LRB-0849

2003 DRAFTING REQUEST

Bill

Received: **11/22/2002**

Received By: **rmarchan**

Wanted: **As time permits**

Identical to LRB:

For: **Steve Wieckert (608) 266-3070**

By/Representing: **scott**

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

Drafter: **rmarchan**

May Contact:

Addl. Drafters:

Subject: **Econ. Development - misc.**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Wieckert@legis.state.wi.us**

Carbon copy (CC:) to: **robert.marchant@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Authorize WHEFA bonding for construction of cultural facilities

Instructions:

Redraft AB-794

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	rmarchan 11/25/2002	kgilfoy 12/03/2002					
/1			rschluet 12/03/2002		sbasford 12/03/2002	mbarman 01/30/2003	

FE Sent For:

None needed

<END>

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/?	rmarchan	1 - 12/3 KMG					

FE Sent For:

12-3-4

<END>

2001 – 2002 LEGISLATURE

LRB-4465/2
PJM:kmg:pg

2001 ASSEMBLY BILL 794

February 12, 2002 – Introduced by Representatives WIECKERT, SUDER, MILLER, KRAWCZYK, LADWIG, URBAN, SYKORA, MCCORMICK, HINES, PLALE, OTT and BERCEAU, cosponsored by Senators RISSER, BURKE, DARLING, PLACHE, ROSENZWEIG, ROESSLER and GROBSCHMIDT. Referred to Committee on Government Operations.

AN ACT *to amend* 231.01 (4) (a), 231.01 (4) (b) 1., 231.01 (4) (b) 2., 231.01 (4) (c), 231.01 (7) (a) 1., 231.01 (7) (a) 2., 231.01 (7) (a) 4., 231.01 (7) (c), 231.02 (6) (b), 231.03 (5), 231.03 (7), 231.03 (8), 231.03 (11), 231.03 (13), 231.03 (14), 231.03 (15), 231.03 (16), 231.03 (17), 231.03 (18), 231.03 (19), 231.04, 231.05 (1), 231.06, 231.07 (1) (b), 231.07 (2) (a), 231.08 (5), 231.10 (1), 231.12, 231.13 (1) (intro.), 231.13 (2), 231.16 (1), 231.20 and 231.23; and ***to create*** 231.01 (4c), 231.01 (5t), 231.03 (6) (h) and 231.03 (6) (i) of the statutes; **relating to:** authorizing the Wisconsin Health and Educational Facilities Authority to issue bonds to finance projects related to cultural facilities.

Analysis by the Legislative Reference Bureau

Under current law, the Wisconsin Health and Educational Facilities Authority (WHEFA) may issue bonds to finance certain projects of health or educational institutions, to refinance outstanding debt of health or educational institutions, and to finance a purchase of the state's right to receive any of the payments under the Attorneys General Master Tobacco Settlement Agreement of November 23, 1998. Projects of health or educational institutions 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, and the construction, remodeling, furnishing, or equipping of a health or educational facility or related structure.

This bill authorizes WHEFA to issue bonds to finance any project undertaken by a cultural institution for a cultural facility, or to refinance outstanding debt of a cultural institution. A cultural institution is defined in the bill as a corporation, agency, or association that is authorized by state law to provide or operate a cultural facility. A cultural facility is defined in the bill as a building, institution, place, or agency of a nonprofit entity that is or will be used in whole or in part for the performing or visual arts; for the display of art, animals, plants, or other items of cultural interest; or as a library, museum, broadcasting facility, or other facility related to other cultural arts activities. Project activities for which WHEFA may issue bonds include construction, acquisition, remodeling, furnishing, and equipping of cultural facilities, related structures, and structures or items that are useful for the operation of cultural facilities.

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

SECTION 1. 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 institution, 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 institution, or participating child care provider for the payment of the project cost.

SECTION 2. 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 institution, 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.

SECTION 3. 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 institution, or participating child care provider in the course of the development of the project to the occupancy date.

SECTION 4. 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 institution, or participating child care provider on and after the date on which the contract between a participating health institution, participating educational institution, participating cultural institution, 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.

SECTION 5. 231.01 (4c) of the statutes is created to read:

231.01 **(4c)** "Cultural facility" means an institution, place, building, or agency that satisfies all of the following:

(a) Is owned by an entity that is described in section 501 (c) (3) of the Internal Revenue Code and that is exempt from federal income tax under section 501 (a) of the Internal Revenue Code.

(b) Is or will be used in whole or in part for the performing or visual arts, including music performance; for the display of art, animals, plants, aquatic life, or

other items of cultural interest; or as a library, museum, broadcasting facility, or other facility related to other cultural arts activities; and any related property.

SECTION 6. 231.01 (5t) of the statutes is created to read:

231.01 **(5t)** "Participating cultural institution" means a corporation, agency, or association that is authorized by state law to provide or operate a cultural facility and 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 7. 231.01 (7) (a) 1. of the statutes is amended to read:

231.01 **(7)** (a) 1. A specific health facility, educational facility, cultural 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.

SECTION 8. 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, cultural facility, health facility, laboratory, laundry, nurses' or interns' residence or other multi–unit housing facility for staff, employees, 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.

SECTION 9. 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 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 facility, or child care center.

SECTION 10. 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 institution, or participating child care provider with one or more other participating health institutions, participating educational institutions, participating cultural institutions, or participating child care providers.

SECTION 11. 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 employee of a participating health institution, participating educational institution, participating cultural institution, 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 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 employee of the participating health institution, participating educational institution, participating cultural institution, 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 institution, 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 employee 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 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 employee has a past, current, or future interest.

SECTION 12. 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 facilities, or child care centers owned by the authority, and designate a participating health institution, participating educational institution, participating cultural institution, 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 institution, 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 facilities, or child care centers owned by the authority.

SECTION 13. 231.03 (6) (h) of the statutes is created to read:

231.03 **(6)** (h) Finance any project undertaken for a cultural facility by a participating cultural institution.

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

231.03 **(6)** (i) Refinance outstanding debt of any participating cultural institution.

SECTION 15. 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 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 facility, or child care center rate setting mechanisms.

SECTION 16. 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 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 institution, or participating child care provider as its agent to establish rules for the use of a project or other health facilities, educational facilities, cultural facilities, or child care centers undertaken for that participating health institution, participating educational institution, participating cultural institution, or participating child care provider. The rules shall ensure that a project, health facility, educational facility,

cultural 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.

SECTION 17. 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 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 institution, 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 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 facility, or child care center project costs and cost containment.

SECTION 18. 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 institution, 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 institution, 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 facility, or child care center granted by the participating health institution, participating educational institution, participating cultural institution, 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 institution, or participating child care provider and approved by the authority.

SECTION 19. 231.03 (14) of the statutes is amended to read:

231.03 **(14)** Make loans to a health facility, educational facility, cultural facility, or, before May 1, 2000, child care center for which bonds may be issued under sub. (6) (b) (d) or (f) to refinance the health facility's, educational facility's, cultural 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 facility, or child care center granted by the participating health institution, participating educational institution, participating cultural institution, or participating child care provider to the authority.

SECTION 20. 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 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 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 institutions, or child care providers as permitted by this chapter.

SECTION 21. 231.03 (16) of the statutes is amended to read:

231.03 **(16)** Lease to a participating health institution, participating educational institution, participating cultural institution, or participating child care

provider the project being financed or other health facilities, educational facilities, cultural 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 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 facilities, or child care centers or for refunding outstanding indebtedness of a participating health institution, participating educational institution, participating cultural institution, or participating child care provider, the authority may convey all or any part of the project or such other health facilities, educational facilities, cultural facilities, or child care centers to the lessees thereof with or without consideration.

SECTION 22. 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 institutions, and participating child care providers its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter.

SECTION 23. 231.03 (18) of the statutes is amended to read:

231.03 **(18)** Make studies of needed health facilities, educational facilities, cultural 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 facilities, and child care centers from benefiting from this chapter.

SECTION 24. 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 institution, or participating child care provider, and to assign the insurance or guaranty as security for the authority's bonds.

SECTION 25. 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 institutions, and participating child care providers in an equitable manner, and repaid with appropriate interest over a reasonable period of time.

SECTION 26. 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 institutions to aid them in providing needed cultural facilities, and to nonprofit child care providers to aid them in providing needed child care services.

SECTION 27. 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 institution, 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 facility, or child care center as its agent.

SECTION 28. 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 institution, or participating child care provider the authority's interest in the project and in any other health facility, educational facility, cultural 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.

SECTION 29. 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 institutions, 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

SECTION 30. 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 facilities, or child care centers with 2 or more health institutions, educational institutions, cultural institutions, or child care providers, as lessees respectively, upon such terms as may be provided for in bond resolutions of the authority.

SECTION 31. 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 institution, or child care provider to the payment of bonds authorized under this chapter.

SECTION 32. 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 facilities, and child care centers of the number, size, type, distribution, and operation that will assure admission and health care, education, cultural opportunities, 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 facilities, and child care centers feasible and in the public interest. The authority also shall identify and study any laws or rules which it finds handicaps or bars a needed health facility, educational facility, cultural 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.

SECTION 33. 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 institution, 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 facility, or child care center shall be sufficient at all times to:

SECTION 34. 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 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.

SECTION 35. 231.16 (1) of the statutes, as affected by 2001 Wisconsin Act 16, 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 institution, 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. Except for bonds to refund bonds issued under s. 231.03 (6) (g), 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 institution, or participating child care provider to provide sufficient revenues to pay the costs and other items described in s. 231.13.

SECTION 36. 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 institution, 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.

SECTION 37. 231.23 of the statutes is amended to read:

231.23 Nonprofit institutions. It is intended that all nonprofit health ~~and~~ institutions, educational institutions, cultural institutions, and child care providers in this state be enabled to benefit from and participate in this chapter. To this end, all nonprofit health ~~and~~ institutions, educational institutions, cultural institutions, 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.

(END)

Basford, Sarah

To: Becher, Scott
Subject: LRB -0849/1 (attached)

03-0849/1

Sarah Basford
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