



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1310/P1
MES:wlj:jf

DOA:.....Gauger, BB0416 – Conduit revenue bonds commission; WHEDA approval process

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

LOCAL GOVERNMENT

Current law authorizes two or more political subdivisions to enter into an agreement to create a commission to issue a type of municipal bonds referred to as conduit bonds. Generally, conduit bonds (bonds) are issued by a unit of government in a transaction under which the proceeds of the bond sale are transferred to a private entity (the borrower) that must be qualified under federal law. The borrower uses the proceeds to finance a project that has a public benefit as authorized under state or federal law. In effect, the unit of government serves as a conduit between the borrower and the bond purchaser. Generally, the borrower pays a lower interest rate on the bond proceeds than it would have paid if it had borrowed the money on the open market because the bonds issued by a unit of government may be exempt from federal or state taxation.

Also under current law, only one commission may be created in the state; that commission currently exists and was created using the current law procedures for intergovernmental or interstate cooperation agreements. A commission is a unit of government and a body corporate and politic that is separate from the creating political subdivisions and from the state. A political subdivision is any city, village, town, or county in this state or any city, village, town, county, district, authority, agency, commission, or similar governmental entity in another state. A political

subdivision that is a party to an agreement is considered to be a member of the commission. Before an agreement may take effect, the attorney general must approve it.

Current law grants the commission all of the powers that are necessary or convenient for it to carry out its statutorily authorized purposes. Primarily, the commission may issue bonds or refunding bonds to finance or refinance a project, which is defined as any capital improvement, investment or program of investment, purchase of receivables, property, assets, commodities, bonds or other revenue streams or related assets, working capital program, or liability or other insurance program, located within or outside of this state.

Currently, before the commission may issue any bonds on certain economic development or housing projects, the commission must receive written approval from WHEDA. This bill repeals the provision requiring the commission to receive this permission. The bill also makes technical and definitional changes, including changing the definition of "bond" to include a bond acquired by the commission, not just issued or entered into by the commission, and clarifying that a project may be located outside of the United States under certain circumstances.

For further information see the *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:

SECTION 1. 66.0304 (1) (b) of the statutes is amended to read:

66.0304 (1) (b) "Bond" means any bond, note, or other obligation of a commission issued, acquired, or entered into by a commission under this section, including any refunding bond or certificate of participation or lease-purchase, installment sale, or other financing agreement.

SECTION 2. 66.0304 (4) (p) of the statutes is amended to read:

66.0304 (4) (p) Purchase bonds issued by or on behalf of, or held by, any participant, ~~the~~ any state or a department, authority, or agency of the state, or any political subdivision. Bonds purchased under this paragraph may be held by the commission or sold, in whole or in part, separately or together with other bonds issued by the commission.

****NOTE: Your instructions state that this change is needed to make clear that bonds acquired by a commission "may have been issued by any public entity, not just

Wisconsin entities.” This change may have no legal effect because the current law definition of “political subdivision” in s. 66.0304 (1) (f) already applies to governmental entities in other states. Changing “the state” to “any state” may have some legal effect, but it’s likely that another state would act through an agency, commission, or other similar governmental entity that is already covered by current law. Consequently, I really don’t think this paragraph needs to be amended.

***NOTE: I have not amended the definition of “political subdivision” as requested in your instructions because, as pointed out in the above NOTE, that definition already includes governmental entities in other states.

SECTION 3. 66.0304 (11) (bm) of the statutes is created to read:

66.0304 (11) (bm) A project may be located outside of the United States or outside a territory of the United States if the borrower, including a co-borrower, of proceeds of bonds issued to finance or refinance the project in whole or in part is incorporated and has its principal place of business in the United States or a territory of the United States. To the extent that this paragraph applies to a borrower, it also applies to a participant if the participant is a nongovernmental entity.

***NOTE: I put this provision in sub. (11) instead of in the definition of “project” because it is more of a substantive provision than a definition. It seems like a limitation, though, because the definition of “project” says that it can be located “within or outside of this state.” There’s currently no limitation as to what “outside this state” means. Is it your intent to limit a project in this way?

***NOTE: Your pre-drafted language for this provision says “provided **the participant** or a borrower... is incorporated and has its principal place of business in the US.” Because “participant” includes governmental entities, it seems odd for the provision to refer to a governmental entity that has its principal place of business in the US. As drafted, does this paragraph meet your intent?

SECTION 4. 66.0304 (11) (e) of the statutes is repealed.

(END)