

**2001 DRAFTING REQUEST**

**Senate Amendment (SA-SSA1-SB55)**

Received: **06/15/2001**

Received By: **champra**

Wanted: **Soon**

Identical to LRB:

For: **Senate Democratic Caucus**

By/Representing: **Keckhaver**

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

Drafter: **champra**

May Contact:

Addl. Drafters:

Subject: **Bonding - state  
State Finance - miscellaneous**

Extra Copies:

Submit via email: **NO**

Requester's email:

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**Pre Topic:**

SDC:.....Keckhaver - CN6534,

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**Topic:**

Bonding for youth and family center at the HR Academy, Inc.

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**Instructions:**

See Attached.

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**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>
/?	champra 06/16/2001	csicilia 06/16/2001		_____			
/1			kfollet 06/16/2001	_____	lrb_docadmin 06/16/2001		

FE Sent For:

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State Finance - miscellaneous

Extra Copies: JTK

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Instructions:

See Attached.

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1?	champra	1 ojs 6/16 ej	kjl 6/16	kjl SS 6/16			

FE Sent For:

<END>

# Agency: Building Program

caucus number 6534

duplicate flag:

duplicate with:

Other reference numbers:	LFB Sum #:
FM 1504	
bill number/amendment number:	
LRB draft #	LRB P-draft:

description: Authorize Building Commission to give \$1.5 million in general fund supported borrowing aid for youth and family center at HR Academy, Inc. in Milwaukee, includes specifications

### other notes

Description2: Incorporates the provisions of JFC Motion 1504, providing the Building Commission with authority to authorize up to \$1.5 million in general fund supported borrowing to aid in the construction of a youth and family center at the HR Academy, Inc. in the City of Milwaukee. Enumerate the \$5 million Youth and Family Center project to be funded with \$1.5 million in general fund supported borrowing, and \$3.5 million in gifts, grants, and other receipts as part of the 2001-03 state building program. Specify that the state funding commitment to the project be made in the form of a grant to HR Academy. Before approving any state funds, the Building Commission would be required to determine that the HR Academy has secured additional funding of at least \$3.5 million from non-state donations for the purpose of constructing the youth and family center. Further, specify that if the Building Commission makes a grant to the HR Academy and if, for any reason the facility that is constructed with funds from the grant is not used as a youth and family center, the state would retain ownership interest equal to the amount of the state's grant.

drafting instructions: Change Holy Redeemer Institutional Church of God to HR Academy, Inc.

more instructions:

Agency: **Building Program**

Number of Amendments: 1

60853

RAC

Holy Redeemer Institutional Church of God in Christ Youth and Family Center

CN6534

Agency: Building Program

Description: Incorporate the provisions of JFC Motion # 1504.

Provide the Building Commission with authority to authorize up to \$1.5 Million in general fund supported borrowing to aid in the construction of a youth and family center at the Holy Redeemer Institutional Church of God in Christ in the City of Milwaukee. Enumerate the \$5 Million Youth and Family Center project, to be funded with \$1.5 Million in general fund supported borrowing and \$3.5 Million in gifts, grants and other receipts as part of the 2001-03 state building program. Specify that the state funding commitment to the project be made in the form of a grant to Holy Redeemer Institutional Church of God in Christ. Before approving any state funds, the Building Commission would be required to determine that the Holy Redeemer Church has secured additional funding of at least \$3.5 Million from non state donations for the purpose of constructing the youth and family center. Further, specify that if the Building Commission makes a grant to the Holy Redeemer Church, and if, for any reason, the facility that is constructed with funds from the grant is not used as a youth and family center, the state would retain an ownership interest equal to the amount of the state's grant.

Fiscal Effect: \$1.5 Million BR

See JFC Motion #1504

JTK?

BUILDING PROGRAM

Holy Redeemer Institutional Church of God in Christ Youth and Family Center

Motion:

Move to provide the Building Commission the authority to authorize up to \$1,500,000 in general fund supported borrowing to aid in the construction of a youth and family center at the Holy Redeemer Church of God in Christ in the City of Milwaukee. Enumerate the \$5,000,000 youth and family center project, to be funded with \$1,500,000 in general fund supported bonding and \$3,500,000 in gifts, grants and other receipts as part of the 2001-03 state building program. Create a new bonding authorization under the Building Commission and specify that the \$1.5 million in bonding would be used to provide a grant to the Holy Redeemer Church of God in Christ in the City of Milwaukee to aid in the construction of a youth and family center in the City. Create a sum sufficient GPR debt service appropriation for the payment of principal and interest costs incurred in financing the construction of the youth and family center and to make payment determined by the Building Commission to be attributable to the bond proceeds incurred in financing the construction of the center.

Specify that the state funding commitment to the project be made in the form of a grant to the Holy Redeemer Church of God in Christ. Before approving any state funds, the Building Commission would be required to determine that the Holy Redeemer Church has secured additional funding of at least \$3,500,000 from nonstate donations for the purpose of constructing the youth and family center. Further, specify that if the Building Commission makes a grant to the Holy Redeemer Church, and if, for any reason, the facility that is constructed with funds from the grant is not used as a youth and family center, the state would retain an ownership interest equal to the amount of the state's grant.

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Note:

It is not certain whether the issuance of general obligation bonding, supported by taxpayers, to provide a grant to a religious institution to construct a facility in which religious worship or education may occur would be found to be consistent with case law on the Establishment Clause of the First Amendment to the United States Constitution.

[Change to Base: \$1,500,000 BR]

[Change to Bill: \$1,500,000 BR]

2001

Date (time) needed

(D-Nolte)

LRB b 0853 , 1 / 1

**AMDT TO BUDGET SUB AMDT**

RAC : ej : \_\_\_\_\_

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**SENATE AMENDMENT  
TO ~~SENATE AMENDMENT~~ \_\_\_\_\_,  
TO SENATE SUBSTITUTE AMENDMENT 1,  
TO 2001 SENATE BILL 55**

At the locations indicated, amend the substitute amendment [~~amendment~~] as follows:

- #. Page . . . . , line . . . . :
- #. Page . . . . , line . . . . :
- #. Page . . . . , line . . . . :
- #. Page . . . . , line . . . . :
- #. Page . . . . , line . . . . :
- #. Page . . . . , line . . . . :

*[Handwritten scribble]*



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBb0021/1

RAC:kmg:pg

Today

LRBb0853/1  
RAC

ASSEMBLY AMENDMENT  
TO 2001 ASSEMBLY BILL 144

1 At the locations indicated, amend the bill as follows:

2 ~~X~~. Page ~~185~~<sup>(16)</sup>, line ~~18~~<sup>(16)</sup> after that line insert:

3 "SECTION 108m. 13.48 (35) of the statutes is created to read:

4 13.48 (35) ~~HOLY REDEEMER INSTITUTIONAL CHURCH OF GOD IN CHRIST~~ YOUTH AND

5 FAMILY CENTER. (a) The building commission may authorize up to \$1,500,000 in

6 general fund supported borrowing to aid in the construction of a youth and family

7 center for ~~the Holy Redeemer Institutional Church of God in Christ~~ in the city of

8 Milwaukee. The state funding commitment under this paragraph shall be in the

9 form of a grant to ~~Holy Redeemer Institutional Church of God in Christ~~. Before

10 approving any such state funding commitment, the building commission shall

11 determine that ~~Holy Redeemer Institutional Church of God in Christ~~ has secured

12 additional funding at least equal to \$3,500,000 from nonstate donations for the

13 purpose of constructing a youth and family center.

CS  
HR Academy, Inc

HR Academy, Inc

HR Academy, Inc

1 (b) If the building commission authorizes a grant to ~~Holy Redeemer~~  
 2 ~~Institutional Church of God in Christ~~ under par. (a) and if, for any reason, the facility  
 3 that is constructed with funds from the grant is not used as a youth and family center,  
 4 the state shall retain an ownership interest in the facility equal to the amount of the  
 5 state's grant."

290 ✓  
 9 ✓

6 ~~2.~~ Page ~~470~~, line ~~12~~: after that line insert:

7 "(bm) Principal repayment, interest,  
 8 and rebates; ~~Holy Redeemer~~  
 9 ~~Institutional Church of God in~~

HR Academy, Inc.

10 ~~Christ~~

GPR S -0- -0-"

11 ~~3.~~ Page ~~486~~, line ~~21~~: after "(3) (a), (b)," insert "(bm)."

12 ~~4.~~ Page ~~503~~, line ~~7~~: after that line insert:

13 "SECTION 973~~m~~ 20.866 (2) (zbg) of the statutes is created to read:

14 20.866 (2) (zbg) ~~Holy Redeemer Institutional Church of God in Christ~~. From  
 15 the capital improvement fund, a sum sufficient for the building commission to  
 16 provide a grant to ~~the Holy Redeemer Institutional Church of God in Christ~~ in the  
 17 city of Milwaukee to aid in the construction of a youth and family center in the city  
 18 of Milwaukee. The state may contract public debt in an amount not to exceed  
 19 \$1,500,000 for this purpose."

20 ~~5.~~ Page ~~594~~, line ~~20~~: after that line insert:

21 "SECTION 978~~a~~ 20.867 (3) (bm) of the statutes is created to read:

22 20.867 (3) (bm) *Principal repayment, interest, and rebates; ~~Holy Redeemer~~*  
 23 *~~Institutional Church of God in Christ~~*. A sum sufficient to reimburse s. 20.866 (1) (u)  
 24 for the payment of principal and interest costs incurred in financing the construction

HR Academy, Inc.

HR Academy, Inc.

20



HR Academy, Inc

1 of a youth and family center for the Holy Redeemer Institutional Church of God in  
2 ~~Christ~~ in the city of Milwaukee, and to make the payments determined by the  
3 building commission under s. 13.488 (1) (m) that are attributable to the proceeds of  
4 obligations incurred in financing the construction of a youth and family center for the  
5 ~~Holy Redeemer Institutional Church of God in Christ in the city of Milwaukee~~."

HR Academy, Inc

6 ~~Page 1739, line 10~~ after that line insert *the following (and adjust*  
*the appropriate totals accordingly)*  
7 ~~1315 26~~

"(1o) 2001-03 AUTHORIZED STATE BUILDING PROGRAM. For the fiscal years  
8 beginning on July 1, 2001, and ending on June 30, 2003, the authorized state  
9 building program is as follows:

10 " ~~(a) HOLY REDEEMER INSTITUTIONAL CHURCH OF GOD IN~~  
11 ~~CHRIST~~ HR Academy, Inc (CS)

12 ob 1. *Projects financed by general fund supported borrowing:*

13 Youth and family center \$1,500,000

14 2. *Projects financed by gifts, grants and other receipts:*

Youth and family center 3,500,000

15 3. *Agency totals:*

16 General fund supported borrowing 1,500,000

17 Gifts, grants and other receipts 3,500,000

18 Total — All sources of funds \$5,000,000 <sup>)</sup>

19 (b) SUMMARY  
20 Total general fund supported borrowing \$1,500,000

non-stat  
91

1	Total gifts, grants and other receipts	<u>3,500,000</u>
2	Total — All sources of funds	\$5,000,000.

(END)

3

Insert  
4-3

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBb0853/lins  
RAC:.....

Insert 4-3:

\* Page 1321, line 15: after that line insert:

<sup>ce</sup>  
“(6b) HR ACADEMY, INC., YOUTH AND FAMILY CENTER. Notwithstanding section 13.48 (35) of the statutes, as created by this act, the building commission shall not make a grant to HR Academy, Inc., for the youth and family center project enumerated in subsection (1) (ob) under section 13.48 (35) of the statutes, as created by this act, unless the department of administration has reviewed and approved the plans for the project. Notwithstanding sections 16.85 (1) and 16.855 (1) of the statutes, the department of administration shall not supervise any services or work or let any contract for the project. Section 16.87 of the statutes does not apply to the project.”

69

not  
stat  
- 91

DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBb0021/1dn  
RAC.king&wlj.pg

CRBb0853/1  
RAC

(March 29, 2001)

If HR Academy, <sup>e</sup> Ixox, <sup>nc</sup>,  
is

HR Academy, Ixox-5

Representative Morris-Tatum:

This amendment authorizes the state to incur public debt in an amount not to exceed \$1,500,000 for the purpose of aiding in the construction of a youth and family center for ~~the Holy Redeemer Institutional Church of God in Christ~~ in the city of Milwaukee. ~~Because this amendment authorizes the state to spend public money to construct a facility that will be~~ owned and operated by a religious organization, there is an issue as to whether this amendment violates the Establishment Clause of the First Amendment, which provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." U.S. Const. (This provision applies to the states through the operation of the 14th Amendment.)

The test that the courts have used to examine whether a provision violates the Establishment Clause of the First Amendment is taken from *Lemon v. Kurtzman*, 403 U.S. 602, at 612-613 (1971). The test provides that a statute does not violate the Establishment Clause if:

1. The statute has a secular legislative purpose;
2. The statute's principal or primary effect neither enhances not inhibits religion; and
3. The statute does not create excessive entanglement between government and religion.

While courts, using the *Lemon* test, have permitted revenue bonding for religious institutions for secular purposes (see *Hunt v. McNair*, 413 U.S. 734 (1973)), I have been unable to identify a case in which courts have permitted general obligation bonding for a religious institution for the construction of a facility in which religious instruction and religious worship could occur. As I read the materials that you submitted with the drafting request, the youth and family center to be constructed at Holy Redeemer will contain classrooms in which religious instruction may occur and will also be used as a retreat center in which religious worship may occur. For this reason, I cannot ensure that this amendment will be found not to violate the Establishment Clause of the First Amendment.

For a very recent discussion of the Establishment Clause and the use of revenue bonding for a religious institution, see *Johnson v. Economic Development Corp.* of

*Oakland County*, No. 99-1884 (6th Cir. February 27, 2001). (A copy of this decision can be found on the Web at <http://pub.bna.com/lw/991884.htm>). In *Johnson*, the court upheld a government corporation's issuing tax-exempt revenue bonds for a religious institution as part of a community economic development program. Significantly, however, the religious institution was required to pay all issuance costs of the bonds and was required to pay all principal and interest payments. Obviously, this fact situation differs considerably from the fact situation involving ~~Holy Redeemer~~, because in this amendment general obligation bonds are being issued, the issuance and principal and interest costs of which are to be paid by the state and not by ~~Holy Redeemer~~.

If I may be of further assistance, please do not hesitate to contact me.

Rick A. Champagne  
Senior Legislative Attorney  
Phone: (608) 266-9930  
E-mail: rick.champagne@legis.state.wi.us

HR Academy, INC.

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

LRBb0853/1dn  
RAC:cjs:kjf

June 16, 2001

This amendment authorizes the state to incur public debt in an amount not to exceed \$1,500,000 for the purpose of aiding in the construction of a youth and family center for HR Academy, Inc., in the city of Milwaukee. If HR Academy, Inc., is owned and operated by a religious organization, there is an issue as to whether this amendment violates the Establishment Clause of the First Amendment, which provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." U.S. Const. (This provision applies to the states through the operation of the 14th Amendment.)

The test that the courts have used to examine whether a provision violates the Establishment Clause of the First Amendment is taken from *Lemon v. Kurtzman*, 403 U.S. 602, at 612-613 (1971). The test provides that a statute does not violate the Establishment Clause if:

1. The statute has a secular legislative purpose;
2. The statute's principal or primary effect neither enhances nor inhibits religion; and
3. The statute does not create excessive entanglement between government and religion.

While courts, using the *Lemon* test, have permitted revenue bonding for religious institutions for secular purposes (see *Hunt v. McNair*, 413 U.S. 734 (1973)), I have been unable to identify a case in which courts have permitted general obligation bonding for a religious institution for the construction of a facility in which religious instruction and religious worship could occur. As I read the materials that you submitted with the drafting request, the youth and family center to be constructed at Holy Redeemer will contain classrooms in which religious instruction may occur and will also be used as a retreat center in which religious worship may occur. For this reason, I cannot ensure that this amendment will be found not to violate the Establishment Clause of the First Amendment.

For a very recent discussion of the Establishment Clause and the use of revenue bonding for a religious institution, see *Johnson v. Economic Development Corp. of Oakland County*, No. 99-1884 (6th Cir. February 27, 2001). (A copy of this decision can be found on the Web at <http://pub.bna.com/lw/991884.htm>). In *Johnson*, the court upheld a government corporation's issuing tax-exempt revenue bonds for a religious

institution as part of a community economic development program. Significantly, however, the religious institution was required to pay all issuance costs of the bonds and was required to pay all principal and interest payments. Obviously, this fact situation differs considerably from the fact situation involving HR Academy, Inc., because in this amendment general obligation bonds are being issued, the issuance and principal and interest costs of which are to be paid by the state and not by HR Academy, Inc.

If I may be of further assistance, please do not hesitate to contact me.

Rick A. Champagne  
Senior Legislative Attorney  
Phone: (608) 266-9930  
E-mail: [rick.champagne@legis.state.wi.us](mailto:rick.champagne@legis.state.wi.us)

SDC:.....Keckhaver – CN6534, Bonding for youth and family center at the  
HR Academy, Inc.

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

**CAUCUS SENATE AMENDMENT**

**TO SENATE SUBSTITUTE AMENDMENT 1,**

**TO 2001 SENATE BILL 55**

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 16, line 16: after that line insert:

3 "SECTION 108m. 13.48 (35) of the statutes is created to read:

4 13.48 (35) HR ACADEMY, INC., YOUTH AND FAMILY CENTER. (a) The building  
5 commission may authorize up to \$1,500,000 in general fund supported borrowing to  
6 aid in the construction of a youth and family center for HR Academy, Inc., in the city  
7 of Milwaukee. The state funding commitment under this paragraph shall be in the  
8 form of a grant to HR Academy, Inc. Before approving any such state funding  
9 commitment, the building commission shall determine that HR Academy, Inc., has



1 secured additional funding at least equal to \$3,500,000 from nonstate donations for  
2 the purpose of constructing a youth and family center.

3 (b) If the building commission authorizes a grant to HR Academy, Inc., under  
4 par. (a) and if, for any reason, the facility that is constructed with funds from the  
5 grant is not used as a youth and family center, the state shall retain an ownership  
6 interest in the facility equal to the amount of the state's grant.”.

7 **2.** Page 290, line 9: after that line insert:

8 “(bm) Principal repayment, interest,

9 and rebates; HR Academy, Inc. GPR S -0- -0-”.

10 **3.** Page 414, line 10: after “(3) (a), (b),” insert “(bm).”.

11 **4.** Page 421, line 18: after that line insert:

12 “SECTION 973r. 20.866 (2) (zbg) of the statutes is created to read:

13 20.866 (2) (zbg) *HR Academy, Inc.* From the capital improvement fund, a sum  
14 sufficient for the building commission to provide a grant to HR Academy, Inc., in the  
15 city of Milwaukee to aid in the construction of a youth and family center in the city  
16 of Milwaukee. The state may contract public debt in an amount not to exceed  
17 \$1,500,000 for this purpose.”.

18 **5.** Page 423, line 23: after that line insert:

19 “SECTION 978s. 20.867 (3) (bm) of the statutes is created to read:

20 20.867 (3) (bm) *Principal repayment, interest, and rebates; HR Academy, Inc.*

21 A sum sufficient to reimburse s. 20.866 (1) (u) for the payment of principal and  
22 interest costs incurred in financing the construction of a youth and family center for  
23 HR Academy, Inc., in the city of Milwaukee, and to make the payments determined  
24 by the building commission under s. 13.488 (1) (m) that are attributable to the

1 proceeds of obligations incurred in financing the construction of a youth and family  
2 center for the HR Academy, Inc.”.

3 **6.** Page 1315, line 6: after that line insert the following (and adjust the  
4 appropriate totals accordingly):

5 “(ob) HR ACADEMY, INC.

6 1. *Projects financed by general fund supported borrowing:*

7 Youth and family center \$1,500,000

8 2. *Projects financed by gifts, grants and other receipts:*

Youth and family center 3,500,000

9 3. *Agency totals:*

10 General fund supported borrowing 1,500,000

11 Gifts, grants and other receipts 3,500,000

12 Total — All sources of funds \$5,000,000”.

13 **7.** Page 1321, line 15: after that line insert:

14 “(6q) HR ACADEMY, INC., YOUTH AND FAMILY CENTER. Notwithstanding section  
15 13.48 (35) of the statutes, as created by this act, the building commission shall not  
16 make a grant to HR Academy, Inc., for the youth and family center project  
17 enumerated in subsection (1) (ob) under section 13.48 (35) of the statutes, as created  
18 by this act, unless the department of administration has reviewed and approved the  
19 plans for the project. Notwithstanding sections 16.85 (1) and 16.855 (1) of the  
20 statutes, the department of administration shall not supervise any services or work

1 or let any contract for the project. Section 16.87 of the statutes does not apply to the  
2 project.”.

3 (END)