



(DNote)
State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1192/P2
EVM:kjfrs

1/23
RMR

DOA:.....Bong, BB0380 – Building commission approval process

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

INSERTS

Today

1/26/15

Don't Gen

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

OTHER STATE GOVERNMENT

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

For further information see the *state* 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:

2 **SECTION 1.** 13.48 (2) (ad) of the statutes is created to read:

3 13.48 (2) (ad) At the first meeting of the building commission following the
4 enactment of the biennial budget act, the commission may take any of the following
5 actions:

6 1. Authorize the department of administration to contract public debt or
7 obligations under subch. II of ch. 18 in an amount not to exceed the amount that the

1 building commission is authorized by the laws of this state to contract. If
2 authorization is granted under this subdivision, the department of administration
3 shall provide periodic reports regarding the contracting of debt or obligations under
4 this subdivision to the commission.

5 2. Release an amount not to exceed the amount of state building trust fund
6 moneys to the department of administration for planning for enumerated projects.

7 **SECTION 2.** 13.48 (2) (ah) of the statutes is created to read:

8 13.48 (2) (ah) After the first meeting of the building commission following the
9 enactment of the biennial budget act, the department of administration shall report
10 quarterly to the commission regarding the status of projects under the state building
11 program.

12 **SECTION 3.** 13.48 (2) (ap) of the statutes is created to read:

13 13.48 (2) (ap) After the enactment of the biennial budget act in any biennium,
14 any request for approval from the building commission of a project budget increase
15 or of a substantial change in an enumerated project, ~~lease, or land transaction~~ shall
16 be submitted in writing to the commission. If, within 14 working days after the date
17 of that written request, a majority of the members of the commission do not request
18 that the commission schedule a meeting to review the request under this paragraph,
19 the request is approved.

20 **SECTION 4.** 13.48 (2) (at) of the statutes is created to read:

21 13.48 (2) (at) Any request for approval, other than a request for approval of a
22 project budget increase or of a substantial change in an enumerated project, shall be
23 submitted in writing to the commission. If, within 14 working days after the date
24 of that written request, a majority of the members of the commission do not request

3. Arrange the department of ^{of} administration to issue revenue-obligation refunding obligations under S. 18.60. ✓

1 that the commission schedule a meeting to review the request under this paragraph,
2 the request is approved.

3 SECTION 5. 13.48 (2) (e) of the statutes is repealed.

4 SECTION 6. 13.48 (2) (f) of the statutes is repealed.

5 SECTION 7. 13.48 (4) of the statutes is repealed.

6 SECTION 8. 13.48 (6) of the statutes is repealed.

7 SECTION 9. 13.48 (19) of the statutes is renumbered 13.48 (19) (a) and amended
8 to read:

9 13.48 (19) (a) Whenever the building commission determines that the use of
10 innovative types of design and construction processes will make better use of the
11 resources and technology available in the building industry, the building commission
12 may waive any or all of s. 16.855, except s. 16.855 (13) and (14m) (a) to (c), if such the
13 action is in the best interest of the state and ~~if the waiver is accomplished through~~
14 ~~formal action of the building commission. The building commission may authorize~~
15 ~~the lease, lease purchase or acquisition of such facilities constructed in the manner~~
16 ~~authorized by the building commission~~ is approved by the building commission.

17 (b) Subject to the requirements of s. 20.924 (1) (i), the building commission may
18 also authorize the lease, lease purchase, or acquisition of ~~existing~~ facilities in lieu of
19 state construction of any project enumerated in the authorized state building
20 program.

21 SECTION 10. 16.855 (1m) of the statutes is amended to read:

22 16.855 (1m) The department shall let by contract to the lowest qualified
23 responsible bidder all construction work when the estimated construction cost of the
24 project exceeds \$50,000, except for construction work authorized under s. 16.858 and
25 except as provided in sub. (1r) or (10m) or s. 13.48 (19) (a). If factors other than dollar

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1 amounts are required to be evaluated for a project, the department shall specify a
2 formula that will convert the other factors into a dollar value for comparison.

3 SECTION 11. 16.855 (13) (a) 2. of the statutes is amended to read:

4 16.855 (13) (a) 2. In any project under this section that is let under s. 13.48 (19)
5 (a), the department shall identify, as provided under par. (b), the mechanical,
6 electrical, or plumbing subcontractors who have submitted the lowest bids and who
7 are qualified responsible bidders. The contractor awarded a contract under s. 13.48
8 (19) (a) shall contract with the mechanical, electrical, or plumbing subcontractors so
9 identified.

10 SECTION 12. 16.855 (14) (am) of the statutes is amended to read:

11 16.855 (14) (am) Except as provided in s. 13.48 (19) (a), the department shall
12 let all construction projects that exceed \$185,000 through single prime contracting.
13 The department may not request or accept any alternate bids when letting a
14 construction project through single prime contracting.

15

(END)

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D Note

**2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

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2

3 **SECTION 1.** 13.488 (1) (m) of the statutes is amended to read:

4 13.488 (1) (m) The duty to determine and make payments to the United States
5 required so as to avoid an adverse effect on any exclusion of interest from gross
6 income for federal income tax purposes on public debt, revenue obligations, and
7 operating notes issued pursuant to ~~ch. 18~~ s. 16.526, master lease obligations issued
8 pursuant to s. 16.76, and appropriation obligations issued pursuant to s. 16.527 and
9 to make any payments to advisors that assist in making the determination. If the
10 proceeds of an obligation are utilized for an activity that is financed from program
11 revenue, the building commission shall make the payments required under this
12 paragraph from that revenue, to the extent it is available.

History: 1971 c. 125; 1977 c. 29 s. 1650m (4); 1979 c. 32 s. 92 (5); 1979 c. 221; 1981 c. 20; 1983 a. 36 s. 96 (3), (4); 1987 a. 399; 1989 a. 219; 1999 a. 197; 2011 a. 10; 2013 a. 20.

13 **SECTION 2.** 13.90 (5) of the statutes is amended to read:

14 13.90 (5) The joint committee on legislative organization may contract for the
15 services of persons to advise those building commission members who also are
16 legislators on matters related to the state's issuance of state debt, and revenue
17 obligations ~~and operating notes under ch. 18.~~

History: 1971 c. 215; 1973 c. 90; 1975 c. 224, 421; 1977 c. 449; 1979 c. 34 ss. 7d to 7s, 2102 (32) (b); 1981 c. 372 s. 18; 1983 a. 27, 308; 1985 a. 29, 332; 1987 a. 27; 1989 a. 31, 359, 366; 1993 a. 52; 1995 a. 27, 162, 417; 1997 a. 27, 237; 1999 a. 4, 29, 81; 2001 a. 16; 2003 a. 33; 2005 a. 25; 2007 a. 20.

18 **SECTION 3.** 16.004 (9) of the statutes is amended to read:

19 16.004 (9) AGREEMENTS TO MAINTAIN AN ACCOUNTING FOR OPERATING NOTES. The
20 secretary may enter into agreements to maintain an accounting of, forecast and
21 administer those moneys that are in the process of collection by the state and that
22 are pledged for the repayment of operating notes issued under ~~subch. III of ch. 18~~

1 s.16.526, in accordance with resolutions of the building commission authorizing the
2 issuance of the operating notes.

History: 1971 c. 270; 1973 c. 333; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 196 ss. 21, 130 (3); 1977 c. 272; 1979 c. 34, 221, 357; 1981 c. 20 ss. 3v, 55d, 55m; 1983 a. 27 ss. 58, 2202 (49) (a); 1983 a. 524; 1985 a. 29; 1985 a. 332 s. 251 (3); 1987 a. 27; 1989 a. 335; 1991 a. 39, 316; 1993 a. 496; 1995 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33 ss. 140 to 141f, 9160; 2005 a. 25, 74, 335; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7, 10; 2013 a. 20.

3 **SECTION 4.** 16.287 (2) (a) of the statutes is amended to read:

4 16.287 (2) (a) For the purposes of ss. 16.526 (8), 16.75 (3m), 16.855 (10m), 16.87
5 (2), 18.16, 18.64, ~~18.77~~, 25.185, 119.495 (2), 200.57, 231.27 and 234.35, the
6 department shall establish and periodically update a list of certified minority
7 businesses, minority financial advisers and minority investment firms. Any
8 business, financial adviser or investment firm may apply to the department for
9 certification. For purposes of this paragraph, unless the context otherwise requires,
10 a "business" includes a financial adviser or investment firm.

History: 1983 a. 390; 1985 a. 182 s. 57; 1987 a. 27, 403; 1989 a. 31; 1991 a. 37, 39, 189; 1993 a. 112; 1997 a. 27; 1999 a. 150 s. 672; 2007 a. 196; 2011 a. 32 s. 3320; Stats. 2011 s. 16.287; 2013 a. 20.

11 **SECTION 5.** 16.40 (16) of the statutes is amended to read:

12 16.40 (16) MAINTAIN AN ACCOUNTING FOR OPERATING NOTES. Maintain an
13 accounting of, forecast and administer those moneys pledged for the repayment of
14 operating notes issued under subch. III of ch. 18 s.16.526, in accordance with
15 agreements entered into by the secretary under s. 16.004 (9).

History: 1971 c. 125; 1977 c. 196 s. 130 (3); 1977 c. 272; 1979 c. 1, 34, 221; 1981 c. 20, 27, 317; 1981 c. 390 s. 252; 1983 a. 27, 368, 524; 1985 a. 29; 1987 a. 4, 27; 1989 a. 31, 359; 1991 a. 39; 1993 a. 16; 1999 a. 9, 24, 185; 2001 a. 16, 109; 2003 a. 33 ss. 164, 9160; 2005 a. 25; 2007 a. 20.

16 **SECTION 6.** 16.405 (1) of the statutes is amended to read:

17 16.405 (1) ~~At~~ Subject to subs. (2) and (3), at any time the department
18 determines that a deficiency will occur in the funds of the state which will not permit
19 the state to meet its operating obligations in a timely manner, it may prepare a
20 request an authorizing resolution for the issuance of operating notes under subch.
21 III of ch. 18 and, subject to subs. (2) and (3), may submit the request to the building
22 commission s. 16.526.

History: 1983 a. 3; 1985 a. 29; 1997 a. 27.

1 SECTION 7. 16.405 (2) of the statutes is amended to read:

2 16.405 (2) The department may not ~~submit a request to the building~~
3 ~~commission~~ issue an authorizing resolution under sub. (1) unless the request
4 resolution is signed by the secretary and the governor.

History: 1983 a. 3; 1985 a. 29; 1997 a. 27.

5 SECTION 8. 16.405 (3) of the statutes is amended to read:

6 16.405 (3) If the department proposes to ~~submit a request to the building~~
7 ~~commission~~ issue a resolution under sub. (1), the secretary shall notify the joint
8 committee on finance in writing of the proposed action. If the cochairpersons of the
9 committee do not notify the secretary that the committee has scheduled a meeting
10 for the purpose of reviewing the proposed ~~submission~~ resolution within 14 working
11 days after the date of the secretary's notification, the department may ~~submit the~~
12 ~~request to the building commission~~ issue the resolution as proposed. If, within 14
13 working days after the date of the secretary's notification, the cochairpersons of the
14 committee notify the secretary that the committee has scheduled a meeting for the
15 purpose of reviewing the proposed ~~submission~~ resolution, the department may
16 ~~submit the request to the building commission~~ issue the resolution only upon
17 approval of the committee.

History: 1983 a. 3; 1985 a. 29; 1997 a. 27.

18 SECTION 9. 16.526 (title) of the statutes is created to read:

19 16.526(title) **Operating notes.**

20 SECTION 10. 16.53 (10) (a) of the statutes is amended to read:

21 16.53 (10) (a) If an emergency arises which requires the department to draw
22 vouchers for payments which will be in excess of available moneys in any state fund,
23 the secretary, after notifying the joint committee on finance under par. (b), may
24 prorate and establish priority schedules for all payments within each fund, including

1 those payments for which a specific payment date is provided by statute, except as
 2 otherwise provided in this paragraph. The secretary shall draw all vouchers
 3 according to the preference provided in this paragraph. All direct or indirect
 4 payments of principal or interest on state bonds and notes issued under subch. I of
 5 ch. 18 and payments due, if any, under an agreement or ancillary arrangement
 6 entered into under s. 18.06 (8) (a) relating to any public debt contracted under
 7 subchs. I and IV of ch. 18 have first priority. All direct or indirect payments of
 8 principal or interest on state notes issued under subch. III of ch. 18 s. 16.526 have
 9 2nd priority. No payment having a 1st or 2nd priority may be prorated or reduced
 10 under this subsection. All state employee payrolls have 3rd priority. The secretary
 11 shall draw all remaining vouchers according to a priority determined by the
 12 secretary. The secretary shall maintain records of all claims prorated under this
 13 subsection.

History: 1971 c. 100 s. 23; 1971 c. 215, 261; Sup. Ct. Order, 67 Wis. 2d 585, 773 (1975); 1975 c. 39, 164, 198, 397, 422; 1977 c. 29, 196, 418; 1979 c. 34, 221; 1981 c. 1, 20; 1983 a. 3, 27, 192, 368; 1985 a. 29, 300; 1985 a. 332 ss. 15, 251 (1); 1987 a. 399; 1989 a. 31; 1989 a. 125 ss. 1, 10; 1991 a. 39, 316; 1993 a. 80, 399; 1995 a. 27 ss. 301, 302, 9126 (19), 9130 (4); 1997 a. 3; 2001 a. 16; 2003 a. 33, 117, 171; 2005 a. 74, 335; 2007 a. 20 ss. 90b, 91, ~~9121~~ (6) (a); 2007 a. 97; 2009 a. 28; 2011 a. 7, 10; 2013 a. 20.

14 **SECTION 11.** 16.531 (1) of the statutes is amended to read:

15 16.531 (1) At least 15 days prior to the beginning of any calendar quarter in
 16 which the secretary anticipates that it may be necessary to exercise the authority
 17 conferred in s. 16.53 (10) (a) or 20.002 (11) (a) or to incur financial obligations and
 18 issue operating notes under subch. III of ch. 18 s. 16.526, the secretary shall submit
 19 a plan to the joint committee on finance describing the specific nature of any
 20 proposed action that may be required.

History: 1983 a. 3; 2013 a. 20.

21 **SECTION 12.** 16.531 (2) of the statutes is amended to read:

22 16.531 (2) If the secretary determines during any calendar quarter that action
 23 under s. 16.526, 16.53 (10) (a) or 20.002 (11) or subch. III of ch. 18 should be taken

1 that is different from the action specified in the plan submitted under sub. (1), the
2 secretary shall provide notice to the joint committee on finance of the specific nature
3 of any such action that may be required. If the joint committee on finance has not,
4 within 2 working days after such notification, scheduled a meeting to review the
5 secretary's proposal, the secretary may proceed with the proposed action. If, within
6 2 working days after such notification, the committee schedules a meeting, the
7 secretary may not proceed with the proposed action until after the meeting is held.

8 History: 1983 a. 3; 2013 a. 20.

SECTION 13. 16.531 (3) of the statutes is amended to read:

9 16.531 (3) Within 30 days after the end of each calendar quarter during which
10 the secretary exercises the authority conferred in s. 16.53 (10) (a), during which there
11 is any outstanding reallocation of moneys under s. 20.002 (11) (a) or during which
12 there are any outstanding operating notes issued under subch. III of ch. 18 s. 16.526,
13 the secretary shall submit to the joint committee on finance a report on the status
14 of all such matters, together with an assessment of the degree to which the secretary
15 anticipates that state funds and accounts will have sufficient revenues to meet
16 anticipated obligations during the 6-month period following the calendar quarter for
17 which the report is issued.

18 History: 1983 a. 3; 2013 a. 20.

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21 **SECTION 14.** 18.06 (6) of the statutes is amended to read:

22 18.06 (6) EXERCISE OF AUTHORITY. Public debt may be contracted and evidence
23 of indebtedness issued therefor under one or more authorizing resolutions, unless
24 otherwise provided in the resolution, at any time and from time to time, for any

1 combination of purposes, in any specific amounts, at any rates of interest, at any
 2 price or percentage of par value, for any term, payable at any intervals, at any place,
 3 in any manner and having any other terms or conditions deemed necessary or useful.
 4 A resolution authorizing the contracting of public debt may provide that the public
 5 debt bear interest at variable or fixed rates, bear no interest, bear interest payable
 6 at any time or bear interest payable only at maturity or upon redemption prior to
 7 maturity. Unless sooner exercised and unless a shorter period is provided in such
 8 resolution, every authorizing resolution shall expire ~~one year~~ two years after the
 9 date of its adoption.

History: 1977 c. 317; 1979 c. 107; 1981 c. 336; 1983 a. 368; 1985 a. 6; 1987 a. 27; 1989 a. 31, 46, 68, 366; 1991 a. 39, 221; 1993 a. 16; 1995 a. 27; 1997 a. 27; 2005 a. 22; 2007 a. 20; 2009 a. 180.

10 **SECTION 15.** 18.55 (5) of the statutes is amended to read:

11 18.55 (5) EXERCISE OF AUTHORITY. Money may be borrowed and evidences of
 12 revenue obligation issued therefor pursuant to one or more authorizing resolutions,
 13 unless otherwise provided in the resolution or in this subchapter, at any time and
 14 from time to time, for any combination of purposes, in any specific amounts, at any
 15 rates of interest, for any term, payable at any intervals, at any place, in any manner
 16 and having any other terms or conditions deemed necessary or useful. Revenue
 17 obligation bonds may bear interest at variable or fixed rates, bear no interest or bear
 18 interest payable only at maturity or upon redemption prior to maturity. Unless
 19 sooner exercised or unless a different period is provided in the resolution, every
 20 authorizing resolution, except as provided in s. 18.59 (1), shall expire ~~one year~~ two
 21 years after the date of its adoption.

History: 1977 c. 29; 1985 a. 29; 1987 a. 69; 1989 a. 31, 46; 1999 a. 9; 2003 a. 33; 2005 a. 25; 2007 a. 20; 2009, a. 180.

22 **SECTION 16.** 18.70 of the statutes is repealed.

of chapter 18

*SECTION #. ~~Subchapter~~ Subchapter III (title) [precedes 18.70],
 of the statutes is repealed.*

1 deficits as moneys are required. The requirements for moneys shall be established
2 by the department.

History: 1983 a. 3; 1985 a. 29.

SECTION 20. 18.725 of the statutes is renumbered 16.526 (3) and amended to

read:

3 **16.526 (3) Limit on amount of operating notes.** The building commission
4 department may not sell operating notes under s. ~~18.73 (2)~~ sub. (4) (b) at any time
5 if the amount of operating notes to be sold at that time plus the amount of operating
6 notes outstanding at that time exceed 10% of the amounts shown in the schedule
7 under s. 20.005 (3) of appropriations of general purpose revenues, as defined in s.
8 20.001 (2) (a), plus the amounts shown in the schedule of appropriations of program
9 revenues, as defined in s. 20.001 (2) (b), both calculated as of that time and for that
10 fiscal year.

History: 1985 a. 29.

11 **SECTION 21.** 18.73 (1), (2), (4), (5) (a), (b), (c), (d) (intro.), 1. and 2., (e) 1. and
12 3. and (f) of the statutes is renumbered 16.526 (4) (a), (b), (d) and (e) 1., 2., 3., 4.
13 (intro.), a. and b., 5. a. and c. and 6. and 16.526 (4) (a), (b), (d) and (e) 1., 2., 4. (intro.),
14 a. and b., 5. a. and 6. (intro.) as renumbered are amended to read:

15 **16.526 (4) Procedures.** (1) AUTHORIZING RESOLUTION. No financial obligations
16 may be incurred under this subchapter section nor may any evidence of operating
17 notes be issued by the state except upon submission of a request issuance of an
18 authorizing resolution by the department under s. 16.405 and pursuant to an
19 authorizing resolution of the commission. Each authorizing resolution shall state
20 each purpose of the operating notes it authorizes, which need not be more specific but
21 may not be more general than those purposes provided in or pursuant to law, and the

*insert
8-2
attached*

no (B) CS

are and

*(14)
(15)
(16)*

no (B) CS (1) (a)

insert 8-2
~~18.72~~ (c)

X-ref to renumbered
18.72 (1) and (2)

(3) Each purpose specified in ~~subs. (1) and (2)~~ may include the expenses of issuance of the operating notes and reserves securing the operating notes.

↑
para (a) and (b)

(a) *Obligation on operating notes.* A sum sufficient to pay principal, interest and premium, if any, due on operating notes, including amounts due on periodic payments, and to make payments under an agreement or ancillary arrangement entered into under s. 18.73 (5) (a), pursuant to resolutions authorizing the issuance of the operating notes under s. 18.73 (1).

1 maximum principal amount of the operating notes. The operating notes may be
2 designated by any name as determined by the ~~commission~~ department.

3 ^{no CS} ^I ~~(b)~~ ~~(2)~~ SALE. Operating notes may be sold at either public or private sale. The
4 ^B commission department may provide in an authorizing resolution for the refunding
5 of operating notes, for their exchange privately, in payment and discharge of any of
6 the outstanding operating notes being refunded. All operating notes sold at public
7 sale shall be noticed as provided in the authorizing resolution. Any bids received at
8 public sale may be rejected.

9 ^{no CS} ^I ~~(4)~~ EXERCISE OF AUTHORITY. Financial obligations may be incurred and
10 evidences of operating notes issued therefor pursuant to one or more authorizing
11 resolutions, unless otherwise provided in the resolution or in this ~~subchapter~~ section,
12 at any time and from time to time, for any combination of purposes, in any specific
13 amounts, at any rates of interest, for any term, payable at any intervals, at any place,
14 in any manner and having any other terms or conditions deemed necessary or useful.
15 ~~Unless sooner exercised or unless a shorter period is provided in the resolution, every~~
16 ~~authorizing resolution shall expire 3 months after the date of its adoption.~~

17 ^{no CS} ^I ^{g l.} ~~(5)~~ AGREEMENTS AND ARRANGEMENTS; DELEGATION; USE OF OPERATING NOTES. (a)
18 Subject to ~~pars. (d) and (e)~~ subd. 4. and 5., at the time of, or in anticipation of,
19 contracting operating notes and at any time thereafter while the operating notes are
20 outstanding, the ~~commission~~ department may enter into agreements and ancillary
21 arrangements relating to the operating notes, including liquidity facilities,
22 remarketing or dealer agreements, letter of credit agreements, insurance policies,
23 guaranty agreements, reimbursement agreements, indexing agreements, or interest
24 exchange agreements. Any payment received pursuant to any such agreements or
25 ancillary arrangements shall be deposited in, and any payments made pursuant to

1 any such agreements or ancillary arrangements will be made from, the general fund
2 or the operating note redemption fund, as determined by the ~~commission~~
3 department. The determination of the ~~commission~~ department included in an
4 interest exchange agreement that such an agreement relates to an operating note
5 shall be conclusive.

6 (b) ^{See 2} The ~~commission~~ department may delegate to other persons the authority
7 and responsibility to take actions necessary and appropriate to implement
8 agreements and ancillary arrangements under ~~par. (a)~~ subd. 1.

9 (d) ^{See 4. (intro.)} With respect to any interest exchange agreement or agreements specified
10 in ~~par. (a)~~ subd. 1., all of the following shall apply:

11 (1) ^{See a.} The ~~commission~~ department shall contract with an independent financial
12 consulting firm to determine if the terms and conditions of the agreement reflect a
13 fair market value, as of the proposed date of the execution of the agreement.

14 (2) ^{See b.} The interest exchange agreement must identify the note to which the
15 agreement is related. The determination of the ~~commission~~ department included in
16 an interest exchange agreement that such agreement relates to a note shall be
17 conclusive.

18 (e) ^{See 5. a.} (1) Subject to ~~subd. 2.~~ subd. 5. b., the terms and conditions of an interest exchange
19 agreement under ~~par. (a)~~ subd. 1. shall not be structured so that, as of the trade date
20 of the agreement, the aggregate expected debt service and net exchange payments
21 relating to the agreement during the fiscal year in which the trade date occurs will
22 be less than the aggregate expected debt service and net exchange payments relating
23 to the agreement that would be payable during that fiscal year if the agreement is
24 not executed.

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SECTION 17. 18.71 (intro.), (1d), (3), (4) and (5) of the statutes is renumbered 16.526 (1) (intro), (a), (b), (c), (d) and 16.526 (1) (intro.), (a) 1. and 3. and (c) 2. as renumbered are amended to read:

no (B) *(CS)* *(intro.)*
16.526 (1) Definitions. In this subchapter section, unless the context requires otherwise:

(1)
(a) The aggregate net payments expected to be made and received under a specified interest exchange agreement under s. 18.73 (5) (a) sub. (4) (e) 1.

(3)
(c) The aggregate net payments expected to be made and received under all other interest exchange agreements under s. 18.73 (5) (a) sub. (4) (e) 1. relating to those notes that are in force at the time of executing the agreement.

(c) 2.
(b) Payable from and secured solely by revenues pledged by the commission and the department pursuant to the authorizing resolution provided that all such pledged revenues must first be available for the payment of public debt; and

History: 1983 a. 3; 1983 a. 36 s. 96 (4); 1983 a. 192; 1985 a. 29; 2007 a. 20.

4
SECTION 18. 18.71 (1m) and (2) of the statutes are repealed.

4
SECTION 19. 18.72 of the statutes is renumbered 16.526 (2) and 16.526 (2) (a) *to* and (b) as renumbered, are amended to read:

(a) *(B)* *(CS)*
16.526 (2) Purposes of operating notes. (1) The ~~commission~~ department may authorize financial obligations to be incurred and evidences of operating notes to be issued therefor in an amount sufficient to fund or refund the whole or any part of any operating note issued under this subchapter section. However, no operating notes originally issued in a fiscal year may be funded or refunded by proceeds of an operating note to mature in a later fiscal year.

(b) *(B)*
(2) The ~~commission~~ department may authorize financial obligations to be incurred and evidences of operating notes to be issued therefor to fund operating

6. (intro.)

1 (f) Semiannually, during any year in which the state is a party to an agreement
2 entered into pursuant to ~~par. (a)~~ subd. 1., the department of ~~administration~~ shall
3 submit a report to ~~the commission~~ and to the cochairpersons of the joint committee
4 on finance listing all such agreements. The report shall include all of the following:

History: 1983 a. 3; 1985 a. 29; 1989 a. 31; 2007 a. 20.

5 **SECTION 22.** 18.73 (5) (d) 3. (intro.) *grand a. to* ~~(a)~~ (3) g. of the statutes are consolidated,
6 renumbered 16.526 (4) (e) 4. c. and amended to read:

7 16.526 (4) (e) 4. c. (intro.) The resolution authorizing the ~~commission~~
8 department to enter into any interest exchange agreement shall require that the
9 terms and conditions of the agreement reflect a fair market value as of the date of
10 execution of the agreement, as reflected by the determination of the independent
11 financial consulting firm under ~~subd. 1.~~ 4. a., and shall establish guidelines for any
12 such agreement, including the following:

13 ~~a. The~~ the conditions under which the commission may enter into the
14 agreements.

15 ~~b. The~~ the form and content of the agreements.

16 ~~c. The~~ the aspects of risk exposure associated with the agreements.

17 ~~d. The~~ the standards and procedures for counterparty selection.

18 ~~e. The~~ the standards for the procurement of, and the setting aside of reserves,
19 if any, in connection with, the agreements.

20 ~~f. The~~ the provisions, if any, for collateralization or other requirements for
21 securing any counterparty's obligations under the agreements.

22 ~~g. A~~ and a system for financial monitoring and periodic assessment of the
23 agreements.

No paragraphs

5 a. and
6 4

1 SECTION 23. 18.73 (5) (e) 2. (intro.) to 2. b. of the statutes are consolidated,
2 renumbered 16.526 (4) (e) 5. b. and amended to read:

3 16.526 (4) (e) 5. b. (intro.) Subdivision 1. 5. a. shall not apply if either of the
4 follow occurs:

5 not a. The ~~commission~~ the department receives a determination by the
6 independent financial consulting firm under par. (d) 1. subd. 4. a. that the terms and
7 conditions of the agreement reflect payments by the state that represent on-market
8 rates as of the trade date for the particular type of agreement.

9 not b. The ~~commission~~ or the department provides written notice to the joint
10 committee on finance of its intention to enter into an agreement that is reasonably
11 expected to satisfy ~~subd. 1.~~ subd. 5. a., and the joint committee on finance either
12 approves or disapproves, in writing, the ~~commission's~~ department's entering into the
13 agreement within 14 days of receiving the written notice from the ~~commission~~
14 department.

15 SECTION 24. 18.74 of the statutes is renumbered 16.526 (5) and amended to
16 read:

no (B) (CS)

17 16.526 (5) **Application of operating note proceeds.** All moneys resulting
18 from the contracting of operating notes or any payment to be received under an
19 agreement or ancillary arrangement entered into under s. 18.73 (5) sub. (4) (e) with
20 respect to any such operating notes shall be credited to the general fund, except that
21 moneys which represent premium and accrued interest on operating notes, or
22 moneys for purposes of funding or refunding operating notes pursuant to s. 18.72 (1)
23 sub. (2) (a) shall be credited to the operating note redemption fund.

1 ⁴ ^(b) SECTION 25. 18.75 of the statutes is renumbered 16.526 (6) and 16.526 (6) (b)
2 and (d) [↑] as renumbered are amended to read:

3 ^{16.526(b)} (2) The operating note redemption fund shall be expended and all moneys from
4 time to time on hand therein are irrevocably appropriated, in sums sufficient, only
5 for the payment of principal and interest on operating notes giving rise to it and
6 premium, if any, due upon refunding or early redemption of such operating notes,
7 and for the payment due, if any, under an agreement or ancillary arrangement
8 entered into under s. 18.73 (5) [✓] sub. (4) (e) [✓] with respect to such operating notes.

9 (d) (4) There shall be transferred, under s. 20.855 (1) (a), a sum sufficient for the
10 payment of the principal, interest and premium due, if any, and for the payment due,
11 if any, under an agreement or ancillary arrangement entered into pursuant to s.
12 18.73 (5) [✓] sub. (4) (e) [✓] with respect to operating notes giving rise to it as the same falls
13 due. Such transfers shall be so timed that there is at all times on hand in the fund
14 an amount not less than the amount to be paid out of it during the ensuing 30 days
15 or such other period if so provided for in the authorizing resolution. The ~~commission~~
16 department [✓] may pledge the deposit of additional amounts at periodic intervals and
17 the secretary of the department may impound moneys of the general fund, including
18 moneys temporarily reallocated from other funds under s. 20.002 (11), in accordance
19 with the pledge of revenues in the authorizing resolution, and all such
20 impoundments are deemed to be payments for purposes of s. 16.53 (10), but no such
21 impoundment may be made until the amounts to be paid into the bond security and
22 redemption fund under s. 18.09 during the ensuing 30 days have been deposited in
23 the bond security and redemption fund.

History: 1983 a. 3; 1985 a. 29 s. 3202 (56); 2007 a. 20.

24 SECTION 26. 18.76 of the statutes is renumbered 16.526 (7). ⁴

SECTION 27. 18.77 of the statutes is renumbered 16.526 (8) and 16.526 (8) (b)

1. and 2., (c) 1. and 2., (d) 1. and 2., (e) 1. and 2., (f) and (g) as renumbered, are

amended to read:

16.526(8)(b) 1.

(2) (a) Except as provided under sub. (7) par. (g), in contracting operating notes by competitive sale, the ~~commission~~ department shall ensure that at least 6% of total operating note indebtedness contracted in each fiscal year is underwritten by minority investment firms.

2. (b) Except as provided under sub. (7) par. (g), in contracting operating notes by competitive sale, the ~~commission~~ department shall make efforts to ensure that at least 1 percent of total operating note indebtedness contracted in each fiscal year is underwritten by disabled veteran-owned investment firms.

(c) 1.

(3) (a) Except as provided under sub. (7) par. (g), in contracting operating notes by negotiated sale, the ~~commission~~ department shall ensure that at least 6% of total operating note indebtedness contracted in each fiscal year is underwritten by minority investment firms.

(b) 2.

(b) Except as provided under sub. (7) par. (g), in contracting operating notes by negotiated sale, the ~~commission~~ department shall make efforts to ensure that at least 1 percent of total operating note indebtedness contracted in each fiscal year is underwritten by disabled veteran-owned investment firms.

(d) 1.

(4) (a) Except as provided under sub. (7) par. (g), in contracting operating notes by competitive sale or negotiated sale, the ~~commission~~ department shall ensure that at least 6% of the total moneys expended in such fiscal year for the services of financial advisers are expended for the services of minority financial advisers.

(b) 2.

(b) Except as provided under sub. (7) par. (g), in contracting operating notes by competitive sale or negotiated sale, the ~~commission~~ department shall make efforts

1 to ensure that at least 1 percent of the total moneys expended in such fiscal year for
2 the services of financial advisers are expended for the services of disabled
3 veteran-owned financial advisers.

4 ^{(e) 1.} (5) (a) Except as provided under sub. (7) par. (g), an individual underwriter or
5 syndicate of underwriters shall ensure that each bid or proposal, submitted by that
6 individual or syndicate in a competitive or negotiated sale of an operating note,
7 provides for a portion of sales to minority investment firms.

8 ^{e 2.} (b) Except as provided under sub. (7) par. (g), an individual underwriter or
9 syndicate of underwriters shall make efforts to ensure that each bid or proposal,
10 submitted by that individual or syndicate in a competitive or negotiated sale of an
11 operating note, provides for at least 1 percent of sales to disabled veteran-owned
12 investment firms.

13 ^(f) (6) The ~~commission~~ department shall annually report ~~to the department of~~
14 ~~administration to the cochairpersons of the joint committee on finance~~ the total
15 amount of operating note indebtedness contracted with the underwriting services of
16 minority investment firms and the total amount of moneys expended for the services
17 of minority financial advisers and disabled veteran-owned financial advisers during
18 the preceding fiscal year.

19 ^(g) (7) The requirements of any of subs. (2) ~~to (5)~~ pars. (b) to (e) do not apply to a
20 contracting of operating notes, if the secretary ~~of administration~~ submits a report in
21 writing to the joint committee on finance specifying the ~~building commission's~~
22 department's reasons for not complying with the requirements of any of subs. (2) ~~to~~
23 ~~(5)~~ pars. (b) to (e) for that contracting.

History: 1987 a. 27; 1989 a. 366; 1991 a. 32; 1995 a. 27 s. 9116 (5); 2009 a. 299; 2011 a. 32; 2011 a. 260 s. 80; 2013 a. 192.

SECTION 28. 20.855 (1) (a) of the statutes is amended to read:

1 20.855 (1) (a) *Obligation on operating notes.* A sum sufficient to pay principal,
 2 interest and premium, if any, due on operating notes, including amounts due on
 3 periodic payments, and to make payments under an agreement or ancillary
 4 arrangement entered into under s. ~~18.73 (5) (a)~~ 16.526 (4) (e) 1, pursuant to
 5 resolutions authorizing the issuance of the operating notes under s. ~~18.73 (1)~~ 16.526
 6 (4) (a).

History: 1971 c. 215; 1973 c. 26, 27, 90, 331; 1975 c. 39, 164; 1977 c. 29 ss. 367 to 374m, 1657 (50); 1977 c. 107, 272, 418; 1979 c. 34 s. 613, 643, 644 to 666m; 1979 c. 221; 1981 c. 1, 20; 70 Atty. Gen. 154; 1981 c. 93, 317, 346; 1983 a. 3; 1983 a. 27 ss. 475, 491 to 497, 525; 1983 a. 300; 1985 a. 29, 120; 1987 a. 27, 142; 1987 a. 312 s. 17; 1989 a. 31, 335; 1991 a. 39; 1993 a. 16, 496; 1995 a. 27, 404; 1997 a. 27, 63; 1999 a. 4, 9; 2001 a. 16, 109; 2003 a. 33; 2005 a. 25, 45; 2007 a. 20; 2009 a. 28, 89; 2011 a. 32, 208, 221; 2013 a. 20 ss. 284b, 466 to 468.

7 **SECTION 29.** 20.855 (1) (b) of the statutes is amended to read:

8 20.855 (1) (b) *Operating note expenses.* A sum sufficient to pay for the expenses
 9 of issuing operating notes and reserves securing such notes issued under ~~subch. III~~
 10 ~~of ch. 18~~ s. 16.526.

History: 1971 c. 215; 1973 c. 26, 27, 90, 331; 1975 c. 39, 164; 1977 c. 29 ss. 367 to 374m, 1657 (50); 1977 c. 107, 272, 418; 1979 c. 34 s. 613, 643, 644 to 666m; 1979 c. 221; 1981 c. 1, 20; 70 Atty. Gen. 154; 1981 c. 93, 317, 346; 1983 a. 3; 1983 a. 27 ss. 475, 491 to 497, 525; 1983 a. 300; 1985 a. 29, 120; 1987 a. 27, 142; 1987 a. 312 s. 17; 1989 a. 31, 335; 1991 a. 39; 1993 a. 16, 496; 1995 a. 27, 404; 1997 a. 27, 63; 1999 a. 4, 9; 2001 a. 16, 109; 2003 a. 33; 2005 a. 25, 45; 2007 a. 20; 2009 a. 28, 89; 2011 a. 32, 208, 221; 2013 a. 20 ss. 284b, 466 to 468.

11 **SECTION 30.** 20.855 (1) (q) of the statutes is amended to read:

12 20.855 (1) (q) *Redemption of operating notes.* From the operating note
 13 redemption fund, a sum sufficient to pay principal, interest and premium, if any, due
 14 on operating notes issued under ~~subch. III of ch. 18~~ s. 16.526.

History: 1971 c. 215; 1973 c. 26, 27, 90, 331; 1975 c. 39, 164; 1977 c. 29 ss. 367 to 374m, 1657 (50); 1977 c. 107, 272, 418; 1979 c. 34 s. 613, 643, 644 to 666m; 1979 c. 221; 1981 c. 1, 20; 70 Atty. Gen. 154; 1981 c. 93, 317, 346; 1983 a. 3; 1983 a. 27 ss. 475, 491 to 497, 525; 1983 a. 300; 1985 a. 29, 120; 1987 a. 27, 142; 1987 a. 312 s. 17; 1989 a. 31, 335; 1991 a. 39; 1993 a. 16, 496; 1995 a. 27, 404; 1997 a. 27, 63; 1999 a. 4, 9; 2001 a. 16, 109; 2003 a. 33; 2005 a. 25, 45; 2007 a. 20; 2009 a. 28, 89; 2011 a. 32, 208, 221; 2013 a. 20 ss. 284b, 466 to 468.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1192/P3dn

EVM:kjf:rs

Date

ATTN: Sasha Bong

This version of the draft adds to the /P2 version, the changes requested in David Erdman's email. Please review, in particular, the addition of subd. 3. under s. 13.48 (2) (ad), related to refunding authority, and the materials moved from subch. III of ch. 18 to s. 16.526.

In regards to the operating note authority shift, only the materials that appeared to relate solely to the building commission were repealed or eliminated. Please let me know if additional changes are necessary to conform the revised section to your intent.

For convenience this draft retains an "authorizing resolution." Rather than being issued by the building commission, however, the resolution is provided by the department and approved by the secretary of administration, the governor, and the joint finance committee under s. 16.405. Do you want to handle this another way?

Also:

1. This draft [✓] repeals s. 18.70. Does this section or portions of it need to be retained and shifted to ch. 16?

2. The expiration date in former s. 18.73 [✓] (4) is eliminated. Does some sort of expiration date need to be provided here?

3. For former s. 18.77, [✓] instead of having DOA report to itself, I required a report to the co-chairs of the joint committee on finance. Is there a more appropriate place to make the report? Do you want to eliminate this report?

Please let me know if you have any questions or further instructions.

Eric V. Mueller
Legislative Attorney
(608) 261-7032
eric.mueller@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1192/P3dn
EVM:kjf:rs

January 26, 2015

ATTN: Sasha Bong

This version of the draft adds to the /P2 version, the changes requested in David Erdman's email. Please review, in particular, the addition of subd. 3. under s. 13.48 (2) (ad), related to refunding authority, and the materials moved from subch. III of ch. 18 to s. 16.526.

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Please let me know if you have any questions or further instructions.

Eric V. Mueller
Legislative Attorney
(608) 261-7032
eric.mueller@legis.wisconsin.gov

Mueller, Eric

From: De Mers, Naomi R - DOA <Naomi.DeMers@wisconsin.gov>
Sent: Tuesday, January 27, 2015 4:20 PM
To: Bong, Sasha E - DOA
Subject: Draft edits
Attachments: SBC process draft changes 1.docx

Hi Sasha,

Please make the edits as follows:

- Section 4.
13.48(2)(at) Any request for building commission approval required herein, ...
- Add cross reference to 13.48(2)(at) to the **sections highlighted in attached document** with language such as “under process specified in 13.48(2)(at).”

Thank you and looking forward to seeing the revised draft.

Naomi

Naomi R. De Mers
Advisor to the Administrator
Division of Facilities Development, DOA
608-266-2646
naomi.demers@wisconsin.gov

LRB-1192/P1 REVIEW

§ 13.48 Long-range public building program

(1) POLICY language is ok—does not need revision. However, this would be the best place to create language that explains the overarching principle to be codified—i.e. that once the governor/legislature enacts the budget, the building program has been approved including enumerated items and the all agency program categories.

(1m 1-3(e)): does not need revision-this is a fight for another day

(2) BUILDING COMMISSION; POWERS AND DUTIES: a) is fine, does not need revision.

New subsection should be created here to say: “At the first meeting of the commission following the enactment of the biennial budget act, the commission may take any of the following actions:

1. Authorize the department of administration to contract public debt or obligations under subch. II of ch. 18 in an amount not to exceed the amount that was appropriated in the biennial budget act. If authorization is granted under this subdivision, the department of administration shall provide periodic reports regarding the contracting of debt or obligations under this subdivision to the commission.

2. Release an amount not to exceed the amount of the state building trust fund moneys to the department of administration for planning for enumerated projects.

New subsection should be added here and say: After the first meeting of the building commission following the enactment of the biennial budget act, the department shall report quarterly to the commission regarding the status of projects under the state building program.”

New subsection should be added here to explain passive review process for enumerated items “After the enactment of the biennial budget act in any biennium, any request for approval from the building commission of a project budget increase or of a substantial change in an enumerated item shall be submitted in writing to the commission. If, within 14 working days after the date of that written request, a majority of the members of the commission do not request that the commission schedule a meeting to review the request under this paragraph, the request is approved.”

New subsection should be added here to explain passive review items related to the building commission’s other powers and duties: “Any request for approval from the building commission of an item requiring building commission approval (including but not limited to land transactions, assessments under 66.0703, space rental rates, alternatives to state construction, privately owned or operated facilities on state land, gifts, leases, sale or lease of capital area lands, lease of space for commercial use in state buildings, lease of correctional facilities, etc.) shall be submitted in writing to the commission. If, within 14 working days after the date of that written request, a majority of the members of the commission do not request that the commission schedule a meeting to review the request under this paragraph, the request is approved.”

Existing (b) 1. Is fine as is—just needs to be renumbered

Existing (b) 1m. Not sure what to do with this b/c we don't know what is being proposed in the UWS autonomy initiative. If this stays in statutes, options are to leave as is, raise threshold, or lump this in to passive review process

Existing 2. The existing language is fine. As noted above, the building commission fixing rental rates will also utilize the passive review process

Existing 3. Is fine as is

(c) is fine as is

(d) Not sure what to do with this b/c we don't know what is being proposed in the UWS autonomy initiative. We recommend repeal—this is a very old statute and as you know, the BTF account cannot afford this.

e (1): this is a report required to be submitted by the Controller's office. We do not think this report has been submitted since 2010. Since quarterly reports will be required under the law change, we recommend repeal of this—it will be duplicative.

e (2): is a statement of intent about e (1), if e (1) comes out, e (2) should as well

(f): we no longer use BTF for this program, we use bonding in the All Agency Program for capital equipment, this is no longer relevant, applicable, or required, we recommend repeal

(g) The existing language is fine. As noted above, the building commission approving assessments will also utilize the passive review process

(h-i): does not need revision—this is a fight for another day

(k): does not need revision

(3) State Building Trust fund does not need revision in this draft (the \$760,000 is changed in the threshold draft)

(4) State Agencies to Report Proposed Projects Since quarterly reports will be required under the law change, we recommend repeal of this—it will be duplicative.

(5) Assistance to Building Commission This should stay in as is, however, we don't know what is being proposed in the UWS autonomy initiative, it may affect this.

(6) Review of Projects We recommend repeal of this—it is duplicative of the process outlined in **(7)** and will be even more so if this law change goes into effect.

(7) Biennial Recommendations ***State Fair Park threshold should be changed from \$250,000 to \$760,000 in threshold draft**

(8) Expansion at Green Bay Correctional Institution stay as is

(10) Approval by Building Commission Need to see final threshold draft to decide if 10 (a) is ok. 10 (b) is ok as is except State Fair Park threshold should be changed from \$250,000 to \$760,000 in threshold draft. 10 (c) is subject to the UWS autonomy draft

(11) Exceptions ok as is

(12) (a) and (b) Privately Owned or Operated Facilities The existing language is fine. As noted above, the building commission approving privately owned or operated facilities on state land will also utilize the passive review process.

(13) Application of laws etc. is ok as is—this is a fight for another day

(14) Sale or lease of property ok as is

(15) Acquisition of leasehold interests ok as is

(16) Madison Downtown State Office Facilities ok as is

(17) Advanced Land Acquisition ok as is

(18) Acquisition of Open Spaces ok as is

(19) Alternatives to State Construction: This subsection needs to be split into two separate parts (2. and b.??) the new section a. should say, “Whenever the building commission determines that the use of innovative types of design and construction processes will make better use of the resources and technology available in the building industry, the building commission may waive any or all of s. 16.855, except s. 16.855 (13) and (14m) (a) to (c), if such action is in the best interest of the state and if the waiver is accomplished through the passive review process described (add cross reference with correct new section/subsection).” The new section b. should say, “Subject to the requirements of s. 20.924 (1) (i), the building commission may authorize through the passive review process (add cross reference to enumerated passive review process) the lease, lease purchase, or acquisition of facilities in lieu of state construction of any project enumerated in the authorized state building program.” **PLEASE NOTE: If this change is made, all statutory references to 13.48 (19) need to be revised to say 13.48 (19) (1).**

(20) Residence Halls-- is subject to the UWS autonomy draft

(21) Medical College—stays in as is

(22) Sale or Lease of Capital Area Lands: The existing language is fine. As noted above, the building commission approving this type of land sale/lease will also utilize the passive review process.

(23) Lease of Space for Commercial Use The existing language is fine. As noted above, the building commission approving this type of lease will also utilize the passive review process.

(24) Debt on maintenance projects: is ok as is

(25) WISTAR is ok as is

(26) ENVIRO ANNUAL PLAN APPROVAL is ok as is

The existing language is fine. As noted above, the building commission approving this type of land sale/lease will also utilize the passive review process.

(27) Lease of correctional facilities The existing language is fine. As noted above, the building commission approving this type of lease will also utilize the passive review process.

(28-44) Non-state grants: These are all ok to stay in

S. 20.924 Building Program Execution 1 (a) and (b) are ok but will be updated in threshold draft.

(d) (e), and (em) should be cross-referenced with new enumerated project passive review subsection (see p. 1 above)

(f) is ok as is

(g) is ok as is

(i) (1) and (2) keep as is—DOC policy

(j) is ok as is

(3) keep as is

(4) keep as is

(5) keep as is

Mueller, Eric

From: Bong, Sasha E - DOA <SashaE.Bong@wisconsin.gov>
Sent: Tuesday, January 27, 2015 5:24 PM
To: Mueller, Eric
Subject: Building commission draft (LRB-1192)
Attachments: Insert A - Building Commission approval process; Draft edits; 20150127171302908.pdf

Hi Eric,

Per my voicemail, attached are changes to the building commission approval draft from DFD and DOA Capital Finance. Admittedly, I have not had a chance to review this yet, but both sides have assured that changes are more technical (or 'not that much') – let me know if you think differently. I understand the timeline we're under (and have conveyed it to both sides as well), so please let me know of any questions or issues.

Thanks,

Sasha Bong
Executive Policy and Budget Analyst
Department of Administration, State Budget Office
(608) 266-5468
SashaE.Bong@wisconsin.gov