

1999 DRAFTING REQUEST

Bill

Received: **03/17/99**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Ziegelbauer (608) 266-0315**

By/Representing: **Tom Kelly**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Counties
Employ Pub - retirement**

Extra Copies: **RAC**

Pre Topic:

No specific pre topic given

Topic:

Authorize counties to borrow money to pay off unfunded pension debt.

Instructions:

See attached. Based on 1997 LRB -3355/1. Allow counties to borrow "general obligation" funds to pay off prior unfunded service liabilities to WRS

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	shoveme 04/7/99	jgeller 04/7/99	jfrantze 04/7/99	_____	lrb_docadmin 04/7/99	lrb_docadminS&L 05/3/99	

FE Sent For (05/3/99)
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<END>

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/ 1 MES 4/7/99							

FE Sent For:

<END>

LEGISLATIVE REFERENCE BUREAU**BILL REQUEST FORM**

Legal Section, 5th Floor, 100 N. Hamilton St.
 (608) 266-3561

Use of this form is optional. It is often helpful to talk directly with the LRB attorney who will draft the bill.
 Use this form only for **BILL** drafts. Attach more pages if necessary.

Date of request: March 11, 1999	Legislator or agency requesting this draft: Rep. Ziegelbauer
Name/phone number of person submitting request: Tom Kelly / 6-0315	
Persons to contact for questions about this draft (names and phone numbers please): Tom Kelly / 6-0315	
Describe the problem, including any helpful examples. How do you want to solve the problem? According to the Leg. Encl, counties may not borrow "general obligation" funds for the purpose of paying off its prior unfunded service liabilities to the Wisconsin Retirement System. Rep. Ziegelbauer would like to introduce a bill to change this to allow counties borrow money at a lower interest rate.	
If you know of any statute sections that might be affected, please list them or provide a marked (not re-typed) copy. Section 67.04(5)(a), Stats. Section 67.12(12)(a), Stats.	

Please attach a copy of any correspondence or material that may help us. You may also attach a marked (not re-typed) copy of any LRB draft, or provide its number (e.g., 1997 LRB-2345/1 or 1995 AB-67):

Requests are confidential unless stated otherwise.

May we tell others that we are working on this for you? YES NO

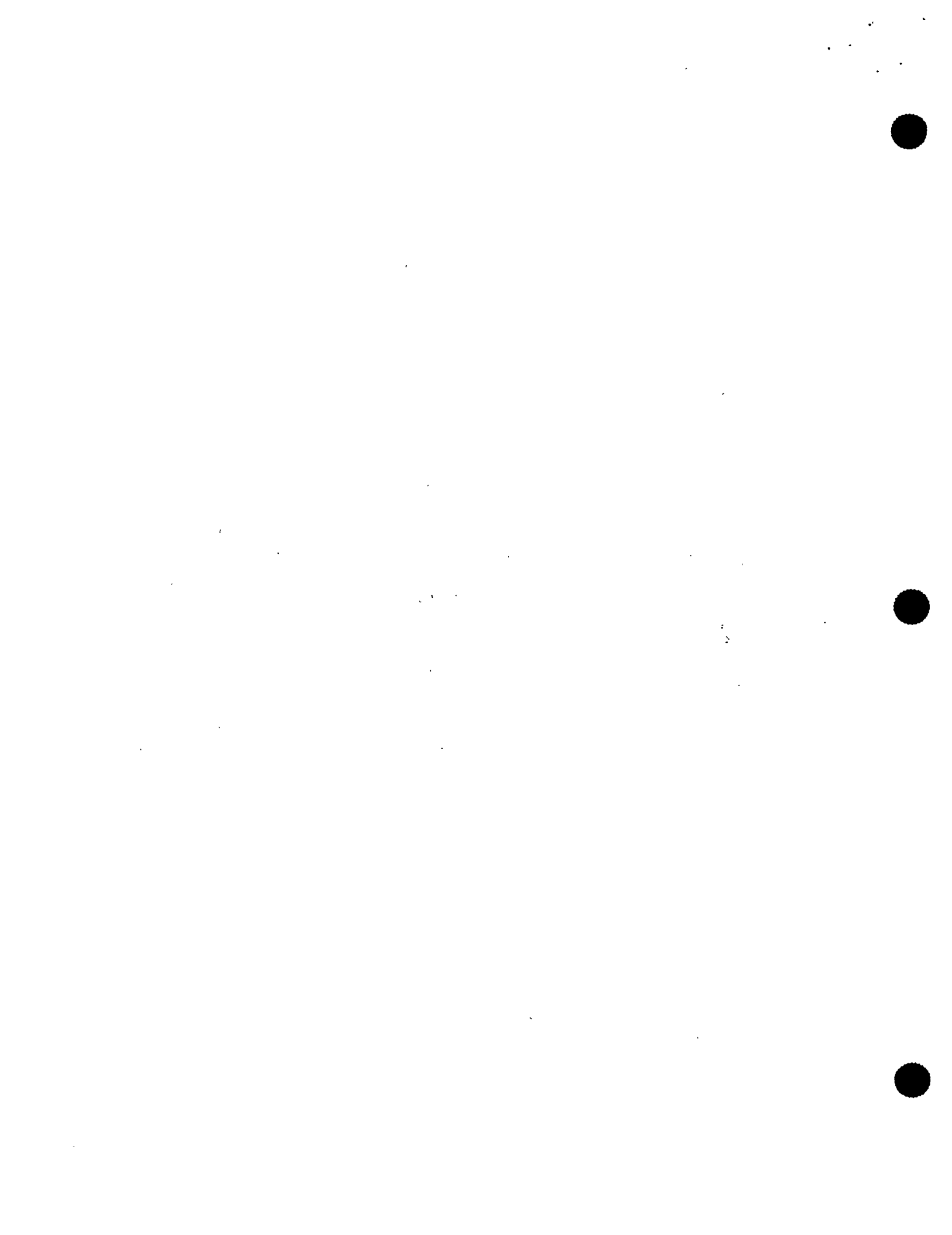
If yes, anyone who asks? YES NO

Any legislator? YES NO ONLY the following persons:

Do you consider this urgent? YES NO If yes, please indicate why:

Is this request of higher priority than other pending request(s) you have made?

YES NO If yes, please sign your name here:





WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536

Telephone: (608) 266-1304

Fax: (608) 266-3830

Email: leg.council@legis.state.wi.us

DATE: March 9, 1999

TO: REPRESENTATIVE ROBERT ZIEGELBAUER

FROM: Gordon A. Anderson, Senior Staff Attorney

SUBJECT: Your Inquiry Regarding Borrowing for Repayment of Unfunded Liabilities
With the Wisconsin Retirement System

This memorandum is in response to your request regarding information whether a county may borrow "general obligation" funds for the purpose of paying off its prior unfunded service liabilities to the Wisconsin Retirement System (WRS). It appears that under current law, a county may not.

A. DISCUSSION

1. Borrowing

Borrowing is governed by provisions of ch. 67, Stats. Under s. 67.01 (5), Stats., a county is a "municipality."

Under s. 67.03, Stats., a grant of the power to borrow is given to municipalities. It provides in pertinent part:

Except as provided in s. 67.01 (9), municipalities may borrow money and issue municipal obligations therefore, only for the purposes and by the procedure specified in this chapter . . . [s. 67.03 (1) (intro.), Stats.]

Under s. 67.04 (1) and (2), Stats., a municipality may borrow money to issue bonds and finance a "project" undertaken for a "public purpose."

Under s. 67.04 (1) (b), Stats., "public purpose" includes the performance of any power or duty of the issuing municipality. However, a "project" is limited by s. 67.04 (1) (ar), Stats., to

“acquisition, leasing, planning, design, construction, development, extension, enlargement, renovation, rebuilding, repair or improvement of land, waters, property, highways, buildings, equipment or facilities.”

The exception to s. 67.03 (1) (intro.), Stats., contained in s. 67.01 (9), Stats., does not apply to: (a) borrowing funds belonging to the Common School Fund, the Normal School Fund, the University Fund or the Agricultural College Fund; (b) issue or payment of street, sewer, harbor or other improvement bonds or certificates that do not constitute a general liability of the municipality issuing them, and for the payment of which specified portions only of the taxable property in the municipality are taxable; (c) drainage district bonds issued under ch. 88 or 89, 1963 Statutes, or current ch. 88, Stats.; (d) revenue bonds and revenue bond anticipation notes issued for the purpose of purchasing, acquiring, constructing, extending, adding to or improving public utilities, refunding bonds, commercial paper or to public improvement bonds; or (e) contractor certificates, general obligation local improvement bonds or special assessment bonds issued pursuant to s. 66.54, Stats.

None of these exceptions apply. Therefore, the limitation on borrowing contained in s. 67.03 (1) (intro.), Stats., appears to prohibit borrowing to the WRS for prior unfunded service.

Further, under s. 67.04 (5) (a), Stats., “the proceeds of any municipal bonds or notes issued by a county under this chapter shall not be used to fund the operating expenses of the general fund of the county or to fund the operating expenses of any special revenue fund of the county that is supported by property tax.” (Emphasis added.)

Exceptions are contained in s. 67.04 (5) (b), Stats., for bonds or notes issued to comply with a court order or judgment, to fund a capital cost loan or to provide liability insurance and risk-management services. These exceptions do not authorize borrowing for WRS-related purposes.

Therefore, it appears clear that counties may not issue general obligation bonds or notes for WRS-related purposes.

2. Other Borrowing

Section 67.12, Stats., relates to temporary borrowing and borrowing on promissory notes. Section 67.12 (12) (a), Stats., permits any municipality to issue promissory notes as evidence of indebtedness for any “public purpose” as defined in s. 67.04 (b), Stats.: “~~Included~~, but not limited to paying any general and current municipal expense and refunding any municipal obligations, including general interest on them.” *including*

Because promissory notes can be issued for general and current expenses, and payment of prior unfunded service liability to the WRS does appear to be a current municipal expense, some municipalities may issue promissory notes for this purpose.

However, in view of the specific prohibition in s. 67.04 (5) (a), Stats., that the proceeds of municipal bonds or notes issued by a county shall not be used to fund its “operating *?*

operating expenses aren't nec = any general and current muni expenses.

expenses," it would appear that a county may not issue promissory notes to pay unfunded prior service liability contributions to the WRS.

* Section 67.04 (5) (a), Stats., could be amended to create an exception that would allow promissory notes to be issued by counties, as can be done by other municipalities to pay unfunded prior service liability contributions to the WRS.

Under s. 67.12 (12) (a), Stats., promissory notes, and the interest on the notes, must be repaid within 10 years after the original date. Under s. 67.12 (12) (c), Stats., a municipality may issue a promissory note to refund a promissory note and any such note must be repaid within 10 years after the original date of the refunding note and within 20 years after the date of the original promissory note.

If counties are specifically authorized to issue promissory notes under s. 67.12, Stats., it could result in substantial savings to the county by allowing its debt to the WRS, currently being paid off at an 8% interest rate, to be amortized over a 10- to 20-year period with a lower interest rate.

If you would like any further information on this subject, please feel free to contact me at the Legislative Council Staff offices.

GAA:tlu:ksm;jal



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2520/1
MES.....

JG RMR

~~PRELIMINARY DRAFT NOT READY FOR INTRODUCTION~~

gen

- 1 AN ACT ...; relating to: debt issued by a county to pay for unfunded prior service
- 2 liability contributions under the [✓]Wisconsin retirement system.

Analysis by the Legislative Reference Bureau

Under current law, a school district may issue debt in the form of a promissory note for the purpose of paying unfunded prior service liability contributions under the Wisconsin retirement system if all of the proceeds of the note are used for that purpose. Such borrowing is not subject to approval in a referendum by the electors in the district.

(WRS)

WRS

Under this bill, a county may issue debt in the form of a promissory note for the purpose of paying unfunded prior service liability contributions under the Wisconsin retirement system if all of the proceeds of the note are used for that purpose. Such borrowing is not subject to approval in a referendum by the electors in the political subdivision.

For further information see the ***state and 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:

- 3 SECTION 1. 67.04 (5) (b) ^x4. of the statutes is created to read:

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 4/7/99

To: Representative Ziegelbauer

Relating to LRB drafting number: LRB-2520

Topic

Authorize counties to borrow money to pay off unfunded pension debt.

Subject(s)

Counties, Employ Pub - retirement

1. **JACKET** the draft for introduction

RB Ziegelbauer

in the **Senate** _____ or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction

RB Ziegelbauer

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

Done
05-03-99
MB
"1"

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Marc E. Shovers, Senior Legislative Attorney
Telephone: (608) 266-0129