Legislative Fiscal Bureau
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March 2, 2004

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Substitute Amendment 1 to Senate Bill 384, and Senate Bill 451/Assembly Substitute Amendment 1 to Assembly Bill 796, and Assembly Substitute Amendment 1 to Assembly Bill 811: Wisconsin Advantage Program

Senate Bill 384 was introduced on January 14, 2004, and referred to the Senate Select Committee on Job Creation. On February 12, 2004, that Committee adopted Senate Substitute Amendment 1 to SB 384 on a vote of four to one, and recommended the bill, as amended, for passage on a vote of three to two. Senate Bill 384 was referred to the Joint Committee on Finance (JFC) on February 18, 2004.

A separate bill, Senate Bill 451 would appropriate money to technical college districts in order to implement the workforce training provisions of SSA 1 to SB 384. SB 451 was introduced on February 10, 2004, and referred to the Senate Select Committee on Job Creation. On February 12, 2004, that Committee recommended the bill for passage on a vote of three to two. SB 451 was referred to JFC on February 23, 2004.

Assembly Bill 796 was introduced on February 2, 2004, and referred to the Assembly Committee on Workforce Development. On February 18, 2004, that Committee adopted Assembly Substitute Amendment 1 to AB 796 on a vote of 12 to 0, and recommended the bill, as amended, for passage on a vote of seven to five. Assembly Bill 796 was referred to JFC on February 19, 2004.

A separate bill, Assembly Bill 811, would appropriate money to technical college districts in order to implement the workforce training provisions of ASA 1 to AB 796. AB 811 was introduced on February 5, 2004, and referred to the Assembly Committee on Workforce Development. On February 18, 2004, that Committee adopted Assembly Substitute Amendment 1 to AB 811 on a vote of seven to five, and recommended the bill, as amended, for passage on a vote of seven to five. AB 811 was referred to JFC on February 19, 2004.

CURRENT LAW

Currently, in addition to providing general workforce training through technical college enrollment, districts may enter into contracts to provide customized educational services to businesses and industries, public and private educational institutions (including school districts), and government agencies. In 2001-02, the latest year for which data are available, districts entered into 5,579 training contracts serving 123,568 people. The total costs of these contracts were $25.4 million with $23.9 million in revenue, resulting in a 94% cost recovery rate. In cases in which a district subsidizes a portion of the training, the subsidy is typically related to the indirect costs of overhead and, as such, are paid through the district's general operating funds, which include revenues from property taxes, state aid, and tuition.

Under current law, technical colleges may issue bonds supported by the property tax for capital projects. There is no statutory limitation for taxes levied for debt service costs. However, a district's bonded indebtedness may not exceed 2% of its equalized property valuation. In addition, building projects costing more than $1,000,000 (excluding remodeling or improvement projects and any expenditures financed with gifts, grants or federal funds) are subject to mandatory referendum. A referendum is also required if a district proposes to borrow in excess of $1,000,000 for building remodeling or improvement projects. Finally, district boards are prohibited from spending more than $1,000,000 in reserve funds, consisting of property tax revenues, to finance capital projects in excess of $1,000,000 (excluding building remodeling or improvement projects). An exception to these provisions authorizes districts to expend up to $5,000,000 prior to July 1, 2006, for the purchase or construction of an applied technology center provided the district board meets certain criteria and the project is approved by the State Board.

SUMMARY OF BILLS

SSA 1 to Senate Bill 384 and ASA 1 to Assembly Bill 796

Under SSA 1 to SB 384 and ASA 1 to AB 796, a technical college district board, upon approval of the state board, could establish a regional project for the creation and retention of jobs. Under the project, called the Wisconsin Advantage Program, a district board could enter into a contract on its own, or jointly with any other entity, with a business located in the district to provide the business with one or more of the following: (1) training for jobs created or retained by the business; (2) adult basic education; (3) vocational and skill-assessment services; (4) training facilities, equipment, and material; and (5) professional services. By way of example, under this provision a district could partner with a nonstock corporation, local units of government, local development corporations, or other consortiums to provide businesses with training through the advantage program.

The bills would authorize technical college districts to issue revenue bonds with a maturity of up to ten years in order to provide a business with job training, adult basic education, vocational and professional services, and training facilities, equipment, and material. The district boards could pledge as security for repayment of the bonds, district property and moneys in reserves fund balances that are not derived from property taxes.

The bills would specifically prohibit districts from using monies derived from property taxes to pay the debt service on any bonds issued under the program. The substitute amendment would require each district board issuing these bonds to include a moral obligation pledge relating to repayment, which would specify that if other revenues are insufficient, the board expresses its expectation and aspiration that it would make the payment from other district funds, except property taxes. While the bills would allow bonds to be repaid from other district funds and would allow districts to pledge any district property, moneys or reserve fund balances as security for repayment of the bonds, it would not allow any such property or funds derived from property taxes to be pledged as security on bonds.

The bills would require each district to maintain a Wisconsin advantage jobs training program special redemption fund into which it would deposit any fees paid by businesses and any other designated monies. The district could only use monies in the fund to pay principal and interest on revenue bonds issued for the program. Once the bonds are retired, the bills would require each district to pay any remaining balance to the state. The Board would be required to submit an annual report to the Governor and Legislature describing the contracts entered into under the program and the success of the program in creating and retaining jobs.

The bills would permit a district board to raise funds or provide support for the advantage training program by any necessary or convenient means, except as expressly limited by law, or board or district rule. This authority would provide a district with broad powers to implement the advantage program, such as through the establishment of a nonstock corporation. However, the use of these powers would be restricted to the advantage program. To the extent that the necessary and convenient provision would provide additional flexibility to districts in implementing the advantage program, that flexibility and how it would be used has not been identified.

Under the bills, the contract between a district and a business would be limited to no more than $3,500 in cost per trainee unless the Joint Committee on Finance (JFC) would approve a higher limit through a 14-day passive review process. The WTCS board would be required to ensure that the total statewide cost of such contracts does not exceed $10 million in any fiscal year unless JFC approves a higher limit, again, through a 14-day passive review process. In addition, the training could only be provided to residents of the state or individuals who are required to file a state income tax return.

Under the bills, the Department of Commerce would be required to promulgate rules for determining the number of persons provided training, education, or services under the advantage program, as well as the identity of each person, and submit this information to the Department of Revenue by July 1st of each year.

The bills would not define the type of entities that would be eligible for training aside from a "business." As a result, the bills' definition of entities that could contract for training or other services would need to be broadened if public and private educational institutions (including school districts), and government agencies were to be included, or it could be defined by rule. In addition, in cases in which a district would provide professional services rather than direct training, it is not clear how the $3,500 expenditure limit would be determined.

The bills would specify that a district could charge a business fees for the services provided, or require the business to pay all or part of the costs of the services provided under the contract.

Senate Bill 451 and ASA 1 to Assembly Bill 811

SB 451 and ASA 1 to AB 811 would establish a sum sufficient GPR appropriation under the Wisconsin Technical College System Board to distribute moneys to districts in order to pay debt service on the revenue bonds. This GPR appropriation would provide for the expenditure of an amount equal to a 1.5% earmark of revenue from individual income tax withholding related to individuals from each district who have participated in the Wisconsin advantage jobs training program. The WTCS Board would then distribute the funds to districts based upon the amount collected for each district by the Department of Revenue. In addition, the bills would authorize the WTCS Board to skim up to 7% of the 1.5% withholding amount in 2004-05, up to 6% in 2005-06, and up to 5% in 2006-07 and each year thereafter, for deposit in a separate PR appropriation under the WTCS Board. Monies in this separate PR appropriation could be used by the Board to offset any revenue shortfall by the districts for debt service payments on the revenue bonds. SB 451 and ASA 1 to AB 811 would specify that if any fiscal year the Board would determine that the unencumbered balance in the PR appropriation is more than sufficient, then the Board would distribute the excess to districts in proportion to their share of the total withholding amounts calculated by DOR.

A nonstatutory provision of SB 451 and ASA 1 to AB 811 would specify that the bills would be void unless SB 384 or AB 811 are enacted into law on or before the effective date of the bills.

FISCAL EFFECT

Bonds sold on a federal tax-exempt basis carry a lower financing rate associated with the federal income tax exemption on the interest earnings on the bonds to the holder of the bonds. In order for the revenue obligation bonds to be issued on a federal tax-exempt basis, the bond proceeds would have to be expended for a public purpose rather than private activities. While not certain, it appears that any revenue obligation bonds issued under the program would be taxable issues because the expenditure of the bond proceeds would provide some benefit to the private employers who contract with the technical college districts for the training assistance. As a result, the interest costs may be higher than if they could be issued on a federal tax-exempt basis.

Unlike general obligation bonds, which are backed by the full general taxing authority of the governmental body issuing the bonds, these revenue bonds would be backed by a newly created, specific revenue source. Under current market conditions, it is estimated that adequately secured revenue obligation bonds could be issued at rates in the 6% to 7% range.

In placing a rating on the bonds to be issued by the districts, rating agencies would likely require that the district contracts with businesses be in place at the time of the rating. This would allow bond rating agencies to review the financial position of the district issuing the bonds, the employers contracting with the districts under the program, and perhaps the economic viability of employees receiving the training under the contract. The employer and employee reviews may be necessary so rating agencies could properly analyze the business which will receive employee training, to determine if the business is financially sound, whether the training is necessary and economically worthwhile to the employee, and that the business would be capable of retaining the employees for the period in which the bonds are outstanding. This would involve a difficult analysis, which could limit the likelihood that bonds would be marketed under the program.

Due to the lack of historical data on the amount of revenues that could be generated to fund the repayment of the bonds, it is likely that several security mechanisms would be needed to market the bonds. These mechanisms include a higher ratio of revenue to debt service coverage, bond insurance, and additional bond reserves. These security mechanisms would increase the debt costs and require higher levels of revenue than standard debt issues.

In order to provide additional security for the bonds, SB 451 and AB 811, which would be void unless SB 384 becomes law before SB 451 and AB 796 becomes law before AB 811 , would provide for revenue bond stabilization through an all monies received PR appropriation administered by the WTCS Board. This appropriation would receive a portion of the revenue collected through the income tax withholding increment as determined by DOR. The WTCS Board would determine the exact percentage deposited in the stabilization fund each year, with the deposit not to exceed 7% of the 1.5% withholding amount in the first year, 6% in the second year, and 5% in the third year and thereafter.

The stabilization appropriation would be used to offset any shortfalls in revenues collected by the WTCS districts for the repayment of the advantage program revenue bonds resulting from business defaults. The funds could only be released by the WTCS Board, and could not be used for any purpose other than the repayment of the bonds. The WTCS Board could determine when a sufficient balance has been reached in the fund, and could then remit to the districts any revenues beyond that balance according to the proportional share contributed by each district to the fund.

The stabilization appropriation that would be established under the bills could improve the marketability of bonds by providing additional reserve funds that would be available in the event that business under contract defaults. The added security could assist districts with less secure bond ratings in marketing their bonds under the program. Also, businesses with weaker financial conditions could be able to enter into contracts funded with bond issues. However, the required contribution to the stabilization fund would reduce the funding available to retire bonds for districts with stronger bond ratings, or districts that contract with stronger businesses under the program, who would be unlikely to need to access these reserves.

While the reserve fund could add security for certain issuers, or provide additional security to bond issues involving certain businesses, the marketability of the bonds under the program remains uncertain. As indicated by DOA Capital Finance officials, a district's general property taxation authority may need to be provided as security in order for the bonds to be marketed. Such security could avoid the need for rating agencies to review the financial viability of any business that is contracting with the district under the program, because the bonds could ultimately be paid off with district property tax revenues.

Because the contracts would need to be in place prior to issuing any bonds, the size and timeliness of the bond issues may be a concern. Revenue bond issuance costs can range between 1% or 2%, depending on the complexity of the issue and the analysis required. Due to the complexity relating to the evaluation of the repayment stream on the bonds issued under the program and to the analysis that could be required on each bond issue, the costs associated with issuing the bonds could be higher. In order to take advantage of economies associated with these issuance costs, district officials have said that contracts could be bundled to allow for larger bond issues. However, individual employers within a district's territory may not be in need of employee training at same time to allow for contracts to be bundled. This could result in employers that are in need of training for employees having to wait for training until enough contracts are signed to warrant a district bond issue. However, districts could initially fund the training under several contracts with district funds, and then in turn reimburse those district accounts with bond proceeds when a sufficient number of contracts have been entered into to make a bond issue worthwhile.

The following table shows estimated wage requirements for participants in the training program that would be needed to cover principal, interest, and security mechanisms for a bond issued at 6.5%, if all of the training costs would be paid from the 1.5% state payment. The examples show that participant wages would need to range from $3,709 to cover a $200 training course to $64,916 for training costs of $3,500, under these assumptions.

TABLE 1

Average Wages Per Trainee Required for Bond Payment

Average Training Cost	Wage Requirement
$200	$3,709
500	9,274
1,000	18,547
1,500	27,821
2,000	37,095
2,500	46,368
3,000	55,642
3,500	64,916

Assumptions: interest = 6.5%, bond coverage = 2x withholding revenue, term = 10 years

Income Tax Provisions

Under current law, individuals who receive a wage from a Wisconsin employer have amounts withheld from their wages that are equal to their estimated tax liability. The bills would require the Department of Revenue to determine the amount of wages from which income tax withholding is calculated for an individual who has been provided training or education by a technical college district under the advantage program and calculate the total for each technical college district. The names of the individuals would be certified to DOR by the Department of Commerce. DOR would then certify 1.5% of the withholding from certified individuals for each technical college district and notify the WTCS Board the result, aggregated by each district. The WTCS Board would then distribute the amounts to the districts for repayment of the revenue bonds.

Under the bills, the revenue from the earmarked individuals' income tax withholding would be used solely for the payment of principal and interest on the bonds issued for the advantage program. Upon retirement of the bonds, the district board would be required to transmit the balance of remaining funds from the earmark to the Department of Administration for deposit in the general fund. DOR would continue to earmark and calculate the withholding related to an individual that received training under the advantage program for ten years or until the bonds are retired, whichever occurs first.

The fiscal effect of the bills is unknown given the possible range of total training expenditures, the number of participants, and participant income. The bills require that the training provided under the advantage program create new jobs or retain existing jobs; thus, it could be argued that the participants in the program would increase overall individual income tax revenue. However, given that some of the jobs may have been created or retained in the absence of the program, the fiscal benefit to the state of the new or retained jobs would be uncertain.

The attachment illustrates a range of potential payments under the withholding earmark given a range of total training expenditures, training costs, and income of participants. Beyond an average training cost of $2,000 per participant, the payments would range from $278,208 to $2,782,125, depending on the total statewide training expenditure, the number of participants, and the assumption of participant wages equal to the statewide per capita income and sufficient to support the issuance of revenue bonds. Below training costs of $2,000 per participant, the total withholding tax earmark would be much greater because a larger number of individuals would be able to participate in the program resulting in a larger pool of people with the earmark. However, it is unknown whether the proposed program would serve such a large (up to 50,000) number of trainees in a single year.

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ATTACHMENT

Potential Withholding Earmark for Technical College Training*

Average Training Cost	Average Wage of Trainee	Total Training Expenditures									
		$1,000,000	$2,000,000	$3,000,000	$4,000,000	$5,000,000	$6,000,000	$7,000,000	$8,000,000	$9,000,000	$10,000,000
$200	$30,000	$2,250,000	$4,500,000	$6,750,000	$9,000,000	$11,250,000	$13,500,000	$15,750,000	$18,000,000	$20,250,000	$22,500,000
500	30,000	900,000	1,800,000	2,700,000	3,600,000	4,500,000	5,400,000	6,300,000	7,200,000	8,100,000	9,000,000
1,000	30,000	450,000	900,000	1,350,000	1,800,000	2,250,000	2,700,000	3,150,000	3,600,000	4,050,000	4,500,000
1,500	30,000	300,000	600,000	900,000	1,200,000	1,500,000	1,800,000	2,100,000	2,400,000	2,700,000	3,000,000
2,000	37,095	278,213	556,425	834,638	1,112,850	1,391,063	1,669,275	1,947,488	2,225,700	2,503,913	2,782,125
2,500	46,368	278,208	556,416	834,624	1,112,832	1,391,040	1,669,248	1,947,456	2,225,664	2,503,872	2,782,080
3,000	55,642	278,210	556,420	834,630	1,112,840	1,391,050	1,669,260	1,947,470	2,225,680	2,503,890	2,782,100
3,500	64,916	278,211	556,423	834,634	1,112,846	1,391,057	1,669,269	1,947,480	2,225,691	2,503,903	2,782,114

*The dollar amounts shown represent potential payments under the proposed GPR sum sufficient appropriation. It is unknown to what extent income tax collections from new jobs created because of the training funded under the proposal would offset these potential payment amounts.