IMPROVING OUR BUSINESS CLIMATE

A Policy Agenda for the Top 10
2013-2014 Legislative Session
Recent pro-growth legislative victories have made meaningful improvements to Wisconsin’s business climate. The enactment of comprehensive lawsuit reform, regulatory reform and tax reform in the 2011-2012 session of the Legislature has drawn national attention. In addition, the Act 10 reforms that helped balance our budget deficit without raising taxes have resulted in a positive credit rating for Wisconsin’s state finances.

These legislative victories have propelled Wisconsin forward in a number of key national rankings for business climate. For example, CEO Magazine ranks Wisconsin the 20th best state for business, up 23 spots from the 2008 ranking of 43. CNBC ranks Wisconsin the 17th best state for business, up 20 spots from our 2008 ranking. Finally, Site Selection Magazine ranks Wisconsin’s 2012 business climate as 13th best, marking the first time in 15 years our state has cracked the top 25.

Wisconsin is clearly headed in the right direction, but there are additional steps we can take to make our business climate even better. Lawmakers must build upon our recent success by setting a goal of becoming a Top 10 state for business. The following legislative agenda provides an aggressive blueprint for policymakers to enact reforms that remove barriers to investment, provide a stable and predictable regulatory environment, and reduce the cost and complexity of operating a business in Wisconsin.

Now more than ever, we must carry our positive momentum forward, and take the steps necessary to thrust Wisconsin into the Top 10 best states for business in the nation.

Sincerely,

Scott Manley
WMC Vice President of Government Relations
Unfortunately, Wisconsin has consistently ranked among the top 10 highest-taxed states in the nation. High taxes create a competitive disadvantage for Wisconsin employers by increasing the cost of doing business here compared to other states. High income and property taxes also reduce the buying power of Wisconsin families, making it more difficult to grow our economy. Lawmakers should focus on reducing the tax burden in Wisconsin to move our state off the list of highest-taxed states in the country. To accomplish this goal, WMC supports the following initiatives:

- **Lower personal and corporate income tax rates.** Repeal the top 7.75 percent individual income tax bracket created in 2009 and reduce the lower brackets. Reduce the 7.9 percent corporate income tax rate to match the revised top individual income tax bracket.

- **Maintain property tax controls.** Continue meaningful limits on school and local government property taxes, while allowing for reasonable increases from new development.

- **Enact tax administration reforms.** Adopt the federal economic substance statute, repeal the additional penalties adopted in 2009 for producing documents, reaffirm that property tax assessments are based on reasonable principles, and allow the state to waive interest and settle based on the ability of taxpayers to pay.

- **Encourage balanced budgeting.** Balance the budget to avoid unsustainable spending and prevent the need for future tax increases. Our state budget should follow generally accepted accounting principles, avoid raids on dedicated funds, and maintain a healthy reserve/budget stabilization fund.

- **Phase out the personal property tax.** Items that can be removed from real estate without affecting it are considered personal property. As this tax imposed on business is difficult to administer and costly to comply with, begin phasing the tax out.

- **Reform the treatment of throwback sales.** Presently the 100 percent sales factor of the apportionment formula is applied to “throwback sales,” which is a tax assessed on sales in states without an income tax. Repeal this burden on Wisconsin firms that succeed at selling in other parts of the country.
Businesses have consistently cited Wisconsin’s costly and onerous regulatory climate as a key factor inhibiting economic growth. In a survey of Wisconsin businesses, 97 percent said our regulations are more expensive than other states, and 72 percent cited Wisconsin’s regulatory burden as a significant factor impacting their ability to retain jobs. Significant rulemaking reforms were enacted to help address this problem in the 2011-2012 session of the Legislature, but additional reforms are needed to ensure Wisconsin businesses do not face a competitive disadvantage in our regulatory environment:

- **Retroactively review and repeal obsolete regulations.** Improve our regulatory environment by reviewing existing administrative rules to repeal or reform obsolete, costly or cumbersome regulations.

- **Harmonize state and federal regulations.** Align Wisconsin employment and environmental regulations with corresponding federal requirements to eliminate the additional cost and complexity of complying with overlapping regulations.

- **Ensure agencies regulate by rule instead of guidance.** Promote a consistent and transparent regulatory environment by holding state agencies accountable to the requirement to regulate through promulgated rules, as opposed to internal policy guidance documents.

- **Require legislative approval of the most costly rules.** Strengthen regulatory checks and balances by requiring the affirmative approval of lawmakers in both houses for any administrative rule expected to cost businesses or local government more than $50 million.

- **Modernize Wisconsin’s election laws.** Most of the laws governing Wisconsin’s political campaign process were established decades ago, and are outdated. Modernize these statutes to reflect changes that occurred during the past 40 years, including protecting the constitutional free speech rights of businesses.
For many years, Wisconsin businesses faced growing litigation costs due to an unfavorable legal climate. The higher costs from litigation hurt our overall competitiveness, and serve as a barrier to investment here. Although significant improvements to our legal climate were enacted in the 2011-2012 session of the Legislature, there are additional steps policymakers can take to promote a fair and transparent legal system for Wisconsin businesses. We urge lawmakers to pursue the following initiatives to build upon recently enacted civil justice and lawsuit reforms:

- **Prevent plaintiffs from recovering phantom damages.** Eliminate the presumption that the amount billed for medical expenses states the reasonable value of health care services and that the services provided are reasonable and necessary. Allow the admission of evidence of collateral source payments and the admission of evidence of the injured person’s obligations or reimbursement resulting from those payments.

- **Enact the Personal Injury Trust Claims Transparency Act.** Provide transparency of claims made against certain bankruptcy trusts in the tort system. Solvent defendants have been unfairly saddled with a larger share of the liability, draining trust funds away from deserving clients.

- **Provide transparency in government contingency contracts.** Require the state to make a written determination that outside representation is cost-effective and in the public good and ensure that government attorneys maintain control of the litigation. The contingency fee contract, payments made under the contract, and the state’s determination on the need for outside counsel would be posted online.

- **Place reasonable limitations on lawsuit lending.** As banking regulations do not apply to third party financing of consumer litigation, create a state regulatory regime governing lawsuit loans.

- **Remove felons as a protected class under the Fair Employment Act.** Allow employers to refuse to employ or to terminate from employment someone convicted of a felony and require uniform enforcement at the state, county, and municipal levels, preempting local governments from treating felons as a protected class.

The higher costs from litigation hurt our overall competitiveness, and serve as a barrier to investment here.
Despite recent trends in above-average levels of unemployment, thousands of jobs remain unfilled. Employers are struggling to find qualified, skilled workers to fill high-wage positions. Our educational systems and other training partners must adequately prepare our students and labor force with the skills and information necessary to secure well-paying jobs. WMC supports the following initiatives to help provide employers with access to a pipeline of skilled works that enables economic growth:

- **Improve links between job opportunities and the workforce.** Develop robust data on workforce and job opportunities, and use data to link the unemployed to available jobs. Use employment opportunity data to drive the investment of workforce training dollars.

- **Enhance workforce training resources.** Include funding for workforce training in state and local economic development incentive portfolios. Rationalize and consolidate the numerous workforce training programs where possible.

- **Encourage technical colleges and UW to focus on training for the workplace.** Use data to identify sectors of greatest need, and enhance occupational information available to students. Use funding incentives to drive programmatic changes, and facilitate credit transfers between technical colleges, UW and the K-12 system.

- **Align the K-12 system with workforce needs.** Focus on STEM, career and tech education, and enhance opportunities for dual enrollment. Simplify youth apprenticeship and youth options programs, and align them with youth employment laws.

- **Expand charter schools options.** Charter schools have greater flexibility to teach in ways that best fit the needs of their students. Expand the law to allow more than just public school districts and certain universities to authorize charter schools.

- **Support communities that want public/private school choice.** Give communities the flexibility to provide parents with educational choices they believe are in the best interest of their children.

- **Encourage schools to establish academic and career plans for all students.** Encourage schools to guide students toward the career path of their choice, including vocational and technical education training.

- **Enhance school district accountability.** Improve evaluations and accountability standards for students, teachers and individual schools, and expand public access to the evaluation data.

- **Develop performance-based compensation systems.** Reward high-performing teachers who improve student achievement, and who make a commitment to professional development.
Wisconsin’s transportation infrastructure is challenged by growing demands for use of the system, inadequate federal funding, and state funding having been siphoned away in the past to support other government spending. Wisconsin businesses rely on transportation infrastructure to move goods either to points of production or to market. The ability of Wisconsin businesses to compete depends on having a reliable and modern transportation network.

- **Fund necessary road improvement projects.** Keep the Zoo Interchange, I-39/90 from Madison to the state line, I-94 from Milwaukee to the state line, US 41 from Appleton to Green Bay, and six other major projects on-time.

- **Maintain adequate port facilities.** Provide appropriate state and federal funding to keep our airports and ports on the Great Lakes and Mississippi open to commercial activity.

- **Enhance Wisconsin’s rail network.** Support the re-establishment of a Milwaukee-area intermodal container facility, as well as developing such facilities in other parts of the state beyond the current Chippewa Falls location. Also, support state acquisition of the rail line into Sauk County so needed repairs can be made and freight rail service preserved for years to come.

- **Identify sustainable transportation revenue streams.** Support efforts to find additional sources of revenue to finance state transportation needs.

- **Ensure efficient use of available transportation resources.** Identify areas where costs can be reduced in the construction or maintenance of state transportation facilities without compromising the safety of the traveling public.

- **Expand broadband access.** To foster economic development and e-commerce, as well as expand educational opportunities, Wisconsin should encourage the deployment of broadband services in underserved areas without providing taxpayer subsidized competition against the private sector.

"The ability of Wisconsin businesses to compete depends on having a reliable and modern transportation network."
Wisconsin employers face an increasingly costly environmental regulatory climate. Many environmental regulations in Wisconsin are more stringent than what is necessary to protect the environment, and more stringent than what is required by other states. In addition, federal regulations on the electric power sector are driving significant increases in the cost of electricity. Wisconsin employers need affordable and reliable energy, and relief from costly and burdensome environmental regulations. The following initiatives will help level the playing field by making Wisconsin’s environmental and energy cost structures more competitive:

- **Enact comprehensive iron mining reform.** Create an iron mining permitting framework with firm timelines, clear permitting requirements, and limited opportunities for delay and litigation, while maintaining a rigorous environmental review process.

- **Align state and federal environmental standards.** Remove the cost and complexity of “Wisconsin only” environmental regulations by aligning state environmental regulations with corresponding federal requirements.

- **Streamline air permitting.** Build upon existing permit streamlining tools by expanding the availability of exemptions for small facilities, and increasing the threshold for registration permits.

- **Repeal the mining moratorium.** Eliminate a huge barrier to mining investment in our state by repealing the arbitrary mining moratorium law.

- **Avoid expensive energy mandates.** Stop the escalation that has made electric rates in Wisconsin among the highest in the Midwest by rejecting the enactment of expensive energy mandates.

- **Hold the line on energy taxes.** Keep costs in check by rejecting efforts to increase the energy tax businesses and homeowners pay each month to pay for state energy efficiency programs.

- **Repeal the moratorium on nuclear energy.** Promote an “all of the above” energy policy by removing our state’s virtual moratorium on new nuclear energy in Wisconsin.
Wisconsin must implement a focused economic development strategy to help position our employers to grow family-supporting jobs. These policies should facilitate investment in Wisconsin companies, and build upon our strength as a leader in technological research. Although government does not create jobs, it can either facilitate or hinder private sector investment. Economic development policy should recognize opportunities for government agencies to incent job creation, and expedite regulatory approval processes. The following policies will help achieve a focused economic development strategy:

- **Establish an effective venture capital program.** Encourage the state to set aside funds to begin a venture capital program that selects a private fund manager to avoid political influence, require the private funds receiving state support to co-invest state funds with private investments, and require the state to retain an equity interest in the investments made by the private funds.

- **Accelerate Technology Transfer.** Work to accelerate the pace of technology transfer from Wisconsin’s public and private universities to harness the economic benefits of academic research and development, and transform that research into useful patents and start-up companies.

- **Establish a pro-jobs culture in government agencies.** Emphasize the importance of customer service in government, and dedicate staff to act as a liaison facilitating regulatory approvals for economic development projects.

- **Utilize economic development electric rates as an incentive.** Target short-term discounts in electric rates as an economic development tool to attract a new employer, or to retain existing jobs by avoiding a plant closure.

- **Reduce timelines for regulatory approvals.** Reduce the time businesses must wait for regulatory permits by shortening deadlines, and utilizing private sector “lean” principles to improve state regulatory processes.
Rising health care costs are one of Wisconsin's top economic, business, and consumer concerns. While federal health care reform guarantees access to care for everyone, it does nothing to address the rising cost of care. Offering health insurance has never been more expensive and burdensome for employers. Wisconsin businesses could realize a competitive advantage if the Legislature adopted and encouraged policies that ultimately lower the cost of care. WMC supports the following initiatives to help contain the cost of health care:

- **Promote consumer-driven health care and access to cost and quality data.** Well-informed health care purchasers create a competitive market based on value. Providing consumers with relevant data will enable them to choose quality providers and facilities, which will ultimately drive down the cost of health care.

- **Repeal or reform the federal Affordable Care Act.** The new federal health insurance law has made it more difficult for employers to offer health care coverage to their employees. Federal reform has increased taxes, fees, and regulatory hurdles. WMC strongly advocated against the enactment of this law, but now to the extent possible, we must ensure that the laws that are implemented preserve consumer choice and Wisconsin’s competitive climate.

- **Avoid mandates that increase insurance costs.** Although often well-intended, health insurance mandates limit flexibility and increase insurance costs. Each proposed health insurance mandate should be evaluated for its cost, benefits, and medical value.

- **Maintain an employer-based system.** It is in everyone's best interest that employers continue to offer health insurance. When businesses can no longer afford to provide coverage, the demand for government health care programs increases. The additional financial burden on state government threatens provider reimbursements and increases taxpayer costs.

"Wisconsin businesses could realize a competitive advantage if the Legislature adopted and encouraged policies that ultimately lower the cost of care."
Wisconsin has enacted employment regulations that go beyond what is required under federal law. This creates the need for employers to comply with two separate regulatory structures, and adds to the cost and complexity of doing business here. This additional layer of state regulation often exposes businesses to increased opportunities for litigation. These factors, along with costly unemployment and workers compensation systems, create a competitive disadvantage for employers. WMC supports the following reform policies to promote less costly and cumbersome employment laws.

• **Reform Wisconsin’s Family and Medical Leave Act (FMLA).** Wisconsin passed its own FMLA in 1988, five years prior to President Clinton signing a federal FMLA into law. A harmonization of the laws never occurred, so many Wisconsin employers face compliance with two separate employment laws for each employee. For example, each law has unique requirements for the number of hours worked needed in the preceding year to qualify for FMLA, substitution of leave, use of intermittent leave, and definition of the calendar year. Exempting employers who must follow federal regulations from the state law would remove the burden of navigating the many differences between the two laws.

• **Reform Wisconsin’s Wage and Hour Laws.** State and federal law vary significantly in a number of important ways for wage and hour requirements. There are differences in what constitutes a white collar exemption, the definition of work time, and obligations for time recordkeeping. By making the laws the same, employers will spend less time and money complying with different requirements, enabling employers to instead invest job growth or training opportunities.

• **Strengthen restrictive covenant protections.** These protections known as “non-compete” clauses protect the intellectual property or proprietary information of employers from misuse by former employees. Wisconsin judges are often forced to invalidate these contracts in their entirety if any portion is deemed inappropriate. Allowing judges to “Blue Pencil” certain provisions from a contract while preserving the remaining clauses will give employers more certainty that their intellectual property is protected.

• **Strengthen cost controls for workers compensation.** Through the Wisconsin Workers Compensation Advisory Council proceedings, WMC advocates for policies that help address the high cost of health care in the workers compensation system. This legislative session management would like to discuss directing care to providers with occupational health backgrounds, requiring medical professionals to have an occupational health background in order to determine disability, and having the Department of Workforce Development update their workers compensation manuals amongst other items.
### BENCHMARKING SUCCESS
Comparing Wisconsin to Highly Competitive States

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1 CEO Magazine 2012 Best States for Business  
2 U.S. Census Bureau  
5 Tax Foundation, 2010 data  
6 Tax Foundation, 2010 data  
7 Tax Foundation, 2010 data  
8 U.S. Department of Energy, 2011 data  
9 U.S. Chamber Institute for Legal Reform  
10 PriceWaterhouse Coopers Money Tree Report, 2011-2012  
11 Forbes 2012 Best States for Businesses  
12 U.S. DHSS data for 2010, based upon family coverage  