CHAPTER 18

STATE DEBT, REVENUE OBLIGATIONS AND OPERATING NOTES

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SUBCHAPTER I

STATE DEBT

18.01 Definitions. In this subchapter unless a different meaning is expressly provided or the context clearly indicates a different meaning:

(1e) "Aggregate expected debt service and net exchange payments" means the sum of the following:

(a) The aggregate net payments expected to be made and received under a specified interest exchange agreement under s. 18.06 (8) (a).

(b) The aggregate debt service expected to be made on bonds related to that agreement.

(c) The aggregate net payments expected to be made and received under all other interest exchange agreements under s. 18.06 (8) (a) relating to those bonds that are in force at the time of executing the agreement.

(1m) "Authorizing resolution" means any resolution adopted by the commission pursuant to this subchapter which authorizes the contracting of public debt.

(2) "Commission" means the building commission.

(3) "Evidence of indebtedness" means a bond, a note or any other written promise to pay a public debt.

(4) "Public debt" or "debt" means every voluntary, unconditional undertaking by the state, other than an operating note, to repay a sum certain:

(a) Out of the state treasury, except a loan or advance by any state agency or fund to any other state agency or fund; or

(b) For which any existing asset of the state is pledged, except the pledge of an outstanding evidence of indebtedness without recourse.

History: 1973 c. 90 s. 555m (2); 1977 c. 29 s. 1652; 1979 c. 107; 1981 c. 336; 1983 a. 36 s. 96 (4); 1983 a. 189; 1985 a. 6, 29; 1991 a. 39; 2007 a. 20.

18.02 Scope of subchapter. Public debt may be contracted and evidences of indebtedness issued therefor only to the amounts, for the purposes, by the procedures and with the kinds of evidence of indebtedness specified in this subchapter, except that this subchapter is not applicable:

(1) To public debt, not exceeding in the aggregate $100,000, incurred for the purpose of defraying extraordinary expenditures of the state.

(2) To public debt incurred to repel invasion, suppress insurrection or defend the state in time of war.

History: 1977 c. 29 s. 1652.

18.03 Commission. (1) Subject to the conditions and limitations contained in this subchapter, the commission shall have supervision over all matters relating to the contracting of public debt and the issuance of evidences of indebtedness therefor.

(2) (a) The commission shall have all of the powers necessary to carry out its functions.

(b) The commission may interpret the statutes enforced or administered by it as it considers to be necessary to effectuate the purpose of the statutes. The authority granted by this paragraph shall not exceed the authority granted by s. 227.11 (2) (a).

(c) The commission may prescribe such forms and procedures in connection with statutes to be enforced or administered by it as it considers to be necessary to effectuate the purpose of the statutes, but nothing in this paragraph authorizes the imposition of substantive requirements in connection with such forms or procedures.

(3) The department of administration shall assist the commission to carry out its functions and carry out all directives of the commission.

(4) All actions of the commission shall be taken by resolution. Each authorizing resolution shall be reduced to writing. The secretary of the commission shall maintain a full and correct record

of each step or proceeding had or taken in the course of authorizing and contracting every public debt.

(5) Upon request of a state department or agency, the commission shall prepare periodic reports describing the current status of indebtedness relevant to the department's or agency's program responsibilities.

(5m) Upon the request of a local exposition district under subch. II of ch. 229, the commission shall serve as financial consultant to assist and coordinate the issuance of bonds of the district.

(5s) Upon the request of a local professional baseball park district created under subch. III of ch. 229 or a local professional football stadium district created under subch. IV of ch. 229, the commission may serve as financial consultant to assist and coordinate the issuance of the bonds of a district.

(6) Nothing in this subchapter shall be construed to supersede the authority by statute of any state department or agency in carrying out program responsibilities for which public debt has been authorized by the legislature.

History: 1973 c. 90 s. 555m (2); 1977 c. 29 s. 1652; 1983 a. 36; 1985 a. 182 s. 57; 1993 a. 263; 1995 a. 56; 1999 a. 167.

18.04 Purposes of public debt and amounts. (1) The commission may authorize public debt to be contracted and evidences of indebtedness to be issued therefor in an amount sufficient to fund or refund, as provided in s. 18.06 (5), or to fund, refund or acquire for any of the purposes set forth in sub. (5) and as provided in s. 18.06 (7), the whole or any part of:

(a) Any public debt contracted pursuant to this subchapter.

(b) Any indebtedness incurred prior to January 1, 1972, by the Wisconsin State Agencies Building Corporation, Wisconsin State Colleges Building Corporation, Wisconsin State Public Building Corporation or Wisconsin University Building Corporation.

(2) The commission shall authorize public debt to be contracted and evidences of indebtedness to be issued for the debt up to the amounts specified by the legislature to acquire, construct, develop, extend, enlarge or improve land, waters, property, highways, buildings, equipment or facilities or to make funds available for veterans housing loans for the classes of public purposes specified by the legislature as the funds are required. The requirements for funds shall be established by that department or agency head having program responsibilities for which public debt has been authorized by the legislature.

(3) Each purpose enumerated in sub. (1) shall be construed to include any premium payable with respect thereto and the expenses of funding, refunding and acquiring public debt. Each purpose specified by the legislature under subs. (1) and (2) shall be construed to include the expenses of contracting public debt.

(5) Public debt may be contracted under sub. (1) for any of the following purposes:

(a) To acquire public debt contracted to make funds available for veterans housing loans under sub. (2).

(b) To fund or refund public debt contracted to make funds available for veterans housing loans under sub. (2).

(c) To acquire public debt, other than public debt that is contracted to make funds available for veterans housing loans under sub. (2), for the purpose of investment for the veterans primary mortgage loan program under s. 45.37.

(d) To acquire public debt contracted for any of the purposes under pars. (a) to (c).

(6) (a) Public debt may include public debt contracted to fund interest, accrued or to accrue, on the public debt and to fund reserve funds for the public debt.

(b) The commission may direct that moneys resulting from any public debt contracted under this section be deposited in the funds or accounts created or designated by resolution of the commission or established by resolution under s. 45.37 (7), including escrow accounts established under refunding escrow agreements that are authorized by the commission.

(c) Notwithstanding s. 25.17, moneys deposited or held in funds or accounts under par. (b) and all other moneys received under s. 45.37 (7) (a) (intro.) may be invested in any obligations, either through cash purchase or exchange, as specified by resolution of the commission.

(d) Notwithstanding s. 25.17, moneys deposited or held in funds or accounts under par. (b) may be transferred to other funds or accounts or expended as provided by resolution of the commission, except that moneys resulting from public debt contracted for the purpose set forth in sub. (5) (b) and deposited in an escrow account shall be payable solely for the purposes of the bond security and redemption fund and for costs related to the creation and maintenance of the escrow account.

History: 1973 c. 90 s. 555m (2); 1975 c. 26; 1977 c. 29 s. 1652; 1977 c. 317; 1985 a. 6; 1987 a. 27; 1989 a. 31, 46; 2005 a. 22.

18.05 Limitations on aggregate public debt. (1) The aggregate public debt contracted in any calendar year for purposes specified by the legislature pursuant to s. 18.04 (2) shall not exceed an amount equal to the lesser of:

(a) Three−fourths of one percent of the aggregate value of all taxable property in the state; or

(b) Five percent of the aggregate value of all taxable property in the state less the sum of:

1. The aggregate public debt contracted pursuant to this subchapter which was outstanding as of January 1 of such calendar year after subtracting therefrom the amount on hand in the bond security and redemption fund and the amounts maintained pursuant to s. 18.09 (3) on January 1 of such calendar year which is applicable exclusively to repayment of such outstanding public debt; and

2. The aggregate net indebtedness outstanding as of January 1 of such calendar year of the Wisconsin State Agencies Building Corporation, Wisconsin State Colleges Building Corporation, Wisconsin State Public Building Corporation and Wisconsin University Building Corporation.

(2) The last determination made by the department of revenue of the full market value of all general property of the state liable to taxes pursuant to s. 70.575 shall be the aggregate value of all taxable property in the state. The department of revenue shall certify such value when requested for use in connection with the contracting of state debt.

(3) The legislative audit bureau shall annually determine the amounts under sub. (1) (b) 1. and 2. and shall certify such amounts when requested for use in connection with the contracting of state debt. It shall use in making such determination the fair market value of all property on hand in the sinking funds of the bond security and redemption fund. It shall take into account any anticipatory contracts under s. 18.10 (1).

History: 1977 c. 29 s. 1652; 2009 a. 177.

18.06 Procedures. (1) AUTHORIZING RESOLUTION. No public debt may be contracted nor evidence of indebtedness issued by the state except pursuant to an authorizing resolution. Each authorizing resolution shall state each purpose of the debt it authorizes, which need not be more specific but shall not be more general than those purposes in or pursuant to law, and the maximum principal amount of debt authorized for each such purpose. The commission may amend at any time any purpose authorized by a resolution if the amendment does not cause the total amount of debt for that purpose to exceed the statutory limit on the issuance of debt for that purpose.

(2) LOAN. An authorizing resolution may authorize the negotiation of a loan or loan agreement of any type, upon any terms, with any bank, savings and loan association, savings bank or credit union, or with any agency of the United States.

(3) NOTES. An authorizing resolution may authorize the issuance and sale of notes. Such a sale may be public or private as provided in the authorizing resolution.

(4) BONDS. An authorizing resolution may authorize the issuance and sale of bonds. Except as provided in subs. (5), (7) and (9) and except for any bond authorized and issued under this subchapter and designated by the commission under s. 18.82 as a higher education bond, the sale of bonds shall be public and noticed as provided in the authorizing resolution. Any or all bids received may be rejected and the sale canceled, or the sale of all or any part of the bonds negotiated, after bids at public sale have been rejected.

(5) FUNDING AND REFUNDING. An authorizing resolution may authorize, for any one or more of the purposes described in s. 18.04 (1), the issuance and sale of notes as provided in sub. (3) or the issuance and sale of bonds as provided in sub. (4). That sale may be public or private as provided in the authorizing resolution, and public debt may be exchanged in payment of or for the acquisition of other public debt.

(6) EXERCISE OF AUTHORITY. Public debt may be contracted and evidence of indebtedness issued therefor under one or more authorizing resolutions, unless otherwise provided in the resolution, at any time and from time to time, for any combination of purposes, in any specific amounts, at any rates of interest, at any price or percentage of par value, for any term, payable at any intervals, at any place, in any manner and having any other terms or conditions deemed necessary or useful. A resolution authorizing the contracting of public debt may provide that the public debt bear interest at variable or fixed rates, bear no interest, bear interest payable at any time or bear interest payable only at maturity or upon redemption prior to maturity. Unless sooner exercised and unless a shorter period is provided in such resolution, every authorizing resolution shall expire one year after the date of its adoption.

(7) SPECIAL PROCEDURES. Notwithstanding subs. (2) to (5), the following procedures apply to public debt contracted for any of the purposes under s. 18.04 (5) or contracted for the purpose of making funds available for veterans housing loans:

(a) The public debt may be sold at public or private sale.

(b) The public debt may be exchanged publicly or privately in payment of or for the acquisition of other public debt.

(c) The public debt may be sold for par value or at a premium or discount from par value.

(d) The public debt may bear interest at variable or fixed rates as provided in or pursuant to the resolution authorizing the contracting of the public debt or, if the resolution so provides, may bear no interest, bear interest payable at any time or bear interest payable only at maturity or upon redemption prior to maturity.

(8) PUBLIC DEBT, AGREEMENTS. (a) Subject to pars. (am) and (ar), at the time of, or in anticipation of, contracting public debt and at any time thereafter while the public debt is outstanding, the commission may enter into agreements and ancillary arrangements relating to the public debt, including liquidity facilities, remarketing or dealer agreements, letter of credit agreements, insurance policies, guaranty agreements, reimbursement agreements, indexing agreements, or interest exchange agreements. The commission shall determine all of the following, if applicable, with respect to any such agreement or ancillary arrangement:

1. For any payment to be received with respect to the agreement or ancillary arrangement, whether the payment will be deposited into the bond security and redemption fund or the capital improvement fund.

2. For any payment to be made with respect to the agreement or ancillary arrangement, whether the payment will be made from the bond security and redemption fund or the capital improvement fund and the timing of any transfer of funds.

(am) With respect to any interest exchange agreement or agreements specified in par. (a), all of the following shall apply:

1. The commission shall contract with an independent financial consulting firm to determine if the terms and conditions of the agreement reflect a fair market value, as of the proposed date of the execution of the agreement.

2. The interest exchange agreement must identify by maturity, bond issue, or bond purpose the debt or obligation to which the agreement is related. The determination of the commission included in an interest exchange agreement that such agreement relates to a debt or obligation shall be conclusive.

3. The resolution authorizing the commission to enter into any interest exchange agreement shall require that the terms and conditions of the agreement reflect a fair market value as of the date of execution of the agreement, as reflected by the determination of the independent financial consulting firm under subd. 1., and shall establish guidelines for any such agreement, including the following:

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

b. The form and content of the agreements.

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

d. The standards and procedures for counterparty selection.

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

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

g. A system for financial monitoring and periodic assessment of the agreements.

(ar) 1. Subject to subd. 2., the terms and conditions of an interest exchange agreement under par. (a) shall not be structured so that, as of the trade date of the agreement, both of the following are reasonably expected to occur:

a. The aggregate expected debt service and net exchange payments relating to the agreement during the fiscal year in which the trade date occurs will be less than the aggregate expected debt service and net exchange payments relating to the agreement that would be payable during that fiscal year if the agreement is not executed.

b. The aggregate expected debt service and net exchange payments relating to the agreement in subsequent fiscal years will be greater than the aggregate expected debt service and net exchange payments relating to the agreement that would be payable in those fiscal years if the agreement is not executed.

2. Subdivision 1. shall not apply if either of the following occurs:

a. The commission receives a determination by the independent financial consulting firm under par. (am) 1. that the terms and conditions of the agreement reflect payments by the state that represent on−market rates as of the trade date for the particular type of agreement.

b. The commission provides written notice to the joint committee on finance of its intention to enter into an agreement that is reasonably expected to satisfy subd. 1., and the joint committee on finance either approves or disapproves, in writing, the commission's entering into the agreement within 14 days of receiving the written notice from the commission.

3. This paragraph shall not limit the liability of the state under an agreement if actual contracted net exchange payments in any fiscal year are less than or exceed original expectations.

(b) The commission may delegate to other persons the authority and responsibility to take actions necessary and appropriate to implement agreements and ancillary arrangements under pars. (a) and (am).

(c) Any public debt may include public debt contracted to fund interest, accrued or to accrue, on the public debt.

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

1. A description of each agreement, including a summary of its terms and conditions, rates, maturity, and the estimated market value of each agreement.

2. An accounting of amounts that were required to be paid and received on each agreement.

3. Any credit enhancement, liquidity facility, or reserves, including an accounting of the costs and expenses incurred by the state.

4. A description of the counterparty to each agreement.

5. A description of the counterparty risk, the termination risk, and other risks associated with each agreement.

(9) CLEAN WATER FUND PROGRAM BONDS. Notwithstanding sub. (4), the sale of bonds under this subchapter to provide revenue for the clean water fund program may be a private sale to the environmental improvement fund under s. 25.43, if the bonds sold are held or owned by the environmental improvement fund, or a public sale, as provided in the authorizing resolution.

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.

18.07 Form and content of evidence of indebtedness. (1) Any provision of s. 403.104 to the contrary notwithstanding, every evidence of indebtedness and every interest coupon appurtenant thereto is declared to be a negotiable instrument.

(2) Every loan agreement entered into pursuant to s. 18.06 (2) and every evidence of indebtedness given under such a loan agreement shall be executed in the name of and for the state by the secretary of the commission. Every other evidence of indebtedness shall be executed in the name of and for the state by the governor and by the secretary of administration and shall be sealed with the great seal of the state or a facsimile thereof of any size. The facsimile signature of either the governor or secretary of administration or both may be imprinted in lieu of the manual signature of such officer, as the commission directs, if approved by such officer. Evidence of indebtedness bearing the manual or facsimile signature of a person in office at the time such signature was signed or imprinted shall be fully valid notwithstanding that before or after the delivery thereof such person ceased to hold such office.

(3) Every evidence of indebtedness shall be dated not later than the date issued, shall contain a reference by date to the appropriate authorizing resolution or resolutions and shall be in accordance therewith and, if issued for any one or more of the purposes described in s. 18.04 (1), shall so state.

(4) An evidence of indebtedness and any interest coupon appurtenant thereto shall be in such form and contain such statements or terms, not in conflict with law or with the appropriate authorizing resolution or resolutions, as the commission directs.

History: 1973 c. 90 s. 555m (2); 1981 c. 20; 2003 a. 33.

18.08 Capital improvement fund. (1) (a) All moneys resulting from the contracting of public debt or any payment to be received with respect to any agreement or ancillary arrangement entered into under s. 18.06 (8) (a) with respect to any such public debt shall be credited to a separate and distinct fund, established in the state treasury, designated as the capital improvement fund, except that:

1. Such moneys which represent accrued interest on bonds issued, or are for purposes of funding or refunding bonds pursuant to s. 18.06 (5), shall be credited to one or more of the sinking funds of the bond security and redemption fund or to the state building trust fund.

2. Any such moneys that represent any payments received pursuant to any agreement or ancillary arrangement entered into under s. 18.06 (8) (a) with respect to any such public debt may be credited to one or more of the sinking funds of the bond security and redemption fund or to the capital improvement fund, as determined by the commission.

3. Premiums required for deposit in reserve funds or those necessary to make cost of issuance and other ancillary payments may be credited to one or more of the sinking funds of the bond security and redemption fund or to the capital improvement fund, as determined by the commission.

(b) Moneys within the capital improvement fund shall be segregated into separate and distinct accounts according to the program purposes defined under ch. 20 for which public debt has been authorized by the legislature.

(1m) With respect to premium proceeds deposited in the capital improvement fund, all of the following shall apply:

(a) Premium proceeds shall first be used for the purposes for which the bonds were issued in proportion to the par value of the bond issue. If the premiums are used for the purposes, the authorized bonding authorization for those purposes is reduced by the amount of premiums that are used.

(b) Any premiums not used for the purposes for which bonding was authorized may be used for other purposes, as determined by the commission. If the premiums are used for any other purposes, the authorized bonding authorization for those purposes is reduced by the amount of premiums that are used.

(2) The capital improvement fund may be expended, pursuant to appropriations, only for the purposes and in the amounts for which the public debts have been contracted, for the payment of principal and interest on loans or on notes, for the payment due, if any, under an agreement or ancillary arrangement entered into under s. 18.06 (8) (a) with respect to any such public debt, for the purposes identified under s. 20.867 (2) (v) and (4) (q), and for expenses incurred in contracting public debt.

(3) Moneys of the capital improvement fund may be commingled only for the purpose of investment with other public funds, but they shall be invested only as provided in s. 18.04 (6) or 25.17 (3) (b). All such investments shall be the exclusive property of the fund and all earnings on or income from such investments shall be credited to the fund and shall, subject to subs. (5) and (6), become available for any of the purposes under sub. (2). Before October 1, 1983, earnings from that portion created by self−amortizing projects may be transferred by resolution of the commission to the bond security and redemption fund to be used as provided in s. 18.09 (4).

(4) If at any time it appears that there will not be on hand in the capital improvement fund sufficient moneys for the payment of principal and interest on loans or on notes or for the payment due, if any, under an agreement or ancillary arrangement that has been entered into under s. 18.06 (8) (a) with respect to any public debt and that has been determined to be payable from the capital improvement fund under s. 18.06 (8) (a) 2., the department of administration shall transfer to such fund, out of the appropriation made pursuant to s. 20.866, a sum sufficient which, together with any available money on hand in such fund, is sufficient to make such payment.

(5) Before October 31, 1983, there shall be transferred to the bond security and redemption fund the interest earnings accrued to the capital improvement fund before October 1, 1983 due to the investment of moneys from the contracting of public debt under s. 20.866 (2) (u) to (uv). These funds shall be used for meeting periodic principal, interest and premiums due, if any, on principal repayment and interest payments required from the transportation fund on this public debt.

(6) Before October 31, 1983, there shall be transferred to the bond security and redemption fund the interest earnings accrued to the capital improvement fund before October 1, 1983, due to the

investment of moneys from the contracting of public debt under s. 20.866 (2) (tm) to (to). These funds shall be used for meeting periodic principal, interest and premiums due, if any, on principal repayment and interest payments required from the general fund on this public debt.

History: 1971 c. 125; 1973 c. 90 ss. 32c, 555m (2); 1973 c. 243; 1975 c. 39; 1977 c. 29 ss. 1652, 1654 (1); 1977 c. 317, 418; 1979 c. 34; 1983 a. 27 ss. 111n, 2202 (5); 1987 a. 27; 2007 a. 20; 2013 a. 20.

18.09 Bond security and redemption fund. (1) When bonds are authorized, there shall be established in the state treasury a bond security and redemption fund separate and distinct from every other fund, which shall contain separate and distinct sinking funds for each particular bond issue.

(2) Each sinking fund shall be expended, and all moneys from time to time on hand therein are irrevocably appropriated, in sums sufficient, only for the payment of principal and interest on the bonds giving rise to it, premium, if any, due upon redemption of any such bonds, and payment due, if any, under an agreement or ancillary arrangement that has been entered into under s. 18.06 (8) (a) with respect to any such bonds and that has been determined to be payable from the bond security and redemption fund under s. 18.06 (8) (a) 2.

(3) One year after interest has ceased to accrue on all of the bonds giving rise to a sinking fund, all moneys on hand in such sinking fund shall be paid over and transferred to the state building trust fund and the sinking fund shall be closed. An amount equal to the aggregate face value of all outstanding bonds and the accrued interest thereon for which no sinking fund exists shall be maintained in the state building trust fund applicable exclusively to the payment of such bonds and interest.

(4) Moneys of the bond security and redemption fund may be commingled only for the purpose of investment with other public funds, and they may be invested only as provided in s. 18.04 (6) or 25.17 (3) (dr). All such investments shall be the exclusive property of such fund and all earnings on or income from such investments plus any transfers from the capital improvement fund under s. 18.08 (3), (5) or (6) shall be distributed to the respective sinking funds by the department of administration for use in meeting periodic principal and interest payments on bonds issued.

(5) There shall be transferred to each sinking fund a sum sufficient for the payment of the principal, interest and premium due, if any, on the bonds giving rise to it as the same falls due. Such transfers shall be so timed that there is at all times on hand in the sinking fund an amount not less than the aggregate amount of principal, interest and premium, if any, to be paid out of it during the ensuing 15 days. The amount of any transfer scheduled to be made to the sinking fund from an escrow account established under a refunding escrow agreement on or before the due date of any payment of principal, interest or premium shall be treated as an amount on hand in the sinking fund as of the 16th day before the due date or as of the 46th day before the due date if operating notes are outstanding. Notwithstanding the foregoing, no further such transfer need be made after there are on hand in the sinking fund from any source assets sufficient to pay the aggregate face value of all of the bonds giving rise to it outstanding, the amount of any premium payable on such payment and the amount of interest to accrue on such bonds until payment.

History: 1971 c. 125; 1983 a. 27 s. 2202 (5); 1985 a 6; 1987 a. 27; 2007 a. 20.

The terms of a statute in effect at the time of a bond issue providing for specific transfers of funds to a sinking fund are a part of the bond obligation that cannot be changed by retroactive application of an amendment to that statute. 61 Atty. Gen. 93.

18.10 Other fiscal and administrative regulations. (1) ANTICIPATORY CONTRACTS. After adoption of an authorizing resolution for a purpose which is to be accomplished wholly or in part through performance of an executory contract by some other contracting party, such contract may be entered into prior to the contracting of the debt authorized by such resolution with like effect as if the funds necessary for payments on the contract were already available. In such cases the debt authorized by such resolution shall be deemed to have been contracted pursuant to such resolution in the amount necessary to make such payments on the date such contract is entered into and the authority of such resolution shall promptly thereafter be exercised.

(2) LAWFUL MONEY. All money borrowed by the state shall be lawful money of the United States and all public debt shall be payable in such money.

(3) MANAGEMENT OF FUNDS AND RECORDS. The capital improvement fund and the bond security and redemption fund shall be managed as provided by law for other state funds. The department of administration shall maintain full and correct records of each fund. The legislative audit bureau shall audit each such fund as of January 1 of each year reconciling all transactions and showing the fair market value of all property on hand.

(4) DEBT HELD BY STATE. All evidence of indebtedness owned or held by any state fund shall be deemed to be outstanding in all respects and the agency having such fund under its control shall have the same rights with respect to such evidence of indebtedness as a private party, but if any sinking fund acquires bonds which gave rise to such fund, such bonds shall be deemed paid for all purposes and no longer outstanding and shall be canceled as provided in sub. (11). All evidence of indebtedness owned by any state fund shall be registered to the fullest extent registrable.

(5) REGISTRATION. The department of administration shall act as registrar for evidences of indebtedness registrable as to principal or interest or both. No transfer of a registered evidence of indebtedness is valid unless made on the register maintained by the department of administration for that purpose, and the state shall be entitled to treat the registered owner as the owner of such instrument for all purposes. Payments of principal and interest, when registered as to interest, of registered instruments shall be by electronic funds transfer, check, share draft or other draft to the registered owner at the owner's address as it appears on the register, unless the commission has otherwise provided. Information in the register relating to the owners of evidence of indebtedness is not available for inspection and copying under s. 19.35 (1). The commission may make such other provisions respecting registration as it deems necessary or useful. The department of administration may enter into a contract for the performance of any of his or her functions under this subsection and sub. (7).

(6) REPLACEMENT OF INSTRUMENTS. If any bond or note becomes mutilated or is destroyed, lost or stolen, the commission shall execute and deliver a new bond or note of like date of issue, maturity date, principal amount and interest rate per year as the bond or note so mutilated, destroyed, lost or stolen, in exchange and substitution for such mutilated bond or note or in lieu of and substitution for the bond or note destroyed, lost or stolen, upon filing with the commission evidence satisfactory to the commission that such bond or note has been destroyed, lost or stolen and proof of ownership thereof, and upon furnishing the commission with indemnity satisfactory to it and complying with such other reasonable rules as the commission promulgates and paying such expenses as the commission may incur. The bonds or notes so surrendered to the commission shall be canceled by it.

(7) RECORD OF INSTRUMENTS. The department of administration or the department's agent shall maintain records containing a full and correct description of each evidence of indebtedness issued, identifying it and showing its date, issue, amount, interest rate, payment dates, payments made, registration, destruction and every other relevant transaction.

(8) TRUSTEES AND FISCAL AGENTS. The commission may appoint one or more trustees and fiscal agents for each issue of bonds or notes. The secretary of administration may be denominated the trustee and the sole fiscal agent or a cofiscal agent for any issue of bonds or notes. Every other such fiscal agent shall be an incorporated bank or trust company authorized by the laws of the United States or of the state in which it is located to do a banking or trust company business. There may be deposited with a trustee, in a special account administered as provided in this chapter, moneys to be used only for the purposes expressly provided in a resolu-

tion authorizing the issuance of debt or an agreement between the commission and the trustee. The commission may make such other provisions respecting trustees and fiscal agents as it deems necessary or useful and may enter into a contract with any trustee or fiscal agent containing such terms, including compensation, and conditions in regard to the trustee or fiscal agent as it deems necessary or useful.

(9) PREPAYMENT. The commission may authorize debt having any provisions for prepayment deemed necessary or useful, including the payment of any premium.

(10) DEBT RETIREMENT. Interest shall cease to accrue on public debt on the date that such debt becomes due for payment if said payment is made or duly provided for. On that date, that public debt is no longer outstanding. If any holder of any public debt, including any interest pertaining to public debt and any premium, fails to present that public debt for payment, the unpaid unclaimed moneys provided for the payment of that public debt shall be administered under ch. 177.

(11) CANCELLATION OF INSTRUMENTS. Unless otherwise directed by the commission, every evidence of indebtedness and interest coupon paid or otherwise retired shall be marked "canceled" and shall be destroyed by the department of administration or destroyed by a fiscal agent appointed under sub. (8) who shall certify that destruction to the department of administration.

(12) PROCUREMENT OF SERVICES. The commission may enter into a contract with any firm or individual engaged in financial services for the performance of any of its duties under this chapter, using selection and procurement procedures established by the commission. That contract is not subject to s. 16.705 or 16.75.

History: 1973 c. 90 s. 555m (2); 1979 c. 34; 1979 c. 110 s. 60 (13); 1981 c. 20; 1983 a. 368; 1987 a. 27, 403; 1989 a. 31; 1991 a. 299, 316; 2003 a. 33; 2013 a. 8.

18.12 Pledge of full faith. The full faith, credit and taxing power of this state are irrevocably pledged to the payment of the principal, interest and premium due, if any, on all public debt. There is irrevocably appropriated through s. 20.866, as a first charge upon all revenues of this state, a sum sufficient for the payment of the installments of principal, interest and premium due, if any, on all public debt as the same falls due.

18.13 Suits against the state. (1) IN GENERAL. This section and ss. 18.14 and 18.15 shall govern all civil claims, suits, proceedings and actions respecting public debt notwithstanding any contrary provision of the statutes.

(2) TO RECOVER A DEBT. If the state fails to pay any public debt in accordance with its terms, an action to compel such payment may be commenced against the state in accordance with s. 801.02. The plaintiff shall serve an authenticated copy of the summons and complaint on the attorney general by leaving the copies at the attorney general's office in the capitol with an assistant or clerk. The place of trial of such an action shall be as provided in s. 801.50.

(3) JUDGMENT. Sections 16.53 and 775.01 shall not apply to such claims for payment of a public debt. If there is final judgment against the state in such action, it shall be paid as provided in s. 775.04 together with interest thereon at the rate of 10 percent per year from the date such payment was judged to have been due until the date of payment of such judgment.

History: Sup. Ct. Order, 67 Wis. 2d 575, 749 (1975); 1975 c. 218; 1979 c. 32 s. 92 (5); 1979 c. 110 s. 60 (13); 1983 a. 228 s. 16; 1983 a. 410; 1995 a. 27; 1997 a. 27.

18.14 Validation of debt. (1) Notwithstanding any defects, irregularities, lack of power or failure to comply with any statute or any act of the commission, all public debt contracted or attempted to be contracted after December 7, 1969 is declared to be valid and entitled to the pledge made by s. 18.12; all instruments given after December 7, 1969 to evidence such debt are declared to be binding, legal, valid, enforceable and incontestable in accordance with their terms; and all proceedings taken and certifications and determinations made after December 7, 1969 to authorize, issue, sell, execute, deliver or enter into such debt or such instruments are validated, ratified, approved and confirmed.

(2) A determination, legislative, judicial or administrative, for any reason, that the state may not spend the proceeds of contracted public debt, or that it has spent such proceeds for a purpose other than the stated purpose for which such public debt was contracted or for a purpose for which the state may not spend money, shall not affect the validity of such public debt nor the evidence of indebtedness therefor.

History: 1973 c. 90 s. 555m (2).

18.15 Diversion of funds, liability of officers for. Any public officer or public employee, as defined in s. 939.22 (30), and the surety on the official bond of the officer or employee, or any other person participating in any direct or indirect impairment of the capital improvement fund or bond security and redemption fund, shall be liable in an action brought by the attorney general in the name of the state, or by any taxpayer of the state, or by the holder of any evidence of indebtedness payable in whole or in part, directly or indirectly, out of such fund, to restore to such fund all diversions therefrom.

History: 1991 a. 316.

18.16 Minority financial advisers and investment firms; disabled veteran−owned financial advisers and investment firms. (1) In this section:

(a) "Disabled veteran−owned financial adviser" means a financial adviser certified by the department of administration under s. 16.283 (3).

(b) "Disabled veteran−owned investment firm" means an investment firm certified by the department of administration under s. 16.283 (3).

(c) "Minority financial adviser" means a financial adviser certified by the department of administration under s. 16.287 (2).

(d) "Minority investment firm" means an investment firm certified by the department of administration under s. 16.287 (2).

(2) (a) Except as provided under sub. (7), in contracting public debt by competitive sale, the commission shall ensure that at least 6 percent of total public indebtedness contracted in each fiscal year is underwritten by minority investment firms.

(b) Except as provided in sub. (7), in contracting public debt by competitive sale, the commission shall make efforts to ensure that at least 1 percent of the total public indebtedness contracted in each fiscal year is underwritten by disabled veteran−owned investment firms.

(3) (a) Except as provided under sub. (7), in contracting public debt by negotiated sale, the commission shall ensure that at least 6 percent of total public indebtedness contracted in each fiscal year is underwritten by minority investment firms.

(b) Except as provided under sub. (7), in contracting public debt by negotiated sale, the commission shall make efforts to ensure that at least 1 percent of total public indebtedness contracted in each fiscal year is underwritten by disabled veteran−owned investment firms.

(4) (a) Except as provided under sub. (7), in contracting public debt by competitive sale or negotiated sale, the commission shall ensure that at least 6 percent of the total moneys expended in each fiscal year for the services of financial advisers are expended for the services of minority financial advisers.

(b) Except as provided under sub. (7), in contracting public debt by competitive sale or negotiated sale, the commission shall make efforts to ensure that at least 1 percent of the total moneys expended in each fiscal year for the services of financial advisers are expended for the services of disabled veteran−owned financial advisers.

(5) (a) Except as provided under s. 18.06 (9) and sub. (7), an individual underwriter or syndicate of underwriters shall ensure that each bid or proposal, submitted by that individual or syndicate

in a competitive or negotiated sale of public debt, provides for a portion of sales to minority investment firms.

(b) Except as provided under s. 18.06 (9) and sub. (7), an individual underwriter or syndicate of underwriters shall make efforts to ensure that each bid or proposal, submitted by that individual or syndicate in a competitive or negotiated sale of public debt, provides for at least 1 percent of sales to disabled veteran−owned investment firms.

(6) The commission shall annually report to the department of administration the total amount of public indebtedness contracted with the underwriting services of minority investment firms and disabled veteran−owned investment firms and the total amount of moneys expended for the services of minority financial advisers and disabled veteran−owned financial advisers during the preceding fiscal year.

(7) The requirements of any of subs. (2) to (5) do not apply to a contracting of public debt, if the secretary of administration submits a report in writing to the joint committee on finance specifying the building commission's reasons for not complying with the requirements of any of subs. (2) to (5) for that contracting of public debt.

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.

18.17 Full authority. This chapter shall constitute full authority for the accomplishment of all acts authorized in this chapter to be done. No other law restricting the carrying out of such acts shall be construed as applying to proceedings had or acts done pursuant to this chapter.

SUBCHAPTER II

REVENUE OBLIGATIONS

18.51 Provisions applicable. The following sections apply to this subchapter, except that all references to "public debt" or "debt" shall be read to refer to a "revenue obligation" and all references to "evidences of indebtedness" shall be read to refer to "evidences of revenue obligation": ss. 18.02, 18.03, 18.07, 18.10 (1), (2), (4) to (9), (11), and (12), and 18.17.

History: 1977 c. 29; 1991 a. 39; 1999 a. 9; 2003 a. 33.

18.52 Definitions. In this subchapter, unless the context requires otherwise:

(1c) "Aggregate expected debt service and net exchange payments" means the sum of the following:

(a) The aggregate net payments expected to be made and received under a specified interest exchange agreement under s. 18.55 (6) (a).

(b) The aggregate debt service expected to be made on obligations related to that agreement.

(c) The aggregate net payments expected to be made and received under all other interest exchange agreements under s. 18.55 (6) (a) relating to those obligations that are in force at the time of executing the agreement.

(1e) "Ancillary payments" means payments for issuance costs and expenses, payments under contracts entered into under s. 18.55 (6), payments of accrued or funded interest, and payments of other costs and expenses of administering revenue obligations.

(1m) "Authorizing resolution" means any resolution adopted by the commission under this subchapter which authorizes the contracting of a revenue obligation.

(2) "Commission" means the building commission.

(2m) "Enterprise obligation" means every undertaking by the state to repay a certain amount of borrowed money that is all of the following:

(a) Created for the purpose of purchasing, acquiring, leasing, constructing, extending, expanding, adding to, improving, conducting, controlling, operating or managing a revenue−producing enterprise or program.

(b) Payable from and secured by the property or income or both of the enterprise or program.

(c) Not public debt under s. 18.01 (4).

(3) "Evidence of revenue obligation" means a written promise to pay a revenue obligation.

(4) "Public debt" means every voluntary, unconditional undertaking by the state to repay a certain amount of borrowed money:

(a) Out of the state treasury, except a loan or advance by any state agency or fund to any other state agency or fund; or

(b) For which any existing asset of the state is pledged, except the pledge of an outstanding evidence of indebtedness without recourse.

(5) "Revenue obligation" means an enterprise obligation or a special fund obligation. A revenue obligation may be both an enterprise obligation and a special fund obligation.

(6) "Revenue−producing enterprise" or "program" means every state enterprise or program deemed by the legislature to be likely to produce sufficient net income to pay when due the principal and interest of revenue obligations to be issued in connection therewith.

(7) "Special fund obligation" means every undertaking by the state to repay a certain amount of borrowed money that is all of the following:

(a) Payable from a special fund consisting of fees, penalties or excise taxes.

(b) Not public debt under s. 18.01 (4).

(8) "Special fund program" means a state program or purpose with respect to which the legislature has determined that financing with special fund obligations is appropriate and will serve a public purpose.

History: 1977 c. 29; 1979 c. 107; 1981 c. 336; 1983 a. 36 s. 96 (4); 1999 a. 9; 2003 a. 33; 2007 a. 20.

18.53 Purposes of revenue obligations and amounts. **(1)** The commission may authorize money to be borrowed and evidences of revenue obligation to be issued therefor in an amount sufficient to fund or refund, as provided in s. 18.60, the whole or any part of:

(a) Any revenue obligation issued under this subchapter.

(b) Any public debt or indebtedness described in s. 18.04.

(2) The commission may authorize money to be borrowed and evidences of revenue obligation to be issued therefor, in an amount sufficient, as provided in s. 18.59:

(a) To anticipate the sale of revenue−obligation bonds.

(b) To renew the whole or any part of any revenue−bond anticipation notes then outstanding.

(3) The commission shall authorize money to be borrowed and evidences of revenue obligation to be issued. The requirements for funds shall be established by the state department or agency head carrying out program responsibilities for which the revenue obligations have been authorized by the legislature, but shall not exceed the following:

(a) In the case of enterprise obligations, the amounts specified by the legislature to purchase, acquire, lease, construct, extend, expand, add to, improve, conduct, control, operate or manage such revenue−producing enterprises or programs as are specified by the legislature.

(b) In the case of special fund obligations, the amount specified by the legislature for such expenditures to be paid from special fund obligations.

(4) Unless otherwise provided in laws applicable to the issuance of a specific revenue obligation, in addition to the requirements established under sub. (3), the commission shall

establish the amounts required for ancillary payments and establishment of reserves relating to the revenue obligations.

History: 1977 c. 29; 1999 a. 9; 2003 a. 33.

18.54 Limitations on revenue obligations. (1) The amount of evidences of revenue obligation issued or outstanding for the purposes specified in s. 18.53 (1) and (2) are subject only to the limits provided in this subchapter.

(2) The amount of evidences of revenue obligation issued or outstanding for purposes specified by the legislature under s. 18.53 (3) and (4) are subject only to the limits provided in the legislation which authorizes that revenue obligation. No refunding obligation is subject to any limitation specified by that legislation.

History: 1977 c. 29; 1987 a. 27; 2003 a. 33.

18.55 Procedures. (1) AUTHORIZING RESOLUTION. No money may be borrowed under this subchapter nor any evidence of revenue obligation issued by the state except pursuant to an authorizing resolution. Each authorizing resolution shall state each purpose of the revenue obligation it authorizes, which need not be more specific but shall not be more general than those purposes provided in or pursuant to law, and the maximum principal amount of revenue obligations authorized for each such purpose.

(2) BOND ANTICIPATION NOTES. Revenue−obligation bond anticipation notes may be sold at public or private sale or, in the case of renewal notes, exchanged privately for and in payment and discharge of any of the outstanding notes being renewed, as provided in the authorizing resolution.

(3) REVENUE OBLIGATIONS. Revenue obligations may be sold at either public or private sale. The commission may provide in the authorizing resolution for refunding obligations that they be exchanged privately in payment and discharge of any of the outstanding bonds or notes being refunded. All revenue obligations sold at public sale shall be noticed as provided in the authorizing resolution. Any or all bids received at public sale may be rejected.

(4) NO MINIMUM ISSUANCE PRICE. Revenue obligation bonds may be sold at any price or percentage of par value.

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

(6) AGREEMENTS AND ARRANGEMENTS; DELEGATION; USE OF REVENUE OBLIGATIONS. (a) Subject to pars. (d) and (e), at the time of, or in anticipation of, contracting revenue obligations and at any time thereafter while the revenue obligations are outstanding, the commission may enter into agreements and ancillary arrangements relating to the revenue obligations, including trust indentures, liquidity facilities, remarketing or dealer agreements, letter of credit agreements, insurance policies, guaranty agreements, reimbursement agreements, indexing agreements, or interest exchange agreements. Any payment made or received pursuant to any such agreements or ancillary arrangements shall be made from or deposited into a fund relating to the relevant revenue obligation, as determined by the commission. The determination of the commission included in an interest exchange agreement that such an agreement relates to a revenue obligation shall be conclusive.

(b) The commission may delegate to other persons the authority and responsibility to take actions necessary and appropriate to implement agreements and ancillary arrangements under par. (a).

(c) Any revenue obligations may include revenue obligations contracted to fund interest, accrued or to accrue, on the revenue obligations.

(d) With respect to any interest exchange agreement or agreements specified in par. (a), all of the following shall apply:

1. The commission shall contract with an independent financial consulting firm to determine if the terms and conditions of the agreement reflect a fair market value, as of the proposed date of the execution of the agreement.

2. The interest exchange agreement must identify by maturity, bond issue, or bond purpose the obligation to which the agreement is related. The determination of the commission included in an interest exchange agreement that such agreement relates to an obligation shall be conclusive.

3. The resolution authorizing the commission to enter into any interest exchange agreement shall require that the terms and conditions of the agreement reflect a fair market value as of the date of execution of the agreement, as reflected by the determination of the independent financial consulting firm under subd. 1., and shall establish guidelines for any such agreement, including the following:

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

b. The form and content of the agreements.

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

d. The standards and procedures for counterparty selection.

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

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

g. A system for financial monitoring and periodic assessment of the agreements.

(e) 1. Subject to subd. 2., the terms and conditions of an interest exchange agreement under par. (a) shall not be structured so that, as of the trade date of the agreement, both of the following are reasonably expected to occur:

a. The aggregate expected debt service and net exchange payments relating to the agreement during the fiscal year in which the trade date occurs will be less than the aggregate expected debt service and net exchange payments relating to the agreement that would be payable during that fiscal year if the agreement is not executed.

b. The aggregate expected debt service and net exchange payments relating to the agreement in subsequent fiscal years will be greater than the aggregate expected debt service and net exchange payments relating to the agreement that would be payable in those fiscal years if the agreement is not executed.

2. Subdivision 1. shall not apply if either of the following occurs:

a. The commission receives a determination by the independent financial consulting firm under par. (d) 1. that the terms and conditions of the agreement reflect payments by the state that represent on−market rates as of the trade date for the particular type of agreement.

b. The commission provides written notice to the joint committee on finance of its intention to enter into an agreement that is reasonably expected to satisfy subd. 1., and the joint committee on finance either approves or disapproves, in writing, the commission's entering into the agreement within 14 days of receiving the written notice from the commission.

3. This paragraph shall not limit the liability of the state under an agreement if actual contracted net exchange payments in any fiscal year are less than or exceed original expectations.

(f) Semiannually, during any year in which the state is a party to an agreement entered into pursuant to par. (a), the department

of administration shall submit a report to the commission and to the cochairpersons of the joint committee on finance listing all such agreements. The report shall include all of the following:

1. A description of each agreement, including a summary of its terms and conditions, rates, maturity, and the estimated market value of each agreement.

2. An accounting of amounts that were required to be paid and received on each agreement.

3. Any credit enhancement, liquidity facility, or reserves, including an accounting of the costs and expenses incurred by the state.

4. A description of the counterparty to each agreement.

5. A description of the counterparty risk, the termination risk, and other risks associated with each agreement.

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.

18.56 Revenue obligations. The commission may authorize, for any of the purposes described in s. 18.53 (3), the issuance of revenue obligations. The revenue obligations shall mature at any time not exceeding 50 years from the date thereof as the commission shall determine. The revenue obligations shall be payable only out of the redemption fund provided under s. 18.561 (5) or 18.562 (3) and each revenue obligation shall contain on its face a statement to that effect. A revenue obligation may contain a provision authorizing redemption, in whole or in part, at stipulated prices, at the option of the commission and shall provide the method of redeeming the revenue obligations.

History: 1977 c. 29; 1979 c. 34, 155; 1989 a. 31, 46; 1999 a. 9.

A federal provision subjecting interest on unregistered state and local bonds to federal income tax does not violate the 10th amendment or the intergovernmental tax immunity doctrine. South Carolina v. Baker, 485 U.S. 505 (1988).

18.561 Enterprise obligations. (1) PAYMENT WITH REVENUE OBLIGATIONS. The state and a contracting party may provide, in any contract for purchasing or acquiring a revenue−producing enterprise or program, that payment shall be made in revenue obligations.

(2) SECURITY INTERESTS OF OWNERS OF ENTERPRISE OBLIGATIONS. There is a mortgage lien upon or security interest in the income and property of each revenue−producing enterprise or program for the benefit of the owners of the related enterprise obligations. No physical delivery, recordation or other action is required to perfect the security interest. The income and property of the revenue−producing enterprise or program shall remain subject to the lien until provision for payment in full of the principal and interest of the enterprise obligations has been made, as provided in the authorizing resolution. Any owner of such enterprise obligations may either at law or in equity protect and enforce the lien and compel performance of all duties required by this section. If there is any default in the payment of the principal or interest of any of such enterprise obligations, any court having jurisdiction of the action may appoint a receiver to administer the revenue−producing enterprise or program on behalf of the state and the owners of the enterprise obligations, with power to charge and collect rates sufficient to provide for the payment of the operating expenses and also to pay any enterprise obligations outstanding against the revenue−producing enterprise or program, and to apply the income and revenues thereof in conformity with this subchapter and the authorizing resolution, or the court may declare the whole amount of the enterprise obligations due and payable, if such relief is requested, and may order and direct the sale of the revenue−producing enterprise or program. Under any sale so ordered, the purchaser shall be vested with an indeterminate permit to maintain and operate the revenue−producing enterprise or program. The legislature may provide for additions, extensions and improvements to a revenue−producing enterprise or program to be financed by additional issues of enterprise obligations as provided by this section. Such additional issues of enterprise obligations shall be subordinate to all prior related issues of enterprise obligations which may have been made under this section, unless the legislature, in the statute authorizing the initial issue of enterprise obligations, permits the issue of additional enterprise obligations on a parity therewith.

(3) DEDICATION OF REVENUES. As accurately as possible in advance, the commission and the state department or agency carrying out program responsibilities for which enterprise obligations are to be issued shall determine, and the commission shall fix in the authorizing resolution for such enterprise obligations: the proportion of the revenues of the revenue−producing enterprise or program which shall be necessary for the reasonable and proper operation and maintenance thereof; the proportion of the revenues which shall be set aside as a proper and adequate replacement and reserve fund; and the proportion of the revenues which shall be set aside and applied to the payment of the principal and interest of the enterprise obligations, and shall provide that the revenues be set aside in separate funds. At any time after one year's operation, the state department or agency and the commission may recompute the proportion of the revenues which shall be assignable under this subsection based upon the experience of operation or upon the basis of further financing.

(4) REPLACEMENT AND RESERVE FUND. The proportion set aside to the replacement and reserve fund shall be available and shall be used, whenever necessary, to restore any deficiency in the redemption fund for the payment of the principal and interest due on enterprise obligations and for the creation and maintenance of any reserves established by the authorizing resolution to secure such payments. At any time when the redemption fund is sufficient for said purposes, moneys in the replacement and reserve fund may, subject to available appropriations, be expended either in the revenue−producing enterprise or program or in new acquisitions, constructions, extensions, additions, expansions or improvements. Any accumulations of the replacement and reserve fund may be invested as provided in this subchapter, and if invested, the income from the investment shall be carried in the replacement and reserve fund.

(5) REDEMPTION FUND. The proportion which shall be set aside for the payment of the principal of and interest on the enterprise obligations and, as directed by the commission, payments to be received with respect to an agreement or ancillary arrangement entered into pursuant to s. 18.55 (6), shall, at such times as provided in the authorizing resolution, be set apart and paid into a separate fund in the treasury or in an account maintained by a trustee appointed for that purpose in the authorizing resolution to be identified as "the ... redemption fund". Each redemption fund shall be expended, and all moneys from time to time on hand therein are irrevocably appropriated, in sums sufficient, only for the payment of principal of and interest on the enterprise obligations giving rise to it and premium, if any, due upon redemption of any such obligations, and for payment of obligations under an agreement or ancillary arrangement entered into under s. 18.55 (6) to the extent provided for in an authorizing resolution. Moneys in the redemption funds may be commingled only for the purpose of investment with other public funds, but they shall be invested only in investment instruments permitted in s. 25.17 (3) (dr). All such investments shall be the exclusive property of the fund and all earnings on or income from such investments shall be credited to the fund.

(6) REDEMPTION FUND SURPLUS. If any surplus is accumulated in any of the redemption funds, subject to any contract rights vested in owners of enterprise obligations secured thereby, it shall be paid over to the treasury.

(7) PAYMENT FOR SERVICES. The reasonable cost and value of any service rendered to the state by a revenue−producing enterprise or program shall be charged against the state and shall be paid for by it in periodic installments, subject to available appropriations.

(8) RATES FOR SERVICES. The rates for all services rendered by a revenue−producing enterprise or program to the state or to other consumers, shall be reasonable and just, taking into account and consideration the value of the services, the cost of maintaining and

operating the same, the proper and necessary allowance for depreciation replacement and reserve, and a sufficient and adequate return upon the capital invested.

(9) AUTHORIZING RESOLUTION. The commission may provide in the authorizing resolution for enterprise obligations or by subsequent action all things necessary to carry into effect this section. Any authorizing resolution shall constitute a contract with the owners of any enterprise obligations issued pursuant to the resolution. Any authorizing resolution may contain such provisions or covenants, without limiting the generality of the power to adopt the resolution, as are deemed necessary or desirable for the security of the owners of enterprise obligations or the marketability of the enterprise obligations.

(10) SINKING FUND. The authorizing resolution may set apart enterprise obligations the par value of which are equal to the principal amount of any secured obligation or charge subject to which a revenue−producing enterprise or program is to be purchased or acquired, and shall set aside in a sinking fund from the income of the revenue−producing enterprise or program, a sum sufficient to comply with the requirements of the instrument creating the security interest. If the instrument does not make any provision for a sinking fund, the resolution shall fix and determine the amount that shall be set aside into the sinking fund from month to month for interest on the secured obligation or charge, and a fixed amount or proportion not exceeding a stated sum, which shall be not less than one percent of the principal, to be set aside into the fund to pay the principal of the secured obligation or charge. Any balance in the fund after satisfying the secured obligations or charge shall be transferred to the redemption fund. Enterprise obligations set aside for the secured obligation or charge may, from time to time, be issued to an amount sufficient with the amount then in the sinking fund, to pay and retire the secured obligation or charge or any portion thereof. The enterprise obligations may be issued in exchange for or satisfaction of the secured obligation or charge, or may be sold in the manner provided in this subchapter, and the proceeds applied in payment of the same at maturity or before maturity by agreement with the owner of the secured obligation or charge. The commission and the owners of any revenue−producing enterprise or program acquired or purchased may, upon such terms and conditions as are satisfactory, contract that enterprise obligations to provide for the discharge of the secured obligation or charge, or for the whole purchase price shall be deposited with a trustee or depository and released from the deposit from time to time on such terms and conditions as are necessary to secure the payment of the secured obligation or charge.

History: 1999 a. 9 ss. 133 to 141; 2001 a. 16; 2003 a. 33.

18.562 Special fund obligations. (1) SECURITY INTEREST IN SPECIAL FUND. (a) There is a security interest, for the benefit of the owners of the special fund obligations and other persons specified in the authorizing resolution providing for the issuance of the particular special fund obligations, in the amounts that arise after the creation of the special fund program in the special fund related to the special fund obligations. For this purpose, amounts in the special fund shall be accounted for on a first−in, first−out basis, and no physical delivery, recordation, or other action is required to perfect the security interest.

(b) 1. Except as provided in subd. 2., the security interest for the benefit of the owners of the special fund obligations and other persons specified in the authorizing resolution providing for the issuance of the particular special fund obligations shall have priority over all conflicting security interests to the fees, penalties, or excise taxes that are required to be deposited in the special fund.

2. For different special fund obligations secured by the same fees, penalties, or excise taxes, priority shall be established according to the date of issuance of the special fund obligation or the incurrence of the other obligations specified in an authorizing resolution, if applicable, with earlier issuances or incurrences having priority over later issuances or incurrences, unless laws governing the issuance of a particular special fund obligation or the authorizing resolution providing for the issuance of a particular special fund obligation permit later issuances or incurrences on a parity or priority basis.

(c) The special fund shall remain subject to the security interest until provision for payment in full of the principal and interest of the special fund obligations, and other obligations specified in the authorizing resolution providing for the issuance of the particular special fund obligations, has been made, as provided in the authorizing resolution.

(d) An owner of special fund obligations may either at law or in equity protect and enforce the security interest and compel performance of all duties required by this section.

(2) USE OF SPECIAL FUND MONEYS. The commission and the state agency carrying out the special fund program responsibilities shall jointly determine, and the commission shall fix in the authorizing resolution for the obligations, the conditions under which money in the special fund shall be set aside and applied to the payment of the principal and interest of the obligations, deposited in funds established under the authorizing resolution or made available for other purposes.

(3) REDEMPTION FUND. The special fund revenues that are to be set aside for the payment of the principal of and interest on the special fund obligations and, as directed by the commission, payments to be received with respect to an agreement or ancillary arrangement entered into under s. 18.55 (6), shall be paid into a separate fund in the treasury or in an account maintained by a trustee appointed for that purpose in the authorizing resolution to be identified as "the ... redemption fund". Each redemption fund shall be expended, and all moneys from time to time on hand therein are irrevocably appropriated, in sums sufficient, only for the payment of principal of and interest on the special fund obligations giving rise to it and premium, if any, due upon redemption of any such obligations, and for payment of obligations under an agreement or ancillary arrangement entered into under s. 18.55 (6) to the extent provided for in an authorizing resolution. Moneys in the redemption funds may be commingled only for the purpose of investment with other public funds, but they shall be invested only in investment instruments permitted in s. 25.17 (3) (dr). All such investments shall be the exclusive property of the fund and all earnings on or income from such investments shall be credited to the fund.

(4) SURPLUS. If any surplus is accumulated in any of the redemption funds, subject to contract rights vested in the owners of special fund obligations secured thereby, it shall be paid over to the treasury.

(5) AUTHORIZING RESOLUTION. The commission may provide in the authorizing resolution for special fund obligations or by subsequent action all things necessary to carry into effect this section. Any authorizing resolution shall constitute a contract with the owners of any special fund obligations issued pursuant to the resolution. An authorizing resolution may contain such provisions or covenants, without limiting the generality of the power to adopt the resolution, as are deemed necessary or desirable for the security of owners of special fund obligations or the marketability of the special fund obligations.

History: 1999 a. 9; 2001 a. 16; 2003 a. 33.

18.57 Funds established for revenue obligations. (1) A separate and distinct fund shall be established in the state treasury or in an account maintained by a trustee appointed for that purpose by the authorizing resolution with respect to each revenue−producing enterprise or program the income from which is to be applied to the payment of any enterprise obligation. A separate and distinct fund shall be established in the state treasury or in an account maintained by a trustee appointed for that purpose by the authorizing resolution with respect to any special fund program that is financed through the issuance of special fund obligations. All moneys resulting from the issuance of evidences of revenue obligation shall be credited to the appropriate fund, applied

for refunding or note renewal purposes, or to make deposits to reserve funds, except that moneys which represent accrued interest or, to the extent provided in the resolution authorizing the issuance of such evidences of revenue obligation, premium received on the issuance of evidences shall be credited to the appropriate redemption fund. As determined by the commission, payments to be received under an agreement or ancillary arrangement entered into under s. 18.55 (6) with respect to any such issuance of evidences of revenue obligation shall be credited to the appropriate fund.

(2) Moneys in such funds may be expended, pursuant to appropriations, only for the purposes and in the amounts for which borrowed, for the payment of the principal of and interest on related revenue obligations, to make deposits to reserve funds, and to make ancillary payments.

(3) Moneys in such funds may be commingled only for the purpose of investment with other public funds, but they shall be invested only in investment instruments permitted in s. 25.17 (3) (b) or in environmental improvement fund investment instruments permitted in s. 281.59 (2m). All such investments shall be the exclusive property of such fund and all earnings on or income from investments shall be credited to such fund and shall become available for any of the purposes under sub. (2) and for the payment of interest on related revenue obligations.

(4) If, after all outstanding related revenue obligations have been paid or payment provided for, moneys remain in a fund created under sub. (1), all of the following shall occur:

(a) If the fund created under sub. (1) is in an account maintained by a trustee appointed by an authorizing resolution, the moneys shall be paid over to the treasury.

(b) The fund created under sub. (1) shall be closed.

History: 1977 c. 29; 1979 c. 34, 155; 1989 a. 366; 1995 a. 227; 1997 a. 27; 1999 a. 9, 185; 2001 a. 16; 2003 a. 33.

18.58 Other fiscal and administrative regulations. (1) MANAGEMENT OF FUNDS AND RECORDS. All funds established under this subchapter which are deposited in the state treasury shall be managed as provided by law for other state funds, subject to any contract rights vested in owners of evidences of revenue obligation secured by such fund. The department of administration shall maintain full and correct records of each fund. The legislative audit bureau shall audit each fund as of January 1 of each year reconciling all transactions and showing the fair market value of all property on hand. All records and audits shall be public documents. All funds established under this subchapter which are deposited with a trustee appointed for that purpose by the authorizing resolution shall be managed in accordance with resolutions authorizing the issuance of revenue obligations, agreements between the commission and the trustee and any contract rights vested in owners of revenue obligations secured by such fund.

(3) EXTINGUISHMENT OF DEBT. Interest shall cease to accrue on a revenue obligation on the date that the obligation becomes due for payment if payment is made or duly provided for, but the obligation and accrued interest shall continue to be a binding obligation according to its terms until 6 years overdue for payment, or such longer period as may be required by federal law. At that time, unless demand for its payment has been made, it shall be extinguished and shall be deemed no longer outstanding.

(4) SUBSTANTIVE COVENANTS. Notwithstanding any other provision of this subchapter, the state department or agency head carrying out program responsibilities for which a revenue obligation has been authorized by the legislature shall have the authority to formulate covenants respecting the operation of the related enterprise or program. The department or agency head shall consult with the commission with respect to the effect of any proposed covenants on the sale of the proposed revenue obligation. Nothing in this subsection shall be construed to expand the powers of any state department or agency.

History: 1977 c. 29; 1979 c. 34; 1999 a. 9; 2003 a. 33.

18.59 Bond anticipation notes. (1) Whenever the commission has adopted an authorizing resolution for revenue−obligation bonds for any one or more of the purposes described in s. 18.53 (3), it may, prior to the issuance of the bonds and in anticipation of their sale, adopt an authorizing resolution for revenue−obligation bond anticipation notes. The authorizing resolution shall recite that all conditions precedent to the issuance of revenue−obligation bonds required by law or by the resolution authorizing the bonds have been complied with and that the notes are issued for the purposes for which the bonds were authorized or to renew notes issued for such purposes. The authorizing resolution shall pledge to the payment of the principal of the notes the proceeds of the sale of the bonds. Upon the adoption of the authorizing resolution, the authorizing resolution for the bonds shall be irrevocable until the notes have been paid.

(2) All original revenue−obligation bond anticipation notes shall be named revenue−bond anticipation notes and shall recite on their face that they are payable solely from the proceeds of revenue−obligation bonds to be issued under this subchapter. The aggregate amount of such notes outstanding including interest to accrue shall not exceed the aggregate principal amount of the bonds in anticipation of the sale of which they are issued. The rate of interest borne by the notes shall not exceed any maximum rate of interest authorized to be borne by the bonds. No lien shall be created or attached with respect to any property of the state as a consequence of the issuance of such notes except as provided in sub. (4).

(4) Upon the issuance of revenue−obligation bond anticipation notes, there shall be paid into the funds or accounts respectively provided for the payment of the principal and interest of the revenue−obligation bonds in anticipation of the sale of which the notes are issued, from the portion of the income of the enterprise or program allocated to the payment of principal and interest, the same amount at the same times as would have been required to be paid for the payment of the principal and interest of the bonds if the bonds, in an equal principal amount and at the same rate of interest, maturing in annual installments over 50 years, had been issued instead of the notes. Such moneys or any part thereof may, by the authorizing resolution for the notes, be pledged for the payment of the principal and interest of the notes.

(5) All funds derived from the sale of revenue−obligation bonds or renewal notes issued subsequent to the issuance of revenue−obligation bond anticipation notes which the notes were issued in anticipation of the sale shall constitute a trust fund, and the fund shall be expended first for the payment of principal and interest of the notes, and then may be expended for other purposes set forth in the authorizing resolution for the bonds or renewal notes.

(6) The commission may authorize the issuance of renewal revenue−obligation bond anticipation notes to provide funds for the payment of the principal and interest of any such notes then outstanding. All of the provisions of this section shall apply to the renewal notes.

History: 1977 c. 29; 2001 a. 16.

18.60 Refunding obligations. (1) The commission may authorize, for any one or more of the purposes described in s. 18.53 (1), the issuance of revenue−obligation refunding obligations. Refunding obligations may be issued, subject to any contract rights vested in owners of obligations or notes being refinanced, to refinance more than one issue of obligations or notes notwithstanding that the obligations or notes may have been issued at different times for different purposes and may be secured by the property or income of more than one enterprise or program or special fund or may be public debt or building−corporation indebtedness. The principal amount of refunding obligations shall not exceed the sum of: the principal amount of the obligations or notes being refinanced; applicable redemption premiums; unpaid interest on the obligations or notes to the date of delivery

or exchange of the refunding obligations; in the event the proceeds are to be deposited in trust as provided in sub. (3), interest to accrue on the obligations or notes from the date of delivery to the date of maturity or to the redemption date selected by the commission, whichever is earlier; and the expenses incurred in the issuance of the refunding obligations and the payment of the obligations or notes. A determination by the commission that a refinancing is advantageous or that any of the amounts provided in the preceding sentence should be included in the refinancing shall be conclusive.

(2) If the commission determines to exchange refunding obligations, they may be exchanged privately for and in payment and discharge of any of the outstanding obligations or notes being refinanced. Refunding obligations may be exchanged for such principal amount of the obligations or notes being exchanged therefore as may be determined by the commission to be necessary or advisable. The owners of the obligations or notes being refunded who elect to exchange need not pay accrued interest on the refunding obligations if and to the extent that interest is accrued and unpaid on the obligations or notes being refunded and to be surrendered. If any of the obligations or notes to be refinanced are to be called for redemption, the commission shall determine which redemption dates shall be used, if more than one date is applicable and shall, prior to the issuance of the refunding obligations, provide for notice of redemption to be given in the manner and at the times required by the proceedings authorizing the outstanding obligations or notes.

(3) The principal proceeds from the sale of any refunding obligations shall be applied either to the immediate payment and retirement of the obligations or notes being refinanced or, if the obligations or notes have not matured and are not presently redeemable, to the creation of a trust for and shall be pledged to the payment of the obligations or notes being refinanced. If a trust is created, a separate deposit shall be made for each issue of obligations or notes being refinanced. Each deposit shall be with the secretary of administration or a bank or trust company that is then a member of the federal deposit insurance corporation. If the total amount of any deposit, including money other than sale proceeds but legally available for such purpose, is less than the principal amount of the obligations or notes being refinanced and for the payment of which the deposit has been created and pledged, together with applicable redemption premiums and interest accrued and to accrue to maturity or to the date of redemption, then the application of the sale proceeds shall be legally sufficient only if the money deposited is invested in securities issued by the United States or one of its agencies, or securities fully guaranteed by the United States, and only if the principal amount of the securities at maturity and the income therefrom to maturity will be sufficient and available, without the need for any further investment or reinvestment, to pay at maturity or upon redemption the principal amount of the obligations or notes being refinanced together with applicable redemption premiums and interest accrued and to accrue to maturity or to the date of redemption. The income from the principal proceeds of the securities shall be applied solely to the payment of the principal of and interest and redemption premiums on the obligations or notes being refinanced, but provision may be made for the pledging and disposition of any surplus. Nothing in this subsection shall be construed as a limitation on the duration of any deposit in trust for the retirement of obligations or notes being refinanced, but which have not matured and which are not presently redeemable. Nothing in this subsection shall be construed to prohibit reinvestment of the income of a trust if the reinvestments will mature at such times that sufficient cash will be available to pay interest, applicable premiums, and principal on the obligations or notes being refinanced.

(4) The commission may in addition to the other powers conferred by this subchapter, include a provision in any authorizing resolution for refunding obligations pledging all or any part of the special fund or income of any enterprise or program originally financed from the proceeds of any of the obligations or notes being refinanced, or pledging all or any part of the surplus income derived from the investment of any trust created under sub. (3), or both.

(5) All of the following provisions that are not inconsistent with the express provisions of this section shall apply to refunding obligations, except that the maximum permissible term shall be 50 years from the date of original issue of the oldest note or obligation issue being refunded:

(a) Section 18.56.

(b) In the case of enterprise obligations, s. 18.561.

(c) In the case of special fund obligations, s. 18.562.

History: 1977 c. 29; 1999 a. 9; 2003 a. 33.

18.61 Undertakings of state. (1) The state shall not be generally liable on revenue obligations and revenue obligations shall not be a debt of the state for any purpose whatsoever. All evidences of revenue obligation shall contain on their face a statement to that effect.

(2) The state pledges and agrees with the owners of revenue obligations that the state will not limit or alter its powers to fulfill the terms of any agreements made with the owners or in any way impair the rights and remedies of the owners until the revenue obligations, together with interest including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the owners, are fully met and discharged. The commission may include this pledge and agreement of the state in any agreement with the owners of revenue obligation.

(3) (a) If the state fails to pay any revenue obligation in accordance with its terms, and default continues for a period of 30 days or if the state fails or refuses to comply with this subchapter or defaults in any agreement made with the owners of any issue of revenue obligations, the owners of 25 percent in aggregate principal amount of the revenue obligations of the issue then outstanding, by instrument recorded in the office of the register of deeds of Dane County and approved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the owners of the revenue obligations for the purposes specifically provided in the instrument.

(b) The trustee may, and upon written request of the owners of 25 percent in aggregate principal amount of the revenue obligations of the issue then outstanding shall, in the trustee's own name:

1. By action or proceeding, enforce all rights of all owners of the issue of revenue obligations, including the right to require the state to collect enterprise or program income or special fund income adequate to carry out any agreement as to, or pledge of, such income and to require the state to carry out any other agreements with the owners of the revenue obligations and to perform its duties under this subchapter;

2. Bring suit upon the revenue obligation;

3. By action, require the state to account as if it were the trustee of an express trust for the owners of the revenue obligations;

4. By action, enjoin any acts or things which may be unlawful or in violation of the rights of the owners of the revenue obligations; and

5. Declare all the revenue obligations due and payable, and if all defaults shall be made good, the aggregate principal amount of the revenue obligations of the issue then outstanding, to annul the declaration and its consequences.

(c) The trustee shall have all of the powers necessary or appropriate for the exercise of any functions specifically set forth in this subchapter or incident to the general representation of the owners of revenue obligations in the enforcement and protection of their rights.

(d) Before declaring the principal of revenue obligations due and payable, the trustee shall first give 30 days' notice in writing to the governor and the attorney general.

(e) Any action or proceeding by the trustee against the state may be commenced by delivering a copy of the summons and of the complaint to the attorney general or leaving them at the attorney general's office with an assistant or clerk. The place of trial of such an action shall be as provided in s. 801.50. Sections 16.53 and 775.01 shall not apply to such claims. If there is final judgment against the state in such action, it shall be paid as provided in s. 775.04, together with interest at the rate of 10 percent per year from the date payment was judged to have been due until the date of payment of the judgment.

(4) Any public officer or public employee, as defined in s. 939.22 (30), and the surety on the person's official bond, or any other person participating in any direct or indirect impairment of any fund established under this subchapter, shall be liable in any action brought by the attorney general in the name of the state, or by any taxpayer of the state, or by the owner of revenue obligation payable in whole or in part, directly or indirectly, out of such fund, to restore to the fund all diversions from the fund.

(5) The legislature may provide, with respect to any specific issue of revenue obligations, prior to their issuance, that if the special fund income or the enterprise or program income pledged to the payment of the principal and interest of the issue is insufficient for that purpose, or is insufficient to replenish a reserve fund, if applicable, it will consider supplying the deficiency by appropriation of funds, from time to time, out of the treasury. If the legislature so provides, the commission may make the necessary provisions therefor in the authorizing resolution and other proceedings of the issue. Thereafter, if the contingency occurs, recognizing its moral obligation to do so, the legislature hereby expresses its expectation and aspiration that it shall make such appropriation.

History: 1977 c. 29; 1979 c. 32 s. 92 (5); 1979 c. 107; 1981 c. 336; 1983 a. 228 s. 16; 1993 a. 301; 1999 a. 9; 2001 a. 103; 2005 a. 25.

18.62 Revenue obligations as legal investments. Any other provision of law to the contrary notwithstanding, any of the following may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any revenue obligations issued under this subchapter, which shall be authorized security for all public deposits:

(1) The state, the investment board, public officers, municipal corporations, political subdivisions, and public bodies.

(2) Banks and bankers, savings and loan associations, credit unions, trust companies, savings banks and institutions, investment companies, insurance companies, insurance associations, and other persons carrying on a banking or insurance business.

(3) Personal representatives, guardians, trustees, and other fiduciaries.

History: 1977 c. 29; 2001 a. 102.

18.63 Validation of revenue obligations. (1) Notwithstanding any defects, irregularities, lack of power or failure to comply with any statute or any act of the commission, all revenue obligations issued or attempted to be issued after July 1, 1977 are declared to be valid; all instruments given after July 1, 1977 to evidence the obligation are declared to be binding, legal, valid, enforceable and incontestable in accordance with their terms; and all proceedings taken and certifications and determinations made after July 1, 1977 to authorize, issue, sell, execute, deliver or enter into the obligation or instruments are validated, ratified, approved and confirmed.

(2) A determination, legislative, judicial or administrative, for any reason, that the state may not spend the proceeds of revenue obligations or that it has spent the proceeds for a purpose other than the stated purpose for which the revenue obligations were issued or for a purpose for which the state may not spend money, shall not affect the validity of the revenue obligations nor the evidence of revenue obligation therefor.

History: 1977 c. 29.

18.64 Minority financial advisers and investment firms; disabled veteran−owned financial advisers and investment firms. (1) In this section:

(a) "Disabled veteran−owned financial adviser" means a financial adviser certified by the department of administration under s. 16.283 (3).

(b) "Disabled veteran−owned investment firm" means an investment firm certified by the department of administration under s. 16.283 (3).

(c) "Minority financial adviser" means a financial adviser certified by the department of administration under s. 16.287 (2).

(d) "Minority investment firm" means an investment firm certified by the department of administration under s. 16.287 (2).

(2) (a) Except as provided under sub. (7), in issuing evidences of revenue obligations by competitive sale, the commission shall ensure that at least 6 percent of the total of revenue obligations contracted in each fiscal year is underwritten by minority investment firms.

(b) Except as provided under sub. (7), in issuing evidences of revenue obligations by competitive sale, the commission shall make efforts to ensure that at least 1 percent of the total of revenue obligations contracted in each fiscal year is underwritten by disabled veteran−owned investment firms.

(3) (a) Except as provided under sub. (7), in issuing evidences of revenue obligations by negotiated sale, the commission shall ensure that at least 6 percent of the total of revenue obligations contracted in each fiscal year is underwritten by minority investment firms.

(b) Except as provided under sub. (7), in issuing evidences of revenue obligations by negotiated sale, the commission shall make efforts to ensure that at least 1 percent of the total of revenue obligations contracted in each fiscal year is underwritten by disabled veteran−owned investment firms.

(4) (a) Except as provided under sub. (7), in issuing evidences of revenue obligations by competitive sale or negotiated sale, the commission shall ensure that at least 6 percent 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) Except as provided under sub. (7), in issuing evidences of revenue obligations by competitive sale or negotiated sale, the commission shall make efforts to ensure that at least 1 percent of the total moneys expended in each fiscal year for the services of financial advisers are expended for the services of disabled veteran−owned financial advisers.

(5) (a) Except as provided under sub. (7), an individual underwriter or syndicate of underwriters shall ensure that each bid or proposal, submitted by that individual or syndicate in a competitive or negotiated sale of a revenue obligation, provides for a portion of sales to minority investment firms.

(b) Except as provided under sub. (7), an individual underwriter or syndicate of underwriters shall make efforts to ensure that each bid or proposal, submitted by that individual or syndicate in a competitive or negotiated sale of a revenue obligation, provides for at least 1 percent of sales to disabled veteran−owned investment firms.

(6) The commission shall annually report to the department of administration the total amount of revenue obligations contracted with the underwriting services of minority investment firms and disabled veteran−owned investment firms and the total amount of moneys expended for the services of minority financial advisers and disabled veteran−owned financial advisers during the preceding fiscal year.

(7) The requirements of any of subs. (2) to (5) do not apply to an issuance of evidence of a revenue obligation, if the secretary of administration submits a report in writing specifying the building commission's reasons for not complying with the requirements of any of subs. (2) to (5) for that issuance.

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.

SUBCHAPTER III

OPERATING NOTES

18.70 Provisions applicable. The following sections apply to this subchapter, except that all references to "public debt," "debt," or "revenue obligation" are deemed to refer to "operating notes," all references to "evidence of indebtedness" are deemed to refer to "evidence of operating note," and all references to "evidences of indebtedness" are deemed to refer to "evidences of operating notes": ss. 18.03, 18.06 (8), 18.07, 18.10 (1), (2), (4) to (9), and (11), 18.17, 18.52 (1m), 18.61 (1), 18.62, and 18.63.

History: 1983 a. 3; 1991 a. 39; 2003 a. 320.

18.71 Definitions. In this subchapter, unless the context requires otherwise:

(1d) "Aggregate expected debt service and net exchange payments" means the sum of the following:

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

(b) The aggregate debt service expected to be made on notes related to that agreement.

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

(1m) "Commission" means the building commission.

(2) "Department" means the department of administration.

(3) "Evidence of operating note" means a written promise to pay an operating note.

(4) "Operating note" means every undertaking of the state to repay a certain amount of a financial obligation which is:

(a) Created for the purpose of funding operating deficits of the state as determined under s. 16.405 (1), which must be repaid not later than the last day of the fiscal year during which the operating note is issued;

(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

(c) Not public debt under s. 18.01 (4) nor a revenue obligation under s. 18.52 (5).

(5) "Public debt" or "debt" has the meaning given under s. 18.01 (4).

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

Operating notes that are short−term borrowings to be repaid in the current year from tax collections that are in the process of collection, are not public debt under Art. XI, s. 3. State ex rel. La Follette v. Stitt, 114 Wis. 2d 358, 338 N.W.2d 684 (1983).

18.72 Purposes of operating notes. (1) The commission 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. 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.

(2) The commission may authorize financial obligations to be incurred and evidences of operating notes to be issued therefor to fund operating deficits as moneys are required. The requirements for moneys shall be established by the department.

(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.

(4) No operating note issued under this section may have a maturity date later than the last day of the fiscal year during which the operating note is issued.

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

18.725 Limit on amount of operating notes. The building commission may not sell operating notes under s. 18.73 (2) at any time if the amount of operating notes to be sold at that time plus the amount of operating notes outstanding at that time exceed 10 percent of the amounts shown in the schedule under s. 20.005 (3) of appropriations of general purpose revenues, as defined in s. 20.001 (2) (a), plus the amounts shown in the schedule of appropriations of program revenues, as defined in s. 20.001 (2) (b), both calculated as of that time and for that fiscal year.

History: 1985 a. 29.

18.73 Procedures. (1) AUTHORIZING RESOLUTION. No financial obligations may be incurred under this subchapter nor may any evidence of operating notes be issued by the state except upon submission of a request by the department under s. 16.405 and pursuant to an authorizing resolution of the commission. Each authorizing resolution shall state each purpose of the operating notes it authorizes, which need not be more specific but may not be more general than those purposes provided in or pursuant to law, and the maximum principal amount of the operating notes. The operating notes may be designated by any name as determined by the commission.

(2) SALE. Operating notes may be sold at either public or private sale. The commission may provide in an authorizing resolution for the refunding of operating notes, for their exchange privately, in payment and discharge of any of the outstanding operating notes being refunded. All operating notes sold at public sale shall be noticed as provided in the authorizing resolution. Any bids received at public sale may be rejected.

(4) EXERCISE OF AUTHORITY. Financial obligations may be incurred and evidences of operating notes issued therefor pursuant to one or more authorizing resolutions, unless otherwise provided in the resolution or in this subchapter, at any time and from time to time, for any combination of purposes, in any specific amounts, at any rates of interest, for any term, payable at any intervals, at any place, in any manner and having any other terms or conditions deemed necessary or useful. Unless sooner exercised or unless a shorter period is provided in the resolution, every authorizing resolution shall expire 3 months after the date of its adoption.

(5) AGREEMENTS AND ARRANGEMENTS; DELEGATION; USE OF OPERATING NOTES. (a) Subject to pars. (d) and (e), at the time of, or in anticipation of, contracting operating notes and at any time thereafter while the operating notes are outstanding, the commission may enter into agreements and ancillary arrangements relating to the operating notes, including liquidity facilities, remarketing or dealer agreements, letter of credit agreements, insurance policies, guaranty agreements, reimbursement agreements, indexing agreements, or interest exchange agreements. Any payment received pursuant to any such agreements or ancillary arrangements shall be deposited in, and any payments made pursuant to any such agreements or ancillary arrangements will be made from, the general fund or the operating note redemption fund, as determined by the commission. The determination of the commission included in an interest exchange agreement that such an agreement relates to an operating note shall be conclusive.

(b) The commission may delegate to other persons the authority and responsibility to take actions necessary and appropriate to implement agreements and ancillary arrangements under par. (a).

(c) Any operating notes may include operating notes contracted to fund interest, accrued or to accrue, on the operating notes.

(d) With respect to any interest exchange agreement or agreements specified in par. (a), all of the following shall apply:

1. The commission shall contract with an independent financial consulting firm to determine if the terms and conditions of the agreement reflect a fair market value, as of the proposed date of the execution of the agreement.

2. The interest exchange agreement must identify the note to which the agreement is related. The determination of the commission included in an interest exchange agreement that such agreement relates to a note shall be conclusive.

3. The resolution authorizing the commission to enter into any interest exchange agreement shall require that the terms and conditions of the agreement reflect a fair market value as of the date of execution of the agreement, as reflected by the determination of the independent financial consulting firm under subd. 1., and shall establish guidelines for any such agreement, including the following:

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

b. The form and content of the agreements.

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

d. The standards and procedures for counterparty selection.

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

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

g. A system for financial monitoring and periodic assessment of the agreements.

(e) 1. Subject to subd. 2., the terms and conditions of an interest exchange agreement under par. (a) shall not be structured so that, as of the trade date of the agreement, the aggregate expected debt service and net exchange payments relating to the agreement during the fiscal year in which the trade date occurs will be less than the aggregate expected debt service and net exchange payments relating to the agreement that would be payable during that fiscal year if the agreement is not executed.

2. Subdivision 1. shall not apply if either of the follow occurs:

a. The commission receives a determination by the independent financial consulting firm under par. (d) 1. that the terms and conditions of the agreement reflect payments by the state that represent on−market rates as of the trade date for the particular type of agreement.

b. The commission provides written notice to the joint committee on finance of its intention to enter into an agreement that is reasonably expected to satisfy subd. 1., and the joint committee on finance either approves or disapproves, in writing, the commission's entering into the agreement within 14 days of receiving the written notice from the commission.

3. This paragraph shall not limit the liability of the state under an agreement if actual contracted net exchange payments in any fiscal year are less than or exceed original expectations.

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

1. A description of each agreement, including a summary of its terms and conditions, rates, maturity, and the estimated market value of each agreement.

2. An accounting of amounts that were required to be paid and received on each agreement.

3. Any credit enhancement, liquidity facility, or reserves, including an accounting of the costs and expenses incurred by the state.

4. A description of the counterparty to each agreement.

5. A description of the counterparty risk, the termination risk, and other risks associated with each agreement.

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

18.74 Application of operating note proceeds. All moneys resulting from the contracting of operating notes or any payment to be received under an agreement or ancillary arrangement entered into under s. 18.73 (5) with respect to any such operating notes shall be credited to the general fund, except that moneys which represent premium and accrued interest on operating notes, or moneys for purposes of funding or refunding operating notes pursuant to s. 18.72 (1) shall be credited to the operating note redemption fund.

History: 1983 a. 3; 2007 a. 20.

18.75 Operating note redemption fund. (1) When operating notes are authorized, there shall be established in the state treasury or with a trustee if so required in the authorizing resolution, an operating note redemption fund separate and distinct from every other fund, which may contain separate and distinct accounts for each particular operating note issue.

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

(3) Moneys of the operating note redemption fund may be commingled only for the purpose of investment with other public funds, but they may be invested only as provided in the authorizing resolution. All such reinvestments shall be the exclusive property of such fund and all earnings on or income from such investments shall be used in meeting principal and interest payments on operating notes issued.

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

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

18.76 Suits against the state. (1) IN GENERAL. This section governs all civil claims, suits, proceedings and actions respecting operating notes notwithstanding any contrary provision of the statutes.

(2) TO RECOVER AN OPERATING NOTE. If the state fails to pay any operating note in accordance with its terms, an action to compel such payment may be commenced against the state in accordance with s. 801.02. The plaintiff shall serve an authenticated copy of the summons and complaint on the attorney general by leaving the copies at the attorney general's office in the capitol with an assistant or clerk. The place of trial of such an action shall be as provided in s. 801.50.

(3) JUDGMENT. Sections 16.007 and 775.01 do not apply to such claims for payment of operating notes. If there is final judg-

ment against the state in such an action, it shall be paid as provided in s. 775.04 together with interest thereon at the rate of 10 percent per year from the date the payment was judged to have been due until the date of payment of the judgment.

History: 1983 a. 3; 1983 a. 228 s. 16.

18.77 Minority financial advisers and investment firms; disabled veteran−owned financial advisers and investment firms. (1) In this section:

(a) "Disabled veteran−owned financial adviser" means a financial adviser certified by the department of administration under s. 16.283 (3).

(b) "Disabled veteran−owned investment firm" means an investment firm certified by the department of administration under s. 16.283 (3).

(c) "Minority financial adviser" means a financial adviser certified by the department of administration under s. 16.287 (2).

(d) "Minority investment firm" means an investment firm certified by the department of administration under s. 16.287 (2).

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

(b) Except as provided under sub. (7), in contracting operating notes by competitive sale, the commission 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.

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

(b) Except as provided under sub. (7), in contracting operating notes by negotiated sale, the commission 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.

(4) (a) Except as provided under sub. (7), in contracting operating notes by competitive sale or negotiated sale, the commission shall ensure that at least 6 percent 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) Except as provided under sub. (7), in contracting operating notes by competitive sale or negotiated sale, the commission shall make efforts to ensure that at least 1 percent of the total moneys expended in such fiscal year for the services of financial advisers are expended for the services of disabled veteran−owned financial advisers.

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

(b) Except as provided under sub. (7), an individual underwriter or syndicate of underwriters shall make efforts to ensure that each bid or proposal, submitted by that individual or syndicate in a competitive or negotiated sale of an operating note, provides for at least 1 percent of sales to disabled veteran−owned investment firms.

(6) The commission shall annually report to the department of administration the total amount of operating note indebtedness contracted with the underwriting services of minority investment firms and the total amount of moneys expended for the services of minority financial advisers and disabled veteran−owned financial advisers during the preceding fiscal year.

(7) The requirements of any of subs. (2) to (5) do not apply to a contracting of operating notes, if the secretary of administration submits a report in writing to the joint committee on finance specifying the building commission's reasons for not complying with the requirements of any of subs. (2) to (5) 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.

SUBCHAPTER IV

HIGHER EDUCATION BONDS

18.81 Definitions. In this subchapter:

(1) "Commission" means the building commission.

(2) "Eligible educational institution" means a regionally accredited, nonprofit, postsecondary educational institution.

(3) "Higher education bond" means obligations designated by the commission under s. 18.82.

History: 1989 a. 46.

18.82 Bond designation. The commission may designate any obligation authorized and issued under subch. I or II as a higher education bond.

History: 1989 a. 46.

18.822 Debt requirements. The authorizing resolution for an obligation under this subchapter shall require that all of the following conditions be met:

(1) The terms of the obligation are structured to encourage ownership by as many individuals as possible.

(2) The evidences of the obligation are issued in denominations of not more than $1,000.

History: 1989 a. 46.

18.83 Redemption. The commission may provide that higher education bonds may be presented for payment before maturity to any eligible educational institution for tuition, fees and other educationally related costs owed that eligible educational institution plus an allowance for other educationally related costs such as room and board, books and supplies and other miscellaneous expenses owed to any person except that eligible educational institution, subject to any requirement of the commission. The commission may treat higher education bonds presented for payment under this section as still outstanding, even though owned by the state, and the commission may resell such higher education bonds or fund or refund such higher education bonds through the issuance of other obligations. If obligations are issued to fund or refund such higher education bonds, such obligations shall be treated as issued for the purpose of funding, not refunding, for all purposes under this chapter and ch. 20.

History: 1989 a. 46.

18.84 Schools as bond trustees or fiscal agents; contracts. Notwithstanding s. 18.10 (8), the commission may designate any eligible educational institution as a trustee or fiscal agent for any issue of higher education bonds and may enter into any contract with any eligible educational institution to satisfy the purposes of this subchapter.

History: 1989 a. 46.

18.85 Facilities. The commission may enter into agreements and ancillary arrangements for public debt under this subchapter, including liquidity facilities, remarketing or dealer agreements, letter of credit agreements and line of credit agreements.

History: 1989 a. 46.

18.852 Procedure. (1) The commission may establish any procedure necessary to administer this subchapter.

(2) The sale of any bond, authorized and issued under subch. I and designated by the commission under s. 18.82 as a higher education bond, shall be private.

History: 1989 a. 46, 68, 359.