



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2009 Wisconsin Act 205
[2009 Senate Bill 399]

**Conduit Revenue Bonding
Commission**

Conduit Revenue Bonding Commission Creation and Powers

Generally, *2009 Wisconsin Act 205* (hereinafter, “the Act”) authorizes two or more political subdivisions to enter into an agreement to create a commission to issue conduit revenue bonds. A commission created under the Act would be a separate unit of government, with all the powers necessary and convenient to carry out the purposes and provisions prescribed by the Act.

The Act also enumerates the list of powers given to a commission in addition to the general authority to issue conduit revenue bonds. Included in the list of powers given to the commission is the authority to exercise eminent domain and condemn property.

Before any commission formation agreement may take effect, a proposed agreement shall be submitted and reviewed by the Attorney General. The agreements shall be approved unless the agreement is found to not comply with the state law created by the Act. The Attorney General shall also transmit a copy of the agreement to the Governor, who may consult with any state department or agency when reviewing the commission formation agreement. The Governor shall then forward to the Attorney General any comments the Governor may have concerning the agreement. Additionally, any amendment to the formation agreement, which adds a member to the commission, shall be approved by the Attorney General.

Only one commission may be created under the Act. In order to be created, the commission must submit its formation agreement to the Attorney General before the first day of the fifth month after the effective date of the Act. If more than one formation agreement is submitted to the Attorney General within this time frame, then preference must be given to the agreement that demonstrates support from at least one statewide organization located in Wisconsin, which represents the interests of political subdivisions and has political subdivisions among its membership.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.state.wi.us/>.

Commission Board of Directors

The Act specifies that, at the time of its creation, all members of a commission shall be a political subdivision of the state. Following creation, a political subdivision located in another state may be a member of the commission. At all times, a majority of the board members shall be public officials or current or former employees of a Wisconsin political subdivision.

Commission Auditing Requirements

Under the Act, a commission shall maintain an accounting system in accordance with generally accepted accounting principals. Annually, the commission shall have its financial statements and debt covenants audited by an independent certified public accountant. The commission may, however, decide by a unanimous vote to have an audit performed every two years instead. A copy of the commission's audit, along with its annual budget, shall be sent to each political subdivision that is party to the agreement that created the commission. A copy of the audit and budget shall also be filed with the Department of Administration and the Legislative Audit Bureau.

Bond Issuance Procedures

Under the Act, a commission is designed to act as a "conduit" for a developer to obtain bonding. Bonds issued by a commission are not public debt. Unless otherwise expressly provided in the bond resolution, bonds issued by a commission are payable solely from revenues derived by the project to be financed or from a contract entered into in connection with the bonds and pledged to the payment of the bonds. The bonds issued by a commission are not debts of either the state or one of the political subdivisions creating the commission, and neither would be obligated to levy a tax or make an appropriation for the repayment of the bonds.

Whenever a commission issues a bond, the commission shall notify the Department of Revenue. The commission shall also disclose to any bond purchaser that the interest received on the bond may be exempt from taxation, as described below.

Generally, for projects relating to health facilities, economic development, or housing, the commission must receive written approval from the Wisconsin Health and Educational Facilities Authority (WHEFA) or the Wisconsin Housing and Economic Development Authority (WHEDA).

Before a commission may authorize a bond to finance capital improvement projects in Wisconsin, *all* political subdivisions within whose boundaries the project is to be located must approve the financing of the project. Outside the state, a commission may not authorize bonds to finance projects unless a political subdivision where the project is located has approved the financing.

Limitations on the Tax Exemption of Bond Interest

Under the Act, interest on bonds issued by a commission is exempt from state income taxation if any of the following apply:

- The bonds could have been issued by WHEDA and are used to fund multi-family affordable housing or elderly housing projects.

- The bonds could have been issued by WHEFA and are used by a health facility to fund the acquisition of information technology hardware or software.
- The bonds could have been issued under s. 66.1201, 66.1333, or 66.1335, Stats., relating to: housing authorities, blight and slum clearance, and housing and community development authorities, respectively.

Effective date: 2009 Wisconsin Act 205 takes effect on May 6, 2010.

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