



2013 ASSEMBLY BILL 289

August 20, 2013 - Introduced by Representatives SCHRAA, HINTZ, SPIROS, THIESFELDT, WEATHERSTON, BROOKS, RIPP, STONE, KAHL, KOLSTE, MASON, WRIGHT, JORGENSEN, ZEPNICK and BIES, cosponsored by Senators GUDEx, L. TAYLOR, GROTHMAN, HARRIS, T. CULLEN, OLSEN and JAUCH. Referred to Committee on State and Local Finance.

1 **AN ACT** *to amend* 66.1105 (4m) (a), 66.1105 (4m) (b) 1., 66.1105 (4m) (b) 2. and
2 66.1105 (5) (a); and *to create* 66.1105 (2) (aj) and 66.1105 (5) (h) of the statutes;
3 **relating to:** authorizing a city or village to require the Department of Revenue
4 to redetermine the value of the tax incremental base of certain tax incremental
5 districts.

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

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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 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.

Generally under current law a local planning commission may amend the project plan of a TID, by adding or subtracting territory from the district, not more than four times during the TID’s existence. If a TID’s project plan is amended, current law authorizes DOR to redetermine the TID’s tax incremental base. DOR may charge a city or village \$1,000 to determine or redetermine a TID’s tax incremental base or, if a project plan amendment both adds and subtracts territory, DOR may impose a fee of \$2,000.

Under this bill, a city or village may adopt a resolution, subject to joint review board approval, and not more than twice during a TID’s life, requiring DOR to redetermine the tax incremental base of a TID which is in a decrement situation that has continued for at least two consecutive years. The bill defines decrement situation as a situation in which the current aggregate equalized value of all the taxable property within the TID is at least 10 percent less than the current value of the TID’s tax incremental base. DOR may charge the city or village \$1,000 for the redetermination.

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.** 66.1105 (2) (aj) of the statutes is created to read:

2 66.1105 (2) (aj) “Decrement situation” means a situation in which the
3 aggregate value, as equalized by the department of revenue, of all taxable property
4 located within a tax incremental district on or about the date on which a resolution
5 is adopted under sub. (5) (h) 1. is at least 10 percent less than the current tax
6 incremental base of that district.

7 **SECTION 2.** 66.1105 (4m) (a) of the statutes is amended to read:

8 66.1105 (4m) (a) Any city that seeks to create a tax incremental district, amend
9 a project plan, have a district’s tax incremental base redetermined under sub. (5) (h),
10 or incur project costs as described in sub. (2) (f) 1. n. for an area that is outside of a

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1 district's boundaries, shall convene a temporary joint review board under this
2 paragraph, or a standing joint review board under sub. (3) (g), to review the proposal.
3 Except as provided in par. (am) and (as), and subject to par. (ae), the board shall
4 consist of one representative chosen by the school district that has power to levy taxes
5 on the property within the tax incremental district, one representative chosen by the
6 technical college district that has power to levy taxes on the property within the tax
7 incremental district, one representative chosen by the county that has power to levy
8 taxes on the property within the tax incremental district, one representative chosen
9 by the city, and one public member. If more than one school district, more than one
10 union high school district, more than one elementary school district, more than one
11 technical college district or more than one county has the power to levy taxes on the
12 property within the tax incremental district, the unit in which is located property of
13 the tax incremental district that has the greatest value shall choose that
14 representative to the board. The public member and the board's chairperson shall
15 be selected by a majority of the other board members before the public hearing under
16 sub. (4) (a) or (h) 1. is held. All board members shall be appointed and the first board
17 meeting held within 14 days after the notice is published under sub. (4) (a) or (h) 1.
18 Additional meetings of the board shall be held upon the call of any member. The city
19 that seeks to create the tax incremental district, amend its project plan, have a
20 district's tax incremental base redetermined under sub. (5) (h), or make or incur an
21 expenditure as described in sub. (2) (f) 1. n. for an area that is outside of a district's
22 boundaries shall provide administrative support for the board. By majority vote, the
23 board may disband following approval or rejection of the proposal, unless the board
24 is a standing board that is created by the city under sub. (3) (g).

25 **SECTION 3.** 66.1105 (4m) (b) 1. of the statutes is amended to read:

ASSEMBLY BILL 289**SECTION 3**

1 66.1105 (4m) (b) 1. The board shall review the public record, planning
2 documents and the resolution passed by the local legislative body or planning
3 commission under sub. (4) (gm) or (h) 1., or sub. (5) (h) 1. As part of its deliberations
4 the board may hold additional hearings on the proposal.

5 **SECTION 4.** 66.1105 (4m) (b) 2. of the statutes is amended to read:

6 66.1105 (4m) (b) 2. Except as provided in subd. 2m., no tax incremental district
7 may be created and no project plan may be amended unless the board approves the
8 resolution adopted under sub. (4) (gm) or (h) 1., and no tax incremental base may be
9 redetermined under sub. (5) (h) unless the board approves the resolution adopted
10 under sub. (5) (h) 1., by a majority vote within 30 days after receiving the resolution.

11 With regard to a multijurisdictional tax incremental district created under this
12 section, each public member of a participating city must be part of the majority that
13 votes for approval of the resolution or the district may not be created. The board may
14 not approve the resolution under this subdivision unless the board's approval
15 contains a positive assertion that, in its judgment, the development described in the
16 documents the board has reviewed under subd. 1. would not occur without the
17 creation of a tax incremental district. The board may not approve the resolution
18 under this subdivision unless the board finds that, with regard to a tax incremental
19 district that is proposed to be created by a city under sub. (17) (a), such a district
20 would be the only existing district created under that subsection by that city.

21 **SECTION 5.** 66.1105 (5) (a) of the statutes is amended to read:

22 66.1105 (5) (a) Subject to sub. (8) (d), upon the creation of a tax incremental
23 district ~~or~~, upon adoption of any amendment subject to par. (c), or upon the adoption
24 and approval of a resolution under par. (h), its tax incremental base shall be
25 determined or redetermined as soon as reasonably possible. The department of

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1 revenue may impose a fee of \$1,000 on a city to determine or redetermine the tax
2 incremental base of a tax incremental district under this subsection, except that if
3 the redetermination is based on a single amendment to a project plan that both adds
4 and subtracts territory, the department may impose a fee of \$2,000.

5 **SECTION 6.** 66.1105 (5) (h) of the statutes is created to read:

6 66.1105 (5) (h) 1. Subject to subds. 2. and 3., a local legislative body may adopt
7 a resolution requiring the department of revenue to redetermine the tax incremental
8 base of a district that is in a decrement situation that has continued for at least 2
9 consecutive years.

10 2. A resolution adopted under subd. 1. may not take effect unless it is approved
11 by a joint review board under sub. (4m), acting as it would if the district's project plan
12 was to be amended.

13 3. A local legislative body may not adopt a resolution under subd. 1. more than
14 twice during the life of a tax incremental district.

15 4. Upon approval by a joint review board under subd. 2., the department of
16 revenue shall redetermine the tax incremental base of the district under par. (a).

17 **(END)**