



## 2013 SENATE BILL 338

1     **AN ACT** *to renumber* 60.23 (32); *to amend* 66.1105 (6) (f) 1. (intro.), 66.1106 (1)  
2           (i), 66.1106 (2) (c), 66.1106 (7) (e) (intro.), 66.1106 (7) (e) 1., 66.1106 (7) (e) 2. and  
3           70.111 (18); and *to create* 60.23 (32) (b), 60.23 (32) (c), 60.23 (32) (cm), 60.23 (32)  
4           (f), 66.1105 (6) (f) 2. d. and 66.1105 (19) of the statutes; **relating to:** expanding  
5           the authority of towns to create tax incremental financing districts, creating  
6           special provisions for a city or village to create a tax incremental district in  
7           recently annexed territory, the property tax exemption for biogas or synthetic  
8           gas energy systems and property subject to a tax incremental financing  
9           agreement, and authorizing a tax incremental district to share tax increments  
10          with an environmental remediation tax incremental district in the same city or  
11          village.

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*Analysis by the Legislative Reference Bureau*

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

**SENATE BILL 338****SECTION 1**

1           **SECTION 1.** 60.23 (32) of the statutes is renumbered 60.23 (32) (a).

2           **SECTION 2m.** 60.23 (32) (b) of the statutes is created to read:

3           60.23 (32) (b) 1. In this paragraph:

4           a. “Department” means the department of natural resources.

5           b. “Sewer service area” means territory specified in the sewer service area  
6 provisions of an areawide water quality management plan under s. 283.83 approved  
7 by the department.

8           c. “Town” means a town in which the equalized value of all taxable property in  
9 the town, in the year before the year in which the town adopts a resolution under s.  
10 66.1105 (4) (gm), is at least \$500 million, and the town’s population, in the year before  
11 the year in which the town adopts a resolution under s. 66.1105 (4) (gm), is at least  
12 3,500.

13           2. Subject to subd. 3. and par. (f), a town with a population of at least 3,500 may  
14 exercise all powers of cities under s. 66.1105 to create a tax incremental district if the  
15 boundaries of the proposed district are within a sewer service area and sewer service  
16 is either currently extended to the proposed district or will be provided to the  
17 proposed district before the use or operation of any improvements to real property  
18 in the proposed district begins and the sewage treatment is provided by a wastewater  
19 treatment facility that complies with ch. 283. If the town board exercises the powers  
20 of a city under s. 66.1105, it is subject to the same duties as a common council under  
21 s. 66.1105 and the town is subject to the same duties and liabilities as a city under  
22 s. 66.1105.

23           3. a. If a town creates a tax incremental district under s. 60.85, the town may  
24 not take any action with regard to that district except by acting under s. 60.85.

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1           b. If a town creates a tax incremental district under par. (a), the town may not  
2 take any action with regard to that district except by acting under par. (a).

3           **SECTION 3m.** 60.23 (32) (c) of the statutes is created to read:

4           60.23 (32) (c) If any part of a tax incremental district that is created as provided  
5 under par. (b) 2. is annexed by a city or village, any assets or liabilities associated  
6 with that annexed territory, including a proportional share of any bonds or other debt  
7 associated with the district, shall become the responsibility of the annexing city or  
8 village.

9           **SECTION 3s.** 60.23 (32) (cm) of the statutes is created to read:

10          60.23 (32) (cm) If after January 1 a city or village annexes any part of a tax  
11 incremental district that is created as provided under par. (b) 2., the department of  
12 revenue shall redetermine the tax incremental base of the district by subtracting  
13 from the tax incremental base the value of the taxable property that is annexed from  
14 the existing district as of the following January 1, and if the annexation becomes  
15 effective on January 1 of any year, the redetermination shall be made as of that date.  
16 The tax incremental base as redetermined under this paragraph is effective for the  
17 purposes of this paragraph and par. (b) only if it is less than the original tax  
18 incremental base determined under s. 66.1105 (5) (a).

19          **SECTION 4m.** 60.23 (32) (f) of the statutes is created to read:

20          60.23 (32) (f) 1. Before a town board may approve a project plan under s.  
21 66.1105 (4) (g), the town board must ensure that the project plan specifies at least  
22 one of the items listed in subd. 2. The starting point for determining a tax  
23 incremental district's remaining life, under subd. 2. b. and c., is the date on which  
24 the district is created, as described in s. 66.1105 (4) (gm) 2.

25          2. The project plan under s. 66.1105 (4) (g) must specify one of the following:

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1           a. With regard to the total value of public infrastructure improvements in the  
2 district, at least 51 percent of the value of such improvements must be financed by  
3 a private developer, or other private entity, in return for the town's agreement to  
4 repay the developer or other entity for those costs solely through the payment of cash  
5 grants as described in s. 66.1105 (2) (f) 2. d. To receive the cash grants, the developer  
6 or other private entity must enter into a development agreement with the town as  
7 described in s. 66.1105 (2) (f) 2. d.

8           b. The town expects all project costs to be paid within 90 percent of the proposed  
9 tax incremental district's remaining life, based on the district's termination date as  
10 calculated under s. 66.1105 (7) (ak) to (au).

11           c. Expenditures may be made only within the first half of the proposed tax  
12 incremental district's remaining life, based on the district's termination date as  
13 calculated under s. 66.1105 (7) (ak) to (au), except that expenditures may be made  
14 after this period if the expenditures are approved by a unanimous vote of the joint  
15 review board. No expenditure under this subd. 2. c. may be made later than the time  
16 during which an expenditure may be made under s. 66.1105 (6) (am).

17           **SECTION 5s.** 66.1105 (6) (f) 1. (intro.) of the statutes is amended to read:

18           66.1105 (6) (f) 1. (intro.) Not later than the date on which a tax incremental  
19 district terminates under sub. (7) (am), a planning commission may amend under  
20 sub. (4) (h) the project plan of a tax incremental district to allocate positive tax  
21 increments generated by that tax incremental district to another tax incremental  
22 district created by that planning commission or to an environmental remediation tax  
23 incremental district created under s. 66.1106 by the same governing body if all of the  
24 following conditions are met:

25           **SECTION 5u.** 66.1105 (6) (f) 2. d. of the statutes is created to read:

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1           66.1105 (6) (f) 2. d. The recipient district is an environmental remediation tax  
2 incremental district created under s. 66.1106.

3           **SECTION 6m.** 66.1105 (19) of the statutes is created to read:

4           66.1105 (19) ALTERNATE METHOD TO CREATE A DISTRICT IN RECENTLY ANNEXED TOWN  
5 TERRITORY. (a) *Authorization.* If, within 90 days of annexing town territory, a city  
6 holds a hearing under sub. (4) (a) on the proposed creation of a tax incremental  
7 district that is to be located in that former town territory, the city may create a tax  
8 incremental district under this section and subject to the limitations and conditions  
9 in par. (b), or the city may create a district in such annexed territory as otherwise  
10 provided in this section without being subject to the limitations and conditions in par.  
11 (b).

12           (b) *Limitations and conditions.* 1. Notwithstanding sub. (7), a district created  
13 under this subsection must terminate upon the earlier of 7 years after the district's  
14 creation or when the city has received aggregate tax increments with respect to the  
15 district in an amount equal to the aggregate of all project costs under the project plan  
16 and any amendments to the project plan for the district.

17           2. A district created under this subsection may not allocate positive tax  
18 increments to another district as described in sub. (6) (e) or (f).

19           3. The 12 percent limit described in sub. (4) (gm) 4. c. does not apply to a district  
20 created under this subsection until 2016.

21           4. Notwithstanding the limit on expenditures described in sub. (6) (am) 1., a  
22 district created under this subsection may make expenditures until October 1, 2016.

23           **SECTION 7m.** 66.1106 (1) (i) of the statutes is amended to read:

24           66.1106 (1) (i) "Period of certification" means a period of not more than 23 years  
25 beginning after the department certifies the environmental remediation tax

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1 incremental base under sub. (4), a period before all eligible costs have been paid, or  
2 a period before all eligible costs or project costs of a recipient district designated  
3 under sub. (2) (c) have been paid, whichever occurs first.

4 **SECTION 7p.** 66.1106 (2) (c) of the statutes is amended to read:

5 66.1106 (2) (c) Notwithstanding par. (a) or (b), or sub. (7) (d) 1. or (11) (a), if the  
6 governing body of a political subdivision determines that all eligible costs of an  
7 environmental remediation tax incremental district that it created will be paid  
8 before the date specified in sub. (11) (b), the governing body of that political  
9 subdivision may adopt a resolution requesting that the department allocate positive  
10 environmental remediation tax increments generated by that donor environmental  
11 remediation tax incremental district to pay the eligible costs of another  
12 environmental remediation tax incremental district created by that governing body  
13 or to pay project costs, as defined in s. 66.1105 (2) (f), of a tax incremental district  
14 created under s. 66.1105 and located in the same overlying taxing jurisdictions and  
15 that satisfies one of the requirements under s. 66.1105 (6) (f) 2. A resolution under  
16 this paragraph must be adopted before the expiration of the period of certification.

17 **SECTION 7s.** 66.1106 (7) (e) (intro.) of the statutes is amended to read:

18 66.1106 (7) (e) (intro.) Notwithstanding par. (d), if the governing body of a  
19 political subdivision adopts a resolution described in sub. (2) (c), it shall provide a  
20 copy of the resolution to the department. The department shall authorize a positive  
21 environmental remediation tax increment generated by a donor district, as described  
22 in sub. (2) (c), to the political subdivision that incurred eligible costs to remediate  
23 environmental pollution in another district within that political subdivision or that  
24 incurred project costs, as defined in s. 66.1105 (2) (f), for a tax incremental district  
25 within that political subdivision that was created under s. 66.1105 and that satisfies

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1 one of the requirements under s. 66.1105 (6) (f) 2., as described in sub. (2) (c), until  
2 the earlier of the following occurs:

3 **SECTION 7u.** 66.1106 (7) (e) 1. of the statutes is amended to read:

4 66.1106 (7) (e) 1. The political subdivision has received aggregate  
5 ~~environmental remediation~~ tax increments with respect to the recipient district in  
6 an amount equal to the aggregate of all of the eligible costs or project costs for that  
7 district.

8 **SECTION 7w.** 66.1106 (7) (e) 2. of the statutes is amended to read:

9 66.1106 (7) (e) 2. The donor district terminates under sub. (11) (b) or s. 66.1105  
10 (7).

11 **SECTION 8m.** 70.111 (18) of the statutes, as affected by 2013 Wisconsin Act 20,  
12 is amended to read:

13 70.111 (18) ENERGY SYSTEMS. Biogas or synthetic gas energy systems, solar  
14 energy systems, and wind energy systems. In this subsection, “biogas or synthetic  
15 gas energy system” means equipment which directly converts biomass, as defined  
16 under section 45K (c) (3) of the Internal Revenue Code, as interpreted by the Internal  
17 Revenue Service, into biogas or synthetic gas, equipment which generates electricity,  
18 heat, or compressed natural gas exclusively from biogas or synthetic gas, equipment  
19 which is used exclusively for the direct transfer or storage of biomass, biogas, or  
20 synthetic gas, and any structure used exclusively to shelter or operate such  
21 equipment, or the portion of any structure used in part to shelter or operate such  
22 equipment that is allocable to such use, if all such equipment, and any such  
23 structure, is located at the same site, and includes manure, substrate, and other  
24 feedstock collection and delivery systems, pumping and processing equipment,  
25 gasifiers and digester tanks, biogas and synthetic gas cleaning and compression

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1 equipment, fiber separation and drying equipment, and heat recovery equipment,  
2 but does not include equipment or components that are present as part of a  
3 conventional energy system. In this subsection, “synthetic gas” is a gas that qualifies  
4 as a renewable resource under s. 196.378 (1) (h) 1. h. In this subsection, “solar energy  
5 system” means equipment which directly converts and then transfers or stores solar  
6 energy into usable forms of thermal or electrical energy, but does not include  
7 equipment or components that would be present as part of a conventional energy  
8 system or a system that operates without mechanical means. In this subsection,  
9 “wind energy system” means equipment which converts and then transfers or stores  
10 energy from the wind into usable forms of energy, but does not include equipment or  
11 components that would be present as part of a conventional energy system. Until the  
12 tax incremental district terminates, the exemption under this subsection for biogas  
13 or synthetic gas energy systems does not apply to property in existence on January  
14 1, 2014, and located in a tax incremental financing district in effect on January 1,  
15 2014.

**SECTION 9m. Initial applicability.**

17 (1) The treatment of section 70.111 (18) of the statutes first applies to the  
18 property tax assessments as of January 1, 2014.

19 (END)