Wisconsin Department of Administration
Division of Executive Budget and Finance

Fiscal Estimate - 2009 Session

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number **09-1957/2**	Introduction Number **SB-399**

Description
Authorizing two or more cities, villages, towns, or counties, or a combination of such political subdivisions, to create a commission to issue conduit revenue bonds and exercise eminent domain authority and exempting from taxation interest on such bonds

Fiscal Effect

State:
- ☐ No State Fiscal Effect
- ☐ Indeterminate
  - ☐ Increase Existing Appropriations
  - ☐ Decrease Existing Appropriations
  - ☐ Create New Appropriations
  - ☐ Increase Existing Revenues
  - ☒ Decrease Existing Revenues
  - ☒ Increase Costs - May be possible to absorb within agency's budget ☒ Yes ☐ No
  - ☐ Decrease Costs

Local:
- ☐ No Local Government Costs
- ☒ Indeterminate
  1. ☐ Increase Costs ☐ Permissive ☐ Mandatory
  2. ☐ Decrease Costs ☐ Permissive ☐ Mandatory
  3. ☐ Increase Revenue ☐ Permissive ☐ Mandatory
  4. ☐ Decrease Revenue ☐ Permissive ☐ Mandatory
  5. Types of Local Government Units Affected
     ☒ Towns ☒ Village ☒ Cities
     ☒ Counties ☐ Others
     ☐ School Districts ☐ WTCS Districts

Fund Sources Affected
☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEGS

Affected Ch. 20 Appropriations

Agency/Prepared By	**Authorized Signature**	**Date**
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Fiscal Estimate Narratives

DOR 1/6/2010

LRB Number **09-1957/2**	Introduction Number **SB-399**	Estimate Type **Original**
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Assumptions Used in Arriving at Fiscal Estimate

CURRENT LAW

Current law permits counties and municipalities to issue revenue bonds, which are a type of debt for which interest and principal payments are financed from the revenues earned by the activity financed instead of being repaid through property tax levies. State statutes permit several types of revenue bonds to be issued. One of the most widely used revenue bonds, authorized under sec. 66.0621, permits counties and municipalities to issue revenue bonds to finance a "public utility", defined as any revenue producing facility or enterprise owned by a county or municipality and operated for a public purpose. Some of the other types of revenue bonds that can be issued by local governments include industrial development revenue bonds (sec. 66.1103), harbor improvement bonds (sec. 30.34), municipal mortgage housing assistance bonds(sec. 62.237), special assessment B bonds (sec. 66.0713), city-county building bonds (sec. 66.0925), tax increment financing bonds (sec. 66.1105), housing authority bonds (sec. 66.1201), municipal redevelopment authority bonds (sec. 66.1333), and community development authority bonds (sec. 66.1335).

While interest earned on county and municipal bonds is generally subject to sate income taxes, interest earnings from public housing authority bonds, community development authority bonds, and municipal redevelopment authority bonds is exempt from state income taxation.

PROPOSED LAW

In response to the limitations many states impose on the issuance of revenue bonds by counties and municipalities, the municipal bond industry has created a type of financing device called a "conduit revenue bond". In general, when a county or municipality issues a "conduit revenue bond", it transfers the bond proceeds to a private entity to finance a project that has a public benefit. Because the project has a public benefit, interest on the bonds may be exempt from federal income taxes, thereby permitting the private entity to borrow at a lower rate of interest. The private entity which received the bond proceeds is solely responsible for making the interest and principal payments on the bonds. The county or municipality acts as the "conduit" between the private entity and bond purchasers.

Under the bill, "conduit revenue bonds" would be explicitly permitted in Wisconsin. While an individual local government would not be granted the authority to directly issue "conduit revenue bonds", such bonds could be issued by a "commission". A "commission" can be formed by contract between two or more "political subdivisions" located in any state, but at least one "political subdivision" must be a Wisconsin town, village, city, or county. Before a contract to form a "commission" can go into effect, the contract must be submitted to the Attorney General for review, who has 90 days to respond in writing if the contract fails to meet legal requirements. If the Attorney General does not disapprove the agreement after 90 days, the contract is deemed approved.

The bill limits the types of "projects" for which a "commission" can issue "conduit revenue bonds" to the following: (1) capital improvements, (2) investment or program of investment, (3) purchase of receivables, property, assets, commodities, bonds or other revenue streams or related assets, (4) working capital program, or (5) liability or other insurance program. The "commission" can advance funds to any public or private entity, including a federally recognized Indian tribe or band, for any qualifying "project" owned, sponsored, or controlled by the public or private entity. The "project" need not be located in Wisconsin.

A "commission" may not issue a "conduit revenue bond" unless authorized by a bond resolution. A "conduit revenue bond" must mature no later than 50 years after the date of issuance. The bonds can carry either a fixed or variable rate of interest. The bonds are repayable solely from the income generated from the "project" financed from the bond proceeds. The "commission", its member governments, and the persons serving on the "commission" are not liable for repaying the bonds if a project generates insufficient revenue. Like other county and municipal revenue bonds, the amount of any "conduit revenue bond" would not be included when determining whether a county or municipality has exceeded its debt limit (5% of equalized value).

The bill grants a "commission" eminent domain authority.

In addition, the bill exempts interest on "conduit revenue bonds" from state income taxes.

STATE FISCAL EFFECT

The bill could lead to a reduction in collections from the personal income tax and the corporate income tax. The amount of this reduction would depend on (1) the amount of "conduit revenue bonds" that could be issued for new projects, including projects that would otherwise have been financed under existing state law; (2) the extent to which existing revenue bonds could be refinanced with "conduit revenue bonds"; and (3) the extent to which these bonds would be owned by persons or corporations subject to Wisconsin taxation.

The experience of other states that permit "conduit revenue bonds" suggests that such bonds are a popular way of financing "projects". For example, of the $2.63 billion in debt issued by sub-state governments in the State of Oregon in 2008, almost $816 million, or about 31%, were "conduit revenue bonds". Based on data from annual financial report forms filed by municipalities and counties with the Department of Revenue (DOR) for 2007, about $1.56 billion in long-term debt was issued. (This amount is probably understated since some local development authorities are not considered as part of the municipal or county government for financial reporting purposes.) Thus, if Wisconsin had used "conduit revenue bonds" at the same rate as used in Oregon, about $482 million of such bonds would have been issued in 2007. The actual amount of "conduit revenue bonds" that could be issued by Wisconsin-based "commissions" has the potential to be higher than the experience of Oregon because, unlike the bill, other states usually require that (1) the financed "project" be locate within the state, (2) the "project" be one that qualifies for exemption from federal income taxes, and (3) the members of any entity issuing these bonds must all come from within the state.

By exempting the interest on "conduit revenue bonds" from state income taxes, local governments that have already issued long-term revenue bonds may find it tempting to refinance these bonds through the issuance of "conduit revenue bonds". Data from the municipal financial reporting forms filed with DOR for 2007 suggest that there was about $2.97 billion of long-term revenue bonds in existence. The extent to which refinancing could occur would depend on the interest savings under a "conduit revenue bond" refinancing "project".

The exemption of "conduit revenue bond" interest from state personal income taxes, corporate income taxes, and insurance company taxation would only affect those persons and companies that are subject to Wisconsin income taxes. Although the exemption from state income taxes will make the bonds more marketable to state taxpayers, the potential market (especially if the bonds also qualify for exemption from federal income taxes) is nationwide. The DOR does not have data to permit a reasonable projection of the percentage of "conduit revenue bonds" issued by a Wisconsin-based "commission" that could be sold to out-of-state persons and corporations.

Based on the above, it is not possible to reasonably estimate the loss in state individual and corporate income taxes that the bill could engender. Data for the 2007 tax year indicates that about $40 million individual income taxes were generated from state and local bond interest income. Thus, to the extent that existing debt is refinance with "conduit revenue bonds", there is a potential for this $40 million to decline over time. To the extent that local governments choose to issue new debt as "conduit revenue bonds" instead of under current laws, the loss in state income taxes is likely to increase over time.

LOCAL FISCAL EFFECT

The bill has no effect on local government taxes. To the extent that a "project" involves real or personal property, current laws on the taxability of such property apply. Since the governmental entities that establish a "commission" are not liable if the "project" generates insufficient revenue to repay the "conduit revenue bonds", the bill has no effect on property taxes.

The bill could reduce local government costs to the extent that they can, as a result of the state income tax exemption created under the bill, finance "projects" at a lower rate of interest compared to current law.

Long-Range Fiscal Implications

Wisconsin Department of Administration
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Fiscal Estimate Worksheet - 2009 Session

Detailed Estimate of Annual Fiscal Effect

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I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	**Annualized Fiscal Impact on funds from:**	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	$	$
(FTE Position Changes)		
State Operations - Other Costs		
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	**$**	**$**
B. State Costs by Source of Funds		
GPR		
FED		
PRO/PRS		
SEG/SEG-S		

III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)		
	Increased Rev	Decreased Rev
GPR Taxes	$	$
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
TOTAL State Revenues	**$**	**$**

NET ANNUALIZED FISCAL IMPACT		
	State	Local
NET CHANGE IN COSTS	$	$see text
NET CHANGE IN REVENUE	$see text	$

Agency/Prepared By	**Authorized Signature**	**Date**
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