



State of Wisconsin
2021 - 2022 LEGISLATURE

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2021 ASSEMBLY BILL 682

October 29, 2021 - Introduced by Representatives KRUG, MURSAU, EDMING, CALLAHAN, SWEARINGEN, BEHNKE, SPIROS, SNYDER, MOSES, ROZAR and SHANKLAND. Referred to Committee on Forestry, Parks and Outdoor Recreation.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to amend** 103.503 (title), 103.503 (1) (a), 103.503 (1) (c), 103.503 (1) (e),
2 103.503 (1) (f), 103.503 (1) (h), 103.503 (1) (i), 103.503 (2), 103.503 (3) (a) (intro.),
3 2. and 3., 103.503 (4) (a) (intro.) and 103.503 (4m) (b); and **to create** 103.503
4 (1) (k) and 103.503 (6) and (7) of the statutes; **relating to:** grant related to the
5 Verso Paper Mill in the city of Wisconsin Rapids, loan guarantee related to the
6 Park Falls Pulp and Paper Mill in the city of Park Falls, substance abuse
7 prevention on certain public projects, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Paper mills; grant and loan guarantee

This bill authorizes the Wisconsin Economic Development Corporation award a grant of up to \$1,000,000 to an eligible recipient to maintain operations at the Verso Paper Mill in the city of Wisconsin Rapids. The grant is to be upon the terms and conditions determined by WEDC, and WEDC may award the grant only as approved or modified by the Joint Committee on Finance.

The bill also authorizes WEDC to issue a loan guarantee of up to \$15,000,000 to an eligible borrower to purchase or make infrastructure improvements to the Park Falls Pulp and Paper Mill in the city of Park Falls. The loan guarantee is to be upon the terms and conditions determined by WEDC, and WEDC may issue the loan guarantee only as approved or modified by the Joint Committee on Finance.

ASSEMBLY BILL 682***Substance abuse on transportation and public utility projects***

With certain exceptions, current law prohibits employees from using, possessing, attempting to possess, distributing, delivering, or being under the influence of a drug, or from using or being under the influence of alcohol, while performing certain work on certain projects of public works or public utility projects and requires that, before an employer may commence work on a qualifying project of public works or a public utility project, the employer have in place a written employee substance abuse program.

This bill does the following:

1. Applies the substance abuse prevention requirements under current law to all transportation projects for the construction or reconstruction of any road or bridge performed under contract for a local governmental unit.

2. Provides that a public utility, for purposes of determining which projects qualify as public utility projects under the substance abuse prevention program, includes an owner of fiber optics, broadband, or cable.

3. Requires an employer that performs work on a transportation project or public utility project, if the cost of the contract to perform the work is more than \$25,000, to either a) certify its compliance with the substance abuse prevention requirements annually on forms and in a manner prescribed by the Department of Workforce Development; or b) certify, on a per-contract basis, with the contracting agency for the project and file the employer's substance abuse prevention program with the contracting agency. The bill prohibits an employer that is required to certify from commencing work on a covered project until the employer is in compliance.

4. Requires DWD to do all of the following:

a. Promulgate rules to implement the certification requirements created under the bill for employers that choose to file annually with DWD their substance abuse prevention programs.

b. Send by mail to businesses an annual notice describing the certification requirements created under the bill.

c. Maintain a list of employers that have certified with DWD.

d. Promulgate rules to establish penalties, to be assessed by DWD, for repeat violations of the certification requirements created under the bill and for cases in which an accident that resulted in a federally reportable injury or illness occurred or reportable property damage occurred while an employer was not in compliance with the certification requirements created under the bill.

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

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

1 **SECTION 1.** 103.503 (title) of the statutes is amended to read:

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1 **103.503** (title) **Substance abuse prevention on ~~public works and public~~**
2 **utility certain projects; certification.**

3 **SECTION 2.** 103.503 (1) (a) of the statutes is amended to read:

4 103.503 (1) (a) “Accident” means an incident caused, contributed to, or
5 otherwise involving an employee that resulted or could have resulted in death,
6 personal injury, or property damage and that occurred while the employee was
7 performing the work described in s. 66.0903 (4), 2013 stats., or s. 16.856 (2m), 2015
8 stats., on a project of public works or transportation project or while the employee
9 was performing work on a public utility project.

10 **SECTION 3.** 103.503 (1) (c) of the statutes is amended to read:

11 103.503 (1) (c) “Contracting agency” means a local governmental unit or a state
12 agency that has contracted for the performance of work on a project of public works
13 or transportation project or a public utility that has contracted for the performance
14 of work on a public utility project.

15 **SECTION 4.** 103.503 (1) (e) of the statutes is amended to read:

16 103.503 (1) (e) “Employee” means a laborer, worker, mechanic, or truck driver
17 who performs the work described in s. 66.0903 (4), 2013 stats., or s. 16.856 (2m), 2015
18 stats., on a project of public works, on a transportation project, or on a public utility
19 project.

20 **SECTION 5.** 103.503 (1) (f) of the statutes is amended to read:

21 103.503 (1) (f) “Employer” means a contractor, subcontractor, or agent of a
22 contractor or subcontractor that performs work on a project of public works, on a
23 transportation project, or on a public utility project.

24 **SECTION 6.** 103.503 (1) (h) of the statutes is amended to read:

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1 103.503 (1) (h) “Public utility” has the meaning given in s. 196.01 (5) and
2 includes a telecommunications carrier, as defined in s. 196.01 (8m), an alternative
3 telecommunications utility, as defined in s. 196.01 (1d), an owner of fiber optics,
4 broadband, or cable, or, for purposes of subs. (2) and (4), a cooperative association
5 organized under ch. 185 for the purpose of producing or furnishing heat, light, power,
6 or water to its members only.

7 **SECTION 7.** 103.503 (1) (i) of the statutes is amended to read:

8 103.503 (1) (i) “Public utility project” means a project erected, constructed,
9 repaired, remodeled, or demolished for a public utility on a public right-of-way. For
10 purposes of ~~sub.~~ subs. (3), (6), and (7), “public utility project” does not include a
11 project erected, constructed, repaired, remodeled, or demolished for a cooperative
12 association organized under ch. 185 for the purpose of producing or furnishing heat,
13 light, power, or water to its members only.

14 **SECTION 8.** 103.503 (1) (k) of the statutes is created to read:

15 103.503 (1) (k) “Transportation project” means the construction or
16 reconstruction of any road or bridge performed under a contract entered into by a
17 local governmental unit.

18 **SECTION 9.** 103.503 (2) of the statutes is amended to read:

19 103.503 (2) SUBSTANCE ABUSE PROHIBITED. No employee may use, possess,
20 attempt to possess, distribute, deliver, or be under the influence of a drug, or use or
21 be under the influence of alcohol, while performing the work described in s. 66.0903
22 (4), 2013 stats., or s. 16.856 (2m), 2015 stats., on a project of public works or a
23 transportation project or while performing work on a public utility project. An
24 employee is considered to be under the influence of alcohol for purposes of this

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1 subsection if he or she has an alcohol concentration that is equal to or greater than
2 the amount specified in s. 885.235 (1g) (d).

3 **SECTION 10.** 103.503 (3) (a) (intro.), 2. and 3. of the statutes are amended to
4 read:

5 103.503 (3) (a) (intro.) Before an employer may commence work on a project of
6 public works, a transportation project, or a public utility project, the employer shall
7 have in place a written program for the prevention of substance abuse among its
8 employees. At a minimum, the program shall include all of the following:

9 2. A requirement that employees performing the work described in s. 66.0903
10 (4), 2013 stats., or s. 16.856 (2m), 2015 stats., on a project of public works or a
11 transportation project or performing work on a public utility project submit to
12 random, reasonable suspicion, and post-accident drug and alcohol testing and to
13 drug and alcohol testing before commencing work on the project, except that testing
14 of an employee before commencing work on a project is not required if the employee
15 has been participating in a random testing program during the 90 days preceding the
16 date on which the employee commenced work on the project.

17 3. A procedure for notifying an employee who violates sub. (2), who tests
18 positive for the presence of a drug in his or her system, or who refuses to submit to
19 drug or alcohol testing as required under the program that the employee may not
20 perform work on a project of public works, a transportation project, or a public utility
21 project until he or she meets the conditions specified in sub. (4) (b) 1. and 2.

22 **SECTION 11.** 103.503 (4) (a) (intro.) of the statutes is amended to read:

23 103.503 (4) (a) (intro.) No employer may permit an employee who violates sub.
24 (2), who tests positive for the presence of a drug in his or her system, or who refuses
25 to submit to drug or alcohol testing as required under the employer's substance abuse

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1 prevention program under sub. (3) to perform work on a project of public works, a
2 transportation project, or a public utility project until he or she meets the conditions
3 specified in par. (b) 1. and 2. An employer shall immediately remove an employee
4 from work on such a project if any of the following occurs:

5 **SECTION 12.** 103.503 (4m) (b) of the statutes is amended to read:

6 103.503 **(4m)** (b) ~~Subsection~~ Subsections (3) ~~does, (6), and (7) do~~ not apply to
7 an employer that performs work on a public utility project for a cooperative
8 association organized under ch. 185 for the purpose of producing or furnishing heat,
9 light, power, or water to its members only.

10 **SECTION 13.** 103.503 (6) and (7) of the statutes are created to read:

11 103.503 **(6)** CERTIFICATION. (a) This subsection applies only with respect to an
12 employer that performs work on a transportation project or public utility project if
13 the cost of the contract to perform the work is more than \$25,000.

14 (b) 1. An employer that performs work as described in par. (a) shall do one of
15 the following:

16 a. Certify its compliance with the requirements under this section annually on
17 forms and in a manner prescribed by the department.

18 b. Certify, on a per-contract basis, with the contracting agency for the project.
19 If the employer certifies on a per-contract basis as provided in this subd. 1. b., the
20 employer shall, prior to commencing work on the project, file the employer's program
21 under sub. (3) with the contracting agency.

22 2. No fee shall be required for a certification under subd. 1. a. or b.

23 (c) The department shall do all of the following:

24 1. Promulgate rules to implement par. (b) 1. a. The rules shall not apply to an
25 employer that certifies on a per-contract basis as provided in par. (b) 1. b.

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- 1 2. Promulgate rules to determine all of the following:
- 2 a. Penalties for a failure to comply with the certification requirement under
- 3 par. (b) 1. The rules shall, except as provided in subd. 2. b., provide for a warning for
- 4 a first violation of the certification requirement under par. (b) 1. and may provide
- 5 penalties only for repeated violations.
- 6 b. Penalties for a failure to comply with the certification requirement under
- 7 par. (b) 1. if an accident that results in a reportable injury or illness under 29 CFR
- 8 1904 or reportable property damage occurs while the employer was not so certified.
- 9 A penalty under this subd. 2. b. may not exceed \$25,000.
- 10 3. Send an annual notice by mail to any business that has performed work on
- 11 a transportation project or public utility project and to any other contractor likely to
- 12 bid on such projects describing the certification requirements under this subsection.
- 13 4. Maintain a list of all employers certified under par. (b) 1. a. that is easily
- 14 accessible by the public.
- 15 (d) An employer that is subject to the certification requirement under par. (b)
- 16 and that has not complied with that requirement may not commence work on a
- 17 project for which the employer's contract is subject to par. (a) until the employer is
- 18 in compliance.
- 19 **(7) PENALTIES.** In addition to any other penalties provided under this chapter,
- 20 the department shall do all of the following:
- 21 (a) Assess a penalty for repeat violations of the certification requirement under
- 22 sub. (6) (b), in accordance with the rules promulgated under sub. (6) (c) 2. a.
- 23 (b) Assess a penalty against an employer that has failed to comply with the
- 24 certification requirement under sub. (6) (b), in accordance with the rules
- 25 promulgated under sub. (6) (c) 2. b., when the department determines that an

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1 accident that resulted in a reportable injury or illness under 29 CFR 1904 or
2 reportable property damage occurred while the employer was not so certified.

3 **SECTION 14. Nonstatutory provisions.**

4 (1) DEFINITIONS.

5 (a) "Corporation" means the Wisconsin Economic Development Corporation.

6 (b) "Park Falls Mill" means the Park Falls Pulp and Paper Mill located at 200
7 1st Avenue North in the city of Park Falls.

8 (c) "Verso Mill" means the Verso Paper Mill located at 600 4th Avenue North
9 in the city of Wisconsin Rapids.

10 (2) ADMINISTRATION OF PROGRAMS. The corporation shall administer the
11 economic development programs under this section.

12 (3) GRANT RELATED TO THE VERSO MILL.

13 (a) *Grant.* Subject to par. (b), from the appropriation under s. 20.192 (1) (r), of
14 the moneys transferred to the economic development fund under par. (c), the
15 corporation may award a grant of up to \$1,000,000 to an eligible recipient for the
16 purpose of maintaining operations at the Verso Mill. The grant shall be upon the
17 terms and conditions determined by the corporation, as approved or modified under
18 par. (b).

19 (b) *Approval of proposed grant.* No later than 30 days after the effective date
20 of this paragraph, the corporation shall submit the terms and conditions for a
21 proposed grant under par. (a) to the joint committee on finance. The committee may
22 approve, modify, or deny the proposal. The corporation may not award a grant under
23 par. (a) except as approved or modified by the committee.

24 (c) *Fund transfers.*

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1 1. There is transferred from the general fund to the economic development fund
2 \$1,000,000 in fiscal year 2021-22. The moneys transferred under this subdivision
3 shall be credited to the appropriation account under s. 20.192 (1) (r), may not be
4 considered expended for purposes of s. 20.192 (1) (a), shall be considered encumbered
5 for purposes of s. 20.192 (1) (a), and may not be expended other than as provided
6 under this subsection.

7 2. If the joint committee on finance denies the proposed grant under par. (b),
8 no later than 30 days after the date of the denial, the secretary of administration
9 shall transfer \$1,000,000 from the economic development fund to the general fund.

10 3. If the joint committee on finance approves or modifies a proposed grant under
11 par. (b), and the corporation does not award the grant before June 30, 2023, the
12 secretary of administration shall transfer \$1,000,000 from the economic
13 development fund to the general fund on that date.

14 (4) LOAN GUARANTEE RELATED TO THE PARK FALLS MILL.

15 (a) *Loan guarantee.* Subject to par. (b), from the appropriation under s. 20.192
16 (1) (r), of the moneys transferred to the economic development fund under par. (c),
17 the corporation may issue a loan guarantee of up to \$15,000,000 to an eligible
18 borrower to secure financing that is not otherwise readily available for the purpose
19 of purchasing or making infrastructure improvements to the Park Falls Mill, or both.
20 The loan guarantee shall be upon the terms and conditions determined by the
21 corporation, as approved or modified under par. (b).

22 (b) *Approval of loan guarantee.* No later than 30 days after the effective date
23 of this paragraph, the corporation shall submit the terms and conditions for a loan
24 guarantee under par. (a) to the joint committee on finance. The committee may

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1 approve, modify, or deny the proposal. The corporation may not issue a loan
2 guarantee under par. (a) except as approved or modified by the committee.

3 (c) *Fund transfers.*

4 1. There is transferred from the general fund to the economic development fund
5 \$15,000,000 in fiscal year 2021-22. The moneys transferred under this subdivision
6 shall be credited to the appropriation account under s. 20.192 (1) (r), may not be
7 considered expended for purposes of s. 20.192 (1) (a), shall be considered encumbered
8 for purposes of s. 20.192 (1) (a), and may not be expended other than as provided
9 under this subsection.

10 2. If the joint committee on finance denies the proposed loan guarantee under
11 par. (b), no later than 30 days after the date of the denial, the secretary of
12 administration shall transfer \$15,000,000 from the economic development fund to
13 the general fund.

14 3. If the joint committee on finance approves or modifies a proposed loan
15 guarantee under par. (b), and the corporation does not issue the loan guarantee
16 before June 30, 2023, the secretary of administration shall transfer \$15,000,000 from
17 the economic development fund to the general fund on that date.

18 4. If the joint committee on finance approves or modifies a proposed loan
19 guarantee under par. (b), and the eligible borrower does not draw upon the full
20 amount of the loan guarantee before the end date of the term of the loan guarantee,
21 as approved by the committee, no later than 30 days after that end date, the secretary
22 of administration shall transfer \$15,000,000 less the amount drawn upon from the
23 economic development fund to the general fund.

24 **SECTION 15. Effective dates.** This act takes effect on the 90th day after
25 publication, except as follows:

