

PROPOSED ORDER OF THE DEPARTMENT OF COMMERCE

CREATING RULES

The Wisconsin Department of Commerce proposes an order to create chapter Comm 124 relating to the Forward Innovation Fund, and affecting small businesses.

Rule Summary

1. Statutes Interpreted.

Sections 560.30 to 560.305.

2. Statutory Authority.

Sections 227.11 (2) (a) and 560.301.

3. Explanation of Agency Authority.

Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting the provisions of any Statute administered by the Department. Section 560.301 of the Statutes requires the Department to promulgate rules for administering the Forward Innovation Fund, as established under subchapter II of chapter 560 of the Statutes.

4. Related Statute or Rule.

The Department has various rules for administering several economic development programs, but those rules do not specifically include the rule text in this order for providing grants and loans that will fund innovative proposals to strengthen inner cities; rural municipalities; entrepreneurship; and industrial, academic and artistic clusters.

5. Plain Language Analysis.

Under 2009 Wisconsin Act 28, the Department's Minority Business Development Fund and Community-Based Economic Development Fund were merged into the Forward Innovation Fund – and the corresponding rules in this order are expected to foster innovative start-up, expansion or retention of minority businesses and businesses in economically distressed areas. The rules in this order also address grants and loans for other entities that undertake innovative projects for strengthening inner cities; rural municipalities; entrepreneurship; and industrial, academic and artistic clusters.

6. Summary of, and Comparison With, Existing or Proposed Federal Regulations.

The U.S. Commerce Department is creating an Office of Innovation and Entrepreneurship and launching a National Advisory Council on Innovation and Entrepreneurship, to promote high-growth entrepreneurship in America. The mission is to maximize the economic potential of new ideas by

removing barriers to entrepreneurship, and to foster the development of high-growth and innovation-based businesses. The Office will drive policies that help entrepreneurs translate new ideas, products and services into economic growth. The Office will focus on the following areas:

- Encouraging entrepreneurs through education, training, and mentoring.
- Improving access to capital.
- Accelerating technology commercialization of federal research and development.
- Strengthening interagency collaboration and coordination.
- Providing data, research and technical resources for entrepreneurs.
- Exploring policy incentives to support entrepreneurs and investors.

The Minority Business Development Agency in the U.S. Commerce Department has recently allocated \$900,000 to seven minority business centers across the country to increase minority business access to contracting opportunities under the federal American Recovery and Reinvestment Act (ARRA). The funding will allow each center to hire at least one business development specialist to focus exclusively on ARRA to ensure minority businesses have access to federal, state and local contracting opportunities that are expected to create jobs, jumpstart growth and rebuild the economy.

7. Comparison With Rules in Adjacent States.

None of the adjacent States were found to have rules that are likewise primarily directed at innovatively fostering business and community investment, job creation and retention, workforce development, and diversification of the state's economy, particularly in economically distressed areas and through minority businesses. However, the following programs in the adjacent States for enhancing community-based economic development and minority businesses appear to address some of the activities that are expected to occur under these proposed rules, for achieving this objective.

Michigan

Michigan helps minority-owned businesses access State purchasing contracts by requiring bidders on State construction contracts to submit an equal-employment-opportunity plan. This plan describes in detail the equal-employment-opportunity efforts that the potential contract recipient has engaged in.

The Michigan State Housing Development Authority Board oversees several community and faith-based grant programs that focus on rural housing and economic development, housing counseling, community reinvestment, and Community Development Block Grants.

Minnesota

Minnesota supports minority and inner-city business development through a Small Business Administration (SBA) Microloan program. The program helps women, low-income individuals, and minority entrepreneurs and business owners operate successful businesses, particularly in economically distressed areas. The SBA makes direct loans to eligible intermediary lenders who then make short-term loans to start-up, newly established, and growing small-business concerns. The loans can range from a few hundred dollars to \$35,000. The SBA also makes grants to eligible intermediary lenders for providing marketing, management, and technical assistance to their borrowers.

Minnesota also assists economic-development efforts of a certain size in a specific area through a Certified Development Company loan program that provides joint federal and private-sector financing to small businesses – which creates jobs, increases the local tax base, and expands business-ownership opportunities. Long-term fixed-asset financing is provided by a Certified Development Company in conjunction with a second loan from a commercial lender.

Iowa

Iowa does not appear to have a business-development program for minority-owned businesses, other than a certification program that is similar to Wisconsin's. However, Iowa has a grant program that is designed to assist low- to moderate-income entrepreneurs and microenterprises. A microenterprise is defined as a start-up, home-based or self-employed business which has five or fewer employees and which encounters barriers to obtaining business development assistance or to securing financing from conventional lending sources. Microenterprise development programs differ from traditional small business development programs by focusing on low- to moderate-income and low-wealth individuals, and on economically distressed communities and neighborhoods.

Iowa's community-based economic development programs range from Community Development Block Grant programs and Neighborhood Stabilization Grants to initiatives that support energy efficiency and conservation. They provide technical assistance and grant-writing workshops to assist communities in securing federal grants. Like Wisconsin, Iowa has a Mainstreet/Downtown program that funds renewal efforts for aged buildings and infrastructure.

Illinois

The Illinois Business Enterprise Program promotes economic development for diverse businesses – such as those owned by minorities, women, and persons with disabilities – and awarded nearly \$400 million to BEP-certified firms in 2009. The Illinois BEP-certification program operates very similarly to the Wisconsin minority-business certification program. The primary intent is to connect minority-business owners with State procurement opportunities, although in Illinois, State agencies and universities are encouraged to spend at least 19 percent of their procurement budgets with BEP-certified companies.

Illinois also has an Office of Urban Assistance that addresses the pressing economic needs of residents, businesses and stakeholders in the State's urban areas. The Office oversees an Employment Opportunities Grant Program; and implements new strategies such as an Urban Weatherization Initiative and an innovative, community-based Illinois Fresh Food Financing Initiative. The Office is also responsible for (1) incentivizing new industrial enterprises to locate in the urban areas of Illinois, thereby stimulating local economies and creating jobs; (2) gathering and providing information on revitalization efforts in urban areas to public and private entities; (3) recommending and formulating policies that result in the reconstruction of urban economies; and (4) recommending urban economic policies to the General Assembly and Governor relating to a wide variety of topics including housing, urban youth unemployment, and business incubators.

8. Summary of Factual Data and Analytical Methodologies.

The data and methodology for developing these rules were derived from and consisted of (1) applying the corresponding provisions in 2009 Wisconsin Act 28; (2) incorporating applicable best

practices the Department has developed in administering similar programs for economic development and business development; and (3) reviewing Internet-based sources of related federal, state, and private-sector information.

9. Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of an Economic Impact Report.

The primary document that was used to determine the effect of the rules on small business was 2009 Wisconsin Act 28. The proposed rules and the applicable portion of this Act apply their private-sector requirements only to entities that choose to pursue a corresponding grant or loan. No economic impact report was prepared.

10. Effect on Small Business.

The rules are expected to result in only beneficial effects on small business because the rules only address grants and loans for entities that undertake innovative projects for strengthening inner cities; rural municipalities; entrepreneurship; and industrial, academic and artistic clusters.

11. Agency Contact Person.

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12. Place Where Comments Are to Be Submitted, and Deadline for Submission.

Comments on the proposed rules may be submitted by e-mail to sam.rockweiler@wi.gov, no later than May 28, 2010. If e-mail submittal is not possible, written comments may be mailed, by the same date, to Sam Rockweiler, Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53708-0427.

File reference: Comm 124/rules, analysis-p