



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2608/1

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2007 BILL

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1 AN ACT to amend 59.605 (1) (a), 67.01 (9) (intro.), 67.04 (5) (b) 4. and 67.12 (12)

2 (a); and to create 59.85, 59.86, 59.87, 66.0602 (3) (d) 3., 66.0603 (1m) (e),

3 66.0603 (5) and 67.045 (1) (g) of the statutes; relating to: unfunded pension

4 liability financing in populous counties and membership on the pension study

5 committee. ✓

Analysis by the Legislative Reference Bureau

This bill authorizes a county with a population of 500,000 or more (currently only Milwaukee County) to issue appropriation bonds on a one-time basis, other than refunding bonds, to pay all or any part of the county's unfunded prior service liability with respect to an employee retirement system of the county. "Appropriation bonds" are defined as any bond, note, or other obligation of a county issued as provided in the bill to evidence the county's obligation to repay borrowed money that is payable from various sources, including the following:

1. Moneys annually appropriated by the county for debt service due with respect to the appropriation bonds.
2. Proceeds of the sale of the appropriation bonds.
3. Investment earnings on the items listed above.

Before the county may issue appropriation bonds, however, the county must enact an ordinance to implement a five-year strategic and financial plan related to the payment of unfunded employee retirement benefits. The financial plan shall provide that future annual pension liabilities are funded on a current basis, and the

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the department of revenue
Department of Administration (DOA)

financial plan must contain quantifiable benchmarks to measure compliance with the plan. Annually, the county board must report to the legislature and the governor on a number of issues related to the appropriation bonds, including the county's progress in meeting the benchmarks, *and whether the county fully funds the normal cost contribution for its employees*

The bill states that a populous county is not generally liable for appropriation bonds, and appropriation bonds are not a debt of the county for any purpose whatsoever. Appropriation bonds, including the principal and interest payments, are payable only from amounts that the county board may, from year to year, appropriate.

Because this bill relates to public employee retirement or pensions, it may be referred to the Joint Survey Committee on Retirement Systems for a report to be printed as an appendix to the bill.

For further information see the *local* 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. 59.605 (1) (a) of the statutes is amended to read:

2 59.605 (1) (a) "Debt levy" means the county purpose levy for debt service on
3 loans under subch. II of ch. 24, bonds issued under s. 67.05 and, promissory notes
4 issued under s. 67.12 (12), and appropriation bonds issued under s. 59.85, less any
5 revenues that abate the levy.

6 SECTION 2. 59.85 of the statutes is created to read:

7 **59.85 Appropriation bonds for payment of employee retirement**
8 **system liability in populous counties.** (1) DEFINITIONS. In this section:

9 (a) "Appropriation bond" means a bond issued by a county to evidence its
10 obligation to repay a certain amount of borrowed money that is payable from all of
11 the following:

12 1. Moneys annually appropriated by law for debt service due with respect to
13 such appropriation bond in that year.

14 2. Proceeds of the sale of such appropriation bonds.

for a particular year
retirement system. If the county does not fully fund its normal cost contribution, DOR must reduce and withhold from the county's shared revenue payments the difference between its normal cost contribution and the amount the county actually contributes to the system for that year. DOA may require DOR to deposit the withheld amount into the county's retirement system.

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1 3. Payments received for that purpose under agreements and ancillary
2 arrangements described in s. 59.86.

3 4. Investment earnings on amounts in subds. 1. to 3.

4 (b) "Board" means the county board of supervisors in any county.

5 (c) "Bond" means any bond, note, or other obligation of a county issued under
6 this section.

7 (d) "County" means any county having a population of 500,000 or more.

8 (e) "Refunding bond" means an appropriation bond issued to fund or refund all
9 or any part of one or more outstanding appropriation bonds.

10 **(1m) LEGISLATIVE FINDING AND DETERMINATION.** Recognizing that a county, by
11 prepaying part or all of the county's unfunded prior service liability with respect to
12 an employee retirement system of the county, may reduce its costs and better ensure
13 the timely and full payment of retirement benefits to participants and their
14 beneficiaries under the employee retirement system, the legislature finds and
15 determines that it is in the public interest for the county to issue appropriation bonds
16 to obtain proceeds to pay its unfunded prior service liability.

17 **(2) AUTHORIZATION OF APPROPRIATION BONDS.** (a) A board shall have all powers
18 necessary and convenient to carry out its duties, and to exercise its authority, under
19 this section.

20 (b) Subject to pars. (c) and (d), a county may issue appropriation bonds under
21 this section to pay all or any part of the county's unfunded prior service liability with
22 respect to an employee retirement system of the county, or to fund or refund
23 outstanding appropriation bonds issued under this section. A county may use
24 proceeds of appropriation bonds to pay issuance or administrative expenses, to make
25 deposits to reserve funds, to pay accrued or funded interest, to pay the costs of credit

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1 enhancement, to make payments under other agreements entered into under s.
2 59.86, or to make deposits to stabilization funds established under s. 59.87.

3 (c) Other than refunding bonds issued under sub. (6), all bonds must be issued
4 simultaneously.

5 (d) 1. Before a county may issue appropriation bonds under par. (b), its board
6 shall enact an ordinance that establishes a 5-year strategic and financial plan
7 related to the payment of all or any part of the county's unfunded prior service
8 liability with respect to an employee retirement system of the county. The strategic
9 and financial plan shall provide that future annual pension liabilities are funded on
10 a current basis. The strategic and financial plan shall contain quantifiable
11 benchmarks to measure compliance with the plan. The board shall make a
12 determination that the ordinance meets the requirements of this subdivision and,
13 absent manifest error, the board's determination shall be conclusive. The board shall
14 submit to the governor and to the chief clerk of each house of the legislature, for
15 distribution to the legislature under s. 13.172 (2), a copy of the strategic and financial
16 plan.

17 2. Annually, the county shall submit to the governor and to the chief clerk of
18 each house of the legislature, for distribution to the legislature under s. 13.172 (2),
19 a report that includes all of the following:

20 a. The county's progress in meeting the benchmarks in the strategic and
21 financial plan.

22 b. Any proposed modifications to the plan.

23 c. The status of any stabilization fund that is established under s. 59.87 (3).

24 d. The most current actuarial report related to the county's employee
25 retirement system.

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department of administration,

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1 (3) TERMS. (a) A county may borrow moneys and issue appropriation bonds in
2 evidence of the borrowing pursuant to one or more written authorizing resolutions
3 under sub. (4). Unless otherwise provided in an authorizing resolution, the county
4 may issue appropriation bonds at any time, in any specific amounts, at any rates of
5 interest, for any term, payable at any intervals, at any place, in any manner, and
6 having any other terms or conditions that the board considers necessary or desirable.
7 Appropriation bonds may bear interest at variable or fixed rates, bear no interest,
8 or bear interest payable only at maturity or upon redemption prior to maturity.

9 (b) The board may authorize appropriation bonds having any provisions for
10 prepayment the board considers necessary or desirable, including the payment of
11 any premium.

12 (c) Interest shall cease to accrue on an appropriation bond on the date that the
13 appropriation bond becomes due for payment if payment is made or duly provided
14 for.

15 (d) All moneys borrowed by a county that is evidenced by appropriation bonds
16 issued under this section shall be lawful money of the United States, and all
17 appropriation bonds shall be payable in such money.

18 (e) All appropriation bonds owned or held by a fund of the county are
19 outstanding in all respects and the board or other governing body controlling the
20 fund shall have the same rights with respect to an appropriation bond as a private
21 party, but if any sinking fund acquires appropriation bonds that gave rise to such
22 fund, the appropriation bonds are considered paid for all purposes and no longer
23 outstanding and shall be canceled as provided in sub. (7) (d).

24 (f) A county shall not be generally liable on appropriation bonds, and
25 appropriation bonds shall not be a debt of the county for any purpose whatsoever.

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1 Appropriation bonds, including the principal thereof and interest thereon, shall be
2 payable only from amounts that the board may, from year to year, appropriate for the
3 payment thereof.

4 (4) PROCEDURES. (a) No appropriation bonds may be issued by a county unless
5 the issuance is pursuant to a written authorizing resolution adopted by a majority
6 of a quorum of the board. The resolution may be in the form of a resolution or trust
7 indenture, and shall set forth the aggregate principal amount of appropriation bonds
8 authorized thereby, the manner of their sale, and the form and terms thereof. The
9 resolution or trust indenture may establish such funds and accounts, including a
10 reserve fund, as the board determines.

11 (b) Appropriation bonds may be sold at either public or private sale and may
12 be sold at any price or percentage of par value. All appropriation bonds sold at public
13 sale shall be noticed as provided in the authorizing resolution. Any bid received at
14 public sale may be rejected.

15 (5) FORM. (a) As determined by the board, appropriation bonds may be issued
16 in book-entry form or in certificated form. Notwithstanding s. 403.104 (1), every
17 evidence of appropriation bond is a negotiable instrument.

18 (b) Every appropriation bond shall be executed in the name of and for the
19 county by the chairperson of the board and county clerk, and shall be sealed with the
20 seal of the county, if any. Facsimile signatures of either officer may be imprinted in
21 lieu of manual signatures, but the signature of at least one such officer shall be
22 manual. An appropriation bond bearing the manual or facsimile signature of a
23 person in office at the same time the signature was signed or imprinted shall be fully
24 valid notwithstanding that before or after the delivery of such appropriation bond
25 the person ceased to hold such office.

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1 (c) Every appropriation bond shall be dated not later than the date it is issued,
2 shall contain a reference by date to the appropriate authorizing resolution, shall
3 state the limitation established in sub. (3) (f), and shall be in accordance with the
4 appropriate authorizing resolution in all respects.

5 (d) An appropriation bond shall be substantially in such form and contain such
6 statements or terms as determined by the board, and may not conflict with law or
7 with the appropriate authorizing resolution.

8 **(6) REFUNDING BONDS.** (a) 1. A board may authorize the issuance of refunding
9 appropriation bonds. Refunding appropriation bonds may be issued, subject to any
10 contract rights vested in owners of the appropriation bonds being refunded, to refund
11 all or any part of one or more issues of appropriation bonds notwithstanding that the
12 appropriation bonds may have been issued at different times or issues of general
13 obligation promissory notes under s. 67.12 (12) were issued to pay unfunded prior
14 service liability with respect to an employee retirement system. The principal
15 amount of the refunding appropriation bonds may not exceed the sum of: the
16 principal amount of the appropriation bonds or general obligation promissory notes
17 being refunded; applicable redemption premiums; unpaid interest on the refunded
18 appropriation bonds or general obligation promissory notes to the date of delivery or
19 exchange of the refunding appropriation bonds; in the event the proceeds are to be
20 deposited in trust as provided in par. (c), interest to accrue on the appropriation
21 bonds or general obligation promissory notes to be refunded from the date of delivery
22 to the date of maturity or to the redemption date selected by the board, whichever
23 is earlier; and the expenses incurred in the issuance of the refunding appropriation
24 bonds and the payment of the refunded appropriation bonds or general obligation
25 promissory notes.

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1 2. A board may authorize the issuance of general obligation promissory notes
2 under s. 67.12 (12) (a) to refund appropriation bonds, notwithstanding s. 67.01 (9)
3 (intro.).

4 (b) If a board determines to exchange refunding appropriation bonds, they may
5 be exchanged privately for, and in payment and discharge of, any of the outstanding
6 appropriation bonds being refunded. Refunding appropriation bonds may be
7 exchanged for such principal amount of the appropriation bonds being exchanged
8 therefor as may be determined by the board to be necessary or desirable. The owners
9 of the appropriation bonds being refunded who elect to exchange need not pay
10 accrued interest on the refunding appropriation bonds if and to the extent that
11 interest is accrued and unpaid on the appropriation bonds being refunded and to be
12 surrendered. If any of the appropriation bonds to be refunded are to be called for
13 redemption, the board shall determine which redemption dates are to be used, if
14 more than one date is applicable and shall, prior to the issuance of the refunding
15 appropriation bonds, provide for notice of redemption to be given in the manner and
16 at the times required by the resolution authorizing the appropriation bonds to be
17 refunded.

18 (c) 1. The principal proceeds from the sale of any refunding appropriation bonds
19 shall be applied either to the immediate payment and retirement of the
20 appropriation bonds or general obligation promissory notes being refunded or, if the
21 bonds or general obligation promissory notes have not matured and are not presently
22 redeemable, to the creation of a trust for, and shall be pledged to the payment of, the
23 appropriation bonds or general obligation promissory notes being refunded.

24 2. If a trust is created, a separate deposit shall be made for each issue of
25 appropriation bonds or general obligation promissory notes being refunded. Each

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1 deposit shall be with a bank or trust company authorized by the laws of the United
2 States or of a state in which it is located to conduct banking or trust company
3 business. If the total amount of any deposit, including moneys other than sale
4 proceeds but legally available for such purpose, is less than the principal amount of
5 the appropriation bonds or general obligation promissory notes being refunded and
6 for the payment of which the deposit has been created and pledged, together with
7 applicable redemption premiums and interest accrued and to accrue to maturity or
8 to the date of redemption, then the application of the sale proceeds shall be legally
9 sufficient only if the moneys deposited are invested in securities issued by the United
10 States or one of its agencies, or securities fully guaranteed by the United States, and
11 only if the principal amount of the securities at maturity and the income therefrom
12 to maturity will be sufficient and available, without the need for any further
13 investment or reinvestment, to pay at maturity or upon redemption the principal
14 amount of the appropriation bonds or general obligation promissory notes being
15 refunded together with applicable redemption premiums and interest accrued and
16 to accrue to maturity or to the date of redemption. The income from the principal
17 proceeds of the securities shall be applied solely to the payment of the principal of
18 and interest and redemption premiums on the appropriation bonds or general
19 obligation promissory notes being refunded, but provision may be made for the
20 pledging and disposition of any surplus.

21 3. Nothing in this paragraph may be construed as a limitation on the duration
22 of any deposit in trust for the retirement of appropriation bonds or general obligation
23 promissory notes being refunded that have not matured and that are not presently
24 redeemable. Nothing in this paragraph may be constructed to prohibit reinvestment
25 of the income of a trust if the reinvestments will mature at such times that sufficient

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1 moneys will be available to pay interest, applicable premiums, and principal on the
2 appropriation bonds or general obligation promissory notes being refunded.

3 (7) FISCAL REGULATIONS. (a) All appropriation bonds shall be registered by the
4 county clerk or county treasurer of the county issuing the appropriation bonds, or
5 such other officers or agents, including fiscal agents, as the board may determine.
6 After registration, no transfer of an appropriation bond is valid unless made by the
7 registered owner's duly authorized attorney, on the records of the county and
8 similarly noted on the appropriation bond. The county may treat the registered
9 owner as the owner of the appropriation bond for all purposes. Payments of principal
10 and interest shall be by electronic funds transfer, check, share draft, or other draft
11 to the registered owner at the owner's address as it appears on the register, unless
12 the board has otherwise provided. Information in the register is not available for
13 inspection and copying under s. 19.35 (1). The board may make any other provision
14 respecting registration as it considers necessary or desirable.

15 (b) The board may appoint one or more trustees or fiscal agents for each issue
16 of appropriation bonds. The county treasurer may be designated as the trustee and
17 the sole fiscal agent or as cofiscal agent for any issue of appropriation bonds. Every
18 other fiscal agent shall be an incorporated bank or trust company authorized by the
19 laws of the United States or of the state in which it is located to conduct banking or
20 trust company business. There may be deposited with a trustee, in a special account,
21 moneys to be used only for the purposes expressly provided in the resolution
22 authorizing the issuance of appropriation bonds or an agreement between the county
23 and the trustee. The board may make other provisions respecting trustees and fiscal
24 agents as the board considers necessary or desirable and may enter into contracts
25 with any trustee or fiscal agent containing such terms, including compensation, and

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1 conditions in regard to the trustee or fiscal agent as the board considers necessary
2 or desirable.

3 (c) If any appropriation bond is destroyed, lost, or stolen, the county shall
4 execute and deliver a new appropriation bond, upon filing with the board evidence
5 satisfactory to the board that the appropriation bond has been destroyed, lost, or
6 stolen, upon providing proof of ownership thereof, and upon furnishing the board
7 with indemnity satisfactory to it and complying with such other rules of the county
8 and paying any expenses that the county may incur. The board shall cancel the
9 appropriation bond surrendered to the county.

10 (d) Unless otherwise directed by the board, every appropriation bond paid or
11 otherwise retired shall be marked "canceled" and delivered to the county treasurer,
12 or to such other fiscal agent as applicable with respect to the appropriation bond, who
13 shall destroy them and deliver a certificate to that effect to the county clerk.

14 **(8) APPROPRIATION BONDS AS LEGAL INVESTMENTS.** Any of the following may
15 legally invest any sinking funds, moneys, or other funds belonging to them or under
16 their control in any appropriation bonds issued under this section:

17 (a) The state, the investment board, public officers, municipal corporations,
18 political subdivisions, and public bodies.

19 (b) Banks and bankers, savings and loan associations, credit unions, trust
20 companies, savings banks and institutions, investment companies, insurance
21 companies, insurance associations, and other persons carrying on a banking or
22 insurance business.

23 (c) Personal representatives, guardians, trustees, and other fiduciaries.

24 **(9) MORAL OBLIGATION PLEDGE.** If the board considers it necessary or desirable
25 to do so, it may express in a resolution authorizing appropriation bonds its

BILL**SECTION 2**

1 expectation and aspiration to make timely appropriations sufficient to pay the
2 principal and interest due with respect to such appropriation bonds, to make
3 deposits into a reserve fund created under sub. (4) (a) with respect to such
4 appropriation bonds, to make payments under any agreement or ancillary
5 arrangement entered into under s. 59.86 with respect to such appropriation bonds,
6 to make deposits into any stabilization fund established or continued under s. 59.87
7 with respect to such appropriation bonds, or to pay related issuance or
8 administrative expenses.

9 (10) PENSION STUDY COMMITTEE. The 2 public members of the pension study
10 committee, created by chapter 405, laws of 1965, shall have at least 10 years of
11 financial experience.

12 SECTION 3. 59.86 of the statutes is created to read:

13 **59.86 Agreements and ancillary arrangements for certain notes and**
14 **appropriation bonds.** At the time of issuance or in anticipation of the issuance of
15 appropriation bonds under s. 59.85, or general obligation promissory notes under s.
16 67.12 (12), to pay unfunded prior service liability with respect to an employee
17 retirement system, or at any time thereafter so long as the appropriation bonds or
18 general obligation promissory notes are outstanding, a county having a population
19 of 500,000 or more may enter into agreements or ancillary arrangements relating to
20 the appropriation bonds or general obligation promissory notes, including trust
21 indentures, liquidity facilities, remarketing or dealer agreements, letters of credit,
22 insurance policies, guaranty agreements, reimbursement agreements, indexing
23 agreements, and interest exchange agreements. Any payments made or amounts
24 received with respect to any such agreement or ancillary arrangement shall be made
25 from or deposited as provided in the agreement or ancillary arrangement.

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1 **SECTION 4.** 59.87 of the statutes is created to read:

2 **59.87 Employee retirement system liability financing in populous**
3 **counties; additional powers. (1) DEFINITIONS.** In this section:

4 (a) "Board" means the county board of supervisors in any county.

5 (b) "County" means any county having a population of 500,000 or more.

6 (c) "Pension funding plan" means a strategic and financial plan related to the
7 payment of all or part of a county's unfunded prior service liability with respect to
8 an employee retirement system.

9 (d) "Trust" means a common law trust organized under the laws of this state,
10 by the county, as settlor, pursuant to a formal, written, declaration of trust.

11 **(2) SPECIAL FINANCING ENTITIES, FUNDS, AND ACCOUNTS.** (a) To facilitate a pension
12 funding plan and in furtherance thereof, a board may create one or more of the
13 following:

14 1. A trust.

15 2. A nonstock corporation under ch. 181.

16 3. A limited liability company under ch. 183.

17 4. A special fund or account of the county.

18 (b) An entity described under par. (a) has all of the powers provided to it under
19 applicable law and the documents pursuant to which it is created and established.
20 The powers shall be construed broadly in favor of effectuating the purposes for which
21 the entity is created. A county may appropriate funds to such entities and to such
22 funds and accounts, under terms and conditions established by the board, consistent
23 with the purposes for which they are created and established.

24 **(3) STABILIZATION FUNDS.** (a) To facilitate a pension funding plan a board may
25 establish a stabilization fund. Any such fund may be created as a trust, a special fund

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1 or account of the county established by a separate resolution or ordinance, or a fund
2 or account created under an authorizing resolution or trust indenture in connection
3 with the authorization and issuance of appropriation bonds under s. 59.85 or general
4 obligation promissory notes under s. 67.12 (12). A county may appropriate funds for
5 deposit to a stabilization fund established under this subsection.

6 (b) Moneys in a stabilization fund established under this subsection may be
7 used, subject to annual appropriation by the board, solely to pay principal or interest
8 on appropriation bonds issued under s. 59.85 and general obligation promissory
9 notes under s. 67.12 (12) issued in connection with a pension funding plan, for the
10 redemption or repurchase of such appropriation bonds or general obligation
11 promissory notes, or to make payments under any agreement or ancillary
12 arrangement entered into under s. 59.86 with respect to such appropriation bonds
13 or general obligation promissory notes. Moneys on deposit in a stabilization fund
14 may not be subject to any claims, demands, or actions by, or transfers or assignments
15 to, any creditor of the county, any beneficiary of the county's employee retirement
16 system, or any other person, on terms other than as may be established in the
17 resolution or ordinance creating the stabilization fund. Moneys on deposit in a
18 stabilization fund established under this subsection may be invested and reinvested
19 in the manner directed by the board or pursuant to delegation by the board as
20 provided under s. 66.0603 (5).

21 **SECTION 5.** 66.0602 (3) (d) 3. of the statutes is created to read:

22 66.0602 (3) (d) 3. The limit otherwise applicable under this section does not
23 apply to amounts levied by a county having a population of 500,000 or more for the
24 payment of debt service on appropriation bonds issued under s. 59.85, including debt
25 service on appropriation bonds issued to fund or refund outstanding appropriation

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1 bonds of the county, to pay related issuance costs or redemption premiums, or to
2 make payments with respect to agreements or ancillary arrangements authorized
3 under s. 59.86.

4 **SECTION 6.** 66.0603 (1m) (e) of the statutes is created to read:

5 66.0603 (1m) (e) Subject to s. 67.11 (2) with respect to funds on deposit in a debt
6 service fund for general obligation promissory notes issued under s. 67.12 (12), a
7 county having a population of 500,000 or more, or a person to whom the county has
8 delegated investment authority under sub. (5), may invest and reinvest in the same
9 manner as is authorized for investments and reinvestments under s. 881.01, any of
10 the following:

11 1. Moneys held in any stabilization fund established under s. 59.87 (3).

12 2. Moneys held in a fund or account, including any reserve fund, created in
13 connection with the issuance of appropriation bonds under s. 59.85 or general
14 obligation promissory notes under s. 67.12 (12) issued to provide funds for the
15 payment of all or a part of the county's unfunded prior service liability.

16 3. Moneys appropriated or held by the county to pay debt service on
17 appropriation bonds or general obligation promissory notes under s. 67.12 (12).

18 4. Moneys constituting proceeds of appropriation bonds or general obligation
19 promissory notes described in subd. 2. that are available for investment until they
20 are spent.

21 5. Moneys held in an employee retirement system of the county.

22 **SECTION 7.** 66.0603 (5) of the statutes is created to read:

23 66.0603 (5) DELEGATION OF INVESTMENT AUTHORITY IN CONNECTION WITH PENSION
24 FINANCING IN POPULOUS COUNTIES. The governing board of a county having a
25 population of 500,000 or more may delegate investment authority over any of the

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1 moneys described in sub. (1m) (e) to any of the following persons, which shall be
2 responsible for the general administration and proper operation of the county's
3 employee retirement system, subject to the board's finding that such person has
4 expertise in the field of investments:

5 (a) A public board that is organized for such purpose under county ordinances.

6 (b) A trustee, investment advisor, or investment banking or consulting firm.

7 **SECTION 8.** 67.01 (9) (intro.) of the statutes is amended to read:

8 67.01 (9) (intro.) This chapter is not applicable to appropriation bonds issued
9 by a county under s. 59.85 and, except ss. 67.08 (1), 67.09 and 67.10, is not applicable:

10 **SECTION 9.** 67.04 (5) (b) 4. of the statutes is amended to read:

11 67.04 (5) (b) 4. To pay unfunded prior service liability contributions under the
12 Wisconsin retirement system, or to pay unfunded prior service liability with respect
13 to an employee retirement system, if all of the net proceeds of the note will be used
14 to pay for such contributions or payments.

15 **SECTION 10.** 67.045 (1) (g) of the statutes is created to read:

16 67.045 (1) (g) The debt is issued by a county having a population of 500,000 or
17 more to pay unfunded prior service liability with respect to an employee retirement
18 system.

19 **SECTION 11.** 67.12 (12) (a) of the statutes is amended to read:

20 67.12 (12) (a) Any municipality may issue promissory notes as evidence of
21 indebtedness for any public purpose, as defined in s. 67.04 (1) (b), including but not
22 limited to paying any general and current municipal expense, and refunding any
23 municipal obligations, including interest on them. Each note, plus interest if any,
24 shall be repaid within 10 years after the original date of the note, except that notes
25 issued under this section for purposes of ss. 119.498, 145.245 (12m), 281.58, 281.59,

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1 281.60, and 281.61, or issued to raise funds to pay a portion of the capital costs of a
2 metropolitan sewerage district, or issued by a county having a population of 500,000
3 or more to pay unfunded prior service liability with respect to an employee
4 retirement system shall be repaid within 20 years after the original date of the note.

5

(END)

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e. The amount, if any, by which the county's contributions to the employee retirement system for the prior year is less than the normal cost contribution for that year as specified in the actuarial report for the county's employee retirement system for that year. ✓

(2m) PENALTY FOR INADEQUATE CONTRIBUTION. ✓ If the county's contributions to the employee retirement system for the prior year is less than the normal cost contribution for that year, as described in sub. (2) (d) 2. e. ✓, the department of revenue shall reduce and withhold the amount of the shared revenue payments to the county under subch. I of ch. 79, ✓ in the following year, by an amount equal to the difference between the normal cost contribution for that prior year and the county's actual contribution in that prior year. If the department of administration ✓ so directs, the department of revenue ✓ shall deposit the amount of the reduced and withheld shared revenue payment into the county's employee retirement system. ✓

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1 1. Moneys annually appropriated by law for debt service due with respect to

2 such appropriation bond in that year.

3 2. Proceeds of the sale of such appropriation bonds.

4 3. Payments received for that purpose under agreements and ancillary

5 arrangements described in s. 59.86.

6 4. Investment earnings on amounts in subds. 1. to 3.

7 (b) "Board" means the county board of supervisors in any county.

8 (c) "Bond" means any bond, note, or other obligation of a county issued under

9 this section.

10 (d) "County" means any county having a population of 500,000 or more.

11 (e) "Refunding bond" means an appropriation bond issued to fund or refund all

12 or any part of one or more outstanding appropriation pension-related bonds.

13 (1m) LEGISLATIVE FINDING AND DETERMINATION. Recognizing that a county, by

14 prepaying part or all of the county's unfunded prior service liability with respect to

15 an employee retirement system of the county, may reduce its costs and better ensure

16 the timely and full payment of retirement benefits to participants and their

17 beneficiaries under the employee retirement system, the legislature finds and

18 determines that it is in the public interest for the county to issue appropriation bonds

19 to obtain proceeds to pay its unfunded prior service liability.

20 (2) AUTHORIZATION OF APPROPRIATION BONDS. (a) A board shall have all powers

21 necessary and convenient to carry out its duties, and to exercise its authority, under

22 this section. Any obligations set forth under this section shall remain in effect only during the

term of any appropriation bonds issued hereunder.

is expanding purpose, Am; sub. (2)

expand purpose of refunding bonds

are you trying to use approp bonds to pay

is there a defined term

obsoletes bonds just a terminology change

Mil. Conty

MAKE sure if they don't use bonding auth, I remain inactive till they're ready

2

23 (b) Subject to parts (c), and (d), and (e), a county may issue appropriation bonds under
24 this section to pay all or any part of the county's unfunded prior service liability with
25 respect to an employee retirement system of the county, or to fund or refund

BILL

1 b. Any proposed modifications to the plan.

2 c. The status of any stabilization fund that is established under s. 59.87 (3).

3 d. The most current actuarial report related to the county's employee
4 retirement system.

5 e. The amount, if any, by which the county's contributions to the employee

6 retirement system for the prior ^{2. FY = Cal. year} budget year is less than the normal cost contribution for that

7 ~~budget~~ year as specified in the actuarial report for the budget year contribution to the county's

8 employee retirement system ~~for that year.~~ If the annual required contribution as recommended by
the actuary is less than the normal cost, then the County shall only be required to make the required

contribution.

(2)

9 (2m e) PENALTY FOR INADEQUATE CONTRIBUTION. If the county's contributions to

10 the employee retirement system for the prior year is less than the normal cost required

11 contribution for that year, as described in sub. (2) (d) 2. e., the department of revenue

12 shall reduce and withhold the amount of the shared revenue payments to the county

13 under subch. I of ch. 79, in the following year, by an amount equal to the difference

14 between the normal cost contribution for that prior year and the county's actual

15 contribution in that prior year. If the department of administration so directs, the

16 department of revenue shall deposit the amount of the reduced and withheld shared

17 revenue payment into the county's employee retirement system.

18 (3) Terms, (a) A county may borrow moneys and issue appropriation bonds in

19 evidence of the borrowing pursuant to one or more written authorizing resolutions

20 under sub. (4). Unless otherwise provided in an authorizing resolution, the county

21 may issue appropriation bonds at any time, in any specific amounts, at any rates of

} (Handwritten bracket on right side of lines 6-8)

Not approp. for intro. - i.e. Rpt must have! -

Adds nothing

BILL

inconsistent w/ purpose under sub (2)

1 (b) Moneys in a stabilization fund established under this subsection may be
 2 used, subject to annual appropriation by the board, solely to pay principal or interest
 3 on appropriation bonds issued under s. 59.85 and general obligation promissory
 4 notes under s. 67.12 (12) issued in connection with a pension funding plan, for the
 5 redemption or repurchase of such appropriation bonds or general obligation
 6 promissory notes, or to make payments under any agreement or ancillary
 7 arrangement entered into under s. 59.86 with respect to such appropriation bonds
 8 or general obligation promissory notes, ^{or to pay annual pension costs} Moneys on deposit in a stabilization fund ^{other than}
 9 may not be subject to any claims, demands, or actions by, or transfers or assignments ^{normal} costs.
 10 to, any creditor of the county, any beneficiary of the county's employee retirement
 11 system, or any other person, on terms other than as may be established in the
 12 resolution or ordinance creating the stabilization fund. Moneys on deposit in a
 13 stabilization fund established under this subsection may be invested and reinvested
 14 in the manner directed by the board or pursuant to delegation by the board as
 15 provided under s. 66.0603 (5).

only pay these costs broader than P & I

like what?

SECTION 5. 66.0602 (3) (d) 3. of the statutes is created to read:

16 66.0602 (3) (d) 3. The limit otherwise applicable under this section does not
 17 apply to amounts levied by a county having a population of 500,000 or more for the
 18 payment of debt service on appropriation bonds issued under s. 59.85, including debt
 19 service on appropriation bonds issued to fund or refund outstanding appropriation
 20 bonds of the county, to pay related issuance costs or redemption premiums, or to
 21 make payments with respect to agreements or ancillary arrangements authorized
 22 under s. 59.86.
 23

SECTION 6. 66.0603 (1m) (e) of the statutes is created to read:

24



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2608/2
MES:wlj&jld:rs

3
PWR

2007 BILL

WANTED;
Fri.

D-NOTE

repen

1 AN ACT to amend 59.605 (1) (a), 67.01 (9) (intro.), 67.04 (5) (b) 4. and 67.12 (12)
2 (a); and to create 59.85, 59.86, 59.87, 66.0602 (3) (d) 3., 66.0603 (1m) (e),
3 66.0603 (5) and 67.045 (1) (g) of the statutes; relating to: unfunded pension
4 liability financing in populous counties and membership on the pension study
5 committee.

Analysis by the Legislative Reference Bureau

This bill authorizes a county with a population of 500,000 or more (currently only Milwaukee County) to issue appropriation bonds on a one-time basis, other than refunding bonds, to pay all or any part of the county's unfunded prior service liability with respect to an employee retirement system of the county. "Appropriation bonds" are defined as any bond, note, or other obligation of a county issued as provided in the bill to evidence the county's obligation to repay borrowed money that is payable from various sources, including the following:

1. Moneys annually appropriated by the county for debt service due with respect to the appropriation bonds.
2. Proceeds of the sale of the appropriation bonds.
3. Investment earnings on the items listed above.

Before the county may issue appropriation bonds, however, the county must enact an ordinance to implement a five-year strategic and financial plan related to the payment of unfunded employee retirement benefits. The financial plan shall provide that future annual pension liabilities are funded on a current basis, and the

BILL

financial plan must contain quantifiable benchmarks to measure compliance with the plan. Annually, the county board must report to the legislature, the Department of Revenue (DOR), the Department of Administration (DOA), and the governor on a number of issues related to the appropriation bonds, including the county's progress in meeting the benchmarks, ~~and~~ whether the county fully funds the normal cost contribution for its employee retirement system. If the county does not fully fund its ~~normal~~ cost contribution for a particular year, DOR must reduce and withhold from the county's shared revenue payments the difference between its normal cost contribution and the amount the county actually contributes to the system for that year. ~~DOA may require~~ DOR to deposit the withheld amount into the county's employee retirement system.

~~NO~~ and the amount that the actuary determines is the county's required contribution to that system

required

ALMUSEV

The bill states that a populous county is not generally liable for appropriation bonds, and appropriation bonds are not a debt of the county for any purpose whatsoever. Appropriation bonds, including the principal and interest payments, are payable only from amounts that the county board may, from year to year, appropriate.

For further information see the *local* 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.** 59.605 (1) (a) of the statutes is amended to read:

2 59.605 (1) (a) "Debt levy" means the county purpose levy for debt service on
3 loans under subch. II of ch. 24, bonds issued under s. 67.05 ~~and~~, promissory notes
4 issued under s. 67.12 (12), and appropriation bonds issued under s. 59.85, less any
5 revenues that abate the levy.

6 **SECTION 2.** 59.85 of the statutes is created to read:

7 **59.85 Appropriation bonds for payment of employee retirement**
8 **system liability in populous counties.** (1) DEFINITIONS. In this section:

9 (a) "Appropriation bond" means a bond issued by a county to evidence its
10 obligation to repay a certain amount of borrowed money that is payable from all of
11 the following:

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1 1. Moneys annually appropriated by law for debt service due with respect to
2 such appropriation bond in that year.

3 2. Proceeds of the sale of such appropriation bonds.

4 3. Payments received for that purpose under agreements and ancillary
5 arrangements described in s. 59.86.

6 4. Investment earnings on amounts in subds. 1. to 3.

7 (b) "Board" means the county board of supervisors in any county.

8 (c) "Bond" means any bond, note, or other obligation of a county issued under
9 this section.

10 (d) "County" means any county having a population of 500,000 or more.

11 (e) "Refunding bond" means an appropriation bond issued to fund or refund all
12 or any part of one or more outstanding ~~appropriation~~ ^{or pension-related} bonds.

13 **(1m)** LEGISLATIVE FINDING AND DETERMINATION. Recognizing that a county, by
14 prepaying part or all of the county's unfunded prior service liability with respect to
15 an employee retirement system of the county, may reduce its costs and better ensure
16 the timely and full payment of retirement benefits to participants and their
17 beneficiaries under the employee retirement system, the legislature finds and
18 determines that it is in the public interest for the county to issue appropriation bonds
19 to obtain proceeds to pay its unfunded prior service liability.

20 **(2)** AUTHORIZATION OF APPROPRIATION BONDS. (a) A board shall have all powers
21 necessary and convenient to carry out its duties, and to exercise its authority, under
22 this section.

23 (b) Subject to pars. (c) and (d), a county may issue appropriation bonds under
24 this section to pay all or any part of the county's unfunded prior service liability with
25 respect to an employee retirement system of the county, or to fund or refund

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1 outstanding appropriation bonds issued under this section. A county may use
2 proceeds of appropriation bonds to pay issuance or administrative expenses, to make
3 deposits to reserve funds, to pay accrued or funded interest, to pay the costs of credit
4 enhancement, to make payments under other agreements entered into under s.
5 59.86, or to make deposits to stabilization funds established under s. 59.87.

6 (c) Other than refunding bonds issued under sub. (6), all bonds must be issued
7 simultaneously.

8 (d) 1. Before a county may issue appropriation bonds under par. (b), its board
9 shall enact an ordinance that establishes a 5-year strategic and financial plan
10 related to the payment of all or any part of the county's unfunded prior service
11 liability with respect to an employee retirement system of the county. The strategic
12 and financial plan shall provide that future annual pension liabilities are funded on
13 a current basis. The strategic and financial plan shall contain quantifiable
14 benchmarks to measure compliance with the plan. The board shall make a
15 determination that the ordinance meets the requirements of this subdivision and,
16 absent manifest error, the board's determination shall be conclusive. The board shall
17 submit to the governor and to the chief clerk of each house of the legislature, for
18 distribution to the legislature under s. 13.172 (2), a copy of the strategic and financial
19 plan.

20 2. Annually, the county shall submit to the governor, the department of
21 revenue, and the department of administration, and to the chief clerk of each house
22 of the legislature, for distribution to the legislature under s. 13.172 (2), a report that
23 includes all of the following:

24 a. The county's progress in meeting the benchmarks in the strategic and
25 financial plan.

BILL

retirement system ✓

- 1 b. Any proposed modifications to the plan.
- 2 c. The status of any stabilization fund that is established under s. 59.87 (3).
- 3 d. The most current actuarial report related to the county's employee
- 4 retirement system.

5 e. The amount, if any, by which the county's contributions to the employee

6 retirement system for the prior year is less than the normal cost contribution for that

7 year as specified in the actuarial report for the county's employee retirement system

8 for that year.

f. The amount that the actuary determines is the required contribution for that year. to the employee's

9 **(2m) PENALTY FOR INADEQUATE CONTRIBUTION.** If the county's contributions to

10 the employee retirement system for the prior year is less than the normal cost

11 contribution for that year, as described in sub. (2) (d) 2., the department of revenue

12 shall reduce and withhold the amount of the shared revenue payments to the county

13 under subch. I of ch. 79, in the following year, by an amount equal to the difference

14 between the normal cost contribution for that prior year and the county's actual

15 contribution in that prior year. *If the department of administration so directs,* the

16 department of revenue shall deposit the amount of the reduced and withheld shared

17 revenue payment into the county's employee retirement system.

18 **(3) TERMS.** (a) A county may borrow moneys and issue appropriation bonds in

19 evidence of the borrowing pursuant to one or more written authorizing resolutions

20 under sub. (4). Unless otherwise provided in an authorizing resolution, the county

21 may issue appropriation bonds at any time, in any specific amounts, at any rates of

22 interest, for any term, payable at any intervals, at any place, in any manner, and

23 having any other terms or conditions that the board considers necessary or desirable.

24 Appropriation bonds may bear interest at variable or fixed rates, bear no interest,

25 or bear interest payable only at maturity or upon redemption prior to maturity.

BILL**SECTION 2**

1 (b) The board may authorize appropriation bonds having any provisions for
2 prepayment the board considers necessary or desirable, including the payment of
3 any premium.

4 (c) Interest shall cease to accrue on an appropriation bond on the date that the
5 appropriation bond becomes due for payment if payment is made or duly provided
6 for.

7 (d) All moneys borrowed by a county that is evidenced by appropriation bonds
8 issued under this section shall be lawful money of the United States, and all
9 appropriation bonds shall be payable in such money.

10 (e) All appropriation bonds owned or held by a fund of the county are
11 outstanding in all respects and the board or other governing body controlling the
12 fund shall have the same rights with respect to an appropriation bond as a private
13 party, but if any sinking fund acquires appropriation bonds that gave rise to such
14 fund, the appropriation bonds are considered paid for all purposes and no longer
15 outstanding and shall be canceled as provided in sub. (7) (d).

16 (f) A county shall not be generally liable on appropriation bonds, and
17 appropriation bonds shall not be a debt of the county for any purpose whatsoever.
18 Appropriation bonds, including the principal thereof and interest thereon, shall be
19 payable only from amounts that the board may, from year to year, appropriate for the
20 payment thereof.

21 (4) PROCEDURES. (a) No appropriation bonds may be issued by a county unless
22 the issuance is pursuant to a written authorizing resolution adopted by a majority
23 of a quorum of the board. The resolution may be in the form of a resolution or trust
24 indenture, and shall set forth the aggregate principal amount of appropriation bonds
25 authorized thereby, the manner of their sale, and the form and terms thereof. The

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1 resolution or trust indenture may establish such funds and accounts, including a
2 reserve fund, as the board determines.

3 (b) Appropriation bonds may be sold at either public or private sale and may
4 be sold at any price or percentage of par value. All appropriation bonds sold at public
5 sale shall be noticed as provided in the authorizing resolution. Any bid received at
6 public sale may be rejected.

7 (5) FORM. (a) As determined by the board, appropriation bonds may be issued
8 in book-entry form or in certificated form. Notwithstanding s. 403.104 (1), every
9 evidence of appropriation bond is a negotiable instrument.

10 (b) Every appropriation bond shall be executed in the name of and for the
11 county by the chairperson of the board and county clerk, and shall be sealed with the
12 seal of the county, if any. Facsimile signatures of either officer may be imprinted in
13 lieu of manual signatures, but the signature of at least one such officer shall be
14 manual. An appropriation bond bearing the manual or facsimile signature of a
15 person in office at the same time the signature was signed or imprinted shall be fully
16 valid notwithstanding that before or after the delivery of such appropriation bond
17 the person ceased to hold such office.

18 (c) Every appropriation bond shall be dated not later than the date it is issued,
19 shall contain a reference by date to the appropriate authorizing resolution, shall
20 state the limitation established in sub. (3) (f), and shall be in accordance with the
21 appropriate authorizing resolution in all respects.

22 (d) An appropriation bond shall be substantially in such form and contain such
23 statements or terms as determined by the board, and may not conflict with law or
24 with the appropriate authorizing resolution.

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1 **(6) REFUNDING BONDS.** (a) 1. A board may authorize the issuance of refunding
2 appropriation bonds. Refunding appropriation bonds may be issued, subject to any
3 contract rights vested in owners of the appropriation bonds being refunded, to refund
4 all or any part of one or more issues of appropriation bonds notwithstanding that the
5 appropriation bonds may have been issued at different times or issues of general
6 obligation promissory notes under s. 67.12 (12) were issued to pay unfunded prior
7 service liability with respect to an employee retirement system. The principal
8 amount of the refunding appropriation bonds may not exceed the sum of: the
9 principal amount of the appropriation bonds or general obligation promissory notes
10 being refunded; applicable redemption premiums; unpaid interest on the refunded
11 appropriation bonds or general obligation promissory notes to the date of delivery or
12 exchange of the refunding appropriation bonds; in the event the proceeds are to be
13 deposited in trust as provided in par. (c), interest to accrue on the appropriation
14 bonds or general obligation promissory notes to be refunded from the date of delivery
15 to the date of maturity or to the redemption date selected by the board, whichever
16 is earlier; and the expenses incurred in the issuance of the refunding appropriation
17 bonds and the payment of the refunded appropriation bonds or general obligation
18 promissory notes.

19 2. A board may authorize the issuance of general obligation promissory notes
20 under s. 67.12 (12) (a) to refund appropriation bonds, notwithstanding s. 67.01 (9)
21 (intro.).

22 (b) If a board determines to exchange refunding appropriation bonds, they may
23 be exchanged privately for, and in payment and discharge of, any of the outstanding
24 appropriation bonds being refunded. Refunding appropriation bonds may be
25 exchanged for such principal amount of the appropriation bonds being exchanged

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1 therefor as may be determined by the board to be necessary or desirable. The owners
2 of the appropriation bonds being refunded who elect to exchange need not pay
3 accrued interest on the refunding appropriation bonds if and to the extent that
4 interest is accrued and unpaid on the appropriation bonds being refunded and to be
5 surrendered. If any of the appropriation bonds to be refunded are to be called for
6 redemption, the board shall determine which redemption dates are to be used, if
7 more than one date is applicable and shall, prior to the issuance of the refunding
8 appropriation bonds, provide for notice of redemption to be given in the manner and
9 at the times required by the resolution authorizing the appropriation bonds to be
10 refunded.

11 (c) 1. The principal proceeds from the sale of any refunding appropriation bonds
12 shall be applied either to the immediate payment and retirement of the
13 appropriation bonds or general obligation promissory notes being refunded or, if the
14 bonds or general obligation promissory notes have not matured and are not presently
15 redeemable, to the creation of a trust for, and shall be pledged to the payment of, the
16 appropriation bonds or general obligation promissory notes being refunded.

17 2. If a trust is created, a separate deposit shall be made for each issue of
18 appropriation bonds or general obligation promissory notes being refunded. Each
19 deposit shall be with a bank or trust company authorized by the laws of the United
20 States or of a state in which it is located to conduct banking or trust company
21 business. If the total amount of any deposit, including moneys other than sale
22 proceeds but legally available for such purpose, is less than the principal amount of
23 the appropriation bonds or general obligation promissory notes being refunded and
24 for the payment of which the deposit has been created and pledged, together with
25 applicable redemption premiums and interest accrued and to accrue to maturity or

BILL**SECTION 2**

1 to the date of redemption, then the application of the sale proceeds shall be legally
2 sufficient only if the moneys deposited are invested in securities issued by the United
3 States or one of its agencies, or securities fully guaranteed by the United States, and
4 only if the principal amount of the securities at maturity and the income therefrom
5 to maturity will be sufficient and available, without the need for any further
6 investment or reinvestment, to pay at maturity or upon redemption the principal
7 amount of the appropriation bonds or general obligation promissory notes being
8 refunded together with applicable redemption premiums and interest accrued and
9 to accrue to maturity or to the date of redemption. The income from the principal
10 proceeds of the securities shall be applied solely to the payment of the principal of
11 and interest and redemption premiums on the appropriation bonds or general
12 obligation promissory notes being refunded, but provision may be made for the
13 pledging and disposition of any surplus.

14 3. Nothing in this paragraph may be construed as a limitation on the duration
15 of any deposit in trust for the retirement of appropriation bonds or general obligation
16 promissory notes being refunded that have not matured and that are not presently
17 redeemable. Nothing in this paragraph may be constructed to prohibit reinvestment
18 of the income of a trust if the reinvestments will mature at such times that sufficient
19 moneys will be available to pay interest, applicable premiums, and principal on the
20 appropriation bonds or general obligation promissory notes being refunded.

21 (7) FISCAL REGULATIONS. (a) All appropriation bonds shall be registered by the
22 county clerk or county treasurer of the county issuing the appropriation bonds, or
23 such other officers or agents, including fiscal agents, as the board may determine.
24 After registration, no transfer of an appropriation bond is valid unless made by the
25 registered owner's duly authorized attorney, on the records of the county and

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1 similarly noted on the appropriation bond. The county may treat the registered
2 owner as the owner of the appropriation bond for all purposes. Payments of principal
3 and interest shall be by electronic funds transfer, check, share draft, or other draft
4 to the registered owner at the owner's address as it appears on the register, unless
5 the board has otherwise provided. Information in the register is not available for
6 inspection and copying under s. 19.35 (1). The board may make any other provision
7 respecting registration as it considers necessary or desirable.

8 (b) The board may appoint one or more trustees or fiscal agents for each issue
9 of appropriation bonds. The county treasurer may be designated as the trustee and
10 the sole fiscal agent or as cofiscal agent for any issue of appropriation bonds. Every
11 other fiscal agent shall be an incorporated bank or trust company authorized by the
12 laws of the United States or of the state in which it is located to conduct banking or
13 trust company business. There may be deposited with a trustee, in a special account,
14 moneys to be used only for the purposes expressly provided in the resolution
15 authorizing the issuance of appropriation bonds or an agreement between the county
16 and the trustee. The board may make other provisions respecting trustees and fiscal
17 agents as the board considers necessary or desirable and may enter into contracts
18 with any trustee or fiscal agent containing such terms, including compensation, and
19 conditions in regard to the trustee or fiscal agent as the board considers necessary
20 or desirable.

21 (c) If any appropriation bond is destroyed, lost, or stolen, the county shall
22 execute and deliver a new appropriation bond, upon filing with the board evidence
23 satisfactory to the board that the appropriation bond has been destroyed, lost, or
24 stolen, upon providing proof of ownership thereof, and upon furnishing the board
25 with indemnity satisfactory to it and complying with such other rules of the county

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1 and paying any expenses that the county may incur. The board shall cancel the
2 appropriation bond surrendered to the county.

3 (d) Unless otherwise directed by the board, every appropriation bond paid or
4 otherwise retired shall be marked "canceled" and delivered to the county treasurer,
5 or to such other fiscal agent as applicable with respect to the appropriation bond, who
6 shall destroy them and deliver a certificate to that effect to the county clerk.

7 **(8) APPROPRIATION BONDS AS LEGAL INVESTMENTS.** Any of the following may
8 legally invest any sinking funds, moneys, or other funds belonging to them or under
9 their control in any appropriation bonds issued under this section:

10 (a) The state, the investment board, public officers, municipal corporations,
11 political subdivisions, and public bodies.

12 (b) Banks and bankers, savings and loan associations, credit unions, trust
13 companies, savings banks and institutions, investment companies, insurance
14 companies, insurance associations, and other persons carrying on a banking or
15 insurance business.

16 (c) Personal representatives, guardians, trustees, and other fiduciaries.

17 **(9) MORAL OBLIGATION PLEDGE.** If the board considers it necessary or desirable
18 to do so, it may express in a resolution authorizing appropriation bonds its
19 expectation and aspiration to make timely appropriations sufficient to pay the
20 principal and interest due with respect to such appropriation bonds, to make
21 deposits into a reserve fund created under sub. (4) (a) with respect to such
22 appropriation bonds, to make payments under any agreement or ancillary
23 arrangement entered into under s. 59.86 with respect to such appropriation bonds,
24 to make deposits into any stabilization fund established or continued under s. 59.87

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1 with respect to such appropriation bonds, or to pay related issuance or
2 administrative expenses.

3 (10) PENSION STUDY COMMITTEE. The 2 public members of the pension study
4 committee, created by chapter 405, laws of 1965, shall have at least 10 years of
5 financial experience.

6 SECTION 3. 59.86 of the statutes is created to read:

7 **59.86 Agreements and ancillary arrangements for certain notes and**
8 **appropriation bonds.** At the time of issuance or in anticipation of the issuance of
9 appropriation bonds under s. 59.85, or general obligation promissory notes under s.
10 67.12 (12), to pay unfunded prior service liability with respect to an employee
11 retirement system, or at any time thereafter so long as the appropriation bonds or
12 general obligation promissory notes are outstanding, a county having a population
13 of 500,000 or more may enter into agreements or ancillary arrangements relating to
14 the appropriation bonds or general obligation promissory notes, including trust
15 indentures, liquidity facilities, remarketing or dealer agreements, letters of credit,
16 insurance policies, guaranty agreements, reimbursement agreements, indexing
17 agreements, and interest exchange agreements. Any payments made or amounts
18 received with respect to any such agreement or ancillary arrangement shall be made
19 from or deposited as provided in the agreement or ancillary arrangement.

20 SECTION 4. 59.87 of the statutes is created to read:

21 **59.87 Employee retirement system liability financing in populous**
22 **counties; additional powers. (1) DEFINITIONS.** In this section:

23 (a) "Board" means the county board of supervisors in any county.

24 (b) "County" means any county having a population of 500,000 or more.

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1 (c) "Pension funding plan" means a strategic and financial plan related to the
2 payment of all or part of a county's unfunded prior service liability with respect to
3 an employee retirement system.

4 (d) "Trust" means a common law trust organized under the laws of this state,
5 by the county, as settlor, pursuant to a formal, written, declaration of trust.

6 (2) SPECIAL FINANCING ENTITIES, FUNDS, AND ACCOUNTS. (a) To facilitate a pension
7 funding plan and in furtherance thereof, a board may create one or more of the
8 following:

- 9 1. A trust.
- 10 2. A nonstock corporation under ch. 181.
- 11 3. A limited liability company under ch. 183.
- 12 4. A special fund or account of the county.

13 (b) An entity described under par. (a) has all of the powers provided to it under
14 applicable law and the documents pursuant to which it is created and established.
15 The powers shall be construed broadly in favor of effectuating the purposes for which
16 the entity is created. A county may appropriate funds to such entities and to such
17 funds and accounts, under terms and conditions established by the board, consistent
18 with the purposes for which they are created and established.

19 (3) STABILIZATION FUNDS. (a) To facilitate a pension funding plan a board may
20 establish a stabilization fund. Any such fund may be created as a trust, a special fund
21 or account of the county established by a separate resolution or ordinance, or a fund
22 or account created under an authorizing resolution or trust indenture in connection
23 with the authorization and issuance of appropriation bonds under s. 59.85 or general
24 obligation promissory notes under s. 67.12 (12). A county may appropriate funds for
25 deposit to a stabilization fund established under this subsection.

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1 (b) Moneys in a stabilization fund established under this subsection may be
2 used, subject to annual appropriation by the board, solely to pay principal or interest
3 on appropriation bonds issued under s. 59.85 and general obligation promissory
4 notes under s. 67.12 (12) issued in connection with a pension funding plan, for the
5 redemption or repurchase of such appropriation bonds or general obligation
6 promissory notes, ~~or~~ to make payments under any agreement or ancillary
7 arrangement entered into under s. 59.86 with respect to such appropriation bonds
8 or general obligation promissory notes. Moneys on deposit in a stabilization fund
9 may not be subject to any claims, demands, or actions by, or transfers or assignments
10 to, any creditor of the county, any beneficiary of the county's employee retirement
11 system, or any other person, on terms other than as may be established in the
12 resolution or ordinance creating the stabilization fund. Moneys on deposit in a
13 stabilization fund established under this subsection may be invested and reinvested
14 in the manner directed by the board or pursuant to delegation by the board as
15 provided under s. 66.0603 (5).

16 **SECTION 5.** 66.0602 (3) (d) 3. of the statutes is created to read:

17 66.0602 (3) (d) 3. The limit otherwise applicable under this section does not
18 apply to amounts levied by a county having a population of 500,000 or more for the
19 payment of debt service on appropriation bonds issued under s. 59.85, including debt
20 service on appropriation bonds issued to fund or refund outstanding appropriation
21 bonds of the county, to pay related issuance costs or redemption premiums, or to
22 make payments with respect to agreements or ancillary arrangements authorized
23 under s. 59.86.

24 **SECTION 6.** 66.0603 (1m) (e) of the statutes is created to read:

OR to pay annual pension costs other than normal costs

BILL**SECTION 6**

1 66.0603 (1m) (e) Subject to s. 67.11 (2) with respect to funds on deposit in a debt
2 service fund for general obligation promissory notes issued under s. 67.12 (12), a
3 county having a population of 500,000 or more, or a person to whom the county has
4 delegated investment authority under sub. (5), may invest and reinvest in the same
5 manner as is authorized for investments and reinvestments under s. 881.01, any of
6 the following:

7 1. Moneys held in any stabilization fund established under s. 59.87 (3).

8 2. Moneys held in a fund or account, including any reserve fund, created in
9 connection with the issuance of appropriation bonds under s. 59.85 or general
10 obligation promissory notes under s. 67.12 (12) issued to provide funds for the
11 payment of all or a part of the county's unfunded prior service liability.

12 3. Moneys appropriated or held by the county to pay debt service on
13 appropriation bonds or general obligation promissory notes under s. 67.12 (12).

14 4. Moneys constituting proceeds of appropriation bonds or general obligation
15 promissory notes described in subd. 2. that are available for investment until they
16 are spent.

17 5. Moneys held in an employee retirement system of the county.

18 **SECTION 7.** 66.0603 (5) of the statutes is created to read:

19 66.0603 (5) DELEGATION OF INVESTMENT AUTHORITY IN CONNECTION WITH PENSION
20 FINANCING IN POPULOUS COUNTIES. The governing board of a county having a
21 population of 500,000 or more may delegate investment authority over any of the
22 moneys described in sub. (1m) (e) to any of the following persons, which shall be
23 responsible for the general administration and proper operation of the county's
24 employee retirement system, subject to the board's finding that such person has
25 expertise in the field of investments:

BILL

1 (a) A public board that is organized for such purpose under county ordinances.

2 (b) A trustee, investment advisor, or investment banking or consulting firm.

3 **SECTION 8.** 67.01 (9) (intro.) of the statutes is amended to read:

4 67.01 (9) (intro.) This chapter is not applicable to appropriation bonds issued
5 by a county under s. 59.85 and, except ss. 67.08 (1), 67.09 and 67.10, is not applicable:

6 **SECTION 9.** 67.04 (5) (b) 4. of the statutes is amended to read:

7 67.04 (5) (b) 4. To pay unfunded prior service liability contributions under the
8 Wisconsin retirement system, or to pay unfunded prior service liability with respect
9 to an employee retirement system, if all of the net proceeds of the note will be used
10 to pay for such contributions or payments.

11 **SECTION 10.** 67.045 (1) (g) of the statutes is created to read:

12 67.045 (1) (g) The debt is issued by a county having a population of 500,000 or
13 more to pay unfunded prior service liability with respect to an employee retirement
14 system.

15 **SECTION 11.** 67.12 (12) (a) of the statutes is amended to read:

16 67.12 (12) (a) Any municipality may issue promissory notes as evidence of
17 indebtedness for any public purpose, as defined in s. 67.04 (1) (b), including but not
18 limited to paying any general and current municipal expense, and refunding any
19 municipal obligations, including interest on them. Each note, plus interest if any,
20 shall be repaid within 10 years after the original date of the note, except that notes
21 issued under this section for purposes of ss. 119.498, 145.245 (12m), 281.58, 281.59,
22 281.60, and 281.61, ~~or~~ issued to raise funds to pay a portion of the capital costs of a
23 metropolitan sewerage district, or issued by a county having a population of 500,000

BILL

SECTION 11

1 or more to pay unfunded prior service liability with respect to an employee
2 retirement system shall be repaid within 20 years after the original date of the note.

3 (END)

d-note
↓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2608/3dn
MES:wlj&jld:rs

date

Representative Stone:

I have made most of the changes you requested, except I did not add the suggested language in s. 59.85 (2) because it doesn't seem to have any legal effect. If no appropriation bonds are issued, Milwaukee County would incur no obligations under the bill. If the county does issue the bonds at some point in the future, the provisions of the statutes would apply, and the terms of the bonds would apply. Therefore, I believe that Milwaukee County's intent is met by the bill as drafted and their suggested phrase is not necessary. ✓

I added the term "pension-related bonds" to the definition of "refunding bond" but I'm not sure what is intended. Is the intent to expand the purpose of refunding bonds, or to use appropriation bonds to pay off other debt? Depending on what is intended, you may need to change the purpose language in s. 59.85 (2). You may wish to discuss this change with bond counsel. ✓

* I created a new section, s. 59.85 (2) (d) 2. f., and changed the cross-reference from subd. 2. e. to 2. f. in s. 59.85 (2m). I believe that these changes reflect your intent. ✓

* I added the phrase "or to pay annual pension costs other than normal costs" in s. 59.87 (3) (b), but I'm not sure what your intent is. These costs are broader than principal and interest costs, so I'm not sure why these cost would be paid out of the stabilization fund. You may wish to discuss this change with bond counsel. ✓

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2608/3dn
MES:wlj&jld:jf

October 19, 2007

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P. 5, l. 7

In May they get actuary report
which says what contrib shd be next year
In ^{next} ~~same~~ year, there's a 2nd actuarial rpt,
which says what you really need to put in
∴ they may underfund ~~it~~ because they
went w/ 1st rpt -- ~~if~~ underfunded
would deliberate

2 rpts in May - one for current yr
& one that says what the previous
year shd have been

P. 5, l. 16 - B/C

A "normal" to required B/C

Rep. Stone wants penalty to apply when
mil co fails to make "req'd" contrib - -
B/C req'd cost may be less than normal
cost in an overfunding situation

BILL

INSTRUCTIONS from
Rob = p. 2 of 2

- 1 b. Any proposed modifications to the plan.
- 2 c. The status of any stabilization fund that is established under s. 59.87 (3).
- 3 d. The most current actuarial report related to the county's employee
- 4 retirement system.

5 e. The amount, if any, by which the county's contributions to the employee

6 retirement system for the prior year is less than the normal cost contribution for that

7 year as specified in the ^[.] actuarial report ^(initial) for the county's employee retirement system ^{that relates to the budgeted amount}

8 for that year. ^{for the subsequent year.}

9 f. The amount that the actuary determines is the county's required contribution

10 to the employee retirement system for that year.

t/ing to normal cost or ref contrib may not work - must be lower of the two

11 (2m) PENALTY FOR INADEQUATE CONTRIBUTION. If the county's contributions to

12 the employee retirement system for the prior year is less than the ^{lower of the} required

13 contribution for that year, as described in sub. (2) (d) 2. f., the department of revenue

14 shall reduce and withhold the amount of the shared revenue payments to the county

15 under subch. I of ch. 79, in the following year, by an amount equal to the difference

16 between the ^{required} normal cost contribution for that prior year and the county's actual

17 contribution in that prior year. The department of revenue shall deposit the amount

18 of the reduced and withheld shared revenue payment into the county's employee

19 retirement system.

b/c negative costs are amortized over 30 years.

20 (3) TERMS. (a) A county may borrow moneys and issue appropriation bonds in

21 evidence of the borrowing pursuant to one or more written authorizing resolutions

22 under sub. (4). Unless otherwise provided in an authorizing resolution, the county

23 may issue appropriation bonds at any time, in any specific amounts, at any rates of

24 interest, for any term, payable at any intervals, at any place, in any manner, and

25 having any other terms or conditions that the board considers necessary or desirable.