



2009 ASSEMBLY BILL 875

March 19, 2010 - Introduced by Representatives YOUNG, TURNER, A. WILLIAMS, GRIGSBY, ZEPNICK, KESSLER, RICHARDS and BERCEAU, cosponsored by Senator TAYLOR. Referred to Committee on Labor.

1 **AN ACT** *to amend* 20.143 (1) (im), 20.143 (1) (io), 34.05 (1), 560.13 (2) (b) 1. and
2 560.45 (1); and *to create* 15.155 (3m), 20.143 (1) (fm), 25.17 (59), 34.045 (1m),
3 34.05 (4) and subchapter VII of chapter 560 [precedes 560.80] of the statutes;
4 **relating to:** restoring the Minority Business Development Board and the
5 Minority Business Grant and Loan Program.

Analysis by the Legislative Reference Bureau

The Minority Business Grants and Loans Program (program), administered by the Department of Commerce (department), and the Minority Business Development Board (board) in the department, were eliminated by 2009 Wisconsin Act 28 (the biennial budget act). Under the program, the board was authorized to award a grant or loan to a minority group member, a minority business, certain nonprofit organizations, or private financial institutions. Minority group member was defined to mean any of the following persons: a) a black; b) a Hispanic; c) an American Indian; d) an Eskimo; e) an Aleut; f) a native Hawaiian; g) an Asian-Indian; h) a person of Asian-Pacific origin. Minority business was defined to mean a sole proprietorship, partnership, limited liability company, joint venture, or corporation with a principal place of business in Wisconsin that fulfilled both of the following requirements: it is at least 51 percent owned, controlled and actively managed by a minority group member or members who are U.S. citizens or persons lawfully admitted to the United States for permanent residence, and it is currently performing a useful business function. The recipient of a grant or loan under the

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1 ~~stats., and s. 560.82 (1m) (c), 2007 stats., and loans under 1997 Wisconsin Act 9,~~
2 ~~section 3, to be used for grants and loans under s. 560.45 and subch. II of ch. 560~~
3 ~~560.82 and for the study under 2009 Wisconsin Act 28, section 9110 (15u).~~

4 **SECTION 5.** 20.143 (1) (io) of the statutes, as created by 2009 Wisconsin Act 28,
5 is amended to read:

6 20.143 (1) (io) *Grant and loan repayments; forward innovation fund.* All
7 moneys received in repayment of grants or loans under subch. II of ch. 560, ~~grants~~
8 ~~or loans under s. 560.82 (1m) (b) and (c), 2007 stats., and loans under 1997 Wisconsin~~
9 ~~Act 9, section 3,~~ to be used for grants and loans under subch. II of ch. 560.

10 **SECTION 6.** 25.17 (59) of the statutes is created to read:

11 25.17 (59) Invest or deposit money from the appropriation under s. 20.143 (1)
12 (fm) in a public depository located in this state that is at least 51 percent owned by
13 a minority group member or minority group members, as defined in s. 560.036 (1) (f).

14 **SECTION 7.** 34.045 (1m) of the statutes is created to read:

15 34.045 (1m) Subsection (1) (a) and (e) does not apply to the funds appropriated
16 under s. 20.143 (1) (fm) that are deposited as provided in s. 34.05.

17 **SECTION 8.** 34.05 (1) of the statutes, as affected by 2009 Wisconsin Act 28, is
18 amended to read:

19 34.05 (1) ~~The Except as provided in sub. (4), the~~ governing board of each public
20 depositor shall, by resolution, designate one or more public depositories, organized
21 and doing business under the laws of this state or federal law and located in this
22 state, in which the treasurer of the governing board shall deposit all public moneys
23 received by him or her and specify whether the moneys shall be maintained in time
24 deposits subject to the limitations of s. 66.0603 (1m), demand deposits, or savings
25 deposits and whether a surety bond or other security shall be required to be

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1 furnished under s. 34.07 by the public depository to secure the repayment of such
2 deposits. A designation of a public depository by the governing board shall be a
3 designation of the public depository for all treasurers of the governing board and for
4 all public depositors for which each treasurer shall act.

5 **SECTION 9.** 34.05 (4) of the statutes is created to read:

6 34.05 (4) Money from the appropriation under s. 20.143 (1) (fm) shall be
7 deposited in a public depository located in this state that is at least 51 percent owned
8 by a minority group member or minority group members, as defined in s. 560.036 (1)
9 (f).

10 **SECTION 10.** 560.13 (2) (b) 1. of the statutes, as affected by 2009 Wisconsin Act
11 28, is amended to read:

12 560.13 (2) (b) 1. The contribution required under par. (a) 3. may be in cash or
13 in-kind. Cash contributions may be of private or public funds, excluding funds
14 obtained under the program under s. 560.17 or under any program under subch. II
15 or V or VII of this chapter. In-kind contributions shall be limited to actual
16 remediation services.

17 **SECTION 11.** 560.45 (1) of the statutes, as created by 2009 Wisconsin Act 28, is
18 amended to read:

19 560.45 (1) The department may award a grant from the appropriations under
20 s. 20.143 (1) (ie), (ig), (~~im~~), and (ir) to a business for innovation and research
21 assistance.

22 **SECTION 12.** Subchapter VII of chapter 560 [precedes 560.80] of the statutes
23 is created to read:

CHAPTER 560**SUBCHAPTER VII**

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MINORITY BUSINESS GRANTS AND LOANS

560.80 Definitions. In this subchapter:

(1) “Board” means the minority business development board.

(2) “Development project” means the start-up of a business, or the expansion or acquisition of an existing business, that is or will be a minority business or the promotion of economic development and employment opportunities for minority group members or minority businesses.

(3) “Early planning project” means the preliminary stages of considering and planning the start-up or expansion of a business that will be a minority business.

(3m) “Education and training project” means a business education and training program for minority group members and minority businesses that have received loans for working capital from an eligible recipient under s. 560.82 (1m) (e).

(4) “Eligible development project costs” means costs that, in accordance with sound business and financial practices, are appropriately incurred in connection with a development project, but does not include entertainment expenses or expenses incurred more than 6 months before the board approves a grant or loan under s. 560.82 (1m) (b).

(5) “Eligible recipient” means any of the following:

(a) An individual who is a minority group member and a resident of this state.

(b) A minority business.

(c) A person who is eligible to receive a grant under s. 560.82 (1m) (d) or (e).

(5m) “Finance project” means financial assistance to a minority group member or a minority business described in s. 560.82 (1m) (d) and (e).

(6) “Job” means a regular, nonseasonal full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per

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1 year, including paid leave and holidays. “Job” does not include initial training before
2 an employment position begins.

3 (7) “Local development corporation” means any of the following:

4 (a) The elected governing body of a federally recognized American Indian tribe
5 or band in this state or any business created by the elected governing body.

6 (b) A corporation organized under ch. 181 that is a nonprofit corporation as
7 defined in s. 181.0103 (17), that is at least 51 percent controlled and actively
8 managed by minority group members and that does all of the following:

9 1. Operates primarily within specific geographic boundaries.

10 2. Promotes economic development and employment opportunities for minority
11 group members or minority businesses within the specific geographic area.

12 3. Demonstrates a commitment to or experience in promoting economic
13 development and employment opportunities for minority group members or
14 minority businesses.

15 (8) “Minority business” means a minority business, as defined in s. 560.036 (1)
16 (e), that has its principal place of business in this state.

17 (9) “Minority group member” has the meaning given in s. 560.036 (1) (f).

18 (10) “New minority business” means a minority business started as a result of
19 an early planning project.

20 (11) “Project” means a development project, an early planning project, a
21 finance project, an education and training project or a revolving fund project.

22 **560.82 Minority business grants and loans. (1g)** The department shall
23 make a grant or loan to an eligible recipient or local development corporation under
24 this section if the board awards a grant or loan to the eligible recipient or local
25 development corporation under sub. (1m).

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1 **(1m)** The board may award a grant or loan under this section to any of the
2 following:

3 (a) Subject to s. 560.84, an eligible recipient, as defined in s. 560.80 (5) (a), to
4 fund an early planning project.

5 (b) Subject to s. 560.84, an eligible recipient or local development corporation
6 that submits application materials in a form specified by the department by rule to
7 fund eligible development project costs.

8 (c) A local development corporation to make grants or loans under sub. (2g) (a)
9 1. or to fund a revolving fund program under sub. (2g) (a) 2.

10 (d) Subject to s. 560.84, a nonprofit organization or private financial
11 institution, as defined in s. 234.01 (5k), whether or not for profit, to fund a finance
12 project if all of the following apply:

13 1. The financial institution or nonprofit organization uses the grant proceeds
14 for any of the following purposes:

15 a. To make loans for working capital to minority group members and minority
16 businesses.

17 b. To pay origination fees or other administrative costs associated with making
18 loans for working capital to minority group members and minority businesses.

19 2. The loans for working capital under subd. 1. a. do not exceed \$5,000.

20 (e) Subject to s. 560.84, the board may award a grant under this subsection to
21 a nonprofit organization that is a minority business to fund an education and
22 training project.

23 **(2)** The board may not award a grant or loan under sub. (1m) (a) unless the
24 eligible recipient, as defined in s. 560.80 (5) (a), submits an application, in a form
25 required by the department, that contains or describes all of the following:

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- 1 (a) Potential locations of the new minority business.
- 2 (b) The ownership structure of the new minority business.
- 3 (c) The product or service provided by the new minority business.
- 4 (d) The market for the product or service described in par. (c).
- 5 (e) Competition within the market described in par. (d).
- 6 (f) Any competitive advantages of the new minority business.
- 7 (g) The eligible recipient's estimate of the gross revenue of the new minority
8 business over a period specified by the department.
- 9 (h) The process for manufacturing the product, or providing the services, of the
10 new minority business.
- 11 (i) An estimate of the number of jobs that will be created by the new minority
12 business.
- 13 (j) The eligible recipient's experience and training.
- 14 (k) The eligible recipient's estimate of the profit that will be generated by the
15 new minority business over a period specified by the department.
- 16 (L) The eligible recipient's estimate of the capital required to complete the early
17 planning project.
- 18 (m) Potential sources of financing for the early planning project.
- 19 (n) Any other information that the department requests.
- 20 **(2g)** The board may award a grant or loan under this subsection to a local
21 development corporation if all of the following apply:
- 22 (a) The local development corporation agrees to use the proceeds of grants or
23 loans under this section for any of the following:
- 24 1. To make grants or loans not exceeding \$50,000 each to eligible
25 recipients to fund eligible development project costs.

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1 2. To create, expand or continue a revolving fund program that is operated by
2 the local development corporation and that benefits or will benefit minority
3 businesses or minority group members who are residents of this state.

4 (b) The local development corporation agrees to use factors similar to those
5 described in s. 560.84 (1) (a) to (k) and (2) (a) to (f) when making grants or loans under
6 par. (a) 1. or under a revolving fund program under par. (a) 2.

7 (c) The local development corporation submits an application, or other
8 materials, in a form specified by the department by rule.

9 **(3)** An eligible recipient, as defined in s. 560.80 (5) (a), who receives a grant or
10 loan under sub. (1m) (a) or s. 560.835 (6), 2001 stats., may only use the proceeds of
11 the grant for the following purposes:

12 (a) To perform a business feasibility study.

13 (b) To prepare a detailed marketing plan.

14 (c) To prepare a detailed business plan.

15 **(4)** The board may not do any of the following:

16 (a) Award in a fiscal biennium, for grants or loans under sub. (1m) (a), more
17 than 25 percent of the total of all of the following:

18 1. The funds appropriated for the fiscal biennium under s. 20.143 (1) (fm).

19 2. The lesser of the funds received in a fiscal biennium in repayment of grants
20 or loans under s. 560.83, 2005 stats., and this section or the funds appropriated for
21 the fiscal biennium under s. 20.143 (1) (im).

22 (b) Award in a fiscal biennium to any one eligible recipient, as defined in s.
23 560.80 (5) (a), or for any one early planning project, grants or loans under sub. (1m)
24 (a) that total more than \$15,000.

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1 (c) Award in any fiscal biennium, to any one eligible recipient or local
2 development corporation or for any one development project, grants or loans under
3 sub. (1m) (b) that total more than \$100,000 in a fiscal biennium.

4 (d) Award, in any fiscal year to any one local development corporation, grants
5 or loans under sub. (1m) (c) that total more than \$200,000.

6 **(5)** If the board awards a grant or loan under sub. (1m) (a), the department may
7 contract directly with and pay grant or loan proceeds directly to any person providing
8 technical or management assistance to the grant or loan recipient.

9 **560.84 General criteria. (1)** The board may not award a grant or loan for
10 a project under this subchapter unless, after considering the application or other
11 material submitted by the eligible recipient or local development corporation, the
12 board determines all of the following:

13 (a) That the project serves a public purpose.

14 (b) 1. If an early planning project, that the project will increase employment in
15 this state.

16 2. If a development project, that the project will retain or increase employment
17 in this state.

18 (c) That the project is not likely to occur without the grant or loan.

19 (d) That financing is unavailable from any other source on reasonably
20 equivalent terms.

21 (e) That the eligible recipient or local development corporation receiving the
22 grant or loan will contribute, from a source or sources other than the state, whichever
23 of the following applies:

24 1. For grants funding early planning projects under s. 560.82 (1m) (a), not less
25 than 25 percent of the cost of the project. Up to 50 percent of the contribution under

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1 this subdivision may be in the form of the in-kind services of a qualified 3rd party
2 or qualified 3rd parties. The department shall determine what services may be used
3 as in-kind contributions and whether a 3rd party is qualified, for purposes of this
4 subdivision.

5 2. For grants and loans funding development projects, a cash contribution of
6 not less than 25 percent of the cost of the project.

7 3. For a grant or loan funding a revolving fund project, a cash contribution of
8 not less than 50 percent of the cost of the project.

9 (f) That the project meets all applicable criteria set forth in s. 560.82.

10 (g) That funds from the grant or loan will not be used to replace funds from any
11 other source.

12 (h) That the project will not displace workers in this state.

13 (i) That the project has sufficient potential to be profitable.

14 (im) If a development project, that the project has the potential to promote
15 economic development and employment opportunities for minority group members
16 or minority businesses.

17 (j) If a development project, finance project, or education and training project,
18 that funds from the grant or loan will not be used to refinance existing debt.

19 (k) That the project meets any other criteria established by the department by
20 rule.

21 **(2)** The board or department shall consider all of the following before awarding
22 a grant or loan to an eligible recipient or local development corporation for a project:

23 (a) 1. If an early planning project, the extent to which the project will increase
24 employment in this state.

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1 2. If a development project, the extent to which the project will retain or
2 increase employment in this state.

3 (b) The extent to which the project will benefit minority group members who
4 are residents of this state.

5 (c) If a development project, whether the project will be located in any or all of
6 the following:

7 1. An area of high unemployment or low average income.

8 2. A development opportunity zone designated under s. 560.795.

9 (d) The extent to which the project will attract capital into locations where
10 unemployment exceeds the state average and per capita income is below the state
11 average.

12 (e) The likelihood that the project will be successful.

13 (f) If a development project, the financial soundness of the minority business
14 involved in the project and the commitment of the eligible recipient to repay the loan
15 or grant.

16 **560.85 Administration. (1)** The department shall promulgate rules for the
17 administration of this subchapter. The department may not promulgate a rule under
18 this subsection unless the proposed rule has been reviewed by the board.

19 **(2)** The board shall develop a policy governing the repayment of grants and
20 loans made under s. 560.82 (1m) (b) and (c). Moneys received in repayment of grants
21 and loans under s. 560.82 (1m) (b) and (c) shall be credited to the appropriation
22 account under s. 20.143 (1) (im).

23 **(3)** The department shall do all of the following:

