



2009 ASSEMBLY BILL 174

March 30, 2009 – Introduced by Representatives MASON, TURNER, RICHARDS, ZEPNICK, MOLEPSKE JR. and BARCA, cosponsored by Senator PLALE. Referred to Committee on Urban and Local Affairs.

1 **AN ACT to amend** 66.1106 (1) (i), 66.1106 (7) (a) and 66.1106 (11) (a); and **to**
2 **create** 66.1106 (2) (c) and 66.1106 (7) (e) of the statutes; **relating to:**
3 authorizing sharing of tax increments by certain environmental remediation
4 tax incremental districts.

Analysis by the Legislative Reference Bureau

Under current law, the environmental remediation tax incremental financing program permits a city, village, town, or county (political subdivision) to recoup the costs of remediating contaminated property from property taxes that are levied on the remediated property. The mechanism for financing remediation costs is very similar to the mechanism for financing project costs under the tax incremental financing program.

Initially, the governing body of a political subdivision adopts a resolution creating an environmental remediation tax incremental district (ERTID) with particular boundaries. This resolution is then reviewed by a joint review board made up of representatives of the overlying taxing jurisdictions. If the joint review board approves the ERTID, a political subdivision that has incurred eligible costs to remediate environmental pollution on a parcel of property may apply to the Department of Revenue (DOR) to certify the environmental remediation tax incremental base of the parcel. DOR is required to certify the environmental remediation tax incremental base if the political subdivision submits to DOR all of the following: 1) a statement that the political subdivision has incurred some eligible costs, together with a detailed proposed remedial action plan approved by the

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Department of Natural Resources (DNR) that contains cost estimates for anticipated eligible costs, a schedule for the design and implementation that is needed to complete the remediation, and certification from DNR that it has approved the site investigation report that relates to the parcel; 2) a statement that all taxing jurisdictions with authority to levy general property taxes on the parcel of property have been notified that the political subdivision intends to recover its environmental remediation costs by using an environmental remediation tax increment; and 3) a statement that the political subdivision has attempted to recover its environmental remediation costs from the person who is responsible for the environmental pollution that is being remediated. Thereafter, the political subdivision that created the ERTID may use positive environmental remediation tax increments to pay eligible costs of remediating environmental pollution in the ERTID.

Currently, the maximum life of an ERTID is 23 years and no expenditure for an eligible cost may be made by a political subdivision later than 15 years after the environmental remediation tax incremental base is certified by DOR. An ERTID may also terminate when a political subdivision has received sufficient environmental remediation tax increments to cover all of the eligible costs.

This bill allows the governing body of a political subdivision to adopt a resolution requesting that DOR allocate environmental remediation tax increments from an ERTID that has recovered all eligible costs to another ERTID created by the same governing body. Upon receipt of a copy of this resolution, DOR would continue to allocate environmental remediation tax increments from the donor ERTID after all of the eligible costs for that ERTID have been recovered. These increments would be applied to another ERTID created in the same political subdivision. Increments from the donor ERTID continue to be generated until the earlier of: 1) 23 years after the creation of the donor ERTID; or 2) the recovery of all eligible costs for the recipient ERTID.

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

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

- 1 **SECTION 1.** 66.1106 (1) (i) of the statutes is amended to read:
- 2 66.1106 (1) (i) “Period of certification” means a period of not more than 23 years
- 3 beginning after the department certifies the environmental remediation tax
- 4 incremental base under sub. (4) or, a period before all eligible costs have been paid,
- 5 or a period before all eligible costs of a recipient district designated under sub. (2) (c)
- 6 have been paid, whichever occurs first.

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1 **SECTION 2.** 66.1106 (2) (c) of the statutes is created to read:

2 66.1106 (2) (c) Notwithstanding par. (a) or (b), or sub. (7) (d) 1. or (11) (a), if the
3 governing body of a political subdivision determines that all eligible costs of an
4 environmental remediation tax incremental district that it created will be paid
5 before the date specified in sub. (11) (b), the governing body of that political
6 subdivision may adopt a resolution requesting that the department allocate positive
7 environmental remediation tax increments generated by that donor environmental
8 remediation tax incremental district to pay the eligible costs of another
9 environmental remediation tax incremental district created by that governing body.
10 A resolution under this paragraph must be adopted before the expiration of the
11 period of certification.

12 **SECTION 3.** 66.1106 (7) (a) of the statutes is amended to read:

13 66.1106 (7) (a) Subject to pars. (b), (c) ~~and~~, (d), and (e), the department shall
14 annually authorize the positive environmental remediation tax increment with
15 respect to a parcel or contiguous parcels of property during the period of certification
16 to the political subdivision that incurred the costs to remediate environmental
17 pollution on the property, except that an authorization granted under this paragraph
18 does not apply after the department receives the notice described under sub. (10) (b).

19 **SECTION 4.** 66.1106 (7) (e) of the statutes is created to read:

20 66.1106 (7) (e) Notwithstanding par. (d), if the governing body of a political
21 subdivision adopts a resolution described in sub. (2) (c), it shall provide a copy of the
22 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

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1 environmental pollution in another district within that political subdivision, as
2 described in sub. (2) (c), until the earlier of the following occurs:

3 1. The political subdivision has received aggregate environmental remediation
4 tax increments with respect to the recipient district in an amount equal to the
5 aggregate of all of the eligible costs for that district.

6 2. The donor district terminates under sub. (11) (b).

7 **SECTION 5.** 66.1106 (11) (a) of the statutes is amended to read:

8 66.1106 **(11)** (a) The Except as provided in sub. (2) (c), the political subdivision
9 has received aggregate environmental remediation tax increments with respect to
10 the district in an amount equal to the aggregate of all eligible costs.

11 (END)