



## Legislative Fiscal Bureau

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TO: Representative Gordon Hintz  
Room 201 West, State Capitol

FROM: Bob Lang, Director

SUBJECT: Potential State and Other Assistance to Foxconn

On September 19, 2017, the Governor signed 2017 Wisconsin Act 58, which creates an electronics and information technology manufacturing zone (EITM zone) and provides state and other assistance for a business (Foxconn) to be located in the zone. This memorandum provides a summary of Act 58 and provisions that provide state assistance to the Foxconn development and the EITM zone as well as other related utility costs that could impact local residents.

### **EITM Zone Payroll Tax Credit and Supplemental Credit for Capital Expenditures**

Act 58 included two income or franchise tax credits that would provide assistance to Foxconn business activities in the EITM zone: the EITM zone payroll tax credit and the supplemental credit for capital expenditures. The costs of these credits would likely be partially offset by additional income and franchise taxes associated with increased employment in the EITM zone.

A claimant can claim as a refundable income or franchise tax credit an amount calculated by multiplying the amount of zone payroll for the taxable year of full-time employees employed by the claimant by 17%. The Wisconsin Economic Development Corporation (WEDC) cannot certify a business as eligible to claim the payroll credits for services performed outside the state. WEDC cannot issue certifications to claim payroll tax credits under these provisions that total more than \$1.50 billion.

Under the Act, "state payroll" means the amount of payroll apportioned to this state, as determined under the old corporate apportionment statutes. "Zone payroll" means the amount of state payroll that is attributable to wages paid by the claimant to full-time employees for services that are performed in the zone or that are performed outside the zone, but within the state, and for the benefit of the operations within the zone, as determined by WEDC. "Zone payroll" does not include the amount of wages paid to any full-time employees that exceeds \$100,000. A "full-time employee" means an individual who is employed in a job for which the annual pay is at least

\$30,000 and who is offered retirement, health, and other benefits offered to an individual who is required to work at least 2,080 hours per year.

In addition to the payroll tax credit, if WEDC determines that a certified business makes a significant capital expenditure in the EITM zone, it can certify the business to receive additional tax benefits in an amount to be determined by WEDC, but not exceeding 15% of the business's capital expenditures in the EITM zone in the taxable year. WEDC must, in a manner it determines, allocate the tax benefits a business is certified to receive under this provision over a period of seven years. In certifying a person as eligible to receive the capital expenditure credits, WEDC must establish job creation thresholds for a business for each year in the zone, and the claiming of the credits by that business must be tied to those job creation thresholds. WEDC must adopt policies and procedures defining "significant capital expenditure." WEDC cannot issue certifications to claim capital expenditure tax credits under these provisions that total more than \$1.35 billion.

### **Sales and Use Tax Exemption**

The Act creates a sales and use tax exemption for tangible personal property and landscaping and lawn maintenance services acquired solely for use in the construction or development of facilities located in an EITM zone if the capital expenditures for the construction or development of such facilities may be claimed as an EITM zone capital expenditure credit, as certified by WEDC. Based on estimated capital expenditures for the Foxconn facility, the Department of Revenue estimates that the sales and use tax exemption will result in state tax savings of \$139 million for Foxconn and its contractors during the life of the EITM zone. However, since it is highly unlikely that Foxconn would locate in the state without the incentives provided under the Act, this amount should not be viewed as a state revenue loss.

### **Grants to Local Governments**

Act 58 authorizes the Department of Administration (DOA) to make one or more grants to local governmental units for costs associated with development occurring in an EITM zone, including costs related to infrastructure and public safety. Under the Act, DOA may require a local governmental unit to match a grant in whole or in part. The Act creates a continuing GPR appropriation under DOA with funding of \$15,000,000 GPR in 2017-18 for making such grants to local governmental units.

The Secretary of DOA may contract with a local governmental unit to implement grants, any match requirement, and the moral obligation pledge (described below). The Act defines a "local governmental unit" as city, village, town, county, or technical college district that contains any part of an EITM zone designated under the Act for the purposes of making the grants to local governments, any match requirement, and the moral obligation pledge for local governmental obligations.

### **DWD Worker Training and Employment**

The Act creates a continuing GPR appropriation under Department of Workforce

Development (DWD) for a worker training and employment program, and directs DWD to allocate \$20,000,000 from the appropriation in the 2019-21 biennium to provide funding, through grants or other means, to facilitate worker training and employment in the state. The Act provides no funding for the program in the 2017-19 biennium. Therefore, funding would have to be appropriated in the 2019-21 biennium to implement this provision.

### **Economic Development Liaison**

The Act provides \$183,500 GPR in 2017-18 and \$177,500 GPR in 2018-19 and 1.0 unclassified GPR project position annually to DOA's supervision and management general program operations appropriation for economic development liaison activities under an agreement with WEDC. The Act specifies that this position authority and funding be provided effective on the day after publication of the Act or on the second day after publication of the 2017-19 biennial budget act, whichever is later [the date of publication of the budget act was September 22, 2017]. Under the Act, the project position has an end date of December 31, 2022. Under current law (s. 230.27(1) of the statutes), a project position may not exist for more than four years. The Act specifies that the four-year limit does not apply to this position. In addition, the Act assigns the project position to Executive Salary Group 4, for which the annual salary range specified in the current state compensation plan is \$76,066 to \$125,528. The administration indicates that the position will serve as the state's primary point of contact for any matters regarding Foxconn. The position is appointed by the Secretary of DOA.

### **State and Local Road Improvements Associated With the Project**

In November, 2017, the Department of Transportation (DOT) submitted a federal INFRA grant application requesting \$246.2 million related to the I-94 North-South corridor project. While outlining the remaining work to be completed on that project, this application also indicates that state funding for state and local road improvements associated with the development of the adjacent Foxconn site could be in the range of \$134.0 million.

In order to fund improvements on what were, until recently, local roads, DOT used its statutory authority to transfer the jurisdiction of the affected local roads to the state in November, 2017. Subsequently, DOT's December, 2017, master contract schedule for 2018 indicates that between \$73.0 million and \$87.0 million of the state-funded local road work will be let this year to be funded from the state highway rehabilitation program.

## Summary of State Assistance

The following table displays the potential state assistance for the Foxconn EITM zone.

### Estimated State Assistance for the Foxconn EITM Zone (in Millions)

<u>State Assistance*</u>	<u>Potential Cost</u>
EITM Zone Tax Credit	\$1,500.0
Supplemental Capital Expenditures Tax Credit	1,350.0
Sales and Use Tax Exemption	139.0
Grants to Local Governments	15.0
DWD Worker Training and Employment	20.0
Economic Development Liason**	0.4
Other State and Local Road Improvements	<u>134.0</u>
Total	\$3,158.4

\* Does not include \$408.3 million in estimated costs for I-94 North South corridor improvements (see section below).

\*\*Does not include ongoing costs associated with this position.

## I-94 North-South Corridor Project

The Act also authorizes \$252,400,000 in GPR-supported, general obligation bonds, which may be used for the I-94 North-South corridor project in the southeast Wisconsin freeway megaprojects program. This portion of the improvements to the I-94 North South corridor are not specific to the Foxconn development and had been planned for construction since the project was enumerated in statute in 2007. However, funding for the project was not included in the Governor's 2017-19 budget recommendations. Rather, the Foxconn development likely expedited the funding of this portion of the I-94 North South corridor.

The Act creates a general fund-supported, sum sufficient appropriation that would pay any debt service associated with the issuance of these bonds and specifies that the Department of Transportation (DOT) may not expend the proceeds from the bonds authorized under this provision unless the state receives an award of federal moneys for the I-94 North-South corridor project.

It is expected that, if partially issued in May, 2018, estimated debt service on the \$252,400,000 in contingent GPR-supported bonds provided under Act 58 would increase by \$2,942,000 GPR in 2018-19. If fully issued, estimated general fund-supported debt service payments on these bonds would increase to \$8.91 million GPR in 2019-20, \$15.67 million GPR in 2020-21, and \$19.5 million in 2021-22, before plateauing at \$20.3 million in 2022-23 through 2037-38. Debt service on these bonds would begin to decline in 2038-39 and would be fully repaid by 2042. Total estimated debt service during this period would be equal to \$408.3 million. These estimates and the repayment schedule assume a 5% interest rate and 20-year bond maturities.

## **Local Government Assistance**

In addition to the incentives described above, the Village of Mount Pleasant created an incentive package and established a development agreement with Foxconn. As part of their financing plan, local governments committed to using \$763.8 million of tax increments from the EITM tax incremental financing (TIF) district to help fund the costs of public improvements associated with the Foxconn development. The tax increments will be paid by Foxconn and other businesses in the district and would be generated by multiplying the local tax levy by the incremental value of the Foxconn improvements, as well the improvement of other businesses located in the EITM TIF district.

Local governments (counties, municipalities, school districts, technical college districts, and special purpose districts) incur costs for operations and for capital. Operations include those costs that recur on a regular basis, while capital costs involve infrastructure and equipment with a multi-year life. Taxes, fees, and intergovernmental revenue are the primary funding sources for Wisconsin local governments' operations. While these funding sources can also be used for capital costs, local governments often borrow for those costs. General obligation bonds and notes are repaid through tax levies and are backed by the local government's "full faith and credit." The Wisconsin Constitution limits the amount of general obligation debt that each local government may incur to 5% of that local government's property tax base and specifies that the debt be retired within 20 years. Fees and other revenue sources can be used to support other debt, such as revenue bonds.

The Foxconn development will impose additional operating and capital costs on local governments. Some of these costs will result from providing public services directly to the Foxconn facility in the EITM TIF district, and some costs will be indirect, resulting from providing services to people and property outside, but resulting from, the development outside the district. Foxconn will be subject to any fees charged by the municipality or other local governments for services, such as for utilities. Public service costs funded through property taxes will not generally be recouped from Foxconn, since the taxes on property located inside the TIF district will be dedicated to repaying the TIF district's project costs. To the extent property in the TIF district causes those public service costs to increase, the taxes imposed to fund the services will be shifted to other property within that local government's jurisdiction, but outside the TIF district. However, by allowing tax increment expenditures to include the cost of constructing or expanding fire stations, purchasing police and fire equipment, and the cost of general government operating expenses related to providing police and fire protection services, the Act will allow the municipality creating the EITM TIF district to use tax increments from the district to cover such costs incurred outside of the district, which could help mitigate any potential tax increases on properties outside of the district.

Indirect costs will result from other development related to the Foxconn project. That development will include business suppliers to Foxconn, housing for Foxconn employees, and businesses serving those employees, and the development that will occur within the jurisdiction of the local governments hosting the EITM zone and in adjacent municipalities, counties, and states. The incremental public costs related to the development may be small initially, but they could

increase as local governments are required to increase capacity, either by adding employees or infrastructure, such as roads, schools, and other buildings.

In Wisconsin, the property tax is the largest component of own-source revenue raised by local governments and will be used as the primary source for funding the costs described above. Counties, municipalities, technical college districts, and school districts are subject to fiscal controls designed to limit the annual change in property taxes.

For counties and municipalities, the control is a levy limitation that limits the year-to-year increase in the tax levy to the percentage increase in tax base due to new construction within the county or municipality. The percentage is calculated without regard to TIF district boundaries, so new construction occurring in TIF districts increases the allowable levy authority of the county and municipality containing the TIF district, even though the county and municipality are not imposing a tax on the TIF district's incremental value. As noted above, if the county or municipal levy uses this additional levy authority to increase general property tax levies, those taxes would be borne by property outside the TIF district. Also, for development in the host community outside the TIF district and in adjacent municipalities, the levy limit will increase by the amount of this new construction, which would allow affected counties and municipalities the ability to fund costs related to that development.

For Wisconsin technical college districts, there is a revenue limit that applies to the sum of the tax levy and state property tax relief aid. No district can increase its revenue in any year by a percentage greater than its valuation factor. The valuation factor is the greater of zero, or the percentage change in the district's equalized value due to new construction, less improvements removed. For purposes of the revenue limit, tax levy excludes taxes levied for principal and interest on valid bonds and notes, other than noncapital notes. Districts may exceed their revenue limit if the increase is approved at referendum.

For school districts, revenue limits cover the sum of state general aid and the local levy, with certain exceptions. Each district's limit is calculated using a three-year rolling average of pupil enrollment. If additional pupils attend local school districts because of employment and housing growth attributable to the project, the three-year rolling average under revenue limits will increase as well. If school districts need to build new schools, a bonding referendum will need to be passed in order for the debt levy on the bonds to be outside of revenue limits. The effect of any increase in revenue limits on a school district's levy would depend in part on the district's aid characteristics (pupil membership, aidable costs, and equalized value) as well as the changes in those factors compared to other districts in the state.

### **Moral Obligation Pledge For Local Governmental Municipal Obligations**

The Act specifies that, recognizing its moral obligation to do so, the Legislature expresses its expectation and aspiration that, if ever called upon to do so, it would make an appropriation to pay no more than 40% of the principal and interest of a local governmental unit's municipal obligations, if all of the following apply: (a) the local governmental unit's municipal obligation is issued to finance costs related to development occurring in or for the benefit of an EITM zone; and

(b) the DOA Secretary designates the moral obligation pledge for the local governmental unit's municipal obligation before the municipal obligation is issued, based on a plan that the local governmental unit submitted to DOA. The Act also permits the DOA Secretary to contract with a local governmental unit to implement the moral obligation pledge.

A state moral obligation pledge for local governmental municipal obligations can be viewed as a credit enhancement mechanism that could assist in the marketability of debt issued by a local governmental unit. Because of this pledge, debt not previously issued by a local governmental unit, or issued in larger amounts than before, may be issued at a lower interest rate due to the Legislature's moral obligation pledge to repay a portion of the outstanding principal and interest if the local governmental unit is unable to make such payments. The moral obligation pledge is not legally binding. Rather, it is a statement made by the current Legislature that it expects a future Legislature to, if called upon to do so, make an appropriation to assist in the repayment of outstanding debt issued by a local governmental unit.

The Village of Mount Pleasant has created a TIF district within the Foxconn EITM zone and anticipates the issuance of TIF revenue bonds to be backed by the state's moral obligation pledge. However, the exact size and the terms of the revenue bond debt to be issued to finance costs related to development occurring in or for the benefit of an EITM zone are not entirely known. Therefore, the potential state fiscal impact of the moral obligation pledge cannot currently be determined, and would depend on the amount of revenue bonds the DOA Secretary designates for the pledge. As an example, for every \$100 million in debt issued by a local governmental unit that is covered by the pledge, and assuming an interest rate of 5% and a flat, 20-year repayment schedule, total principal and interest payments would equal \$160.5 million. Assuming that no revenues from the underlying project are available to service 40% of the debt, then the Legislature could be called on to appropriate up to \$64.2 million for the repayment of 40% of principal and interest costs under the moral obligation pledge.

### **Impact on Utility Costs**

Recently, it was reported that the American Transmission Company will seek state approval for a \$140 million transmission line project to provide electrical power to the Foxconn manufacturing development. While it is not yet known, the transmission line project would affect the rates of residential and other electric customers. However, the cost would be spread over a large number of consumers for up to 40 years, so the impact on individual ratepayers is not expected to be significant. Further, the Act modifies current law provisions regarding public utility market-based rates to require an electric public utility providing service to an EITM zone to file with the PSC, no later than January 1, 2020, tariffs that include market-based pricing and options that allow a new retail customer within the EITM zone to receive market benefits and take market risks for some or all of the customer's purchases of capacity and energy, provided that the PSC determines that the customer is eligible for an EITM zone credit.

I hope this information is helpful. Please contact me if you have any further questions.

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