

June 1980 Spec. Sess.
Senate Bill 4

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CHAPTER 362, Laws of 1979

AN ACT to renumber and amend 66.521 (11); to amend 66.067, 66.521 (2) (b) 2 and 12 and (f), (7) (j), (10) (c) and (12) (a) and (b); to repeal and recreate 66.521 (2) (b) 14; and to create 66.521 (2) (b) 18 to 20, (6) (c), (10) (g) and (h) and (11) (b) and 560.03 (15) of the statutes, relating to industrial revenue bonds and projects.

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

SECTION 1. 66.067 of the statutes is amended to read:

66.067 Public works projects. For financing purposes, garbage incinerators, toll bridges, swimming pools, tennis courts, parks, playgrounds, golf links, bathing beaches, bathhouses, street lighting, city halls, courthouses, jails, schools, cooperative educational service agencies (CESAS), hospitals, homes for the aged or indigent, regional projects, waste collection and disposal operations, systems of sewerage and any and all other necessary public works projects undertaken by any town, village, city, county, other municipality, public inland lake protection and rehabilitation district, or a commission created by contract under s. 66.30, are public utilities within the meaning of s. 66.066. In financing under that section, rentals and fees shall be considered as revenue. Any indebtedness created under this section may not be included in arriving at the constitutional debt limitation.

SECTION 3. 66.521 (2) (b) 2 of the statutes is amended to read:

66.521 (2) (b) 2. Generating, manufacturing, transmission or distributing facilities for electric energy, gas or water;

SECTION 5. 66.521 (2) (b) 12 of the statutes is amended to read:

66.521 (2) (b) 12. Facilities to provide service activities, including but not limited to warehousing, storage, distribution, research and data processing, which are directly related to and used in conjunction with the projects a project enumerated in this subdivision paragraph having the same principal user;

SECTION 6. 66.521 (2) (b) 14 of the statutes, as affected by chapter 34, laws of 1979, is repealed and recreated to read:

66.521 (2) (b) 14. In addition to subd. 12, facilities used primarily for the storage or distribution of products described under subd. 1, materials, components or equipment, but not including facilities regularly used for the sale of goods or services to ultimate consumers for personal, family or household purposes.

SECTION 7. 66.521 (2) (b) 18 to 20 of the statutes are created to read:

66.521 (2) (b) 18. Facilities for research and development activities relating to the production of products described under subd. 1 regardless of whether the user of the facilities is also engaged in the production of one or more of those products.

19. A shopping center, or an office building, convention or trade center, hotel, motel or other nonresidential facility, which is located in or adjacent to a blighted area as defined by s. 66.43 (3) (j) 1, 66.431 (4) (e) or 66.46 (2) (a) or in accordance with a redevelopment plan or urban renewal plan adopted under s. 66.43 (5) or 66.431 (6).

20. Cable television facilities which provide services only in a municipality having a population of 2,500 or less.

SECTION 8. 66.521 (2) (f) of the statutes is amended to read:

66.521 (2) (f) "Eligible participant" includes any person, other than the state or any other governmental unit, who enters into a revenue agreement with a municipality with respect to an industrial project. If more than one eligible participant is a party to a revenue agreement, the undertaking of each shall be either several or joint and several as the revenue agreement provides. An eligible participant need not be directly or indirectly a user of the project.

SECTION 9. 66.521 (6) (c) of the statutes is created to read:

66.521 (6) (c) A governing body may not adopt an initial resolution authorizing issuance of bonds to finance a project specified under sub. (2) (b) 11 unless the governing body finds and states in the initial resolution that the project will significantly increase the number of persons traveling to the municipality for business or recreation. The statement shall be included in the public notice required under sub. (10) (b).

SECTION 9m. 66.521 (7) (j) of the statutes, as created by chapter 221, laws of 1979, is amended to read:

66.521 (7) (j) The financing of the acquisition cost, incurred after the date of adoption of the initial resolution, of property acquired from an authorized developer which is substantially completed or under construction on the effective date of this act (1979), and which is substantially unused prior to the acquisition, except the authorized developer may have leased the property prior to its acquisition, for a period not to exceed 2 years, for the purpose of deriving revenue from the property pending its sale.

SECTION 10. 66.521 (10) (c) of the statutes is amended to read:

66.521 (10) (c) A copy of the initial resolution together with a ~~copy of the public notice of its adoption~~ statement indicating when the public notice required under par. (b) was published shall be filed with the secretary of business development within ~~10~~ 20 days following publication of notice. Prior to the closing of the bond issue, the secretary may require additional information from the eligible participant or the municipality. After the closing of the bond issue, the secretary shall be notified of the closing date, any substantive changes made to documents previously filed with the secretary and the principal amount of the financing.

SECTION 10m. 66.521 (10) (g) and (h) of the statutes are created to read:

66.521 (10) (g) Bonds may not be issued unless prior to adoption of an initial resolution a document which provides a good faith estimate of attorney fees which will be paid from bond proceeds is filed with the clerk of the municipality and the department of business development.

(h) Bonds may not be issued unless prior to issuance all prerequisite conditions contained in the initial resolution are satisfied.

SECTION 11. 66.521 (11) of the statutes, as affected by chapter 32, laws of 1979, is renumbered 66.521 (11) (a) and amended to read:

66.521 (11) (a) With respect to the enforcement of any construction lien or other lien under ch. 779 arising out of the construction of projects financed under this section, no deficiency judgment or judgment for costs may be entered against the municipality. Projects financed under this section shall not be deemed to be public works, public improvements or public construction within the meaning of ss. 59.08, 60.29 (1m), 61.55, 62.15, 779.14, 779.15 and 779.155 and contracts for the construction of such projects shall not be deemed to be public contracts within the meaning of ss. 59.08 and 66.29 unless factors such as and including municipal control over the costs, construction and operation of the project and the beneficial ownership of the project warrant such conclusion.

SECTION 11m. 66.521 (11) (b) of the statutes is created to read:

66.521 (11) (b) 1. Except as provided by subd. 2 construction work which is let by contract and which has an estimated cost exceeding \$5,000 may be financed with bonds only if the contract is let to the lowest responsible bidder and proposals for the contract are advertised by publishing a class 2 notice under ch. 985. The contract shall include a clause prohibiting discrimination in employment and subcontracting. No facility constructed with industrial revenue bonds shall be used for purposes which discriminate in access or employment based on race, creed, sex, handicap, ethnic origin, age, or marital status.

2. The governing body of a municipality may waive this paragraph with respect to a particular project by adopting an ordinance or resolution containing a statement of the reasons for the waiver and a description of the project for which waiver is made and publishing it as a class 1 notice under ch. 985.

SECTION 12. 66.521 (12) (a) and (b) of the statutes are amended to read:

66.521 (12) (a) In the absence of fraud, all bonds ~~heretofore~~ issued prior to the effective date of this act (1979) purportedly pursuant to this section, and all proceedings ~~heretofore~~ taken purportedly pursuant to this section prior to that date for the authorization and issuance of such those bonds or of bonds not yet issued, and the sale, execution and delivery of such bonds heretofore issued prior to the effective date of this act (1979), are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power, however patent, other than constitutional, of the issuing municipality or the governing body or officer thereof, to authorize and issue such the bonds, or to sell, execute or deliver the same, and notwithstanding any defects or irregularities, however patent, other than constitutional, in such the proceeding or in such the sale, execution or delivery of such bonds heretofore issued prior to the effective date of this act (1979). All such bonds ~~heretofore issued~~ are binding, legal obligations in accordance with their terms.

(b) Any proceedings for the authorization and issuance of bonds ~~pursuant to this section now under this section~~ in process prior to the effective date of this act (1979) may be continued ~~under this section as it heretofore existed under this section as in effect prior to the effective date of this act (1979) or as it is now constituted under this section as in effect on and after the effective date of this act (1979) if the governing body so elects and the initial resolution is published or republished after the effective date of this act (1979).~~ All such continued proceedings are hereby validated, ratified, approved and confirmed; and all bonds ~~hereafter~~ issued as a result of such proceedings are binding, legal obligations in accordance with their terms.

SECTION 13. 560.03 (15) of the statutes is created to read:

560.03 (15) Annually, submit a report to the legislature analyzing the use of industrial revenue bond financing under s. 66.521 and accurately reporting the benefits of that use, including the effect on employment in this state including, but not limited to:

(a) The number of full-time equivalent employment positions created by each project financed; and

(b) If use of industrial revenue bond financing results in the relocation of an operation which uses the project financed, the municipality from which the relocation occurs and the number of full-time equivalent employment positions eliminated in that municipality.

SECTION 15. **Program responsibilities.** In the list of program responsibilities specified for the department of business development under section 15.151 (intro.) of the statutes, reference to section "66.521 (10) (g)" is inserted.

SECTION 16. **Reconciliation.** The treatment of sections 15.151 (intro.) and 66.521 (10) (c) of the statutes by this act does not affect the treatment of those sections by chapter (June 1980 Special Session Senate Bill 3), laws of 1979, and on and after

September 1, 1980, the treatment by chapter (June 1980 Special Session Senate Bill 3), laws of 1979, and this act of those sections shall be given full effect.

SECTION 17. Word change. Wherever "business development" appears in section 66.521 (10) (g) of the statutes, as created by this act, substitute "development".

SECTION 18. Effective date. This act takes effect on the day after its publication, except SECTION 17 of this act takes effect on September 1, 1980.
