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## 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.

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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/](http://www.dwd.state.wi.us/er/labor_standards_bureau/).

The Civil Rights Bureau administers discrimination and retaliation protection laws and the Family and Medical Leave Act. 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](http://dwd.wisconsin.gov/er/discrimination_civil_rights/default.htm).

**Minimum Wage.** Wisconsin sets minimum wage rates which 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, the Wisconsin minimum wage is set at \$6.50 per hour.

However, for minor employees and “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). In addition, separate minimum wage rates apply for agricultural employees. The minimum wage is \$5.15 per hour for adults in agricultural occupations and \$4.25 per hour for minors in agricultural occupations.

MINIMUM WAGE (per hour)		
	7/24/08	7/24/09
Wisconsin	\$6.50	\$7.25*
Federal	\$6.55	\$7.25
*If Clearinghouse Rule 08-069 is promulgated by DWD.		

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 persons with disabilities, operate rehabilitation facilities, or participate in bona fide student learner programs may pay sub-minimum wages.

The federal Fair Minimum Wage Act of 2007 increased the federal minimum wage to \$5.85 per hour on July 24, 2007; \$6.55 per hour on July 24, 2008; and \$7.25 per hour on July 24, 2009. The federal minimum wage exceeded Wisconsin’s minimum wage in July 2008. DWD proposed Clearinghouse Rule 08-069 (CR 08-069) to increase the state minimum wage to correspond to the federal minimum wage on July 24, 2009. At the time of this publication, CR 08-069 was in the legislative review stage prior to promulgation. The following chart summarizes some of the changes in the state minimum wage proposed under CR 08-069.

Wisconsin’s Minimum Wage Under CR 08-069 (per hour)		
Type of Employee	Current Minimum Wage	July 24, 2009
Adult (non-agricultural)	\$ 6.50	\$ 7.25
Minor (non-agricultural)	\$ 5.90	\$ 7.25
Opportunity (non-agricultural)	\$ 5.90	\$ 5.90*
Adult (agricultural)	\$ 5.15	\$ 7.25
Minor (agricultural)	\$ 4.25	\$ 7.25
* CR 08-069 does not change the minimum wage for non-agricultural opportunity employees.		

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](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; salespersons, parts personnel, and mechanics employed by motor vehicle dealers; and apprentices receiving classroom instruction.

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. DWD has posted a chart to assist employers in making the determination of which criteria is more stringent. It may be found at [http://www.dwd.state.wi.us/er/labor\\_standards\\_bureau/ot\\_doc\\_for\\_website.htm](http://www.dwd.state.wi.us/er/labor_standards_bureau/ot_doc_for_website.htm).

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](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.

Once a 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 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](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. However, if rest periods or breaks of less than 30 minutes are provided, they are generally considered work time and employees must be paid for them.

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](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.

*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.*

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](http://www.dwd.state.wi.us/er/labor_standards_bureau/cessation_of_health_care_benefits.htm).

**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 500 employees; or (2) at least 25% of the business' workforce, or 25 employees, whichever is greater.

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 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](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 Family and Medical Leave Act (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, or spouse 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](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](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.
- 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.

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](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](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](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 vacations 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 approximately 6.2% (6.0% starting in calendar year 2010) 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	
2008	\$10,500
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 \$10,500 of wages paid by an employer to an employee during each calendar year. 2007 Wisconsin Act 59 increased the taxable wage base to \$12,000 for 2009 and 2010; \$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.

*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.*

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.

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 BENEFIT RATES
Effective January 7, 2007: Maximum Weekly Rate = \$355 Minimum Weekly Rate = \$53
Effective January 4, 2009: Maximum Weekly Rate = \$363 Minimum 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 7, 2007, the minimum weekly benefit rate is \$53 and the maximum rate is \$355. Beginning January 4, 2009, the minimum rate is \$54 and the maximum rate is \$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.

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 2007-08 Legislature in 2007 Wisconsin Act 59. 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 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. 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. Currently, there are approximately 650 job classifications. Insurance rates and classifications vary, depending 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. According to DWD, there are about 300 insurance companies licensed to write WC insurance in Wisconsin. 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. This means 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.
- Job retraining or placement.
- 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 representatives from organized labor, five voting representatives from management, three nonvoting representatives from the insurance industry, 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 2007-08 Legislature in 2007 Wisconsin Act 185. 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 retention and creation of new jobs and investment opportunities in Wisconsin and foster and promote economic business, export and community development." This section describes the major economic development programs administered by Commerce and discusses recent 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>.

## Wisconsin Development Fund

One of the primary sources of economic development resources in Wisconsin is the Wisconsin Development Fund (WDF). The WDF is financed through general purpose revenue (GPR) and program revenue (PR) appropriations and consists of a number of separate programs. The WDF appropriations are biennial, and any unencumbered, unexpended funds that remain at the end of a biennium lapse to the general fund. Programs financed through the WDF include:

- The Technology Development Grants and Loan Program.
- The Customized Labor Training Grants Program.
- The Major Economic Development Grant and Loan Program.
- The Employee Ownership Assistance Grants Program.
- The Rapid Response Fund.

The Development Finance Board, which is attached to Commerce, approves the majority of grants and loans made from the WDF. In making awards, both the board and Commerce review each proposed project and determine whether certain statutory criteria have been met. Generally, these criteria include the following:

- The project serves a public purpose.
- The project will retain or increase employment in the state.
- The project is unlikely to occur without the grant or loan.
- Financing is unavailable elsewhere on reasonably equivalent terms.
- Recipients will provide private funds equal to at least 25% of the costs of the project.
- No portion of the award will be used to pay overhead costs or to replace other funds.
- The project will not displace any workers in the state.

Most of the specific programs funded from the WDF also have additional criteria which must be met prior to the awarding of funds.

Some of the specific WDF-funded programs are briefly described below.

**Customized Labor Training Grants.** The purpose of the customized labor training grants is to fund labor training programs which provide employees with job training in new or advanced technology, industrial and other employment-related skills, or manufacturing processes to assist employers in maintaining a technologically advanced workforce. Eligible for a grant are businesses that have made a commitment to locate in Wisconsin or businesses that are expanding in Wisconsin or upgrading a product, process, or service that requires training its employees in new technology and industrial skills. In order to qualify, the proposed training must not be readily available through existing federal, state, or local resources, must occur in an instructional setting, and must be new or relatively new to the industry or business.

Generally, recipients of these grants must guarantee jobs in Wisconsin to all persons successfully completing the training program and must match 25% of the project costs. Usually, Commerce can finance up to 50% of eligible project costs up to \$2,500 per employee trained. Funds may be used to pay base wages of trainees and associated instructional costs. The training may be provided by the business, other businesses, a consultant or contractor, a local technical college system school,

or a public or private secondary or post-secondary school. More information may be found at <http://commerce.wi.gov/BD/BD-CLTprogram.htm>.

**Technology Development Grants and Loans.** Technology development grants and loans are provided to fund technical research by a business or consortium to develop new, or to improve existing, industrial projects or processes and to assist businesses in infrastructure development and commercialization of a new product or process. Recipients of such funds must contribute at least 25% of the project costs as a match. That amount may be higher based upon the ability of the recipient to finance a greater share of the project. If loans are made, the repayment provisions are made on a case-by-case basis.

Generally, the awards under this program may be used for the following:

- To fund technical research to develop new, or to improve existing, industrial products or processes.
- To provide working capital or fixed asset financing to develop the infrastructure of the business or for the initial commercialization of the new industrial product or process.
- To provide matching funds to establish a manufacturing extension center that will promote technology transfer to businesses in this state.

More information may be found at <a href="http://commerce.wi.gov/BD/BD-TechnologyBiz.htm">http://commerce.wi.gov/BD/BD-TechnologyBiz.htm</a> .
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**Major Economic Development Grants and Loans.** The Major Economic Development Grant and Loan Program is used to fund projects that are not eligible for funding under criteria of any other WDF program. To be eligible, a project must involve significant capital investment and the creation or retention of a significant number of jobs. Businesses and consortia may apply for awards from the program. In addition, nonprofit business development organizations and local governments may apply on behalf of local businesses.

The Development Finance Board, in determining whether to make a grant or loan under this program, must consider the number of jobs the project will create or retain, the value of the capital investment by the business, the value of local infrastructure expenditures relating to the project, and the effect of the project on the economy of the state and of the municipality in which the project is located. The board has the discretion to determine the amount of the funding for the project and whether the award will be made as a grant or a loan. Recipients are typically required to provide at least 50% of the total eligible costs from sources other than the State of Wisconsin. Commerce generally provides between \$3,000 and \$10,000 per full-time job created. The funds received may be used for construction and expansion, acquisition of existing businesses, land, buildings and equipment, and working capital.

**Employee Ownership Assistance Grants.** Employee ownership assistance grants are made to fund the cost of professional services to evaluate the feasibility of an employee buy out of an existing business. Generally, groups formed by, or on behalf of, current or former employees of an existing business that is considering, or has experienced, layoffs or business closings are eligible for such grants. A recipient must intend to operate the business in Wisconsin as an employee-owned business.

A grant application must include all of the following:

- A general analysis outlining the need for a feasibility study.

- A petition supporting the buy out signed by a majority of the members of the group.
- A letter from a majority of the owners of the business indicating a preference to sell the business to the group.
- The estimated time and cost required to conduct the study.
- A description of the group's financial assets available for matching the grant.
- A written commitment from a person with the recognized expertise and experience necessary to conduct the feasibility study.

Generally, the maximum grant is 75% of the eligible project costs, up to \$15,000. A recipient group must provide matching funds for at least 25% of the total funding needed. This requirement may be waived if the Development Finance Board determines that the group is subject to extreme financial hardship. As noted, grant amounts may be expended for feasibility studies to investigate the reorganization or new incorporation of an existing business as an employee-owned business. A feasibility study may include information regarding the financial condition of the business, the number and types of jobs to be created and retained, the production costs of the business, the market value and demand for any product produced, the reasons for the actual or proposed closing of the business, and other relevant information.

**Rapid Response Fund.** The purpose of the Rapid Response Fund is to provide financial assistance in the form of loans to businesses or local governments to prepare sites for businesses to locate or expand in communities that have experienced plant closings or large-scale layoffs. Businesses and governmental entities that apply for assistance must: submit a plan to Commerce detailing the proposed use of the loan, which must be approved by the Secretary; enter into a written agreement with Commerce that specifies the conditions for the use of the loan proceeds; and agree in writing to submit to Commerce within six months after expending the loan a report detailing how the loan proceeds were used. Loan recipients must provide matching funds equal to 25% of the cost of the project up to a maximum of \$250,000. Generally, loans under this program may be used only to: renovate or improve an existing building; purchase land, an existing building, machinery, or equipment; or construct a new building.

**Minority  
Business  
Finance  
Program**

Another significant economic development program operated by Commerce is the Minority Business Finance (MBF) Program. Prior to **2007 Wisconsin Act 125**, the MBF consisted of several separate subprograms, including Minority Early Planning Grants, Minority Business Development Grants and Loans, and Minority Business Development Finance and Education and Training Grants. 2007 Wisconsin Act 125 consolidated the various subprograms into a single minority business program.

The MBF is funded through GPR appropriations and a PR repayment appropriation. In determining whether an award should be made, the following criteria are typically considered:

- Whether the project serves a public purpose.
- Whether the project will retain or increase employment in Wisconsin.
- Whether the project is likely to occur without the grant or loan.
- Whether financing is available from any other source on reasonably equivalent terms.
- Whether the grant or loan recipient will contribute nonstate matching funds.

- Whether grant or loan funds will be used to replace funds from any other source.
- Whether the project will displace workers in the state.
- Whether the project has the potential to be profitable.
- Whether, if the project is a development project, state funds will be used to finance existing debt.

For purposes of the MBF, a minority business generally is one that is at least 51% 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 that is currently performing a “useful business function.” A person is a minority group member for this purpose if he or she is black, Hispanic, American Indian, Eskimo, Aleut, Native Hawaiian, Asian-Indian, or a person of Asian-Pacific origin. A business is considered to be performing a “useful business function” if it provides materials, supplies, equipment, or services to customers.

### Community-Based Economic Development Program

Commerce also oversees the Community-Based Economic Development (CBED) Program. The program is intended to provide economic diversification planning grants to political subdivisions in the state. Generally, CBED programs provide financial assistance on a local level for the support of small businesses, entrepreneurs, business incubators, and community-based organizations. Funds are awarded on a competitive basis with applications generally due in October and awards being made in January. Funding for these programs is provided through a GPR appropriation. Prior to making any awards under the CBED, Commerce must consider:

- The level of economic distress in the area.
- The need and demand for the project.
- The need for state financial assistance.
- The qualifications of the persons who will be managing and operating the project.
- The level of community support, including financial support for the project.
- The liability of the project.
- The likelihood that the project will result in the creation or retention of jobs.
- The likelihood that the project will result in business development.
- Whether the project is located in a development zone.

More information may be found at <http://commerce.wi.gov/CD/CD-bcf-cbed.html>.

Several grant programs funded from the CBED are briefly described below.

**Regional Economic Development Project Grants.** Regional Economic Development Project Grants are designed to enable eligible community-based organizations to conduct local economic development projects. Generally, grant recipients are limited to one grant per year, and the grant funds may not replace funding from another source. Typically, grant recipients must provide a cash match of 25% of the total project costs. The maximum grant amount is \$100,000. Grants may be used to assist a local economic development project to develop a plan for: industrial parks; downtown business districts; or public infrastructure projects that focus on water, sewer, and transportation. Other uses of grant funds include the implementation of training programs for local economic development professionals and

development or implementation of plans that support local economic development projects.

**Business Assistance Grants.**

Business Assistance Grants provide assistance to community-based organizations to provide management services to small businesses planning a start-up or expansion project. Recipients may receive only one grant per year, and grant funds may not replace funding from another source. A cash match of 25% of the total project costs is usually required. The maximum grant amount is \$30,000. Grants may be used to provide: production of feasibility studies, financial plans, financial projections, or business plans; assistance when preparing loan applications; and entrepreneurship and management training.

**Business Incubator Grants.**

Business Incubator Grants are provided to support business incubators or technology-based incubators. A “business incubator” is an individual or entity that operates an organization that is designed to encourage growth of new businesses and provides at least two of the following services:

- Rental space that is below market rate.
- Shared business services.
- Management and technical assistance.
- Direct access to capital for member businesses through at least one financial institution.

Similarly, a “technology-based incubator” is a facility that provides new or expanding technology orientated businesses with office and laboratory space, shared clerical and other support service, and managerial and technical assistance.

In making a business incubator grant, Commerce must consider a number of factors, including the potential of the incubator to help start businesses, the potential of the incubator to provide employment opportunities, and how the unemployment rate in the area in which the incubator is or will be located compares to the state average. Generally, an operating incubator may receive \$30,000 per year. In addition, awards of \$10,000 per year may be made for technical assistance for starting incubators and up to \$100,000 per year to start, rehabilitate, or expand an incubator.

## Glossary of Terms and Abbreviations

**CBED** – Community-Based Economic Development program.

**Commerce** – Wisconsin Department of Commerce, formerly the Department of Development.

**DWD** – Wisconsin Department of Workforce Development.

**FMLA** – Wisconsin’s Family and Medical Leave Act.

**FUTA** – Federal Unemployment Tax Act.

**MBF** – Minority Business Finance program.

**UI** – Unemployment Insurance, formerly referred to as Unemployment Compensation.

**UIAC** – Unemployment Insurance Advisory Council.

**WC** – Worker’s Compensation.

**WCAC** – Worker’s Compensation Advisory Council.

**WDF** – Wisconsin Development Fund.

## Development Zone Programs

Development zones are intended to encourage economic development in specific geographic areas through targeted tax credits to businesses. Businesses located in a zone may be eligible for income tax credits for completing specific types of activities, such as: creating or retaining jobs; hiring workers from target populations; engaging in environmental remediation; or making capital investments.

Commerce is authorized to designate all types of development zones other than development opportunity zones, which are specified in the statutes. Criteria for designating the other types of zones are set forth in the statutes.

The types of development zones include:

- Community development zones.
- Development opportunity zones.
- Enterprise development zones.
- Agricultural development zones.
- Technology development zones.
- Airport development zones.
- Enterprise zones.

## 2006 Audit of State Economic Development Programs

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](http://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>.

### Additional Legislative Proposals

In addition to 2007 Wisconsin Act 125, the legislative session saw other proposals for further consolidation and modification of economic development programs.

In particular, **2007 Wisconsin Act 183** modified the development zone tax credits. The Act authorized Commerce to allocate up to \$6 million of unallocated airport development tax credits to technology and agricultural zones.

### Programs Administered Outside the Department of 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 System, 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 **Legislative Audit Bureau** conducts audits of various state programs. For audits concerning employment law and economic development, see *Unemployment Reserve Fund*, Report 07-1, February 2007, at <http://www.legis.wisconsin.gov/lab/reports/07-1Full.pdf> and *State Economic Development Programs*, Report 06-9, August 2006, at <http://www.legis.wisconsin.gov/lab/reports/06-9Full.pdf>. Additional audits may be found at <http://www.legis.wisconsin.gov/lab/index.htm>.

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