

**1999 DRAFTING REQUEST**

**Bill**

Received: **11/24/98**

Received By: **nilsepe**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Etzler**

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

Drafter: **nilsepe**

May Contact:

Alt. Drafters:

Subject: **Transportation - highways**

Extra Copies: **TNF**

**Topic:**

DOA:.....Etzler - Bonding amounts

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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2/1/99 2:21:51 PM

Page 2

FE Sent For:

**<END>**

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FE Sent For:

*2/1* *J/KM*  
*2/1*  
 <END>

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FE Sent For:			<i>IS 1/20/99</i>	<i>IS/HH 1/20/99</i>			

<END>

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Alt. Drafters:

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Extra Copies: TNF

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**1999 DRAFTING REQUEST**

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FE Sent For:

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**Department of Transportation**  
**1999-2001 Biennial Budget Request**  
**STATUTORY MODIFICATIONS**

7621

**DIN NUMBER:** 5801

**TOPIC:** Provide Revenue Obligation Flexibility for the Building Commission. Increase authorized Transportation Bonding level for upcoming biennia.

**DESCRIPTION OF CHANGES:**

Define transaction types and financing that the Building Commission may add to revenue obligations. Increase authority for the Transportation Bonding Program (s.84.59) by \$187,318,000 (from \$1,255,499,900 to \$1,442,817,900).

**JUSTIFICATION:**

**Building Commission Flexibility**

Section 84.59 establishes two maximum dollar values for major highway projects. One value represents a project authorization limit. A second is a total obligation limit that includes project authorizations and related financing costs. The implementation of a Commercial Paper program has reduced the value of presenting both limits. With Commercial Paper, the total obligation level is greatly increased by including a (banker) required amount of 12% above the amount to be issued. (This is in addition to other financing costs.)

Including these (eventually unused) increases, overstates the size of program requirements and is confusing to interested parties. The Building Commission can determine the amount of additional revenue obligations necessary to include financing costs rather than including an arbitrary limit in the statutes.

**Increase Authority for Contracting Revenue Obligations**

- In the last biennium, the Department changed the revenue bonding methodology. Previously the Department issued fixed rate 20 year bonds annually to reimburse the fund for cash expended on the bond funded portion of major highway projects. Cash from the fund balance was used to finance projects until the time proceeds were received from the annual bond issue.
- Now the Department issues bonds in advance to meet projected project costs for the upcoming fiscal year. Bonding is accomplished in two stages. Short term debt instruments (Tax Exempt Commercial Paper) are issued for the first years of a twenty year debt life. Fixed rate long term bonds are utilized for the remaining period. This methodology provides lower costs, increased investment earnings and more flexibility on timing of fixed rate bond issuance.
- However, to take advantage of a favorable interest rate environment during 1998, full implementation of a Commercial Paper Program is being postponed. The Fiscal 1999 debt need will be met with a "traditional" 20 year fixed rate bond issue. Market conditions will determine the methodology to be used in future years.
- In the biennial budget, the authorized level of revenue bonds established under s.84.59 is adjusted to reflect upcoming bonding needs at the established appropriation dollar level.
- Under current law the Department is authorized to issue \$1,255,499,900 of revenue bonds to finance projects. At the end of the 1997-99 biennium, there will be \$139,160,000 in unused project bonding authority. In order to determine the level of additional authority required in the budget, projected bonding needs are subtracted from the remaining balance. Bond trustee investment earnings (also used to fund projects) are then added. The

objective is to obtain sufficient bonding authority to complete project funding at biennium end. The required authority calculation is as follows:

Balance of Project Bonding authority	\$ 139,160,000
2000-01 Bonds sold to replenish Cash	\$- 226,178,000
2002-03 Bonds sold to replenish Cash	<u>\$- 100,300,000</u>
Additional Authority Required	\$ 187,318,000

- The bonding adjustment identified in this item is consistent with the level of bonding for major projects included in this budget request. The request identifies a bonding appropriation level of \$116.7 and \$120.5 million.



Existing Language

84.59(6)

(6) Revenue obligations may be contracted by the building commission when it reasonably appears to the building commission that all obligations incurred under this section can be fully paid from moneys received or anticipated and pledged to be received on a timely basis. Revenue obligations issued under this section shall not exceed \$1,348,058,900 in principal amount, excluding obligations issued to refund outstanding revenue obligations. Not more than \$1,255,499,900 of the \$1,348,058,900 may be used for transportation facilities under s. 84.01 (28) and major highway projects under ss. 84.06 and 84.09 .

Proposed New Language

84.59(6)

(6) Revenue obligations may be contracted by the building commission when it reasonably appears to the building commission that all obligations incurred under this section can be fully paid from moneys received or anticipated and pledged to be received on a timely basis. The principal amount of revenue obligations contracted under this section shall be applied to transportation facilities under s. 84.01(28) and major highway projects under ss. 84.06 and 84.09 and shall not exceed \$1,255,499,900. In addition the building commission may contract additional revenue obligations as the building commission determines are desirable, and not a part of the foregoing limitation, to refund outstanding revenue obligations and to pay expenses associated with issuance of the revenue obligations including but not limited to escrow agent fees, escrow verification fees, financial advisor fees, the cost of credit enhancement facilities, the amount to fund the reserve fund, the amount of discount incurred on the sale of revenue obligations, and any capitalized interest.



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-1014?  
PEN.....

SOON

Jig  
P1

DOA:.....Etzler - bonding amounts

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

1 AN ACT <sup>no cat</sup> relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**TRANSPORTATION** ✓

**OTHER TRANSPORTATION** ✓

Under current law, the building commission may issue revenue bonds for transportation purposes in a principal amount of \$1,348,058,900. Not more than \$1,255,499,900 of that principal amount may be used for major highway projects and other transportation facilities. The remainder of the principal amount may be used for fees and other expenses related to the revenue obligations.

This bill increases the level of revenue bonding for major highway projects and transportation administrative facilities by 14.92% (from \$1,255,499,900 to \$1,442,817,900). The bill also eliminates the limit on the amount of revenue bonding that the building commission may issue for fees and other expenses related to the revenue obligations.

For further information see the *state* 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:*

2 SECTION 1. 84.59 (6) <sup>✓</sup> of the statutes is amended to read:



**Nilsen, Paul**

---

**From:** Etzler, John [John.Etzler@doa.state.wi.us]  
**Sent:** Thursday, January 07, 1999 4:35 PM  
**To:** Nilsen, Paul  
**Subject:** LRB 1014

Paul -- Please make the following addition to LRB 1014/P1:

ss. 84.59 (6) (page 2, line 14) ...revenue obligations issued under this section, including, but not limited to, expenses for escrow fees, financial advisor fees,...

Thanks.



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-1014/71  
PEN:jlg:km

SOON

DOA:.....Etzler - bonding amounts

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

d-note

do not gen

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

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*Analysis by the Legislative Reference Bureau*

**TRANSPORTATION**

**OTHER TRANSPORTATION**

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

2

**SECTION 1.** 84.59 (6) of the statutes is amended to read:



1008

**¶ 7.08 ENUMERATION PROVISION.** Avoid specific enumerations that are, in fact, examples and are not all-inclusive. They may undercut a statute's force by raising a question as to whether the statute applies to examples not enumerated or whether the statute applies only to examples of the same general type enumerated. For an example of a specific enumeration that may have undercut a statute's intended force, see *Hatheway v. Gannett Satellite Network*, 157 Wis. 2d 395 (Ct. App. 1990). The court relied on 2 related canons of statutory construction -- *eiusdem generis*, which holds that, when a general definition is followed by a list of specifics, for example, "place of business ..., hotel, tavern, etc.", the definition is limited to other examples of the same kind, class or nature as the items listed; and *noscitur a sociis*, which holds that a word is known by its associates. The statute in question, s. 101.22 (1) (bp), 1989 stats., had even coupled the specific enumeration with "shall be interpreted broadly to include, but not be limited to,".

For a discussion of the canons of statutory construction that come into play in interpreting an enumeration, see *Sutherland Stat Const* (5th Ed), ss. 47.15 to 47.25. See also *State v. Engler*, 80 Wis. 2d, 408-9 (1977); *State v. Campbell*, 102 Wis. 2d 243, 246-47 (Ct. App. 1981), *United States v. Thomas*, 930 F. 2d 526, 529 (7th Cir.), cert. denied, 502 U.S. 857, 112 S.Ct. 171, 130 L.Ed. 2d 334 (1991), overruled on other grounds, *United States v. Canoy*, 38 F. 3d 893, 906 (7th Cir. 1994) and *Welsh v. Boy Scouts of America*, 787 F. Supp. 1511, 1538 (N.D. Ill. 1992), aff'd, 993 F. 2d 1267 (7th Cir. 1993).

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- PEN

John Etzler:

¶ Saying "including but not limited to" does not necessarily assure that a court will uphold the inclusion of "expenses associated with revenue obligations" other than those specified in this proposed treatment of s. 84.59(6), starts. expenses Here's a section from the LRB drafting manual:

5

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

LRB-1014/P2dn  
PEN:jlg:km

January 12, 1999

John Etzler:

Saying "including but not limited to" does not necessarily assure that a court will uphold the inclusion of "expenses associated with revenue obligations" other than those expenses specified in this proposed treatment of s. 84.59 (6), stats. Here's a section from the LRB drafting manual:

**7.08 ENUMERATION PROVISION.** Avoid specific enumerations that are, in fact, examples and are not all-inclusive. They may undercut a statute's force by raising a question as to whether the statute applies to examples not enumerated or whether the statute applies only to examples of the same general type enumerated. For an example of a specific enumeration that may have undercut a statute's intended force, see *Hatheway v. Gannett Satellite Network*, 157 Wis. 2d 395 (Ct. App. 1990). The court relied on 2 related canons of statutory construction — *eiusdem generis*, which holds that, when a general definition is followed by a list of specifics, for example, "place of business ....., hotel, tavern, etc.", the definition is limited to other examples of the same kind, class or nature as the items listed; and *noscitur a sociis*, which holds that a word is known by its associates. The statute in question, s. 101.22 (1) (bp), 1989 stats., had even coupled the specific enumeration with "shall be interpreted broadly to include, but not be limited to,". For a discussion of the canons of statutory construction that come into play in interpreting an enumeration, see *Sutherland Stat Const* (5th Ed), ss. 47.15 to 47.25. See also *State v. Engler*, 80 Wis. 2d, 40809 (1977), *State v. Campbell*, 102 Wis. 2d 243, 246-47 (Ct. App. 1981), *United States v. Thomas*, 930 F. 2d 526, 529 (7th Cir.), *cert. denied*, 502 U.S. 857, 112 S.Ct. 171, 130 L.Ed. 2d 334 (1991), *overruled on other grounds*, *United States v. Canoy*, 38 F. 3d 893, 906 (7th Cir. 1994) and *Welsh v. Boy Scouts of American*, 787 F. Supp. 1511, 1538 (N.D. Ill. 1992), *aff'd*, 993 F. 2d 1267 (7th Cir. 1993).

Paul E. Nilsen  
Legislative Attorney  
261-6926



**Nilsen, Paul**

---

**From:** Etzler, John [John.Etzler@doa.state.wi.us]  
**Sent:** Tuesday, January 19, 1999 3:33 PM  
**To:** Nilsen, Paul  
**Subject:** LRB 1014/P2

Paul -- Please make the following change to LRB 1014/P2.

Page 2, line 14: ...obligations contracted under this section ~~including but not limited to expenses for escrow fees, financial advisor fees, the cost of credit enhancement facilities, the amount to fund reserve fund, the amount of discount incurred on the sale of revenue obligations and any capitalized interest.~~

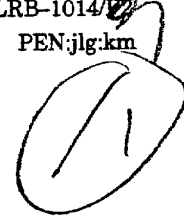
Thanks.



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-1014/22  
PEN:jlg:km

SOON



DOA:.....Etzler - Bonding amounts

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

do not gen

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

*Analysis by the Legislative Reference Bureau*

**TRANSPORTATION**

**OTHER TRANSPORTATION**

Under current law, the building commission may issue revenue bonds for transportation purposes in a principal amount of \$1,348,058,900. Not more than \$1,255,499,900 of that principal amount may be used for major highway projects and other transportation facilities. The remainder of the principal amount may be used for fees and other expenses related to the revenue obligations.

authorizes

This bill increases the level of revenue bonding for major highway projects and transportation administrative facilities by 14.92% (from \$1,255,499,900 to \$1,442,817,900). The bill also ~~eliminates the limit on the amount of revenue bonding that the building commission may issue for~~ fees and other expenses related to the revenue obligations.

to contract revenue obligations in any amount to pay

For further information see the *state* 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:*

2 SECTION 1. 84.59 (6) of the statutes is amended to read:

OVER

1           84.59 (6) ~~Revenue obligations may be contracted by the~~ The building  
2           commission may contract revenue obligations when it reasonably appears to the  
3           building commission that all obligations incurred under this section can be fully paid  
4           from moneys received or anticipated and pledged to be received on a timely basis.  
5           Revenue Except as provided in this subsection, the principal amount of revenue  
6           obligations issued under this section shall may not exceed \$1,348,058,900 in  
7           principal amount, excluding obligations issued to refund outstanding revenue  
8           obligations. Not more than \$1,255,499,900 of the \$1,348,058,900 may  
9           \$1,442,817,900 and may be used for transportation facilities under s. 84.01 (28) and  
10          major highway projects under ss. 84.06 and 84.09. In addition to the foregoing limit  
11          on principal amount, the building commission may contract revenue obligations  
12          under this section as the building commission determines is desirable to refund  
13          outstanding revenue obligations ~~under this section and to pay expenses~~

14          associated with revenue obligations contracted under this section, including but not  
15          limited to expenses for escrow fees, financial advisor fees, the cost of credit  
16          enhancement facilities, the amount to fund the reserve fund, the amount of discount  
17          incurred on the sale of revenue obligations and any capitalized interest.

(END)

**Nilsen, Paul**

---

**From:** Etzler, John  
**Sent:** Monday, February 01, 1999 11:09 AM  
**To:** Nilsen, Paul  
**Cc:** Schmiedicke, David  
**Subject:** LRB 1014

Paul -- The authority increase required in s. 84.59 is **\$179,666,000**. The principal amount of revenue obligations issued under this section cannot exceed **\$1,435,165,900**. Let me know if you have any questions. Thanks.



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-1014A  
PEN:jlg:ijs

TODAY

Handwritten circled number 2

DOA:.....Etzler - Bonding amounts

FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION

1

do not gen  
AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

OTHER TRANSPORTATION

14.3%  
%

Under current law, the building commission may issue revenue bonds for transportation purposes in a principal amount of \$1,348,058,900. Not more than \$1,255,499,900 of that principal amount may be used for major highway projects and other transportation facilities. The remainder of the principal amount may be used for fees and other expenses related to the revenue obligations.

This bill increases the level of revenue bonding for major highway projects and transportation administrative facilities by ~~114,000,000~~ (from \$1,255,499,900 to ~~\$1,369,499,900~~). The bill also authorizes the building commission to contract revenue obligations in any amount to pay fees and other expenses related to the revenue obligations.

For further information see the *state* 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:

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\$ 1,435,165,900 ✓ ← plain

1           84.59 (6) ~~Revenue obligations may be contracted by the~~ The building  
2           commission may contract revenue obligations when it reasonably appears to the  
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5           ~~Revenue~~ Except as provided in this subsection, the principal amount of revenue  
6           obligations issued under this section shall may not exceed ~~\$1,348,058,900 in~~  
7           ~~principal amount, excluding obligations issued to refund outstanding revenue~~  
8           ~~obligations. Not more than \$1,255,499,900 of the \$1,348,058,900 may~~  
9           ~~\$1,442,817,900~~ and may be used for transportation facilities under s. 84.01 (28) and  
10          major highway projects under ss. 84.06 and 84.09. In addition to the foregoing limit  
11          on principal amount, the building commission may contract revenue obligations  
12          under this section as the building commission determines is desirable to refund  
13          outstanding revenue obligations contracted under this section and to pay expenses  
14          associated with revenue obligations contracted under this section.

(END)

\$ 1,435,165,900 ✓



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-1014/2  
PEN:jlg:jf

DOA:.....Etzler - Bonding amounts

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

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*Analysis by the Legislative Reference Bureau*

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This bill increases the level of revenue bonding for major highway projects and transportation administrative facilities by 14.3% (from \$1,255,499,900 to \$1,435,165,900). The bill also authorizes the building commission to contract revenue obligations in any amount to pay fees and other expenses related to the revenue obligations.

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