

**2013 Senate Bill 338 (LRB -2637)**

An Act to renumber 60.23 (32); and to create 60.23 (32) (b) of the statutes; relating to: expanding the authority of towns to create tax incremental financing districts. (FE)

**2013**

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**2014**

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*MB*

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03-11. S. Senate Amendment 1 to Assembly Amendment 3 offered by Senator S. Fitzgerald (**LRB a2046**) ..... 751

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03-11. S. Senate Amendment 1 to Assembly Amendment 2 **adopted** ..... 761

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03-11. S. Assembly Amendment 3 **concurred in** ..... 761

03-11. S. Ordered immediately messaged ..... 761

03-12. A. Received from Senate amended and concurred in as amended (Senate Amendment 1 to Assembly Amendment 2 adopted; Assembly Amendment 3 concurred in) ..... 737

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03-20. A. Ordered immediately messaged

03-21. S. Received from Assembly concurred in

**2013**  
**ENROLLED BILL**

13en S B-338

**ADOPTED DOCUMENTS:**

Orig     Engr         SubAmdt     

13-26371-1

Amendments to above (if none, write "NONE"): SA1-a<sup>✓</sup>0950/1    SA2-a<sup>✓</sup>954/1

SA3-a<sup>✓</sup>0961/1    AA2-a<sup>✓</sup>1751/1    AA3-a<sup>✓</sup>1752/3

SA1-AA2-a<sup>✓</sup>2093/1    AA1-AA3-a<sup>✓</sup>1907/1

Corrections - show date (if none, write "NONE"): JAN 31, 2014: a<sup>✓</sup>0961/1ccc-1  
March 26, 2014: LRB a<sup>✓</sup>1752/3ccc-1    March 27, 2014: a<sup>✓</sup>0961/1ccc-2

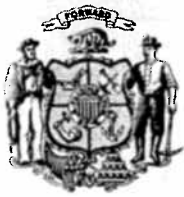
**Topic** - creation of tax incremental financing districts by towns and in recently annexed territory, the property tax exemption for gas energy systems, tax incremental financing agreements, <sup>and</sup> environmental remediation tax incremental districts

3-26-14

Date

JR Miller

Enrolling Drafter



## 2013 SENATE BILL 338

October 8, 2013 - Introduced by Senator PETROWSKI, cosponsored by Representatives BROOKS and KERKMAN. Referred to Committee on Economic Development and Local Government.

1 AN ACT *to renumber* 60.23 (32); and *to create* 60.23 (32) (b) of the statutes;  
2 relating to: expanding the authority of towns to create tax incremental  
3 financing districts.

INS. AA 3-1

### *Analysis by the Legislative Reference Bureau*

Under the current tax incremental financing program, a city or village may create a tax incremental district (TID) in part of its territory to foster development if at least 50 percent of the area to be included in the TID is blighted, in need of rehabilitation or conservation, suitable for industrial sites, or suitable for mixed-use development. Currently, towns and counties also have a limited ability to create a TID under certain circumstances. Before a city or village may create a TID, several steps and plans are required. These steps and plans include public hearings on the proposed TID within specified time frames, preparation and adoption by the local planning commission of a proposed project plan for the TID, approval of the proposed project plan by the common council or village board, approval of the city's or village's proposed TID by a joint review board that consists of members who represent the overlying taxation districts, and adoption of a resolution by the common council or village board that creates the TID as of a date provided in the resolution.

Also under current law, once a TID has been created, the Department of Revenue (DOR) calculates the "tax incremental base" value of the TID, which is the equalized value of all taxable property within the TID at the time of its creation. If the development in the TID increases the value of the property in the TID above the base value, a "value increment" is created. That portion of taxes collected on the

**SENATE BILL 338**

value increment in excess of the base value is called a "tax increment." The tax increment is placed in a special fund that may be used only to pay back the project costs of the TID.

The project costs of a TID, which are initially incurred by the creating city or village, include public works such as sewers, streets, and lighting systems; financing costs; site preparation costs; and professional service costs. DOR authorizes the allocation of the tax increments until the TID terminates or, generally, 20 years, 23 years, or 27 years after the TID is created, depending on the type of TID and the year in which it was created. Also under current law, a city or village may not generally make expenditures for project costs later than five years before the unextended termination date of the TID. Under certain circumstances, the life of the TID, the expenditure period, and the allocation period may be extended.

Under the current law limitations on towns to use tax incremental financing (TIF), a town may create a TID for projects related to tourism, agriculture, manufacturing, or forestry. A town may also use TIF for residential projects, but only to the extent that the residential project has a necessary and incidental relationship to a tourism, agricultural, manufacturing, or forestry project, and for retail projects to the extent that the retail development is related to the retail sale of a product that is produced due to an agricultural, forestry, or manufacturing project.

A town may also create a TID in limited circumstances under which the town enters into a cooperative plan with a city or village under which part or all of the town will be annexed or attached by the city or village.

This bill authorizes certain towns to exercise all of the powers of a city or village to create a TID within the town. To create a TID under the bill, a town must have a population of at least 5,000 and the equalized value of all taxable property within the town must be at least \$500 million in the year before the year in which the town proposes to create the TID.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

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

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

3           60.23 (32) (b) 1. In this paragraph, "town" means a town in which the equalized  
4 value of all taxable property in the town, in the year before the year in which the town  
5 adopts a resolution under s. 66.1105 (4) (gm), is at least \$500 million.

INS. SAI-1

SENATE BILL 338

INS. AA 2-2

INS. SAI-AA2

INS. SAI-2

1

2. Subject to subd. 3, a town with a population of at least 5,000 may exercise all powers of cities under s. 66.1105 to create a tax incremental district. If the town

2

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.

6

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.

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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).

9

10

(END)

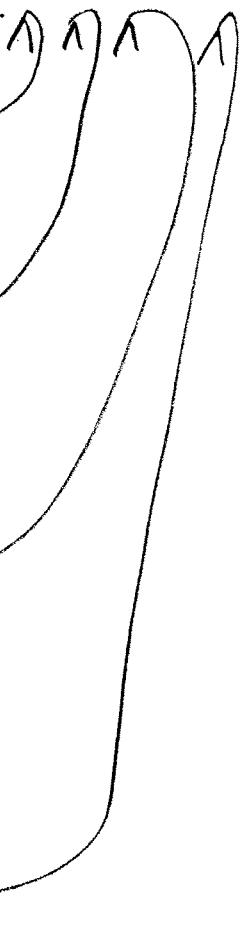
Renumber? ✓

INS SA2

INS SA3

INS AA3-2

INS AA2-4





**SENATE AMENDMENT 1,  
TO SENATE BILL 338**

October 10, 2013 - Offered by Senator PETROWSKI.

SAI-1

1 At the locations indicated, amend the bill as follows:

2 ✓1. Page 2, line 2: delete lines 2 to 5 and substitute:

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

4 60.23 (32) (b) 1. In this paragraph:

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

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

9 c. "Town" means a town in which the equalized value of all taxable property in  
10 the town, in the year before the year in which the town adopts a resolution under s.  
11 66.1105 (4) (gm), INS. AA24 is at least \$500 million".

SAI-2

12 ✓2. Page 3, line 2: after "district" insert "if the boundaries of the proposed  
13 district are within a sewer service area and sewer service is either currently

1 extended to the proposed district or will be provided to the proposed district before

2 the use or operation of any improvements to real property in the proposed district

\*  
3 INS  
AA2-3  
begins  
A

4 (END)





**SENATE AMENDMENT 2,  
TO SENATE BILL 338**

October 10, 2013 - Offered by Senator PETROWSKI.

SA 2

1 At the locations indicated, amend the bill as follows:

2 **X 1.** Page 3, line 9: after that line insert:

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 (END)



State of Wisconsin  
2013-2014 LEGISLATURE

**CORRECTIONS IN:**

**SENATE AMENDMENT 3,**

**TO SENATE BILL 338**

Prepared by the Legislative Reference Bureau  
(January 31, 2014)

- ✓ 1. Page 1, line 11: after "only if it" insert "is".

CORR

(END)



State of Wisconsin  
2013-2014 LEGISLATURE

**CORRECTIONS IN:**

**SENATE AMENDMENT 3,  
TO SENATE BILL 338**

Prepared by the Legislative Reference Bureau  
(March 27, 2014)

In enrolling, the following corrections were made:

1. Page 1, line 3: delete "SECTION 3m" and substitute "SECTION 3s".
2. Page 1, line 3: on lines 3 and 4, delete "(c)" and substitute "(cm)".

\*\*\*\*NOTE: Senate Amendment 2 and Senate Amendment 3 each created a provision numbered 60.23 (32) (c). This correction changes the number of the provision created by Senate Amendment 3. The substance of the provision is not affected.

(END)



**SENATE AMENDMENT 3,  
TO SENATE BILL 338**

October 10, 2013 – Offered by Senator PETROWSKI.

1 At the locations indicated, amend the bill as follows:

✓  
SA 3

2 ✓ 1. Page 3, line 9: after that line insert:

CCC

B  
3s

3

SECTION 60.23 (32) (c) of the statutes is created to read:

4

60.23 (32) (c) 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.

10

The tax incremental base as redetermined under this paragraph is effective for the purposes of this paragraph and par. (b) only if it <sup>(INS. CORR)</sup> less than the original tax incremental base determined under s. 66.1105 (5) (a).".

11

12

13

(END)



**ASSEMBLY AMENDMENT 2,  
TO SENATE BILL 338**

February 17, 2014 - Offered by Representative STROEBEL.

MARKED ON  
SAI-1  
AA2-1

1 At the locations indicated, amend the bill as follows:

2 ~~1.~~ Page 2, line 2: on page 1, line 11, of the material inserted by senate  
3 amendment 1, after "million" insert ), and the town's population, in the year before  
4 the year in which the town adopts a resolution under s. 66.1105 (4) (gm), is at least  
5 3,500".

AA2-2

6 ~~2.~~ Page 3, line 1: after "subd. 3." insert "and par. (f)".

INS, SAI-AA2

MARKED ON  
BILL

7 ~~3.~~ Page 3, line 2: on page 2, line 3, of the material inserted by senate  
8 amendment 1, after "begins" insert "and the sewage treatment is provided by a  
9 wastewater treatment facility that complies with ch. 283".

AA2-3

MARKED ON  
SAI-2

10 ~~4.~~ Page 3, line 9: after that line insert:

AA2-4

11 "SECTION 4m. 60.23 (32) (f) of the statutes is created to read:  
12 60.23 (32) (f) 1. Before a town board may approve a project plan under s.  
13 66.1105 (4) (g), the town board must ensure that the project plan specifies at least

1 one of the items listed in subd. 2. The starting point for determining a tax  
2 incremental district's remaining life, under subd. 2. b. and c., is the date on which  
3 the district is created, as described in s. 66.1105 (4) (gm) 2.

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

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

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

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

21 (END)



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRBa2093/1  
MES:wlj:jm

**SENATE AMENDMENT 1,  
TO ASSEMBLY AMENDMENT 2,  
TO SENATE BILL 338**

March 11, 2014 - Offered by Senator PETROWSKI.

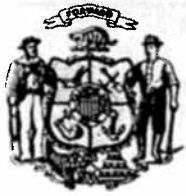
1 At the locations indicated, amend the amendment as follows:

2 ✓ 1. Page 1, line 6: after that line insert:

3 "2m. Page 3, line 1; delete "5,000" and substitute "3,500"."

4 (END)

✓  
SA1-AA2



State of Wisconsin  
2013-2014 LEGISLATURE

**CORRECTIONS IN:**

**ASSEMBLY AMENDMENT 3,  
TO SENATE BILL 338**

Prepared by the Legislative Reference Bureau  
(March 26, 2014)

In enrolling, the following corrections were made:

1. Page 2, line 14: delete "Notwithstanding" and substitute "Notwithstanding".
2. Page 4, line 11: before "66.1105" insert "s."

(END)





**ASSEMBLY AMENDMENT 3,  
TO SENATE BILL 338**

February 17, 2014 – Offered by Representative STEINEKE.

✓  
AA3-1

1 At the locations indicated, amend the bill as follows:

2 ✓ 1. Page 1, line 3: after “districts” insert “, creating special provisions for a city  
3 or village to create a tax incremental district in recently annexed territory, the  
4 property tax exemption for biogas or synthetic gas energy systems and property  
5 subject to a tax incremental financing agreement, and authorizing a tax incremental  
6 district to share tax increments with an environmental remediation tax incremental  
7 district in the same city or village”.

8 ✓ 2. Page 3, line 9: after that line, after the material inserted by senate  
9 amendment 2 and senate amendment 3, insert:

✓  
AA3-2

10 “SECTION 5s. 66.1105 (6) (f) 1. (intro.) of the statutes is amended to read:  
11 66.1105 (6) (f) 1. (intro.) Not later than the date on which a tax incremental  
12 district terminates under sub. (7) (am), a planning commission may amend under  
13 sub. (4) (h) the project plan of a tax incremental district to allocate positive tax

1 increments generated by that tax incremental district to another tax incremental  
2 district created by that planning commission or to an environmental remediation tax  
3 incremental district created under s. 66.1106 by the same governing body if all of the  
4 following conditions are met:

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

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

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

9 66.1105 (19) CREATION OF A DISTRICT IN RECENTLY ANNEXED TOWN TERRITORY. (a)

10 *Authorization.* If, within 90 days of annexing town territory, a city holds a hearing  
11 under sub. (4) (a) on the proposed creation of a tax incremental district that is to be  
12 located in that former town territory, the city may create a tax incremental district  
13 under this section subject to the limitations and conditions in this subsection.

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

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

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

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

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

INS.  
AAI-AA 3-1

INS.  
AAI-AA 3-2

Notwithstanding

ccc

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

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

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

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

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

1 incurred project costs, as defined in s. 66.1105 (2) (f), for a tax incremental district  
2 within that political subdivision that was created under s. 66.1105 and that satisfies  
3 one of the requirements under s. 66.1105 (6) (f) 2., as described in sub. (2) (c), until  
4 the earlier of the following occurs:

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

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

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

11 ccc (11) 66.1106 (7) (e) 2. The donor district terminates under sub. (11) (b) <sup>s.</sup> or 66.1105  
12 (7).

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

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

1 feedstock collection and delivery systems, pumping and processing equipment,  
2 gasifiers and digester tanks, biogas and synthetic gas cleaning and compression  
3 equipment, fiber separation and drying equipment, and heat recovery equipment,  
4 but does not include equipment or components that are present as part of a  
5 conventional energy system. In this subsection, "synthetic gas" is a gas that qualifies  
6 as a renewable resource under s. 196.378 (1) (h) 1. h. In this subsection, "solar energy  
7 system" means equipment which directly converts and then transfers or stores solar  
8 energy into usable forms of thermal or electrical energy, but does not include  
9 equipment or components that would be present as part of a conventional energy  
10 system or a system that operates without mechanical means. In this subsection,  
11 "wind energy system" means equipment which converts and then transfers or stores  
12 energy from the wind into usable forms of energy, but does not include equipment or  
13 components that would be present as part of a conventional energy system. Until the  
14 tax incremental district terminates, the exemption under this subsection for biogas  
15 or synthetic gas energy systems does not apply to property in existence on January  
16 1, 2014, and located in a tax incremental financing district in effect on January 1,  
17 2014.

18 **SECTION 9m. Initial applicability.**

19 (1) The treatment of section 70.111 (18) of the statutes first applies to the  
20 property tax assessments as of January 1, 2014<sup>3</sup>.

21 (END)



**ASSEMBLY AMENDMENT 1,  
TO ASSEMBLY AMENDMENT 3,  
TO SENATE BILL 338**

February 20, 2014 – Offered by Representative KERKMAN.

1 At the locations indicated, amend the amendment as follows:

2 ~~X~~ 1. Page 2, line 9: delete “CREATION OF” and substitute “ALTERNATE METHOD TO  
3 CREATE”.

4 ~~X~~ 2. Page 2, line 13: delete that line and substitute “under this section and  
5 subject to the limitations and conditions in par. (b), or the city may create a district  
6 in such annexed territory as otherwise provided in this section without being subject  
7 to the limitations and conditions in par. (b).”.

8 (END)

AA1-AA3-1

AA1-AA3-2