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

and 67.15 (2) (intro.); and to create 59.85, 59.86, 59.87, 66.0602 (3) (d) 3.,

66.0603 (1m) (e), 66.0603 (5) and 67.045 (1) (g) of the statutes; relating to:

unfunded pension liability financing in populous counties and membership on
the pension study 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
The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 59.605 (1) (a) of the statutes is amended to read:

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

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

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

(a) “Appropriation bond” means a bond issued by a county to evidence its obligation to repay a certain amount of borrowed money that is payable from any of the following:

1. Moneys annually appropriated by law for debt service due with respect to such appropriation bond in that year.
2. Proceeds of the sale of such appropriation bonds.
3. Payments received for that purpose under agreements and ancillary arrangements described in s. 59.86.
4. Investment earnings on amounts in subds. 1. to 3.

(b) “Board” means the county board of supervisors in any county.

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

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

(e) “Refunding bond” means an appropriation bond issued to fund or refund all or any part of one or more outstanding pension-related bonds.

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

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

(b) Subject to pars. (c) and (d), a county may issue appropriation bonds under this section to pay all or any part of the county's unfunded prior service liability with respect to an employee retirement system of the county, or to fund or refund outstanding appropriation bonds issued under this section. A county may use proceeds of appropriation bonds to pay issuance or administrative expenses, to make
deposits to reserve funds, to pay accrued or funded interest, to pay the costs of credit
enhancement, to make payments under other agreements entered into under s.
59.86, or to make deposits to stabilization funds established under s. 59.87.

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

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

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

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

   b. Any proposed modifications to the plan.

   c. The status of any stabilization fund that is established under s. 59.87 (3).
d. The most current actuarial report related to the county’s employee retirement system.

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 initial actuarial report for the county’s employee retirement system for that year.

f. The amount that the actuary determines is the county’s required contribution to the 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 lower of the required contribution for that year, as described in sub. (2) (d) 2. f., or the normal cost for that year, 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 required cost contribution for that prior year and the county’s actual contribution in that prior year. The department of revenue shall deposit the amount of the reduced and withheld shared revenue payment into the county’s employee retirement system.

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

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

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

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

(f) A county shall not be generally liable on appropriation bonds, and
appropriation bonds shall not be a debt of the county for any purpose whatsoever.
Appropriation bonds, including the principal thereof and interest thereon, shall be
payable only from amounts specified in sub. (1) (a).

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

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

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

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

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

(d) An appropriation bond shall be substantially in such form and contain such statements or terms as determined by the board, and may not conflict with law or with the appropriate authorizing resolution.
REFUNDING BONDS. (a) 1. A board may authorize the issuance of refunding appropriation bonds. Refunding appropriation bonds may be issued, subject to any contract rights vested in owners of the appropriation bonds being refunded, to refund all or any part of one or more issues of appropriation bonds, notwithstanding that the appropriation bonds may have been issued at different times, or issues of general obligation promissory notes under s. 67.12 (12) that were issued to pay unfunded prior service liability with respect to an employee retirement system. The principal amount of the refunding appropriation bonds may not exceed the sum of: the principal amount of the appropriation bonds or general obligation promissory notes being refunded; applicable redemption premiums; unpaid interest on the refunded appropriation bonds or general obligation promissory notes to the date of delivery or exchange of the refunding appropriation bonds; in the event the proceeds are to be deposited in trust as provided in par. (c), interest to accrue on the appropriation bonds or general obligation promissory notes to be refunded from the date of delivery to the date of maturity or to the redemption date selected by the board, whichever is earlier; and the expenses incurred in the issuance of the refunding appropriation bonds and the payment of the refunded appropriation bonds or general obligation promissory notes.

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

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

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

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

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

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

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

(c) If any appropriation bond is destroyed, lost, or stolen, the county shall
execute and deliver a new appropriation bond, upon filing with the treasurer
evidence satisfactory to the treasurer that the appropriation bond has been
destroyed, lost, or stolen, upon providing proof of ownership thereof, and upon
furnishing the treasurer with indemnity satisfactory to the treasurer and complying
with such other rules of the county and paying any expenses that the county may
incur. In the county’s records, the treasurer shall cancel the appropriation bond that
has been destroyed, lost, or stolen.

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

(8) Appropriation Bonds as Legal Investments. Any of the following may
legally invest any sinking funds, moneys, or other funds belonging to them or under
their control in any appropriation bonds issued under this section:

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

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

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

(9) Moral Obligation Pledge. If the board considers it necessary or desirable
to do so, it may express in a resolution authorizing appropriation bonds its
expectation and aspiration to make timely appropriations sufficient to pay the
principal and interest due with respect to such appropriation bonds, to make
deposits into a reserve fund created under sub. (4) (a) with respect to such
appropriation bonds, to make payments under any agreement or ancillary
arrangement entered into under s. 59.86 with respect to such appropriation bonds,
to make deposits into any stabilization fund established or continued under s. 59.87
with respect to such appropriation bonds, or to pay related issuance or
administrative expenses.

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

(11) APPLICABILITY. This section does not apply if a county does not issue
appropriation bonds as authorized under sub. (2).

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

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

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

59.87 Employee retirement system liability financing in populous
counties; additional powers. (1) DEFINITIONS. In this section:
(a) “Board” means the county board of supervisors in any county.

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

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

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

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

1. A trust.

2. A nonstock corporation under ch. 181.

3. A limited liability company under ch. 183.

4. A special fund or account of the county.

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

(3) STABILIZATION FUNDS. (a) To facilitate a pension funding plan a board may establish a stabilization fund. Any such fund may be created as a trust, a special fund or account of the county established by a separate resolution or ordinance, or a fund or account created under an authorizing resolution or trust indenture in connection with the authorization and issuance of appropriation bonds under s. 59.85 or general
b. Moneys in a stabilization fund established under this subsection may be
used, subject to annual appropriation by the board, solely to pay principal or interest
on appropriation bonds issued under s. 59.85 and general obligation promissory
notes under s. 67.12 (12) issued in connection with a pension funding plan, for the
redemption or repurchase of such appropriation bonds or general obligation
promissory notes, to make payments under any agreement or ancillary arrangement
entered into under s. 59.86 with respect to such appropriation bonds or general
obligation promissory notes, or to pay annual pension costs other than normal costs.
Moneys on deposit in a stabilization fund may not be subject to any claims, demands,
or actions by, or transfers or assignments to, any creditor of the county, any
beneficiary of the county’s employee retirement system, or any other person, on
terms other than as may be established in the resolution or ordinance creating the
stabilization fund. Moneys on deposit in a stabilization fund established under this
subsection may be invested and reinvested in the manner directed by the board or
pursuant to delegation by the board as provided under s. 66.0603 (5).

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

66.0602 (3) (d) 3. The limit otherwise applicable under this section does not
apply to amounts levied by a county having a population of 500,000 or more for the
payment of debt service on appropriation bonds issued under s. 59.85, including debt
service on appropriation bonds issued to fund or refund outstanding appropriation
bonds of the county, to pay related issuance costs or redemption premiums, or to
make payments with respect to agreements or ancillary arrangements authorized
under s. 59.86.
SECTION 6. 66.0603 (1m) (e) of the statutes is created to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 11. 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 issued to raise funds to pay a portion of the capital costs of a
metropolitan sewerage district, or issued by a county having a population of 500,000

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

**SECTION 12.** 67.15 (2) (intro.) of the statutes is amended to read:

67.15 (2) (intro.) Any municipal obligation issued under this chapter, s. 59.85, or ch. 66 may have a variable interest rate. If a municipality issues a municipal obligation with a variable interest rate, the governing body of the municipality shall adopt and record a resolution providing the following:

(END)