



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-2973/1  
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## 2017 ASSEMBLY BILL 385

June 14, 2017 - Introduced by Representatives ANDERSON, CROWLEY, YOUNG, KOLSTE, C. TAYLOR, BERCEAU, BOWEN, OHNSTAD, FIELDS and HEBL, cosponsored by Senators JOHNSON and HANSEN. Referred to Committee on State Affairs.

1     **AN ACT to create** 238.121 of the statutes; **relating to:** requiring controlled  
2             substance abuse screening, testing, and treatment for eligibility for economic  
3             development programs.

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*Analysis by the Legislative Reference Bureau*

This bill requires each individual applying to the Wisconsin Economic Development Corporation to participate in an economic development program in his or her individual capacity and each individual who is an owner, shareholder, partner, member, principal, officer, director, or manager, subject to certain limitations, of a business applying to WEDC to participate in an economic development program to complete a questionnaire or other screening instrument concerning the abuse of controlled substances. If, on the basis of screening results, WEDC determines that there is a reasonable suspicion that an individual is abusing a controlled substance, WEDC must require the individual to undergo a test for the use of a controlled substance in order for the individual or business to be eligible to participate in an economic development program administered by WEDC. Unless an individual has a prescription for the controlled substance, positive test results make an individual or business ineligible to participate in an economic development program.

Under the bill, an individual or business may still participate in an economic development program if an individual who tests positive for the use of a controlled substance takes part in a substance abuse treatment program. Under the bill, failure to satisfactorily complete a substance abuse treatment program results in ineligibility to continue to participate in the economic development program and

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results in the requirement to repay to WEDC all grants, loans, and other benefits the individual or business may have received under the economic development program.

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

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

1           **SECTION 1.** 238.121 of the statutes is created to read:

2           **238.121 Substance abuse screening and testing for participants in**  
3 **economic development programs. (1)** In this section:

4           (a) “Business applicant” means any organization or enterprise operated for  
5 profit, including a sole proprietorship, partnership, firm, business trust, joint  
6 venture, syndicate, corporation, limited liability company, or association, that  
7 applies to participate in an economic development program administered by the  
8 corporation.

9           (b) “Controlled substance” has the meaning given in s. 961.01 (4).

10           (c) “Controlled substance abuse screening” means a questionnaire, a criminal  
11 background check, or any other controlled substance abuse screening mechanism  
12 identified by the corporation in its policies and procedures.

13           (d) “Individual applicant” means an individual who applies on his or her own  
14 behalf to participate in his or her individual capacity in an economic development  
15 program administered by the corporation.

16           (e) “Responsible person” means each individual who is an owner, shareholder,  
17 partner, member, principal, officer, director, or manager of a business applicant if any  
18 of the following applies:

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1           1. The individual has any level of responsibility for the day-to-day  
2 management of the business applicant or authority over any individual having  
3 responsibility for the day-to-day management of the business applicant.

4           2. The individual maintains at least a 20 percent ownership interest in the  
5 business applicant.

6           **(1m)** In order to participate in an economic development program  
7 administered by the corporation, an individual applicant and each responsible  
8 person of a business applicant shall complete a controlled substance abuse  
9 screening. If, on the basis of the controlled substance abuse screening results, the  
10 corporation determines that there is a reasonable suspicion that an individual  
11 applicant who is otherwise eligible to participate in an economic development  
12 program or any responsible person of a business applicant that is otherwise eligible  
13 to participate in an economic development program is abusing a controlled  
14 substance, the corporation shall require the individual applicant or responsible  
15 person to undergo a test for the use of a controlled substance.

16           **(2)** If an individual applicant or responsible person refuses to submit to a test  
17 under sub. (1m), the individual applicant or business applicant is not eligible to  
18 participate in an economic development program administered by the corporation  
19 until the individual applicant or responsible person complies with the requirement  
20 to undergo a test for the use of a controlled substance.

21           **(3)** If an individual applicant or responsible person who undergoes a test under  
22 sub. (1m) tests negative for the use of a controlled substance, or tests positive for the  
23 use of a controlled substance but presents evidence satisfactory to the corporation  
24 that the individual applicant or responsible person possesses a valid prescription for  
25 each controlled substance for which he or she tests positive, the individual applicant

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1 or responsible person will have satisfactorily completed the substance abuse testing  
2 requirements under this section.

3 (4) (a) If an individual applicant or responsible person who undergoes a test  
4 under sub. (1m) tests positive for the use of a controlled substance without  
5 presenting evidence of a valid prescription as described in sub. (3), the corporation  
6 shall require the individual applicant or responsible person to participate in  
7 substance abuse treatment for the individual applicant or business applicant to  
8 remain eligible to participate in an economic development program administered by  
9 the corporation. If the individual applicant or responsible person refuses to  
10 participate in substance abuse treatment, the individual applicant or business  
11 applicant is not eligible to participate in an economic development program  
12 administered by the corporation until the individual applicant or responsible person  
13 complies with the requirement to participate in substance abuse treatment.

14 (b) During the time that an individual applicant or responsible person is  
15 receiving substance abuse treatment under par. (a), the corporation shall require he  
16 or she to undergo random testing for the use of a controlled substance. For the  
17 individual applicant or business applicant to remain eligible for an economic  
18 development program administered by the corporation, the individual applicant or  
19 responsible person must cooperate with the testing and the results of the tests must  
20 be negative or, if any results are positive, the individual applicant or responsible  
21 person must present evidence of a valid prescription as described in sub. (3). If the  
22 results of any test during treatment are positive for the use of a controlled substance  
23 and the individual applicant or responsible person does not present evidence of a  
24 valid prescription for the controlled substance as described in sub. (3), the individual  
25 applicant or responsible person shall have the opportunity to begin the treatment

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1 again one time, as determined by the corporation. If the individual applicant or  
2 responsible person begins the substance abuse treatment again, the individual  
3 applicant or business applicant shall remain eligible for an economic development  
4 program administered by the corporation as long as the results of all tests of the  
5 individual applicant or responsible person for the use of a controlled substance  
6 during the subsequent treatment are negative for the use of a controlled substance  
7 or, if any results are positive, the individual applicant or responsible person presents  
8 evidence of a valid prescription for the controlled substance as described in sub. (3).

9 (c) If an individual applicant or responsible person receiving treatment under  
10 par. (b) completes treatment and, at the conclusion of the treatment, tests negative  
11 for the use of a controlled substance or presents evidence of a valid prescription for  
12 any controlled substance as described in sub. (3) for which the individual applicant  
13 or responsible person tests positive, the individual applicant or responsible person  
14 will have satisfactorily completed the substance abuse testing requirements under  
15 this section.

16 (5) If an individual applicant or responsible person fails to satisfactorily  
17 complete the substance abuse testing requirements under this section, the  
18 individual applicant or business applicant shall repay to the corporation all grants,  
19 loans, and other benefits the individual applicant or business applicant received  
20 under the economic development program in which the individual applicant or  
21 business applicant is participating when the individual applicant or responsible  
22 person fails to satisfactorily complete the substance abuse testing requirements  
23 under this section.

**SECTION 2. Initial applicability.**

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1           (1) SCREENING AND TESTING UNDER ECONOMIC DEVELOPMENT PROGRAMS.. This act  
2 first applies to an individual applicant, as defined in section 238.121 (1) (d) of the  
3 statutes, or business applicant, as defined in section 238.121 (1) (a) of the statutes,  
4 that applies on the effective date of this subsection to participate in an economic  
5 development program, as defined in section 238.01 (3) of the statutes, administered  
6 by the Wisconsin Economic Development Corporation.

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**(END)**