2003 Senate Bill 77

Date of enactment: **August 11, 2003**
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2003 WISCONSIN ACT 43

AN ACT ***to amend*** 67.12 (12) (a), 119.49 (5) and 119.498; and ***to create*** 66.1333 (5s), 119.498 (3) and (4) and 119.499 of the statutes; **relating to:** the issuance of promissory notes or bonds to pay for unfunded prior service liability contributions of a 1st class city school district under the Wisconsin Retirement System.

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

SECTION 1. 66.1333 (5s) of the statutes is created to read:

66.1333 **(5s)** UNFUNDED SERVICE LIABILITY. (a) *Bond issuance.* Subject to s. 119.499 (1), the authority of a 1st class city may issue up to $200,000,000 in bonds to finance or refinance the payment of unfunded prior service liability contributions under the Wisconsin Retirement System for the board of school directors of the school district operating under ch. 119 if the board of school directors of the school district operating under ch. 119 requests the issuance of the bonds.

(b) *Terms and conditions.* The terms and conditions of bonds issued under this subsection shall be those specified in sub. (5) (a) 4. The bonds may not have a maturity in excess of 40 years.

(c) *Bonds not secured by special debt service reserve funds.* If the authority issues bonds under this subsection that are not secured by a special debt service reserve fund, as provided under par. (d), pars. (e) to (i) do not apply.

(d) *Designation of special debt service reserve funds.* The authority may designate one or more accounts in funds created under the resolution authorizing the issuance of bonds under this subsection as special debt service reserve funds if, prior to each issuance of bonds to be secured by the special debt service reserve fund, the secretary of administration determines that all of the following conditions are met with respect to the bonds:

1. 'Purpose.' The proceeds of the bonds, other than refunding bonds, will be used for the purpose specified in par. (a).

2. 'Feasibility.' There is a reasonable likelihood that the bonds will be repaid without the necessity of drawing on funds in the special debt service reserve fund that secures the bonds. The secretary of administration may make this determination of reasonable likelihood only after considering all of the following:

a. The extent to which and manner by which revenues of the school district operating under ch. 119 are pledged to the payment of the bonds.

c. The proposed interest rates of the bonds and the resulting cash–flow requirements.

d. The projected ratio of annual pledged revenues from the school district operating under ch.119 to annual debt service on the bonds, taking into account capitalized interest.

f. Whether the authority has agreed that the department of administration will have direct and immediate access, at any time and without notice, to all records of the authority relating to the bonds.

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* Section 991.11, WISCONSIN STATUTES 2001–02 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

3. ‘Limit on bonds issued.’ The principal amount of all bonds, other than refunding bonds, that would be secured by all special debt service reserve funds of the authority as designated under par. (d) will not exceed $200,000,000.

4. ‘Refunding bonds.’ All refunding bonds to be secured by the special debt service reserve fund meet all of the following conditions:

a. The refunding bonds are to be issued to fund, refund or advance refund bonds secured by a special debt service reserve fund.

5. ‘Approval of outstanding debt.’ All outstanding bonds of the authority issued under this subsection have been reviewed and approved by the secretary of administration.

6. ‘Financial reports.’ The authority has agreed to provide to the department of administration all financial reports of the authority and all regular monthly statements of any trustee of the bonds on a direct and ongoing basis.

(e) *Payment of funds into a special debt service reserve fund.* The authority shall pay into any special debt service reserve fund of the authority any moneys appropriated and made available by the state for the purposes of the special debt service reserve fund, any proceeds of a sale of bonds to the extent provided in the bond resolution authorizing the issuance of the bonds and any other moneys that are made available to the authority for the purpose of the special debt service reserve fund from any other source.

(f) *Use of moneys in the special debt service reserve fund.* All moneys held in any special debt service reserve fund of the authority for bonds issued under this subsection, except as otherwise specifically provided, shall be used solely for the payment of the principal of the bonds, the making of sinking fund payments with respect to the bonds, the purchase or redemption of the bonds, the payment of interest on the bonds or the payment of any redemption premium required to be paid when the bonds are redeemed prior to maturity. If moneys in a special debt service reserve fund at any time are less than the special debt service reserve fund requirement under par. (h) for the special debt service reserve fund, the authority may not use these moneys for any optional purchase or optional redemption of the bonds. Any income or interest earned by, or increment to, any special debt service reserve fund due to the investment of moneys in the special debt service reserve fund in excess of the special debt service reserve fund requirement under par. (h) may be transferred by the authority to other funds or accounts of the authority relating to the bonds.

(g) *Limitation on bonds secured by a special debt service reserve fund.* The authority shall accumulate in each special debt service reserve fund an amount equal to the special debt service reserve fund requirement under par. (h) for the special debt service reserve fund. The authority may not at any time issue bonds under this subsection secured in whole or in part by a special debt service reserve fund if upon the issuance of these bonds the amount in the special debt service reserve fund will be less than the special debt service reserve fund requirement under par. (h) for the special debt service reserve fund.

(h) *Special debt service reserve fund requirement.* The special debt service reserve fund requirement for a special debt service reserve fund, as of any particular date of computation, is equal to an amount as provided in the bond resolution authorizing bonds under this subsection with respect to which the special debt service reserve fund is established, and that amount may not exceed the maximum annual debt service on the bonds of the authority for that fiscal year or any future fiscal year of the authority secured in whole or in part by that special debt service reserve fund. In computing the annual debt service for any fiscal year, bonds deemed to have been paid in accordance with the defeasance provisions of the bond resolution authorizing the issuance of the bonds shall not be included in bonds outstanding on such date of computation. The annual debt service for any fiscal year is the amount of money equal to the aggregate of all of the following calculated on the assumption that the bonds will, after the date of computation, cease to be outstanding by reason, but only by reason, of the payment of bonds when due, and the payment when due, and application in accordance with the bond resolution authorizing those bonds, of all of the sinking fund payments payable at or after the date of computation:

1. All interest payable during the fiscal year on all bonds that are secured in whole or in part by the special debt service reserve fund and that are outstanding on the date of computation.

2. The principal amount of all of the bonds that are secured in whole or in part by the special debt service reserve fund, are outstanding on the date of computation and mature during the fiscal year.

3. All amounts specified in bond resolutions of the authority authorizing any of the bonds that are secured in whole or in part by the special debt service reserve fund to be payable during the fiscal year as a sinking fund payment with respect to any of the bonds that mature after the fiscal year.

(i) *Valuation of securities.* In computing the amount of a special debt service reserve fund for the purposes of this subsection, securities in which all or a portion of the special debt service reserve fund is invested shall be valued at par, or, if purchased at less than par, at their cost to the authority.

SECTION 2. 67.12 (12) (a) of the statutes is amended to read:

67.12 **(12)** (a) Any municipality may issue promissory notes as evidence of indebtedness for any public purpose, as defined in s. 67.04 (1) (b), including but not limited to paying any general and current municipal expense, and refunding any municipal obligations, including interest on them. Each note, plus interest if any, shall be repaid within 10 years after the original date of the note, except that notes issued under this section for purposes of ss. 119.498, 145.245 (12m), 281.58, 281.59, 281.60 and 281.61, or to raise funds to pay a portion of the capital costs of a metropolitan sewerage district, shall be repaid within 20 years after the original date of the note.

SECTION 3. 119.49 (5) of the statutes is amended to read:

119.49 **(5)** The sum of the amount of such school bonds outstanding and the amount of notes under s. 119.498 outstanding at any time shall not be greater than 2% of the total value of all taxable property in the city as certified under s. 121.06 (2). The tax levied to pay the interest and principal on such school bonds shall be in addition to the tax levied for general purposes upon all the taxable property of the city. The limit under s. 67.03 (1) (a) does not apply to bonds under this section.

SECTION 4. 119.498 of the statutes is amended to read:

119.498 Promissory notes; unfunded prior service liability contributions. (1) ~~The~~ Subject to s. 119.499 (1), the board may adopt a resolution ~~directing~~ requesting the common council of the city to ~~issue~~ authorize the issuance of promissory notes under s. 67.12 (12) for ~~the purpose~~ school purposes consisting of paying unfunded prior service liability contributions under the Wisconsin ~~retirement system~~ Retirement System.

(2) If the board adopts a resolution under sub. (1)~~,~~ and the city issues the notes, annually the board shall include in its budget transmitted to the common council under s. 119.16 (8) (b) ~~a written notice specifying the~~ an amount ~~of borrowing to be authorized in the budget for the ensuing year. The common council shall issue the notes and levy a direct annual irrepealable tax~~ sufficient to pay the principal of and interest and redemption premium on the notes as they become due. The common council may ~~issue~~ authorize the issuance of the notes ~~by~~ at public or private sale.

SECTION 5. 119.498 (3) and (4) of the statutes are created to read:

119.498 **(3)** The sum of the amount of notes under this section that are outstanding and the amount of bonds under s. 119.49 that are outstanding at any time may not exceed 2% of the total value of all taxable property in the city as certified under s. 121. 06 (2). The limit under s. 67.03 (1) (a) does not apply to notes under this section.

(4) The city's budgetary authorization for borrowing in 2003 is increased by $200,000,000 for the purposes of this section, and notes in that amount may be omitted from the city's 2003 budget.

SECTION 6. 119.499 of the statutes is created to read:

119.499 Borrowing; unfunded prior service liability. (1) The board may not request the redevelopment authority of the city to issue bonds under s. 66.1333 (5s) or adopt a resolution under s. 119.498 (1) unless it develops information on both options and chooses the option that is in the best public interest.

(1m) If the redevelopment authority of the city issues bonds under s. 66.1333 (5s), the board may borrow money from the redevelopment authority to pay unfunded prior service liability contributions under the Wisconsin Retirement System for the board. If the board borrows money from the redevelopment authority of the city to make such payments, it may use any school district revenues, including state aid, to repay the loan.

(2) (a) If the board decides to use school district revenues to repay the loan, it may request the city to remit designated revenues of the school district to the redevelopment authority of the city at such times and in such amounts as the board determines. The city may agree to the request, which is irrevocable while any amount due under the loan remains outstanding.

(b) If the board decides to use state aid to repay the loan, it may request the department to remit the aid to the redevelopment authority of the city in an annual amount agreed to by the board and the department, and the department shall ensure that the aid remittance does not affect the amount determined to be received by the board as state aid under s. 121.08 for any other purpose.