



State of Wisconsin  
1999 - 2000 LEGISLATURE

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-NOTE

INS REL

1 AN ACT ...; relating to: authorizing the creation of a local cultural arts district;  
2 giving a local cultural arts district the authority to issue bonds and granting  
3 income tax exemptions for interest income on bonds issued by the district; and  
4

*Analysis by the Legislative Reference Bureau*  
**CREATION AND DISSOLUTION OF A DISTRICT**

This bill authorizes the creation of a local cultural arts district by a sponsoring city, which is defined as a city with a population of more than 150,000 that creates such a district. To create a district, the mayor of the sponsoring city must issue a written proclamation declaring the need for establishing a district, and the sponsoring city's common council must adopt a resolution that approves of the proclamation and deliver a copy of the resolution to the governor. The resolution shall also prescribe the scope of the district's eminent domain power. A district is a local unit of government that is a body corporate and politic and that is separate and distinct from, and independent of, the state and the sponsoring city. Under the bill, a district's jurisdiction remains fixed even if the population of the sponsoring city subsequently declines below the minimum described.

In connection with cultural arts facilities, the powers of a district include eminent domain authority; the construction, maintenance, management and acquisition of the facilities; the issuance of bonds to finance the facilities; the authority to enter upon real property within its jurisdiction to make surveys and

examinations before locating or constructing cultural arts facilities; and the authority to enter into partnerships, joint ventures, common ownership or other arrangements with other persons to further the district's purposes. A district may also set standards governing the use of, and the conduct within, the facilities, and may set and collect fees for the use of the facilities.

With regard to contracts for construction work and professional service contracts that are awarded by the district, it shall be a goal of the district that at least 5% of the aggregate dollar value of the contracts be awarded to minority-owned businesses and at least 5% of the aggregate dollar value of contracts be awarded to women-owned businesses.

The district is governed by a board. The board consists of, in an ex-officio capacity, the governor, the mayor of the sponsoring city and the county executive of the county in which the sponsoring city is located, or their designees. If the sponsoring city is a 1st class city (presently only Milwaukee), the common council shall determine the structure, qualifications and selection procedures for the other members of the board.

If the sponsoring city is not a 1st class city, the board consists of, other than the ex-officio members listed above, 3 persons appointed by the governor, one of whom shall be selected from a list of 3 to 5 names that is submitted by the University of Wisconsin Board of Regents; 6 persons appointed by the mayor of the sponsoring city, one of whom shall be selected from a list of 3 to 5 names that is submitted by the sponsoring city's school board and the other 3 of whom may need to be appointed according to procedures required by the common council; one person appointed by the county executive of the county in which the sponsoring city is located. Of the persons appointed by the mayor, no more than 3 may be elected city officials.

that may be

In addition, the sponsoring city's common council may increase the size of the board to include the mayor, village president or town board chair, or such person's designee, of a city, village or town that is located within 25 miles of the sponsoring city and that provides substantial support to the district.

A district may be dissolved, subject to payment of the district's bonds and fulfillment of its other contractual obligations in one of the following ways: 1) By a law enacted by this state. 2) If the sponsoring city is not a 1st class city, by the unanimous action of the district board. 3) If the sponsoring city is a 1st class city, by any means described in the initial resolution under which the 1st class city created the district.

If a district is dissolved, its property may be transferred either to the sponsoring city or to one of a number of tax-exempt religious, scientific or charitable entities that are described in the Internal Revenue Code, except that in the case of a district created by a 1st class city, the common council's resolution which created the district must specify the specific entity to which the district's property will be transferred upon dissolution.

Under the bill, a sponsoring city may make grants, gifts or loans of any kind of property, or provide any other form of assistance, to a district; expend public funds to subsidize a district; borrow money to fund grants, loans or subsidies to a district;

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INS 2

fix and collect a sum to be paid in lieu of taxes by the district; or audit the financial statements of a district.

**EMPLOYMENT**

Under the bill, any ordinance of a sponsoring city that regulates employment relations or practices of all private employers generally applies to employes of the district, unless the sponsoring city's common council excludes the application of such an ordinance to the district's employes.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

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:*

INS  
3-1  
INS  
3-1B  
INS 3-1C

1

SECTION 1. 66.04 (2) (a) 3r. of the statutes is created to read:

2

66.04 (2) (a) 3r. Bonds issued by the Wisconsin health and educational facilities authority under ch. 231, with respect to a local cultural arts district under subch. V of ch. 229.

5

SECTION 2. 66.066 (1) (a) of the statutes is amended to read:

6

66.066 (1) (a) "Municipality" means any city, village, town, county, commission created by contract under s. 66.30, public inland lake protection and rehabilitation district established under s. 33.23, 33.235 or 33.24, metropolitan sewerage district created under ss. 66.20 to 66.26 or 66.88 to 66.918, town sanitary district under subch. IX of ch. 60, a local professional baseball park district created under subch.

11

III of ch. 229 or a municipal water district or power district under ch. 198 and any other public or quasi-public corporation, officer, board or other public body empowered to borrow money and issue obligations to repay the same out of revenues.

14

"Municipality" does not include the state or a local exposition district created under subch. II of ch. 229 or a local cultural arts district created under subch. V of ch. 229.

15

**SECTION 3**

1           **SECTION 3.** 66.067 of the statutes is amended to read:

2           **66.067 Public works projects.** For financing purposes, garbage  
3 incinerators, toll bridges, swimming pools, tennis courts, parks, playgrounds, golf  
4 links, bathing beaches, bathhouses, street lighting, city halls, village halls, town  
5 halls, courthouses, jails, schools, cooperative educational service agencies, hospitals,  
6 homes for the aged or indigent, child care centers, as defined in s. 231.01 (3c),  
7 regional projects, waste collection and disposal operations, systems of sewerage,  
8 local professional baseball park facilities, local cultural arts facilities and any and  
9 all other necessary public works projects undertaken by any municipality are public  
10 utilities within the meaning of s. 66.066.

History: 1971 c. 130; 1977 c. 391; 1979 c. 362; 1981 c. 282; 1981 c. 314 s. 146; 1983 a. 207; 1993 a. 246, 400; 1995 a. 56; 1997 a. 27.

11           **SECTION 4.** 66.30 (1) (a) of the statutes, as affected by 1999 Wisconsin Act 9, is  
12 amended to read:

13           **66.30 (1) (a)** In this section “municipality” means the state or any department  
14 or agency thereof, or any city, village, town, county, school district, public library  
15 system, public inland lake protection and rehabilitation district, sanitary district,  
16 farm drainage district, metropolitan sewerage district, sewer utility district, solid  
17 waste management system created under s. 59.70 (2), local exposition district  
18 created under subch. II of ch. 229, local professional baseball park district created  
19 under subch. III of ch. 229, local cultural arts district created under subch. V of ch.  
20 229, family care district under s. 46.2895, water utility district, mosquito control  
21 district, municipal electric company, county or city transit commission, commission  
22 created by contract under this section, taxation district or regional planning  
23 commission.

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24           **SECTION 5.** 71.05 (1) (e) 6. of the statutes is created to read:

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INS  
5-2

1 71.05 (1) (c) 6. A local cultural arts district created under subch. V of ch. 229.

2 ~~SECTION 6.~~ 219.09 (1) (e) of the statutes is created to read:

3 219.09 (1) (e) The Wisconsin health and educational facilities authority under  
4 ch. 231, with respect to a local cultural arts district under subch. V of ch. 229.

5 SECTION 7. Subchapter V of chapter 229 [precedes 229.840] of the statutes is  
6 created to read:

7 **CHAPTER 229**

8 **SUBCHAPTER V**

9 **LOCAL CULTURAL**

10 **ARTS DISTRICTS**

11 **229.840 Legislative declaration.** (1) The legislature determines that this  
12 subchapter serves a statewide public purpose by assisting the development of  
13 cultural arts facilities in the state, which provide educational and recreational  
14 opportunities for Wisconsin residents, by enhancing the appreciation of the arts  
15 among the states' residents, by encouraging economic development and tourism, by  
16 reducing unemployment and by bringing needed capital into the state for the benefit  
17 and welfare of people throughout the state.

18 (2) The legislature determines that a district in populous cities serves a public  
19 purpose in those cities by providing educational and recreational opportunities for  
20 residents of those cities, by enhancing the appreciation of the arts among the  
21 residents of those cities, by encouraging economic development and tourism, by  
22 reducing unemployment and by bringing needed capital into those cities for the  
23 benefit and welfare of people in those cities.

24 **229.841 Definitions.** In this subchapter:

issued under \$66,066 by

1 (1) "Bond" means any bond, note or other obligation of a district issued under

2 ~~this subsection~~ (1)

3 (2) "Bond resolution" means a resolution of the district board authorizing the  
4 issuance of, or providing terms and conditions related to, bonds and includes, where  
5 appropriate, any trust agreement, trust indenture, indenture of mortgage or deed of  
6 trust providing terms and conditions for bonds.

\*\*\*\*NOTE: We used "bond" and "bond resolution" instead of "debt" to maintain consistency with other special purpose districts.

7 (3) "Condemnation area" means

8 (4) "County executive" means the county executive or, if the county does not  
9 have a county executive, the chairperson of the county board of supervisors, of the  
10 county in which the sponsoring city is located. If a sponsoring city is located in more  
11 than one county, the city shall be considered to be located solely in the county in  
12 which the majority of its geographical area is located at the time a district is created.

13 (5) "Cultural arts activity" means any performance, program, concert, exhibit,  
14 show, broadcast or other activity with any artistic or cultural significance, or any  
15 related or incidental activity.

\*\*\*\*NOTE: We did not include the phrase "An authority board's determination that an activity has artistic or cultural significance shall be conclusive evidence that such activity has such significance" for 2 reasons. First, substantive provisions may not be put in a definition. Second, and more importantly, if a lawsuit is brought concerning a "cultural arts activity", it will be up to the courts, not the district board, to determine whether the activity has any artistic or cultural significance.

16 (6) "Cultural arts facilities" means district property, tangible or intangible,  
17 owned in whole or in part, operated or leased by a district that is principally for a  
18 cultural arts activity including auditoriums, music halls, exhibit halls, theaters,  
19 practice facilities, dressing rooms, parking lots, garages, restaurants, concession

1 facilities, entertainment facilities, transportation facilities and other functionally  
2 related or auxiliary facilities or structures.

3 <sup>7 3 (b)</sup>  
~~(7)~~ "District" means a special purpose district created under this subchapter.

4 <sup>7 3 (b)</sup>  
~~(8)~~ "District board" means the governing board of a district.

5 ~~(9) "Governmental unit" means the state, any political subdivision, any  
6 quasi-governmental entity in this state, or any combination thereof, department,  
7 division, board or other agency of any of the foregoing.~~

~~\*\*\*\*NOTE: This definition is based on your definition of "public entity" and on the  
definition of "governmental unit" in s. 50.33 (1r). Does it achieve your intent?~~

8 <sup>8 3 (b)</sup>  
~~(10)~~ "Mayor" means the mayor of a sponsoring city.

9 <sup>9 3 (b)</sup>  
~~(11)~~ "Political subdivision" means a city, village, town or county.

10 <sup>10 3 (b)</sup>  
~~(12)~~ "Populous city" means any city with a population of more than 150,000.

11 ~~(13) "Qualified private entity" means any entity, other than a governmental  
12 unit, that is described in section 501 (c) (3) of the Internal Revenue Code and is  
13 exempt from taxation under section 501 (a) of the Internal Revenue Code.~~

14 <sup>11 3 (b)</sup>  
~~(14)~~ "Sponsoring city" means a populous city that creates a district under this  
15 subchapter.

16 **229.842 Creation and organization.** (1) A sponsoring municipality may  
17 create a special purpose district that is a local governmental unit, that is a body  
18 corporate and politic, that is separate and distinct from, and independent of, the  
19 state and the sponsoring city, that has the powers under s. 229.844 and the name of  
20 which includes "Local Cultural Arts District", if all of the following occur:

21 (a) The <sup>✓</sup>mayor issues a written proclamation declaring the need for establishing  
22 a district.

only  
used  
in 7

term  
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used  
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SECTION 7

1 (b) The sponsoring city's common council adopts a resolution that approves the  
 2 mayor's proclamation, and delivers a copy of the resolution to the governor. The  
 3 resolution under this paragraph may contain a process that the mayor must follow  
 4 in nominating persons to the board under sub. (2) (c), except that the process may  
 5 not apply to the person appointed from the list of names submitted by the school  
 6 board. ~~The resolution under this paragraph shall prescribe the scope of the district's~~  
 7 ~~power of eminent domain.~~

8 (2) A district is governed by its district board. If the sponsoring city is a 1st class  
 9 city, par. (a) and sub. (4) <sup>apply</sup> ~~applies~~ but pars. (b) to (d) and sub. (3) do not apply and the  
 10 1st class city's common council shall determine the structure, qualifications and  
 11 selection procedures for the district board. If the sponsoring city is not a 1st class city,  
 12 and subject to subs. (3) and (4), the district board shall consist of the following  
 13 members:

14 (a) The following persons, or their designees, shall be ex-officio members of the  
 15 board, except that a designee serves at the pleasure of his or her appointing  
 16 authority:

- 17 1. The governor.
- 18 2. The mayor.
- 19 3. The county executive.

\*\*\*\*NOTE: As drafted, par. (a) applies to a district created by a 1st class city. Is this  
 OK? Your instructions on this point were unclear.

20 (b) Three persons appointed by the governor, one of whom shall be selected from  
 21 a list of 3 to 5 names that is submitted by the University of Wisconsin Board of  
 22 Regents. Of the remaining 2 appointees under this paragraph, at least one of the  
 23 appointees shall have a demonstrated interest in cultural arts activities and one of



1 the appointees may be an elected state official. A person appointed under this  
2 paragraph may take his or her seat immediately upon appointment.

3 (c) Subject to sub. (1) (b), 6 persons appointed by the mayor, one of whom shall  
4 be selected from a list of 3 to 5 names that is submitted by the sponsoring city's school  
5 board. Of the remaining 5 appointees under this paragraph, at least 2 of the  
6 appointees shall have a demonstrated interest in cultural arts activities and not  
7 more than 3 of the appointees may be elected city officials. A person appointed under  
8 this paragraph may take his or her seat immediately upon appointment.

9 (d) One person appointed by the county executive, who may not be a county  
10 official. A person appointed under this paragraph may take his or her seat  
11 immediately upon appointment.

12 (3) The terms of office of the persons appointed under sub. (2) (b) to (d) shall  
13 be 4 years expiring on July 1, except that the initial terms shall expire on July 1 of  
14 the 3rd year beginning after the year of creation of a district. Persons appointed  
15 under sub. (2) (b) to (d) shall have lived within 25 miles of the sponsoring city's city  
16 hall for at least one year before their appointment. Persons appointed under sub. (2)  
17 (b) to (d) may be removed from the district board before the expiration of their terms  
18 by the appointing authority but only for cause, as defined in s. 17.16 (2). Vacancies  
19 shall be filled by the appointing authority who appointed the person whose office is  
20 vacant. A person appointed to fill a vacancy under sub. (2) (b) to (d) shall serve for  
21 the remainder of the unexpired term to which he or she is appointed. The appointing  
22 authorities shall confer with one another regarding their appointments with a view  
23 toward achieving diversity on the district board.

\*\*\*\*NOTE: The instructions relating to terms, removals and vacancies in the  
"pre-drafted" bill are somewhat convoluted. For the sake of simplicity and consistency,

↓

we based this subsection on the “Packers bill”, 1999 AB-730, although the “25 mile requirement” *is* based on your instructions. Is this OK?

It also seems to us that the material relating to the common council setting up a nomination process that the mayor must follow for 5 of his or her 6 appointees is sort of unwieldy. Have you considered simply making the mayor’s appointments subject to common council approval?

1           (4) If a city, village or town that is located with 25 miles of the sponsoring city  
2 provides substantial support to the district, the sponsoring city’s common council  
3 may increase the size of the board to include the mayor, village president or town  
4 board chair of that city, village or town, or the designee of such a mayor, village  
5 president or town board chair.

6           (5) The district board shall elect from its membership a chairperson, a vice  
7 chairperson, a secretary and a treasurer. A majority of the current membership of  
8 the district board constitutes a quorum to do business. The district may take action  
9 based on the affirmative vote of a majority of those members of the district board who  
10 are present at a meeting of the district board.

11           (6) The members of the district board shall be reimbursed for their actual and  
12 necessary expenses incurred in the performance of their duties.

13           (7) Upon the appointment and qualification of at least 7 of the members of a  
14 district board, the district board may exercise the powers and duties of a district  
15 board under this subchapter.

16           (8) At its first meeting, the district board shall name the district, and the name  
17 shall include “Local Cultural <sup>✓</sup>Arts District”.

18           **229.843 Jurisdiction, scope of eminent domain authority.** (1) A district’s  
19 jurisdiction shall be the boundaries of the sponsoring city.

20           (2) The sponsoring city shall specify in the resolution described under s.  
21 229.842 (1) (b) <sup>✓</sup>the areas of the district’s jurisdiction within which the district board

1 may exercise its powers of eminent domain. This area may be expanded or  
2 contracted by an ordinance enacted or a resolution adopted by the sponsoring city's  
3 common council. The district's eminent domain powers may be exercised only on  
4 property that is adjacent or contiguous to property that is owned by the district.

5 (3) Once created, the district's jurisdiction and powers remain in effect even if  
6 the sponsoring city, after the creation of the district, no longer meets the population  
7 requirements of a sponsoring city.

\*\*\*NOTE: This subsection is moved from s. 229.90 (3) of the Quarles draft.

8 ~~229.844~~ **Powers of a district.** A district has all of the powers necessary or  
9 convenient to carry out the purposes and provisions of this subchapter. In addition  
10 to all other powers granted by this subchapter, a district may do all of the following:

\*\*\*NOTE: We did not include the phrase that "All expenditures or payments made  
by a district may be only for public purposes. As a unit of government, the district may  
*only* act for a public purpose in anything that it does.

11 (1) Adopt bylaws to govern the district's activities, subject to this subchapter.

12 (2) Sue and be sued in its own name, plead and be impleaded.

13 (3) Maintain an office.

14 (4) In connection with cultural arts facilities or in support of any cultural arts  
15 activity:

16 (a) Acquire, construct, equip, maintain, improve, operate and manage the  
17 cultural arts facilities as a revenue-generating enterprise or otherwise, or engage  
18 other persons to do these things.

19 (b) Acquire; lease, as lessor or lessee; use; transfer; or accept transfers of  
20 property. Subject to s. 229.843 (2), if the district is not created by a 1st class city, the  
21 district may acquire property by condemnation under ch. 32. If the district's  
22 sponsoring city is a 1st class city the district may request condemnation of property

including liquidity and credit facilities, remarketing agreements, insurance policies, guaranty agreements, letter of credit or reimbursement agreements, interest exchange agreements and currency exchange agreements

SECTION 7

1 by the 1st class city's redevelopment authority created under s. 66.431 (3) (a) 1.  
2 Condemnation of property under this paragraph by a redevelopment authority is  
3 subject to s. 229.843 (2).

\*\*\*\*NOTE: Please review this paragraph carefully to ensure that it meets your intent.

4 (c) Improve, maintain and repair property.

5 (d) Enter into contracts, subject to such standards as may be established by the  
6 district board. The district board may award any such contract for any combination  
7 or division of work it designates and may consider any factors in awarding a contract,  
8 including price, time for completion of work and qualifications and past performance  
9 of a contractor.

10 (e) Grant concessions.

11 (f) Sell or otherwise dispose of unneeded or unwanted property.

\*\*\*\*NOTE: This paragraph is meant to accomplish the intent of s. 229.87 (4) (f) of the Overture Foundation's draft. Is it OK?

12 (5) Employ personnel, and fix and regulate their compensation; and provide,  
13 either directly or subject to an agreement under s. 66.30 as a participant in a benefit  
14 plan of another governmental entity, any employe benefits, including an employe  
15 pension plan.

16 (6) Purchase insurance, establish and administer a plan of self-insurance or,  
17 subject to an agreement with another governmental entity under s. 66.30,  
18 participate in a governmental plan of insurance or self-insurance.

19 (7) Mortgage, pledge or otherwise encumber the district's property or funds.

20 (8) Issue bonds, notes and ~~instruments~~ <sup>revenue</sup> and enter agreements relating to such <sup>under s. 66.066, subject to ss. 229.854,</sup>  
21 bonds, notes and ~~debt~~ <sup>related</sup> No director, employe of the district nor any other person  
22 executing any agreements with respect to such debt is personally liable on the debt

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(b) contracts, short-term obligations, and pledge credit of the district for repayment of those obligations, backed by the full faith and credit of the district

1 or subject to any personal liability or accountability by reason of the issuance of such  
2 bonds, notes and debt.

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\*\*\*\*NOTE: Instead of using the phrase, "issue debt", which does not appear in the statutes, we used the phrase "Issue bonds, notes and incur debt." Is this OK? We do not know what authority this grants to the district, however. It appears to us that the district, in acting under sub. (8), could not issue bonds or notes under the procedures in ss. 66.059, 66.521 and 66.54, or ch. 67, because it does not meet the statutory definitions of "municipality" in any of those statutes. Similarly, the district could not issue special assessments or special charges by using the procedures under s. 66.60. Consequently, you may wish to have us amend the definition of "municipality" in s. 67.01 (5) to enable the district to issue bonds and notes under the more predictable procedures in ch. 67.

3 (9) Maintain funds and invest the funds in any investment that the district  
4 board considers appropriate.

5 (10) Promote, advertise and publicize its cultural arts facilities and related  
6 cultural arts activities.

7 (11) Set standards governing the use of, and the conduct within, its cultural  
8 arts facilities in order to promote public safety and convenience and to maintain  
9 order.

10 (12) Establish and collect fees, and establish shared revenue arrangements or  
11 other charges for the use of its cultural arts facilities or for services rendered by the  
12 district.

13 (13) Enter into partnerships, joint ventures, common ownership or other  
14 arrangements with other persons to further the district's purposes.

15 (14) Solicit and accept gifts, loans, grants of land or other property and other  
16 aid, and agree to conditions with respect to such gifts, loans, grants or other aid.

17 (15) Administer the receipt of revenues, and oversee the payment of bonds  
18 issued by the district.

19 (16) Adopt and alter an official seal.

**SECTION 7**

1           (17) Direct its agents or employes, if properly identified in writing, to enter  
 2 upon real property within its jurisdiction to make surveys and examinations before  
 3 locating or constructing cultural arts facilities, without incurring liability by the  
 4 district, its agents or employes except for actual damage done. Before directing  
 5 anyone to enter real property under this subsection, the district shall give the owner  
 6 and occupant of the property at least 5 days' written notice.

      \*\*\*\*NOTE: This is taken from s. 229.44 (10), relating to exposition centers.

7           (18) Provide money or other property, by sale, loan, lease, grant, gift or other  
 8 form of transfer, to any other person.


      \*\*\*\*NOTE: Sub. (18) combines your s. 229.87 (17) and (18). Because under your sub. (17) and (18) it seemed that the district could transfer anything to any person, sub. (18) as drafted is a lot simpler. We did not add the "public purpose" requirements for such transfers because, as a unit of government, the district must at all times and for all purposes act for a public purpose.

9           **229.845 Minority contracting goals.** (1) In this section:

10           (a) "Minority business" has the meaning given in s. 560.036 (1) (e).

11           (b) "Women's business" means a sole proprietorship, partnership, joint venture  
 12 or corporation that is at least 51% owned, controlled and actively managed by  
 13 women.

14           (2) It shall be a goal of the district, in awarding construction work and  
 15 professional services contracts related to cultural arts facilities, that at least 5% of  
 16 the aggregate dollar value of such contracts awarded by the district shall be awarded  
 17 to minority businesses and at least 5% of the aggregate dollar value of such contracts  
 18 awarded by the district shall be awarded to women's businesses.

      \*\*\*\*NOTE: This language more closely tracks 1995 AB 56, the "Brewers Bill." Is this  
 OK? 

19           **229.846 Powers granted to a sponsoring city.** In addition to any powers  
 20 that it may otherwise have, a sponsoring city may do any of the following:

1 (1) Make grants, gifts or loans of any kind of property, or provide any other form  
2 of assistance, to a district upon terms that the sponsoring city considers appropriate.

3 (2) Expend public funds to subsidize a district.

4 (3) Borrow money under ss. 67.04 and 67.12<sup>✓</sup> (12) for cultural arts facilities or  
5 to fund grants, loans or subsidies to a district.

6 (4) Audit the financial statements of a district. The sponsoring city may  
7 conduct the audit itself or my contract for the audit to be performed by any other  
8 person.

9 (5) Fix and collect a sum to be paid annually, in lieu of taxes, <sup>by</sup> by the district.

\*\*\*\*NOTE: Do you want to limit the authority under sub. (5) in any way? Should  
the sum be limited to an amount of money expended by the sponsoring city for providing  
services to the district? Doesn't a city have ample authority under s. 66.60 to impose  
special assessments or special charges against the district?

10 **229.847 Dissolution of a district.** Subject to providing for the payment of  
11 its bonds, notes or other debts that it has incurred, including interest on the bonds,  
12 notes or other debts, and the performance of its other contractual obligations, a  
13 district may be dissolved by one of the following methods:

14 (1) By a law enacted by this state.

15 (2) If the sponsoring city is not a 1st class city, by the unanimous action of the  
16 district board.

17 (3) If the sponsoring city is a 1st class city, by any means described in the initial  
18 resolution under which the 1st class city created the district.

19 **229.848 Transfers, transfer agreements.** (1) If a district is dissolved under  
20 s. 229.847<sup>✓</sup>, the property shall be transferred <sup>(to either)</sup> to either the sponsoring city or <sup>to an</sup> to an  
21 entity described in sections 501 (c) (3) and 509 (a) (1) or (2) of the Internal Revenue  
22 Code. If the sponsoring city is a 1st class city, the specific entity to which the district's  
23 property shall be transferred upon dissolution shall be specified in the initial

SECTION 7

1 resolution under which the 1st class city created the district. If the sponsoring city  
2 is not a 1st class city, the district board shall determine the entity to which the  
3 district's property shall be transferred upon dissolution.

\*\*\*\*NOTE: It seems to us that it is not necessary to specify all of the IRC sections specified in the Quarles draft, which lists IRC sections 170 (c) (2), 501 (c) (3), 509 (a) (1) or (2), 2055 (a) (2) and 2522 (a) (2) and states that a district's property could be transferred to "any other entity described in each" of those IRC sections. It seems that all of the sections are nearly identical, other than section 509 (a) (1) or (2). Consequently, it is simpler to only refer to 2 IRC sections. Is this OK? Also, this subsection was in the "Dissolution of an authority" section of the Quarles draft. It seems more appropriate to place the subsection in the "Transfer agreements" section. Is this OK?

4 (2) A sponsoring city and a district board may enter into a transfer agreement  
5 to provide the terms and conditions upon which the sponsoring city may transfer any  
6 interests in an existing or proposed cultural arts facility, or any other property  
7 interests owned by the city. A transfer may take the form of a sale, lease, or other  
8 conveyance and may be with or without financial consideration.

INS  
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9 ~~229.977~~ <sup>855 3(3)</sup> Sponsoring city employment regulations. Any ordinance of a  
10 sponsoring city that regulates employment relations or practices of all private  
11 employers generally applies to employees of the district, unless the sponsoring city's  
12 common council excludes the application of such an ordinance to the district's  
13 employees.

\*\*\*\*NOTE: Rick, what do you think this means? I basically copied it from the Quarles draft. Does it apply to prevailing wage ordinances? I don't really know what kind of "employment relations" ordinances a city may enact. What do you think the requester is trying to accomplish?

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(END)



~~Bill Relating to~~

INSPEL

authorizing the Wisconsin Health  
and Educational Facilities Authority to  
issue <sup>bonds</sup> bonds to finance certain cultural  
arts facilities.

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**BONDING**

This bill grants a district the power to issue revenue bonds for purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating or managing a cultural arts district. Under the bill, the bonds issued by the district are secured by district property and income placed in a special fund. The bill specifically provides that neither the state or the sponsoring municipality is liable on bonds issued by the district and that the issuance of bonds by the district does not obligate the state or the sponsoring city to levy taxes for the payment of the bonds. Under the bill, the state pledges to the holders of bonds issued by the district that the state will not alter the rights vested in the district by law until such bonds are fully paid. Finally, with respect to bonds issued by the district, the bill contains provisions authorizing certain state and local government funds and certain regulated financial institutions to invest in bonds issued by the district; provides that all moneys received by a district, including proceeds from the sale of bonds, are trust funds to be held and applied solely for the purposes provided in the bill; and limits the personal liability of members of a district's board with respect to the issuance of bonds.

**COLLECTIVE BARGAINING**

The bill specifically exempts the district from coverage under the Municipal Employment Relations Act (MERA). Under MERA, which covers employment relations in municipalities, employees in collective bargaining units for which a representative is recognized or certified may bargain with an employer over wages, hours and conditions of employment to the point of impasse, at which point the parties are required to submit to interest arbitration. Under MERA, however, employees do not have the right to strike. Instead, the bill provides that a district is covered under the Employment Peace Act. The Employment Peace Act generally covers all employers other than the state and its political subdivisions. Under the Employment Peace Act, employees in collective bargaining units for which a representative is recognized or certified may bargain with an employer over wages, hours and conditions of employment. Under the Employment Peace Act, there is no interest arbitration; however, employees are granted the right to strike.

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(91) Under current law, the Wisconsin Health and Educational Facilities Authority (WHEFA) may issue bonds to finance certain projects of health institutions, educational institutions and, until May 1, 2000, child care centers, and to refinance outstanding debt of health institutions, educational institutions and, until May 1, 2000, child care centers. Projects that may be financed include, among others, the acquisition of a hospital, the construction or operation of an ambulatory surgery center or home health agency, the construction, remodeling, furnishing or equipping of a health or educational facility or related structure and, until May 1, 2000, the construction, remodeling, furnishing or equipping of a building that is used exclusively to provide child care services and that is not operated for profit. This bill authorizes WHEFA to also issue bonds to finance a project undertaken by a cultural arts district for a cultural arts facility, or to refinance outstanding debt of a cultural arts district.

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**FINANCE**

This bill permits the legislative audit bureau to audit the records of a district. Under the bill, the joint legislative audit committee may review a district's performance.

**ETHICS**

Members of a district board are subject to the statutory code of ethics for local public officials. However, like other local public officials, district board members are not subject to periodic reporting requirements.

**APPLICABILITY OF OTHER LAWS**

Numerous laws that currently apply to special purpose districts and local units of government apply to a cultural arts district, including, among others:

1. The district is subject to laws requiring, with certain exceptions, public notice of and access to meetings of the district board and public access to the district's records.
2. The district is subject to worker's compensation, unemployment insurance, state minimum wage and hour and family and medical leave laws.
3. The district is subject to the law requiring the payment of prevailing wages on local government public works projects.
4. The district is governed by laws regulating municipal administrative procedures and rights.
5. The district is subject to laws restricting employers from testing employes and prospective employes for human immunodeficiency virus (HIV) or an antibody to HIV.
6. The district is subject to the tort and antitrust liability limitation that currently applies to actions brought against local governmental units of \$50,000 per occurrence, and persons attempting to sue the district are subject to a requirement to file notice of their claims within 120 days of their occurrence.
7. The district is subject to laws regulating buildings and safety.
8. Purchases made by the district, other than purchases of building materials, are subject to the sales tax and use tax and the property of the district is subject to special assessment levies.

Under the bill, the district may participate in:

1. The state public employe retirement plan and state-administered plans for deferred compensation, health care benefits and disability and survivor benefits.

2. The local government property insurance fund.

The bill provides that the district is not subject to laws regulating generally the ways in which funds of local governments may be invested.

The bill also provides that the district may:

1. Contract with municipalities and federally recognized Indian tribes and bands in this state for the receipt or furnishing of services or the joint exercise of powers or duties.

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2. Participate in the state-operated local government pooled-investment fund.  
Under the bill, the assets and liabilities of a district are not assets or liabilities  
of the sponsoring city.

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SECTION 1. 13.94 (4) (a) 1. of the statutes, as affected by 1999 Wisconsin Act 9,  
is amended to read:

13.94 (4) (a) 1. Every state department, board, examining board, affiliated credentialing board, commission, independent agency, council or office in the executive branch of state government; all bodies created by the legislature in the legislative or judicial branch of state government; any public body corporate and politic created by the legislature including specifically a professional baseball park district, a cultural arts district and a family care district under s. 46.2895; every Wisconsin works agency under subch. III of ch. 49; every provider of medical assistance under subch. IV of ch. 49; technical college district boards; development zones designated under s. 560.71; every county department under s. 51.42 or 51.437; every nonprofit corporation or cooperative to which moneys are specifically appropriated by state law; and every corporation, institution, association or other organization which receives more than 50% of its annual budget from appropriations made by state law, including subgrantee or subcontractor recipients of such funds.

History: 1971 c. 270 s. 104; 1971 c. 307; 1973 c. 334; 1975 c. 39, 199, 224, 421; 1977 c. 26, 29; 1977 c. 196 s. 131; 1977 c. 418; 1979 c. 34, 314, 324; 1981 c. 20, 335; 1983 a. 27, 36, 96, 381; 1985 a. 29, 57, 120, 176; 1987 a. 27, 119, 186, 320, 328, 354, 399, 403; 1989 a. 31, 122; 1991 a. 39, 269, 316; 1993 a. 16, 27, 107, 263, 399, 491; 1995 a. 27 ss. 43g to 47n, 9116 (5); 1995 a. 56, 216, 225, 274, 289; 1997 a. 27, 252; 1999 a. 9.

SECTION 2. 16.70 (14) of the statutes is amended to read:

16.70 (14) "State" does not include a district created under subch. II or III or IV of ch. 229.

History: 1971 c. 164; 1975 c. 41 s. 52; 1977 c. 29; 1979 c. 34, 221; 1983 a. 27, 106; 1985 a. 29 ss. 122a to 122f, 3200 (1); 1987 a. 292, 399; 1989 a. 335; 1991 a. 39, 189; 1993 a. 263, 399; 1995 a. 27, 56; 1997 a. 27.

SECTION 3. 19.42 (13) (a) of the statutes is amended to read:

19.42 (13) (a) All positions to which individuals are regularly appointed by the governor, except the position of trustee of any private higher educational institution receiving state appropriations and the position of member of the district board of a

local professional baseball park district created under subch. III of ch. 229 and the position of member of the district board of a cultural arts district created under subch. IV of ch. 229.

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SECTION 4. 66.04 (2) (a) (intro.) of the statutes is amended to read:

66.04 (2) (a) (intro.) Any county, city, village, town, school district, drainage district, technical college district or other governing board as defined by s. 34.01 (1), other than a cultural arts district board created under ch. 229, may invest any of its funds not immediately needed in any of the following:

History: 1971 c. 41 s. 12; 1971 c. 154, 211; 1975 c. 164, 180, 422; 1977 c. 29, 182; 1977 c. 187 s. 135; 1977 c. 245, 272, 367, 447; 1979 c. 221, 293, 355; 1981 c. 187; 1983 a. 189 s. 329 (21); 1983 a. 192 s. 304; 1983 a. 368; 1987 a. 27, 399; 1989 a. 307; 1991 a. 39; 1993 a. 203, 263, 399; 1995 a. 27, 56, 336; 1997 a. 27, 318; 1999 a. 9.

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**SECTION 1.** 231.01 (4g) of the statutes is created to read:

231.01 (4g) "Cultural arts district" means a cultural arts district created under subch. V of ch. 229.

**SECTION 2.** 231.01 (4h) of the statutes is created to read:

231.01 (4h) "Cultural arts facility" has the meaning given in s. 229. 841(5)

**SECTION 3.** 231.01 (4) (a) of the statutes is amended to read:

231.01 (4) (a) "Cost" means the sum of all costs incurred by a participating health institution, participating educational institution, participating cultural arts district or participating child care provider, as approved by the authority, as are reasonable and necessary to accomplish the project, exclusive of any private or federal, state or local financial assistance received by the participating health institution, participating educational institution, participating cultural arts district or participating child care provider for the payment of the project cost.

History: 1973 c. 304; 1975 c. 413 s. 18; 1977 c. 29; 1979 c. 221; 1981 c. 298; 1981 c. 314 s. 144; 1983 a. 27, 189; 1985 a. 29; 1987 a. 27; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 27, 124, 438, 490, 491; 1995 a. 27 ss. 6296, 9126 (19); 1995 a. 332; 1997 a. 27.

**SECTION 4.** 231.01 (4) (b) 1. of the statutes is amended to read:

231.01 (4) (b) 1. The cost incurred by or on behalf of the participating health institution, participating educational institution, participating cultural arts district or participating child care provider of all necessary developmental, planning and feasibility studies, surveys, plans and specifications, architectural, engineering, legal or other special services, the cost of acquisition of land and any buildings and improvements on the land, site preparation and development including demolition or removal of existing structures, construction, reconstruction and equipment, including machinery, fixed equipment and personal property.

History: 1973 c. 304; 1975 c. 413 s. 18; 1977 c. 29; 1979 c. 221; 1981 c. 298; 1981 c. 314 s. 144; 1983 a. 27, 189; 1985 a. 29; 1987 a. 27; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 27, 124, 438, 490, 491; 1995 a. 27 ss. 6296, 9126 (19); 1995 a. 332; 1997 a. 27.



**SECTION 5.** 231.01 (4) (b) 2. of the statutes is amended to read:

231.01 (4) (b) 2. The reasonable cost of financing incurred by a participating health institution, participating educational institution, participating cultural arts district or participating child care provider in the course of the development of the project to the occupancy date.

History: 1973 c. 304; 1975 c. 413 s. 18; 1977 c. 29; 1979 c. 221; 1981 c. 298; 1981 c. 314 s. 144; 1983 a. 27, 189; 1985 a. 29; 1987 a. 27; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 27, 124, 438, 490, 491; 1995 a. 27 ss. 6296, 9126 (19); 1995 a. 332; 1997 a. 27.

**SECTION 6.** 231.01 (4) (c) of the statutes is amended to read:

231.01 (4) (c) All rents and other net revenues from the operation of the real property, improvements or personal property on the project site by a participating health institution, participating educational institution, participating cultural arts district or participating child care provider on and after the date on which the contract between a participating health institution, participating educational institution, participating cultural arts district or participating child care provider and the authority was entered into, but prior to the occupancy date, shall reduce the sum of all costs in this subsection.

History: 1973 c. 304; 1975 c. 413 s. 18; 1977 c. 29; 1979 c. 221; 1981 c. 298; 1981 c. 314 s. 144; 1983 a. 27, 189; 1985 a. 29; 1987 a. 27; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 27, 124, 438, 490, 491; 1995 a. 27 ss. 6296, 9126 (19); 1995 a. 332; 1997 a. 27.

**SECTION 7.** 231.01 (5t) of the statutes is created to read:

231.01 (5t) "Participating cultural arts district" means a cultural arts district that undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of obligations or of a mortgage or of advances as provided in this chapter.

**SECTION 8.** 231.01 (7) (a) 1. of the statutes is amended to read:

231.01 (7) (a) 1. A specific health facility, educational facility, cultural arts facility or child care center work or improvement to be refinanced, acquired,

constructed, enlarged, remodeled, renovated, improved, furnished or equipped by the authority with funds provided in whole or in part under this chapter.

History: 1973 c. 304; 1975 c. 413 s. 18; 1977 c. 29; 1979 c. 221; 1981 c. 298; 1981 c. 314 s. 144; 1983 a. 27, 189; 1985 a. 29; 1987 a. 27; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 27, 124, 438, 490, 491; 1995 a. 27 ss. 6296, 9126 (19); 1995 a. 332; 1997 a. 27.

**SECTION 9.** 231.01 (7) (a) 2. of the statutes is amended to read:

231.01 (7) (a) 2. One or more structures suitable for use as a child care center, health facility, cultural arts facility, laboratory, laundry, nurses' or interns' residence or other multi-unit housing facility for staff, employes, patients or relatives of patients admitted for treatment or care in a health facility, physician's facility, administration building, research facility, maintenance, storage or utility facility.

History: 1973 c. 304; 1975 c. 413 s. 18; 1977 c. 29; 1979 c. 221; 1981 c. 298; 1981 c. 314 s. 144; 1983 a. 27, 189; 1985 a. 29; 1987 a. 27; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 27, 124, 438, 490, 491; 1995 a. 27 ss. 6296, 9126 (19); 1995 a. 332; 1997 a. 27.

**SECTION 10.** 231.01 (7) (a) 4. of the statutes is amended to read:

231.01 (7) (a) 4. Any structure useful for the operation of a health facility, educational facility, cultural arts facility or child care center, including facilities or supporting service structures essential or convenient for the orderly conduct of the health facility, educational facility, cultural arts facility or child care center.

History: 1973 c. 304; 1975 c. 413 s. 18; 1977 c. 29; 1979 c. 221; 1981 c. 298; 1981 c. 314 s. 144; 1983 a. 27, 189; 1985 a. 29; 1987 a. 27; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 27, 124, 438, 490, 491; 1995 a. 27 ss. 6296, 9126 (19); 1995 a. 332; 1997 a. 27.

**SECTION 11.** 231.01 (7) (c) of the statutes is amended to read:

231.01 (7) (c) "Project" may include any combination of projects undertaken jointly by any participating health institution, participating educational institution, participating cultural arts district or participating child care provider with one or more other participating health institutions, participating educational institutions, participating cultural arts districts or participating child care providers.

History: 1973 c. 304; 1975 c. 413 s. 18; 1977 c. 29; 1979 c. 221; 1981 c. 298; 1981 c. 314 s. 144; 1983 a. 27, 189; 1985 a. 29; 1987 a. 27; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 27, 124, 438, 490, 491; 1995 a. 27 ss. 6296, 9126 (19); 1995 a. 332; 1997 a. 27.

**SECTION 12.** 231.02 (6) (b) of the statutes is amended to read:

231.02 (6) (b) Notwithstanding any other provision of law, it is not a conflict of interest or violation of this section or of any other law for a trustee, director, officer

or employe of a participating health institution, participating educational institution, participating cultural arts district or participating child care provider or for a person having the required favorable reputation for skill, knowledge and experience in state and municipal finance or for a person having the required favorable reputation for skill, knowledge and experience in the field of health facility, educational facility, cultural arts facility or child care center architecture to serve as a member of the authority; if in each case to which par. (a) is applicable, the trustee, director, officer or employe of the participating health institution, participating educational institution, participating cultural arts district or participating child care provider abstains from discussion, deliberation, action and vote by the authority in specific respect to any undertaking pursuant to this chapter in which his or her participating health institution, participating educational institution, participating cultural arts district or participating child care provider has an interest, or the person having the required favorable reputation for skill, knowledge and experience in state and municipal finance abstains from discussion, deliberation, action and vote by the authority in specific respect to any sale, purchase or ownership of bonds of the authority in which any business of which such person is a participant, owner, officer or employe has a past, current or future interest, or such person having the required favorable reputation for skill, knowledge and experience in the field of health facility, educational facility, cultural arts facility or child care center architecture abstains from discussion, deliberation, action and vote by the authority in specific respect to construction or acquisition of any project of the authority in which any business of which such person is a participant, owner, officer or employe has a past, current or future interest.

**SECTION 13.** 231.03 (5) of the statutes is amended to read:

231.03 (5) Determine the location and character of any project to be financed under this chapter, and construct, reconstruct, remodel, maintain, enlarge, alter, add to, repair, lease as lessee or lessor and regulate the same, enter into contracts for any such purpose, enter into contracts for the management and operation of a project or other health facilities, educational facilities, cultural arts facilities or child care centers owned by the authority, and designate a participating health institution, participating educational institution, participating cultural arts district or participating child care provider as its agent to determine the location and character of a project undertaken by the participating health institution, participating educational institution, participating cultural arts district or participating child care provider under this chapter and as the agent of the authority, to construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease as lessee or lessor and regulate the same, and as the agent of the authority, to enter into contracts for any such purpose, including contracts for the management and operation of such project or other health facilities, educational facilities, cultural arts facilities or child care centers owned by the authority.

History: 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1983 a. 29 ss. 2112 to 2113, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332.

**SECTION 14.** 231.03 (6) (g) of the statutes is created to read:

231.03 (6) (g) Finance any project undertaken for a cultural arts facility.

**SECTION 15.** 231.03 (6) (h) of the statutes is created to read:

231.03 (6) (h) Refinance outstanding debt of any participating cultural arts district.

**SECTION 16.** 231.03 (7) of the statutes is amended to read:

231.03 (7) Fix and revise from time to time and charge and collect rates, rents, fees and charges for the use of and for the services furnished or to be furnished by a project or other health facilities, educational facilities, cultural arts facilities or child care centers owned by the authority or any portion thereof, contract with any person in respect thereto and coordinate its policies and procedures and cooperate with recognized health facility, educational facility, cultural arts facility or child care center rate setting mechanisms.

History: 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1985 a. 29 ss. 2112 to 2115, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332.

**SECTION 17.** 231.03 (8) of the statutes is amended to read:

231.03 (8) Adopt rules for the use of a project or other health facility, educational facility, cultural arts facility or child care center or any portion of the project or facility owned, financed or refinanced in whole or in part by the authority, including any property used as security for a loan secured through, from or with the assistance of the authority. The authority may designate a participating health institution, participating educational institution, participating cultural arts district or participating child care provider as its agent to establish rules for the use of a project or other health facilities, educational facilities, cultural arts facilities or child care centers undertaken for that participating health institution, participating educational institution, participating cultural arts district or participating child care provider. The rules shall ensure that a project, health facility, educational facility, cultural arts facility, child care center or property may not be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

History: 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1985 a. 29 ss. 2112 to 2115, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332.

**SECTION 18.** 231.03 (11) of the statutes is amended to read:

231.03 (11) Establish or contract with others to carry out on its behalf a health facility, educational facility, cultural arts facility or child care center project cost estimating service, and make this service available on all projects to provide expert cost estimates and guidance to the participating health institution, participating educational institution, participating cultural arts district or participating child care provider and to the authority. To implement this service and, through it, to contribute to cost containment, the authority may require such reasonable reports and documents from health facility, educational facility, cultural arts facility or child care center projects as are required for this service and for the development of cost reports and guidelines. The authority shall appoint a technical committee on health facility, educational facility, cultural arts facility or child care center project costs and cost containment.

History: 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1985 a. 29 ss. 2112 to 2115, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332.

**SECTION 19.** 231.03 (13) of the statutes is amended to read:

231.03 (13) Make loans to any participating health institution, participating educational institution, participating cultural arts district or, before May 1, 2000, participating child care provider for the cost of a project in accordance with an agreement between the authority and the participating health institution, participating educational institution, participating cultural arts district or participating child care provider. The authority may secure the loan by a mortgage or other security arrangement on the health facility, educational facility, cultural arts facility or child care center granted by the participating health institution, participating educational institution, participating cultural arts district or participating child care provider to the authority. The loan may not exceed the total cost of the project as determined by the participating health institution,

participating educational institution, participating cultural arts district or participating child care provider and approved by the authority.

History: 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1985 a. 29 ss. 2112 to 2115, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332.

**SECTION 20.** 231.03 (14) of the statutes is amended to read:

231.03 (14) Make loans to a health facility, educational facility, cultural arts facility or, before May 1, 2000, child care center for which bonds may be issued under sub. (6) (b), (d) ~~or~~, (f) or (h) to refinance the health facility's, educational facility's, cultural arts facility's or child care center's outstanding debt. The authority may secure the loan or bond by a mortgage or other security arrangement on the health facility, educational facility, cultural arts facility or child care center granted by the participating health institution, participating educational institution, participating cultural arts district or participating child care provider to the authority.

History: 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1985 a. 29 ss. 2112 to 2115, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332.

**SECTION 21.** 231.03 (15) of the statutes is amended to read:

231.03 (15) Mortgage all or any portion of a project and other health facilities, educational facilities, cultural arts facilities or child care centers and the site thereof, whether owned or thereafter acquired, for the benefit of the holders of bonds issued to finance the project, health facilities, educational facilities, cultural arts facilities or child care centers or any portion thereof or issued to refund or refinance outstanding indebtedness of participating health institutions, educational institutions, participating cultural arts districts or child care providers as permitted by this chapter.

History: 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1985 a. 29 ss. 2112 to 2115, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332.

**SECTION 22.** 231.03 (16) of the statutes is amended to read:

231.03 (16) Lease to a participating health institution, participating educational institution, participating cultural arts district or participating child

care provider the project being financed or other health facilities, educational facilities, cultural arts facilities or child care centers conveyed to the authority in connection with such financing, upon such terms and conditions as the authority deems proper, and charge and collect rents therefor and terminate any such lease upon the failure of the lessee to comply with any of the obligations thereof; and include in any such lease, if desired, provisions that the lessee thereof shall have options to renew the term of the lease for such periods and at such rent as the authority determines or to purchase all or any part of the health facilities, educational facilities, cultural arts facilities or child care centers or that, upon payment of all of the indebtedness incurred by the authority for the financing of such project or health facilities, educational facilities, cultural arts facilities or child care centers or for refunding outstanding indebtedness of a participating health institution, participating educational institution, participating cultural arts district or participating child care provider, the authority may convey all or any part of the project or such other health facilities, educational facilities, cultural arts facilities or child care centers to the lessees thereof with or without consideration.

History: 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1985 a. 29 ss. 2112 to 2115, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332.

**SECTION 23.** 231.03 (17) of the statutes is amended to read:

231.03 (17) Charge to and apportion among participating health institutions, participating educational institutions, participating cultural arts districts and participating child care providers its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter.

History: 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1985 a. 29 ss. 2112 to 2115, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332.

**SECTION 24.** 231.03 (18) of the statutes is amended to read:



231.03 (18) Make studies of needed health facilities, educational facilities, cultural arts facilities and child care centers that could not sustain a loan were it made under this chapter and recommend remedial action to the legislature; and do the same with regard to any laws or rules that prevent health facilities, educational facilities, cultural arts facilities and child care centers from benefiting from this chapter.

History: 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1985 a. 29 ss. 2112 to 2115, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332.

**SECTION 25.** 231.03 (19) of the statutes is amended to read:

231.03 (19) Obtain, or aid in obtaining, from any department or agency of the United States or of this state or any private company, any insurance or guaranty concerning the payment or repayment of, interest or principal, or both, or any part thereof, on any loan, lease or obligation or any instrument evidencing or securing the same, made or entered into under the provisions of this chapter; and notwithstanding any other provisions of this chapter, to enter into any agreement, contract or any other instrument with respect to that insurance or guaranty, to accept payment in the manner and form provided therein in the event of default by a participating health institution, participating educational institution, participating cultural arts district or participating child care provider, and to assign the insurance or guaranty as security for the authority's bonds.

History: 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1985 a. 29 ss. 2112 to 2115, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332.

**SECTION 26.** 231.04 of the statutes is amended to read:

**231.04 Expenses.** All expenses of the authority incurred in carrying out this chapter shall be payable solely from funds provided under the authority of this chapter, and no liability may be incurred by the authority beyond the extent to which moneys have been provided under this chapter except that, for the purposes of

meeting the necessary expenses of initial organization and operation of the authority for the period commencing on June 19, 1974 and continuing until such date as the authority derives moneys from funds provided to it under the authority of this chapter, the authority may borrow such moneys as it requires to supplement the funds provided under s. 20.440. Such moneys borrowed by the authority shall subsequently be charged to and apportioned among participating health institutions, participating educational institutions, participating cultural arts districts and participating child care providers in an equitable manner, and repaid with appropriate interest over a reasonable period of time.

History: 1973 c. 304; 1987 a. 27; 1993 a. 124.

**SECTION 27.** 231.05 (1) of the statutes is amended to read:

231.05 (1) By means of this chapter, it is the intent of the legislature to provide assistance and alternative methods of financing to nonprofit health institutions to aid them in providing needed health services consistent with the state's health plan, to nonprofit educational institutions to aid them in providing needed educational services, to nonprofit cultural arts districts to aid them in providing needed cultural arts activities and events and to nonprofit child care providers to aid them in providing needed child care services.

History: 1973 c. 304; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1987 a. 27; 1993 a. 124.

\*\*\*\*NOTE: Are all cultural arts districts nonprofit by definition?

**SECTION 28.** 231.06 of the statutes is amended to read:

**231.06 Property acquisition.** The authority may acquire, directly or by and through a participating health institution, participating educational institution, participating cultural arts district or participating child care provider as its agent, by purchase or by gift or devise, such lands, structures, property, rights, rights-of-way, franchises, easements and other interests in lands, including lands

lying under water and riparian rights, which are located within this state as it deems necessary or convenient for the construction or operation of a project, upon such terms and at such prices as it considers reasonable and can be agreed upon between it and the owner thereof, and take title thereto in the name of the authority or in the name of a health facility, educational facility, cultural arts facility or child care center as its agent.

History: 1973 c. 304; 1977 c. 29; 1987 a. 27; 1993 a. 124.

**SECTION 29.** 231.07 (1) (b) of the statutes is amended to read:

231.07 (1) (b) Convey to the participating health institution, participating educational institution, participating cultural arts district or participating child care provider the authority's interest in the project and in any other health facility, educational facility, cultural arts facility or child care center leased, mortgaged or subject to a deed of trust or any other form of security arrangement to secure the bond.

History: 1973 c. 304; 1977 c. 29; 1979 a. 221; 1987 a. 27; 1993 a. 124.

**SECTION 30.** 231.07 (2) (a) of the statutes is amended to read:

231.07 (2) (a) The principal of and interest on any bond issued by the authority to finance a project or to refinance or refund outstanding indebtedness of one or more participating health institutions, participating educational institutions, participating cultural arts districts or participating child care providers, including any refunding bonds issued to refund and refinance the bond, have been fully paid and the bonds retired or if the adequate provision has been made to pay fully and retire the bond; and

History: 1973 c. 304; 1977 c. 29; 1979 c. 221; 1987 a. 27; 1993 a. 124.

**SECTION 31.** 231.08 (5) of the statutes is amended to read:

231.08 (5) In addition to the other authorizations under this section, bonds of the authority may be secured by a pooling of leases whereby the authority may assign

its rights, as lessor, and pledge rents under 2 or more leases of health facilities, educational facilities, cultural arts facilities or child care centers with 2 or more health institutions, educational institutions, cultural arts districts or child care providers, as lessees respectively, upon such terms as may be provided for in bond resolutions of the authority.

History: 1973 c. 304; 1977 c. 317; 1987 a. 27; 1993 a. 124.

**SECTION 32.** 231.10 (1) of the statutes is amended to read:

231.10 (1) The state is not liable on notes or bonds of the authority and the notes and bonds are not a debt of the state. All notes and bonds of the authority shall contain on the face thereof a statement to this effect. The issuance of bonds under this chapter shall not, directly or indirectly or contingently, obligate the state or any political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment. Nothing in this section prevents the authority from pledging its full faith and credit or the full faith and credit of a health institution, educational institution, cultural arts district or child care provider to the payment of bonds authorized under this chapter.

History: 1973 c. 304; 1977 c. 29; 1987 a. 27; 1993 a. 124.

**SECTION 33.** 231.12 of the statutes is amended to read:

**231.12 Studies and recommendations.** It is the intent and purpose of this chapter that the exercise by the authority of the powers granted to it shall be in all respects for the benefit of the people of this state to assist them to provide needed health facilities, educational facilities, cultural arts facilities and child care centers of the number, size, type, distribution and operation that will assure admission and health care, education, culture or child care of high quality to all who need it. The authority shall identify and study all projects which are determined by health planning agencies to be needed, but which could not sustain a loan were such to be

made to it under this chapter. The authority shall formulate and recommend to the legislature such amendments to this and other laws, and such other specific measures as grants, loan guarantees, interest subsidies or other actions the state may provide which would render the construction and operation of needed health facilities, educational facilities, cultural arts facilities and child care centers feasible and in the public interest. The authority also shall identify and study any laws or rules which that it finds handicaps or bars a needed health facility, educational facility, cultural arts facility or child care center from participating in the benefits of this chapter, and recommend to the legislature such actions as will remedy such situation.

History: 1973 c. 304; 1987 a. 27; 1993 a. 124.

\*\*\*\*NOTE: Should this be culture or cultural arts or something else?

**SECTION 34.** 231.13 (1) (intro.) of the statutes is amended to read:

231.13 (1) (intro.) The authority shall collect rents for the use of, or other revenues relating to the financing of, each project. The authority shall contract with a participating health institution, participating educational institution, participating cultural arts district or participating child care provider for each issuance of bonds. The contract shall provide that the rents or other revenues payable by the health facility, educational facility, cultural arts facility or child care center shall be sufficient at all times to:

History: 1973 c. 304; 1977 c. 29; 1979 c. 221; 1987 a. 27; 1993 a. 124; 1995 a. 27.

**SECTION 35.** 231.13 (2) of the statutes is amended to read:

231.13 (2) The authority shall pledge the revenues derived and to be derived from a project and other related health facilities, educational facilities, cultural arts facilities or child care centers for the purposes specified in sub. (1), and additional bonds may be issued which may rank on a parity with other bonds relating to the

project to the extent and on the terms and conditions provided in the bond resolution. Such pledge shall be valid and binding from the time when the pledge is made, the revenues so pledged by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the bond resolution nor any financing statement, continuation statement or other instrument by which a pledge is created or by which the authority's interest in revenues is assigned need be filed or recorded in any public records in order to perfect the lien thereof as against 3rd parties, except that a copy thereof shall be filed in the records of the authority and with the department of financial institutions.

History: 1973 c. 304; 1977 c. 29; 1979 c. 221; 1987 a. 27; 1993 a. 124; 1995 a. 27.

**SECTION 36.** 231.16 (1) of the statutes is amended to read:

231.16 (1) The authority may issue bonds to refund any outstanding bond of the authority or indebtedness that a participating health institution, participating educational institution, participating cultural arts district or participating child care provider may have incurred for the construction or acquisition of a project prior to or after April 30, 1980, including the payment of any redemption premium on the outstanding bond or indebtedness and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase or maturity, or to pay all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements of a project or any portion of a project. No bonds may be issued under this section unless the authority has first entered into a new or amended agreement with a participating health institution, participating

educational institution, participating cultural arts district or participating child care provider to provide sufficient revenues to pay the costs and other items described in s. 231.13.

History: 1973 c. 304; 1979 c. 221; 1987 a. 27; 1993 a. 124.

**SECTION 37.** 231.20 of the statutes is amended to read:

**231.20 Waiver of construction and bidding requirements.** In exercising its powers under s. 101.12, the department of commerce or any city, village, town or county may, within its discretion for proper cause shown, waive any particular requirements relating to public buildings, structures, grounds, works and improvements imposed by law upon projects under this chapter; the requirements of s. 101.13 may not be waived, however. If, however, the prospective lessee so requests in writing, the authority shall, through the participating health institution, participating educational institution, participating cultural arts district or participating child care provider as its agent, call for construction bids in such manner as is determined by the authority with the approval of the lessee.

History: 1973 c. 304; 1983 a. 27; 1987 a. 27; 1993 a. 124; 1995 a. 27 ss. 6298, 9116 (5).

**SECTION 38.** 231.23 of the statutes is amended to read:

**231.23 Nonprofit institutions.** It is intended that all nonprofit health and educational institutions, cultural arts districts and child care providers in this state be enabled to benefit from and participate in this chapter. To this end, all nonprofit health and educational institutions, cultural arts districts and child care providers operating, or authorized to be operated, under any law of this state may undertake projects and utilize the capital financing sources and methods of repayment provided by this chapter, the provisions of any other laws to the contrary notwithstanding.

History: 1973 c. 304; 1987 a. 27; 1993 a. 124.

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**TAXATION**

The bill creates a property tax exemption for the property of a cultural arts district. The property tax exemption, however, does not apply to the property of a cultural arts district that is not a part of the physical structure of a cultural arts facility, if that property is used for a retail business or a restaurant, unless the retail business or restaurant is operated by the cultural arts district or by a nonprofit corporation, organization or association. The exemption also does not apply to parking lots or parking structures that are not used to support the operation of a cultural arts district.

Under the bill, the income of a cultural arts district is exempt from the income tax and the franchise tax, and the income and interest from the district's obligations are exempt from the income tax and the franchise tax. In addition, the income and interest from bonds that are issued by the health and educational finance authority to a cultural arts district are exempt from the income tax and the franchise tax.

Under the bill, goods and services purchased by a cultural arts district are exempt from the sales tax and the use tax.

(END INSERT)

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.  
For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

Local  
CULTURAL ARTS DISTRICT  
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1 **SECTION 1.** 70.11 (40) of the statutes is created to read:

2 70.11 (40) Property of a <sup>local</sup> cultural arts district under subch. V of ch. 229, except  
3 any of the following:

4 (a) Property that is not a part of the physical structure of a cultural arts facility,  
5 as defined under s. <sup>229.841(5)</sup> ~~229.85(10)~~, if that property is used for a retail business or a  
6 restaurant, unless the retail business or restaurant is operated by the cultural arts  
7 district or by a corporation, organization or association that is exempt from taxation  
8 under section 501 (c) (3) of the Internal Revenue Code.





1 (b) A parking lot or parking structure that is not used to support the operation  
2 of a cultural arts facility, as defined under s. <sup>229.84(5)</sup>~~229.85(11)~~.

Insert 5-1

3 ~~SECTION 2. 71.05 (1) (c) 6. of the statutes is created to read:~~

4 ~~71.05 (1) (c) 6. A cultural arts district created under subch. V of ch. 229.~~

5 SECTION 3. 71.05 (1) (c) 7. of the statutes is created to read:

6 71.05 (1) (c) 7. The Wisconsin health and educational ~~finance~~ <sup>Facilities</sup> authority under  
7 s. 231.08, if the bonds are used to fund a loan to finance construction, renovation or  
8 development of a cultural arts facility, as defined under s. 229.85 (11).

9 SECTION 4. 71.26 (1) (bm) of the statutes is amended to read:

10 71.26 (1) (bm) *Certain local districts.* Income of a local exposition district  
11 created under subch. II of ch. 229 ~~or~~ <sup>or</sup> a local professional baseball park district  
12 created under subch. III of ch. 229 or a cultural arts district created under subch. V  
13 of ch. 229.

14 SECTION 5. 71.26 (1m) (g) of the statutes is amended to read:

15 71.26 (1m) (g) Those issued under s. 66.066 by a local professional baseball  
16 park district or a cultural arts district.

17 SECTION 6. 71.26 (1m) (h) of the statutes is created to read:

18 71.26 (1m) (h) Those issued under s. 231.08 to a cultural arts district.

19 SECTION 7. 71.36 (1m) of the statutes is amended to read:

20 71.36 (1m) A tax-option corporation may deduct from its net income all  
21 amounts included in the Wisconsin adjusted gross income of its shareholders, the  
22 capital gain deduction under s. 71.05 (6) (b) 9. and all amounts not taxable to  
23 nonresident shareholders under ss. 71.04 (1) and (4) to (9) and 71.362. For purposes



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1 of this subsection, interest on federal obligations, obligations issued under s. 66.066  
 2 by a local professional baseball park district or a cultural arts district, obligations  
 3 issued under ss. 66.40, 66.431 and 66.4325, obligations issued under s. 234.65 to fund  
 4 an economic development loan to finance construction, renovation or development  
 5 of property that would be exempt under s. 70.11 (36) and obligations issued under  
 6 subch. II of ch. 229 is not included in shareholders' income. The proportionate share  
 7 of the net loss of a tax-option corporation shall be attributed and made available to  
 8 shareholders on a Wisconsin basis but subject to the limitation and carry-over rules  
 9 as prescribed by section 1366 (d) of the internal revenue code. Net operating losses  
 10 of the corporation to the extent attributed or made available to a shareholder may  
 11 not be used by the corporation for further tax benefit. For purposes of computing the  
 12 Wisconsin adjusted gross income of shareholders, tax-option items shall be reported  
 13 by the shareholders and those tax-option items, including capital gains and losses,  
 14 shall retain the character they would have if attributed to the corporation, including  
 15 their character as business income. In computing the tax liability of a shareholder,  
 16 no credit against gross tax that would be available to the tax-option corporation if  
 17 it were a nontax-option corporation may be claimed.

**SECTION 8.** 71.45 (1t) (g) of the statutes is amended to read:

71.45 (1t) (g) Those issued under s. 66.066 by a local professional baseball park  
 district or a cultural arts district.

**SECTION 9.** 71.45 (1t) (h) of the statutes is created to read:

71.45 (1t) (h) Those issued under s. 231.08 to a cultural arts district.

**SECTION 10.** 77.54 (9a) (h) of the statutes is created to read:

77.54 (9a) (h) A cultural arts district under subch. V of ch. 229.

Insert

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INS 16-14

1 SECTION 11. Initial applicability.

2 (1) The treatment of sections 71.05 (1) (c) 6. and 7., 71.26 (1) (bm) and (1m) (g)  
3 and (h), 71.36 (1m) and 71.45 (1t) (g) and (h) of the statutes first applies to taxable  
4 years beginning on January 1, 2000.

5 (2) The treatment of section 70.11 (40) of the statutes first applies to the  
6 property tax assessments as of January 1, 2000.

7 SECTION 12. Effective dates. This act takes effect on the day after publication,  
8 except as follows:

<sup>53</sup>  
sales tax exemption, local cultural arts district.

9 (1) The treatment of section 77.54 (9a) (h) of the statutes takes effect on first  
10 day of the 2nd month beginning after publication.

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SECTION 1. 24.61 (2) (a) 8. of the statutes is created to read:

24.61 (2) (a) 8. Bonds issued under ch. 231 with respect to a cultural arts district created under subch. V of ch. 229.

SECTION 2. 25.17 (3) (b) 11. of the statutes is created to read:

25.17 (3) (b) 11. Bonds issued under ch. 231 with respect to a cultural arts district created under subch. V of ch. 229.

SECTION 3. 25.50 (1) (d) of the statutes, as affected by 1999 Wisconsin Act 9, is amended to read:

25.50 (1) (d) "Local government" means any county, town, village, city, power district, sewerage district, drainage district, town sanitary district, public inland lake protection and rehabilitation district, local professional baseball park district created under subch. III of ch. 229, family care district under s. 46.2895, cultural arts district created under subch. V of ch. 229, public library system, school district or technical college district in this state, any commission, committee, board or officer of any governmental subdivision of this state, any court of this state, other than the court of appeals or the supreme court, or any authority created under s. 231.02, 233.02 or 234.02.

SECTION 4. 40.02 (28) of the statutes, as affected by 1999 Wisconsin Act 9, section 931b, is amended to read:

40.02 (28) "Employer" means the state, including each state agency, any county, city, village, town, school district, other governmental unit or instrumentality of 2 or more units of government now existing or hereafter created within the state and, any federated public library system established under s. 43.19

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whose territory lies within a single county with a population of 500,000 or more, a local exposition district created under subch. II of ch. 229 and a family care district created under s. 46.2895, except as provided under ss. 40.51 (7) and 40.61 (3) and subch. X. "Employer" does not include a cultural arts district created under subch. V of ch. 229. Each employer shall be a separate legal jurisdiction for OASDHI purposes.

NOTE: NOTE: Sub. (28) is amended eff. 1-1-10 by 1999 Wis. Act 9 to read: NOTE:

(28) "Employer" means the state, including each state agency, any county, city, village, town, school district, other governmental unit or instrumentality of 2 or more units of government now existing or hereafter created within the state and any federated public library system established under s. 43.19 whose territory lies within a single county with a population of 500,000 or more, a local exposition district created under subch. II of ch. 229 and a family care district created under s. 46.2895, except as provided under ss. 40.51 (7) and 40.61 (3). Each employer shall be a separate legal jurisdiction for OASDHI purposes.

History: 1981 c. 96, 187, 250, 274, 386; 1983 a. 9, 27; 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 106, 140; 1983 a. 141 ss. 1 to 3, 20; 1983 a. 191 ss. 1, 6; 1983 a. 192 s. 304; 1983 a. 255 s. 6; 1983 a. 275, 290, 368; 1983 a. 435 s. 7; 1985 a. 29, 225; 1985 a. 332 ss. 52, 251 (1); 1987 a. 27, 62, 83, 107, 309, 340, 356, 363, 372, 399; 1987 a. 403 ss. 43 to 45, 256; 1989 a. 13, 14, 31; 1989 a. 56 s. 259; 1989 a. 166, 182, 189, 218, 230, 240, 323, 327, 336, 355, 357, 359; 1991 a. 32, 39, 113, 152, 229, 269, 315; 1993 a. 16, 263, 382, 490, 491; 1995 a. 27, re. 1946 to 1953, 9130 (4); 1995 a. 81, 88, 89, 216, 240, 302, 381, 417; 1997 a. 3, 27, 39, 69, 110, 162, 237, 238; 1999 a. 9, 11.

**SECTION 5. 40.02 (28) of the statutes, as affected by 1999 Wisconsin Act 9,**

section 931c, and ~~...~~ (this Act), is repealed and recreated to read:

1999 Wisconsin Act

**40.02 (28)** "Employer" means the state, including each state agency, any county, city, village, town, school district, other governmental unit or instrumentality of 2 or more units of government now existing or hereafter created within the state, any federated public library system established under s. 43.19 whose territory lies within a single county with a population of 500,000 or more, a local exposition district created under subch. II of ch. 229 and a family care district created under s. 46.2895, except as provided under ss. 40.51 (7) and 40.61 (3). "Employer" does not include a cultural arts district created under subch. V of ch. 229. Each employer shall be a separate legal jurisdiction for OASDHI purposes.

**SECTION 6.** 40.02 (36) of the statutes, as affected by 1999 Wisconsin Act 9, is amended to read:

**40.02 (36)** "Governing body" means the legislature or the head of each state agency with respect to employees of that agency for the state, the common council in cities, the village board in villages, the town board in towns, the county board in

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counties, the school board in school districts, or the board, commission or other governing body having the final authority for any other unit of government, for any agency or instrumentality of 2 or more units of government, for any federated public library system established under s. 43.19 whose territory lies within a single county with a population of 500,000 or more, for a local exposition district created under subch. II of ch. 229 or for a family care district created under s. 46.2895, but does not include a cultural arts district created under subch. V of ch. 229.

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History: 1981 c. 96, 187, 250, 274, 386; 1983 a. 9, 27; 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 106, 140; 1983 a. 141 ss. 1 to 3, 20; 1983 a. 191 ss. 1, 6; 1983 a. 192 s. 304; 1983 a. 255 s. 6; 1983 a. 275, 290, 368; 1983 a. 435 s. 7; 1985 a. 29, 225; 1985 a. 332 ss. 52, 251 (1); 1987 a. 27, 62, 83, 107, 309, 340, 356, 363, 372, 399; 1987 a. 403 ss. 43 to 45, 256; 1989 a. 13, 14, 31; 1989 a. 56 s. 259; 1989 a. 166, 182, 189, 218, 230, 240, 323, 327, 336, 355, 357, 359; 1991 a. 32, 39, 113, 152, 229, 269, 315; 1993 a. 16, 263, 383, 490, 491; 1995 a. 27, ss. 1946 to 1953, 9130 (4); 1995 a. 81, 88, 89, 216, 240, 302, 381, 417; 1997 a. 3, 27, 39, 69, 110, 162, 237, 238; 1999 a. 9, 11

**SECTION 7. 111.02 (7) of the statutes is amended to read:**

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111.02 (7) The term "employer" means a person who engages the services of an employe, and includes any person acting on behalf of an employer within the scope of his or her authority, express or implied, but shall not include the state or any political subdivision thereof, or any labor organization or anyone acting in behalf of such organization other than when it is acting as an employer in fact. For purposes of this subsection, a person who engages the services of an employe includes the University of Wisconsin Hospitals and Clinics Authority and a cultural arts district created under subch. V of ch. 229.

History: 1979 c. 89; 1983 a. 189; 1993 a. 112, 492; 1995 a. 27, 225.

**SECTION 8. 111.70 (1) (j) of the statutes, as affected by 1999 Wisconsin Act 9, is amended to read:**

111.70 (1) (j) "Municipal employer" means any city, county, village, town, metropolitan sewerage district, school district, family care district or any other political subdivision of the state that engages the services of an employe and includes any person acting on behalf of a municipal employer within the scope of the person's



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authority, express or implied, but specifically does not include a cultural arts district created under subch. V of ch. 229

History: 1971 c. 124, 246, 247, 307, 336; 1973 c. 64, 65; 1977 c. 178, 186, 272, 442, 449; 1979 c. 32 s. 92 (15); 1981 c. 20, 112, 187; 1983 a. 189, 192; 1985 a. 29; 1985 a. 182 s. 57; 1985 a. 318; 1987 a. 153, 399; 1991 a. 136; 1993 a. 16, 429, 492; 1995 a. 27, 225, 289; 1997 a. 27, 237; 1999 a. 9

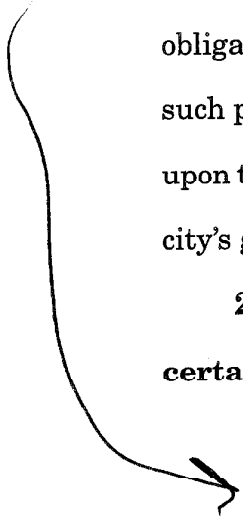
**229.849 District bonds and debt not public debt.** (1) Neither the state of

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the sponsoring city is liable on bonds or other debt of the district and the bonds and other debt of the district are not a debt of the state or the sponsoring city. All bonds and other debt of the district shall contain on the face of the bond or the debt instrument a statement to this effect. The issuance of bonds or the incurrence of other debt by the district shall not, directly or indirectly or contingently, obligate the state or the sponsoring city to levy any form of taxation therefor or to make any appropriation for the payment of the bonds or other debt.

(2) Nothing in this subchapter authorizes the district to create a debt of the state or the sponsoring city, and all bonds issued by the district and all other debt incurred by the district are payable and shall state that they are payable solely from the funds pledged for their payment in accordance with the resolution authorizing their issuance or incurrence or in any trust indenture or mortgage or deed of trust executed as security for the bonds or other debt. Neither the state <sup>nor</sup> of the sponsoring city shall in any event be liable for the payment of the principal of or interest on any bonds or other debt of the district or for the performance of any pledge, mortgage, obligation or agreement that may be undertaken by the district. No breach of any such pledge, mortgage, obligation or agreement may impose any pecuniary liability upon the state or the sponsoring city or any charge upon the state's or the sponsoring city's general credit or against the state's or the sponsoring city's taxing power.

**229.850 Special fund for payment of principal and interest costs on certain bonds.** The district shall maintain a special fund into which it deposits any



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income or property of the district that is used for the payment of principal and interest costs of bonds issued by the district or by the Wisconsin Health and Educational Facilities Authority or by a redevelopment authority created under s. 66.431 (3) for purposes related to the district.

**229.851 State pledge.** The state pledges to and agrees with the holders of any bond issued by the district or other debt incurred by the district, and with those parties who may enter into contracts with the district, that the state will not limit or alter the rights vested in the district by this subchapter until such bonds or other debt, together with the interest on the bonds and other debt, are fully met and discharged and such contracts are fully performed on the part of the district, but nothing shall preclude such a limitation or alteration if adequate provision is made by law for the protection of the holders of such bonds or other debt or those entering into such contracts.

**229.852 Pledge of revenues.** (1) A district may pledge the revenues derived, or to be derived, from any cultural arts facility for any of the following purposes:

- (a) The payment of administrative costs and expenses of the district.
- (b) The payment of the principal of, the premium, <sup>DN</sup> if any, and the interest on outstanding bonds and other debt of the district.
- (c) The creation and maintenance of a special fund or reserves with respect to bonds issued by the district.

(2) The pledge under sub. (1) shall be valid and binding from the time when the pledge is made. The revenues pledged by the district shall immediately be subject to lien without any physical delivery thereof or further act, and the lien shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the district, irrespective of whether the parties have notice of the

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lien. The bond resolution, debt agreement, financing statement, continuation statement or other instrument by which a pledge is created, or by which the district's interest in revenues is assigned, need not be filed or recorded in any public records in order to perfect the lien thereof as against 3rd parties, except that a copy thereof shall be filed in the records of the district and with the department of financial institutions.

**229.853 Trust funds.** All moneys received by the district under this subchapter, whether as proceeds from the issuance of bonds or the incurrence of other debt or as revenues, shall be considered to be trust funds to be held and applied solely as provided in this subchapter. Any officer with whom, or any bank or trust company with which, the moneys are deposited shall act as trustee of the moneys and shall hold and apply the same for the purposes of this subchapter, subject to such regulations as this subchapter and the bond resolution or debt agreement authorizing the bonds or debt may provide.

**229.854 Investment authorization.** The bonds issued by the district are securities in which all public officers and bodies of this state and all political subdivisions and public officers thereof, all banks, trust companies, savings banks and institutions, savings and loan associations, investment companies and all personal representatives, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control.

\*\*\*NOTE: We did not refer to bonds issued by WHEFA in this section because such bonds are already authorized investments under s. 231.18.

SECTION 9. 230.03 (3) of the statutes is amended to read:

end of ins 16-8

ins 16-13 p.1 of 2



*ins 16-13, p. 2 of 2*

230.03 (3) "Agency" means any board, commission, committee, council or department in the state government or a unit thereof created by the constitution or statutes if such board, commission, committee, council, department, unit or the head thereof, is authorized to appoint subordinate staff by the constitution or statute, except a legislative or judicial board, commission, committee, council, department or unit thereof or an authority created under ch. 231, 232, 233, 234 or 235. "Agency" does not mean any local unit of government or body within one or more local units of government that is created by law or by action of one or more local units of government.

History: 1971 c. 270; 1973 c. 333; 1977 c. 196 ss. 24, 100; 1977 c. 418; 1981 c. 20, 26; 1983 a. 27 ss. 1604, 2200 (15); 1983 a. 409, 453, 538; 1987 a. 32; 1989 a. 31; 1991 a. 101, 147; 1993 a. 16, 254; 1995 a. 27, 255; 1997 a. 27.

\*\*\*\*NOTE: Ch. 230 only applies to state agencies; the district is a local unit of government created by a municipality. Nonetheless, the definition of "agency" in s. 230.03 (3) could be worded to more clearly state this.

*end of ins 16-13*

~~SECTION 10. Effective dates. This act takes effect on the day after publication,~~

~~except as follows:~~

*Effective date*

*INS  
Z*

(2) ~~(B)~~ DEFINITION OF EMPLOYER UNDER THE WISCONSIN RETIREMENT SYSTEM. The repeal and recreation of section 40.02 (28) of the statutes takes effect on January 1, 2010.

*move to p. 4 of JK INS*

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4065/P1dn

ALL:.....

*cmH*

Paul Ziegler:

1. This proposal establishes a district's jurisdiction as the city limits of the sponsoring city. This just seemed to us to be the simplest and most natural choice to make. However, under the draft, the eminent domain authority of the district may be specifically limited geographically by the common council. See proposed s.

2. Per our discussion, we have not included any special provisions concerning telephonic meetings of the district board [your proposed s. 229.86 (11)]. The attorney general has concluded that, with limited exceptions, governmental bodies may conduct telephonic meetings provided that certain measures are taken to ensure that the public and news media are able to monitor the meetings effectively. See 69 O.A.G. 143 (1980) and *Badke v. Village of Greendale*, 143 Wis. 2d 553 (1993). As we understand it, you are able to live within the guidelines applicable to other governmental bodies on this point.

3. This draft does not amend s. 893.80, stats., relating to notice of claims and limitation of liability, because s. 893.80, stats., applies to any "political corporation" and proposed s. provides that the cultural arts district is a "body corporate and politic". The analysis also speaks to this point.

*JNS*  
*DN-1*

***Constitutional issues:***

This draft adheres to the structure of 1995 Act 56 in several respects, and the constitutionality of relevant provisions of that act were upheld in *Libertarian Party v. State*, 199 Wis.2d 790 (1996). Therefore, the issues that were novel prior to enactment of 1995 Act 56 have now in many instances been reviewed and decided. There is no better authority on a point of state law than a recent holding of the Wisconsin Supreme Court that is almost directly in point. Every enactment of the legislature enjoys a presumption of constitutionality and any doubt must be resolved in favor of the constitutionality of a statute. *Samb's v. City of Brookfield*, 97 Wis. 2d 356 at 370 (1980). Nevertheless, the language and reasoning of that decision in some cases left unexplained logical issues and inconsistencies with the Court's prior decisions, which may indicate that there is some risk that the Court might refine its thinking if the issues are ably reargued. Given this situation, it may be the better part of wisdom to design this draft to fit this recent holding as closely as possible. However, because alternative choices are available, we raise these issues for your consideration:

1. Article VIII, section 10, of the Wisconsin Constitution prohibits the state from being a party to carrying on works of internal improvement. In *Libertarian Party*, because the Court found that construction of stadium facilities serves a predominately governmental purpose, it found no violation of the internal improvements clause. 199 Wis. 2d 790 at 816. In other cases, however, the Court has said this is not enough: see, for example, *State ex rel. Jones v. Froehlich*, 115 Wis. 32 (1902), where the Court requires that there be an essential governmental function and that private capital be inadequate to fund the project. 115 Wis. 32 at 41. See also *State ex rel. Martin v. Giessel*, 252 Wis. 363 at 365-374 (1948) and *Dept. of Development v. Building Comm.*, 139 Wis. 2d 1 at 9-11 (1987). In *Libertarian Party*, the Court did not distinguish these cases. Because the public purpose doctrine stands independently of the internal improvements clause [see, for example, *Rath v. Community Hospital*, 160 Wis. 2d 853 at 862 (Ct. App., 1991)], it would have been helpful for the Court to explain what, if anything, remains of the internal improvements clause under its revised interpretation. Despite the remaining uncertainty, it should be noted that while this draft retains some state involvement (see proposed s. ), it does not include any requirement for the department of administration to provide services generally to a cultural arts district (see ss. 16.82 and 16.854, stats.), nor any state involvement in the issuance of bonds by a cultural arts district (see s. 229.74, stats.) so state involvement here is less extensive than under *Libertarian Party*. To resolve all uncertainty, however, state involvement would need to be completely removed.

2. Also related to the issue of state involvement is the line of cases that holds that tax revenue must be spent at the level of government at which the tax is raised. See *State ex rel. Warren v. Nusbaum*, 59 Wis. 2d. 391 at 421 (1973) and 77 Marquette Law Review, 466-67 (1994). If the district is not viewed as a unit of local government, this principle would be offended. The draft states that the district is a unit of local government [see proposed s. ]. However, under proposed s. , the governor appoints three members of the district board. Unfortunately, the Court in *Libertarian Party* did not determine what exactly constitutes a unit of local government, thereby leaving for another day the issue of whether a unit of government, like this one, with mixed state and local control is pure enough to pass the test.

3. Also related to the issue of expenditure at the level of taxation is the question of whether this principle would be offended if a sponsoring city subsidizes a district, as authorized in proposed s. . Here again, this issue was not discussed in *Libertarian Party*. It can probably be said, however, that if any subsidy would serve a legitimate, independent public purpose of the municipality, rather than serve simply as a means of circumventing revenue raising at the district level, the proposed language, as applied, would not offend the "spend at the level of taxation" principle.

4. Article XI, section 3 (2), of the Wisconsin Constitution imposes a debt limitation on "municipal corporation[s]". Article XI, section 3 (3), further requires that any such indebtedness be repaid within 20 years by levying a direct, annual [property] tax. However, Article XI, section 3 (5), provides that the debt limitation does not apply to indebtedness created for the purpose of "purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating or managing a public utility of a ...special district...[if]...secured solely by the property or income of

such public utility...". Taking advantage of this exception, the draft, like 1995 Act 56, provides in its treatment of s. 66.067, stats., that cultural arts facilities are public utilities. Under *Payne v. Racine*, 217 Wis. 550 at 555 (1995), the term "public utilities", as used in art XI, sec. 3 (5), "... must be considered to include all plants or activities which the legislature can reasonably classify as public utilities in the ordinary meaning of the term." *Libertarian Party* in effect holds that the legislature's classification of baseball stadium facilities as "public utilities" is a permissible interpretation of the term. 199 Wis. 2d 790 at 820. From this decision, we can conclude that the courts will probably construe this term very liberally. Under art. XI, sec. 3 (5), the indebtedness must be secured "solely by the property or income of such public utility [cultural arts facilities]". The draft permits a cultural arts district to "...issue debt [in the constitutional sense] and to enter into any agreements relating thereto" (see proposed s. ). The draft further contemplates that the district may become indebted to the Wisconsin health and educational facilities authority to retire bonds that may be issued by WHEFA to finance the district's cultural arts facilities (see s. 231.09, stats. and the treatment of ss. 231.01 (4m) and (5w), 231.05 (1), 231.08 (5) and 231.23, stats.). Provided that the courts agree that the cultural arts facilities are a public utility and the income of the facilities is sufficient to retire the district's debts, this should not be a problem.

INS  
ON-2

If you have any further questions regarding the above issues, please let us know.

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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4065/?dn  
MS/JK/RC/JK/G.....

INS DN-1

4. We have not included the language contained in s. 229.89 (2) of the Quarles draft, which seems to be based on s. 66.412. We did not include the language for a number of reasons. First, the language is archaic, convoluted and contains phrases that are incompatible with proper drafting, such as "Notwithstanding any requirement of law to the contrary . . ." Second, the language appears to accomplish no purpose. If any of the entities listed may transfer property to a cultural arts district under their "instruments", they don't need redundant authority to do so. Under created s. 229.844 (14), the district may already "Solicit and accept gifts, loans, grants of land or other property and other aid, and agree to conditions with respect to such gifts, loans, grants or other aid.", so no additional authority is needed. If there *is* some sort of intent in s. 229.89 (2) of the Quarles draft that you would like to accomplish, that is not already allowable or contained in the draft, please let us know what your intent is and we can draft something to ensure that it is achieved.

5. In various places, the Quarles draft states that the district may "issue debt" (see, for example, s. 229.87 (8) of the Quarles draft) and in other places it uses the term "bonds" (see for example s. 229.90 (1) of the Quarles draft, which states that the district may be dissolved if its "bonds" are paid off.) The phrase "issue debt" is not used in the statutes. We have decided that it would be best for the draft to state that the district may "issue bonds, notes and incur debt." Is this OK? Also see the "\*\*\*\*NOTE" following s. 229.844 (8) of the bill.

~~Created s. 229.847 (1) (a) [from s. 229.90 (1) (a) of the Quarles draft] allows a district to be dissolved by a law enacted by this state. This seems to undermine the thrust of the draft as being the creation of a *local* unit of government. In addition, it could be argued that the home rule provisions of the constitution and the statutes are violated because the state, under s. 229.847 (1) (a), would be able to dissolve a local unit of government that is created by a local unit of government, <sup>and</sup> that has very little attachment to state government. See article XI, section 3, of the Wisconsin Constitution and s. 62.11 (5), stats. This constitutional provision "makes a direct grant of legislative power to municipalities" by authorizing them to determine their own local affairs, subject to the constitution and legislative enactments of statewide concern. See *State ex rel. Michalek v. LeGrand*, 77 Wis. 2d 520, 526 (1977), citing *State ex rel. Ekern v. City of Milwaukee*, 190 Wis. 633, 637 (1926).~~

INS DN-2

5. Under s. 229.848 (1) a district's property, upon dissolution of the district, could be transferred to an entity that is "organized and operated exclusively for religious . . .



INS DN-2, cont

purposes. . . ” See section 501 (c) (3) of the Internal Revenue Code. This could be challenged as a violation of the Establishment Clause of the First Amendment to the U.S. Constitution and of the Preference clause of Article I, section 18 of the Wisconsin Constitution.



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4065/P1dn  
MS/JK/RC/PK/JK/PG:cmh:ch

February 11, 2000

Paul Ziegler:

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If you have any further questions regarding the above issues, please let us know.

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