

1983 Assembly Bill 104

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1983 Wisconsin Act 3

AN ACT to renumber 20.002 (11) (c) to (e); to amend chapter 18 (title), 13.09 (4), 16.53 (10) (a) and (b), 16.53 (10) (d), 16.53 (11) and 20.002 (11) (a) and (b); and to create subchapter III of chapter 18, 16.405, 16.531, 20.855 (4) (dj), (dk) and (qj), 79.10 (1m) and 227.01 (11) (h) of the statutes, relating to state cash flow, authorization to incur financial obligations and issue operating notes, reallocation of state moneys, delayed state payments to local governments, state claim proration and payment schedules and making appropriations.

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

SECTION 1. 13.09 (4) of the statutes is amended to read:

13.09 (4) The joint committee on finance shall receive reports submitted under ss. 13.095, 13.105 (intro.), 13.106 (1) (intro.) and (2), 13.94 (1) (a) and (b), 14.27 (3), 16.004 (2) and (7) (b), 16.04 (1) (d), 16.40 (14), (15) and (16), 16.50 (3), 16.531 (3), 16.54 (5) and (8), 16.82 (4) (c), 16.97 (3), 20.002 (10), 20.235 (1) (g), 20.505 (5) (a), 23.31 (1), 35.03 (6), 36.25 (16) (c), 38.06 (3) (c), 39.16 (2) (im), 39.377 (3), 46.03 (18) (a), (24) and (26) (intro.), 49.45 (2) (a) 8 and 16 and (b) 2, 51.42 (10) (f), 51.437 (14) (f), 115.781, 230.08 (4) (c), 232.15 (1) and (2), 234.25 (1) and 560.11 (2) (b) 2 and (4).

SECTION 2. 16.405 of the statutes is created to read:

16.405 Requests for issuance of operating notes. (1) At any time the department determines that a deficiency will occur in the funds of the state which will not permit the state to meet its operating obligations in a timely manner, it may request the issuance of operating notes under subch. III of ch. 18.

(2) Requests of the department under sub. (1) shall be signed by the secretary and the governor, and approved by the joint committee on finance, and shall include an agreement to maintain an accounting of those moneys in the process of collection by the state to be pledged for the repayment of the requested operating notes in such manner as required in a resolution authorizing the issuance of operating notes.

(3) This section does not apply on or after the effective date of the 1985 biennial budget act.

SECTION 3. 16.53 (10) (a) and (b) of the statutes are amended to read:

16.53 (10) (a) If an emergency arises which requires the department to draw vouchers for payments which will be in excess of available ~~funds~~ moneys in any state fund, the secretary, in consultation with the state treasurer, and after notifying the joint committee on finance under par. (b), may prorate and establish priority schedules for all payments within each fund, including those payments for which a specific payment date is provided by statute, except as otherwise provided in this paragraph. The secretary shall draw all vouchers according to the following preference provided in this paragraph. All direct or indirect payments of principal or interest on state bonds and notes issued under subch. I of ch. 18 have first priority and. All direct or indirect payments of principal or interest on state notes issued under subch. III of ch. 18 have 2nd priority. No payment having a 1st or 2nd priority may not be prorated or reduced under this subsection. All state employe payrolls shall have 2nd 3rd priority. Before the effective date of the 1985 biennial budget act, the secretary shall draw all remaining vouchers according to a priority determined by the secretary. Commencing on the effective date of the 1985 biennial budget act, the secretary shall draw all remaining vouchers according to the following preference. All payments to local units of government which are required by statute to be made on a specific date and all aid payments to individuals have ~~3rd~~ 4th priority. All remaining payments have ~~4th~~ 5th priority. The secretary shall maintain records of all claims prorated under this subsection and shall provide written notice to the state treasurer when a potential cash flow emergency is anticipated.

(b) Whenever the secretary proposes to exercise his or her authority under par. (a), he or she shall, after consultation with the state treasurer, notify the joint committee on finance as to the need for any proration or prioritization and the procedures under which such proration or prioritization shall occur. If, within 2 working days after such notification, the joint committee on finance has not, within 2 working days after such notification, scheduled a meeting to review the secretary's proposal, the secretary may proceed with the proposed action. If the committee schedules a meeting within 2 working days after such notification, the secretary may not proceed with the proposed action until after the meeting is held.

SECTION 4. 16.53 (10) (d) of the statutes is amended to read:

16.53 (10) (d) Any Commencing on the effective date of the 1985 biennial budget act, any proration or priority payment schedule action taken by the secretary, as identified to the joint committee on finance, shall be effective for no more than a total 30 days in any 6-month period.

SECTION 5. 16.53 (11) of the statutes is amended to read:

16.53 (11) INTEREST ON DELAYED PAYMENTS. Payments prorated or delayed under sub. (10) which are payable to local units of government shall accrue interest on the payment delay at the a rate equal to the average weekly auction rate for 90-day U.S. treasury bills for each week or portion thereof for which the delay is in effect, or the prior quarter's state investment fund earnings compounded daily, whichever rate is higher rate during

the period of the payment delay. In this subsection, "local unit of government" means a county, city, village, town, school district, vocational, technical and adult education district or any other governmental entity which is entitled to receive aid payments from this state.

SECTION 6. 16.531 of the statutes is created to read:

16.531 Cash flow plan; report. (1) At least 15 days prior to the beginning of any calendar quarter in which the secretary anticipates that it may be necessary to exercise the authority conferred in s. 16.53 (10) (a) or 20.002 (11) (a) or to incur financial obligations and issue operating notes under subch. III of ch. 18, the secretary shall submit a plan to the joint committee on finance describing the specific nature of any proposed action that may be required.

(2) If the secretary determines during any calendar quarter that action under s. 16.53 (10) (a) or 20.002 (11) or subch. III of ch. 18 should be taken that is different from the action specified in the plan submitted under sub. (1), the secretary shall provide notice to the joint committee on finance of the specific nature of any such action that may be required. If the joint committee on finance has not, within 2 working days after such notification, scheduled a meeting to review the secretary's proposal, the secretary may proceed with the proposed action. If, within 2 working days after such notification, the committee schedules a meeting, the secretary may not proceed with the proposed action until after the meeting is held.

(3) Within 30 days after the end of each calendar quarter during which the secretary exercises the authority conferred in s. 16.53 (10) (a), during which there is any outstanding reallocation of moneys under s. 20.002 (11) (a) or during which there are any outstanding operating notes issued under subch. III of ch. 18, the secretary shall submit to the joint committee on finance a report on the status of all such matters, together with an assessment of the degree to which the secretary anticipates that state funds and accounts will have sufficient revenues to meet anticipated obligations during the 6-month period following the calendar quarter for which the report is issued.

SECTION 7. Chapter 18 (title) of the statutes is amended to read:

CHAPTER 18

PUBLIC STATE DEBT; REVENUE OBLIGATIONS AND OPERATING NOTES

SECTION 8. Subchapter III of chapter 18 of the statutes is created to read:

CHAPTER 18

SUBCHAPTER III
OPERATING NOTES

18.70 Provisions applicable. The following sections apply to this subchapter, except that all references to "public debt", "debt" or "revenue obligation" are deemed to refer to "operating notes", all references to "evidence of indebtedness" are deemed to refer to "evidence of operating note", and all references to "evidences of indebtedness" are deemed to refer to "evidences of operating notes": 18.03, 18.07, 18.10 (1), (2), (4) to (9) and (11), 18.17, 18.52 (1), 18.58 (2), 18.61 (1), 18.62 and 18.63.

18.71 Definitions. In this subchapter, unless the context requires otherwise:

- (1) "Commission" means the state building commission.
- (2) "Department" means the department of administration.
- (3) "Evidence of operating note" means a written promise to pay an operating note.
- (4) "Operating note" means every undertaking of the state to repay a certain amount of a financial obligation which is:

(a) Created for the purpose of funding operating deficits of the state as determined under s. 16.504 (1), which must be repaid prior to the end of the fiscal year next following;

(b) Payable from and secured solely by revenues pledged by the commission and the department pursuant to the authorizing resolution provided that all such pledged revenues must first be available for the payment of public debt; and

(c) Not public debt under s. 18.01 (4) nor a revenue obligation under s. 18.52 (5).

(5) "Public debt" or "debt" means every voluntary, unconditional undertaking by the state to repay a certain amount of borrowed money:

(a) Out of the state treasury, except a loan or advance by any state agency or fund to any other state agency or fund; or

(b) For which any existing asset of the state is pledged, except the pledge of an outstanding evidence of indebtedness without recourse.

18.72 Purposes of operating notes. (1) The commission may authorize financial obligations to be incurred and evidences of operating notes to be issued therefor in an amount sufficient to fund or refund the whole or any part of any operating note issued under this subchapter. However, no operating notes originally issued in a fiscal year may be funded or refunded by proceeds of an operating note to mature in a later fiscal year.

(2) The commission may authorize financial obligations to be incurred and evidences of operating notes to be issued therefor to fund operating deficits as moneys are required. The requirements for moneys shall be established by the department.

(3) Each purpose specified in subs. (1) and (2) may include the expenses of issuance of the operating notes and reserves securing the operating notes.

(4) No operating note issued under this section may have a maturity date later than the effective date of the 1985 biennial budget act.

18.73 Procedures. (1) **AUTHORIZING RESOLUTION.** No financial obligations may be incurred under this subchapter or any evidence of operating notes issued by the state except pursuant to an authorizing resolution of the commission. Each authorizing resolution shall state each purpose of the operating notes it authorizes, which need not be more specific but may not be more general than those purposes provided in or pursuant to law, and the maximum principal amount of the operating notes. The operating notes may be designated by any name as determined by the commission. No authorizing resolution may be adopted on or after the effective date of the 1985 biennial budget act.

(2) **SALE.** Operating notes may be sold at either public or private sale. The commission may provide in an authorizing resolution for the refunding of operating notes, for their exchange privately, in payment and discharge of any of the outstanding operating notes being refunded. All operating notes sold at public sale shall be noticed as provided in the authorizing resolution. Any bids received at public sale may be rejected.

(3) **MINIMUM ISSUANCE PRICE.** No operating note may be sold for less than 95% of par value plus accrued interest to the date of delivery.

(4) **EXERCISE OF AUTHORITY.** Financial obligations may be incurred and evidences of operating notes issued therefor pursuant to one or more authorizing resolutions, unless otherwise provided in the resolution or in this subchapter, at any time and from time to time, for any combination of purposes, in any specific amounts, at any rates of interest, for any term, payable at any intervals, at any place, in any manner and having any other terms or conditions deemed necessary or useful. Unless sooner exercised or unless a shorter period is provided in the resolution, every authorizing resolution shall expire 3 months after the date of its adoption or on the effective date of the 1985 biennial budget act, whichever is earlier.

18.74 Application of operating note proceeds. All moneys resulting from the contracting of operating notes shall be credited to the general fund, except that moneys which represent premium and accrued interest on operating notes, or moneys for purposes of funding or refunding operating notes pursuant to s. 18.72 (1) shall be credited to the operating note redemption fund.

18.75 Operating note redemption fund. (1) When operating notes are authorized, there shall be established in the state treasury or with a trustee if so required in the authorizing resolution, an operating note redemption fund separate and distinct from every other fund, which may contain separate and distinct accounts for each particular operating note issue.

(2) The operating note redemption fund shall be expended and all moneys from time to time on hand therein are irrevocably appropriated, in sums sufficient, only for the payment of principal and interest on operating notes giving rise to it and premium, if any, due upon refunding or early redemption of such operating notes.

(3) Moneys of the operating note redemption fund may be commingled only for the purpose of investment with other public funds, but they may be invested only as provided in the authorizing resolution. All such reinvestments shall be the exclusive property of such fund and all earnings on or income from such investments shall be used in meeting principal and interest payments on operating notes issued.

(4) There shall be transferred, under s. 20.855 (4) (dj), a sum sufficient for the payment of the principal, interest and premium due, if any, on the operating notes giving rise to it as the same falls due. Such transfers shall be so timed that there is at all times on hand in the fund an amount not less than the amount to be paid out of it during the ensuing 30 days or such other period if so provided for in the authorizing resolution. The commission may pledge the deposit of additional amounts at periodic intervals and the secretary of the department may impound moneys of the general fund, including moneys temporarily reallocated from other funds under s. 20.002 (11), in accordance with the pledge of revenues in the authorizing resolution, and all such impoundments are deemed to be payments for purposes of s. 16.53 (10), but no such impoundment may be made until the amounts to be paid into the bond security and redemption fund under s. 18.09 during the ensuing 30 days have been deposited in the bond security and redemption fund.

18.76 Suits against the state. (1) **IN GENERAL.** This section governs all civil claims, suits, proceedings and actions respecting operating notes notwithstanding any contrary provision of the statutes.

(2) **TO RECOVER AN OPERATING NOTE.** If the state fails to pay any operating note in accordance with its terms, an action to compel such payment may be commenced against the state in accordance with s. 801.02. The plaintiff shall serve an authenticated copy of the summons and complaint on the attorney general by leaving the copies at the attorney general's office in the capitol with an assistant or clerk. The place of trial of such an action shall be as provided in s. 801.50 (9).

(3) **JUDGMENT.** Sections 16.007 and 775.01 do not apply to such claims for payment of operating notes. If there is final judgment against the state in such an action, it shall be paid as provided in s. 775.04 together with interest thereon at the rate of 10% per year from the date the payment was judged to have been due until the date of payment of the judgment.

SECTION 9. 20.002 (11) (a) and (b) of the statutes are amended to read:

20.002 (11) (a) All appropriations, special accounts and fund balances within the general fund or any segregated fund may be made temporarily available ~~until the end of the fiscal year~~ for the purpose of allowing encumbrances or financing expenditures of other general or segregated fund activities which do not have sufficient moneys in the accounts from which they are financed but have accounts receivable balances or moneys anticipated to be received from tax revenues, gifts, grants, fees, sales of service, or interest earnings ~~before the close of the fiscal year~~ recorded under s. 16.52 (2). The secretary of administration shall determine the composition and allowability of the accounts receivable balances and anticipated moneys to be received for this purpose in accordance with s. 20.903 (2) and shall specifically approve the use of surplus moneys from the gen-

eral or segregated funds after consultation with the appropriate state agency head for use by specified accounts or programs.

(b) The During the period commencing on the effective date of this paragraph (1983) and ending on the day before the effective date of the 1985 biennial budget act, the secretary shall limit the amount of any temporary reallocation to \$400,000,000. On or after the effective date of the 1985 biennial budget act, the secretary of administration shall limit the amount of any temporary reallocation to \$200,000,000 and, on or after that date, shall reverse the reallocation shall be reversed as soon as balances allow or within 90 days or by the close of the fiscal year, whichever is earlier.

(c) The secretary may assess a special interest charge against the programs or activities utilizing surplus moneys within the same fund under this subsection in an amount not to exceed the daily interest earnings rate of the state investment fund during the period of transfer of surplus moneys to other accounts or programs. The secretary shall assess a special interest charge against the fund utilizing surplus moneys under this subsection in an amount equal to the rate of return the state investment fund earnings would have created to the fund from which the reallocation was made. This interest shall be calculated and credited to the appropriate fund at the same time the earnings from the state investment fund are distributed and shall be considered an adjustment to those earnings.

SECTION 10. 20.002 (11) (c) to (e) of the statutes are renumbered 20.002 (11) (d) to (f), respectively.

SECTION 11. 20.855 (4) (dj), (dk) and (qj) of the statutes are created to read:

20.855 (4) (dj) *Obligation on operating notes.* A sum sufficient to pay principal, interest and premium, if any, due on operating notes, including amounts due on periodic payments, pursuant to resolutions authorizing the issuance of the operating notes under s. 18.73 (1).

(dk) *Operating note expenses.* A sum sufficient to pay for the expenses of issuing operating notes and reserves securing such notes issued under subch. III of ch. 18.

(qj) *Redemption of operating notes.* From the operating note redemption fund, a sum sufficient to pay principal, interest and premium, if any, due on operating notes issued under subch. III of ch. 18.

SECTION 12. 79.10 (1m) of the statutes is created to read:

79.10 (1m) **DELAYED PAYMENTS.** If a municipality receives a payment under this section that, under s. 16.53, is made after the date specified in this section, that municipality shall as soon as possible distribute to each taxing district for which the municipality collects taxes that district's share of the payment and of the interest in respect to that payment.

SECTION 13. 227.01 (11) (h) of the statutes is created to read:

227.01 (11) (h) Prorates or establishes priority schedules for state payments under s. 16.53 (10) (a) or temporarily reallocates state moneys under s. 20.002 (11).

SECTION 13g. **Nonstatutory provisions; trust fund reallocations.** Nothing in section 20.002 (11) of the statutes, as affected by this act, may be construed to authorize any reallocation of moneys to be made from any trust fund authorized under chapter 40 of the statutes.

SECTION 14. **Initial applicability.** Section 16.531 (1) and (2) of the statutes, as created by this act, first applies to the 2nd calendar quarter of 1983. Section 16.531 (3) of the statutes, as created by this act, first applies to the first calendar quarter of 1983.

SECTION 15. **Program responsibility changes.** In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

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WisACT 3

(1) ADMINISTRATION.

A
Statute Sections
15.101 (intro.)

B
References Deleted
none

C
References Inserted
18.72 (2)
18.75 (4)

(2) GOVERNOR.

A
Statute Sections
14.011 (intro.)

B
References Deleted
none

C
References Inserted
16.405 (2)
