



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-1358/1
JK&CTS:nwn:rs

2011 ASSEMBLY BILL 90

April 12, 2011 – Introduced by Representatives CLARK, BARCA, HINTZ, FIELDS, ROYS, BEWLEY and STASKUNAS, cosponsored by Senators LASSA, SCHULTZ, HOLPERIN and TAYLOR. Referred to Committee on Jobs, Economy and Small Business.

1 **AN ACT to amend** 20.143 (1) (c), 20.143 (1) (er), 20.143 (1) (fi) and 20.143 (1) (ie);
2 **and to create** 560.158 of the statutes; **relating to:** entrepreneurial tax credit
3 access grants, providing an exemption from emergency rule procedures,
4 granting rule-making authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, generally, the Department of Commerce (Commerce) may certify a person to receive income and franchise tax credits based on the person's expenditures to acquire, improve, or construct real property or acquire tangible personal property in this state related to the person's business. Under this bill, Commerce may award a grant to a person who wishes to secure financing to make expenditures that would qualify for such tax credits. A person is eligible to receive a grant if the expenditures are made for a business located in this state that has fewer than 25 employees in this state or less than \$5,000,000 in gross receipts. No person may receive a grant unless the person has submitted business and financing plans to a commercial lending institution and submitted copies of the plans to Commerce. Before awarding a grant, Commerce must verify that the lender has approved the person's plans and will underwrite a loan for expenditures, contingent on the person receiving a grant. Under the bill, a person who receives a grant to secure financing for making an expenditure that would qualify for a tax credit may not claim a credit for that expenditure.

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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:

1 **SECTION 1.** 20.143 (1) (c) of the statutes is amended to read:

2 20.143 (1) (c) *Wisconsin development fund; grants, loans, reimbursements, and*
3 *assistance.* Biennially, the amounts in the schedule for grants under ss. 560.145,
4 560.158, and 560.047; for loans under s. 560.128; for grants and loans under ss.
5 560.275 (2) and 560.276 and under subch. V of ch. 560; for reimbursements under s.
6 560.167; for the costs specified in s. 560.607; for loans under s. 560.203 and the loan
7 under 1999 Wisconsin Act 9, section 9110 (4); and for the grants under 1995
8 Wisconsin Act 27, section 9116 (7gg), 1995 Wisconsin Act 119, section 2 (1), 1997
9 Wisconsin Act 27, section 9110 (6g), 2003 Wisconsin Act 33, section 9109 (1d) and
10 (2q), 2007 Wisconsin Act 20, section 9108 (4u), (6c), (7c), (7f), (8c), (8i), (9i), and (10q),
11 2009 Wisconsin Act 2, section 9110 (2) and (3), and 2009 Wisconsin Act 28, section
12 9110 (17q).

13 **SECTION 2.** 20.143 (1) (er) of the statutes is amended to read:

14 20.143 (1) (er) *Rural economic development program.* Biennially, the amounts
15 in the schedule for grants and loans under s. ss. 560.158 and 560.17.

16 **SECTION 3.** 20.143 (1) (fi) of the statutes is amended to read:

17 20.143 (1) (fi) *Forward innovation fund; grants and loans.* Biennially, the
18 amounts in the schedule for grants and loans under s. ss. 560.158 and 560.276 and
19 under subch. II of ch. 560.

20 **SECTION 4.** 20.143 (1) (ie) of the statutes is amended to read:

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1 20.143 (1) (ie) *Wisconsin development fund, repayments*. All moneys received
2 in repayment of grants or loans under s. 560.085 (4) (b), 1985 stats., s. 560.10, 2005
3 stats., s. 560.147, 2005 stats., s. 560.16, 1995 stats., s. 560.165, 1993 stats., s. 560.275
4 (2), s. 560.62, 2005 stats., s. 560.63, 2005 stats., s. 560.66, 2005 stats., ss. 560.145,
5 560.157, 560.158, and 560.45, subch. V of ch. 560, 1989 Wisconsin Act 336, section
6 3015 (1m), 1989 Wisconsin Act 336, section 3015 (2m), 1989 Wisconsin Act 336,
7 section 3015 (3gx), 1997 Wisconsin Act 27, section 9110 (7f), 1997 Wisconsin Act 310,
8 section 2 (2d), 1999 Wisconsin Act 9, section 9110 (4), and 2007 Wisconsin Act 20,
9 section 9108 (5x), not appropriated under par. (gv) to be used for grants and loans
10 under ss. 560.275 (2), 560.276, and 560.45 and subch. V of ch. 560, for loans under
11 s. 560.128, for the loan under 1999 Wisconsin Act 9, section 9110 (4), for the grant
12 under 2001 Wisconsin Act 16, section 9110 (7g), for the grants under 2003 Wisconsin
13 Act 33, section 9109 (1d) and (2q), for grants under 2009 Wisconsin Act 265, section
14 45 (1), for the study under 2009 Wisconsin Act 28, section 9110 (15u), and for
15 reimbursements under s. 560.167.

16 **SECTION 5.** 560.158 of the statutes is created to read:

17 **560.158 Entrepreneurial tax credit access grants.** (1) The department
18 may award a grant to a person who intends to use the grant to secure financing for
19 making expenditures that would qualify for a credit under s. 71.07 (2dy), (3g) (a) 2.,
20 (3n), (3p), (3r), (3rm), or (3rn), 71.28 (1dy), (3g) (a) 2., (3n), (3p), (3r), (3rm), or (3rn),
21 or 71.47 (1dy), (3g) (a) 2., (3n), (3p), (3r), (3rm), or (3rn), if the expenditures are made
22 for a business located in this state that has fewer than 25 employees in this state or
23 less than \$5,000,000 in gross receipts for the taxable year in which the person applies
24 for a grant under this section.

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1 **(2)** Any person who wishes to receive a grant under this section shall complete
2 and submit an application to the department and enter into an agreement with the
3 department to use the grant to secure financing for making expenditures described
4 under sub. (1) and to repay any or all of the grant proceeds to the department if the
5 person fails to comply with the agreement. An agreement under this subsection may
6 provide that repayment shall be obtained through full or partial repayment of the
7 principal amount of the grant plus interest, through receipt of a share of future
8 profits from or an interest in a product or process, or through any other appropriate
9 means.

10 **(3)** (a) No person may receive a grant under this section unless the person has
11 submitted business and financing plans to a commercial lending institution and
12 submitted copies of the plans to the department. Before awarding a grant, the
13 department shall verify that the lender has approved the person's plans and will
14 underwrite a loan for expenditures described under sub. (1), contingent on the
15 person receiving a grant under this section.

16 (b) The amount of any grant awarded under this section is the amount equal
17 to 95 percent of the tax credit that the recipient could otherwise receive for making
18 expenditures described under sub. (1), except that the amount of the grant may not
19 exceed an amount equal to 20 percent of the cost of the project that is being
20 financed.(c) The department shall require, as a condition of the grant, that the
21 recipient contribute to a project an amount that is not less than the amount the
22 recipient receives as a grant under this section.

23 **(4)** A person who receives a grant under this section to secure financing for
24 making an expenditure described under sub. (1) may not claim a credit under s. 71.07
25 (2dy), (3g) (a) 2., (3n), (3p), (3r), (3rm), or (3rn), 71.28 (1dy), (3g) (a) 2., (3n), (3p), (3r),

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1 (3rm), or (3rn), or 71.47 (1dy), (3g) (a) 2., (3n), (3p), (3r), (3rm), or (3rn) for that
2 expenditure.

3 **(5)** (a) The department shall pay grants from the appropriations under s.
4 20.143 (1) (c), (er), (ie), and (fi). The total amount that the department may award
5 under this section in a financial year is \$8,000,000.

6 (b) The department shall promulgate rules to administer this section.

7 (c) The department may not award grants under this section after January 1,
8 2015.

9 **SECTION 6. Nonstatutory provisions.**

10 (1) ENTREPRENEURIAL TAX CREDIT ACCESS GRANTS. Using the procedure under
11 section 227.24 of the statutes, the department of commerce shall promulgate the
12 rules required under section 560.158 (5) (b) of the statutes, as created by this act, for
13 the period before the effective date of the permanent rule promulgated under section
14 560.158 (5) (b) of the statutes, as created by this act, but not to exceed the period
15 authorized under section 227.24 (1) (c) of the statutes, subject to the extension under
16 section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and
17 (3) of the statutes, the department is not required to provide evidence that
18 promulgating a rule under this subsection as an emergency rule is necessary for the
19 preservation of the public peace, health, safety, or welfare and is not required to
20 provide a finding of emergency for a rule promulgated under this subsection.

21 (END)