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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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<b>2011 Assembly Bill 90</b>	<b>Assembly Substitute Amendment 1</b>
<i>Memo published:</i> October 13, 2011	<i>Contact:</i> Anna Henning, Staff Attorney (266-0292)

### **ASSEMBLY BILL 90**

2011 Assembly Bill 90 authorizes the Department of Commerce (Commerce)<sup>1</sup> to award grants to small businesses in lieu of specified tax credits that such businesses may otherwise be eligible to claim. The grants under the bill must be used to secure financing for business activities that would qualify for one or more of the following tax credit programs:

- Economic development tax credit.
- Technology zones tax credit.
- Dairy and livestock farm investment credit.
- Dairy manufacturing facility investment credit.
- Meat processing facility investment credit.
- Woody biomass harvesting and processing credit.
- Food processing plant and food warehouse investment credits.

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<sup>1</sup> Pursuant to 2011 Wisconsin Act 7, Commerce's responsibilities have been assumed by the Wisconsin Economic Development Corporation (WEDC).

The bill specifies that the grants must be paid from specified appropriations relating to the Wisconsin Development Fund, Rural Economic Development Program, and Forward Innovation Fund.<sup>2</sup>

To be eligible to receive a grant under the bill, an applicant must:

- Intend to use the grant to secure financing for making expenditures that would qualify for one of the above tax credits.
- Make the expenditures for a business that is:
  - Located in Wisconsin; and
  - Has fewer than 25 employees in Wisconsin or less than \$5 million in gross receipts for the taxable year in which the person applies for the grant.

In addition, the applicant must enter into an agreement with Commerce, in which the applicant agrees to: (1) use the grant to secure financing for making expenditures for the tax credits listed above; and (2) repay any or all of the grant proceeds if the person fails to comply with the agreement. Such agreements may provide that repayment of the grant be through full or partial repayment of the principal amount of the grant plus interest, through receipt of a share of future profits from or an interest in a product or process, or through any other appropriate means.

The applicant also must have submitted business and financing plans to a commercial lending institution and submitted copies of those plans to Commerce. As a condition of the grant, the bill requires that a grant recipient contribute to a project an amount that is not less than the amount the recipient receives as a grant.

The amount of any grant awarded under the bill is an amount equal to 95% of the tax credit that the recipient could otherwise receive, except that the amount of the grant may not exceed an amount equal to 20% of the cost of the project.

Under the bill, Commerce may not award the grants after January 1, 2015. The total amount of grants that may be awarded in a given fiscal year is \$8 million.

The bill requires Commerce to promulgate rules to administer the grant program. It also provides an exemption from general requirements governing promulgation of emergency rules. Specifically, for rules promulgated to implement the grant program, the bill specifies that Commerce is not required to provide evidence that promulgating a rule as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare. In addition, the bill specifies that Commerce is not required to provide a finding of emergency for such rules.

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<sup>2</sup> All of the appropriations referenced in the bill were repealed under 2011 Wisconsin Act 32.

## **ASSEMBLY SUBSTITUTE AMENDMENT 1**

Assembly Substitute Amendment 1 to Assembly Bill 90 makes several changes to the bill in light of 2011 Wisconsin Act 7, which created the Wisconsin Economic Development Authority (WEDC), and 2011 Wisconsin Act 32, the 2011-13 Biennial Budget Act. Specifically, the substitute amendment:

- Directs WEDC to establish and administer a program to award grants, and replaces references to Commerce with references to WEDC.
- Replaces the requirement that Commerce must promulgate rules to administer the grant program with a requirement that WEDC must establish policies and procedures to administer the grant program.
- Removes the exception to emergency rule promulgation requirements, which are inapplicable to WEDC's establishment of policies and procedures.
- In place of appropriations that were repealed under Wisconsin Act 32, directs the grants to be funded from the economic development fund, under a general appropriation for economic development programs administered by WEDC.

## **LEGISLATIVE HISTORY**

Assembly Substitute Amendment 1 to Assembly Bill 90 was offered by Representative Clark on October 10, 2011. On October 11, 2011, the Assembly Committee on Jobs, Economy, and Small Business recommended adoption of Assembly Substitute Amendment 1 on a vote of Ayes, 9; Noes, 5. On the same day, the committee recommended passage of Assembly Bill 90, as amended, on a vote of Ayes, 8; Noes, 6.

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