

# State of Wisconsin



2013 Senate Bill 338

Date of enactment: **April 4, 2014**  
Date of publication\*: **April 5, 2014**

## 2013 WISCONSIN ACT 193

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

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

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

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

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

a. "Department" means the department of natural resources.

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

c. "Town" means a town in which the equalized value of all taxable property in the town, in the year before the year in which the town adopts a resolution under s. 66.1105 (4) (gm), is at least \$500 million, and the town's population, in the year before the year in which the town adopts a resolution under s. 66.1105 (4) (gm), is at least 3,500.

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

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

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

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

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

66.1106 (1) (i) "Period of certification" means a period of not more than 23 years beginning after the department certifies the environmental remediation tax incremental base under sub. (4), a period before all eligible costs have been paid, or a period before all eligible costs or project costs of a recipient district designated under sub. (2) (c) have been paid, whichever occurs first.

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

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

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

66.1106 (7) (e) (intro.) Notwithstanding par. (d), if the governing body of a political subdivision adopts a resolution described in sub. (2) (c), it shall provide a copy of the resolution to the department. The department shall authorize a positive environmental remediation tax increment generated by a donor district, as described in sub. (2) (c), to the political subdivision that incurred eligible costs to remediate environmental pollution in another district within that political subdivision or that incurred project costs, as defined in s. 66.1105 (2) (f), for a tax incremental district within that political subdivision that was created under s. 66.1105 and that satisfies one of the requirements under s. 66.1105 (6) (f) 2., as described in sub. (2) (c), until the earlier of the following occurs:

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

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

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

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

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

70.111 (18) ENERGY SYSTEMS. Biogas or synthetic gas energy systems, solar energy systems, and wind energy systems. In this subsection, “biogas or synthetic gas energy system” means equipment which directly converts biomass, as defined under section 45K (c) (3) of the Internal Revenue Code, as interpreted by the Internal Revenue Service, into biogas or synthetic gas, equipment which generates electricity, heat, or compressed natural gas exclusively from biogas or synthetic gas, equipment which is used exclusively for the direct transfer or storage of biomass, biogas, or synthetic gas, and any structure used exclusively to shelter or operate such equipment, or the portion of any structure used in part to shelter or operate such equipment that is allocable to such use, if all such equipment, and any such structure, is located at the same site, and includes manure, substrate, and other feedstock collection and delivery systems, pumping and processing equipment, gasifiers and digester tanks, biogas and synthetic gas cleaning and compression equipment, fiber separation and drying equipment, and heat recovery equipment, but does not include equipment or components that are present as part of a conventional energy system. In this subsection, “synthetic gas” is a gas that qualifies as a renewable resource under s. 196.378 (1) (h) 1. h. In this subsection, “solar energy system” means equipment which directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy, but does not include equipment or components that would be present as part of a conventional energy system or a system that operates without mechanical means. In this subsection, “wind energy system” means equipment which converts and then transfers or stores energy from the wind into usable forms of energy, but does not include equipment or components that would be present as part of a conventional energy system. Until the tax incremental district terminates, the exemption under this subsection for biogas or synthetic gas energy systems does not apply to property in existence on January 1, 2014, and located in a tax incremental financing district in effect on January 1, 2014.

**SECTION 9m. Initial applicability.**

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