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Wisconsin Legislator Briefing Book 2011-12

Chapter C

Economic Development and Employment

Wisconsin's economy is driven by the state's approximately three million workers and the businesses and industries that employ them. As a result of the importance of workers and business to the state's economy, the state has numerous laws that regulate the relationship between employer and employee and a myriad of programs to assist businesses to begin, expand, and remain in Wisconsin. A full discussion is beyond the scope of this chapter. This chapter highlights some of the more significant laws and programs.

Employment

The state regulates a number of aspects of the employment relationship in Wisconsin through various laws and regulations that are administered by the state's Department of Workforce Development (DWD). Many of these laws and regulations establish minimum standards for the workplace, and others provide assistance to workers who are unemployed or who are injured on the job. This part of the chapter briefly describes some of these employment laws and regulations.

Equal Rights The Equal Rights Division of DWD administers many of the state's laws designed to protect workers' physical and economic well-being. Generally, workers covered by these state laws may also be protected by similar federal laws and regulations. Typically, these federal laws do not preempt, or take priority over, the applicable state law. An employer subject to both the state and federal laws will be held to the stricter standard (usually that which provides the most protection or benefit to the worker) if differences exist between the state and federal law. A discussion of the relevant federal laws and regulations is beyond the scope of this chapter. However, some of the state employment laws that generate frequent inquiries are briefly summarized below.

More information about the Equal Rights Division may be found at <http://dwd.wisconsin.gov/er/>. The Equal Rights Division is divided into the Labor Standards Bureau and Civil Rights Bureau.

The Labor Standards Bureau administers laws such as the minimum wage, overtime pay, business (plant) closing or mass layoff, and personnel records laws. More information about the Labor Standards Bureau, including information on how to file a complaint with the bureau, may be found at http://www.dwd.state.wi.us/er/labor_standards_bureau/.

The Civil Rights Bureau administers discrimination and retaliation protection laws and Wisconsin's Family and Medical Leave Act (FMLA). More information about the Civil Rights Bureau, including information about how to file a complaint with the bureau, may be found at http://dwd.wisconsin.gov/er/discrimination_civil_rights/default.htm.

Minimum Wage. Wisconsin sets minimum wage rates that employers must comply with when paying employees. Wisconsin's minimum wage generally applies to all public and private sector employers, including nonprofit organizations, regardless of whether they are covered by the federal minimum wage law. For most employees, including minor employees, the Wisconsin minimum wage is set at \$7.25 per hour. [The federal minimum wage is also \$7.25 per hour.]

However, for "opportunity employees" (those employees who are not yet 20 years old and who have been in an employment status with a particular employer for 90 or fewer consecutive days from the date of their initial employment), the minimum wage is \$5.90 per hour. For employees receiving tips as part of their compensation, the minimum wage is \$2.33 per hour (or \$2.13 per hour for tipped opportunity employees).

MINIMUM WAGE (per hour)	
Wisconsin	\$7.25
Federal	\$7.25

The payment of wages that are less than those minimums described above is authorized in some limited circumstances. For example, employers who receive a special license from DWD and who employ workers with disabilities, operate rehabilitation facilities, or participate in student learner programs may pay sub-minimum wages.

The state's minimum wage law is to be construed as providing a uniform living wage throughout the state. A county, city, village, or town may not enact a living wage ordinance. This prohibition, however, does not apply to local ordinances that apply to certain employees who contract with or are employed by a county, city, village, or town.

More information about minimum wage may be found in ch. 104, Stats., and ch. DWD 272, Wis. Adm. Code, and at http://www.dwd.state.wi.us/er/labor_standards_bureau/minimum_wage.htm.

Generally, employees must be paid one and one-half times their regular rate of pay for all hours worked in excess of 40 hours per week.

Overtime Pay. In addition to the minimum wage, state law also requires the payment of overtime pay in certain situations. Generally, employees must be paid one and one-half times their regular rate of pay for all hours worked in excess of 40 hours per week. This requirement applies to most employees, but certain employees are exempt from overtime pay requirements, including certain administrative, executive, and professional employees; certain outside sales and commissioned employees; taxi drivers; employees of motor carriers who are covered by federal regulations; and salespersons, parts personnel, and mechanics employed by motor vehicle dealers.

Federal and state law differ on the exemptions that apply to some salaried administrative, executive, and professional employees. To comply with both federal and state overtime requirements regarding the above exemptions, a Wisconsin employer must meet both federal and state law for the exemption, which generally requires that an employer satisfy the more stringent criteria of each law.

More information about overtime pay may be found in ss. 103.01 to 103.03, Stats., and ch. DWD 274, Wis. Adm. Code, and at http://www.dwd.state.wi.us/er/labor_standards_bureau/hours_of_work_and_overtime.htm and <http://www.dol.gov/dol/topic/wages/overtimepay.htm>.

Wage Payment and Wage Claims. Generally, Wisconsin law requires employers to pay their employees at least once a month. An employee who quits or is discharged from his or her job must be paid in accordance with the employer’s regularly established payroll schedule. If an employee is not paid in a timely manner, is not paid at all, or is paid an incorrect amount, the employee may file a wage claim with DWD for the unpaid wages or may bring an action in court against an employer.

Once a wage claim is filed, DWD seeks to resolve the matter between the employer and employee. For purposes of the wage claim laws, wages include the following:

- Salaries.
- Commissions.
- Overtime pay.
- Holiday pay.
- Vacation pay.
- Severance pay.
- Dismissal pay.
- Bonuses.
- Other similar advantages that the employer and employee agree to.

Typically, an employee has two years in which to file a wage claim. DWD or an employee who brings a wage claim has a lien for the amount of the wage claim or deficiency on the employer’s property. This lien generally has priority over all other liens except certain environmental remediation liens and liens of banks and various other lenders. However, a wage lien will generally take precedence over the lien of a lender that originated before the wage lien took effect as to the first \$3,000 of certain unpaid wages covered under the lien.

More information about wage payment and wage claims may be found in ch. 109, Stats., and at http://www.dwd.state.wi.us/er/labor_standards_bureau/wage_payment_and_collection_law.htm.

Employers are not required to provide breaks or meal periods to adult employees.

Breaks and Meal Periods. State law generally prohibits a person from being employed at any employment for periods of time that are dangerous or prejudicial to the person’s life, safety, health, or welfare. Wisconsin law does **not** require employers to provide rest periods or breaks to employees.

Similarly, employers are not required to provide meal periods to adult employees, but state law **recommends** that employers provide at least 30 minutes for a meal period for each shift greater than six hours long. An employer of a minor, however, is required to provide meal periods to employees under the age of 18 if the minor works for more than six consecutive hours. Those meal periods must be at least 30 minutes in length and must be provided reasonably close to the meal times of 6:00 a.m., noon, 6:00 p.m., or midnight. Typically, employers must pay all employees for an “on-duty” meal period. An “on-duty” meal period is a period where the worker is not provided at least 30 minutes away from work or allowed to leave the employer’s premises.

More information about breaks and meal periods may be found in s. 103.02, Stats., and ss. DWD 270.11 and 274.02, Wis. Adm. Code, and at http://www.dwd.state.wi.us/er/labor_standards_bureau/breaks_and_meals.htm.

Cessation of Health Care Benefits. Although not required to provide health care benefits, state law requires, with some exceptions, that businesses in Wisconsin employing 50 or more persons provide at least 60 days' advance notice to their employees, retirees, or dependents when the business decides to cease providing health care benefits. An employee, retiree, or dependent who does not receive the required notice may be able to recover the value of the benefits the person would have received had proper notice been given.

More information about the cessation of health care benefits may be found in s. 109.075, Stats., and at http://www.dwd.state.wi.us/er/labor_standards_bureau/cessation_of_health_care_benefits.htm.

Wisconsin businesses with 50 or more employees in the state that are involved in a business closing or mass layoff are required to give 60 days' written notice of the closing or layoff.

Business (Plant) Closing or Mass Layoff. With certain exceptions, Wisconsin businesses with 50 or more employees in the state that are involved in a business closing or mass layoff are required to give 60 days' written notice of the closing or layoff to DWD, the business' employees, the union representing those employees, and the highest ranking official of the municipality in which the business is located. For purposes of this requirement, a "business closing" is a temporary or permanent shutdown of a business site or of one or more facilities or operating units at a business site or within a single municipality that affects at least 25 employees, not including low-hour or new employees. A "mass layoff" is a reduction of a business' workforce that is not the result of a business closing and that affects the following numbers of employees at a business site or within a single municipality, not including low-hour or new employees: (1) at least 25% of the business' workforce, or 25 employees, whichever is greater; or (2) at least 500 employees.

Under this law, if a business fails to give timely notice to an affected employee, the affected employee may recover pay and the value of any benefits that the employee would have received during a specified period but did not receive because of the business closing or mass layoff. DWD and the state Department of Justice are authorized to enforce the business closing or mass layoff law.

More information about business (plant) closing or mass layoff may be found in s. 109.07, Stats., and ch. DWD 279, Wis. Adm. Code, and at http://www.dwd.state.wi.us/er/labor_standards_bureau/business_closing_and_mass_layoffs.htm. Information about layoff assistance may be found at <http://www.dwd.state.wi.us/dislocatedworker/>.

Wisconsin's FMLA covers employers with 50 or more permanent employees.

Family and Medical Leave. Wisconsin is one of several states that has its own family and medical leave law in addition to the federal Family and Medical Leave Act. Wisconsin's FMLA covers employers with 50 or more permanent employees. An employee is entitled to benefits under FMLA if the employee has been employed by the same employer for the prior 52 consecutive weeks and has worked at least 1,000 hours during that period. The law requires that such employees be allowed up to the following in a 12-month period:

- Six weeks of leave for the birth or adoption of a child.
- Two weeks of leave to care for a parent, child, spouse, or domestic partner with a serious health condition.
- Two weeks of leave for the employee's own serious health condition.

More information about FMLA may be found in s. 103.10, Stats., and ch. DWD 225, Wis. Adm. Code, and at http://dwd.wisconsin.gov/er/family_and_medical_leave/default.htm. A comparison of the federal and Wisconsin family and medical leave laws may be found at http://www.dwd.state.wi.us/er/family_and_medical_leave/publication_erd_9680_P.htm.

Fair Employment. Subject to certain exceptions, Wisconsin’s Fair Employment Law prohibits discrimination in employment based on the following classifications:

- Age.
- Ancestry.
- Arrest record.
- Color.
- Conviction record.
- Creed.
- Declining to attend a meeting or to participate in any communication about religious matters or political matters.
- Disability.
- Genetic testing.
- Honesty testing.
- Marital status.
- Military service.
- National origin.
- Pregnancy or childbirth.
- Race.
- Sex.
- Sexual orientation.
- Use or nonuse of lawful products off the employer’s premises during nonworking hours.

Employment discrimination includes refusing to employ or terminating any individual based on the above classifications or discriminating against any individual in compensation, promotion, or terms, privileges, or conditions of employment based on any of the above classifications. If an individual is discriminated against in violation of the Fair Employment Law, he or she may be awarded reinstatement, back pay, attorney fees, costs, or, in some cases, compensatory and punitive damages.

More information about fair employment may be found in subch. II of ch. 111, Stats., and ch. DWD 218, Wis. Adm. Code, and at http://dwd.wisconsin.gov/er/discrimination_civil_rights/fair_employment_law.htm.

An employee may inspect certain of the employee’s personnel documents within seven working days of making a request.

Open Personnel Records. In Wisconsin, an employer is required to allow an employee to inspect certain of the employee’s personnel documents within seven working days of making a request. The employer may require that the request be in writing. In addition, an employee has the right to obtain copies of such documents.

If an employee disagrees with any information contained in his or her personnel record, the information may be removed or corrected if mutually agreed upon by the employer and employee. If an agreement is not reached, the employee may submit a written statement explaining his or her position, which the employer must attach to the disputed portion of the record. The statement must be included whenever the disputed portion of the record is released to a third party.

Generally, the right to inspect personnel records does not apply to the following:

- Records relating to the investigation of the employee for possible criminal offenses.
- Letters of reference for the employee.
- Any part of a test document, except a cumulative test score.
- Materials used for staff management planning by the employer.
- Information about a person other than the employee if disclosure would constitute an invasion of privacy.
- An employer who does not maintain personnel records.
- Certain records relevant to a pending claim between the employee and employer.

More information about open personnel records may be found in s. 103.13, Stats., and at http://www.dwd.state.wi.us/er/labor_standards_bureau/records_open_to_employees.htm.

Employers are required to make and keep certain payroll and other records for at least three years.

Required Records. Wisconsin law requires employers to make and keep certain payroll and other records for at least three years for each employee. The records must contain the following information for each employee:

- Name and address.
- Date of birth.
- Dates that employment began and ended.
- Time that work began and ended each day.
- Time that meal periods began and ended.
- Total hours worked daily and weekly.
- Rates of pay for each payroll period.
- Wages paid each payroll period.
- Amount and reason for each deduction.
- Output of employee, if not paid on a time basis.

More information about required records may be found in s. DWD 272.11, Wis. Adm. Code, and at http://www.dwd.state.wi.us/er/labor_standards_bureau/permanent_records_to_be_kept_by%20the_employer.htm.

Vacation. Employers in Wisconsin are not required to grant vacation time to their employees. Whether vacation time is to be provided is determined entirely by written or unwritten agreements between the employer and employee. If vacation benefits have been agreed to, however, unpaid vacation benefits may be recovered as part of a wage claim.

Unemployment Insurance

The Unemployment Insurance Division of DWD administers the state’s Unemployment Insurance (UI) program. Wisconsin’s UI law, which was enacted in 1932, provides temporary cash benefits to eligible employees when they are out of work. Financing for the program comes from a combination of federal and state taxes paid by employers who are subject to federal and state UI laws.

Generally, the Federal Unemployment Tax Act (FUTA) imposes a tax on a portion of the wages paid for covered employment. That tax rate is 6.0% of the first \$7,000 of each employee’s earnings for the calendar year. The employer is then provided a credit against the FUTA tax for quarterly tax paid to state-operated UI programs. This system was set up by the federal government to encourage states to have a broad UI program. Generally, some of the FUTA money that is collected is returned to the state in order for the state to administer the UI program.

TAXABLE WAGE BASE FOR STATE UI TAX	
2009-10	\$12,000
2011-12	\$13,000
2013	\$14,000

In addition to the FUTA tax, the state imposes its own tax to finance UI benefits paid to unemployed workers. Generally, most private, for-profit employers pay a state unemployment tax into the UI reserve fund. The tax is paid on the first \$12,000 of wages paid by an employer to an employee during each calendar year, which will increase to \$13,000 for 2011 and 2012 and \$14,000 for 2013 and thereafter. The tax is based on an experience rating system. The rating system requires that the particular tax rate paid by an employer is based on, and varies with, the layoff experience of that employer. Employers with greater layoff experience will have higher tax rates. A private employer’s rate may increase or decrease depending on changes in benefits charged to that employer, contributions credited to that employer, and the amount of that employer’s taxable payroll.

Some employers, however, most notably governmental employers and nonprofit organizations, finance their UI benefits for their employees through a reimbursement system. Instead of paying the quarterly UI tax on payroll into the UI reserve fund, these employers reimburse DWD the actual amount of any benefits paid to their employees.

Generally, an employer is subject to Wisconsin’s UI law if it paid \$1,500 or more in wages in any quarter in that year or the preceding calendar year or if it had at least one employee in at least 20 different weeks in a year or the preceding calendar year. Although the law exempts certain types of work from the UI law, the definition of employment in the UI law is, on the whole, very broad.

An employer is generally subject to UI law if any of the following apply:

- 1) The employer paid \$1,500 or more in wages in any quarter.*
- 2) The employer had at least one employee in at least 20 different weeks in a year.*

Typically, to qualify for UI benefits, an employee must satisfy the following:

- Have sufficient base period wages in covered employment.
- Be available for work and able to work.
- Register for work.
- Undertake a reasonable search for work.
- Make a claim for benefits.

Claims may be made with DWD through an automated touch-tone telephone service or via the Internet. The major reasons that an unemployed worker would be disqualified from receiving benefits include discharge for misconduct or voluntarily leaving employment. Both of these disqualifications depend on the facts in a particular case.

WEEKLY UI BENEFIT RATES

Max. Weekly Rate = \$363

Min. Weekly Rate = \$54

The amount of benefits an eligible employee may receive is based upon his or her wages. Typically, the weekly benefit will equal 4% of the wages paid to the employee in the calendar quarter in which the highest wages were paid to the employee, subject to certain statutory minimums and maximums. Beginning January 4, 2009, the minimum weekly benefit rate was \$54 and the maximum rate was \$363. The maximum amount a claimant may normally receive is the lesser of 26 times the weekly benefit rate or 40% of the total base period wages. However, both state and federal law contain provisions allowing for the payment of extended unemployment benefits during difficult economic times when unemployment rates exceed certain levels. These extended benefits may be paid to unemployed workers who have exhausted their initial 26 weeks of benefits. Because of unemployment conditions in recent years, the federal government has implemented several extensions of UI benefits.

Wisconsin has established an Unemployment Insurance Advisory Council (UIAC) to advise DWD and the Legislature regarding matters affecting the development and administration of the state's UI law. The UIAC is made up of five labor representatives, five management representatives, and one nonvoting chairperson. The UIAC is required to advise DWD on the administration of the UI law and to report its view on pending legislation concerning UI to the appropriate committees of the Legislature. In addition, the UIAC submits to the Legislature, generally on a biennial basis, legislation approved by the UIAC to make changes to the UI law. Recently, those recommended changes have been adopted by the Legislature with few or no amendments. The Wisconsin Legislative Council staff has prepared an Act Memo that describes the changes made by the 2009-10 Legislature in 2009 Wisconsin Act 287. The Act Memo may be found at <http://www.legis.state.wi.us/lc>.

More information about UI may be found in ch. 108, Stats., and chs. DWD 100 to 150, Wis. Adm. Code, and at <http://dwd.wisconsin.gov/ui/> and <http://www.dwd.state.wi.us/uiben/handbook/>.

More information about the Unemployment Insurance Division of DWD may be found at <http://dwd.wisconsin.gov/ui/division.htm>. More information about the UIAC, including meeting and public hearing information, may be found at <http://dwd.wisconsin.gov/uibola/uiac/>.

Worker's Compensation

An employer is generally subject to the WC law if any of the following apply:

1) The employer usually has three or more employees.

2) The employer has fewer than three employees but a payroll of \$500 or more during any calendar quarter.

The Worker's Compensation Division of DWD administers the state's Worker's Compensation (WC) program. The WC law provides for a system of no-fault insurance that pays benefits to employees for accidental injuries or diseases arising from an employee's job. Generally, for workplace injuries, WC is the exclusive remedy against the employer. In other words, an injured employee is typically precluded from suing his or her employer for the injury and may only recover those benefits authorized by the WC law.

An employer is required to cover his or her employees with WC insurance if the employer usually has three or more employees or if the employer has fewer than three employees but a payroll of \$500 or more during any calendar quarter. In addition, farmers who employ six or more employees on any 20 days in a calendar year must have insurance within 10 days after the 20th day of employment.

The cost of WC insurance typically varies, based on job classification. Insurance rates and classifications depend on past work-related injury experience, gross payroll, and level of hazard in an occupation. The Wisconsin Compensation Rating Bureau sets the premium rate for each class with the approval of the Commissioner of Insurance. The law provides for penalties for employers who fail to obtain insurance when required to do so.

Some employers in Wisconsin, including some larger private sector and various governmental employers, are self-insured. They do not purchase WC insurance but

pay their claims using their own funds. An employer must have written approval from DWD before becoming self-insured.

Benefits payable under a WC policy include the following:

- All reasonable and necessary medical costs.
- Benefits for lost wages while recovering from an injury.
- Benefits for permanent disability if the employee does not fully recover from the injury.
- Death benefits and burial expenses up to certain limits.

Generally, for the period when the employee is out of work and recovering from his or her injury, the employee may receive 2/3rds of his or her weekly wage in WC benefits up to a certain weekly maximum. Payment is made on the basis of a six-day work week (Monday through Saturday) regardless of the number of days per week an employee actually works. A waiting period applies before a benefit may be paid. The waiting period is the first three days, excluding Sunday, after the accident in which an injury is received. If a disability from work lasts beyond the seventh day, the first three days are fully compensated. Generally, the first insurance payment is made within 14 days of the injury.

In addition to the above-described temporary benefit payments during the period of healing, if an employee has a permanent disability, the employee will receive additional compensation based upon statutory formulas in existence at the time of the injury.

Typically, an employer may not unreasonably refuse to rehire an injured employee if suitable employment is available within the employee's physical and mental limitations. If the employer has suitable employment available and unreasonably refuses to rehire the employee, the employer is liable for any lost wages up to a total of one year's wages. However, the employer is not required to hold or create a job for the employee after an injury.

As with UI, Wisconsin has implemented a Worker's Compensation Advisory Council (WCAC). The WCAC was created to advise DWD and the Legislature regarding matters affecting the administration and development of the WC law. The membership of the WCAC is made up of five voting labor representatives, five voting management representatives, three nonvoting insurance representatives, and one representative from DWD. As with the UIAC, the WCAC forwards to the Legislature, on a biennial basis, recommended changes to the WC law. Recently, these recommendations have been adopted by the Legislature with few or no amendments. The Wisconsin Legislative Council staff has prepared an Act Memo that describes the changes made by the 2009-10 Legislature in 2009 Wisconsin Act 206. The Act Memo may be found at <http://www.legis.state.wi.us/lc>.

More information about WC may be found in chs. 102 and 626, Stats., and chs. DWD 80 to 82, Wis. Adm. Code, and at <http://dwd.wisconsin.gov/wc/>.

More information about the Worker's Compensation Division of DWD may be found at <http://dwd.wisconsin.gov/wc/home.htm>. More information about the WCAC, including meeting information, may be found at <http://dwd.wisconsin.gov/wc/councils/wcac/default.htm>.

Economic Development

The state has a number of programs designed to enhance the economic vitality of the state and its various municipalities. Commonly referred to as “economic development programs,” most of these programs are “administered” by the Wisconsin Department of Commerce (“Commerce”), which is statutorily designated as the state’s lead economic development agency. The importance of these programs is reflected in Commerce’s mission statement. Among other things, Commerce views its mission as being to foster “the growth and diversification of the economy of the state.” Further, Commerce states, “the mission of the department is to drive retention and creation of quality jobs and promote safe, healthy communities. This mission is carried out through the administration of statewide business development programs, including export development assistance, minority- and women-owned business certification, entrepreneurship services, and economic development financing programs.”

This section describes the major economic development programs administered by Commerce and discusses recent legislation, including legislation in response to an audit of state economic development programs by the Legislative Audit Bureau (LAB) published in August 2006.

Area Development Managers

Area Development Managers (ADM), employed by Commerce, assist business expansions, promote business retention, and help local development organizations in their respective territories. ADMs are a good first point of contact for businesses and others interested in participating in any of the economic development programs described in this section. ADMs use their knowledge of federal, state, and regional resources to provide a variety of information to expanding or relocating firms. They also mobilize resources to help struggling businesses. Local economic development professionals can turn to ADMs for assistance with long-term marketing and planning strategies.

Contact information for Commerce’s ADMs, along with a map showing the regions served by each ADM, can be found at <http://www.commerce.wi.gov/BD/BD-AreaDevManagers.html>.

Forward Innovation Fund

Through its Forward Innovation Fund (FIF), Commerce may award grants or make loans to a variety of entities, including Wisconsin businesses, municipalities, local development corporations, cooperatives, and other organizations involved in economic development in the state.

Activities eligible for FIF grant and loan funding include:

- Start-up, expansion, or retention of minority businesses.
- Start-up, expansion, or retention of businesses in economically distressed areas.
- Innovative proposals to strengthen inner cities, communities in rural municipalities, clusters of businesses, industries, research centers or arts venues, or entrepreneurship.

Criteria to be considered when making grants or loans from the FIF include:

- Whether the proposed activities serve a public purpose.
- Whether the proposed activities will retain or increase employment in the state.
- Whether the proposed activities are likely to occur without a grant or loan.
- Whether, and the extent to which, the proposed activities will contribute to the economic growth of the state and the well-being of state residents.
- Whether the proposed activities will be located in an economically distressed area.
- Whether the proposed activities will promote the employment of minority group members.
- The economic condition of the community in which the activities are proposed to occur.

Wisconsin Development Fund

Through the Wisconsin Development Fund (WDF), Commerce may make grants and loans to business recipients, as determined by the department, as well as local governing bodies, including county, village, and town boards, city councils, regional planning commissions, and transit commissions.

Currently, the WDF provides moneys for grants to the Center for Advanced Technology and Innovation; for technology commercialization grants and loans; for grants and loans to support capital financing, worker training, entrepreneurial development, and other economic development projects; and for reimbursements under the Wisconsin Trade Project program.

2009 Wisconsin Act 2 increased the funding for the WDF in order to fund a \$1,000,000 grant to the Wisconsin Regional Training Partnership/Building Industry Group Skilled Trades Employment program, as well as grants totaling \$1,630,000 to various labor organizations throughout the state.

2009 Wisconsin Act 265 increased funding for the WDF by \$500,000 general purpose revenue (GPR) annually.

Tax Incentives for Business Development

2009 Wisconsin Act 2 created a Business Development in Wisconsin Tax Incentives program that provides economic development tax credits to eligible persons for conducting specified types of economic development projects in the state. The Act also discontinued new activities in the development zones, enterprise development zones, agricultural development zones, airport development zones, and technology zones programs.

Under the Business Development in Wisconsin Tax Incentives program, any person may apply to Commerce for certification to claim an economic development tax credit if the person is conducting or intends to conduct at least one eligible activity. Eligible activities include projects related to job creation, capital investment, employee training, and the location or retention of corporate headquarters. Additional consideration for credits may be granted if the claimant conducts activity in an economically distressed area, conducts activities with significant employment effects, or conducts training for members of targeted groups.

The total amount of tax benefits that may be provided under the Business Development in Wisconsin Tax Incentives program is limited to the total amount of tax benefits that have been authorized, but not allocated to persons under the development zones, enterprise development zones, agricultural development zones, airport development zones, and technology zones programs on the effective date of these provisions. As of February 11, 2009, a total of \$65,290,000 in authorized zone tax credits was unallocated.

2006 Audit of State Economic Development Programs

2006 Audit

In August 2006, the LAB published an audit entitled “State Economic Development Programs” (Report 06-9). The report can be found at www.legis.state.wi.us/lab. The report identified 152 economic development programs in the state administered by 247.9 full-time equivalent staff in eight different state agencies.

The LAB noted in its report that, as both the number and types of economic development programs have grown, some policymakers have raised concerns about their scope, effectiveness, and coordination. The report concludes that coordination and accountability of state economic development programs should be improved. The report states that accountability could be enhanced by improving coordination, reducing the number of programs with similar purposes, consolidating agency reporting requirements, and disclosing project costs and benefits to the public.

The report makes the following suggestions for the Legislature to consider:

- Specifying criteria for designating future development zones.
- Establishing clear and measurable goals to ensure that programs are coordinated effectively.
- Reducing the number of programs by consolidating statutory requirements and standardizing eligibility requirements for similar programs.
- Consolidating reporting requirements for state agencies.
- Enacting public disclosure requirements to improve transparency in the use of state funds for economic development.

2007 Wisconsin Act 125

In response to the recommendations of the LAB, the Legislature passed **2007 Wisconsin Act 125**, relating to consolidation of state economic development programs. The Act did all of the following:

- Eliminated certain economic development programs.
- Consolidated Commerce minority business programs into a single program.
- Consolidated certain gaming economic development programs.
- Consolidated certain employee skills training programs.
- Modified reporting requirements and created a comprehensive annual report to be filed by Commerce and seven additional state agencies.
- Required agencies to create programmatic goods and accountability measures for each economic development program.
- Required agencies to promulgate rules regarding recoupment of payments.
- Required a follow-up audit be completed by the LAB by July 1, 2012.

For more information on 2007 Wisconsin Act 125 see <http://www.legis.state.wi.us/lc/publications/act/2007/act125-ab741.pdf>.

2009-10 Legislative Session

In addition to the programs described above, a number of legislative acts created new programs related to economic development or made changes to existing programs, including programs modified in the previous session by 2007 Wisconsin Act 125. Selected modifications include:

**2009
Wisconsin
Act 2**

Angel Investment and Early Stage Seed Credits

Act 2 made a number of modifications to the early stage business investment program (the angel investment tax credit and early stage seed investment tax credit). Modifications to these credits include:

- Permitting the claim of an angel investment tax credit equal to 25% of certified investments made in a taxable year, rather than 12.5% of the investment over two years.
- Eliminating the \$2,000,000 limit on the amount of a claimant's investment made directly in a qualified new business venture (QNBV) that may be used as the basis for an angel investment tax credit.
- Extending the early stage seed investment credit to taxpayers of state insurance premiums tax.
- Modifying the QNBV certification criteria. Generally, under the Act, a business qualifies as a QNBV if it has the potential for increasing jobs in this state, increasing capital investment in this state, or both, and one of the following applies:
 - It is engaged in certain high-tech or clean energy industries or working with proprietary technology.
 - It is undertaking pre-commercialization activity related to proprietary technology.
- Increasing in the limits on investments that may be received by a QNBV.
- Increasing in the angel investment credits that may be claimed in future taxable years.
- Permitting the transfer of early stage seed investment credits.

**2009
Wisconsin
Act 11**

Enterprise Zone Jobs Tax Credit

Under Act 11, Commerce may certify a business as eligible for enterprise zone tax credits if that business retains jobs in an enterprise zone and at least one of the following applies:

- The business is an original equipment manufacturer with a significant supply chain in the state.
- The business employs more than 500 full-time employees in the enterprise zone.

The Act also directs Commerce to promulgate rules relating to the administration of the enterprise zone program, including the definition of “business with a significant supply chain,” and exceptions from the statutory definition of “full-time employee.”

2009
Wisconsin
Act 28

Enterprise Zones Capital Investment Tax Credit

Act 28 created a refundable income tax credit for significant capital expenditures in an enterprise zone. Under the Act, a taxpayer that is certified for enterprise zone tax credits may be certified by Commerce to receive additional tax credits for significant capital expenditures, in an amount not to exceed 10% of the total capital expenditure.

Jobs Tax Credit

Act 28 created a refundable income tax credit for job creation and job training. Subject to a statewide annual limit of \$5,000,000 (\$14,500,000 total for taxable years beginning on or after January 1, 2010, and ending June 30, 2013), Commerce may award tax credits equal to up to 10% of qualified wages, and an amount determined by rule for job training. Qualified wages in a particular county or municipality are annual wages of \$20,000 to \$100,000 or \$30,000 to \$100,000, depending on economic data in each location, as determined by Commerce. The credit may be claimed for tax years beginning after December 31, 2009, but claims may not be paid until tax years beginning after December 31, 2011. Under the Act, Commerce may certify a taxpayer as eligible for the tax credit for 10 years.

2009
Wisconsin
Act 265

Angel and Early Stage Seed Investment Tax Credits

Act 265 increased the maximum amount of angel investment tax credits that may be claimed in a tax year from \$5,500,000 to \$6,500,000 for calendar year 2010, and from \$18,000,000 to \$20,000,000 for tax years beginning after December 31, 2010. (These limits are in addition to \$250,000 in credits that are available for investments in nanotechnology businesses.) Act 265 also allows a claimant to claim an angel investment credit for an investment in a business that was located out of the state, if the investment was made no more than 60 days before that business relocated to Wisconsin, and the business is certified as a QNBV within 180 days after the relocation to Wisconsin.

Microloan Pilot Program

The Act created a pilot program in Commerce for awarding microloans of up to \$25,000 from the WDF at nominal interest rates for the creation of new businesses. Commerce must designate one urban and one rural area of the state that are affected by high unemployment. Residents of those areas are eligible for microloans.

Manufacturing Facility Conversion Grants

Act 265 created a manufacturing facility conversion grant program beginning in fiscal year 2010-11 and increases funding for the WDF by \$2,000,000 GPR beginning in 2010-11 for manufacturing facility conversion grants and for other eligible WDF grants and loans. The grants are to provide incentives to companies for converting existing manufacturing facilities to produce renewable energy or manufacturing equipment used in the production of renewable energy. Up to \$2,000,000 in grants may be awarded.

Technology Transfer Grant and Loan Program

Act 265 created a technology transfer grant and loan program under which Commerce may award a grant or loan to a research institution, up to a maximum of \$100,000 for each institution, to provide money for research and development activities related to the creation or retention of jobs by a business, or to improving the competitive position of a business by improving the innovativeness of the business.

Rural Outsourcing Grants

Act 265 authorized Commerce to award grants during the 2009-11 Biennium to businesses for outsourcing work to rural municipalities. The maximum total amount of rural outsourcing grants that may be awarded is \$500,000. Grantees must provide equal matching funds from sources other than the state.

Office Regulatory Assistance

Act 265 renamed the “Regulatory Ombudsman Center” in Commerce as the “Office of Regulatory Assistance” and modified the duties of the renamed office pertaining to assisting businesses in the process of obtaining permits. The Act also created a new position for the office and reassigned a position from the small business ombudsman clearinghouse to the Office of Regulatory Assistance.

The Act requires the Office of Regulatory Assistance to do all of the following:

- Provide assistance with obtaining and maintaining permits, and any licenses and approvals necessary for a business to operate in this state, including doing all of the following on behalf of businesses:
 - Explaining requirements for obtaining permits.
 - Tracking the progress of applications for permits.
 - Helping businesses comply with laws and rules applicable to businesses, including providing plain language explanations of laws and rules.
- Serve as a liaison between businesses and agencies, authorities, municipalities, and local economic development organizations.

2009
Wisconsin
Act 266

Authorization for Designation of Two Additional Enterprise Zones

Generally, Commerce may designate an area as an enterprise zone if specified requirements are met. Act 266 increased the number of enterprise zones that may be designated from 10 to 12.

A taxpayer who creates or retains jobs in an enterprise zone may claim certain credits against state income and franchise taxes. Commerce must consider a number of factors related to the area prior to designating the area as an enterprise zone, including indicators of the area’s economic need and whether designation as an enterprise zone would promote the retention of jobs in the area.

2009
Wisconsin
Act 267

Enterprise Zone Tax Credits for Purchasing Property or Services From Wisconsin Vendors

Act 267 authorized Commerce to certify a business that is located in an enterprise zone as eligible for tax credits if the business purchases tangible personal property items, property, goods, or services from Wisconsin vendors.

The amount of the tax credit available is limited to no more than 1% of the amount that the business paid in the taxable year to purchase tangible personal property, items, property, goods, or services from Wisconsin vendors. A business may not claim a tax credit under other provisions of the enterprise zone program for any expenditures for which it claims a credit under the provisions of the Act.

2009
Wisconsin
Act 268

Capital Access Program

Act 268 appropriated \$350,000 GPR to Commerce and directs Commerce to award grants from the appropriation to the Wisconsin Business Development Finance Corporation (WBDFC) for the purpose of funding a capital access program.

Under a capital access program, grant funding and matching funds are used to establish reserve pools to reduce the risk to lenders for loans to small- and medium-sized businesses and local nonprofit agencies. These reserve pools enable lenders to make loans to borrowers for which financing might not otherwise be available due to the borrowers' lack of adequate collateral, net worth, or credit history.

If a loan is approved for enrollment in the program, the borrower, the participating bank, and the capital access program each contribute a specified amount, referred to as a "premium," to the reserve pool account held by the bank.

Any organization or enterprise, operated for-profit or not-for-profit, may apply to be a borrower under the program, if it fulfills all of the following conditions:

- It is authorized to do business in this state.
- It does not sell alcohol beverages, as defined in s. 125.02 (1), Stats.
- It is not an executive officer, director, or principal shareholder of a participating bank, a member of the immediate family of an executive officer, director, or principal shareholder of a participating bank, or an organization or enterprise controlled by any of those individuals.

Loans under the program may be used for any business purpose in this state other than construction or purchase of residential housing or passive real estate investment.

Programs Administered Outside Commerce

Commerce is responsible for the administration of the majority of state economic development programs. However, a number of programs are administered by other state agencies, including the following:

The **Department of Agriculture, Trade and Consumer Protection (DATCP)** administers a number of programs related to economic development in the context of Wisconsin agriculture. Information on DATCP programs may be viewed at <http://datcp.state.wi.us/core/marketingagriculture/marketingagriculture.jsp>.

The **Wisconsin Housing and Economic Development Authority (WHEDA)** offers a number of small business, agricultural, and multi-family housing financing products. More information on WHEDA programs may be viewed at <http://www.wheda.com>.

Additional References

1. **DWD** has prepared a number of publications that provide information concerning employment law. Those publications may be found at <http://dwd.wisconsin.gov/>.
2. The **U.S. Department of Labor** has information on federal employment laws available on its website at <http://www.dol.gov/>.
3. **Commerce** has prepared a number of publications that describe economic development programs and services administered by that agency. Information may be found at <http://www.commerce.state.wi.us/>.
4. At the beginning of each legislative session, the **Legislative Fiscal Bureau** prepares Informational Papers that describe various state programs. These Informational Papers, which include descriptions of state economic development programs administered by Commerce and Wisconsin's UI program, may be found at <http://www.legis.state.wi.us/lfb/index.html> (click on Publications).
5. The **Legislative Reference Bureau** prepares publications concerning employment law. Those publications may be found at <http://www.legis.wisconsin.gov/lrb/pubs/pubsub/employment.htm>.
6. The **LAB** conducts audits of various state programs. For audits concerning employment law and economic development, see the following:
 - a. *Unemployment Reserve Fund*, Report 09-1, January 2009, at <http://www.legis.wisconsin.gov/lab/reports/09-1Full.pdf>.
 - b. *State Economic Development Programs*, Report 06-9, August 2006, at <http://www.legis.wisconsin.gov/lab/reports/06-9Full.pdf>.
 - c. *Follow-Up on Overtime in State Agencies*, Letter Report, April 2009, at http://www.legis.wisconsin.gov/lab/reports/09-overtimefollowup_ltr.pdf.
 - d. *Overtime in State Agencies*, Letter Report, June 2008, at http://www.legis.wisconsin.gov/lab/reports/08-OvertimeStateAgencies_ltr.pdf.
7. A Legislative Council staff Information Memorandum, *Navigating Federal Economic Development Resources*, may be viewed at http://www.legis.state.wi.us/lc/publications/im/IM2010_09.pdf.

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