

CHAPTER 90

AN ACT to create 59.071 and 181.76 (5) of the statutes, relating to the formation of instrumentalities (as nonstock corporations) in counties to carry on programs and operations designed to stimulate the retention, establishment or enlargement of industrial, commercial and manufacturing enterprises, to prevent unemployment and to preserve and enhance the tax base.

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

SECTION 1. 59.071 of the statutes is created to read:

59.071 INDUSTRIAL DEVELOPMENT AGENCIES. (1) SHORT TITLE. This section shall be known and may be cited as the "Industrial Development Law".

(2) FINDINGS. It is found and declared that industries located in this state have been induced to move their operations in whole or in part to, or to expand their operations in, other states to the detriment of state, county and municipal revenue arising through the loss or reduction of income taxes, real estate and other local taxes, and thereby causing an increase in unemployment; that such conditions now exist in certain areas of the state and may well arise in other areas; that economic insecurity due to unemployment is a serious menace to the general welfare of not only the people of the affected areas but of the people of the entire state; that such unemployment results in obligations to grant public assistance and in the payment of unemployment compensation; that the absence of new economic opportunities has caused workers and their families to migrate elsewhere to find work and establish homes, which has resulted in a reduction of the tax base of counties, cities and other local governmental jurisdictions impairing their financial ability to support education and other local governmental services; that security against unemployment and the preservation and enhancement of the tax base can best be provided by the promotion, attraction, stimulation, rehabilitation and revitalization of commerce, industry and manufacturing; that there is a need to stimulate a larger flow of private investment funds from banks, investment houses, insurance companies and other financial institutions; that means are necessary under which counties so desiring may create instrumentalities to promote industrial development and such purpose requires and deserves support from counties as a means of preserving the tax base and preventing unemployment. It is therefore declared to be the policy of this state to promote the right to gainful employment, business opportunities and general welfare of the inhabitants thereof and to preserve and enhance the tax base in counties and municipalities by the creation of bodies, corporate and politic, which shall exist and operate for the purpose of fulfilling the aims of this section and such purposes are hereby declared to be public purposes for which public money may be spent and the necessity in the public interest for the provisions herein enacted is declared a matter of legislative determination.

(3) DEFINITIONS. As used in this section, unless the context clearly indicates otherwise:

(a) "Industrial development agency" or "agency" is a public body corporate and politic created under this section, which agency shall have the characteristics and powers described in this section;

(b) "Industrial development project" is any site, structure, facility or undertaking comprising or being connected with or being a part of an industrial or manufacturing enterprise established or to be established by an industrial development agency;

(c) "Federal agency" includes the United States, the president of the United States and any department of or corporation, agency or instrumentality heretofore or hereafter created, designated or established by the United States.

(4) FORMATION OF INDUSTRIAL DEVELOPMENT AGENCIES. (a) Any county upon a finding by the county board that there is a need therefor may cause to be formed an agency which shall be the sole agency and instrumentality of the county for the purposes stated in this section.

(b) Any adjoining counties upon a finding by their county boards that there is need therefor may jointly cause to be formed an agency which shall be the sole agency and instrumentality of the counties for the purposes stated in this section.

(c) The county board may appropriate such sums of money as are necessary or advisable for the benefit of the agency and prescribe the terms and conditions of such appropriation.

(d) The agency shall be a separate and distinct public instrumentality and body corporate and politic exercising public powers determined to be necessary by the state for the purposes set forth in sub. (2). The agency shall have no power at any time to pledge the credit or taxing power of the state, any county, or any municipality or political subdivision, but all of its obligations shall be deemed to be obligations solely of the agency.

(5) ORGANIZATION OF INDUSTRIAL DEVELOPMENT AGENCIES. Such agencies shall have the following authority and shall be subject to the following restrictions:

(a) Proposed articles of incorporation and proposed bylaws shall be made available for inspection by any municipality within the county for a period of at least 30 days and shall thereafter be submitted to the county board for approval.

(b) The articles of incorporation shall be signed and acknowledged by persons designated by the county board or where counties join in the formation of the agency by the county boards of such counties and shall include at least 3 of the following from each county: the county executive, if there is one; the chairman of the county board; the chairman of the county board finance committee, if there is one; the county corporation counsel or district attorney in counties having no corporation counsel and the county auditor or county treasurer in counties having no county auditor, and only such persons so signing and acknowledging the articles of incorporation shall for the purposes of ch. 181 be the incorporators of the agency. When counties join in the formation of the agency, the articles of incorporation shall be recorded in the office of the register of deeds of each county.

(c) The provisions of ch. 181, except such as are inconsistent with this section and except as otherwise specifically provided in this section, shall be applicable to such agency. The articles of incorporation shall specifically state that the agency is a public instrumentality created under the industrial development law and organized in accordance with the requirements of ch. 181 and that the agency shall be subject to ch. 181 to the extent that said chapter is not inconsistent with this section.

(d) The articles of incorporation shall provide for 2 classes of members who shall be designated as county members and public members and shall fix the number of each class, but the county members, at all times, shall constitute not less than a majority of the total authorized members. County members shall be designated by the county board or boards where counties join in the formation of the agency and shall hold office for such

term as is provided in the bylaws. Public members shall be elected and hold office in such manner as is provided in the bylaws. The agency shall be subject to dissolution and its corporate authority terminated upon resolution adopted by a majority of the county board, or of the county boards of each county where counties join in the formation of the agency whereupon the members shall proceed forthwith to dissolve the agency, wind up its affairs and distribute its remaining assets as provided in this section.

(e) The articles of incorporation shall provide for 2 classes of directors, each class to consist of such number as is provided in the bylaws. The county executive, if there is one, the chairman of the county board, the chairman of the county board finance committee, if there is one, the county corporation counsel or district attorney in counties having no corporation counsel and the county auditor or county treasurer in counties having no county auditor, shall be members of the board of directors by virtue of their office and as representatives of the county in which they hold such office and the county board of each county shall have the right to designate such additional county directors as the bylaws authorize. The county directors shall at all times constitute not less than a majority of the total authorized number of directors. Public directors shall be appointed or elected in such manner and hold office for such term as the bylaws provide.

(f) The corporate income of the agency shall not inure to any private person. The property of the agency shall be subject to taxation as general property under ch. 70. Upon the dissolution of the agency all net assets after payment or provision for the payment of all debts and obligations shall be paid over to the county in which it is located or if counties have joined in the formation of the agency then to such counties in such shares as is provided in the articles of incorporation.

(6) OPERATING AUTHORITY OF INDUSTRIAL DEVELOPMENT AGENCIES. The agency is granted all operating authority necessary or incidental to the carrying out and effectuating the purposes of this section including, without limitation because of enumeration, the following:

(a) To grant financial aid and assistance to any industrial development project, which aid and assistance may take the form of loans either secured or unsecured, contracts of sale and purchase, leases and such other transactions as are determined by the agency.

(b) Within the boundaries of the county or the counties joining in the formation of the agency to acquire by purchase, lease or otherwise any real or personal property or any interest therein or mortgage or other lien thereon; to hold, improve, clear and redevelop any such property; to sell, assign, lease, subdivide and make such property available for industrial use and to mortgage or otherwise encumber the same.

(c) To borrow money and to execute notes, bonds, debentures and other forms of indebtedness; to apply for and accept advances, loans, grants and contributions and other forms of financial assistance from the federal, state or county government and from municipalities and other public bodies and from industrial and other sources; to give such security as is required by way of mortgage, lien, pledge or other encumbrance, but any obligations for the payment of money shall be issued by the agency only after approval in such manner as is determined by the county board or boards where counties have joined in the formation of the agency and is prescribed in the articles of incorporation or bylaws of the agency.

(d) To loan money for such period of time and at such interest rate as is determined by the agency and to be secured by mortgage, pledge or other lien or encumbrance on the industrial development project for which the loan was made or in other appropriate manner, which mortgage or

other lien may be subordinate to a mortgage or other lien securing the obligations representing funds secured from independent sources which are used in the financing of the industrial development project and which mortgage or other lien and the indebtedness secured thereby may be sold, assigned, pledged or hypothecated.

(e) To enter into any contracts deemed to be necessary or helpful and in general have and exercise all such other and further authority as is required or necessary in order to effectuate the purposes of this section.

(7) EXAMINATION AND AUDIT. The accounts and books of the agency, including its receipts, disbursements, contracts, mortgages, investments and other matters relating to its finances, operation and affairs shall be examined and audited annually by the county auditor, by the department of state audit under s. 15.22 (12) or by an independent certified public accountant designated by the county board or boards where counties have joined in the formation of the agency.

(8) LIMITATION OF POWERS. (a) An industrial development agency shall not enter into any transaction which entails moving an industrial plant or facility from a municipality within the county to another location outside such municipality if the common council or the village board of the municipality where such plant or facility is then situated, within 45 days after receipt of written notice from the agency that it proposes to enter into such transaction, objects thereto by resolution adopted by a two-thirds vote of its council or board and approved by its mayor or president.

(b) The state does hereby pledge to and agree with the United States and any other federal agency that if any federal agency constructs, loans or contributes any funds for the construction, extension, improvement or enlargement of any industrial development project, or any portion thereof, the state will not alter or limit the rights and powers of the agency in any manner which would be inconsistent with the due performance of any agreements between the agency and any such federal agency, and the agency shall continue to have and may exercise all powers herein granted, so long as the same is necessary or desirable for the carrying out of the purposes of this section.

(9) CONSTRUCTION. This section shall be construed liberally to effectuate the purposes hereof and the enumeration therein of specific powers shall not operate to restrict the meaning of any general grant of power contained in this section or to exclude other powers comprehended in such general grant.

SECTION 2. 181.76 (5) of the statutes is created to read:

181.76 (5) An industrial development agency, which is a public non-profit corporation without stock created under the industrial development law, shall, to the extent not inconsistent with such law, conduct and administer its business and affairs in accordance with this chapter.

Approved June 8, 1965.