



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-5495/1  
MPG:emw&wlj

## 2017 SENATE BILL 873

March 14, 2018 - Introduced by Senator VINEHOUT. Referred to Committee on Economic Development, Commerce and Local Government.

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

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### ***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

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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.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

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

2           1.14 (1) (b) “State agency” has the meaning given for “agency” under s. ~~16.70~~  
3           ~~(1e)~~ 16.97 (1m).

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

5           13.92 (1) (b) 1. b. Any agency, as defined in s. ~~16.70 (1e)~~ 16.97 (1m), created  
6           under ch. 13, 14, 15, or 758.

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

9           13.94 (1) (dr) 3. Biennially, ~~beginning in 2013~~, conduct a financial audit of the  
10          ~~Wisconsin Economic Development Corporation~~ and a program evaluation audit of  
11          the economic development programs administered by the Wisconsin Economic  
12          Development Corporation under ch. 238. The legislative audit bureau shall file a  
13          copy of each audit report under this paragraph subdivision with the distributees  
14          specified in par. (b).

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

16          13.94 (1) (dr) 1. Annually, conduct a financial audit of the Wisconsin Economic  
17          Development Corporation. The legislative audit bureau shall file a copy of each audit  
18          report under this subdivision with the distributees specified in par. (b). This  
19          subdivision does not apply after June 30, 2023.

20          **SECTION 5.** 13.94 (1) (dr) 2. of the statutes is created to read:

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

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

6           13.94 (1s) (c) 5. The Wisconsin Economic Development Corporation for the cost  
7 of the ~~audit~~ audits required to be performed under sub. (1) (dr).

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

9           16.004 (17) BUSINESS INTELLIGENCE AND DATA WAREHOUSING SYSTEM. The  
10 department may implement an enterprise-wide reporting, data warehousing, and  
11 data analysis system applicable to every agency, as defined in s. ~~16.70 (1e)~~ 16.97 (1m),  
12 other than the legislative and judicial branches of state government.

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

14           16.004 (18) INTERGOVERNMENTAL AFFAIRS OFFICES. The secretary may maintain  
15 intergovernmental affairs offices to conduct public outreach and promote  
16 coordination between agencies, as defined in s. ~~16.70 (1e)~~ 16.97 (1m), and authorities,  
17 as defined in s. 16.70 (2).

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

19           16.52 (6) (a) Except as authorized in s. 16.74, all purchase orders, contracts,  
20 or printing orders for any agency, as defined in s. ~~16.70 (1e)~~ 16.97 (1m), shall, before  
21 any liability is incurred thereon, be submitted to the secretary for his or her approval  
22 as to legality of purpose and sufficiency of appropriated and allotted funds therefor.  
23 In all cases the date of the contract or order governs the fiscal year to which the  
24 contract or order is chargeable, unless the secretary determines that the purpose of  
25 the contract or order is to prevent lapsing of appropriations or to otherwise

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1 circumvent budgetary intent. Upon such approval, the secretary shall immediately  
2 encumber all contracts or orders, and indicate the fiscal year to which they are  
3 chargeable.

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

5 16.53 (13) (a) In this subsection, “agency” has the meaning given in s. ~~16.70 (1e)~~  
6 16.97 (1m).

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

8 16.545 (9) To initiate contacts with the federal government for the purpose of  
9 facilitating participation by agencies, as defined in s. ~~16.70 (1e)~~ 16.97 (1m), in federal  
10 aid programs, to assist those agencies in applying for such aid, and to facilitate  
11 influencing the federal government to make policy changes that will be beneficial to  
12 this state. The department may assess an agency to which it provides services under  
13 this subsection a fee for the expenses incurred by the department in providing those  
14 services.

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

16 16.70 (1e) “Agency” means an office, department, agency, institution of higher  
17 education, association, society, or other body in state government created or  
18 authorized to be created by the constitution or any law, which is entitled to expend  
19 moneys appropriated by law, including the Wisconsin Economic Development  
20 Corporation, the legislature, and the courts, but not including an authority.

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

22 16.765 (1) Contracting agencies, the University of Wisconsin Hospitals and  
23 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin  
24 Aerospace Authority, the Lower Fox River Remediation Authority, ~~the Wisconsin~~  
25 ~~Economic Development Corporation~~, and the Bradley Center Sports and

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1 Entertainment Corporation shall include in all contracts executed by them a  
2 provision obligating the contractor not to discriminate against any employee or  
3 applicant for employment because of age, race, religion, color, handicap, sex, physical  
4 condition, developmental disability as defined in s. 51.01 (5), sexual orientation as  
5 defined in s. 111.32 (13m), or national origin and, except with respect to sexual  
6 orientation, obligating the contractor to take affirmative action to ensure equal  
7 employment opportunities.

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

9 16.765 (2) Contracting agencies, the University of Wisconsin Hospitals and  
10 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin  
11 Aerospace Authority, the Lower Fox River Remediation Authority, ~~the Wisconsin~~  
12 ~~Economic Development Corporation,~~ and the Bradley Center Sports and  
13 Entertainment Corporation shall include the following provision in every contract  
14 executed by them: "In connection with the performance of work under this contract,  
15 the contractor agrees not to discriminate against any employee or applicant for  
16 employment because of age, race, religion, color, handicap, sex, physical condition,  
17 developmental disability as defined in s. 51.01 (5), sexual orientation or national  
18 origin. This provision shall include, but not be limited to, the following: employment,  
19 upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or  
20 termination; rates of pay or other forms of compensation; and selection for training,  
21 including apprenticeship. Except with respect to sexual orientation, the contractor  
22 further agrees to take affirmative action to ensure equal employment opportunities.  
23 The contractor agrees to post in conspicuous places, available for employees and  
24 applicants for employment, notices to be provided by the contracting officer setting  
25 forth the provisions of the nondiscrimination clause".

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1           **SECTION 15.** 16.765 (5) of the statutes is amended to read:

2           16.765 (5) The head of each contracting agency and the boards of directors of  
3 the University of Wisconsin Hospitals and Clinics Authority, the Fox River  
4 Navigational System Authority, the Wisconsin Aerospace Authority, the Lower Fox  
5 River Remediation Authority, ~~the Wisconsin Economic Development Corporation,~~  
6 and the Bradley Center Sports and Entertainment Corporation shall be primarily  
7 responsible for obtaining compliance by any contractor with the nondiscrimination  
8 and affirmative action provisions prescribed by this section, according to procedures  
9 recommended by the department. The department shall make recommendations to  
10 the contracting agencies and the boards of directors of the University of Wisconsin  
11 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the  
12 Wisconsin Aerospace Authority, the Lower Fox River Remediation Authority, ~~the~~  
13 ~~Wisconsin Economic Development Corporation,~~ and the Bradley Center Sports and  
14 Entertainment Corporation for improving and making more effective the  
15 nondiscrimination and affirmative action provisions of contracts. The department  
16 shall promulgate such rules as may be necessary for the performance of its functions  
17 under this section.

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

19           16.765 (6) The department may receive complaints of alleged violations of the  
20 nondiscrimination provisions of such contracts. The department shall investigate  
21 and determine whether a violation of this section has occurred. The department may  
22 delegate this authority to the contracting agency, the University of Wisconsin  
23 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the  
24 Wisconsin Aerospace Authority, the Lower Fox River Remediation Authority, ~~the~~  
25 ~~Wisconsin Economic Development Corporation,~~ or the Bradley Center Sports and

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1 Entertainment Corporation for processing in accordance with the department's  
2 procedures.

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

4 16.765 (7) (intro.) When a violation of this section has been determined by the  
5 department, the contracting agency, the University of Wisconsin Hospitals and  
6 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin  
7 Aerospace Authority, the Lower Fox River Remediation Authority, ~~the Wisconsin~~  
8 ~~Economic Development Corporation,~~ or the Bradley Center Sports and  
9 Entertainment Corporation, the contracting agency, the University of Wisconsin  
10 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the  
11 Wisconsin Aerospace Authority, the Lower Fox River Remediation Authority, ~~the~~  
12 ~~Wisconsin Economic Development Corporation,~~ or the Bradley Center Sports and  
13 Entertainment Corporation shall:

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

15 16.765 (7) (d) Direct the violating party to take immediate steps to prevent  
16 further violations of this section and to report its corrective action to the contracting  
17 agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River  
18 Navigational System Authority, the Wisconsin Aerospace Authority, the Lower Fox  
19 River Remediation Authority, ~~the Wisconsin Economic Development Corporation,~~ or  
20 the Bradley Center Sports and Entertainment Corporation.

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

22 16.765 (8) If further violations of this section are committed during the term  
23 of the contract, the contracting agency, the Fox River Navigational System Authority,  
24 the Wisconsin Aerospace Authority, the Lower Fox River Remediation Authority, ~~the~~  
25 ~~Wisconsin Economic Development Corporation,~~ or the Bradley Center Sports and



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1 Entertainment Corporation may permit the violating party to complete the contract,  
2 after complying with this section, but thereafter the contracting agency, the Fox  
3 River Navigational System Authority, the Wisconsin Aerospace Authority, the Lower  
4 Fox River Remediation Authority, the ~~Wisconsin Economic Development~~  
5 ~~Corporation~~, or the Bradley Center Sports and Entertainment Corporation shall  
6 request the department to place the name of the party on the ineligible list for state  
7 contracts, or the contracting agency, the Fox River Navigational System Authority,  
8 the Wisconsin Aerospace Authority, the Lower Fox River Remediation Authority, the  
9 ~~Wisconsin Economic Development Corporation~~, or the Bradley Center Sports and  
10 Entertainment Corporation may terminate the contract without liability for the  
11 uncompleted portion or any materials or services purchased or paid for by the  
12 contracting party for use in completing the contract.

13 **SECTION 20.** 16.84 (14) of the statutes is amended to read:

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

18 **SECTION 21.** 16.847 (2) (a) of the statutes is amended to read:

19 16.847 (2) (a) The department may provide funding to agencies, as defined in  
20 s. ~~16.70 (1e)~~ 16.97 (1m), for energy conservation construction projects at state  
21 facilities under the jurisdiction of the agencies to enhance the energy efficiency of the  
22 facilities. The department shall prescribe standards for evaluation of proposed  
23 projects and allocation of available moneys for those projects under this subsection.

24 **SECTION 22.** 16.849 of the statutes is amended to read:

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1           **16.849 Facility design services for state agencies.** The department may  
2 provide facility design services to agencies, as defined in s. ~~16.70 (1e)~~ 16.97 (1m). The  
3 department may assess a fee to agencies for which the department performs services  
4 under this section.

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

6           16.855 **(16)** (b) 1. In this paragraph, “agency” has the meaning given in s. ~~16.70~~  
7 ~~(1e)~~ 16.97 (1m).

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

9           16.891 **(1)** (a) “Agency” has the meaning given in s. ~~16.70 (1e)~~ 16.97 (1m).

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

11          16.967 **(1)** (a) “Agency” has the meaning given in s. ~~16.70 (1e)~~ 16.97 (1m).

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

13          16.97 **(1m)** “Agency” ~~has the meaning given in s. 16.70 (1e)~~ means an office,  
14 department, agency, institution of higher education, association, society, or other  
15 body in state government created or authorized to be created by the constitution or  
16 any law, which is entitled to expend moneys appropriated by law, including the  
17 legislature and the courts, but not including an authority.

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

19          20.505 **(5)** (ke) *Additional energy conservation construction projects.* All  
20 moneys received by the department from agencies, as defined in s. ~~16.70 (1e)~~ 16.97  
21 (1m), in payment of assessments under s. 16.847 (3) for energy cost savings at state  
22 facilities, for the purpose of providing additional funding to those agencies for energy  
23 conservation construction projects at state facilities under the jurisdiction of the  
24 agencies as provided in s. 16.847 (2).

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1           **SECTION 28.** 20.866 (2) (ws) of the statutes, as affected by 2017 Wisconsin Act  
2           59, is amended to read:

3           20.866 **(2)** (ws) *Administration; energy conservation projects; capital*  
4           *improvement fund.* From the capital improvement fund, a sum sufficient for the  
5           department of administration to provide funding to agencies, as defined in s. ~~16.70~~  
6           ~~(1e)~~ 16.97 (1m), for energy conservation construction projects at state facilities under  
7           the jurisdiction of the agencies pursuant to s. 16.847 (2). The state may contract  
8           public debt in an amount not exceeding \$220,000,000 for this purpose.

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

10           20.867 **(3)** (kd) *Energy conservation construction projects; principal repayment,*  
11           *interest and rebates.* All moneys received by the building commission from agencies,  
12           as defined in s. ~~16.70 (1e)~~ 16.97 (1m), in payment of assessments under s. 16.847 (3),  
13           for the purpose of reimbursing s. 20.866 (1) (u) for the payment of principal and  
14           interest costs incurred in financing energy conservation construction projects at  
15           state facilities, to make the payments determined by the building commission under  
16           s. 13.488 (1) (m) that are attributable to the proceeds of obligations incurred in  
17           financing energy conservation construction projects at state facilities, and to make  
18           payments under an agreement or ancillary arrangement entered into under s. 18.06  
19           (8) (a).

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

21           238.02 **(1)** There is created an authority, which is a public body corporate and  
22           politic, to be known as the “Wisconsin Economic Development Corporation.” The  
23           members of the board shall consist of 6 members nominated by the governor, and  
24           with the advice and consent of the senate appointed, to serve ~~at the pleasure of the~~  
25           ~~governor~~ for 6-year terms; 3 members appointed by the speaker of the assembly,

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1 consisting of one majority and one minority party representative to the assembly,  
2 appointed as are the members of standing committees in the assembly, and one  
3 person employed in the private sector, to serve ~~at the speaker's pleasure~~ for a 6-year  
4 term; and 3 members appointed by the senate majority leader, consisting of one  
5 majority and one minority party senator, appointed as are members of standing  
6 committees in the senate, and one person employed in the private sector, to serve at  
7 ~~the majority leader's pleasure~~ for a 6-year term. The secretary of administration  
8 and the secretary of revenue shall also serve on the board as nonvoting members.  
9 The board shall elect a chairperson from among its nonlegislative voting members.

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

11 238.02 (1g) (a) The board shall elect a lead director to serve for a 2-year term.  
12 The lead director shall have significant corporate management experience and shall  
13 be one of the members of the board nominated by the governor or one of the members  
14 appointed by the speaker of the assembly or senate majority leader who is employed  
15 in the private sector.

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

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

25 **SECTION 32.** 238.02 (1r) of the statutes is created to read:

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1           238.02 (1r) (a) The board shall establish a governance committee. The  
2           governance committee shall consist of the lead director and 2 other members who  
3           shall be elected by the board from the members of the board nominated by the  
4           governor or the members appointed by the speaker of the assembly and senate  
5           majority leader who are employed in the private sector, or both.

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

7           1. Develop governance principles for the board's oversight of the corporation.

8           2. Oversee the board's operations.

9           3. Recommend membership for committees the board establishes.

10          4. Assist the chairperson to identify qualified candidates to fill vacancies on the  
11          board.

12          5. Facilitate communication between the members of the board and the chief  
13          executive officer of the corporation.

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

15          238.03 (2) (c) Require that each recipient of a grant ~~or~~, loan, or allocation of a  
16          tax benefit under the program submit a report to the corporation. Each contract with  
17          a recipient of a grant ~~or~~, loan, or allocation of a tax benefit under the program must  
18          specify the frequency and format of the report to be submitted to the corporation and  
19          the performance measures to be included in the report.

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

21          238.03 (2) (e) Annually and independently verify, from a sample of grants ~~and~~,  
22          loans, and allocations of tax benefits, the accuracy of the information required to be  
23          reported under par. (c).

24          **SECTION 35.** 238.07 (2) (gm) of the statutes is created to read:

