



2009 SENATE BILL 440

December 23, 2009 – Introduced by Senators LASSA, VINEHOUT, LEHMAN and DARLING, cosponsored by Representatives MOLEPSKE JR., SCHNEIDER, BARCA, ZIGMUNT, FRISKE, BERCEAU and ZEPNICK. Referred to Committee on Economic Development.

1 **AN ACT** *to amend* 66.0301 (1) (a); and *to create* 66.1103 (2) 22., 66.1104 and
2 560.033 of the statutes; **relating to:** waiving certain federal bond limitations
3 allocated to cities and counties and requiring the Department of Commerce to
4 develop a system for reallocating the bond limitations to other state and local
5 units of government.

Analysis by the Legislative Reference Bureau

Current federal law, the American Recovery and Reinvestment Act of 2009, authorizes certain local governments to issue several different types of tax-exempt bonds, including recovery zone facility bonds (bonds). The amount of bonds that may be issued is limited. Federal law allocates to counties and to cities with a population of at least 100,000 (local units) the limited amount of bonds that may be issued.

Federal law also authorizes local units to waive their allocation, in which case the state in which the local units are located may reallocate the allocation to other units of government in that state.

This bill waives the allocation to local units in this state and requires the Department of Commerce (DOC) to develop a system to reallocate the allocation. The bill prohibits DOC from reallocating an allocation of the limitation related to bonds that have already been sold by, or that are subject to a sale by, a city or county. The bill also permits DOC to revise a reallocation made under the bill, but prohibits the revision of any reallocation under which the recipient of a reallocation has adopted a resolution authorizing the issuance of a bond. Under the bill other units of

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government, including a city, village, town, county; a special purpose district; a state authority, such as the Wisconsin Housing and Economic Development Authority, the Wisconsin Health and Educational Facilities Authority, or the University of Wisconsin Hospitals and Clinics Authority; or a local housing, redevelopment, or community development authority, may apply to issue bonds under the reallocation of the federal bond limitation as established by DOC.

Under current law, a city, village, or town may issue industrial revenue bonds for certain specified projects. The bill adds to the definition of “project” facilities constructed using the proceeds from a recovery zone facilities bond or from a Midwestern disaster area bond (tax-exempt bonds authorized under the federal Heartland Disaster Tax Relief Act of 2008).

Under current law, the state, regional planning commissions, federally recognized Indian tribes and bands, and local units of government, including municipalities, counties, school districts, and other special purpose districts, may enter into intergovernmental cooperation agreements for the receipt or furnishing of services or joint exercise of powers. This bill adds a housing authority, a redevelopment authority, and a community development authority to the list of entities that may enter into such agreements.

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

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

1 **SECTION 1.** 66.0301 (1) (a) of the statutes, as affected by 2009 Wisconsin Act 28,
2 is amended to read:

3 66.0301 **(1)** (a) Except as provided in pars. (b) and (c), in this section
4 “municipality” means the state or any department or agency thereof, or any city,
5 village, town, county, school district, public library system, public inland lake
6 protection and rehabilitation district, sanitary district, farm drainage district,
7 metropolitan sewerage district, sewer utility district, solid waste management
8 system created under s. 59.70 (2), local exposition district created under subch. II of
9 ch. 229, local professional baseball park district created under subch. III of ch. 229,
10 local professional football stadium district created under subch. IV of ch. 229, local
11 cultural arts district created under subch. V of ch. 229, transit authority created

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1 under s. 66.1039, long-term care district under s. 46.2895, water utility district,
2 mosquito control district, municipal electric company, county or city transit
3 commission, commission created by contract under this section, taxation district,
4 regional planning commission, housing authority created under s. 66.1201,
5 redevelopment authority created under s. 66.1333, community development
6 authority created under s. 66.1335, or city-county health department.

7 **SECTION 2.** 66.1103 (2) (k) 22. of the statutes is created to read:

8 66.1103 **(2)** (k) 22. Facilities with respect to which is issued either a recovery
9 zone facility bond under 26 USC 1400U-3 or a qualified Midwestern disaster area
10 bond under 26 USC 1400N (a), as modified by P.L. 110-343, title VII, subtitle A,
11 section 702 (d) (intro.) and (1).

12 **SECTION 3.** 66.1104 of the statutes is created to read:

13 **66.1104 Waiver of recovery zone facility bond limitation. (1)**

14 DEFINITIONS. In this section:

15 (a) “Authority” means a body created under s. 66.1201, 66.1333, or 66.1335;
16 under subch. II of ch. 114 or subch. III of ch. 149; or under ch. 52, 231, 232, 233, 234,
17 235, 237, or 279.

18 (b) “Local governmental unit” has the meaning given in s. 66.0131 (1) (a), and
19 includes a commission created by contract under s. 66.0301.

20 (c) “Recovery zone bond” means a bond described under 26 USC 1400U-3 (b)
21 (1).

22 **(2) WAIVER.** (a) The unused allocation of a recovery zone bond limitation
23 received by a city or county shall be considered waived by the city or county on the
24 effective date of this paragraph [LRB inserts date], and the allocation may be
25 reallocated by the department of commerce under s. 560.033.

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1 (b) A limitation allocation received by a city or county shall be considered as
2 unused, except for any recovery zone bonds that have been sold before the effective
3 date of this paragraph [LRB inserts date], or are subject to a contract for sale that
4 takes effect before the effective date of this paragraph [LRB inserts date], and are
5 issued within 30 days after the effective date of this paragraph [LRB inserts date].

6 (c) Not later than the first day of the 2nd month beginning after the effective
7 date of this paragraph [LRB inserts date], a city or county that has a limitation
8 allocation that is not unused, as that term is used under par. (b), shall send written
9 notice to the department of commerce regarding the limitation allocation that is not
10 unused.

11 **(3) REALLOCATION.** Any authority or local governmental unit may apply for a
12 reallocation of the recovery zone bond limitation allocation in accordance with the
13 system established by the department of commerce under s. 560.033.

14 **SECTION 4.** 560.033 of the statutes is created to read:

15 **560.033 Reallocation of limitation on recovery zone facility bonds. (1)**

16 **REALLOCATION.** The department, by rule, shall establish under 26 USC 1400U-1 (a)
17 (3) (A) and administer a system for the reallocation of the unused allocation, as that
18 term is used in s. 66.1104 (2), of the limitation on the issuance of recovery zone facility
19 bonds, as defined under 26 USC 1400U-3 (b) (1), among authorities, as defined in
20 s. 66.1104 (1) (a), and local governmental units, as defined in s. 66.1104 (1) (b).

21 **(2) AMENDMENT TO REALLOCATION.** At any time, the department may promulgate
22 rules to revise the reallocation system established under sub. (1), except that any
23 revision under this subsection does not apply to any reallocation under which the
24 recipient of that reallocation has adopted a resolution authorizing the issuance of a
25 recovery zone facility bond, as defined in 26 USC 1400U-3 (b) (1).

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1 **(3) CONDITIONS.** The department may, by rule, establish any procedure for, and
2 place any condition upon, the granting of a reallocation under this section which the
3 department deems to be in the best interest of the state, including, but not limited
4 to, a requirement that a cash deposit, at a rate established by the department in the
5 rules, be a condition for a reallocation.

6 **(4) CONSIDERATION OF ALTERNATIVE SOURCE OF FINANCING.** Before making a
7 reallocation under this section, the department shall consider the availability of
8 qualified Midwestern disaster area bonds, as defined under 26 USC 1400N (a), as
9 modified by P.L. 110-343, title VII, subtitle A, section 702 (d) (intro.) and (1), as an
10 alternative source of financing for a project for which the issuance of recovery zone
11 facility bonds, as defined in 26 USC 1400U-3 (b) (1), are sought.

12 **SECTION 5. Nonstatutory provisions.**

13 (1) (a) The department of commerce shall submit in proposed form the rules
14 required under section 560.033 (1) of the statutes, as created by this act, to the
15 legislative council staff under section 227.15 (1) of the statutes no later than the first
16 day of the 2nd month beginning after the effective date of this paragraph.

17 (b) Using the procedure under section 227.24 of the statutes, the department
18 of commerce may promulgate rules required under section 560.033 (1) of the
19 statutes, as created by this act, for the period before the effective date of the rules
20 submitted under paragraph (a), but not to exceed the period authorized under section
21 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b),
22 and (3) of the statutes, the department is not required to provide evidence that
23 promulgating a rule under this paragraph as an emergency rule is necessary for the

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1 preservation of the public peace, health, safety, or welfare and is not required to
2 provide a finding of emergency for a rule promulgated under this paragraph.

3 (END)