

1 **AN ACT** *to renumber and amend* 19.82 (1); *to amend* 19.32 (1); and *to create* 19.32
 2 (1bc), 19.82 (1) and 19.85 (1) (k) of the statutes; **relating to:** the applicability of the
 3 open records law and the open meetings law to an economic development
 4 corporation.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill is recommended by the Joint Legislative Council’s Special Committee on Applicability of Open Meetings Law to Quasi–Governmental Bodies. The special committee was directed to: (a) review recent attorney general opinions regarding the applicability of the open meetings law to “quasi–governmental” bodies, such as economic development corporations, to determine whether the public policy set forth in those opinions is desirable; and (b) develop legislation to clarify the applicability of the open meetings law to quasi–governmental bodies either by codifying those policies or by delineating the specific condition under which quasi–governmental bodies are subject to the open meetings law.

The special committee specifically narrowed its focus to considering whether, and how, the open meetings law should apply to economic development corporations. In general, this bill provides that an economic development corporation will be exempted from the open meetings law, if the corporation is nonprofit, if it receives less than 50% of its funds from governmental bodies, and if less than one–half of its board and officers consists of public officials or public employees. Also, the bill provides that a quasi–governmental corporation may convene in a closed session to consider matters relating to development or redevelopment of a community or area whenever competitive or bargaining reasons require a closed session. Finally, corresponding amendments to the open records law are made so that an economic development corporation is treated consistently under both the open records law and the open meetings law.

5 **SECTION 1.** 19.32 (1) of the statutes is amended to read:

1 19.32 (1) “Authority” means any of the following having custody of a record: a state
2 or local office, elected official, agency, board, commission, committee, council, department
3 or public body corporate and politic created by constitution, law, ordinance, rule or order; a
4 governmental or quasi-governmental corporation except for the Bradley center sports and
5 entertainment corporation and except for an economic development corporation; a local
6 exposition district under subch. II of ch. 229; a family care district under s. 46.2895; any court
7 of law; the assembly or senate; a nonprofit corporation which receives more than 50% of its
8 funds from a county or a municipality, as defined in s. 59.001 (3), and which provides services
9 related to public health or safety to the county or municipality; a nonprofit corporation
10 operating the Olympic ice training center under s. 42.11 (3); or a formally constituted subunit
11 of any of the foregoing.

NOTE: This SECTION amends s. 19.32, stats., to provide that an economic
development corporation, as defined in SECTION 2, is exempted from the
open records law.

12 **SECTION 2.** 19.32 (1bc) of the statutes is created to read:

13 19.32 (1bc) “Economic development corporation” means a nonprofit corporation that
14 has as its primary purpose the encouragement and promotion of the industrial, economic,
15 entrepreneurial, commercial, and civic development or redevelopment of a community or area
16 and that complies with all of the following:

17 (a) The corporation receives less than 50% of its funds in cash or through in-kind
18 contributions, such as the use of governmental buildings, equipment, or staff, from the state
19 or from a county, city, village, or town.

20 (b) Less than one-half of the corporation’s board and less than one-half of the
21 corporation’s officers consist of public officials or public employees.

NOTE: This SECTION creates a definition of the term “economic development corporation” for purposes of the open records law to mean a nonprofit corporation that has as its primary purpose the encouragement and promotion of the industrial, economic, entrepreneurial, commercial, and civic development or redevelopment of a community or area and: (a) receives less than 50% of its funding from governmental bodies; and (b) less than one-half of its board and officers consists of public officials or public employees.

COMMENT: The 50% benchmarks in this newly created definition of “economic development corporation” are guides for the consideration of the special committee. They can be amended and do not need to be consistent.

1 **SECTION 3.** 19.82 (1) of the statutes is renumbered 19.82 (1m) and amended to read:

2 19.82 **(1m)** “Governmental body” means a state or local agency, board, commission,
3 committee, council, department or public body corporate and politic created by constitution,
4 statute, ordinance, rule or order; a governmental or quasi-governmental corporation except
5 for the Bradley center sports and entertainment corporation and except for an economic
6 development corporation; a local exposition district under subch. II of ch. 229; a family care
7 district under s. 46.2895; a nonprofit corporation operating the Olympic ice training center
8 under s. 42.11 (3); or a formally constituted subunit of any of the foregoing, but excludes any
9 such body or committee or subunit of such body which is formed for or meeting for the purpose
10 of collective bargaining under subch. I, IV or V of ch. 111.

NOTE: This SECTION amends s. 19.82 (2m), stats., to provide that an economic development corporation, as defined in SECTION 4, is exempted from the open meetings law.

11 **SECTION 4.** 19.82 (1) of the statutes is created to read:

12 19.82 **(1)** “Economic development corporation” means a nonprofit corporation that has
13 as its primary purpose the encouragement and promotion of the industrial, economic,
14 entrepreneurial, commercial, and civic development or redevelopment of a community or area
15 and that complies with all of the following:

1 (a) The corporation receives less than 50% of its funds in cash or through in-kind
2 contributions, such as the use of governmental buildings, equipment, or staff, from the state
3 or from a county, city, village, or town.

4 (b) Less than one-half of the corporation's board and less than one-half of the
5 corporation's officers consist of public officials or public employees.

NOTE: See the Note to SECTION 2.

6 **SECTION 5.** 19.85 (1) (k) of the statutes is created to read:

7 19.85 (1) (k) Consideration by a quasi-governmental corporation of matters relating
8 to development or redevelopment of a community or area whenever competitive or bargaining
9 reasons require a closed session.

NOTE: This SECTION creates s. 19.85 (1) (k), stats., to provide that a quasi-governmental corporation may move into a closed session to consider matters related to development or redevelopment of a community or area whenever competitive or bargaining reasons require a closed session. It is not intended that a quasi-governmental corporation may convene in closed session only for this purpose; a quasi-governmental corporation also may convene in closed session for any other applicable purpose described in s. 19.85 (1), stats.