



State of Wisconsin
2011 - 2012 LEGISLATURE



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2011 SENATE BILL 238

October 18, 2011 - Introduced by Senators SCHULTZ, OLSEN, HOLPERIN and TAYLOR, cosponsored by Representatives BROOKS, HULSEY, MARKLEIN, POCAN, KNILANS, BEWLEY, KRUG, MASON, A. OTT, TURNER, JACQUE, RIPP, CLARK, TRANEL, MOLEPSKE JR and C. TAYLOR. Referred to Committee on Agriculture, Forestry, and Higher Education.

1 **AN ACT** *to repeal* 24.61 (3) (c) and 24.61 (3) (d); *to renumber and amend* 24.66
2 (1) (intro.), 24.66 (1) (a), 24.66 (1) (b) and 24.66 (1) (c); *to amend* 24.61 (2) (a)
3 3., 24.61 (2) (a) 4., 24.61 (2) (b), 24.61 (4) (title), 24.63 (1), (2), (2m) and (2r), 24.66
4 (3m), 24.66 (5) (a), 24.67 (1) (d), 24.67 (2) (a), 24.67 (3), 24.68, 24.70 (3), 24.70
5 (4), 24.70 (6), 24.71 (3), 24.71 (4), 24.71 (5), 24.715 (3), 24.715 (4), 24.716 (3),
6 24.716 (4), 24.717 (3), 24.717 (4) and 121.07 (1) (a); and *to create* 24.60 (1w),
7 24.60 (2m), 24.61 (2) (a) 11., 24.61 (4m), 24.63 (2s) and 24.66 (1) (cg) of the
8 statutes; **relating to:** authorizing the Board of Commissioners of Public Lands
9 to make revenue obligation trust fund loans to certain municipalities,
10 authorizing the Board of Commissioners of Public Lands to make certain
11 investments, application requirements for certain state trust fund loans,

SENATE BILL 238

- 1 persons authorized to execute certificates of indebtedness, and collection
2 procedures for outstanding state trust fund loans.
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Analysis by the Legislative Reference Bureau

Under current law, the Board of Commissioners of Public Lands (BCPL) may invest moneys in the common school fund, the normal school fund, the university fund, and the agricultural college fund (trust funds) in certain specified investments. Under current law, BCPL also administers a state trust fund loan program under which it makes loans from moneys belonging to the trust funds to school districts, local governments, and certain other public entities for certain public purposes.

This bill authorizes BCPL, in addition to its authority under current law to make loans that are the general obligation of the borrower, to make loans that are secured by the revenue generated by the activity for which the loan is made (revenue obligation loans). Under the bill, BCPL may make a revenue obligation loan only if it is made for the purpose of financing, or refinancing, a project that is secured by a pledge and first priority assignment of the revenue that the municipality will receive from moneys generated by the project or for the purpose of financing, or refinancing, project costs that are secured by a pledge and first priority assignment of tax increments that will be allocated to the municipality for those costs by the Department of Revenue under the tax incremental financing program. The bill provides that a revenue obligation loan may be made for any term not exceeding 30 years and may be made payable in installments. The bill further specifies that if a revenue obligation loan is secured by a pledge and assignment of tax increments, then the loan may not exceed an amount that would require the municipality to make annual payments of more than 80 percent of the municipality's shared revenue payments received in the previous year.

The bill also does the following:

1. Provides that, in addition to BCPL's authority under current law to invest in bonds issued by this state, or by a town, village, city, county, or school district, it may also invest in notes or other instruments of indebtedness issued by any of those entities.
2. Authorizes BCPL to invest in bonds, notes, and other instruments of indebtedness issued by a metropolitan sewerage district or a technical college district.
3. Authorizes BCPL to invest in financial institution accounts that are insured by a deposit insurance corporation.
4. Specifies that all bonds, notes, or other instruments of indebtedness and securities purchased by BCPL must be deposited in a manner determined by the board. Under current law, the deposit must be made with the secretary of administration.
5. Provides that if BCPL makes a loan for the purpose of paying off existing indebtedness, the making of the loan and the payment of the existing indebtedness must be treated as if they occur simultaneously.

SENATE BILL 238

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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

5 24.60 (2m) “Revenue obligation trust fund loan” means a state trust fund loan
6 to which any of the following applies:

7 (a) It is made to a municipality for the purpose of financing or refinancing a
8 project, as defined in s. 67.04 (1) (ar), and is secured by a pledge and assignment of
9 the revenue that the municipality will receive from moneys generated by that
10 project.

11 (b) It is made to a city or village for the purpose of financing or refinancing
12 project costs, as defined in s. 66.1105 (2) (f), and is secured by a pledge and
13 assignment of the tax increments that will be allocated to the city or village for those
14 project costs by the department of revenue under s. 66.1105 (6).

15 (c) It is made to a county for the purpose of financing or refinancing project
16 costs, as defined in s. 66.1105 (2) (f), and is secured by a pledge and assignment of
17 the tax increments that will be allocated to the county for those project costs by the
18 department of revenue under s. 59.57 (3).

19 (d) It is made to a town for the purpose of financing or refinancing project costs,
20 as defined in s. 60.85 (1) (h) 1., and is secured by a pledge and assignment of the tax

SENATE BILL 238**SECTION 2**

1 increments that will be allocated to the town for those project costs by the
2 department of revenue under s. 60.85 (6).

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

4 24.61 (2) (a) 3. Bonds of, notes, or other instruments of indebtedness issued by
5 this state.

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

7 24.61 (2) (a) 4. Bonds, notes, or other instruments of indebtedness issued
8 pursuant to law by any town, village, city, county, metropolitan sewerage district,
9 technical college district, or school district of this state.

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

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

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

14 24.61 (2) (b) ~~Deposited with secretary of administration~~ Manner for holding
15 securities. All bonds, notes, and other instruments of indebtedness and securities
16 purchased under par. (a) shall be ~~deposited with the secretary of administration held~~
17 in a manner determined by the board.

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

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

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

21 24.61 (4) (title) LOAN LIMITATIONS TO COUNTIES.

22 **SECTION 10.** 24.61 (4m) of the statutes is created to read:

23 24.61 (4m) LOANS TO PAY OFF EXISTING INDEBTEDNESS. If the board makes a loan
24 to a municipality to pay off existing indebtedness, the making of the loan and the

SENATE BILL 238

1 payment of the existing indebtedness shall be treated as if they occur
2 simultaneously.

3 **SECTION 11.** 24.63 (1), (2), (2m) and (2r) of the statutes are amended to read:

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

14 **(2)** ~~SCHOOL~~ GENERAL OBLIGATION SCHOOL DISTRICT LOANS. A state general
15 obligation trust fund loan to a school district may be made for any time, not exceeding
16 20 years, as is agreed upon between the school district and the board, and for an
17 amount which, together with all other general obligation indebtedness of that
18 district, does not exceed its allowable indebtedness as determined under s. 67.03 (1).

19 **(2m)** ~~COOPERATIVE~~ GENERAL OBLIGATION COOPERATIVE EDUCATIONAL SERVICE
20 AGENCY LOANS. A state general obligation trust fund loan to a cooperative educational
21 service agency may be made for any term, not exceeding 20 years, as is agreed upon
22 between the agency and the board, and for a total amount which, for each school
23 district for which the loan is sought, in the proportion determined under s. 24.61 (7),
24 together with all other general obligation indebtedness of the school district, does not
25 exceed the school district's allowable indebtedness under s. 67.03 (1).

SENATE BILL 238**SECTION 11**

1 **(2r)** ~~FEDERATED~~ GENERAL OBLIGATION ~~FEDERATED~~ PUBLIC LIBRARY SYSTEM LOANS.

2 A state general obligation trust fund loan to a federated public library system may
3 be made for any term, not exceeding 20 years, that is agreed upon between the
4 federated public library system and the board and may be made for a total amount
5 that, together with all other general obligation indebtedness of the federated public
6 library system, does not exceed the federated public library system's allowable
7 indebtedness under s. 43.17 (9) (b).

8 **SECTION 12.** 24.63 (2s) of the statutes is created to read:

9 24.63 **(2s)** REVENUE OBLIGATION LOANS. (a) A revenue obligation trust fund loan
10 to a city, village, town, or county may be made for any term not exceeding 30 years
11 and may be made payable in installments.

12 (b) 1. If the board makes a revenue obligation trust fund loan to a city, village,
13 town, or county as described in s. 24.60 (2m) (b) to (d), the loan may not exceed an
14 amount that would require the city, village, town, or county to make annual
15 payments, including principal and interest, of more than 80 percent of the shared
16 revenue payments received by the city, village, town, or county under subch. I of ch.
17 79 in the year immediately preceding the year in which the loan application is made.

18 2. The board may allow a city, village, town, or county that pledges and assigns
19 tax increments as security for a revenue obligation trust fund loan to provide that
20 the pledge and assignment is subject to future annual appropriations made by the
21 governing body of the respective city, village, town, or county to repay the loan.

22 3. The board may prescribe loan conditions in addition to the conditions
23 specified in this paragraph.

24 **SECTION 13.** 24.66 (1) (intro.) of the statutes is renumbered 24.66 (1) (ag) and
25 amended to read:

SENATE BILL 238

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

8 (bg) An application for a general obligation trust fund loan shall be
9 accompanied by satisfactory proof of all of the following:

10 **SECTION 14.** 24.66 (1) (a) of the statutes is renumbered 24.66 (1) (bg) 1. and
11 amended to read:

12 24.66 (1) (bg) 1. ~~Of the~~ The valuation of all the taxable property within the
13 municipality as equalized for state purposes;.

14 **SECTION 15.** 24.66 (1) (b) of the statutes is renumbered 24.66 (1) (bg) 2. and
15 amended to read:

16 24.66 (1) (bg) 2. ~~Of all~~ All the existing indebtedness of the municipality; ~~and.~~

17 **SECTION 16.** 24.66 (1) (c) of the statutes is renumbered 24.66 (1) (bg) 3. and
18 amended to read:

19 24.66 (1) (bg) 3. ~~Of the~~ The approval of the application as required by subs. (2)
20 to (4).

21 **SECTION 17.** 24.66 (1) (cg) of the statutes is created to read:

22 24.66 (1) (cg) An application for a revenue obligation trust fund loan shall be
23 accompanied by all of the following:

24 1. If the loan is for a project that will be secured in the manner specified in s.
25 24.60 (2m) (a), a statement of the revenue that the municipality anticipates receiving

SENATE BILL 238

1 from moneys generated by that project, and the municipality's pledge and first
2 priority assignment of those revenues to pay off the loan.

3 2. If the loan is for project costs that will be secured in the manner specified in
4 s. 24.60 (2m) (b) to (d), a statement of the tax increments that the municipality
5 anticipates will be allocated to the municipality for those project costs by the
6 department of revenue and the municipality's pledge and first priority assignment
7 of that allocation to pay off the loan.

8 3. Satisfactory proof of the amount of annual shared revenue payments made
9 to the municipality under subch. I of ch. 79 in the year immediately preceding the
10 year in which the application for the loan is made.

11 4. Satisfactory proof of the approval of the application as required by sub. (2).

12 **SECTION 18.** 24.66 (3m) of the statutes is amended to read:

13 24.66 (3m) FOR EDUCATIONAL TECHNOLOGY OR DISTANCE EDUCATION LOANS. An
14 application by a county, city, village or town to undertake an educational technology
15 or distance education project, ~~or by a consortium that includes a county, city, village~~
16 ~~or town under s. 24.61 (3) (d)~~ shall be accompanied by a resolution of the county or
17 municipal library board for that county, city, village or town, ~~or the county or~~
18 ~~municipal library board of each county, city, village or town participating in the~~
19 ~~consortium~~, requesting the county, city, village or town to apply for the loan for the
20 purpose of conducting an educational technology or distance education project.

21 **SECTION 19.** 24.66 (5) (a) of the statutes is amended to read:

22 24.66 (5) (a) Every application for a general obligation trust fund loan under
23 this section by a municipality shall be accompanied by a certified copy under the
24 hand of the proper clerk of a recorded resolution adopted by the municipality
25 applying for or approving the loan, levying, except as provided in par. (b), upon all

SENATE BILL 238

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

17 **SECTION 20.** 24.67 (1) (d) of the statutes is amended to read:

18 24.67 (1) (d) For a city, by its mayor or city manager.

19 **SECTION 21.** 24.67 (2) (a) of the statutes is amended to read:

20 24.67 (2) (a) For the county, town, village, or city, by the clerk of that county,
21 town, village, or city.

22 **SECTION 22.** 24.67 (3) of the statutes is amended to read:

23 24.67 (3) If a municipality has acted under subs. (1) and (2), it shall certify that
24 fact to the ~~department of administration~~ board. Upon receiving a certification from
25 a municipality, or upon direction of the board if a loan is made to a cooperative

SENATE BILL 238

1 educational service agency, drainage district created under ch. 88, local professional
2 baseball park district created under subch. III of ch. 229, or a federated public library
3 system, the ~~secretary of administration~~ board shall draw a warrant for disburse the
4 ~~amount of the loan~~ amount, payable to the treasurer of the municipality, cooperative
5 educational service agency, drainage district, or federated public library system
6 making the loan or as the treasurer of the municipality, cooperative educational
7 service agency, drainage district, local professional baseball park district, or
8 federated public library system directs. The certificate of indebtedness shall then be
9 conclusive evidence of the validity of the indebtedness and that all the requirements
10 of law concerning the application for the making and acceptance of the loan have
11 been complied with.

12 **SECTION 23.** 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.

16 **SECTION 24.** 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
24 in the same manner as the school district tax, except that the amount for the loan

SENATE BILL 238

1 shall be separately stated. This subsection does not apply to revenue obligation trust
2 fund loans.

3 **SECTION 25.** 24.70 (4) of the statutes is amended to read:

4 24.70 (4) PAYMENT TO BOARD. The treasurer of each municipality shall transmit
5 remit to the board on its order the full amount levied due for state trust fund loans
6 within 15 days after March 15. Each cooperative educational service agency shall
7 similarly ~~transmit~~ remit the annual amount owed on any state trust fund loan made
8 to the agency by that date. Any payment not made by March 30 is delinquent and
9 is subject to a penalty of one percent per month to be paid to the board with the
10 delinquent payment.

11 **SECTION 26.** 24.70 (6) of the statutes is amended to read:

12 24.70 (6) FAILURE TO MAKE PAYMENTS. If any municipality fails to remit the
13 amount due by the date specified under sub. (4), the board ~~may~~ shall file a certified
14 statement of the delinquent amount with the department of administration. The
15 secretary of administration shall collect the amount due, including any penalty, by
16 deducting that amount from any state payments due the municipality ~~and,~~ shall
17 notify the treasurer and the board of that action, and shall immediately remit to the
18 board any amounts deducted from any state payments due to the municipality.

19 **SECTION 27.** 24.71 (3) of the statutes is amended to read:

20 24.71 (3) ADDED TO SCHOOL DISTRICT LEVY. The school district clerk shall then
21 cause the amount due to be added to the school district levy and collected in the same
22 manner as the school district tax except the amount for state trust fund loans shall
23 be separately designated. This subsection does not apply to revenue obligation trust
24 fund loans.

25 **SECTION 28.** 24.71 (4) of the statutes is amended to read:

SENATE BILL 238

1 24.71 (4) PAYMENT TO BOARD. The school district treasurer shall ~~transmit~~ remit
2 to the board the full amount levied due for state trust fund loans within 15 days after
3 March 15. Any payment not made by March 30 is delinquent and is subject to a
4 penalty of one percent per month or fraction thereof, to be paid to the board with the
5 delinquent payment.

6 **SECTION 29.** 24.71 (5) of the statutes is amended to read:

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

13 **SECTION 30.** 24.715 (3) of the statutes is amended to read:

14 24.715 (3) PAYMENT TO BOARD. The system board shall ~~transmit~~ remit to the
15 board on its own order the full amount levied due for state trust fund loans within
16 15 days after March 15. Any payment not made by March 30 is delinquent and is
17 subject to a penalty of one percent per month or fraction thereof, to be paid to the
18 board with the delinquent payment.

19 **SECTION 31.** 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~~
24 board and, no later than June 15, shall notify the system board ~~and the board~~ to that
25 effect.

SENATE BILL 238

1 **SECTION 32.** 24.716 (3) of the statutes is amended to read:

2 24.716 (3) PAYMENT TO BOARD. The district board shall ~~transmit~~ remit to the
3 board on its own order the full amount levied due for state trust fund loans within
4 15 days after March 15. Any payment not made by March 30 is delinquent and is
5 subject to a penalty of 1 percent per month or fraction thereof, to be paid to the board
6 with the delinquent payment.

7 **SECTION 33.** 24.716 (4) of the statutes is amended to read:

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

14 **SECTION 34.** 24.717 (3) of the statutes is amended to read:

15 24.717 (3) PAYMENT TO BOARD. The local professional baseball park district
16 board shall ~~transmit~~ remit to the board of commissioners of public lands on its own
17 order the full amount levied due for state trust fund loans within 15 days after March
18 15. Any payment not made by March 30 is delinquent and is subject to a penalty of
19 1 percent per month or fraction thereof, to be paid to the board of commissioners of
20 public lands with the delinquent payment.

21 **SECTION 35.** 24.717 (4) of the statutes is amended to read:

22 24.717 (4) FAILURE TO MAKE PAYMENT. If the local professional baseball park
23 district board fails to remit the amounts due under sub. (3), the secretary of
24 administration, upon certification of delinquency by the board of commissioners of
25 public lands, shall deduct the amount due, including any penalty, from any state

SENATE BILL 238

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

4 **SECTION 36.** 121.07 (1) (a) of the statutes is amended to read:

5 121.07 (1) (a) The membership of the school district in the previous school year
6 and the shared cost for the previous school year shall be used in computing general
7 aid. If a school district has a state trust fund loan as a result of s. 24.61 (3) (c) 2., 2009
8 stats., the school district's debt service costs shall be based upon current school year
9 costs for the term of the loan and for one additional school year.

10

(END)