

2011 DRAFTING REQUEST

Bill

Received: **05/26/2011**

Received By: **rkite**

Wanted: **As time permits**

Companion to LRB:

For: **Edward Brooks (608) 266-8531**

By/Representing: **Terri Griffiths**

May Contact:

Drafter: **rkite**

Subject: **State Finance - public lands
Local Gov't - tax incr financing**

Adl. Drafters: **mshovers
emueller**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Brooks@legis.wisconsin.gov**

Carbon copy (CC:) to: **robin.kite@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

BCPL loan program

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rkite 06/22/2011	jdyer 06/30/2011		_____			S&L
/P1			rschluet 07/01/2011	_____	sbasford 07/01/2011		S&L
/P2	rkite 08/11/2011	jdyer 08/15/2011	phenry 08/16/2011	_____	sbasford 08/16/2011		S&L

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/1	rkite 08/31/2011	kfollett 09/01/2011	jfrantze 09/01/2011	_____	mbarman 09/01/2011		S&L
/2	rkite 09/06/2011	kfollett 09/07/2011	phenry 09/07/2011	_____	lparisi 09/07/2011		S&L
/3	rkite 09/14/2011	kfollett 09/16/2011	rschluet 09/16/2011	_____	lparisi 09/16/2011	lparisi 09/19/2011	

FE Sent For:

<END>

*/3 sent for
9-20-11
requested by
Terry from Rep. Brooks' office.*

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Handwritten signatures and dates:
jdyer 8/15/11
phenry 8/16/11
rkite 9/1

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Addl. Drafters: **mshovers
emueller**

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Requester's email: **Rep.Brooks@legis.wisconsin.gov**

Carbon copy (CC:) to: **RNK**

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3CPL loan program

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<END>

Kite, Robin

From: Griffiths, Terri
Sent: Wednesday, May 25, 2011 12:06 PM
To: Kite, Robin
Cc: German, Tom - BCPL
Subject: Proposed legislation for Revenue obligation trust fund loans
Attachments: Proposed BCPL Loan Program Statute Changes 2011 d8.doc

Robin,

Per my brief phone conversation with you, this is the draft instruction I mentioned which should be the same as what you may have received from Anthony Rollo in Senator Schultz office. If you have not received anything from Anthony that's fine but very likely there will be two drafts following these same instructions.

If you have questions - technical or otherwise - you may contact me and/or
Tom German, BCPL Deputy Secretary
Office: (608) 267-2233
Fax: (608) 267-2787
Tom.German@wisconsin.gov

Rep. Brooks would like this moved through drafting as quickly as possible with all due respect to your time dedicated to budget work right now.

Thank you very much.

Terri S. Griffiths
Office of Rep. Ed Brooks
266-8531
888-534-0050

5/25/2011

MEMORANDUM

TO: TIA
FROM: TOM
RE: BCPL Loan Program Statute Changes
DATE: May 11, 2011

I have reviewed BCPL's current statutory framework for trust fund loans and I have considered changes that may be necessary in order to make new trust fund loans based upon a pledge of revenues instead of a general obligation basis. It is my understanding that we have reached a general consensus that BCPL's statutes should be modified to permit, but not require, the board to make loans to municipalities based upon **either** a general obligation basis or based upon a pledged stream of revenue. It is further my understanding that loans based upon a pledge of a stream of revenue would still be secured by the borrower's state aid or shared revenue. The AG has asked that in the event that a borrower defaults on a state trust fund loan, the diversion of state aid would be mandatory, not discretionary.

I have identified below the statutes which would appear to need revisions in order to properly authorize and administer such revenue loans and have discussed these suggested revisions with Assistant A.G. Anne Murphy. I have set forth below the suggested revisions.

- §24.60(4) currently defines a "State trust fund loan." We are proposing to have two different types of loans, those which are a general obligation of the borrower and those which are based upon a pledge of revenue. I suggest that this statute should be modified to state that "State trust fund loan" means a loan authorized under s. 24.61 (3) and shall include general obligation loans and revenue obligation loans. I do not believe that "revenue obligation loans" are defined elsewhere in the statutes. Since "revenue obligations" are defined in § 66.0621, this new type of loan could be described as a "revenue obligation loan" even though the new loans authorized under chapter 24 would use a more expansive definition of "revenue."
- I suggest that §24.60 should be further modified to provide separate definitions for general obligation state trust fund loans and revenue obligation state trust fund loans.
- Since revenue based state trust fund loans are not currently authorized, there is no definition of "revenue" in Chapter 24. I suggest that a definition for "revenue" be included or at least referenced in chapter 24. The definition would likely include revenue as defined in Wis. Stat. Section 66.0621 and also include revenue that would be generated through TIF Districts as discussed in §66.1333. In order to avoid inconsistent wording, and rather than recreating those sections in their entirety, the definition of revenue in chapter 24 could refer to §66.0621 and §66.1333.
- §24.63(1) currently provides the general terms and conditions for state trust fund loans to municipalities. Since the loan terms and conditions would be different for general obligation loans and revenue based loans, this statute should be modified to reflect the differences. There are constitutional limitations on terms of general obligation loans but

no such limits on revenue obligation loans. Therefore, there should be different term limitation on the different types of loans. In addition, loans based on revenue from TIF Districts carry a higher risk than loans based on revenue from utility districts. The security of the state aid / shared revenue intercept becomes much more important for loans based on TIF district revenue. As a result there should be a further limitation on the size of TIF revenue based state trust fund loans with respect to the projected amount of future state aid / shared revenue. I suggest that this statute be amended to read substantially as follows:

- **(a) General Obligations Loans other than to school districts.** A general obligation state trust fund loan, other than a loan to a school district, may be made for any term not exceeding 20 years and may be made payable in installments. A general obligation state trust fund loan to a municipality other than a school district shall be in an amount which does not, together with all other indebtedness of the municipality applying for the loan, exceed 5% of the valuation of the taxable property within the municipality as equalized for state purposes. If a general obligation state trust fund loan is made to pay off existing indebtedness, it may be advanced to the borrower in installments as fast as the indebtedness or the evidence of indebtedness is canceled.
- **(b) Revenue Obligation Loans other than to school districts.** A revenue obligation state trust fund loan to a municipality may be made for any term not exceeding 30 years and may be made payable in installments. The amount of a revenue obligation state trust fund loan to a municipality that is based upon a pledge of revenue from a TIF district under §66.1333, shall not exceed an amount requiring an annual payment including both principal amortization and interest that exceeds 80% of the projected annual state aid or shared revenue of the borrowing municipality during the term of the loan.
- §24.66(1)(a) currently describes the necessary components of a state trust fund loan application. Since there are no currently authorized revenue based loans, a necessary component of any current application is the valuation of all taxable property in the district. This would not be a necessary component of revenue based loans. Therefore, this statute should be modified to provide that the property valuation is only necessary for general obligation loans. I suggest that this statute should be amended to read: “Of the valuation of all the taxable property within the municipality as equalized for state purposes, but only if the application is for a general obligation state trust fund loan as defined by §24.63(1)(a) (new statute suggested above).”
- Currently, §24.66(1) does not require any information on revenue streams since revenue based loans are not currently authorized. However, information on such revenue streams would be extremely important in analyzing an application for revenue based state trust fund loans. Furthermore, there must be a pledge of revenues from such streams for the loan. Therefore, I suggest that §24.66(1)(d) should be created which reads: “Of details on the expected revenues that would be used to repay the loan and a pledge of such

revenue if the application is for a revenue obligation trust fund loan, as defined by §24.63(1)(b)” (new statute suggested above).

- The amount of state aid or shared revenue that a current borrower might expect is generally not considered under the current program. However, for revenue based loans, especially loans based on revenue from Tax Incremental Financing districts, the amount of expected annual state aid or shared revenue would be a very important piece of information. Therefore, I suggest that §24.66(1)(e) be created which reads: “Of details on the expected amount of annual state aid / shared revenue if the application is for a revenue obligation trust fund loan, as defined by §24.63(1)(b)” (new statute suggested above)
- §24.68 currently states that “All the taxable property in any municipality which obtains a trust fund loan shall stand charged for the payment of the principal and interest on that loan.” However, this would not apply to revenue based state trust fund loans. Therefore, I suggest that this statute should be modified to read “All the taxable property in any municipality which obtains a general obligation trust fund loan, as defined by §24.63(1)(a) shall stand charged for the payment of the principal and interest on that loan.”
- §24.70(3) currently requires that municipal clerks add the annual amount of trust fund payments to the tax levy of the borrower. However, this would not apply to revenue based state trust fund loans. Therefore, I suggest this section be modified to apply only to general obligation state trust fund loans, to read “In the case of a general obligation trust fund loan as defined by §24.63(1)(a), upon receipt of a certified statement by a municipal clerk, ...”
- 24.70(6) currently states that the board *may* (emphasis added) file a certified statement of the delinquent amount with the department of administration to start the process of intercepting state aid. The Attorney General has suggested that this provision be changed from permissive to mandatory (i.e. may to shall). The statute should also provide that the secretary of administration should immediately remit to the board any amounts deducted from any state payments due the municipality. § 24.70(6) could be amended to read: “If any municipality fails to remit the amount due by the date specified under subdivision (4), the board shall file a certified statement of the delinquent amount with the department of administration. The secretary of administration shall collect the amount due, including any penalty, by deducting that amount from any state payments due the municipality, shall notify the treasurer and the board of that action, and shall immediately remit to the board any amounts deducted from any state payments due to the municipality.”
- §66.0621 governs “Revenue obligations” generally. There may be additional provisions of this statute or §66.2111 or §281.58 which should be recreated in Chapter 24 to facilitate the making and administration of revenue based state trust fund loans. As I noted at the beginning, the purpose of this legislation is to authorize the board to loan money to municipalities based on a pledge of revenue and secured by the state aid or

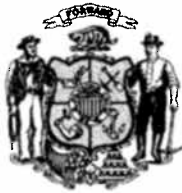
shared revenue of the borrower. Since the two statutes referred to above address two different types of revenue borrowing, I acknowledge that there may be some additional language from those statutes that should be incorporated in the new legislation.

While considering these legislative changes, I suggest that we also consider “cleaning up” other statutory provisions affecting the State Trust Fund Loan program that are out of date or do not reflect changes that have occurred over time. These suggested changes are minor in nature.

- §24.61(3)(c) and (d) required BCPL to give priority to certain loans to certain entities from 1989 through 2003. Those years have now passed and the statute has no current applicability. Therefore, I suggest that these sections should now be deleted.
- §24.61(4) is titled “Loan Limitations.” However, this statute applies only to loans to counties. Therefore, a slight change in the title would make it easier for people to find this statute when dealing with loans to counties. I suggest the statute be retitled “Limitations on loans to counties.”
- §24.71(5) provides that the state superintendent shall intercept state school aid on delinquent trust fund loans and “remit such amount to the *secretary of administration*.” I suggest that “secretary of administration” be deleted and replaced with “the board” to conform to the other BCPL loan collection statutes.
- This same change should be done to §24.716(4).
- This same change should be done to §24.717(4).
- 24.715(4) has a similar problem in that it requires the state superintendent to “remit such amount to the *state treasurer*.” I suggest that “state treasurer” be deleted and replaced with “board” to conform to the other BCPL loan collection statutes.
- 67.03(2m) allows borrowers undertaking an “advanced refunding” of a loan to treat the new borrowing and the payoff of the “old” loan as simultaneous under certain circumstances. However, this statute does not necessarily apply to trust fund loans due to the wording of 67.01(9)(a). Therefore, in the interest of clarification, I suggest that either 67.03(2m) should be recreated in chapter 24 or a reference to 67.03(2m) should be included in 67.01(9)(a) or the new 67.10 suggested below.
- 67.08(1) governs the execution of municipal obligations (e.g who is authorized to sign on behalf of a municipality) and applies to state trust fund loans due to its reference in 67.01(9). However, this statute appears to be slightly in conflict with 24.67. For example 67.08(1) allows either the mayor or city manager to execute the obligation while 24.67 only allows the mayor to sign. (I believe that either the mayor or the city manager should be authorized to sign) Any discrepancies with respect to who can sign should be resolved. The best approach may be to slightly modify 24.67 and remove the reference to 67.08(1) in 67.01(9). Furthermore, 24.67(3) should be slightly modified to reflect the current procedures. I suggest that this section be amended to read, “If a municipality has

acted under subs. (1) and (2), it shall certify that fact to the board. Upon receiving a certification....the board shall cause the loan to be disbursed to the treasurer of the municipality...”

- 67.01(9)(a) currently exempts most of Chapter 67 from state trust fund loans. However, some statutes located in Chapter 24 specifically reference certain statutes within Chapter 67 which are not listed in 67.01(9). (e.g. §67.04) To resolve this issue, I believe it makes sense to delete 67.01(9)(a) and create 67.10 which states, Except for ss. [67.0392m see above], 67.09 and 67.10 and those statutes specifically referenced in Chapter 24, this chapter is not applicable to (either “the borrowing of moneys belonging to the common school fund...” or “state trust fund loans made pursuant to Chapter 24 which shall be regulated by subchapter II of ch 24)
- §24.61(2)3 currently authorizes BCPL to invest the trust funds in “bonds of this state.” However, “bonds” are not defined in this section, nor in other key places in the Wisconsin Statutes. Therefore, the term is generally construed broadly to include notes and other instruments of indebtedness. I suggest that the statute be amended to clarify the matter by expressly authorizing investment in “bonds, notes or other instruments of indebtedness issued by the State of Wisconsin.”
- Most of the investment options authorized under Wis. Stat. Section 24.61 are very safe fixed rate income instruments. Federally insured accounts are a glaring omission to the list of authorized investments. I suggest that §24.61(1) be added which provides that BCPL may invest in Institutional Accounts which are insured by a federal entity such as the Federal Deposit Insurance Corporation.
- §24.61(2)(b) currently requires BCPL bonds to be held by DOA. However, it is our understanding that DOA no longer performs this service as most bonds are now held in the “street name” of the brokerage house for the benefit of the purchaser which in this case would be BCPL. I suggest that this statute either be deleted or amended to provide that All bonds, notes, and other securities purchased under par.a shall be held as determined by the board.



State of Wisconsin
2011 - 2012 LEGISLATURE

Rm not run
PI

LRB-2150
RNK&MES:A:...
jld

FRIDAY

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

In 6/22

D-N

- 1 ^{Gen} AN ACT ...; relating to: ✓ authorizing the Board of Commissioners of Public Lands
- 2 to offer revenue obligation trust fund loans to certain municipalities. ✓

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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:

INSERT ✓

3

(END)

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

2150/P1
LRB-0826/P2ins
RNK&MES:.....

INSERT

1 SECTION 1. 24.60 (1w) of the statutes is created to read:

2 24.60 (1w) "General obligation trust fund loan" means a state trust fund loan
3 that is the general obligation of the borrower.

4 SECTION 2. 24.60 (2g) of the statutes is created to read:

5 24.60 (2g) "Revenue" has the meaning given in s. 66.0621 (1) (c).

6 SECTION 3. 24.60 (2m) of the statutes is created to read:

7 24.60 (2m) "Revenue obligation trust fund loan" means a state trust fund loan
8 that is based upon a pledge of revenue generated by the activity for which the loan
9 is made.

10 SECTION 4. 24.61 (2) (a) 3. of the statutes is amended to read:

11 24.61 (2) (a) 3. Bonds of, notes, or other instruments of indebtedness issued
12 by this state.

History: 1971 c. 154; 1973 c. 114; 1975 c. 224; 1979 c. 34 s. 2102 (22) (a); 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.61; 1983 a. 196; 1983 a. 207 ss. 2, 95; 1983 a. 423; 1985 a. 49; 1985 a. 332 s. 251 (3); 1987 a. 76, 197; 1989 a. 31; 1991 a. 269; 1993 a. 16, 263, 399; 1995 a. 27, 56, 227; 1997 a. 27; 1999 a. 65, 83; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 16; 2003 a. 33; 2005 a. 25, 335, 352; 2007 a. 20, 97; 2009 a. 2, 28.

13 SECTION 5. 24.61 (2) (a) 11. of the statutes is created to read:

14 24.61 (2) (a) 11. Financial institution accounts that are insured by a deposit
15 insurance corporation, as defined in s. 214.01 (1) (h).

16 SECTION 6. 24.61 (2) (b) (title) of the statutes is repealed and recreated to read:

17 24.61 (2) (b) (title) Manner for holding securities *move*

18 SECTION 7. 24.61 (2) (b) of the statutes is amended to read:

19 24.61 (2) (b) ~~Deposited with secretary of administration.~~ All bonds, notes, and
20 other securities purchased under par. (a) shall be deposited with the secretary of
21 administration held in a manner determined by the board.

History: 1971 c. 154; 1973 c. 114; 1975 c. 224; 1979 c. 34 s. 2102 (22) (a); 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.61; 1983 a. 196; 1983 a. 207 ss. 2, 95; 1983 a. 423; 1985 a. 49; 1985 a. 332 s. 251 (3); 1987 a. 76, 197; 1989 a. 31; 1991 a. 269; 1993 a. 16, 263, 399; 1995 a. 27, 56, 227; 1997 a. 27; 1999 a. 65, 83; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 16; 2003 a. 33; 2005 a. 25, 335, 352; 2007 a. 20, 97; 2009 a. 2, 28.

22 SECTION 8. 24.61 (3) (c) of the statutes is repealed.



INSERT
CONT

1 **SECTION 9.** 24.61 (3) (d) of the statutes is repealed.

2 **SECTION 10.** 24.61 (4) (title) of the statutes is amended to read:

3 24.61 (4) (title) LOAN LIMITATIONS TO COUNTIES.

History: 1971 c. 154; 1973 c. 114; 1975 c. 224; 1979 c. 34 s. 2102 (22) (a); 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.61; 1983 a. 196; 1983 a. 207 ss. 2, 95; 1983 a. 423; 1985 a. 49; 1985 a. 332 s. 251 (3); 1987 a. 76, 197; 1989 a. 31; 1991 a. 269; 1993 a. 16, 263, 399; 1995 a. 27, 56, 227; 1997 a. 27; 1999 a. 65, 83; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 16; 2003 a. 33; 2005 a. 25, 335, 352; 2007 a. 20, 97; 2009 a. 2, 28.

4 **SECTION 11.** 24.63 (1) of the statutes is renumbered 24.63 (1) (a) and amended

5 to read:

6 24.63 (1) (a) LOANS OTHER THAN TO SCHOOL DISTRICTS. A state general obligation

7 trust fund loan, other than a loan to a school district, may be made for any term not

8 exceeding 20 years and may be made payable in installments. A state general

9 obligation trust fund loan to a municipality other than a school district shall be in

10 an amount which does not, together with all other indebtedness of the municipality

11 applying for the loan, exceed 5% of the valuation of the taxable property within the

12 municipality as equalized for state purposes. If a state general obligation trust fund

13 loan is made to pay off existing indebtedness, it may be advanced to the borrower in

14 installments as fast as the indebtedness or the evidence of indebtedness is canceled.

History: 1975 c. 224, 422; 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.63; 1983 a. 423; 1985 a. 225; 1987 a. 76; 1995 a. 27; 1999 a. 9; 2001 a. 16, 104; 2009 a. 2.

15 **SECTION 12.** 24.63 (1) (b) of the statutes is created to read:

16 24.63 (1) (b) A revenue obligation trust fund loan to a municipality may be

17 made for any term not exceeding 30 years and may be made payable in installments.

18 The amount of a revenue obligation trust fund loan to a municipality that is based

19 upon a pledge of revenue pledged by a tax incremental district under s. 66.1333 may

20 not exceed an amount that would require the borrower to make annual payments,

21 including principal, amortization, and interest, that exceed an amount equal to 80

22 percent of the projected annual state aid and or shared revenue received by the

23 borrower during the term of the loan.

INSERT CONT

****NOTE: This language needs additional drafting. I don't think that the cross-reference to s. 66.1333 is the correct cross-reference. I also do not understand what is meant by "state aid" given that they are various types of state aid under current law. Can you provide more information? e there

*

1 SECTION 13. 24.66 (1) (intro.) of the statutes is amended to read:

2 24.66 (1) FOR ALL MUNICIPALITIES. (intro.) No trust fund loan may be made
3 unless an application is made to the board under this section. The application shall
4 state the amount of money required, the purpose to which it is to be applied, the times
5 and terms of repayment, ~~whether the loan is sought for an educational technology~~
6 ~~or distance education project under s. 24.61 (3) (d),~~ and, in the case of a cooperative
7 educational service agency, the names of the school districts participating in the
8 distance education project for which the loan is sought. If the application is for a
9 revenue obligation trust fund loan, the application shall state the expected revenues
10 from which the loan is to be repaid, shall include the applicant's pledge of those
11 revenues to repay the loan, and shall state the amount of annual state aid and shared
12 revenue the applicant anticipates receiving. The application shall be accompanied
13 by satisfactory proof of all of the following:

History: 1979 c. 221, 355; 1981 c. 169; Stats. 1981 s. 24.66; 1983 a. 196, 423; 1985 a. 49, 218, 225; 1987 a. 76, 79; 1995 a. 27, 227, 417; 1997 a. 27; 1999 a. 150 s. 672; 1999 a. 182; 2001 a. 16; 2001 a. 30 s. 108; 2007 a. 20; 2009 a. 2, 28.

14 SECTION 14. 24.66 (1) (a) of the statutes is amended to read:

15 24.66 (1) (a) ~~Of~~ If the application is for a general obligation trust fund loan, the
16 valuation of all the taxable property within the municipality as equalized for state
17 purposes;

History: 1979 c. 221, 355; 1981 c. 169; Stats. 1981 s. 24.66; 1983 a. 196, 423; 1985 a. 49, 218, 225; 1987 a. 76, 79; 1995 a. 27, 227, 417; 1997 a. 27; 1999 a. 150 s. 672; 1999 a. 182; 2001 a. 16; 2001 a. 30 s. 108; 2007 a. 20; 2009 a. 2, 28.

18 SECTION 15. 24.66 (1) (b) of the statutes is amended to read:

19 24.66 (1) (b) ~~Of all~~ All the existing indebtedness of the municipality; ~~and~~

History: 1979 c. 221, 355; 1981 c. 169; Stats. 1981 s. 24.66; 1983 a. 196, 423; 1985 a. 49, 218, 225; 1987 a. 76, 79; 1995 a. 27, 227, 417; 1997 a. 27; 1999 a. 150 s. 672; 1999 a. 182; 2001 a. 16; 2001 a. 30 s. 108; 2007 a. 20; 2009 a. 2, 28.

20 SECTION 16. 24.66 (1) (c) of the statutes is amended to read:



INSERT
CONT

1 24.66 (1) (c) ~~Of the~~ The approval of the application as required by subs. (2) to
2 (4).

History: 1979 c. 221, 355; 1981 c. 169; Stats. 1981 s. 24.66; 1983 a. 196, 423; 1985 a. 49, 218, 225; 1987 a. 76, 79; 1995 a. 27, 227, 417; 1997 a. 27; 1999 a. 150 s. 672; 1999 a. 182; 2001 a. 16; 2001 a. 30 s. 108; 2007 a. 20; 2009 a. 2, 28.

3 **SECTION 17.** 24.66 (3m) of the statutes is amended to read:

4 **24.66 (3m)** FOR EDUCATIONAL TECHNOLOGY OR DISTANCE EDUCATION LOANS. An
5 application by a county, city, village or town to undertake an educational technology
6 or distance education project, ~~or by a consortium that includes a county, city, village~~
7 ~~or town under s. 24.61 (3) (d)~~ ✓ shall be accompanied by a resolution of the county or
8 municipal library board for that county, city, village or town, ~~or the county or~~
9 ~~municipal library board of each county, city, village or town participating in the~~
10 ~~consortium,~~ requesting the county, city, village or town to apply for the loan for the
11 purpose of conducting an educational technology or distance education project.

History: 1979 c. 221, 355; 1981 c. 169; Stats. 1981 s. 24.66; 1983 a. 196, 423; 1985 a. 49, 218, 225; 1987 a. 76, 79; 1995 a. 27, 227, 417; 1997 a. 27; 1999 a. 150 s. 672; 1999 a. 182; 2001 a. 16; 2001 a. 30 s. 108; 2007 a. 20; 2009 a. 2, 28.

12 **SECTION 18.** 24.68 of the statutes is amended to read:

13 **24.68 Payment of state trust fund loans.** All the taxable property in any
14 municipality which obtains a general obligation trust fund loan shall stand charged
15 for the payment of the principal and interest on that loan.

History: 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.68; 1987 a. 378.

16 **SECTION 19.** 24.70 (3) of the statutes is amended to read:

17 **24.70 (3)** AMOUNT ADDED TO MUNICIPAL LEVY. Upon receipt of a certified
18 statement by a municipal clerk, the municipal clerk shall then cause the amount to
19 be added to the municipal levy and collected in the same manner as the municipal
20 tax except the amount for the state trust fund loan shall be separately designated.
21 Upon receipt of a certified statement by a school district clerk from a cooperative
22 educational service agency, the clerk shall cause the amount for which the district
23 is responsible under s. 24.61 (7) to be added to the school district levy and collected



INSERT
CONT

1 in the same manner as the school district tax, except that the amount for the loan
2 shall be separately stated. This subsection does not apply to revenue obligation trust
3 fund loans.

History: 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.70; 1987 a. 185, 378; 1995 a. 27; 2001 a. 16; 2003 a. 33; 2007 a. 20; 2009 a. 2, 28.

4 **SECTION 20.** 24.70 (6) of the statutes is amended to read:

5 24.70 (6) FAILURE TO MAKE PAYMENTS. If any municipality fails to remit the
6 amount due by the date specified under sub. (4), the board ~~may~~ shall file a certified
7 statement of the delinquent amount with the department of administration. The
8 secretary of administration shall collect the amount due, including any penalty, by
9 deducting that amount from any state payments due the municipality and shall
10 notify the treasurer and the board of that action, and shall immediately remit to the
11 board any amounts deducted from any state payments due to the municipality.

History: 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.70; 1987 a. 185, 378; 1995 a. 27; 2001 a. 16; 2003 a. 33; 2007 a. 20; 2009 a. 2, 28.

12 **SECTION 21.** 24.71 (5) of the statutes is amended to read:

13 24.71 (5) FAILURE TO MAKE PAYMENT. If the school district treasurer fails to remit
14 the amounts due under sub. (4), the state superintendent, upon certification of
15 delinquency by the board, shall deduct the amount due including any penalty from
16 any school aid payments due the school district, shall remit such amount to the
17 ~~secretary of administration~~ board and, no later than June 15, shall notify the school
18 district treasurer ~~and the board~~ to that effect.

History: 1971 c. 262; 1973 c. 90; 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.71; 1987 a. 185; 1995 a. 27 s. 9145 (1); 1997 a. 27; 2003 a. 33; 2009 a. 2.

19 **SECTION 22.** 24.715 (4) of the statutes is amended to read:

20 24.715 (4) FAILURE TO MAKE PAYMENT. If the system board fails to remit the
21 amounts due under sub. (3), the state superintendent, upon certification of
22 delinquency by the board, shall deduct the amount due, including any penalty, from
23 any aid payments due the system, shall remit such amount to the ~~state treasurer~~



INSERT
CONT

1 board and, no later than June 15, shall notify the system board ~~and the board~~ to that
2 effect.

History: 2001 a. 16, 104; 2009 a. 2.

3 **SECTION 23.** 24.716 (4) of the statutes is amended to read:

4 24.716 (4) FAILURE TO MAKE PAYMENT. If the district board fails to remit the
5 amounts due under sub. (3), the secretary of administration, upon certification of
6 delinquency by the board of commissioners of public lands, shall deduct the amount
7 due, including any penalty, from any state aid payments due the district, shall remit
8 such amount to the ~~secretary of administration~~ board, and, no later than June 15,
9 shall notify the district board ~~and the board~~ to that effect.

History: 2007 a. 20; 2009 a. 2.

10 **SECTION 24.** 24.717 (4) of the statutes is amended to read:

11 24.717 (4) FAILURE TO MAKE PAYMENT. If the local professional baseball park
12 district board fails to remit the amounts due under sub. (3), the secretary of
13 administration, upon certification of delinquency by the board of commissioners of
14 public lands, shall deduct the amount due, including any penalty, from any state
15 payments due the district, shall remit such amount to the ~~secretary of~~
16 ~~administration~~ board, and, no later than June 15, shall notify the district board and
17 the board of commissioners of public lands to that effect.

History: 2009 a. 28.

18 **SECTION 25.** 121.07 (1) (a) of the statutes is amended to read:

19 121.07 (1) (a) The membership of the school district in the previous school year
20 and the shared cost for the previous school year shall be used in computing general
21 aid. ~~If a school district has a state trust fund loan as a result of s. 24.61 (3) (e) 2., the~~



INSERT
CONT

- 1 ~~school district's debt service costs shall be based upon current school year costs for~~
- 2 ~~the term of the loan and for one additional school year.~~

History: 1971 c. 125; 1973 c. 61, 90, 190, 333; 1975 c. 39; 1977 c. 29, 178, 418; 1979 c. 34, 221; 1981 c. 20, 317, 385; 1983 a. 27, 212; 1985 a. 29; 1987 a. 27; 1989 a. 31, 114, 309, 336, 359; 1991 a. 39, 269, 315; 1993 a. 16, 437; 1995 a. 27 ss. 4046m to 4064, 9145 (1); 1997 a. 27, 113, 286; 1999 a. 9, 17; 2001 a. 16, 109; 2003 a. 33; 2005 a. 25; 2009 a. 28.

(end insert)

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

LRB-0826/P2dn

RNK:.....

2150/Pld

Jld

date

~~This redraft remains~~ draft is in preliminary form. Please note the following:

1. The instructions for this ~~redraft~~ draft included a request to define the term "revenue" in the draft and suggested using the definition in s. 66.0621. It is not clear to me whether the various cross-references in that definition are relevant for the purposes of this draft. Please look closely at that definition to make sure that the cross-references are relevant.
2. The instructions for this draft refer, in several places, to "TIF districts" under s. 66.1333. Under current law, the tax incremental financing law is generally established under s. 66.1105. Did you intend to refer to s. 66.1105 in your instructions?
3. Your instructions indicate that the revenue obligation trust fund loans that will be made as provided in this draft will be based on a pledge of revenue generated "through TIF districts"? Could you provide more information on the manner in which such revenue might be generated? Without this information, it is difficult to know whether any other statutes may require amending to achieve the purpose of this draft.
4. This draft does not include the requested "clean up" language for the items concerning advanced refunding, the execution of municipal obligations, and ch. 67 exemptions (which appear at the bottom of page 4 and the top of page 5 of the instructions for this redraft). Marc Shovers, who drafts in the area of local government, and I will need additional explanation with regard to those items in order to include them in the next version of the draft. After you have had an opportunity to review this version of the draft, we would be happy to talk with you about those items so that we can add them to the draft.

RNK

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2150/P1dn
RNK:jld:rs

July 1, 2011

This draft is in preliminary form. Please note the following:

1. The instructions for this draft included a request to define the term "revenue" in the draft and suggested using the definition in s. 66.0621. It is not clear to me whether the various cross-references in that definition are relevant for the purposes of this draft. Please look closely at that definition to make sure that the cross-references are relevant.
2. The instructions for this draft refer, in several places, to "TIF districts" under s. 66.1333. Under current law, the tax incremental financing law is generally established under s. 66.1105. Did you intend to refer to s. 66.1105 in your instructions?
3. Your instructions indicate that the revenue obligation trust fund loans that will be made as provided in this draft will be based on a pledge of revenue generated "through TIF districts." Could you provide more information on the manner in which such revenue might be generated? Without this information, it is difficult to know whether any other statutes may require amending to achieve the purpose of this draft.
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Robin N. Kite
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Phone: (608) 266-7291
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MEMORANDUM

TO: TIA
FROM: TOM
RE: Review of Initial Draft of Proposed Revenue Loan Legislation
DATE: July 21, 2011

I have reviewed the initial draft of the Proposed Revenue Loan Legislation (LRB -0826/P2). The draft closely follows the recommendations outlined in my memo dated May 11, 2011 with a few exceptions. Overall, I believe it provides a good starting point. The bill drafter posed some additional questions to Rep Brooks' office. In addition, it is our understanding that attorneys from Quarles and Brady LLP ("Q&B) and Axley Brynerson LLP (Axley) have provided comments and suggestions on the proposed bill draft as well.

This memo will address the sections of the bill draft that differ from our proposed language, the comments and suggestions provided by Q&B/Axley and the questions posed by the bill drafter. I will address these issues in the order they appear in the bill draft.

ANALYSIS OF BILL PROVISIONS:

- Section 2 of the bill states, 24.60(2g) "Revenue" has the meaning given in s. 66.0621 (1) (c).

In my earlier memo, I had noted that, "The definition (of revenue) would likely include revenue as defined in Wis. Stat. Section 66.0621 and also include revenue that would be generated through TIF Districts as discussed in §66.1333. In order to avoid inconsistent wording, and rather than recreating those sections in their entirety, the definition of revenue in chapter 24 could refer to §66.0621 and §66.1333."

I included both of those statutory references in my suggested language as I anticipated that BCPL may be making loans to municipalities based upon a pledge of revenues such as utility payments that are described in 66.0621 and also loans based upon a pledge of tax increments as such loans or bonds are described in 66.1333. (Please note, I now believe that it would have been better if I had referenced s. 66.1105 as opposed to s. 66.1333). As currently drafted, this bill would not authorize state trust fund loans based upon a pledge of tax increment revenues.

Therefore, I suggest that Section 2 of the bill draft be amended to read, 24.60(2g) "Revenue" has the meaning given in s. 66.0621 (1) (c) and shall also include any tax increment revenues as defined in s. 66.1105((2)(i) appropriated by the governing body of the municipality to payment of the loan. ✓

add a few definitions
revenue obligation

Please note the wording of this proposed amendment was developed primarily by Q&B/Axley and I believe it is a good way to define "Revenue" for purposes of these trust fund loans.

- Section 11 of the Bill provides, 24.63 (1) (b) of the statutes is created to read: 24.63(1)(b) A revenue obligation trust fund loan to a municipality may be made for any term not exceeding 30 years and may be made payable in installments. The amount of a revenue obligation trust fund loan to a municipality that is based upon a pledge of revenue pledged by a tax incremental district under s. 66.1333, may not exceed an amount that would require the borrower to make annual payments including both principal, amortization and interest that exceed an amount equal to 80 percent of the projected annual state aid or shared revenue received by the borrower during the term of the loan.

The draft of this section closely follows our original suggestion. However, upon further review, I would suggest that the reference to s. 66.1333 be deleted and replaced with s. 66.1105.

Furthermore, to conform to the language suggested at a later point in this memo, I believe the last sentence should be amended to read: The maximum amount of a revenue obligation trust fund loan to a municipality that is based upon a pledge of tax increment revenues defined in s. 66.1105, may not exceed an amount that would require the borrower to make annual payments including both principal amortization and interest that exceed an amount equal to 80 percent of the amount of annual state shared revenue the applicant received in the past calendar year prior to the date of application.

The reason for the loan size limitation tied to the amount of a borrower's shared revenue is premised on the fact that loans based upon a pledge of tax increments are inherently riskier loans. As history has shown us, projections of tax increment revenue may not be reliable. Therefore, the shared revenue of the borrower subject to interception becomes much more important on these tax increment revenue loans. In this time of serious budget constraints, the future amounts of shared revenue are also unclear. With this in mind, BCPL is looking to put some sideboards on future revenue loans based on a pledge of tax increment revenues.

For more than 140 years, BCPL has been making general obligation loans to Wisconsin taxing authorities because they were considered safe, reliable, prudent investments. While we believe that certain revenue loans may also fit that definition, we are cautious about asking for lending authority for loans that may fall outside that zone.

Q&B / Axley have suggested the deletion of the provision limiting revenue loans based on tax increments. As an alternative to deletion, they proposed a clause providing "Revenue obligation trust fund loans secured by a pledge of tax increment revenues from a tax incremental district under 66.1105 shall be amortized so that annual payments thereon will not exceed an amount equal to 80% of the municipality's shared revenues received in the calendar year prior to the date of the loan."

The purpose of BCPL's proposed provision was to limit the size of a tax increment revenue loan to an amount that could be fully secured by the shared revenue of the borrower. However, the proposal from Q&B / Axley seems to **describe the mechanics of structuring the loan rather than serving as a limitation on the size of the loan.** The suggestions from Q&B/Axley with respect to this issue are not acceptable to BCPL.

- Section 12 of the Bill provides, 24.66(1) (intro.) of the statutes is amended to read: 24.66(1) FOR ALL MUNICIPALITIES. (intro.) No trust fund loan may be made unless an application is made to the board under this section. The application shall state the amount of money required, the purpose to which it is to be applied, the times and terms of repayment, and, in the case of a cooperative educational service agency, the names of the school districts participating in the distance education project for which the loan is sought. If the application is for a revenue obligation trust fund loan, the application shall state the expected revenues from which the loan is to be repaid, shall include the applicant's pledge of those revenues to repay the loan, and shall state the amount of annual state aid and shared revenue the applicant anticipates receiving. The application shall be accompanied by satisfactory proof of all of the following:..."

While the language in the bill draft is very similar to our proposed language, there is a slight structural difference. We had suggested that the clause, "If the application is for a revenue obligation trust fund loan..." be added as a subsection since the title of the above section is "FOR ALL MUNICIPALITIES." I still believe that this sentence should be in a separate subsection.

OK
T.M.

Q&B / Axley also suggested a slight change in the information that should be provided on an application for a revenue obligation loan. As suggested by BCPL, the bill draft requires the applicant to state the amount of annual state aid and shared revenue the applicant anticipated receiving. Q&B / Axley suggested an amendment which would require that the applicant state *the amount of annual state shared revenue the applicant received in the past calendar year prior to the date of application.* I believe this language is an improvement over our original suggested language. It removes ambiguity over what is all included in the definition of "state aid" and it also removes any question over what amount is anticipated. I recommend that this suggested change be incorporated into the bill draft.

OK

SUGGESTED ADDITION TO THE BILL

My original memo omitted one additional statute in Chapter 24 which should be modified to accommodate revenue obligation loans. Section 24.66(5) currently requires all borrowers to pass an irrevocable tax levy as a condition for obtaining a trust fund loan. This levy would not be required for revenue loans and therefore this section should be modified accordingly.

Q&B / Axley has proposed that s. 24.66(5)(a) be amended to read:

- Every application for a general obligation trust fund loan under this section by a municipality shall be accompanied by a certified copy under the hand of the proper clerk of a recorded resolution adopted by the municipality applying for or approving the loan, levying, except as provided in par. (b), upon all the taxable property of the municipality a direct annual tax for the purpose of paying and sufficient to pay the principal and interest on the proposed loan as they become due. In a 1st class city school district, the application shall be accompanied by a certified copy of a resolution, adopted by the board of school directors, stating that it is the intention of the board of school directors to

OK

include in its budget transmitted to the common council under s. 119.16 (8) (b) a written notice specifying the amount of money necessary to pay the principal and interest on the loan as they become due. Every application for a general obligation trust fund loan under this subsection by a cooperative educational service agency shall be accompanied by a copy of a recorded resolution adopted by the school board of each school district for which the loan is sought, certified by the school district clerk of that school district, levying upon all taxable property of the school district a direct annual tax for the purpose of paying and sufficient to pay the school district's share of the principal and interest on the proposed loan as they become due. The levy imposed by the municipality shall be void if the board declines to make the loan; otherwise it shall remain valid and irrevocable until the loan and all interest on the loan are fully paid.

I recommend the inclusion of the above language in the bill.

The Bill drafter submitted several questions:

1. The instructions for this draft included a request to define the term "revenue" in the draft and suggested using the definition in s.66.0621. It is not clear to me whether the various cross-references in that definition are relevant for the purposes of this draft. Please look closely at that definition to make sure that the cross-references are relevant.

Section 66.0621(1) (c) contains a definition for the term "revenue." This section also contains a number of cross references to other sections (most of which concern professional baseball or football stadium districts). I do not believe that the cross references in this definition are needed for purposes of revenue obligation loans authorized under Chapter 24.

2. The instructions for this draft refer, in several places, to "TIF districts" under s. 66.1333. Under current law, the tax incremental financing law is generally established under s. 66.1105. Did you intend to refer to s. 66.1105 in your instructions?

I now believe that s.66.1105 is the proper statute to reference. In my earlier memo, I had used the reference to s. 66.1333 because subsection (5) of 66.1333 covered borrowing of money to finance TIF district activities. However, our proposed legislation should be focused on tax increment revenue as defined in s. 66.1105 rather than the borrowing mechanics of s. 66.1333.

3. Your instructions indicate that the revenue obligation trust fund loans that will be made as provided in this draft will be based on a pledge of revenue generated "through TIF districts." Could you provide more information on the manner in which such revenue be generated? Without this information, it is difficult to know whether any other statutes may require amending to achieve the purpose of this draft.

It is my understanding that some of the loans that will be made under this new authority will be based upon a pledge of revenues that are described in s. 66.0621. It is further my understanding that some of the loans that will be made will be based upon a pledge of tax increments that are described in 66.1105. It is also my understanding that some of the loans that will be made may be based upon BOTH a pledge of revenues described in 66.0621 AND a pledge of tax increments described in 66.1105. The phrase "revenue generated through TIF districts" was my inartful way of saying a pledge of **tax increment revenues**.

4. This draft does not include the requested "clean up" language for the items concerning advanced refunding, the execution of municipal obligations, and ch. 67 exemptions (which appear at the bottom of page 4 and the top of page 5 of the instructions for this redraft). Marc Shovers, who drafts in the area of local government and I will need additional explanation with regard to those items in order to include them in the next version of the draft. After you have had an opportunity to review this version of the draft, we would be happy to talk with you about those items so that we can add them to the draft.

Advanced Refunding. Paying off existing general obligation loans by using the proceeds from new general obligation loans is generally pretty noncontroversial, especially if it results in a lower interest rate or better overall terms. However, there may be a problem if the borrower's total g.o. debt is getting close to the 5% limit on general obligation debt with respect to the equalized value of the borrower. If the "old" loan is not paid off immediately with the "new" loan, there is technically a period of time that the borrower will have both loans outstanding. Both of such loans would count against the debt limit unless an exception to the law applied. Such an exception is supplied by s. 67.03 (2m) which considers that the payoff of the old loan and the disbursement of the new loan as simultaneous. This results in only one of the loans being counted toward the debt limit. **This exception is available to all other debt issued by Wisconsin municipalities and school districts, but not necessarily to state trust fund loans.** My earlier memo sought to level the playing field by allowing state trust fund loan borrowers to use this "simultaneous treatment of advanced refunding" exception as well.

Rather than tinker with s. 67.01(9), it may be easier to merely recreate the language of s. 67.03 (2m) within chapter 24.

Personnel Authorized to Execute Debt Obligations / Loan Funding Procedures.

Another part of Chapter 24 that we had identified for clean up was s. 24.67. This statute does two things; it identifies which municipal officials must execute a certificate of indebtedness for a state trust fund loan and it provides the mechanism for funding the loan.

We discovered that s. 67.08 also applies to state trust fund loans through s. 67.01(9). Section 67.08(1) also identifies who can legally execute a municipal obligation instrument. Unfortunately, there appear to be some slight differences between the

two statutes. I have outlined below the specific conflicts and my recommendations for resolving the conflicts.

✓ OK Section 67.08 requires city debt instruments to be executed by the mayor or the city manager. Section 24.67 allows only the mayor to sign. Since some cities do not have mayors, I recommend that s. 24.67 be amended to read: (d) For a city, by its mayor or the city manager;

✓ OK Section 67.08 requires county debt instruments to be counter signed by the county clerk. Section. 24.67 does not. I recommend that s. 24.67(2)(a) be amended to read: (a) For the town, village, county, or city, by the clerk of that town, village, county or city.

✓ OK As noted above, s. 24.67 also describes the mechanism for funding trust fund loans. Section 24.67(3) should be slightly modified to reflect the current loan funding procedures. (The secretary of administration does not draw warrants for loans, etc.) I suggest that this section be amended to read, "If a municipality has acted under subs. (1) and (2), it shall certify that fact to the board. Upon receiving a certification....the board shall cause the loan to be disbursed to the treasurer of the municipality..."

SUMMARY

I generally agree with most of the suggested changes by Q & B / Axley except for one significant section.

Here are the points I agree on:

- Section 2 of the Bill. Definition of "revenue" should include "traditional" revenue from municipal utilities and also tax increment revenue. (I suggest a slight tweak to the Q&B language).
- Section 12 of the Bill. The bill's language requiring an applicant to supply information on shared revenue can be improved. I would incorporate most of the language proposed by Q&B.
- New addition to the Bill. I and the bill drafter missed one statute that should be modified to apply only to general obligation loans since it currently requires a tax levy for all trust fund loans. I agree that s. 24.66(95)(a) should be amended as proposed by Q&B.

I do not agree on the following:

- Section 11 of the Bill. The Language limiting tax increment revenue loans should be cleaned up a bit. That much is agreed upon by everyone. However, Q&B has suggested deleting the language which would limit the size of a tax increment loan or in

the alternative, inserting some "soft" language allowing certain debt coverage ratios. I do not agree with this proposal as it would open the door for loan requests that may have substantially greater risks than would be prudent for the fiduciaries. Projected estimates of tax increments have proven to be unreliable. In fact, the unreliability of those projections is what led to the suggestion of this legislation in the first place. Debt coverage based upon expected tax increment revenues does provide the level of security we are seeking on these loans. I strongly recommend BCPL not accept the language proposed by Q&B due to the risk discussed above.

Kite, Robin

From: Kelley, Margit
Sent: Wednesday, August 03, 2011 12:18 PM
To: German, Tom - BCPL; Kite, Robin
Subject: LRB-0826/P2 - after-meeting notes

Hi Tom and Robin,

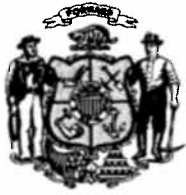
As per Tia's suggestion, I was thinking it might be helpful to give a quick rundown of the action items for the next P-draft of LRB-0826/P2. Here's my recollection from our meeting today:

- Section 2: refine definition of revenue to specify both the general and TIF types of revenue, and to identify that the loan is a revenue obligation trust fund loan.
- Section 3: possibly revise to either broaden or refine the definition of a revenue obligation trust fund loan.
- After Section 4: create a new section to amend s. 24.61 (2) (a) 4., inserting "notes, or other instruments of indebtedness."
- Section 11: revise security language, and check usage of "amortization."
- Section 12: review and possibly revise statutory placement of the newly-created language; also, revise the language to remove the reference to state aid, and change "anticipates receiving" to "received in the last calendar year prior to the date of application." Another suggestion: would it make sense to change "expected revenues" to "anticipated amount of revenues"?
- Create a new Section to amend s. 24.66 (5) (a), stats., specifying applicability only to a general obligation trust fund loan.
- Create a new Section applying the dual loan debt limit consideration, as in s. 67.03 (2m), stats., to BCPL.
- Create a new Section to revise s. 24.67, stats., for the personnel authorized to execute debt obligations as in s. 67.08, stats, and the certification procedure to disburse the funding.

Does this cover it all?

After 4 pm today I'll be out of the office until next Wednesday.

Margit Kelley
Wisconsin Legislative Council
608-266-9280
Margit.Kelley@legis.wi.gov



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2150/P2
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P2

*DUE
Wednesday*

ETM

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

*In
8/11*

D-Note

VX
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1 **AN ACT to repeal** 24.61 (3) (c) and 24.61 (3) (d); **to renumber and amend** 24.63

2 (1); **to amend** 24.61 (2) (a) 3., 24.61 (2) (b), 24.61 (4) (title), 24.66 (1) (intro.),

3 24.66 (1) (a), 24.66 (1) (b), 24.66 (1) (c), 24.66 (3m), 24.68, 24.70 (3), 24.70 (6),

4 24.71 (5), 24.715 (4), 24.716 (4), 24.717 (4) and 121.07 (1) (a); and **to create**

5 24.60 (1w), 24.60 (2g), 24.60 (2m), 24.61 (2) (a) 11. and 24.63 (1) (b) of the

6 statutes; **relating to:** authorizing the Board of Commissioners of Public Lands

7 to ~~offer~~ *make* revenue obligation trust fund loans to certain municipalities. ✓

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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:

8 **SECTION 1.** 24.60 (1w) of the statutes is created to read:

SECTION 1

1 24.60 (1w) "General obligation trust fund loan" means a state trust fund loan
2 that is the general obligation of the borrower.

3 SECTION 2. 24.60 (2g) of the statutes is created to read:

4 24.60 (2g) "Revenue" has the meaning given in s. 66.0621 (1) (c).

5 SECTION 3. 24.60 (2m) of the statutes is created to read:

6 24.60 (2m) "Revenue obligation trust fund loan" means a state trust fund loan
7 that is based upon a pledge of revenue generated by the activity for which the loan
8 is made.

9 SECTION 4. 24.61 (2) (a) 3. of the statutes is amended to read:

10 24.61 (2) (a) 3. Bonds of, notes, or other instruments of indebtedness issued by
11 this state.

12 SECTION 5. 24.61 (2) (a) 11. of the statutes is created to read:

13 24.61 (2) (a) 11. Financial institution accounts that are insured by a deposit
14 insurance corporation, as defined in s. 214.01 (1) (h).

15 SECTION 6. 24.61 (2) (b) of the statutes is amended to read:

16 24.61 (2) (b) ~~Deposited with secretary of administration~~ Manner for holding
17 instruments of indebtedness and securities. All bonds, notes, and other securities purchased under par. (a) shall be
18 deposited with the secretary of administration held in a manner determined by the
19 board.

20 SECTION 7. 24.61 (3) (c) of the statutes is repealed.

21 SECTION 8. 24.61 (3) (d) of the statutes is repealed.

22 SECTION 9. 24.61 (4) (title) of the statutes is amended to read:

23 24.61 (4) (title) LOAN LIMITATIONS TO COUNTIES.

24 SECTION 10. 24.63 (1) of the statutes is renumbered 24.63 (1) (a) and amended
25 to read:

Ins. 2-6

INS. 2-11

leave it

INS. 2-19

DO NOT delete

INS. 2-23

1 24.63 (1) (a) A state general obligation trust fund loan, other than a loan to a
 2 school district, may be made for any term not exceeding 20 years and may be made
 3 payable in installments. A state general obligation trust fund loan to a municipality
 4 other than a school district shall be in an amount which does not, together with all
 5 other indebtedness of the municipality applying for the loan, exceed 5% of the
 6 valuation of the taxable property within the municipality as equalized for state
 7 purposes. ~~If a state general obligation trust fund loan is made to pay off existing~~
 8 ~~indebtedness, it may be advanced to the borrower in installments as fast as the~~
 9 ~~indebtedness or the evidence of indebtedness is canceled.~~

10 **SECTION 11.** 24.63 (1) (b) of the statutes is created to read:

11 24.63 (1) (b) ^{1.} A revenue obligation trust fund loan to a municipality may be
 12 made for any term not exceeding 30 years and may be made payable in installments.

13 The amount of a revenue obligation trust fund loan to a municipality that is based
 14 upon a pledge of revenue pledged by a tax incremental district under s. ~~66.1333~~ ^{66.4105} may
 15 not exceed an amount that would require the borrower to make annual payments,
 16 including principal, amortization, and interest, that exceed an amount equal to 80
 17 percent of the projected annual state aid or shared revenue received by the borrower
 18 during the term of the loan.

***NOTE: This language needs additional drafting. I don't think that the cross-reference to s. 66.1333 is the correct cross-reference. I also do not understand what is meant by "state aid" given that there are various types of state aid under current law. Can you provide more information?

19 **SECTION 12.** 24.66 (1) (intro.) of the statutes is amended to read:

20 24.66 (1) **FOR ALL MUNICIPALITIES.** (intro.) No trust fund loan may be made
 21 unless an application is made to the board under this section. The application shall
 22 state the amount of money required, the purpose to which it is to be applied, the times
 23 and terms of repayment, ~~whether the loan is sought for an educational technology~~

FNS.
3-12

SECTION 12

or distance education project under s. 24.61 (3) (d), and, in the case of a cooperative educational service agency, the names of the school districts participating in the distance education project for which the loan is sought. If the application is for a revenue obligation trust fund loan, the application shall state the expected revenues from which the loan is to be repaid, shall include the applicant's pledge of those revenues to repay the loan, and shall state the amount of annual state aid and shared revenue the applicant anticipates receiving. The application shall be accompanied by satisfactory proof of all of the following:

SECTION 13. 24.66 (1) (a) of the statutes is amended to read:

24.66 (1) (a) ~~Of If the application is for a general obligation trust fund loan, the valuation of all the taxable property within the municipality as equalized for state purposes;~~

SECTION 14. 24.66 (1) (b) of the statutes is ^{renumbered 24.66(1)(bg)2. and} amended to read:

24.66 (1) (b) ^{(bg) 2.} Of all ~~all~~ the existing indebtedness of the municipality; and

SECTION 15. 24.66 (1) (c) of the statutes is ^{renumbered 24.66(1)(bg)3. and} amended to read:

24.66 (1) ~~(c)~~ ^{(bg) 3.} Of the ~~The~~ approval of the application as required by subs. (2) to

(4).

SECTION 16. 24.66 (3m) of the statutes is amended to read:

24.66 (3m) FOR EDUCATIONAL TECHNOLOGY OR DISTANCE EDUCATION LOANS. An application by a county, city, village or town to undertake an educational technology or distance education project, ~~or by a consortium that includes a county, city, village or town under s. 24.61 (3) (d)~~ shall be accompanied by a resolution of the county or municipal library board for that county, city, village or town, ~~or the county or municipal library board of each county, city, village or town participating in the~~

INS
4-17
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1 consortium, requesting the county, city, village or town to apply for the loan for the
2 purpose of conducting an educational technology or distance education project.

INS.
5-2

3 SECTION 17. 24.68 of the statutes is amended to read:

4 **24.68 Payment of state trust fund loans.** All the taxable property in any
5 municipality which obtains a general obligation trust fund loan shall stand charged
6 for the payment of the principal and interest on that loan.

7 SECTION 18. 24.70 (3) of the statutes is amended to read:

8 24.70 (3) AMOUNT ADDED TO MUNICIPAL LEVY. Upon receipt of a certified
9 statement by a municipal clerk, the municipal clerk shall then cause the amount to
10 be added to the municipal levy and collected in the same manner as the municipal
11 tax except the amount for the state trust fund loan shall be separately designated.
12 Upon receipt of a certified statement by a school district clerk from a cooperative
13 educational service agency, the clerk shall cause the amount for which the district
14 is responsible under s. 24.61 (7) to be added to the school district levy and collected
15 in the same manner as the school district tax, except that the amount for the loan
16 shall be separately stated. This subsection does not apply to revenue obligation trust
17 fund loans.

18 SECTION 19. 24.70 (6) of the statutes is amended to read:

19 24.70 (6) FAILURE TO MAKE PAYMENTS. If any municipality fails to remit the
20 amount due by the date specified under sub. (4), the board ~~may~~ shall file a certified
21 statement of the delinquent amount with the department of administration. The
22 secretary of administration shall collect the amount due, including any penalty, by
23 deducting that amount from any state payments due the municipality ~~and~~, shall
24 notify the treasurer and the board of that action, and shall immediately remit to the
25 board any amounts deducted from any state payments due to the municipality.

1 **SECTION 20.** 24.71 (5) of the statutes is amended to read:

2 **24.71 (5) FAILURE TO MAKE PAYMENT.** If the school district treasurer fails to remit
3 the amounts due under sub. (4), the state superintendent, upon certification of
4 delinquency by the board, shall deduct the amount due including any penalty from
5 any school aid payments due the school district, shall remit such amount to the
6 ~~secretary of administration~~ board and, no later than June 15, shall notify the school
7 district treasurer ~~and the board~~ to that effect.

8 **SECTION 21.** 24.715 (4) of the statutes is amended to read:

9 **24.715 (4) FAILURE TO MAKE PAYMENT.** If the system board fails to remit the
10 amounts due under sub. (3), the state superintendent, upon certification of
11 delinquency by the board, shall deduct the amount due, including any penalty, from
12 any aid payments due the system, shall remit such amount to the ~~state treasurer~~
13 board and, no later than June 15, shall notify the system board ~~and the board~~ to that
14 effect.

15 **SECTION 22.** 24.716 (4) of the statutes is amended to read:

16 **24.716 (4) FAILURE TO MAKE PAYMENT.** If the district board fails to remit the
17 amounts due under sub. (3), the secretary of administration, upon certification of
18 delinquency by the board of commissioners of public lands, shall deduct the amount
19 due, including any penalty, from any state aid payments due the district, shall remit
20 such amount to the ~~secretary of administration~~ board, and, no later than June 15,
21 shall notify the district board ~~and the board~~ to that effect.

22 **SECTION 23.** 24.717 (4) of the statutes is amended to read:

23 **24.717 (4) FAILURE TO MAKE PAYMENT.** If the local professional baseball park
24 district board fails to remit the amounts due under sub. (3), the secretary of
25 administration, upon certification of delinquency by the board of commissioners of

1 public lands, shall deduct the amount due, including any penalty, from any state
2 payments due the district, shall remit such amount to the ~~secretary of~~
3 ~~administration board~~, and, no later than June 15, shall notify the district board and
4 the board of commissioners of public lands to that effect.

5 **SECTION 24.** 121.07 (1) (a) of the statutes is amended to read:

6 121.07 (1) (a) The membership of the school district in the previous school year
7 and the shared cost for the previous school year shall be used in computing general
8 aid. ~~If a school district has a state trust fund loan as a result of s. 24.61 (3) (c) 2., the~~
9 ~~school district's debt service costs shall be based upon current school year costs for~~
10 ~~the term of the loan and for one additional school year.~~

11

(END)

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~~4~~ No

that is made to a municipality and to which any of the following apply: *e applies*

2

(a) It is made for the purpose of financing a project, ✓ as defined in s. 67.04 (1) (ar) ✓ and is secured by a pledge of the income that the municipality will receive from moneys generated by that project. ✓

5

(b) It is made for the purpose of financing project costs, ✓ as defined in s. 66.1105 (2) (f) ✓, and is secured by the tax increments that will be allocated to the municipality for those project costs by the department of revenue under s. 66.1105 (6). ✓

INSERT 2-11 *A*

8

~~X~~ SECTION 1. 24.61 (2) (a) 4. of the statutes is amended to read:

9

24.61 (2) (a) 4. Bonds, notes, or other instruments of indebtedness issued ✓

10

pursuant to law by any town, village, city, county or school district of this state.

History: 1971 c. 154; 1973 c. 114; 1975 c. 224; 1979 c. 34 s. 2102 (22) (a); 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.61; 1983 a. 196; 1983 a. 207 ss. 2, 95; 1983 a. 423; 1985 a. 49; 1985 a. 332 s. 251 (3); 1987 a. 76, 197; 1989 a. 31; 1991 a. 269; 1993 a. 16, 263, 399; 1995 a. 27, 56, 227; 1997 a. 27; 1999 a. 65, 83; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 16; 2003 a. 33; 2005 a. 25, 335, 352; 2007 a. 20, 97; 2009 a. 2, 28.

(end ins 2-11)

INSERT 2-23

11

~~X~~ SECTION 2. 24.61 (4m) of the statutes is created to read:

12

24.61 (4m) LOANS TO PAY OFF EXISTING INDEBTEDNESS. ✓ If the board ✓ makes a loan

13

to a municipality to pay off existing indebtedness, the making of the loan and the

14

payment of the existing indebtedness shall be treated as if they occur

15

simultaneously. ✓

****NOTE: I'm not sure that this language correctly describes the manner in which this type of loan is made. Please review this language for accuracy.

INSERT 3-12



1 2. If the board makes a revenue obligation trust fund loan[✓] to a municipality as
 2 described in s. 24.60 (2m) (b)[✓], the loan may not exceed an amount that would require
 3 the municipality to make annual payments, including principal and interest, of more
 4 than 80 percent[✓] of the municipality's shared revenue payments received under
 5 subch. I of ch. 79[✓] in the year immediately preceding the year in which the loan
 6 application is made.

****NOTE: Is it possible to make a loan that is only partially secured by tax increments? If so, I think this provision requires additional drafting.

(end ins 3-12)

INSERT 4-12

7 **SECTION 3.** 24.66 (1) (intro.)[✓] of the statutes is renumbered 24.66 (1) (ag) and
 8 amended to read:

9 24.66 (1) (ag)[✓] No trust fund loan may be made unless an application is made
 10 to the board under this section. The application shall state the amount of money
 11 required, the purpose to which it is to be applied, the times and terms of repayment,
 12 ~~whether the loan is sought for an educational technology or distance education~~
 13 ~~project under s. 24.61 (3) (d), and, in the case of a cooperative educational service~~
 14 ~~agency, the names of the school districts participating in the distance education~~
 15 ~~project for which the loan is sought. The~~

16 **(bg)** An application for a general obligation trust fund loan[✓] shall be
 17 accompanied by satisfactory proof of all of the following:[✓]

History: 1979 c. 221, 355; 1981 c. 169; Stats. 1981 s. 24.66; 1983 a. 496, 423; 1985 a. 49, 218, 225; 1987 a. 76, 79; 1995 a. 27, 227, 417; 1997 a. 27; 1999 a. 150 s. 672; 1999 a. 182; 2001 a. 16; 2001 a. 30 s. 108; 2007 a. 20; 2009 a. 2, 28.

18 **SECTION 4.** 24.66 (1) (a)[✓] of the statutes is renumbered 24.66 (1) (bg) 1. and
 19 amended to read:

1 24.66 (1) (bg) 1. ~~Of the~~ [✓]The valuation of all the taxable property within the
 2 municipality as equalized for state purposes; [✓]

History: 1979 c. 221, 355; 1981 c. 169; Stats. 1981 s. 24.66; 1983 a. 196, 423; 1985 a. 49, 218, 225; 1987 a. 76, 79; 1995 a. 27, 227, 417; 1997 a. 27; 1999 a. 150 s. 672; 1999 a. 182; 2001 a. 16; 2001 a. 30 s. 108; 2007 a. 20; 2009 a. 2, 28.

INSERT 4-17

3 **SECTION 5.** 24.66 (1) (cg) [✓]of the statutes is created to read:

4 24.66 (1) (cg) An application for a [✓]revenue obligation trust fund loan shall be
 5 accompanied by all of the following: [✓]

6 1. If the loan is for a project that will be secured in the manner specified in s.
 7 24.60 (2m) (a), [✓]a statement of the amounts that the municipality anticipates
 8 receiving from moneys generated by that project, and the municipality's pledge to
 9 repay the loan from those amounts.

10 2. If the loan is for project costs that will be secured in the manner specified in
 11 s. 24.60 (2m) (b), [✓]a statement of the tax increments that the municipality anticipates
 12 will be allocated to the municipality for those project costs by the department of
 13 revenue [✓]under s. 66.1105 (6), [✓]and the municipality's pledge to repay the loan from
 14 that allocation.

15 3. Satisfactory proof of the amount of annual shared revenue payments made
 16 to the municipality under subch. I of ch. 79 [✓]in the year immediately preceding the
 17 year in which the application for the loan is made.

18 4. Satisfactory proof of the approval of the application as required by sub. (2). [✓]

19

INSERT 5-2

20 **SECTION 6.** 24.66 (5) (a) [✓]of the statutes is amended to read:



MS 5-2
cont

1 24.66 (5) (a) Every application for a [✓]general obligation trust fund loan under
2 this section by a municipality shall be accompanied by a certified copy under the
3 hand of the proper clerk of a recorded resolution adopted by the municipality
4 applying for or approving the loan, levying, except as provided in par. (b), upon all
5 the taxable property of the municipality a direct annual tax for the purpose of paying
6 and sufficient to pay the principal and interest on the proposed loan as they become
7 due. In a 1st class city school district, the application shall be accompanied by a
8 certified copy of a resolution, adopted by the board of school directors, stating that
9 it is the intention of the board of school directors to include in its budget transmitted
10 to the common council under s. 119.16 (8) (b) a written notice specifying the amount
11 of money necessary to pay the principal and interest on the loan as they become due.
12 Every application for a [✓]general obligation trust fund loan under this subsection by
13 a cooperative educational service agency shall be accompanied by a copy of a recorded
14 resolution adopted by the school board of each school district for which the loan is
15 sought, certified by the school district clerk of that school district, levying upon all
16 taxable property of the school district a direct annual tax for the purpose of paying
17 and sufficient to pay the school district's share of the principal and interest on the
18 proposed loan as they become due. The levy imposed by the municipality shall be
19 void if the board declines to make the loan; otherwise it shall remain valid and
20 irrepeatable until the loan and all interest on the loan are fully paid.

History: 1979 c. 221, 355; 1981 c. 169; Stats. 1981 s. 24.66; 1983 a. 196, 423; 1985 a. 49, 218, 225; 1987 a. 76, 79; 1995 a. 27, 227, 417; 1997 a. 27; 1999 a. 150 s. 672; 1999 a. 182; 2001 a. 16; 2001 a. 30 s. 108; 2007 a. 20; 2009 a. 2, 28

21 **SECTION 7.** 24.67 (1) (d) of the statutes is amended to read:

22 24.67 (1) (d) For a city, by its mayor or city manager.[✓]

History: 1971 c. 154; 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.67; 1987 a. 76; 1993 a. 184, 399, 491; 1995 a. 27; 1999 a. 150 s. 672; 2001 a. 16; 2001 a. 30 s. 108; 2003 a. 33; 2007 a. 20; 2009 a. 28.

23 **SECTION 8.** 24.67 (2) (a) of the statutes is amended to read:



INS 5-2
CONT

1 24.67 (2) (a) For the county, town, village, or city, by the clerk of that county,
2 town, village, or city. ✓

History: 1971 c. 154; 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.67; 1987 a. 76; 1993 a. 184, 399, 491; 1995 a. 27; 1999 a. 150 s. 672; 2001 a. 16; 2001 a. 30 s. 108; 2003 a. 33; 2007 a. 20; 2009 a. 28.

3 **SECTION 9.** 24.67 (3) of the statutes is amended to read:

4 24.67 (3) If a municipality has acted under subs. (1) and (2), it shall certify that
5 fact to the ~~department of administration~~ board. ✓ Upon receiving a certification from
6 a municipality, or upon direction of the board if a loan is made to a cooperative
7 educational service agency, drainage district created under ch. 88, local professional
8 baseball park district created under subch. III of ch. 229, or a federated public library
9 system, the ~~secretary of administration~~ board ✓ shall ~~draw a warrant for~~ disburse the
10 ~~amount of the loan~~ amount, payable to the treasurer of the municipality, cooperative
11 educational service agency, drainage district, or federated public library system
12 making the loan or as the treasurer of the municipality, cooperative educational
13 service agency, drainage district, local professional baseball park district, or
14 federated public library system directs. The certificate of indebtedness shall then be
15 conclusive evidence of the validity of the indebtedness and that all the requirements
16 of law concerning the application for the making and acceptance of the loan have
17 been complied with.

History: 1971 c. 154; 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.67; 1987 a. 76; 1993 a. 184, 399, 491; 1995 a. 27; 1999 a. 150 s. 672; 2001 a. 16; 2001 a. 30 s. 108; 2003 a. 33; 2007 a. 20; 2009 a. 28.

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SECTION 1. 24.61 (2) (b) of the statutes is amended to read:

3

24.61 (2) (b) *Deposited with secretary of administration.* All bonds, notes, and

4

other instruments of indebtedness or securities purchased under par. (a) shall be

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deposited with the secretary of administration.

History: 1971 c. 154; 1973 c. 114; 1975 c. 224; 1979 c. 34 s. 2102 (22) (a); 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.61; 1983 a. 196; 1983 a. 207 ss. 2, 95; 1983 a. 423; 1985 a. 49; 1985 a. 332 s. 251 (3); 1987 a. 76, 197; 1989 a. 31; 1991 a. 269; 1993 a. 16, 263, 399; 1995 a. 27, 56, 227; 1997 a. 27; 1999 a. 65, 83; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 16; 2003 a. 33; 2005 a. 25, 335, 352; 2007 a. 20, 97; 2009 a. 2, 28.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2150/P2dn

RNK: ^:...

date

jld

This redraft incorporates the changes requested at our recent meeting. It also contains some clarifying language based on a follow-up conversation I had with Tom German. Although the changes requested were relatively minor, the nature of the changes required some fairly extensive redrafting. Please review the draft carefully to ensure that it accomplishes your intent. Also, please see the notes embedded in the draft.

Please feel free to contact me if you have any questions about this draft

Robin N. Kite
Senior Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

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

LRB-2150/P2dn
RNK:jld:ph

August 16, 2011

This redraft incorporates the changes requested at our recent meeting. It also contains some clarifying language based on a follow-up conversation I had with Tom German. Although the changes requested were relatively minor, the nature of the changes required some fairly extensive redrafting. Please review the draft carefully to ensure that it accomplishes your intent. Also, please see the notes embedded in the draft.

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Robin N. Kite
Senior Legislative Attorney
Phone: (608) 266-7291
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Kite, Robin

From: German, Tom - BCPL [Tom.German@Wisconsin.gov]
Sent: Friday, August 19, 2011 5:19 PM
To: Kelley, Margit; Kite, Robin
Cc: Jackson, Tom; Allbaugh, Todd; Griffiths, Terri; Schmidt, Melissa; Murphy, Anne C - DOJ; Stensberg, Dean F - DOJ; Tarver, Sandra L - DOJ
Subject: RE: BCPL Loans Relating to TIF - LRB-2150/P2

I think the revised draft was done well.

I agree with the first two suggestions by Margit. However, I don't think the third recommendation is needed. The limitation expressed in that section of the bill is intended to apply only to loans secured by pledges of tax increments so I believe that the legislation is OK the way it is currently drafted.

I had some additional suggestions with respect to Section 2 of the bill on page 2. I suggest we insert the words "or refunding" after the word "financing" on lines 7 and 10 of page 2. I believe a number of communities will be looking to use this program to refinance existing debt. Inserting the words "or refunding" will clearly cover such refinance situations in addition to initial financing. Also, I do not know whether the use of the word "income" on line 8 is defined anywhere. "Income" can be interpreted as gross or net which may cause some additional confusion. Therefore, for the sake of consistency, it may be better to use the word "revenue" which generally has a broader interpretation.

I like Robin's improvement of the bill by amending the description of authorized investments on line 17 on page 2. As we have recently analyzed potential bond purchases, we discovered that bonds issued by technical colleges or metropolitan sewerage districts were not included in the laundry list of authorized bond investments under Wis. Stat. Section 24.61. We would respectfully ask that the bill sponsors consider a further amendment to this section allowing BCPL to invest in bonds issued by these type of entities.

As for Robin's first question on page 3 line 11, I believe that the language is accurate and would be even better with Margit's suggestion.

As for Robin's second question on page 4, if the loan would only be partially secured by tax increments, the remainder of the loan would need to be secured by some other stream of revenue or be a general obligation of the borrower. It is my understanding that BCPL would issue separate trust fund loans in that situation rather than try to construct one hybrid loan. In short, I believe the language is fine.

I have some concerns with the language on page 5 lines 13/14 and 18/19. The bill as drafted calls for the borrower to "pledge to repay the loan from..." the designated revenue. But that language doesn't give BCPL any priority as a lender to that stream of revenue. It is my understanding that the borrower is actually pledging (or assigning to the lender) the rights to the stream of revenue as security for the loan. The effect of this is with respect to tax increment trust fund loans, the borrower must use the annual tax increments to make the annual loan payment before the tax increments can be used for any other purpose. With respect to other revenue obligation trust fund loans, the borrower must use the annual pledged revenue to make the annual loan payment before any of that revenue can be used for any other purpose.

Overall, I think the revised draft addressed the issues we discussed. It appears that the number of remaining issues is very small.

I was wondering if we are going to sit down one last time before the bill is introduced.

I look forward to hearing from you.

Sincerely,

Tom German, Deputy Secretary
Office: (608) 267-2233
Fax: (608) 267-2787
Tom.German@wisconsin.gov

66.1105(6)(c)

From: Kelley, Margit [mailto:Margit.Kelley@legis.wisconsin.gov]

Sent: Friday, August 19, 2011 3:31 PM

To: German, Tom - BCPL; Kite, Robin - LEGIS

Cc: Jackson, Tom - LEGIS; Allbaugh, Todd - LEGIS; Griffiths, Terri - LEGIS; Schmidt, Melissa - LEGIS

Subject: BCPL Loans Relating to TIF - LRB-2150/P2

Dear Robin and Tom,

I have three possible clarifications for the BCPL-TIF investment bill draft:

- ✓ • Page 2, line 11, insert "a pledge of" after "secured by"?
- Page 3, line 9, insert "issuance" in place of "making"? *no*
- Page 4, line 4, insert "(a) or" between "(2m)" and "(b)", or just delete "(b)"? *no - per Tom*

If you have any questions, please feel free to contact me directly.

Margit Kelley
Wisconsin Legislative Council
608-266-9280
Margit.Kelley@legis.wi.gov

German, Tom - BCPL

From: Murphy, Anne C. [MurphyAC@DOJ.STATE.WI.US]
Sent: Thursday, August 25, 2011 3:12 PM
To: German, Tom - BCPL
Cc: Tarver, Sandra L - DOJ
Subject: RE: Draft review: LRB 11-2150/P2 Topic: BCPL loan program

Tom,

I have reviewed the proposed legislation expanding BCPL's lending authority to include revenue based loans and the email comments/suggestions that you forwarded to me. As a follow up to my voicemail message to you, I have a couple of language suggestions based on your comments that I think may help to clarify the definition of the revenue obligation trust fund loan in Section 2 and the requirements for the application for such a loan in section 17.

Section 2

p. 2 line 7 and 10: after "purpose of financing" add "or refinancing"

p. 2 line 8: replace "pledge of the income that the municipality will receive from moneys generated by that project" with "first priority security interest in revenue that the municipality will receive that is generated by that project."

p. 2 line 11: after "secured by" add "a first priority security interest in"

Section 17

p. 5 line 12: replace "amounts" with "stream of revenue"

p. 5 line 13: delete "moneys generated by"

p. 5 line 13-14: replace "pledge to repay the loan from those amounts" with "assignment of the stream of revenue from that project to the Board as security for repayment of the loan."

p. 5 line 18-19: replace "pledge to repay the loan from that allocation" with "assignment of the tax increments allocation to the Board as security for repayment of the loan."

Please let me know if you have any questions.

Anne

Anne C. Murphy

Assistant Attorney General

Wisconsin Department of Justice

State Programs, Administration and Revenue

(608) 266-9224

From: German, Tom - BCPL [mailto:Tom.German@Wisconsin.gov]
Sent: Thursday, August 25, 2011 11:50 AM
To: Murphy, Anne C.
Subject: RE: Draft review: LRB 11-2150/P2 Topic: BCPL loan program

Hi Anne,

8/26/2011