

SENATE BILL 440 (LRB -3954)

An Act to amend 66.0301 (1) (a); and to create 66.1103 (2) (k) 22., 66.1104 and 560.033 of the statutes; relating to: waiving certain federal bond limitations allocated to cities and counties and requiring the Department of Commerce to develop a system for reallocating the bond limitations to other state and local units of government. (FE)

2009

- 12-23. S. Introduced by Senators **Lassa, Vinehout, Lehman** and **Darling**; cosponsored by Representatives **Molepske Jr., Schneider, Barca, Zigmunt, Friske, Berceau** and **Zepnick**.
- 12-23. S. Read first time and referred to committee on Economic Development 459

2010

- 01-06. S. Senator Darling withdrawn as a coauthor 469
- 01-07. S. Public hearing held.
- 01-22. S. Senate amendment 1 offered by Senator Risser (**LRB a1323**) 503
- 01-25. S. Fiscal estimate received.
- 01-25. S. Senate amendment 2 offered by Senators Lassa and Darling (**LRB a1351**) 503
- 01-26. S. Executive action taken.
- 01-26. S. Report introduction and adoption of Senate Amendment 1 to Senate Amendment 2 recommended by committee on Economic Development, Ayes 7, Noes 0 (**LRB a1358**) 508
- 01-26. S. Report adoption of Senate Amendment 2 recommended by committee on Economic Development, Ayes 7, Noes 0 508
- 01-26. S. Report passage as amended recommended by committee on Economic Development, Ayes 7, Noes 0 508
- 01-26. S. Available for scheduling.
- 01-27. S. Placed on calendar 1-28-2010 by committee on Senate Organization.
- 01-28. S. Read a second time.
- 01-28. S. Placed after Assembly Bill 456 on the calendar 1-28-2010.
- 01-28. S. **Senate amendment 1 to Senate amendment 2 adopted.**
- 01-28. S. Senate amendment 2 to Senate amendment 2 offered by Senators Lassa and Miller (**LRB a1413**).
- 01-28. S. Placed at the foot of the calendar of 1-28-2010.
- 01-28. S. **Senate amendment 2 to Senate amendment 2 adopted.**
- 01-28. S. **Senate amendment 2 adopted.**
- 01-28. S. Senate amendment 3 offered by Senators Erpenbach and Risser (**LRB a1433**).
- 01-28. S. Senate amendment 3 withdrawn and returned to author.
- 01-28. S. Senate amendment 4 offered by Senators Lassa and Miller (**LRB a1436**).
- 01-28. S. Senate amendment 4 withdrawn and returned to author.
- 01-28. S. Senate amendment 5 offered by Senators Lassa and Miller (**LRB a1437**).
- 01-28. S. **Senate amendment 5 adopted.**
- 01-28. S. Ordered to a third reading.
- 01-28. S. Rules suspended.
- 01-28. S. Read a third time and **passed**, Ayes 32, Noes 1.
- 01-28. S. Ordered immediately messaged.
- 01-28. A. Received from Senate 616
- 01-28. A. Read.
- 01-28. A. Rules suspended and taken up 616
- 01-28. A. Read a second time 616
- 01-28. A. Ordered to a third reading 616
- 01-28. A. Rules suspended 616
- 01-28. A. Read a third time and **concurred in**, Ayes 90, Noes 6 616
- 01-28. A. Ordered immediately messaged 616
- 01-29. S. Received from Assembly concurred in.

SB

2009
ENROLLED BILL

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ADOPTED DOCUMENTS:

Orig Engr SubAmdt

09 -3954/2

Amendments to above (if none, write "NONE"): SA2 - a 1351/1

SA1 TO SA2 - a 1358/1 SA2 TO SA2 - a 1413/1
SA5 - a 1437/1

Corrections - show date (if none, write "NONE"): CCCS in enrolling:

to SA2 to SA2 (a1413/1) and to SA2 (a1351/1) on 1/27/10
granting authority to any county to issue certain bonds, waiving certain federal

Topic bond limits for cities and counties, and requiring the Department of Commerce to
 develop a system for reallocating bond limitations to other units of government

1-29-10

Date



Enrolling Drafter



2009 SENATE BILL 440

December 23, 2009 - Introduced by Senators LASSA, VINEHOUT, LEHMAN and DARLING, cosponsored by Representatives MOLEPSKE JR., SCHNEIDER, BARCA, ZIGMUNT, FRISKE, BERCEAU and ZEPNICK. Referred to Committee on Economic Development.

1 AN ACT *to amend* 66.0301 (1) (a); and *to create* 66.1103 (2) (k) 22., 66.1104 and
2 560.033 of the statutes; *relating to:* INS. SA2-1 waiving certain federal bond limitations
3 allocated to cities and counties and requiring the Department of Commerce to
4 develop a system for reallocating the bond limitations to other state and local
5 units of government.

Analysis by the Legislative Reference Bureau

Current federal law, the American Recovery and Reinvestment Act of 2009, authorizes certain local governments to issue several different types of tax-exempt bonds, including recovery zone facility bonds (bonds). The amount of bonds that may be issued is limited. Federal law allocates to counties and to cities with a population of at least 100,000 (local units) the limited amount of bonds that may be issued.

Federal law also authorizes local units to waive their allocation, in which case the state in which the local units are located may reallocate the allocation to other units of government in that state.

This bill waives the allocation to local units in this state and requires the Department of Commerce (DOC) to develop a system to reallocate the allocation. The bill prohibits DOC from reallocating an allocation of the limitation related to bonds that have already been sold by, or that are subject to a sale by, a city or county. The bill also permits DOC to revise a reallocation made under the bill, but prohibits the revision of any reallocation under which the recipient of a reallocation has adopted a resolution authorizing the issuance of a bond. Under the bill other units of

SENATE BILL 440

government, including a city, village, town, county; a special purpose district; a state authority, such as the Wisconsin Housing and Economic Development Authority, the Wisconsin Health and Educational Facilities Authority, or the University of Wisconsin Hospitals and Clinics Authority; or a local housing, redevelopment, or community development authority, may apply to issue bonds under the reallocation of the federal bond limitation as established by DOC.

Under current law, a city, village, or town may issue industrial revenue bonds for certain specified projects. The bill adds to the definition of “project” facilities constructed using the proceeds from a recovery zone facilities bond or from a Midwestern disaster area bond (tax-exempt bonds authorized under the federal Heartland Disaster Tax Relief Act of 2008).

Under current law, the state, regional planning commissions, federally recognized Indian tribes and bands, and local units of government, including municipalities, counties, school districts, and other special purpose districts, may enter into intergovernmental cooperation agreements for the receipt or furnishing of services or joint exercise of powers. This bill adds a housing authority, a redevelopment authority, and a community development authority to the list of entities that may enter into such agreements.

For further information see the *state and 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.** 66.0301 (1) (a) of the statutes, as affected by 2009 Wisconsin Act 28,
2 is amended to read:

3 66.0301 (1) (a) Except as provided in pars. (b) and (c), in this section
4 “municipality” means the state or any department or agency thereof, or any city,
5 village, town, county, school district, public library system, public inland lake
6 protection and rehabilitation district, sanitary district, farm drainage district,
7 metropolitan sewerage district, sewer utility district, solid waste management
8 system created under s. 59.70 (2), local exposition district created under subch. II of
9 ch. 229, local professional baseball park district created under subch. III of ch. 229,
10 local professional football stadium district created under subch. IV of ch. 229, local
11 cultural arts district created under subch. V of ch. 229, transit authority created

SENATE BILL 440

1 under s. 66.1039, long-term care district under s. 46.2895, water utility district,
2 mosquito control district, municipal electric company, county or city transit
3 commission, commission created by contract under this section, taxation district,
4 regional planning commission, housing authority created under s. 66.1201,
5 redevelopment authority created under s. 66.1333, community development
6 authority created under s. 66.1335, or city-county health department.

INSERT
SA2-2

7 **SECTION 2.** 66.1103 (2) (k) 22. of the statutes is created to read:

8 66.1103 (2) (k) 22. Facilities with respect to which is issued either a recovery
9 zone facility bond under 26 USC 1400U-3 or a qualified Midwestern disaster area
10 bond under 26 USC 1400N (a), as modified by P.L. 110-343, title VII, subtitle A,
11 section 702 (d) (intro.) and (1).

INSERT SA2-3

12 **SECTION 3.** 66.1104 of the statutes is created to read:

13 **66.1104 Waiver of recovery zone facility bond limitation. (1)**

14 DEFINITIONS. In this section:

15 (a) "Authority" means a body created under s. 66.1201, 66.1333, or 66.1335;
16 under subch. II of ch. 114 or subch. III of ch. 149; or under ch. 52, 231, 232, 233, 234,
17 235, 237, or 279.

18 (b) "Local governmental unit" has the meaning given in s. 66.0131 (1) (a), and
19 includes a commission created by contract under s. 66.0301.

INS. SA2-4

20 (c) "Recovery zone bond" means a bond described under 26 USC 1400U-3 (b)
21 (1).

22 ~~(2) WAIVER. (a) The unused allocation of a recovery zone bond limitation~~
23 ~~received by a city or county shall be considered waived by the city or county on the~~
24 ~~effective date of this paragraph ... [LRB inserts date], and the allocation may be~~
25 ~~reallocated by the department of commerce under s. 560.035.~~

SENATE BILL 440

SECTION 3

1 (b) A limitation allocation received by a city or county shall be considered as
 2 unused, except for any recovery zone bonds that have been sold before the effective
 3 date of this paragraph [LRB inserts date], or are subject to a contract for sale that
 4 takes effect before the effective date of this paragraph [LRB inserts date], and are
 5 issued within 30 days after the effective date of this paragraph [LRB inserts date].

6 (c) Not later than the first day of the 2nd month beginning after the effective
 7 date of this paragraph ... [LRB inserts date], a city or county that has a limitation
 8 allocation that is not unused, as that term is used under par. (b), shall send written
 9 notice to the department of commerce regarding the limitation allocation that is not
 10 unused.

INSERT SA2-5

11 (3) REALLOCATION. Any authority or local governmental unit may apply for a
 12 reallocation of the recovery zone bond limitation allocation in accordance with the
 13 system established by the department of commerce under s. 560.033.

14 **SECTION 4.** 560.033 of the statutes is created to read:

15 **560.033 Reallocation of limitation on recovery zone facility bonds. (1)**

16 REALLOCATION. The department, by rule, shall establish under 26 USC 1400U-1 (a)

17 (3) (A) and administer a system for the reallocation of the unused allocation, as that

18 term is used in s. 66.1104 (2), of the limitation on the issuance of recovery zone facility

19 bonds, as defined under 26 USC 1400U-3 (b) (1), among authorities, as defined in

20 s. 66.1104 (1) (a), and local governmental units, as defined in s. 66.1104 (1) (b).

21 (2) AMENDMENT TO REALLOCATION. At any time, the department may promulgate

22 rules to revise the reallocation system established under sub. (1), except that any

23 revision under this subsection does not apply to any reallocation under which the

24 recipient of that reallocation has adopted a resolution authorizing the issuance of a

25 recovery zone facility bond, as defined in 26 USC 1400U-3 (b) (1).

INS SA5-1

SA5-2

SENATE BILL 440

INSERT SA5-3

1 (3) CONDITIONS. ~~The~~ department may, by rule, establish any procedure for, and
2 place any condition upon, the granting of a reallocation under this section which the
3 department deems to be in the best interest of the state, including, but not limited
4 to, a requirement that a cash deposit, at a rate established by the department in the
5 rules, be a condition for a reallocation.

INS.
SA2-6

6 ~~(4) CONSIDERATION OF ALTERNATIVE SOURCE OF FINANCING. Before making a~~
7 reallocation under this section, the department shall consider the availability of
8 qualified Midwestern disaster area bonds, as defined under 26 USC 1400N (a), as
9 modified by P.L. 110-343, title VII, subtitle A, section 702 (d) (intro.) and (1), as an
10 alternative source of financing for a project for which the issuance of recovery zone
11 facility bonds, as defined in 26 USC 1400U-3 (b) (1), are sought.

INSERT SA2-7

INSERT
SA5-4

INS. SA2-8

SECTION 5. Nonstatutory provisions.

12 (1) (a) The department of commerce shall submit in proposed form the rules
13 required under section 560.033 (1) of the statutes, as created by this act, to the
14 legislative council staff under section 227.15 (1) of the statutes no later than the first
15 day of the 2nd month beginning after the effective date of this paragraph.

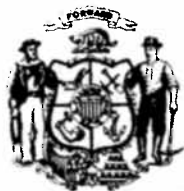
17 (b) Using the procedure under section 227.24 of the statutes, the department
18 of commerce may promulgate rules required under section 560.033 (1) of the
19 statutes, as created by this act, for the period before the effective date of the rules
20 submitted under paragraph (a), but not to exceed the period authorized under section
21 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b),
22 and (3) of the statutes, the department is not required to provide evidence that
23 promulgating a rule under this paragraph as an emergency rule is necessary for the

SENATE BILL 440

SECTION 5

1 preservation of the public peace, health, safety, or welfare and is not required to
2 provide a finding of emergency for a rule promulgated under this paragraph.

3 (END)



State of Wisconsin
2009-2010 LEGISLATURE

CORRECTIONS IN:

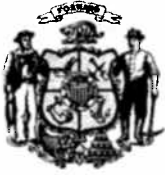
**SENATE AMENDMENT 2,
TO 2009 SENATE BILL 440**

Prepared by the Legislative Reference Bureau
(January 29, 2010)

In enrolling, the following correction was made:

1. Page 14, line 20: delete "midwestern" and substitute "Midwestern".

(END)



State of Wisconsin
2009 – 2010 LEGISLATURE

LRBa1351/1
MES&CTS:nwn&bjk:rs

SENATE AMENDMENT 2,
TO 2009 SENATE BILL 440

January 25, 2010 – Offered by Senators LASSA and DARLING.

1 At the locations indicated, amend the bill as follows:

SA2-1

2 1. Page 1, line 2: before "waiving" insert "granting authority to any county to
3 issue industrial development revenue bonds and".

4 2. Page 3, line 6: after that line insert:

SA2-2

5 "SECTION 1e. 66.1103 (1) (a) of the statutes is amended to read:

6 66.1103 (1) (a) It is found and declared that industries located in this state have
7 been induced to move their operations in whole or in part to, or to expand their
8 operations in, other states to the detriment of state, county and municipal revenue
9 raising through the loss or reduction of income and franchise taxes, real estate and
10 other local taxes causing an increase in unemployment; that such conditions now
11 exist in certain areas of the state and may well arise in other areas; that economic
12 insecurity due to unemployment is a serious menace to the general welfare of not
13 only the people of the affected areas but of the people of the entire state; that

SA2-2

1 unemployment results in obligations to grant public assistance and in the payment
2 of unemployment insurance; that the absence of new economic opportunities has
3 caused workers and their families to migrate elsewhere to find work and establish
4 homes, which has resulted in a reduction of the tax base of counties, cities and other
5 local governmental jurisdictions impairing their financial ability to support
6 education and other local governmental services; that security against
7 unemployment and the preservation and enhancement of the tax base can best be
8 provided by the promotion, attraction, stimulation, rehabilitation and revitalization
9 of commerce, industry and manufacturing; and that there is a need to stimulate a
10 larger flow of private investment funds from banks, investment houses, insurance
11 companies and other financial institutions. It is therefore the policy of this state to
12 promote the right to gainful employment, business opportunities and general
13 welfare of its inhabitants and to preserve and enhance the tax base by authorizing
14 municipalities and counties to acquire industrial buildings and to finance the
15 acquisition through the issuance of revenue bonds for the purpose of fulfilling the
16 aims of this section. These purposes are declared to be public purposes for which
17 public money may be spent and the necessity in the public interest for the provisions
18 of this section is declared a matter of legislative determination.

19 **SECTION 1f.** 66.1103 (1) (c) of the statutes is amended to read:

20 66.1103 (1) (c) It is found and declared that the revitalization of counties and
21 of the central business districts of the municipalities of this state is necessary to
22 retain existing industry in, and attract new industry to, this state and to protect the
23 health, welfare and safety of residents of this state.

24 **SECTION 1g.** 66.1103 (2) (a) of the statutes is amended to read:

SA2-2

1 66.1103 (2) (a) “Authorized developer” means a corporation organized under
2 ch. 180 or 181 which the governing body designates as an authorized developer after
3 making a finding that the principal purpose of the corporation is the general
4 promotion of business development in the municipality or county or in the local area
5 containing the municipality or county.

6 **SECTION 1h.** 66.1103 (2) (as) of the statutes is created to read:

7 66.1103 (2) (as) “County” means any county in this state.

8 **SECTION 1i.** 66.1103 (2) (c) of the statutes is amended to read:

9 66.1103 (2) (c) “Eligible participant” includes any person, other than the state
10 or any other governmental unit, who enters into a revenue agreement with a
11 municipality or county with respect to an industrial project. If more than one eligible
12 participant is a party to a revenue agreement, the undertaking of each shall be either
13 several or joint and several as the revenue agreement provides. An eligible
14 participant need not be directly or indirectly a user of the project.

15 **SECTION 1j.** 66.1103 (2) (e) of the statutes is amended to read:

16 66.1103 (2) (e) “Governing body” means the board, council or other body in
17 which the legislative powers of the municipality or county are vested.”.

18 **3.** Page 3, line 11: after that line insert:

19 **SECTION 2ae.** 66.1103 (2) (L) of the statutes is amended to read:

20 66.1103 (2) (L) “Revenue agreement” includes any lease, sublease, installment
21 or direct sales contract, service contract, take or pay contract, loan agreement or
22 similar agreement providing that an eligible participant agrees to pay the
23 municipality or county an amount of funds sufficient to provide for the prompt

SA2-3

SA 2-3

1 payment of the principal of, and interest on, the revenue bonds and agrees to
2 construct the project.

3 **SECTION 2am.** 66.1103 (3) (intro.) of the statutes is amended to read:

4 66.1103 (3) POWERS. (intro.) A municipality or county may:

5 **SECTION 2as.** 66.1103 (3) (b) 2. of the statutes is amended to read:

6 66.1103 (3) (b) 2. To fund the whole or part of any revenue bonds issued by the
7 municipality or county, including any premium payable with respect to the bonds
8 and any interest accrued or to accrue on the bonds; or

9 **SECTION 2bm.** 66.1103 (3) (f) of the statutes is amended to read:

10 66.1103 (3) (f) Finance an industrial project which is located entirely within the
11 geographic limits of the municipality or county or some contiguous part of which is
12 located within and some contiguous part outside the geographic limits of the
13 municipality or county; or, finance an industrial project which is located entirely
14 outside the geographic limits of the municipality or county, but only if the revenue
15 agreement for the project also relates to another project of the same eligible
16 participant, part of which is located within the geographic limits of the municipality
17 or county. The power granted by this paragraph does not include the power to annex,
18 tax, zone or exercise any other municipal or county power with respect to that part
19 of the project located outside of the geographic limits of the municipality or county.

20 **SECTION 2c.** 66.1103 (4) (a) (intro.) of the statutes is amended to read:

21 66.1103 (4) (a) (intro.) Bonds issued by a municipality or county under this
22 section are limited obligations of the municipality or county. The principal of and
23 interest on the bonds are payable solely out of the revenues derived under the
24 revenue agreement pertaining to the project to be financed by the bonds, or, if there
25 is a default of the agreement and to the extent that the municipality or county

SA2-3

1 provides in the proceedings of the governing body authorizing the bonds to be issued,
2 out of any revenues derived from the sale, releasing or other disposition of the
3 project, or out of any collateral securing the revenue agreement, or out of the
4 proceeds of the sale of bonds. Bonds and interest coupons issued under this section
5 are not an indebtedness of the municipality or county, within the meaning of any
6 state constitutional provision or statutory limitation. Bonds and interest coupons
7 issued under this section are not a charge against the municipality's or county's
8 general credit or taxing powers or a pecuniary liability of the municipality or county
9 or a redevelopment authority under s. 66.1333, including but not limited to:

10 **SECTION 2cm.** 66.1103 (4) (a) 2. of the statutes is amended to read:

11 66.1103 (4) (a) 2. Any liability in connection with the issuance or sale of bonds,
12 for representations made, or for the performance of the obligation of any person who
13 is a party to a related transaction or agreement except as specifically provided in this
14 section or by an express provision of the bond or a related written agreement to which
15 the municipality or county is a party.

16 **SECTION 2d.** 66.1103 (4) (d) of the statutes is amended to read:

17 66.1103 (4) (d) Unless otherwise expressly or implicitly provided in the
18 proceedings of the governing body authorizing the bonds to be issued, bonds issued
19 under this section are subject to the general provisions of law, not inconsistent with
20 this section, respecting the authorization, execution and delivery of the bonds of the
21 municipality or county.

22 **SECTION 2dm.** 66.1103 (4) (e) of the statutes is amended to read:

23 66.1103 (4) (e) Bonds issued under this section may be sold at public or private
24 sale in the manner, at the price and at the time determined by the governing body.
25 The municipality or county may pay all expenses, premiums and commissions which

SA 2-3

1 the governing body considers necessary or advantageous in connection with the
2 authorization, sale and issuance of the bonds.

3 **SECTION 2e.** 66.1103 (4m) (a) of the statutes is amended to read:

4 66.1103 **(4m)** (a) A municipality or county may not enter into a revenue
5 agreement with any person unless all of the following apply:

6 1. The person, at least 30 days prior to entering into the revenue agreement,
7 has given a notice of intent to enter into the agreement, on a form prescribed under
8 s. 560.034 (1), to the department of commerce and to any collective bargaining agent
9 in this state with whom the person has a collective bargaining agreement; ~~and~~,

10 2. The municipality or county has received an estimate issued under s. 560.034
11 (5) (a), and the department of commerce has estimated whether the project which the
12 municipality or county would finance under the revenue agreement is expected to
13 eliminate, create or maintain jobs on the project site and elsewhere in this state and
14 the net number of jobs expected to be eliminated, created or maintained as a result
15 of the project.

16 **SECTION 2em.** 66.1103 (4m) (b) of the statutes is amended to read:

17 66.1103 **(4m)** (b) Any revenue agreement which an eligible participant enters
18 into with a municipality or county to finance a project shall require the eligible
19 participant to submit to the department of commerce within 12 months after the
20 project is completed or 2 years after a revenue bond is issued to finance the project,
21 whichever is sooner, on a form prescribed under s. 560.034 (1), the net number of jobs
22 eliminated, created or maintained on the project site and elsewhere in this state as
23 a result of the project.

24 **SECTION 2f.** 66.1103 (4m) (c) of the statutes is amended to read:

SA2-3

1 66.1103 (4m) (c) Nothing in this subsection requires a person with whom a
2 municipality or county has entered into a revenue agreement to satisfy an estimate
3 under par. (a) 2.

4 **SECTION 2fm.** 66.1103 (4s) (b) (intro.) of the statutes is amended to read:

5 66.1103 (4s) (b) (intro.) A municipality or county may not enter into a revenue
6 agreement with any employer that employs individuals in this state at a site other
7 than a project site unless the employer certifies that the project is not expected to
8 result in any lost jobs or the employer agrees to all of the following:

9 **SECTION 2g.** 66.1103 (4s) (b) 3. of the statutes is amended to read:

10 66.1103 (4s) (b) 3. The employer shall certify compliance with this subsection
11 to the department, to the governing body of each municipality or county within which
12 a lost job exists and to any collective bargaining agent in this state with which the
13 employer has a collective bargaining agreement at the project site or at a site where
14 a lost job exists.

15 **SECTION 2gm.** 66.1103 (5) (c) of the statutes is amended to read:

16 66.1103 (5) (c) A municipality or county may provide that proceeds from the
17 sale of bonds and special funds from the revenues of the project and any funds held
18 in reserve or debt service funds shall be invested and reinvested in securities and
19 other investments as provided in the proceedings under which the bonds are
20 authorized to be issued. The municipality or county may also provide that the
21 proceeds or funds or investments and the revenues derived pursuant to the revenue
22 agreement shall be received, held and disbursed by one or more banks or trust
23 companies located in or out of this state. A municipality or county may also provide
24 that the project and improvements shall be constructed or installed by the
25 municipality or county, the eligible participant or the eligible participant's designee

SA 2-3

1 or any one or more of them on real estate owned by the municipality or county, the
2 eligible participant or the eligible participant's designee and that the bond proceeds
3 shall be disbursed by the trustee bank or trust company during construction upon
4 the estimate, order or certificate of the eligible participant or the eligible
5 participant's designee. In making agreements or provisions under this paragraph,
6 a municipality or county may not obligate itself, except with respect to the project and
7 the application of the revenues from the project, and may not incur a pecuniary
8 liability or a charge upon its general credit or against its taxing powers.

9 **SECTION 2h.** 66.1103 (5) (f) of the statutes is amended to read:

10 66.1103 (5) (f) The revenue agreement may include any provisions that the
11 municipality or county considers appropriate to effect the financing of the project,
12 including a provision for payments to be made in installments and the securing of
13 the obligation for any payments by lien or security interest in the undertaking either
14 senior or junior to, or ranking equally with, any lien, security interest or rights of
15 others.

16 **SECTION 2hm.** 66.1103 (6) (b) of the statutes is amended to read:

17 66.1103 (6) (b) The determination and findings of the governing body shall be
18 embodied in the proceedings under which the proposed bonds are to be issued; but
19 the amounts specified in par. (a) need not be expressed in dollars and cents in the
20 revenue agreement and proceedings under which the bonds are authorized to be
21 issued, but may be set forth in the form of a formula. Before the issuance of the bonds
22 authorized by this section the municipality or county shall enter into a revenue
23 agreement providing for payment to the municipality or county, or to the trustee for
24 the account of the municipality or county, of those amounts, based upon the
25 determination and findings, that will be sufficient to pay the principal of, and

SA2-3

1 interest on, the bonds issued to finance the project; to build up and maintain any
2 reserves considered advisable by the governing body, in connection with the project;
3 and, unless the revenue agreement obligates the eligible participant to provide for
4 the maintenance of and insurance on the project, to pay the costs of maintaining the
5 project in good repair and keeping it properly insured.

6 **SECTION 2i.** 66.1103 (6) (c) of the statutes is amended to read:

7 66.1103 (6) (c) A governing body may not adopt an initial resolution authorizing
8 issuance of bonds to finance a project specified under sub. (2) (k) 11. unless the
9 governing body finds and states in the initial resolution that the project will
10 significantly increase the number of persons traveling to the municipality or county
11 for business or recreation. The statement shall be included in the public notice
12 required under sub. (10) (b).

13 **SECTION 2im.** 66.1103 (6m) of the statutes is amended to read:

14 66.1103 (6m) NOTIFICATION OF POSITION OPENINGS. A municipality or county may
15 not enter into a revenue agreement with any person who operates for profit unless
16 that person has agreed to notify the department of workforce development and the
17 local workforce development board established under 29 USC 2832, of any position
18 to be filled in that municipality or county within one year after issuance of the
19 revenue bonds. The person shall provide this notice at least 2 weeks before
20 advertising the position. The notice required by this subsection does not affect the
21 offer of employment requirements of sub. (4s).

22 **SECTION 2j.** 66.1103 (8) of the statutes is amended to read:

23 66.1103 (8) PURCHASE. The municipality or county may, by or with the consent
24 of the eligible participant, accept any bona fide offer to purchase the project which
25 is sufficient to pay all the outstanding bonds, interest, taxes, special levies and other

SA 2-3

1 costs that have been incurred. The municipality or county may also, by or with the
2 consent of the eligible participant, accept any bona fide offer to purchase any
3 unimproved land which is a part of the project, if the purchase price is not less than
4 the cost of the land to the municipality or county computed on a prorated basis and
5 if the purchase price is applied directly or indirectly to the payment of the principal
6 or interest on the bonds.

7 **SECTION 2jm.** 66.1103 (9) of the statutes is amended to read:

8 66.1103 **(9)** PAYMENT OF TAXES. If an industrial project acquired by a
9 municipality or county under this section is used by a private person as a lessee,
10 sublessee or in any capacity other than owner, that person is subject to taxation in
11 the same amount and to the same extent as if that person were the owner of the
12 property. Taxes shall be assessed to the private person using the real property and
13 collected in the same manner as taxes assessed to owners of real property. When due,
14 the taxes constitute a debt due from the private person to the taxing unit and are
15 recoverable as provided by law, and the unpaid taxes become a lien against the
16 property with respect to which they were assessed, superior to all other liens, except
17 a lien under s. 292.31 (8) (i) or 292.81, and shall be placed on the tax roll when there
18 has been a conveyance of the property in the same manner as other taxes assessed
19 against real property.

20 **SECTION 2k.** 66.1103 (10) (b) of the statutes is amended to read:

21 66.1103 **(10)** (b) Upon the adoption of an initial resolution under this section,
22 public notice of the adoption shall be given to the electors of the municipality or
23 county before the issuance of the bonds described in the resolution, by publication
24 as a class 1 notice, under ch. 985. The notice need not set forth the full contents of
25 the resolution, but shall state the maximum amount of the bonds; the name of the

542-3

1 eligible participant; the purpose of the bonds; the net number of jobs which the
2 project the municipality or county would finance with the bond issue is expected to
3 eliminate, create or maintain on the project site and elsewhere in this state which
4 is required to be shown by the proposed eligible participant on the form submitted
5 under sub. (4m) (a) 1.; and that the resolution was adopted under this section. A form
6 of the public notice shall be attached to the initial resolution. Prior to adoption of the
7 initial resolution, the open meeting notice given to members of the public under s.
8 19.84 shall indicate that information with respect to the job impact of the project will
9 be available at the time of consideration of the initial resolution. No other public
10 notice of the authorization, issuance or sale of bonds under this section is required.

11 **SECTION 2km.** 66.1103 (10) (c) of the statutes is amended to read:

12 66.1103 (10) (c) A copy of the initial resolution together with a statement
13 indicating when the public notice required under par. (b) was published shall be filed
14 with the secretary of commerce within 20 days following publication of notice. Prior
15 to the closing of the bond issue, the secretary may require additional information
16 from the eligible participant or the municipality or county. After the closing of the
17 bond issue, the secretary shall be notified of the closing date, any substantive
18 changes made to documents previously filed with the secretary and the principal
19 amount of the financing.

20 **SECTION 2L.** 66.1103 (10) (d) of the statutes is amended to read:

21 66.1103 (10) (d) The governing body may issue bonds under this section
22 without submitting the proposition to the electors of the municipality or county for
23 approval unless within 30 days from the date of publication of notice of adoption of
24 the initial resolution for the bonds, a petition conforming to the requirements of s.
25 8.40, signed by not less than 5% of the registered electors of the municipality or

SA 2-3

1 county, or, if there is no registration of electors in the municipality or county, by 10%
2 of the number of electors of the municipality or county voting for the office of governor
3 at the last general election as determined under s. 115.01 (13), is filed with the clerk
4 of the municipality or county and as provided in s. 8.37 requesting a referendum
5 upon the question of the issuance of the bonds. If a petition is filed, the bonds may
6 not be issued until approved by a majority of the electors of the municipality or
7 county voting on the referendum at a general or special election.

8 **SECTION 2Lm.** 66.1103 (10) (e) of the statutes is amended to read:

9 66.1103 (10) (e) Members of a governing body and officers and employees of a
10 municipality or county are not personally liable on bonds and are not personally
11 liable for any act or omission related to the authorization or issuance of bonds.

12 **SECTION 2m.** 66.1103 (10) (g) of the statutes is amended to read:

13 66.1103 (10) (g) Bonds may not be issued unless prior to adoption of an initial
14 resolution a document which provides a good faith estimate of attorney fees which
15 will be paid from bond proceeds is filed with the clerk of the municipality or county
16 and the department of commerce.

17 **SECTION 2mm.** 66.1103 (11) (a) of the statutes is amended to read:

18 66.1103 (11) (a) With respect to the enforcement of any construction lien or
19 other lien under ch. 779 arising out of the construction of projects financed under this
20 section, no deficiency judgment or judgment for costs may be entered against the
21 municipality or county. Projects financed under this section are not public works,
22 public improvements or public construction within the meaning of ss. 59.52 (29),
23 60.47, 61.55, 62.15, 779.14, 779.15 and 779.155 and contracts for the construction of
24 the projects are not public contracts within the meaning of ss. 59.52 (29) and 66.0901
25 unless factors including municipal or county control over the costs, construction and

SA 2-3

1 operation of the project and the beneficial ownership of the project warrant the
2 conclusion that they are public contracts.

3 SECTION 2n. 66.1103 (11) (b) 2. of the statutes is amended to read:

4 66.1103 (11) (b) 2. The governing body of a municipality or county may waive
5 subd. 1. with respect to a particular project by adopting an ordinance or resolution
6 containing a statement of the reasons for the waiver and a description of the project
7 for which waiver is made and publishing it as a class 1 notice under ch. 985.”

8 4. Page 3, line 19: after that line insert:

SA 2-4

9 “(bm) “Midwestern disaster area bond” means a bond described under 26 USC
10 1400N (a), as modified by P.L. 110-343, title VII, subtitle A, section 702 (d) (intro.)
11 and (1)”. ”

12 5. Page 3, line 22: delete the material beginning with that line and ending with
13 page 4, line 10, and substitute:

SA 2-5

14 “(2) WAIVER. (a) The allocation of a recovery zone bond limitation received by
15 a city or county shall be considered waived on March 1, 2010, except with regard to
16 any amount about which the city or county sends written notice to the department
17 of commerce before that date in which the city or county does one of the following:

18 1. States that recovery zone bonds have been issued pursuant to the city’s or
19 county’s limitation allocation.

20 2. Identifies the amount of a proposed issuance of recovery zone bonds and the
21 nongovernmental entity that will own or operate the project being financed, together
22 with a letter addressed to the department of commerce from the prospective
23 purchaser of the recovery zone bonds that states the expectation of the prospective
24 purchaser that both an agreement will be executed before May 1, 2010, providing for

SA2-5

1 the purchase of the recovery zone bonds, and that the recovery zone bonds will be
2 issued before June 1, 2010.

3 (b) The allocation of a recovery zone bond limitation received by a city or county
4 shall be considered waived on May 1, 2010, except with regard to any amount about
5 which the city or county sends written notice to the department of commerce before
6 that date in which the city or county states one of the following:

7 1. That recovery zone bonds have been issued pursuant to the city's or county's
8 limitation allocation.

9 2. That an agreement has been executed by the city, county, other local
10 governmental unit, or authority that will issue the recovery zone bonds, and a bond
11 purchaser, providing for the purchase of recovery zone bonds.

12 (c) The allocation of a recovery zone bond limitation received by a city or county
13 shall be considered waived on June 1, 2010, except with regard to any amount about
14 which the city or county sends written notice to the department of commerce before
15 that date in which the city or county states that recovery zone bonds have been issued
16 pursuant to the city's or county's limitation allocation.

17 (d) Any allocation of a recovery zone bond limitation that is considered waived
18 under this subsection may be reallocated by the department of commerce under s.
19 560.033.

INSERT SAI-SA2-1 CCC

20 (e) If a county that is eligible to issue a midwestern disaster area bond waives
21 any portion of its allocation of a recovery zone bond limitation under this subsection
22 before January 1, 2011, the department of commerce, under s. 560.033 (4), shall

INS. SAI-SA2-2

23 increase that county's allocation of Midwestern disaster area bond authority by the
24 amount of the county's waived recovery zone bond limitation allocation."

INS. SAI-SA2-2

INSERT SA2-SA2-2

X
X
X

SA2-6

1 **6.** Page 5, line 6: delete that line and substitute:

2 **(4)** CONSIDERATION OF ALTERNATIVE FINANCING; REALLOCATION. Before making a

3 **7.** Page 5, line 11: after "sought" insert ", and shall ensure that sufficient

4 unallocated bonding authority remains to comply with s. 66.1104 (2) (e)".

SA2-7

5 **8.** Page 5, line 11: after that line insert:

6 **SECTION 4e.** 560.034 (5) (a) of the statutes is amended to read:

7 560.034 (5) (a) Under sub. (2), to the city, village, town, or county which will
8 issue the bonds to finance the project which is the subject of the estimate."

9 (END)

SA2-8

INSERT
SA2-SA2-3



State of Wisconsin
2009 – 2010 LEGISLATURE

LRBa1358/1
MES:cjs:ph

SENATE AMENDMENT 1,
TO SENATE AMENDMENT 2,
TO 2009 SENATE BILL 440

January 26, 2010 – Offered by COMMITTEE ON ECONOMIC DEVELOPMENT.

1 At the locations indicated, amend the amendment as follows:

2 1. Page 14, line 20: before "county" insert "city or".

3 2. Page 14, line 23: on lines 23 and 24, before "county's" insert "city's or".

4 (END)

SAI-SA2-1

SAI-SA2-2



State of Wisconsin
2009-2010 LEGISLATURE

CORRECTIONS IN:

**SENATE AMENDMENT 2,
TO SENATE AMENDMENT 2,
TO 2009 SENATE BILL 440**

Prepared by the Legislative Reference Bureau
(January 29, 2010)

In enrolling, the following correction was made:

1. Page 2, line 1: delete ““(5)” and substitute ““(5m)”.

(END)



SENATE AMENDMENT 2,
TO SENATE AMENDMENT 2,
TO 2009 SENATE BILL 440

NOT MARKED UP

January 28, 2010 - Offered by Senators LASSA and MILLER.

SA 2-SA2-1

SA2-SA2-2

- 1 At the locations indicated, amend the amendment as follows:
- 2 **1.** Page 14, line 24: delete "allocation." and substitute "allocation."
- 3 **2.** Page 14, line 24: after that line insert:
- 4 "(f) With regard to a letter, or a copy of a letter, addressed to the department
- 5 of commerce from a prospective purchaser of a recovery zone bond, as described in
- 6 par. (a) 2., which is in the possession of the city or county, the name of any business
- 7 or prospective bond purchaser named in the letter or copy of the letter is not subject
- 8 to the right of inspection or copying under s. 19.35 (1) before the first day of the 3rd
- 9 month beginning after the letter or copy of the letter is received by the city or
- 10 county.".
- 11 **3.** Page 15, line 5: after that line insert:

SA2-SA2-3

CCC 5m

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"(5) AVAILABILITY OF RECORDS. With regard to a letter addressed to the department from a prospective purchaser of a recovery zone bond, as described in s. 66.1104 (2) (a) 2., the name of any business or prospective bond purchaser named in the letter is not subject to the right of inspection or copying under s. 19.35 (1) before the first day of the 3rd month beginning after the letter is received by the department."

4. Page 15, line 6: delete "SECTION" and substitute SECTION.

(END)

SECTION
SA2-SA2-4

NOT MARKED UP



SENATE AMENDMENT 5,
TO 2009 SENATE BILL 440

January 28, 2010 – Offered by Senators LASSA and MILLER.

1 At the locations indicated, amend the bill as follows:

2 1. Page 4, line 17: delete “unused allocation, as that” and substitute “waived
3 allocation, waived as required under”.

4 2. Page 4, line 18: delete “term is used in”.

5 3. Page 5, line 1: delete “The” and substitute “Subject to sub. (5), the”.

6 4. Page 5, line 11: after that line insert:

7 (5) CONSIDERATION OF WAIVER; REALLOCATION. For a reallocation made under
8 this section after March 1, 2010, but before June 1, 2010, before making the
9 reallocation, the department shall consider the amount of recovery zone bond
10 limitation allocation waived under s. 66.1104 (2) (a) or (b) by each city or county then
11 seeking a reallocation under this section. The department shall reallocate from the
12 aggregated waived allocation, as that term is used in sub. (1), an allocation of the
13 recovery zone bond limitation to a project in a city or county that waived an allocation

SA5-1

SA5-3

SA5-4

1 under s. 66.1104 (2) (a) or (b) in an amount up to the total limitation allocation waived
2 by the city or county or equal to the limitation allocation determined by the city or
3 county to be necessary for the project, whichever is less. In the event requests by
4 cities and counties for a reallocation under this section exceed the aggregated waived
5 allocation, the department shall prorate the available waived allocation among cities
6 and counties in proportion to the amount waived by the cities and counties.”

7 (END)

CCC to SA 2 to SB 440

In enrolling, the following correction was made:

Page 14, line 20: delete "midwestern" and substitute
"Midwestern"

(END)

Wlj 1/29/10 - a351/1



State of Wisconsin
2009-2010 LEGISLATURE

CORRECTIONS IN:

**SENATE AMENDMENT 2,
TO 2009 SENATE BILL 440**

Prepared by the Legislative Reference Bureau
(January 29, 2010)

In enrolling, the following correction was made:

1. Page 14, line 20: delete "midwestern" and substitute "Midwestern".

(END)

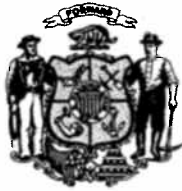
CCC to SA2 to SA2 to SB 440

In enrolling, the following correction was made:

Page 2, line 1: delete "(5)" and substitute "(5m)"

(END)

Wlj 1/29/10 a/4/3/1



State of Wisconsin
2009-2010 LEGISLATURE

CORRECTIONS IN:

**SENATE AMENDMENT 2,
TO SENATE AMENDMENT 2,
TO 2009 SENATE BILL 440**

Prepared by the Legislative Reference Bureau
(January 29, 2010)

In enrolling, the following correction was made:

1. Page 2, line 1: delete “(5)” and substitute ““(5m)””.

(END)