

1969 Senate Bill 330

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**CHAPTER 278, LAWS OF 1969**

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

AN ACT to create 66.521 of the statutes, relating to promotion of industry by municipal acquisition of certain industrial buildings.

SECTION 1. 66.521 of the statutes is created to read:

66.521 PROMOTION OF INDUSTRY. (1) 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 raising 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 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 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. It is therefore de-

clared 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 by authorizing municipalities to acquire industrial buildings and to finance such acquisition through the issuance of revenue bonds 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.

(2) DEFINITIONS. As used in this section, unless the context otherwise requires:

(a) "Municipality" means any city, village or town in this state.

(b) "Project" means any buildings or improvements, real or personal property, whether or not in existence at the time of issuance of the bonds issued under this section, which shall be suitable for the use of any revenue producing enterprise or any combination of any 2 or more such enterprises engaged or to be engaged in the assembling, fabricating, manufacturing, mixing, processing, warehousing, storing or distributing of any products of agriculture, forestry, mining or manufacture, even though such products may require further treatment before delivery to the ultimate consumer, and shall include data processing, research and development and service activities connected with the industries and activities herein enumerated.

(c) "Improve", "improving" and "improvements" shall embrace any real or personal property or mixed property of any kind that can be used or that will be useful in an industrial enterprise including, without limiting the generality of the foregoing, rights of way, roads, streets, sidings, foundations, tanks, structures, pipes, pipelines, reservoirs, utilities materials, equipment, fixtures, machinery, furniture, furnishings, improvements, instrumentalities and other real, personal or mixed property of every kind.

(d) "Governing body" means the board, council or other body in which the legislative powers of the municipality are vested.

(e) "Equip" means to install or place on or in any building or improvements or the site thereof equipment of any kind, including, without limiting the generality of the foregoing, machinery, utility service connections, building service equipment, fixtures, heating equipment and air conditioning equipment.

(f) "Lessee" includes a single person, firm or corporation or any 2 or more persons, firms or corporations which shall lease the project as tenants-in-common of the entire project and each of which such tenants-in-common shall severally undertake rental payment and other monetary obligations under the lease of the project sufficient, together with the like undertakings of the other such tenant-in-common, to satisfy the rental and other monetary obligations required by this chapter to be undertaken by the lessee of a project.

(3) POWERS; ACQUISITION AND CONSTRUCTION OF BUILDINGS; BONDS; LEASES; MORTGAGES; CONVEYANCES. Any municipality may:

(a) Construct, equip, acquire by gift or purchase, reconstruct, improve, maintain or repair industrial projects, and enlarge or remodel industrial projects.

(b) Borrow money and issue revenue bonds to finance the costs of the acquisition, equipping, purchase, construction, reconstruction or remodeling of industrial projects and the improvement of sites.

(c) Enter into lease or lease purchase agreements with any person for the industrial project. The agreement shall provide that the rents to be charged for the use of the industrial project shall be fixed and revised

from time to time so as to produce income and revenues sufficient to provide for the prompt payment of interest upon all bonds issued therefor, a sinking fund to pay the principal of the bonds when due, the operation and maintenance of the industrial project and an adequate depreciation account in connection therewith.

(d) Mortgage the industrial project in favor of the holders of the bonds issued therefor.

(e) Sell and convey the industrial project and site, including without limitation the sale and conveyance thereof subject to a mortgage, for such price and at such time as the governing body determines, but no sale or conveyance of any industrial project or site shall be made in any manner as to impair the rights or interests of the holders of any bonds issued for the industrial project.

(4) BONDS AS LIMITED OBLIGATIONS. (a) All bonds issued by a municipality, under the authority of this section shall be limited obligations of the municipality. The principal of and on such bonds shall be payable solely out of the revenues derived from the leasing of the project to be financed by the bonds so issued under this section. Bonds and interest coupons issued under authority of this section shall never constitute an indebtedness of the municipality, within the meaning of any state constitutional provision or statutory limitation, and shall not constitute nor give rise to a pecuniary liability of the municipality or a charge against its general credit or taxing powers. Such limitation shall be plainly stated on the face of each such bond.

(b) The bonds may be executed and delivered at any time; be in such form and denominations; without limitation as to the denomination of any bond, any other law to the contrary notwithstanding; be of such tenor; be fully registered, registrable as to principle or in bearer form; be transferrable; be payable in such instalments and at such time or times, not exceeding 30 years from their date; be payable at such place or places in or out of this state; bear interest at such rate or rates, payable at such place or places in or out of this state; be evidenced in such manner and may contain other provisions not inconsistent herewith; all as shall be provided in respect of the foregoing or other matters in the proceedings of the governing body whereunder the bonds are authorized to be issued.

(c) Unless otherwise provided in the proceedings of the governing body whereunder the bonds are authorized to be issued, bonds issued under this section shall be subject to the general provisions of law, presently existing or that may hereafter be enacted, respecting the execution and delivery of the bonds of a municipality and respecting the retaining of options of redemption in proceedings authorizing the issuance of municipal securities.

(d) Any bonds, issued under the authority of this section, may be sold at public sale in such manner and at such time or times as may be determined by the governing body to be most advantageous. The municipality may pay all expenses, premiums and commissions which the governing body may deem necessary or advantageous in connection with the authorization, sale and issuance thereof.

(e) All bonds, issued under the authority of this section and all interest coupons applicable thereto, shall be construed to be negotiable instruments, even though they are payable solely from a specified source.

(5) PLEDGE OF REVENUES AND PROCEEDINGS FOR ISSUANCE OF BONDS. (a) The principal of and interest on any bonds, issued under authority of this section, shall be secured by a pledge of the revenues out of which such bonds shall be made payable. They may be secured by a mortgage covering all or any part of the project from which the revenues so pledged may be derived or by a pledge of the lease of such project.

(b) The proceedings under which the bonds are authorized to be issued under this section, and any mortgage given to secure the same, may contain any agreements and provisions customarily contained in instruments securing bonds, including, but not limited to:

1. Provisions respecting custody of the proceeds from the sale of the bonds including their investment and reinvestment until used to defray the cost of the project;
2. Provisions respecting the fixing and collection of rents for any project covered by such proceedings or mortgage;
3. The terms to be incorporated in the lease of such project;
4. The maintenance and insurance of such project;
5. The creation, maintenance, custody, investment and reinvestment and use of special funds from the revenues of such project; and
6. The rights and remedies available in case of a default to the bond holders or to any trustee under the lease or a mortgage.

(c) A municipality may provide that proceeds from the sale of bonds and special funds from the revenues of the project shall be invested and reinvested in such securities and other investments as are provided in the proceedings under which the bonds are authorized to be issued. The municipality may also provide that such proceeds or funds or investments and the rents payable under the lease shall be received, held and disbursed by one or more banks or trust companies located in or out of this state. A municipality may also provide that the project and improvements shall be constructed by the municipality, lessee, or the lessee's designee, or any one or more of them on real estate owned by the municipality, the lessee, or the lessee's designee, that the bond proceeds shall be disbursed by the trustee bank or banks, trust company or trust companies, during construction upon the estimate, order or certificate of the lessee or the lessee's designee, and that the project, if and to the extent constructed on real estate not owned by the municipality, shall be conveyed to the municipality not later than its completion. In making such agreements or provisions, a municipality shall not obligate itself, except with respect to the project and the application of the revenues therefrom, and shall not incur a pecuniary liability or a charge upon its general credit or against its taxing powers.

(d) The proceedings authorizing any bonds under this section, or any mortgage securing such bonds, may provide that if there is a default in the payment of the principal of or the interest on such bonds or in the performance of any agreement contained in such proceedings or mortgage, the payment and performance may be enforced by the appointment of a receiver with power to charge and collect rents and to apply the revenues from the project in accordance with such proceedings or the provisions of such mortgage.

(e) Any mortgage, made under this section, to secure bonds issued thereunder, may also provide that if there is a default in the payment thereof or a violation of any agreement contained in the mortgage, it may be foreclosed and sold under proceedings in any manner permitted by law. Such mortgage may also provide that any trustee under such mortgage or the holder of any bonds secured thereby may become the purchaser at any foreclosure sale if he is the highest bidder therefor.

(6) DETERMINATION OF RENT. (a) Prior to the leasing of any project, the governing body must determine the amount necessary in each year to pay the principal of and the interest on the bonds proposed to be issued to finance such project; the amount necessary to be paid each year into any reserve funds which the governing body deems advisable to establish in connection with the retirement of the proposed bonds and the maintenance of the project; and unless the terms under which the project is to be leased provides that the lessee shall maintain the project and carry all proper in-

urance with respect thereto, the estimated cost of maintaining the project in good repair and keeping it properly insured.

(b) The determination and findings of the governing body shall be set forth in the proceedings under which the proposed bonds are to be issued; but the foregoing amounts need not be expressed in dollars and cents in the lease and proceedings under which the bonds are authorized to be issued, but may set forth in the form of a formula or formulas. Prior to the issuance of the bonds authorized by this section the municipality shall lease the project of a lessee under an agreement conditioned upon completion of the project and providing for payment to the municipality of such rentals as, upon the basis of such determination and findings, will be sufficient to pay the principal of and interest on the bonds issued to finance the project; to build up and maintain any reserves deemed advisable, by the governing body, in connection therewith and unless the agreement of lease obligates the lessee to pay for the maintenance and insurance on the project, to pay the costs of maintaining the project in good repair and keeping it properly insured.

(7) APPLICATION OF PROCEEDS LIMITED. The proceeds from the sale of any bonds, issued under this section, shall be applied only for the purpose for which the bonds were issued and if, for any reason, any portion of such proceeds are not needed for the purpose for which the bonds were issued, such unneeded portion of said proceeds shall be applied to the payment of the principal or the interest on said bonds. The cost of acquiring any project shall be deemed to include the actual cost of the construction of any part of a project which may be constructed including architects' and engineers' fees, the purchase price of any part of a project that may be acquired by purchase, all expenses in connection with the authorization, sale and issuance of the bonds to finance such acquisition and the interest on such bonds for a reasonable time prior to construction, during construction and for not exceeding 6 months after completion of construction.

(8) PURCHASE. The municipality may accept any bona fide offer to purchase which is sufficient to pay all the outstanding bonds, interest, taxes, special levies and other costs that have been incurred.

(9) LEASES; PAYMENT OF TAXES. When any industrial project acquired pursuant to this section is leased to a private person, the lessee shall be subject to taxation in the same amount and to the same extent as though the lessee were the owner of the property. Taxes shall be assessed to the lessee of the real property and collected in the same manner as taxes assessed to owners of real property, except that the taxes shall not become a lien against the property. When due, the taxes shall constitute a debt due from the lessee to the taxing unit and shall be recoverable as provided by law.

(10) ISSUANCE WITHOUT ELECTION; PROCEDURE. The governing body may issue bonds pursuant to this section without submitting the proposition to the electors of the municipality for approval unless within 30 days from the adoption of the resolution, a petition, signed by not less than 5% of the registered electors of the municipality is filed with the clerk of the municipality requesting a referendum upon the question of the issuance of the bonds, then the bonds shall not be issued until approved by a majority of the electors of the municipality voting thereon at a general or special election.

SECTION 2. Wherever the reference to "s. 66.52 (3)" appears in sections 67.04 (2) (zo) and 67.12 (12) (a) of the statutes, the reference "s. 66.52 and 66.521" are substituted.

Approved December 2, 1969.