

2003 DRAFTING REQUEST

Bill

Received: **11/22/2002**

Received By: **rchampag**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Hoadley**

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

Drafter: **rchampag**

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Subject: **Bonding - state**

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Pre Topic:

DOA:.....Hoadley - BB0401,

Topic:

Unfunded pension obligation bonds

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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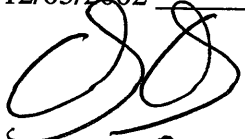
Unfunded pension obligation bonds

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Handwritten notes:
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		1/11/02 jd	11/27 P8	11/27 <END> self			

FE Sent For:

Champagne, Rick

From: Hoadley, Frank
Sent: Thursday, November 21, 2002 4:03 PM
To: Champagne, Rick
Subject: Drafting Request - Pension Obligation Bonds

Rick -

Attached is a memo of drafting instructions from Foley & Lardner regarding authority to issue pension obligation bonds. I have been directed to have legislation ready to include in the December special session.

After you have look this over, give me a call and I will set of a three-way with the attorney we are working with, Dave Ryan. I suspect a discussion run-through will save time in the long run.

Frank Hoadley 266-2305



Pension Ob Drafting
Instructio...

**DRAFTING INSTRUCTIONS
FOR UNFUNDED PENSION LIABILITY BONDS**

The Department of Administration has proposed the adoption of legislation necessary to authorize the issuance of obligations to finance the prepayment of the state's unfunded liability under the Wisconsin Retirement System (the "WRS").

Two alternatives have been suggested: special fund obligations under Subchapter II of Chapter 18, Wisconsin Statutes (the "Revenue Obligations Law"), or obligations payable only from such funds as the Legislature may appropriate ("Appropriation Bonds").

Option 1: Special Fund Obligations

The proposed source of revenues for special fund obligations would be one of the excise taxes, such as the taxes imposed on cigarettes, tobacco products, liquor or malt beverages under Chapter 139.

The legislation should provide that the purpose of funding the State's portion of the WRS' unfunded accrued liability is a special fund program. The legislation is also required to contain a determination that financing such purpose with special fund obligations is appropriate and will serve a public purpose.

Chapter 25 should be amended to create a new trust fund (the "Excise Tax Fund") into which the selected excise taxes and other amounts which the Revenue Obligations Law directs to be deposited into the redemption fund provided for in Section 18.562 shall be deposited. Moneys in the Excise Tax Fund in excess of amounts needed to pay debt service, reserves and administrative expenses relating to the bonds should transfer to the general fund.

The legislation should also designate the Excise Tax Fund as a special fund. A determination or finding that the particular taxes are "excise taxes" should be considered.¹

A statutory authorization of up to \$750,000,000 in principal amount of bonds to be issued for the special fund program should be included. This provision should also authorize the payment of issuance and administrative expenses, accrued or capitalized interest, credit enhancement fees, and any appropriate reserves, as well as the issuance of funding or refunding obligations.

Appropriations will be needed in Chapter 20 for the expenditure of the proceeds of the revenue obligations and for the payment of debt service on, and administrative expenses related to, the obligations.

¹ Section 139.02(1) and 139.03(intro), respectively, refer to the malt beverage tax and the liquor tax as "occupational taxes", while Sections 139.31(1) and 139.76(1), respectively, refer to the cigarette tax and the tobacco products tax as "excise taxes". The PIF legislation contained a statement to the effect that the money in the petroleum inspection fund was from "fees, penalties and excise taxes".

The legislation should also contain a moral obligation commitment that, if statutory changes impair the sufficiency of the targeted taxes, the legislature would appropriate moneys from the general fund.

The legislation could also include provisions making all special fund obligations issued under this authorization parity obligations, except as the authorizing resolution may otherwise provide.

The legislation should, in addition to the authority under Section 18.58(4), authorize the Secretary of the Department of Administration to formulate covenants relating to the program and the bonds.

The only prior statutory authorization for special fund obligations under the Revenue Obligations Law related to revenue bonds to fund the Petroleum Environmental Cleanup Fund Act ("PECFA"), payable from money in the petroleum inspection fund created in Section 25.47. In connection with the PIF Revenue Bonds, 1999 Wisconsin Act 9, Section 1994 created Section 101.143(9m) of the Statutes, which:

- Ω identified the PECFA program as a special fund program;
- Ω identified the petroleum inspection fund as a special fund;
- Ω found the fund to be made up of fees, penalties and excise taxes;
- Ω authorized the issuance of bonds and gave the department of commerce and the building commission certain related authority;
- Ω authorized funding or refunding obligations;
- Ω provided for parity obligations; and
- Ω expressed the legislature's "moral obligation".

The appropriations related to the PIF Revenue Bonds were included in 1999 Wisconsin Act 9, Sections 217, 218, 219, 220 and 221. Finally, although the petroleum inspection fund already existed, 1999 Wisconsin Act 9, Sections 713, 714c, 715 and 715e amended Section 25.47 to revise its sources.

Related amendments could be considered to address other issues in the Revenue Obligations Law, including:

- Ω coordination of the Revenue Obligations Law with revised UCC Article 9. Section 409.109(3)(b) excludes from the scope of Article 9 of the UCC any security interest to the extent that another statute expressly governs its creation, perfection, priority or enforcement. Sections 18.561(2) and 18.562(1) address creation, perfection and enforcement, but not priority. The Revenue Obligations Law could be amended to address priority.

Ω coordination of the references to the special fund as the source of payment in Sections 18.52(7) and 18.562(1) (and, in the case of the PIF Revenue Bonds, Section 101.143(9m)) with the reference in Section 18.56 to the redemption fund as being the sole source of payment.²

Option 2: Appropriation Bonds

Unlike the special fund obligations alternative, there is neither a preexisting statutory structure in place for, nor any close analog to, the Appropriation Bond alternative. A new section could be added to Chapter 16 or Chapter 40, giving the Secretary of Administration the authority to authorize the issuance of [evidences of “appropriation obligations”] for the purpose of funding the State’s portion of the WRS’ unfunded accrued liability.

The legislation should include findings that the issuance of Appropriation Bonds is in the best interests of the public in that it will both result in savings to the State as compared to annual funding of the requirements under Section 40.05(2)(b) and better assure the payment of benefits to retirees.

The legislation should state that the Appropriation Bonds are payable only out of amounts that the Legislature may appropriate for their payment.³

A statutory authorization of up to \$750,000,000 in principal amount of Appropriation Bonds should be included. This provision should also authorize the payment of issuance and administrative expenses, accrued or capitalized interest, credit enhancement fees, and any appropriate reserves, as well as the issuance of funding or refunding obligations. The Secretary should be authorized to determine the amount of bonds to be issued. As a condition to issuance, findings by the Secretary as to cost savings could be included.

Appropriations will be needed for the expenditure of the proceeds of the Appropriation Bonds. In addition, current appropriations will be needed for the payment of debt service coming due in the next year, as well as ongoing administrative expenses related to the Appropriation Bonds. Appropriations for future debt service could not be included at this time, but the current appropriation could provide a structure for future appropriations.

The legislation should provide for the terms (including interest rate and maturity), execution, sale and negotiation of the Appropriation Bonds. In this regard, the following provisions of Chapter 18 (which are contained or incorporated into Subchapter II, relating to revenue obligations) could be used as models, or could be incorporated into the new legislation: Sections 18.03(2) (giving the Secretary certain ancillary powers), 18.06(8) (authorizing certain related agreements), 18.07 (providing for the form of contents of the bonds), 18.10(2), (4) to (9)

² The appropriation in 20.143(3)(s) may also be implicated.

³ Since the Legislature makes appropriations on a biennial basis, and the debt avoidance analysis generally only approves obligations that are either payable in the current year or subject to conditions, the legislation may need to provide either for biennial principal payments or additional conditions, such as the Secretary determining to apply the appropriated funds to the payment.

and (11) (containing fiscal and administrative provisions), 18.55(3), (4) and (5) (relating to the sale and terms of the bonds), 18.58(2) and (3) (containing additional fiscal and administrative provisions), 18.60 (authorizing refunding obligations) [and 18.62 (making the bonds legal investments).]

The legislation should also contain a moral obligation commitment that expresses the Legislature's intention to appropriate, in each biennium, moneys from the general fund sufficient to pay current debt service.

Related Provision:

A related provision could be included to allow municipalities to issue 20-year notes under Section 67.12(12) for purposes of funding their unfunded pension liabilities. Their current authority is for 10-year notes and 10-year refunding notes.



D-Note
State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0854/P1

RAC:.....

Jld

Tues AM, 12/3

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen

- 1 AN ACT ...; relating to: issuance of revenue obligations to pay the state's
- 2 unfunded prior service liability under the Wisconsin Retirement System and
- 3 making appropriations.

Analysis by the Legislative Reference Bureau

Under current law, participating employers in the Wisconsin Retirement System (WRS) are required to make employer contributions to fund the retirement benefits provided to participants in the WRS. Among the contributions that participating employers must make are contributions to pay any unfunded prior service liability resulting, generally, from prior creditable service or benefit improvements retroactively granted to participating employees in the WRS. Currently, the payment of unfunded prior service liability under the WRS is amortized as a level percent of payroll over a period of 40 years and is scheduled to be fully paid in 2030.

This bill authorizes the Building Commission to issue revenue obligations in an amount up to \$750,000,000 to pay the state's unfunded prior service liability under the WRS. The bill provides that the principal and interest costs on the revenue obligations, and other related operating costs to issue and manage the obligations, are to be paid from excise taxes that are currently imposed on the sale of liquor, fermented malt beverages, cigarettes, tobacco products, and controlled substances.

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:

1 SECTION 1. 16.526[✓] of the statutes is created to read:

2 **16.526 Payment of the state's unfunded prior service liability under**
3 **the Wisconsin Retirement System; revenue obligations.** (1) For purposes of
4 subch. II of ch. 18[✓], the payment of the state's unfunded prior service liability under
5 s. 40.05 (2) (b)[✓] is a special fund program, and the excise tax fund[✓] is a special fund
6 created for the purpose of funding the program. The legislature finds and determines
7 that the excise tax fund is a segregated fund consisting of fees, penalties, or excise
8 taxes and that the special program to pay the state's unfunded prior service liability
9 under s. 40.05 (2) (b)[✓] from the net proceeds of revenue obligations issued under this
10 section[✓] constitutes a valid public purpose.

11 (2) From the net proceeds of revenue obligations issued under this section and
12 deposited in the excise tax fund, the department[✓] shall pay the state's unfunded prior
13 service liability under s. 40.05 (2) (b).[✓]

14 (3) Deposits, appropriations, or transfers to the excise tax fund for the purposes
15 of the special fund program under this section may be funded with the proceeds of
16 revenue obligations issued under this section, subject to and in accordance with
17 subch. II of ch. 18.[✓]

18 (4) The department shall have all powers necessary and convenient to
19 distribute the excise tax fund revenues and to distribute the proceeds of the revenue
20 obligations issued under this section[✓] in accordance with subch. II of ch. 18.[✓]

1 (5) The department may enter into agreements with the federal government
2 or its agencies, political subdivisions of this state, individuals, or private entities to
3 insure, or in any other manner provide, additional security for the revenue
4 obligations issued under this section.

5 (6) (a) Subject to the limitation under par. (b), the building commission may
6 contract revenue obligations under this subsection in the maximum amount that the
7 building commission believes can be fully paid on a timely basis from moneys
8 received or anticipated to be received.

9 (b) Revenue obligations issued under this subsection may not exceed
10 \$750,000,000 in principal amount, excluding any obligations that have been
11 defeased under a cash optimization program administered by the building
12 commission. In addition to this limit on principal amount, the building commission
13 may contract revenue obligations as the building commission determines is desirable
14 to fund or refund outstanding revenue obligations issued under this section, to pay
15 issuance or administrative expenses, to make deposits to reserve funds, or to pay
16 accrued or capitalized interest.

17 (7) Unless otherwise expressly provided in resolutions authorizing the
18 issuance of revenue obligations under this section or in other agreements with the
19 owners of revenue obligations, each issue of revenue obligations under this section
20 shall be on a parity with every other revenue obligation issued under this section and
21 in accordance with subch. II of ch. 18.

22 (8) As determined by the building commission, any moneys deposited in the
23 excise tax fund that are not required for the payment of the state's unfunded liability
24 under s. 40.05 (2) (b) and for the retirement of revenue obligations and providing for

1 reserves and for operations relating to the management and retirement of revenue
2 obligations issued under this section[✓] are transferred to the general fund.[✓]

3 (9) Recognizing its moral obligation to do so, the legislature expresses its
4 expectation and aspiration that, if the funds in the excise tax fund are insufficient
5 to pay the principal and interest on the revenue obligations issued under subch. II
6 of ch. 18[✓] pursuant to this section, the legislature shall make an appropriation from
7 the general fund sufficient to pay the principal and interest on the obligations.

8 **SECTION 2.** 20.505 (1) (sd)[✓] of the statutes is created to read:

9 20.505 (1) (sd) *Excise tax fund — revenue obligation proceeds.*[✓] As a continuing
10 appropriation, all proceeds from revenue obligations that are issued under subch. II
11 of ch. 18, authorized under s. 16.526[✓], and deposited in a fund in the state treasury
12 created under s. 18.57 (1),[✓] to provide for reserves and for expenses of issuance and
13 management of the revenue obligations, and the remainder to be transferred to the
14 excise tax fund[✓] for the purpose of the special program under s.[✓] 16.526. Estimated
15 disbursements under this paragraph[✓] shall not be included in the schedule under s.
16 20.005.

17 **SECTION 3.** 20.505 (1) (sh)[✓] of the statutes is created to read:

18 20.505 (1) (sh) *Excise tax fund — revenue obligation repayment.*[✓] From the
19 excise tax fund,[✓] a sum sufficient to repay the fund in the state treasury created under
20 s. 18.57 (1),[✓] or the separate and distinct fund outside the state treasury under s.
21 18.562 (3),[✓] the amount needed to retire revenue obligations issued under subch. II
22 of ch. 18,[✓] as authorized under s. 16.526.[✓] Estimated disbursements under this
23 paragraph shall not be included in the schedule under s. 20.005.

24 **SECTION 4.** 20.505 (1) (sp)[✓] of the statutes is created to read:

1 20.505 (1) (sp) *Revenue obligation debt service — excise tax fund.* From the fund
2 in the state treasury created under s. 18.57 (1), all moneys received by the fund for
3 the purpose of the retirement of revenue obligations, providing for reserves and for
4 operations relating to the management and retirement of revenue obligations issued
5 under subch. II ~~or IV~~ of ch. 18, as authorized under s. 16.526. All moneys received
6 by the fund are irrevocably appropriated in accordance with subch. II of ch. 18 and
7 further established in resolutions authorizing the issuance of the revenue
8 obligations and setting forth the distribution of funds to be received thereafter.
9 Estimated disbursements under this paragraph shall not be included in the schedule
10 under s. 20.005.

11 **SECTION 5.** 20.505 (1) (st) of the statutes is created to read:

12 20.505 (1) (st) *Payment of the state's unfunded prior service liability under the*
13 *Wisconsin Retirement System.* From the excise tax fund, a sum sufficient not to
14 exceed the net proceeds of revenue obligations issued under s. 16.526 to pay the
15 state's unfunded prior service liability under s. 40.05 (2) (b). Estimated
16 disbursements under this paragraph shall not be included in the schedule under s.
17 20.005.

18 **SECTION 6.** 25.17 (1) (es) of the statutes is created to read:

19 25.17 (1) (es) Excise tax fund (s. 25.59);

20 **SECTION 7.** 25.59 of the statutes is created to read:

21 **25.59 Excise tax fund.** There is created a separate, nonlapsible trust fund,
22 known as the excise tax fund, and ~~which~~ ^{that} for the purposes of subch. II of ch. 18, shall
23 be a special fund. If any revenue obligations are issued under s. 16.526, the excise
24 tax fund shall consist of:

25 (1) All taxes that are paid under ch. 139.

1

(2) The proceeds of revenue obligations issued under s. 16.526. ✓

2

(END)

D-note

↓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0854/P1dn

RAC:χ.....

date

Jld

Frank Hoadley:

For the purpose of expediting the drafting and outside review of the proposal, I have divided the proposal into two separate parts. The provisions in this bill draft authorize the use of special fund obligations to pay the state's unfunded prior service liability under the Wisconsin Retirement System (WRS). In a subsequent bill draft, I will put together the provisions relating to the use of appropriation-backed bonds to pay the state's unfunded prior service liability under the WRS. If you wish to have the option of using both methods to pay the state's unfunded liability under the WRS in the same bill, then we can merge the two bills and at that juncture address any issues that may arise from such a merger.

For the purpose of the special fund obligation option, please note that I have used the PECFA provisions as a model, as you requested, but I have modified the language in places to address the specific program that is being created in the draft. Please review the modifications carefully to make sure that they are consistent with your intent. bill

This bill draft provides that the state's unfunded prior service liability under the WRS is to be paid through the issuance of special fund obligations, which are to be secured by current law excise taxes on the sale of liquor, fermented malt beverages, cigarettes, tobacco products, and controlled substances. These ch. 139 taxes, which are currently deposited in the general fund, are to be deposited in the future in a new special fund, the ~~Excise Tax Fund~~. Please note that the use of ch. 139 excise taxes to pay the state's unfunded prior service liability under the WRS is a bit different from the use of the sales and use taxes to pay the revenue bonds for the construction of the Milwaukee Brewers baseball stadium.

In *Libertarian Party v. State*, 199 Wis. 2d 790, 819 (1996), the court found that "the bonds to be issued by a baseball park district are revenue bonds which are payable only from the sales and use taxes the District is authorized to impose and revenue from the stadium itself." In this case, the taxes used to finance the construction of the stadium were imposed directly by the Baseball Park District. There was, therefore, a nexus of sorts between the revenue source (taxes imposed by the District) and the expenditure purpose (construction of a baseball stadium by the District). In fact, the tax was to expire after the District paid off the obligations and fully funded future maintenance and capital improvements costs.

In contrast, in the situation covered under this bill draft, there is no nexus between the ch. 139 excise taxes and the purpose of the special program to pay off the state's unfunded liability under the WRS. These taxes have been in place for many years and currently are used to fund any variety of GPR expenditures. Indeed, these excise taxes will continue after the special fund obligations to pay the state's unfunded prior service liability under the WRS are retired. If *Libertarian Party* holds that a special fund obligation may be secured by any excise tax deposited in a special fund, regardless of the source of the tax, then there should not be a problem with using the ch. 139 excise taxes to pay the state's unfunded liability under the WRS. But if *Libertarian Party* requires a nexus between the revenue source and the expenditure purpose, a court could find that there is no such nexus between the ch. 139 excise taxes and the special program to pay the state's unfunded liability under the WRS.

I raise this issue to alert you to some unaddressed issues in *Libertarian Party* and how their resolution could affect the plan to use excise taxes on the sale of liquor, fermented malt beverages, cigarettes, tobacco products, and controlled substances to pay the state's unfunded liability under the WRS.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0854/P1dn
RAC:jld:pg

November 27, 2002

Frank Hoadley:

For the purpose of expediting the drafting and outside review of the proposal, I have divided the proposal into two separate parts. The provisions in this bill draft authorize the use of special fund obligations to pay the state's unfunded prior service liability under the Wisconsin Retirement System (WRS). In a subsequent bill draft, I will put together the provisions relating to the use of appropriation-backed bonds to pay the state's unfunded prior service liability under the WRS. If you wish to have the option of using both methods to pay the state's unfunded liability under the WRS in the same bill, then we can merge the two bills and at that juncture address any issues that may arise from such a merger.

For the purpose of the special fund obligation option, please note that I have used the PECFA provisions as a model, as you requested, but I have modified the language in places to address the specific program that is being created in the bill draft. Please review the modifications carefully to make sure that they are consistent with your intent.

This bill draft provides that the state's unfunded prior service liability under the WRS is to be paid through the issuance of special fund obligations, which are to be secured by current law excise taxes on the sale of liquor, fermented malt beverages, cigarettes, tobacco products, and controlled substances. These ch. 139 taxes, which are currently deposited in the general fund, are to be deposited in the future in a new special fund, the excise tax fund. Please note that the use of ch. 139 excise taxes to pay the state's unfunded prior service liability under the WRS is a bit different from the use of the sales and use taxes to pay the revenue bonds for the construction of the Milwaukee Brewers baseball stadium.

In *Libertarian Party v. State*, 199 Wis. 2d 790, 819 (1996), the court found that "the bonds to be issued by a baseball park district are revenue bonds which are payable only from the sales and use taxes the District is authorized to impose and revenue from the stadium itself." In this case, the taxes used to finance the construction of the stadium were imposed directly by the Baseball Park District. There was, therefore, a nexus of sorts between the revenue source (taxes imposed by the District) and the expenditure purpose (construction of a baseball stadium by the District). In fact, the tax was to expire after the District paid off the obligations and fully funded future maintenance and capital improvements costs.

In contrast, in the situation covered under this bill draft, there is no nexus between the ch. 139 excise taxes and the purpose of the special program to pay off the state's unfunded liability under the WRS. These taxes have been in place for many years and currently are used to fund any variety of GPR expenditures. Indeed, these excise taxes will continue after the special fund obligations to pay the state's unfunded prior service liability under the WRS are retired. If *Libertarian Party* holds that a special fund obligation may be secured by any excise tax deposited in a special fund, regardless of the source of the tax, then there should not be a problem with using the ch. 139 excise taxes to pay the state's unfunded liability under the WRS. But if *Libertarian Party* requires a nexus between the revenue source and the expenditure purpose, a court could find that there is no such nexus between the ch. 139 excise taxes and the special program to pay the state's unfunded liability under the WRS.

I raise this issue to alert you to some unaddressed issues in *Libertarian Party* and how their resolution could affect the plan to use excise taxes on the sale of liquor, fermented malt beverages, cigarettes, tobacco products, and controlled substances to pay the state's unfunded liability under the WRS.

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

12/4/02

Changes per Dave Ryan Telephone conversation:

- ① 16.526: provide that the "purpose of paying" is the S. F. program; also, on p. 2, line 16: track definition from S. 18.52(8) language
- ② UAAAL under WRS is paid from S. 18.57(1) fund — not excise tax fund
- ③ Have DOA secretary determine amt. of UAAAL to be paid
- ④ allow for payment of costs of credit enhancement



D-Note
State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0854/P1

RAC:jld:pg

P2

Friday 12/6/02

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Reger

- 1 AN ACT *to create* 16.526, 20.505 (1) (sd), 20.505 (1) (sh), 20.505 (1) (sp), 20.505
2 (1) (st), 25.17 (1) (es) and 25.59 of the statutes; **relating to:** issuance of revenue
3 obligations to pay the state's unfunded prior service liability under the
4 Wisconsin Retirement System and making appropriations.

Analysis by the Legislative Reference Bureau

Under current law, participating employers in the Wisconsin Retirement System (WRS) are required to make employer contributions to fund the retirement benefits provided to participants in the WRS. Among the contributions that participating employers must make are contributions to pay any unfunded prior service liability resulting, generally, from prior creditable service or benefit improvements retroactively granted to participating employees in the WRS. Currently, the payment of unfunded prior service liability under the WRS is amortized as a level percent of payroll over a period of 40 years and is scheduled to be fully paid in 2030.

This bill authorizes the Building Commission to issue revenue obligations in an amount up to \$750,000,000 to pay the state's unfunded prior service liability under the WRS. The bill provides that the principal and interest costs on the revenue obligations, and other related operating costs to issue and manage the obligations, are to be paid from excise taxes that are currently imposed on the sale of liquor, fermented malt beverages, cigarettes, tobacco products, and controlled substances.

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:

SECTION 1. 16.526 of the statutes is created to read:

16.526 Payment of the state's unfunded prior service liability under the Wisconsin Retirement System; revenue obligations. (1) For purposes of

subch. II of ch. 18, the ^{purpose of paying} ~~payment~~ of the state's unfunded prior service liability under s. 40.05 (2) (b) is a special fund program, and the excise tax fund is a special fund created for the purpose of funding the program. The legislature finds and determines that the excise tax fund is a segregated fund consisting of fees, penalties, or excise taxes and that the special program to pay the state's unfunded prior service liability under s. 40.05 (2) (b) from the net proceeds of revenue obligations issued under this section constitutes a valid public purpose. ^{is appropriate and will serve a} ✓

(2) From the net proceeds of revenue obligations issued under this section and deposited in ~~the excise tax fund~~ ^{a fund ~~created~~ in the state treasury created}, the department shall pay ^{part or all of} the state's unfunded prior service liability under s. 40.05 (2) (b). ^{as determined by the secretary} ✓

(3) Deposits, appropriations, or transfers to the excise tax fund for the purposes of the special fund program under this section may be funded with the proceeds of revenue obligations issued under this section, subject to and in accordance with subch. II of ch. 18.

(4) The department shall have all powers necessary and convenient to distribute the excise tax fund revenues and to distribute the proceeds of the revenue obligations issued under this section in accordance with subch. II of ch. 18.

under s. 16.57(1)

1 (5) The department may enter into agreements with the federal government
2 or its agencies, political subdivisions of this state, individuals, or private entities to
3 insure, or in any other manner provide, additional security for the revenue
4 obligations issued under this section.

5 (6) (a) Subject to the limitation under par. (b), the building commission may
6 contract revenue obligations under this subsection in the maximum amount that the
7 building commission believes can be fully paid on a timely basis from moneys
8 received or anticipated to be received.

9 (b) Revenue obligations issued under this subsection may not exceed
10 \$750,000,000 in principal amount, excluding any obligations that have been
11 defeased under a cash optimization program administered by the building
12 commission. In addition to this limit on principal amount, the building commission
13 may contract revenue obligations as the building commission determines is desirable
14 to fund or refund outstanding revenue obligations issued under this section, to pay
15 issuance or administrative expenses, to make deposits to reserve funds, ~~or~~ to pay
16 accrued or capitalized interest. *or to pay other costs and the costs of credit enhancement*

17 (7) Unless otherwise expressly provided in resolutions authorizing the
18 issuance of revenue obligations under this section or in other agreements with the
19 owners of revenue obligations, each issue of revenue obligations under this section
20 shall be on a parity with every other revenue obligation issued under this section and
21 in accordance with subch. II of ch. 18.

22 (8) As determined by the building commission, any moneys deposited in the
23 excise tax fund that are not required for the payment of the state's unfunded liability
24 *under s. 49.05(2)(b) and for the retirement of revenue obligations and providing for*

1 reserves and for operations relating to the management and retirement of revenue
2 obligations issued under this section are transferred to the general fund.

3 (9) Recognizing its moral obligation to do so, the legislature expresses its
4 expectation and aspiration that, if the funds in the excise tax fund are insufficient
5 to pay the principal and interest ^{of} on the revenue obligations issued under subch. II
6 of ch. 18 pursuant to this section, the legislature shall make an appropriation from
7 the general fund sufficient to pay the principal and interest on the obligations.

8 SECTION 2. 20.505 (1) (sd) of the statutes is created to read:

9 20.505 (1) (sd) *Excise tax fund — revenue obligation proceeds.* As a continuing
10 appropriation, all proceeds from revenue obligations that are issued under subch. II
11 of ch. 18, authorized under s. 16.526, and deposited in a fund in the state treasury
12 created under s. 18.57 (1), to provide for reserves and for expenses of issuance and
13 management of the revenue obligations, and the remainder to be transferred to the
14 excise tax fund for the purpose of the special program under s. 16.526. Estimated
15 disbursements under this paragraph shall not be included in the schedule under s.
16 20.005.

17 SECTION 3. 20.505 (1) (sh) of the statutes is created to read:

18 20.505 (1) (sh) *Excise tax fund — revenue obligation repayment.* From the
19 excise tax fund, a sum sufficient to repay the fund in the state treasury created under
20 s. 18.57 (1), or the separate and distinct fund outside the state treasury under s.
21 18.562 (3), the amount needed to retire revenue obligations issued under subch. II
22 of ch. 18, as authorized under s. 16.526. Estimated disbursements under this
23 paragraph shall not be included in the schedule under s. 20.005.

24 SECTION 4. 20.505 (1) (sp) of the statutes is created to read:

part or all of
pay the state's unfunded prior service
liability under s. 40.05 (2) (b) and to

1,000
determined
by the
secretary of
administration,

1 20.505 (1) (sp) *Revenue obligation debt service — excise tax fund.* From the fund
 2 in the state treasury created under s. 18.57 (1), all moneys received by the fund for
 3 the purpose of the retirement of revenue obligations, providing for reserves and for
 4 operations relating to the management and retirement of revenue obligations issued
 5 under subch. II of ch. 18, as authorized under s. 16.526. All moneys received by the
 6 fund are irrevocably appropriated in accordance with subch. II of ch. 18 and further
 7 established in resolutions authorizing the issuance of the revenue obligations and
 8 setting forth the distribution of funds to be received thereafter. Estimated
 9 disbursements under this paragraph shall not be included in the schedule under s.
 10 20.005.

11 **SECTION 5.** 20.505 (1) (st) of the statutes is created to read:

12 ~~20.505 (1) (st) *Payment of the state's unfunded prior service liability under the*~~
 13 ~~*Wisconsin Retirement System.* From the excise tax fund, a sum sufficient not to~~
 14 ~~exceed the net proceeds of revenue obligations issued under s. 16.526 to pay the~~
 15 ~~state's unfunded prior service liability under s. 40.05 (2) (b). Estimated~~
 16 ~~disbursements under this paragraph shall not be included in the schedule under s.~~
 17 ~~20.005.~~

18 **SECTION 6.** 25.17 (1) (es) of the statutes is created to read:

19 25.17 (1) (es) Excise tax fund (s. 25.59);

20 **SECTION 7.** 25.59 of the statutes is created to read:

21 **25.59 Excise tax fund.** There is created a separate nonlapsible trust fund,
 22 known as the excise tax fund, that, for the purposes of subch. II of ch. 18, shall be a
 23 special fund. If any revenue obligations are issued under s. 16.526, the excise tax
 24 fund shall consist of ~~3~~ [↑]

25 NO ~~4~~ [↑] All taxes that are paid under ch. 139.

and any amount
 transferred ~~to~~ under
 s. 20.505 (1) (sd) ✓

1 (2) The proceeds of revenue obligations issued under s. 16.526.

2 (END)

FRANK HOADLEY: D-Note
on changes suggested by Dave Ryan.
This version of the draft is based on changes suggested by Dave Ryan.

RAC

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

LRB-0854/P2dn
RAC;jld:rs

December 5, 2002

Frank Hoadley:

This version of the draft is based on changes suggested by Dave Ryan.

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



(D-Note)
State of Wisconsin
2003 - 2004 LEGISLATURE

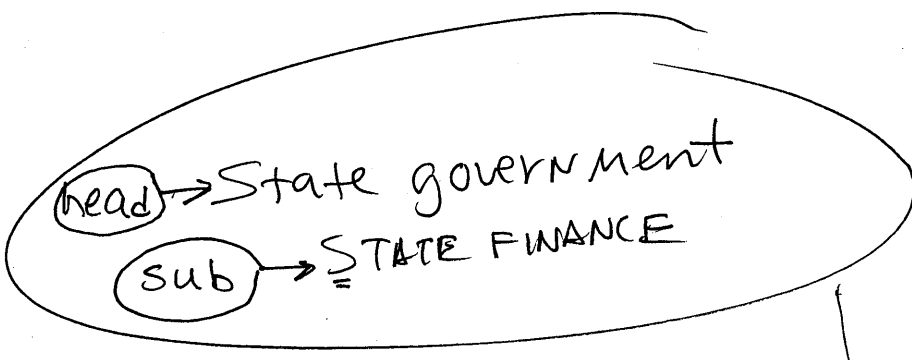
LRB-0854/PZ
RAC:jld:rs

DOA Draft
Budget

Sean

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Do not
gen



- 1
- 2
- 3
- 4

AN ACT ~~to create 16.526, 20.505 (1) (sd), 20.505 (1) (sh), 20.505 (1) (sp), 25.17 (1)~~
~~res, and 25.59 of the statutes, relating to: issuance of revenue obligations to~~
~~pay the state's unfunded prior service liability under the Wisconsin Retirement~~
~~System and making appropriations.~~ the budget ✓

Analysis by the Legislative Reference Bureau

Under current law, participating employers in the Wisconsin Retirement System (WRS) are required to make employer contributions to fund the retirement benefits provided to participants in the WRS. Among the contributions that participating employers must make are contributions to pay any unfunded prior service liability resulting, generally, from prior creditable service or benefit improvements retroactively granted to participating employees in the WRS. Currently, the payment of unfunded prior service liability under the WRS is amortized as a level percent of payroll over a period of 40 years and is scheduled to be fully paid in 2030.

This bill authorizes the Building Commission to issue revenue obligations in an amount up to \$750,000,000 to pay the state's unfunded prior service liability under the WRS. The bill provides that the principal and interest costs on the revenue obligations, ~~and other related operating costs to issue and manage the obligations,~~ are to be paid from excise taxes that are currently imposed on the sale of liquor, fermented malt beverages, cigarettes, tobacco products, ~~and controlled substances.~~

and ✓

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:

1 SECTION 1. 16.526[✓] of the statutes is created to read:

2 **16.526 Payment of the state's unfunded prior service liability under**
3 **the Wisconsin Retirement System; revenue obligations.** (1) For purposes of
4 subch. II of ch. 18, the purpose of paying of the state's unfunded prior service liability
5 under s. 40.05 (2) (b) is a special fund program, and the excise tax fund is a special
6 fund created for the purpose of funding the program. The legislature finds and
7 determines that the excise tax fund is a segregated fund consisting of fees, penalties,
8 or excise taxes and that the special program to pay the state's unfunded prior service
9 liability under s. 40.05 (2) (b) from the net proceeds of revenue obligations issued
10 under this section is appropriate and will serve a public purpose.

11 (2) From the net proceeds of revenue obligations issued under this section and
12 deposited in a fund in the state treasury created under s. 18.57 (1), the department
13 shall pay part or all of the state's unfunded prior service liability under s. 40.05 (2)
14 (b), as determined by the [✓]secretary *department*

15 (3) Deposits, appropriations, or transfers to the excise tax fund for the purposes
16 of the special fund program under this section may be funded with the proceeds of
17 revenue obligations issued under this section, subject to and in accordance with
18 subch. II of ch. 18.

19 (4) The department shall have all powers necessary and convenient to
20 distribute the excise tax fund revenues and to distribute the proceeds of the revenue
21 obligations issued under this section in accordance with subch. II of ch. 18.

1 (5) The department may enter into agreements with the federal government
2 or its agencies, political subdivisions of this state, individuals, or private entities to
3 insure, or in any other manner provide, additional security for the revenue
4 obligations issued under this section.

5 (6) (a) Subject to the limitation under par. (b), the building commission may
6 contract revenue obligations under this subsection in the maximum amount that the
7 building commission believes can be fully paid on a timely basis from moneys
8 received or anticipated to be received.

9 (b) Revenue obligations issued under this subsection may not exceed
10 \$750,000,000 in principal amount, excluding any obligations that have been
11 defeased under a cash optimization program administered by the building
12 commission. In addition to this limit on principal amount, the building commission
13 may contract revenue obligations as the building commission determines is desirable
14 to fund or refund outstanding revenue obligations issued under this section, to pay
15 issuance or administrative expenses, to make deposits to reserve funds, to pay
16 accrued or capitalized interest, or to pay the costs of credit enhancement.

17 (7) Unless otherwise expressly provided in resolutions authorizing the
18 issuance of revenue obligations under this section or in other agreements with the
19 owners of revenue obligations, each issue of revenue obligations under this section
20 shall be on a parity with every other revenue obligation issued under this section and
21 in accordance with subch. II of ch. 18.

22 (8) As determined by the building commission, any moneys deposited in the
23 excise tax fund that are not required for the retirement of revenue obligations and
24 providing for reserves and for operations relating to the management and retirement
25 of revenue obligations issued under this section are transferred to the general fund.

1 (9) Recognizing its moral obligation to do so, the legislature expresses its
 2 expectation and aspiration that, if the funds in the excise tax fund are insufficient
 3 to pay the principal and interest of the revenue obligations issued under subch. II of
 4 ch. 18 pursuant to this section, the legislature shall make an appropriation from the
 5 general fund sufficient to pay the principal and interest on the obligations.

6 SECTION 2. 20.505 (1) (sd) of the statutes is created to read:

7 20.505 (1) (sd) ~~Excise tax fund~~ ^{Revenue} obligation proceeds. As a continuing
 8 appropriation, all proceeds from revenue obligations that are issued under subch. II
 9 of ch. 18, authorized under s. 16.526, and deposited in a fund in the state treasury
 10 created under s. 18.57 (1), to pay part or all of the state's unfunded prior service
 11 liability under s. 40.05 (2) (b), as determined by the ~~secretary~~ ^{department} of administration, and
 12 to provide for reserves and for expenses of issuance and management of the revenue
 13 obligations, and the remainder to be transferred to the excise tax fund for the purpose
 14 of the special program under s. 16.526. Estimated disbursements under this
 15 paragraph shall not be included in the schedule under s. 20.005.

(1) to pay the state's unfunded prior service liability under the Wisconsin retirement system
 (E)
 (I)

16 SECTION 3. 20.505 (1) (sh) of the statutes is created to read:

17 20.505 (1) (sh) *Excise tax fund — revenue obligation repayment.* From the
 18 excise tax fund, a sum sufficient to pay the fund in the state treasury created under
 19 s. 18.57 (1), or the separate and distinct fund ~~outside~~ ⁱⁿ the state treasury under s.
 20 18.562 (3) the amount needed to retire revenue obligations issued under subch. II
 21 of ch. 18, as authorized under s. 16.526. Estimated disbursements under this
 22 paragraph shall not be included in the schedule under s. 20.005.

23 SECTION 4. 20.505 (1) (sp) of the statutes is created to read:

24 20.505 (1) (sp) *Revenue obligation debt service* ~~Excise tax fund~~. From the fund
 25 in the state treasury created under s. 18.57 (1), all moneys received by the fund for

18.562 (3)

1 the ~~purpose of the~~ retirement of revenue obligations, ~~providing for reserves and for~~
 2 ~~operations relating to the management and retirement of revenue obligations~~ issued
 3 under subch. II of ch. 18, as authorized under s. 16.526. All moneys received by the
 4 fund are irrevocably appropriated in accordance with subch. II of ch. 18 and further
 5 established in resolutions authorizing the issuance of the revenue obligations and
 6 setting forth the distribution of funds to be received thereafter. Estimated
 7 disbursements under this paragraph shall [✓]not be included in the schedule under s.
 8 20.005.

9 SECTION 5. 25.17 (1) (es) [✓]of the statutes is created to read:

10 25.17 (1) (es) Excise tax fund (s. 25.59);

11 SECTION 6. 25.59 [✓]of the statutes is created to read:

12 **25.59 Excise tax fund.** There is created a separate nonlapsible trust fund,
 13 known as the excise tax fund, that, for the purposes of subch. II of ch. 18, shall be a
 14 special fund. If any revenue obligations are issued under s. 16.526, the excise tax
 15 fund shall consist of all taxes that are paid under ch. 139 [✓]and any amount transferred
 16 under s. 20.505 (1) (sd).

17

(END)

D-note
↓

*other than subch. IV of
ch. 139, ✓*

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

LRB-0854/1dn

RAC:jld:rs

↑
keep

date

Frank Hoadley:

I converted the draft to a budget bill draft and put the material in budget bill form. Although the draft is a "1" version of LRB-0854, it is nevertheless the third version of the draft that I have been working on with bond counsel. If a decision is made not to have this draft in the budget bill, and you wish to introduce the draft as a stand-alone bill, I can certainly produce the draft in a form that is ready for introduction in the assembly or senate.

Also, because I wanted to get this to you for review as soon as possible, I will include the new purpose to bond for on-going WRS pension contributions during the 2003-05 biennium in the next version of the draft after I get the final dollar amounts from you.

Finally, I modified the appropriation structure to make clear that the s. 18.57 (1) proceeds fund was not being used as a redemption fund. In reviewing the draft, I also noticed that a provision in the draft authorizes some of the obligation proceeds to be transferred to the excise tax fund to be used to retire the obligations. Please make certain that this is this your intent.

*

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0854/1dn
RAC:jld:pg

January 21, 2003

Frank Hoadley:

I converted the draft to a budget bill draft and put the material in budget bill form. Although the draft is a "1" version of LRB-0854, it is nevertheless the third version of the draft that I have been working on with bond counsel. If a decision is made not to have this draft in the budget bill, and you wish to introduce the draft as a stand-alone bill, I can certainly produce the draft in a form that is ready for introduction in the assembly or senate.

Also, because I wanted to get this to you for review as soon as possible, I will include the new purpose to bond for on-going WRS pension contributions during the 2003-05 biennium in the next version of the draft after I get the final dollar amounts from you.

Finally, I modified the appropriation structure to make clear that the s. 18.57 (1) proceeds fund was not being used as a redemption fund. In reviewing the draft, I also noticed that a provision in the draft authorizes some of the obligation proceeds to be transferred to the excise tax fund to be used to retire the obligations. Please make certain that this is your intent.

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

Per DAVE Ryan at Foley

1/30/03

2003 - 2004 LEGISLATURE

LRB-0854/1

RAC:jld:pg

DOA:.....Hoadley - Unfunded pension obligation bonds

FOR 2003-05 BUDGET -- NOT READY FOR INTRODUCTION

Rick: You also mentioned a possible need to amend cap on GPR increases for the moral obligations. Status?

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

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

STATE FINANCE

Under current law, participating employers in the Wisconsin Retirement System (WRS) are required to make employer contributions to fund the retirement benefits provided to participants in the WRS. Among the contributions that participating employers must make are contributions to pay any unfunded prior service liability resulting, generally, from prior creditable service or benefit improvements retroactively granted to participating employees in the WRS. Currently, the payment of unfunded prior service liability under the WRS is amortized as a level percent of payroll over a period of 40 years and is scheduled to be fully paid in 2030.

This bill authorizes the Building Commission to issue revenue obligations in an amount up to \$750,000,000 to pay the state's unfunded prior service liability under the WRS. The bill provides that the principal and interest costs on the revenue obligations are to be paid from excise taxes that are currently imposed on the sale of liquor, fermented malt beverages, cigarettes, and tobacco products.

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:

SECTION 1. 16.526 of the statutes is created to read:

16.526 Payment of the state's unfunded prior service liability under the Wisconsin Retirement System; revenue obligations. (1) For purposes of subch. II of ch. 18, the purpose of paying of the state's unfunded prior service liability under s. 40.05 (2) (b) is a special fund program, and the excise tax fund is a special fund created for the purpose of funding the program. The legislature finds and determines that the excise tax fund is a segregated fund consisting of fees, penalties, or excise taxes and that the special program to pay the state's unfunded prior service liability under s. 40.05 (2) (b) from the net proceeds of revenue obligations issued under this section is appropriate and will serve a public purpose.

(2) From the net proceeds of revenue obligations issued under this section and deposited in a fund in the state treasury created under s. 18.57 (1), the department shall pay part or all of the state's unfunded prior service liability under s. 40.05 (2) (b), as determined by the department.

(3) Deposits, appropriations, or transfers to the excise tax fund for the purposes of the special fund program under this section may be funded with the proceeds of revenue obligations issued under this section, subject to and in accordance with subch. II of ch. 18.

(4) The department shall have all powers necessary and convenient to distribute the excise tax fund revenues and to distribute the proceeds of the revenue obligations issued under this section in accordance with subch. II of ch. 18.

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forms
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LRB
1410

Note: Unlike

PIF, bond proceeds
won't go to "special fund"
(excise tax fund).

Note: This is to make this section work with proposed revisions to 18.53. Similar change should be made to 101.143 (9m)(g) 2. for PIF

1 (5) The department may enter into agreements with the federal government
2 or its agencies, political subdivisions of this state, individuals, or private entities to
3 insure, or in any other manner provide, additional security for the revenue
4 obligations issued under this section.

payable from the excise tax funds

5 (6) (a) Subject to the limitation under par. (b), the building commission may
6 contract revenue obligations under this subsection in the maximum amount that the
7 building commission believes can be fully paid on a timely basis from moneys
8 received or anticipated to be received

in the excise tax fund

9 (b) Revenue obligations issued under this subsection may not exceed
10 \$750,000,000 in principal amount, excluding any obligations that have been
11 defeased under a cash optimization program administered by the building
12 commission. In addition to this limit on principal amount, the building commission
13 may contract revenue obligations as the building commission determines is desirable
14 to fund or refund outstanding revenue obligations issued under this section, to pay
15 issuance or administrative expenses, to make deposits to reserve funds, to pay
16 accrued or capitalized interest, or to pay the costs of credit enhancement.

R:du
3

17 (7) Unless otherwise expressly provided in resolutions authorizing the
18 issuance of revenue obligations under this section or in other agreements with the
19 owners of revenue obligations, each issue of revenue obligations under this section
20 shall be on a parity with every other revenue obligation issued under this section and
21 in accordance with subch. II of ch. 18.

22 (8) As determined by the building commission, any moneys deposited in the
23 excise tax fund that are not required for the retirement of revenue obligations and
24 providing for reserves and for operations relating to the management and retirement
25 of revenue obligations issued under this section are transferred to the general fund.

ancillary payments authorized to be paid from the excise tax fund such moneys

of the account maintained by a trustee,

or to replenish a reserve fund, if applicable

(9) Recognizing its moral obligation to do so, the legislature expresses its expectation and aspiration that, if the funds in the excise tax fund are insufficient to pay the principal and interest of the revenue obligations issued under subch. II of ch. 18 pursuant to this section, the legislature shall make an appropriation from the general fund sufficient to pay the principal and interest on the obligations.

SECTION 2. 20.505 (1) (sd) of the statutes is created to read:

20.505 (1) (sd) Revenue obligation proceeds to pay the state's unfunded prior service liability under the Wisconsin Retirement System. As a continuing appropriation, all proceeds from revenue obligations that are issued under subch. II of ch. 18, as authorized under s. 16.526, and deposited in the fund in the state treasury created under s. 18.57 (1), to pay part or all of the state's unfunded prior service liability under s. 40.05 (2) (b), as determined by the department of administration, and to provide for reserves and for expenses of issuance and management of the revenue obligations, and the remainder to be transferred to the excise tax fund.

Estimated disbursements under this paragraph shall not be included in the schedule under s. 20.005.

SECTION 3. 20.505 (1) (sh) of the statutes is created to read:

20.505 (1) (sh) Excise tax fund -- revenue obligation repayment. From the excise tax fund, a sum sufficient to pay the separate and distinct fund in the state treasury under s. 18.562 (3) the amount needed to retire revenue obligations issued under subch. II of ch. 18, as authorized under s. 16.526. Estimated disbursements under this paragraph shall not be included in the schedule under s. 20.005.

SECTION 4. 20.505 (1) (sp) of the statutes is created to read:

20.505 (1) (sp) Revenue obligation debt service. From the fund in the state treasury created under s. 18.562 (3), all moneys received by the fund for the

[prior service liability redemption fund]

Q: Don't we need an approp. of bond proceeds to the 18.57(1) fund?

see §3 of LRB 1410. Don't we need a similar approp.?

make any ancillary payments as determined by the building commission,

*and for ancillary
and the payments of ancillary
costs authorized by the authorizing resolu-*

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retirement of revenue obligations issued under subch. II of ch. 18, as authorized
under s. 16.526. All moneys received by the fund are irrevocably appropriated in
accordance with subch. II of ch. 18 and further established in resolutions authorizing
the issuance of the revenue obligations and setting forth the distribution of funds to
be received thereafter. Estimated disbursements under this paragraph shall not be
included in the schedule under s. 20.005.

*lution
for the
revenue
oblig-
ations.*

Under s. 16526

SECTION 5. 25.17 (1) (es) of the statutes is created to read:

25.17 (1) (es) Excise tax fund (s. 25.59);

SECTION 6. 25.59 of the statutes is created to read:

thereafter

25.59 Excise tax fund. There is created a separate nonlapsible trust fund,
known as the excise tax fund, that, for the purposes of subch. II of ch. 18, shall be a
special fund. If any revenue obligations are issued under s. 16.526, the excise tax
fund shall consist of all taxes that are paid under ch. 139, other than subch. IV of ch.
139, and any amount transferred under s. 20.505 (1) (sd).

6

(END)

*Notes: Similar changes should be
made to appropriations relating
to PIF*

Riders for LRB 0854

Rider 2:

(2) The net proceeds of revenue obligations issued under subch. II of ch. 18, as authorized under this section, shall be deposited in a fund in the state treasury, or an account maintained by a trustee, created under s. 18.57(1). Those moneys shall be applied for ancillary payments and the provision of reserves, as determined by the commission, and for the payment of part or all of the state's unfunded prior service liability under 40.05(2), as determined by the department, and any remainder shall be paid into the [prior service liability obligation redemption fund] created under 18.562(3).

Rider 3:

(b) The requirements for funds for the payment of the state's unfunded prior service liability under s. 40.05(2)(b) to be paid from revenue obligations issued under this section shall be determined by the secretary of administration, but shall not exceed \$750,000,000.

Riders for LRB 0854

Rider 2:

(2) The net proceeds of revenue obligations issued under subch. II of ch. 18, as authorized under this section, shall be deposited in a fund in the state treasury, or an account maintained by a trustee, created under s. 18.57(1). Those moneys shall be applied for ancillary payments and the provision of reserves, as determined by the commission, and for the payment of part or all of the state's unfunded prior service liability under 40.05(2), as determined by the department, and any remainder shall be paid into the [prior service liability obligation redemption fund] created under 18.562(3).

Rider 3:

(b) The requirements for funds for the payment of the state's unfunded prior service liability under s. 40.05(2)(b) to be paid from revenue obligations issued under this section shall be determined by the secretary of administration, but shall not exceed \$750,000,000.



soon

RMP

DOA:.....Hoadley – Unfunded pension obligation bonds

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

Don't gen

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

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

STATE FINANCE

Under current law, participating employers in the Wisconsin Retirement System (WRS) are required to make employer contributions to fund the retirement benefits provided to participants in the WRS. Among the contributions that participating employers must make are contributions to pay any unfunded prior service liability resulting, generally, from prior creditable service or benefit improvements retroactively granted to participating employees in the WRS. Currently, the payment of unfunded prior service liability under the WRS is amortized as a level percent of payroll over a period of 40 years and is scheduled to be fully paid in 2030.

This bill authorizes the Building Commission to issue revenue obligations in an amount up to \$750,000,000 to pay the state's unfunded prior service liability under the WRS. The bill provides that the principal and interest costs on the revenue obligations are to be paid from excise taxes that are currently imposed on the sale of liquor, fermented malt beverages, cigarettes, and tobacco products.

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:

Insert 2-1 ✓

1 SECTION 1. 16.526 of the statutes is created to read:

2 **16.526 Payment of the state's unfunded prior service liability under**
3 **the Wisconsin Retirement System; revenue obligations.** (1) For purposes of
4 subch. II of ch. 18, the purpose of paying of the state's unfunded prior service liability
5 under s. 40.05 (2) (b) is a special fund program, and the excise tax fund is a special
6 fund ~~created for the purpose of funding the program.~~ The legislature finds and
7 determines that the excise tax fund is a segregated fund consisting of fees, penalties,
8 or excise taxes and that the special program to pay the state's unfunded prior service
9 liability under s. 40.05 (2) (b) from the net proceeds of revenue obligations issued
10 under this section is appropriate and will serve a public purpose.

Insert 2-10 ✓

11 (2) From the net proceeds of revenue obligations issued under this section and
12 deposited in a fund in the state treasury created under s. 18.57 (1), the department
13 shall pay part or all of the state's unfunded prior service liability under s. 40.05 (2)
14 (b), as determined by the department.

15 (3) Deposits, appropriations, or transfers to the excise tax fund for the purposes
16 of the special fund program under this section may be funded with the proceeds of
17 revenue obligations issued under this section, subject to and in accordance with
18 subch. II of ch. 18.

19 (4) ~~(3)~~ ~~(3)~~ The department shall have all powers necessary and convenient to
20 distribute the excise tax fund revenues and to distribute the proceeds of the revenue
21 obligations issued under this section in accordance with subch. II of ch. 18.

④-③

1 (5) The department may enter into agreements with the federal government
2 or its agencies, political subdivisions of this state, individuals, or private entities to
3 insure, or in any other manner provide, additional security for the revenue
4 obligations issued under this section.

⑤-③, payable from the excise tax fund,

5 (6) (a) Subject to the limitation under par. (b), the building commission may
6 contract revenue obligations under this section in the maximum amount that the
7 building commission believes can be fully paid on a timely basis from moneys
8 received or anticipated to be received on the excise tax fund

9 (b) Revenue obligations issued under this subsection may not exceed
10 \$750,000,000 in principal amount, excluding any obligations that have been
11 defeased under a cash optimization program administered by the building
12 commission. In addition to this limit on principal amount, the building commission
13 may contract revenue obligations as the building commission determines is desirable
14 to fund or refund outstanding revenue obligations issued under this section, to pay
15 issuance or administrative expenses, to make deposits to reserve funds, to pay
16 accrued or capitalized interest, or to pay the costs of credit enhancement.

Insert 3-17

17 (7) Unless otherwise expressly provided in resolutions authorizing the
18 issuance of revenue obligations under this section or in other agreements with the
19 owners of revenue obligations, each issue of revenue obligations under this section
20 shall be on a parity with every other revenue obligation issued under this section and
21 in accordance with subch. II of ch. 18.

①-③

22 (8) As determined by the building commission, any moneys deposited in the
23 excise tax fund that are not required for the retirement of revenue obligations and
24 providing for reserves and for operations relating to the management and retirement
25 of revenue obligations issued under this section are transferred to the general fund.

ancillary payments authorized to be paid from such money

1 (9) Recognizing its moral obligation to do so, the legislature expresses its
 2 expectation and aspiration that, if the funds in the excise tax fund are insufficient
 3 to pay the principal ^{of} and interest ^{on} the revenue obligations issued under subch. II of
 4 ch. 18 pursuant to this section, the legislature shall make an appropriation from the
 5 general fund sufficient to pay the principal and interest on the obligations.

or to replenish a reserve fund, if applicable

6 SECTION 2. 20.505 (1) (sd) of the statutes is created to read:

7 20.505 (1) (sd) Revenue obligation proceeds to pay the state's unfunded prior
 8 service liability under the Wisconsin Retirement System. As a continuing
 9 appropriation, all proceeds from revenue obligations that are issued under subch. II
 10 of ch. 18, ^{as} authorized under s. 16.526, and deposited in a fund in the state treasury
 11 created under s. 18.57 (1), ^{as authorized under s. 16.526 (2),} to pay part or all of the state's unfunded prior service
 12 liability under s. 40.05 (2) (b), as determined by the department of administration,
 13 and to provide for reserves and ~~for expenses of issuance and management of the~~
 14 ~~revenue obligations,~~ and the remainder to be transferred to ~~the excise tax fund.~~
 15 Estimated disbursements under this paragraph shall not be included in the schedule
 16 under s. 20.005.

or monies from maintained by a trustee,

to make ancillary payments, as determined by the building commission

a prior service liability redemption fund created under s. 18.562 (3)

17 SECTION 3. 20.505 (1) (sh) of the statutes is created to read:

18 20.505 (1) (sh) Excise tax fund — revenue obligation repayment. From the
 19 excise tax fund, a sum sufficient to pay ~~the separate and distinct fund in the state~~
 20 ~~treasury under s. 18.562 (3)~~ the amount needed to retire revenue obligations issued
 21 under subch. II of ch. 18, as authorized under s. 16.526. Estimated disbursements
 22 under this paragraph shall not be included in the schedule under s. 20.005.

Insert 4-17

23 SECTION 4. 20.505 (1) (sp) of the statutes is created to read:

24 20.505 (1) (sp) Revenue obligation debt service. From ~~the fund in the state~~
 25 ~~treasury created under s. 18.562 (3),~~ all moneys received by the fund for the

and for ancillary payments authorized by the authorizing resolution for the revenue obligations

1 retirement of revenue obligations issued under subch. II of ch. 18, as authorized
2 under s. 16.526. All moneys received by the fund are irrevocably appropriated in
3 accordance with subch. II of ch. 18 and further established in resolutions authorizing
4 the issuance of the revenue obligations ^{✓ under s. 16.526} and setting forth the distribution of funds to
5 be received thereafter. Estimated disbursements under this paragraph shall not be
6 included in the schedule under s. 20.005.

7 SECTION 5. 25.17 (1) (es) of the statutes is created to read:

8 25.17 (1) (es) Excise tax fund (s. 25.59);

9 SECTION 6. 25.59 of the statutes is created to read:

10 **25.59 Excise tax fund.** There is created a separate nonlapsible trust fund,
11 known as the excise tax fund, that, for the purposes of subch. II of ch. 18, shall be a
12 special fund. If any revenue obligations are issued under s. 16.526, the excise tax
13 fund shall consist of all taxes that are ^{thereafter} paid under ch. 139, other than subch. IV of ch.
14 139, ~~and any amount transferred under s. 20.505 (1) (a).~~

15 (END)

D-note
↓

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0854/2ins
RAC:.....

Insert 2-1:

SECTION 1. 13.40 (3) (b) of the statutes is amended to read:

13.40 (3) (b) An appropriation to honor a moral obligation undertaken pursuant to ss. 16.526 (8), 18.61 (5), 85.25 (5), 101.143 (9m) (i), 229.50 (7), 229.74 (7), 229.830 (7), 234.15 (4), 234.42 (4), 234.54 (4) (b), 234.626 (7), 234.93 (6), 234.932 (6), 234.933 (6), and 281.59 (13m).

History: 2001 a. 16.

Insert 2-10:

(2) The net proceeds of revenue obligations issued under subch. II of ch. 18, as authorized under this section, shall be deposited in a fund in the state treasury, or an account maintained by a trustee, created under s. 18.57 (1). The moneys shall be applied for ancillary payments and for the provision of reserves, as determined by the ^{building} commission, and for the payment of part or all of the state's unfunded prior service liability under s. 40.05 (2) (b), as determined by the department, and any remainder shall be paid into a prior service liability obligation redemption fund created under 18.562 (3).

Insert 3-17:

(b) The requirements for funds used for the payment of the state's unfunded prior service liability under s. 40.05 (2) (b) that are to be paid from revenue obligations issued under this section shall be determined by the secretary, but the amount of obligations that may be issued shall not exceed \$750,000,000.

Insert 4-17:

SECTION 2. 20.505 (1) (sem) of the statutes is created to read:



20.505 (1) (sem) *Excise tax fund — provision of reserves and payment of ancillary costs relating to revenue obligations.* ✓ From the excise tax fund, a sum sufficient to provide for reserves and for the payment of ancillary costs relating to revenue obligations issued under subch. II of ch. 18, ✓ as authorized under s. ✓ 16.526 and the resolution authorizing the revenue obligations.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats. ✓

(end ins 4-17)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0854/2dn

RAC: A:...

date

Jld

Frank Hoadley:

This draft incorporates the comments of bond counsel. Please note that I have referred to a prior service liability redemption fund created under s. 18.562 (3) instead of *the* prior service liability redemption fund created under s. 18.562 (3). The reason is that, technically, no specific, *named* redemption fund is created under that subsection. I still believe that it is clear in the ~~bill~~ draft that what is being referred to is a redemption fund created under s. 18.562 (3) for the obligations issued under s. 16.526.

With respect to the issue of ~~do~~ ^{if whether} we need an appropriation in which to deposit the bond proceeds, please note it is not necessary to create an appropriation for the deposit of moneys; it is only necessary to create an appropriation to expend moneys. Section 18.57 (1) authorizes the establishment of a proceeds fund into which the obligation proceeds are deposited and s. 20.505 (1) (sd) appropriates moneys from the proceeds fund for the purpose specified in the appropriation.

Finally, per your request, please note the creation of s. 20.505 (1) (sem), which funds certain additional purposes from the excise tax fund.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0854/2dn
RAC:jld:jf

January 30, 2003

Frank Hoadley:

This draft incorporates the comments of bond counsel. Please note that I have referred to *a* prior service liability redemption fund created under s. 18.562 (3) instead of *the* prior service liability redemption fund created under s. 18.562 (3). The reason is that, technically, no specific, *named* redemption fund is created under that subsection. I still believe that it is clear in the draft that what is being referred to is a redemption fund created under s. 18.562 (3) for the obligations issued under s. 16.526.

With respect to the issue of whether we need an appropriation in which to deposit the bond proceeds, please note it is not necessary to create an appropriation for the deposit of moneys; it is only necessary to create an appropriation to expend moneys. Section 18.57 (1) authorizes the establishment of a proceeds fund into which the obligation proceeds are deposited and s. 20.505 (1) (sd) appropriates moneys from the proceeds fund for the purpose specified in the appropriation.

Finally, per your request, please note the creation of s. 20.505 (1) (sem), which funds certain additional purposes from the excise tax fund.

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