



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2011 Wisconsin Act 71
[2011 Assembly Bill 275]

**Investments and Loans
Made by the Board of
Commissioners of Public Lands**

Over 160 years ago, the federal government granted millions of acres of land to Wisconsin for the purpose of supporting public education and developing the state's infrastructure. The Board of Commissioners of Public Lands (BCPL) was created under the Wisconsin Constitution to sell or manage this land and invest the proceeds for these purposes. The Constitution also directs that the Legislature shall provide the various investment options that BCPL may utilize. [Wis. Const. art. X, ss. 7 and 8.] Currently, the money that BCPL may invest is found in the Common School Fund, the Normal School Fund, the University Fund, and the Agricultural College Fund.

Authorization to Purchase Securities

Among the various investment options, *prior law* authorized BCPL to purchase bonds issued by the state or a city, village, town, county, or school district of this state. Any bonds were to be deposited with the Department of Administration (DOA).

2011 Wisconsin Act 71 (Act 71) increases the options for investing in securities that BCPL may utilize by making the following changes to current law:

- Specifies that BCPL may purchase a note or other instrument of indebtedness, in addition to a bond.
- Authorizes BCPL to purchase a bond, note, or other instrument of indebtedness that is issued by a metropolitan sewerage district or a technical college district, in addition to the other issuing entities.
- Authorizes BCPL to purchase financial institution accounts that are insured by a deposit insurance corporation.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

- Authorizes BCPL to determine how any purchased securities are to be held and eliminates the requirement that BCPL must deposit these instruments with DOA.

BCPL Trust Fund Loans

Under *prior law*, BCPL was authorized to administer a state trust fund loan to various types of units of government, including a municipality (defined as a city, village, town, county, public inland lake protection and rehabilitation district, town sanitary district, metropolitan sewerage district, joint sewerage system, school district, or technical college district). These loans were only considered to be the general obligation of the municipality. The loans were secured by the municipality's general ability to generate revenue (i.e., issue bonds, raise taxes, etc.). If the municipality failed to remit a payment by its due date, then BCPL may initiate a process to have the loan paid by any state payments due to the municipality (e.g., shared revenue payments).

Act 71 creates a new loan option, called a *revenue obligation trust fund loan*, which BCPL may administer. In doing so, current state trust fund loans are named *general obligation trust fund loans*. Under Act 71, a revenue obligation trust fund loan may fall under one of the following options:

- A loan made to a municipality for the purpose of financing or refinancing a project, as defined in s. 67.04 (1) (ar), Stats.,¹ which is secured by a pledge and assignment of the revenue that the municipality will receive from moneys generated by that project.
- A loan made to a city, village, town, or county for the purpose of financing or refinancing tax incremental financing (TIF) project costs, as defined in either s. 60.85 (1) (h) 1. or 66.1105 (2) (f) Stats.,² which is secured by a pledge and assignment of the tax increments that will be allocated to the city or village for those project costs by the Department of Revenue.

Under Act 71, the term of a revenue obligation trust fund loan may not exceed 30 years and may be made payable in installments. Similar to general obligation trust fund loans, if a municipality fails to remit a payment by its due date, then BCPL may initiate a process to have the loan paid by any state payments due to the municipality. If the loan is made for the purpose of paying off existing indebtedness, then the making of the loan and the payment of the indebtedness are treated as if they occur simultaneously, to help keep the loan and the indebtedness from counting against the municipality's constitutional debt limit.

Additional conditions apply for a revenue obligation trust fund loan that is secured by a pledge and assignment of tax increments. In this case, the following conditions apply:

- The loan may not exceed an amount that would require the municipality to make annual payments of more than 80% of the municipality's shared revenue payments received in the previous year.

¹ Section 67.04 (1) (ar), Stats., defines a "project" as "the acquisition, leasing, planning, design, construction, development, extension, enlargement, renovation, rebuilding, repair or improvement of land, waters, property, highways, buildings, equipment or facilities."

² Section 66.1105 (2) (f), Stats., defines "project costs" for the purposes of tax incremental financing and is applicable to a city, village, or certain counties. Section 60.85 (1) (h) 1., Stats., defines "project costs" for the purpose of town tax incremental financing.

- BCPL may allow the city, village, town, or county to provide that the pledge and assignment of tax increments is subject to future annual appropriations made by the governing body of the respective city, village, town, or county.

Effective date: December 2, 2011

Prepared by: Melissa Schmidt, Staff Attorney

December 8, 2011

MS:jb;wu