic development programs using certain moneys from the Fund. The Fund consists of certain withholding taxes deposited into the Fund by the Department of Revenue (DOR), together with all donations, gifts, or bequests made to the Fund, all moneys transferred to the Fund from other funds, and all income or interest earned by the Fund.¹

The **substitute amendment** generally retains the provisions of the bill relating to the Innovation Fund, except as described below.

¹ For a more complete description of the Fund, please see the Legislative Reference Bureau analysis of the substitute amendment: https://docs.legis.wisconsin.gov/2017/related/amendments/ab640/asa1_ab640.pdf.

SWIB MANAGEMENT AND CONSULTATION SERVICES

Under the **bill**, the Fund is managed by SWIB as part of the State Investment Fund.² Also under the bill, SWIB is authorized to provide advice and services to a state agency, authority, or business entity owned or controlled by a state agency or authority. The bill provides that the advice and services must relate to managing or administering money and property controlled by an agency, authority, or entity described above for any purpose, including economic development in the state. For any such services, there must be a contract between SWIB and the agency, authority, or eligible business entity, and SWIB may charge the agency, authority, or entity for any advice, services, or facilities that it provides.

Under the **substitute amendment**, the Fund is managed by SWIB but exempted from the State Investment Fund, and instead included under s. 25.17 (1), Stats.³ The substitute amendment removes the provision that authorizes SWIB to provide advice and service to a state agency, authority, or business entity controlled by a state agency or authority. Instead, the substitute amendment authorizes SWIB to consult and provide advice and services to WEDC relating to the Fund and the economic development programs funded by the Fund. For any such services, there must be a contract between SWIB and WEDC, and SWIB may charge WEDC for any consultation, advice, or services that it provides. The substitute amendment also gives the WEDC Board of Directors (“WEDC Board”) the authority to execute such agreements with SWIB.

QUALIFIED USES OF FUND MONEYS

Under the **bill**, qualified uses of Fund moneys include economic development programs related to: (1) innovation through competition; (2) new product research and development; (3) capacity building through industry cluster partnerships; and (4) accelerators and small business innovation. Under the bill, WEDC may use **interest earnings** of the Fund to provide **grants and other payments** to these economic development programs.

Under the **substitute amendment**, WEDC may use **interest and income** of the Fund to provide **financial assistance** to the economic development programs, described above.

BUSINESS REPORTING TO DFI

Under the **bill**, DOR is required to determine the total amount of withholding taxes due from certain “qualifying companies”⁴ for calendar year 2017 and generally make annual deposits into the Fund that exceed the amount of withholding taxes calculated by DOR for

² The State Investment Fund was established to invest the temporary cash balances of all state funds on a commingled basis in short-term instruments.

³ Section 25.17 (1), Stats., provides a list of funds over which SWIB has exclusive control of the investment and collection of the principal and interest of all moneys loaned or invested from the listed funds.

⁴ Under the bill, a “qualifying company” means a person whose principal business activity code in the NAICS is one of 125 codes enumerated in the bill.

calendar year 2017. Under the bill, a person who is subject to withholding taxes is required to indicate to DOR whether it is a “qualifying company.”

The **substitute amendment** adds the requirement that corporations, limited liability companies, limited partnerships, limited liability partnerships, and cooperatives must identify their North American Industry Classification System (NAICS) codes when filing their business formation documents with DFI or, with respect to foreign entities, when filing with DFI for authorization to conduct business in the state. The substitute amendment also requires DFI to make these NAICS codes available to DOR upon request. Finally, the substitute amendment requires a person to identify his or her NAICS code to DOR if the person did not identify his or her code when registering with DFI.

Assembly Amendment 1 to the substitute amendment adds a passive review process by the Joint Committee on Finance for new DFI expenses relating to NAICS code collection.

COMPOSITION AND DUTIES OF THE INNOVATION FUND COUNCIL

The **bill** requires WEDC to create an Innovation Fund Council (“Council”) to advise WEDC with respect to use of Fund moneys, among other duties. The **substitute amendment** also provides that the WEDC Board may delegate certain powers or duties to the Council and directs the Council to perform other duties as determined by WEDC.

Under the **bill**, the Council consists of the following 11 members, who serve staggered three-year terms:

- One member appointed by the executive director of SWIB.
- One member appointed by the managing director of the Wisconsin Alumni Research Foundation, Inc.
- One member appointed by the Governor who serves in a senior management position at a manufacturing company headquartered in Wisconsin that employs at least 250 employees and engages in research and development.
- One member appointed by the Governor who serves in a senior management position at a manufacturing company headquartered in Wisconsin that employs fewer than 50 employees and who has responsibilities related to the financing of the company or of its product development activities.
- One member appointed by the Governor who serves in a senior management position at a technology company headquartered in Wisconsin that employs at least 250 employees and engages in corporate research and development.
- One member appointed by the Governor who serves in a senior management position at a technology company headquartered in Wisconsin that employs fewer than 50 employees and who has responsibilities related to the financing of the company or of its product development activities.

- One member appointed by the President of the University of Wisconsin System who has experience in collaborations among universities and industries to conduct innovative, fundamental research in science, engineering, technology, and other areas of interest to industry.
- One member appointed by the President of the Wisconsin Association of Independent Colleges and Universities who has experience in collaborations among universities and industries to conduct innovative, fundamental research in science, engineering, technology, and other areas of interest to industry.
- Two members appointed by the Governor who have experience working for industry cluster partnerships.
- One member appointed by the Governor who has at least five years of experience in the investment activities, merger, and acquisition of technology or manufacturing companies.

The **substitute amendment** modifies the membership of the Council by providing that the Council must consist of the following members:

- One member of the WEDC Board to serve as chairperson of the Council, to be appointed by the WEDC Board.
- The executive director of SWIB or his or her designee.
- The managing director of the Wisconsin Alumni Research Foundation, Inc., or his or her designee.
- Four members appointed by the chairperson of the WEDC Board to serve terms of not more than four years, as determined by the chairperson. The substitute amendment places the following additional conditions on members appointed under this paragraph: (1) no member may serve more than two consecutive years; (2) at least three of the members must have significant experience working in or with a key industry cluster in this state; (3) at least one of the members must have significant experience in early stage investing; and (4) all members must have, at the time of appointment, demonstrable access to national networks of stakeholders in their respective industries.

SUNSET OF OPERATIONAL OR ADMINISTRATIVE COSTS

Under the **bill**, WEDC is directed to cover its initial program operations and administrative expenses relating to the Fund from a general appropriation for operations and programs of the economic development fund. Under the bill, this provision sunsets on June 30, 2018.

Under the **substitute amendment**, the sunset provision is removed.

BILL HISTORY

On January 11, 2018, the Assembly Committee on Small Business Development recommended adoption of Assembly Amendment 1 to Assembly Substitute Amendment 1 and adoption of Assembly Substitute Amendment 1 on votes of Ayes, 15; Noes, 0. The committee then recommended passage of Assembly Bill 640, as amended, on a vote of Ayes, 15; Noes, 0.

SG:ZR:jal:ty