

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2083/P3dn

MES:sac:fm *sc*

-date-

Rep. Weininger:

* Please review this version of the bill very carefully to ensure that it meets your intent.
* This version includes the "anti-piracy" provisions from your draft LRB²-2309/P2, with some modifications that make it consistent with this bill. The analysis of this bill does not contain provisions related to the anti-piracy provisions, however, as there is no analysis for LRB²-2309/P2; my understanding is that LRB²-2309/P2 is not yet finalized. As soon as an analysis is prepared for that bill, I will add the analysis provisions to this bill.

I did not add any provisions related to a TID in the village of Caledonia. I'm not sure exactly what Rep. Weatherston would like drafted but, as I think we discussed, adding to this bill a provision that relates only to the village of Caledonia could be challenged as a violation of article IV, section 18 of the Wisconsin Constitution. This constitutional provision prohibits a private or local bill from embracing more than one subject. A bill that applies only to Caledonia would be a private or local bill and thus could not constitutionally contain the other provisions which are in this bill.

* Please let me know if any further changes are need^{ed} to this version of the bill.

Marc E. Shovers
Managing Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2083/P3dn
MES:sac:sc

September 19, 2013

Rep. Weininger:

Please review this version of the bill very carefully to ensure that it meets your intent. This version includes the "anti-piracy" provisions from your draft LRB-2309/P2, with some modifications that make it consistent with this bill. The analysis of this bill does not contain provisions related to the anti-piracy provisions, however, as there is no analysis for LRB-2309/P2; my understanding is that LRB-2309/P2 is not yet finalized. As soon as an analysis is prepared for that bill, I will add the analysis provisions to this bill.

I did not add any provisions related to a TID in the village of Caledonia. I'm not sure exactly what Rep. Weatherston would like drafted but, as I think we discussed, adding to this bill a provision that relates only to the village of Caledonia could be challenged as a violation of article IV, section 18 of the Wisconsin Constitution. This constitutional provision prohibits a private or local bill from embracing more than one subject. A bill that applies only to Caledonia would be a private or local bill and thus could not constitutionally contain the other provisions which are in this bill.

Please let me know if any further changes are needed to this version of the bill.

Marc E. Shovers
Managing Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov



84
RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

WANTED:
MON.

D - NOEE

WPS: please add
your initials
here

[Handwritten signature]

1 **AN ACT** *to renumber and amend* 60.85 (8) (c); *to amend* 66.0602 (3) (dm),
2 66.1105 (2) (f) 2. b. and 66.1105 (6m) (c); and *to create* 60.85 (8) (c) 2., 60.85 (8)
3 (d), 60.85 (8) (e), 60.85 (8) (f), 66.1105 (2) (ak), 66.1105 (2) (f) 1. o., 66.1105 (2)
4 (f) 1. p., 66.1105 (2) (f) 4., 66.1105 (6) (am) 6., 66.1105 (6m) (d), 66.1105 (6m) (e),
5 66.1105 (6m) (f), 66.1105 (7) (av), 66.1105 (17) (d) and 66.1105 (19) of the
6 statutes; **relating to:** disseminating information about a tax incremental
7 district's annual budget and value increment, requiring a political subdivision
8 to evaluate a tax incremental district's performance, increasing the amount
9 that a political subdivision may add to its levy limit upon the dissolution of a
10 tax incremental financing district, extending the life and expenditure period for
11 certain tax incremental financing districts, and the expenditure of tax
12 increments for relocation of commercial or industrial enterprises.

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 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, and subject to a number of exceptions, a city, village, town, or county (political subdivision) may not increase its levy by a percentage that exceeds its "valuation factor," which is defined as the greater of either zero percent or the percentage change in the political subdivision's equalized value due to new construction, less improvements removed. The base amount of a political subdivision's levy, on which the levy limit is imposed, is the actual levy for the immediately preceding year.

Under one of the current law exceptions, if DOR does not certify a value increment for a TID as a result of the district's termination, the levy limit otherwise applicable to the political subdivision is increased by a certain amount.

Under the current law exception to the levy limit relating to DOR not certifying a value increment for a TID that is terminated, the allowable increase is an amount equal to the political subdivision's maximum allowable levy for the preceding year, multiplied by a percentage equal to 50 percent of the amount determined by dividing the terminated TID's value increment by the political subdivision's equalized value, as determined by DOR. This bill increases the percentage from 50 percent to 80 percent.

Also under current law, a ~~political subdivision~~ ^{city, village, or town (municipality)} must annually prepare and make available to the public updated reports describing the status of each TID that exists in the ~~political subdivision~~. Under this bill, the report must describe the financial status of each existing TID, including an itemized list of prior expenditures made for the TID and revenues received by the TID, as well as anticipated future TID-related expenditures and revenues. *The bill requires a municipality to*

Also under the bill, the annual report that a ~~political subdivision~~ must prepare must also include a comparison of the district's total actual expenditures to the total

municipality

municipality

hold a public hearing on the report.

municipality

amount of tax increments received and determine whether these amounts are the same or if they are out of balance.

Beginning in 2014, the bill also requires a ~~political subdivision's~~ ^{*municipality's*} chief financial officer to create and distribute annually to the ~~political subdivision~~ a report card for each TID that is the subject of an annual report. The report card must evaluate the degree to which the district's expenditures and tax increments received are balanced, and the ~~political subdivision~~ must make the report card available to the public.

Based on the degree to which a TID's expenditures and revenues are balanced, the bill requires a ~~political subdivision~~ to issue a report card with a grade of A, B, C, D, or F. If the amount of a TID's expenditures and tax increments received are balanced, the TID earns an "A." If these amounts are within 5 percent of being balanced, the TID earns a "B." If they are within 10 percent the TID earns a "C." If they are within 15 percent the TID earns a "D", and if they are more than 15 percent out of balance, the TID earns an "F." ^{*INS ANCA*}

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 this bill, for a TID that has at least a "B" grade in the year in which it would otherwise be required to terminate, the TID's life may be extended for ten years, and expenditures may be made for an additional five years, if the planning commission amends the district's project plan to change the district's boundaries. An amendment to a TID's project plan is subject to approval by the common council or village board (governing body), and the joint review board. If the TID's project plan has already been amended the maximum number of times that are allowable (four times under current law), the TID's life and expenditure period may still be extended for ten and five years, respectively, if the joint review board approves a planning commission request to do so; final approval would still be subject to the current law provisions for amending a project plan.

Currently, before a TID may be created or its project plan amended, the city or village must adopt a resolution containing a finding that the equalized value of taxable property of the TID plus the value increment of all existing TIDs does not exceed 12 percent of the total equalized value of taxable property in the city or village (the "12 percent test"), subject to one exception. Under the exception, a city or village may simultaneously create a new TID and subtract territory from an existing TID without adopting a resolution containing the 12 percent test if the city or village demonstrates to DOR that the value of the territory that is subtracted at least equals the amount that DOR believes is necessary to ensure that, when the new TID is created, the 12 percent test is met. The city or village must also certify to DOR that no other district created under this exception currently exists in the city or village.

municipality
subject to an exception,

INS ANL-B

Under this bill, subject to a number of exceptions, if the average grade of all of the TIDs in a city or village is at least a B in any year, the 12 percent test becomes a 15 percent test. Under certain circumstances, the 15 percent test may revert back to a 12 percent test, and this limit may change back and forth depending on a number of factors related to the average grade of TIDs in the city or village, the creation of new TIDs, and the equalized value of taxable property of all existing districts within the city.

The bill also expands the definition of project costs to include a parking structure that supports redevelopment activities.

For further information see the *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.** 60.85 (8) (c) of the statutes is renumbered 60.85 (8) (c) 1. and
2 amended to read:

3 60.85 (8) (c) 1. The town shall prepare and make available to the public updated
4 annual reports describing the status of each existing tax incremental district,
5 including expenditures and revenues. The town shall send a copy of the report to
6 each overlying district by ~~May~~ July 1 annually. Except as provided in subd. 2., the
7 report shall also contain the most recent annual budget for each existing tax
8 incremental district and an explanation of each district's value increment and how
9 the value increment affects property taxes in the district. The town shall also hold
10 a hearing on the report.

11 **SECTION 2.** 60.85 (8) (c) 2. of the statutes is created to read:

12 60.85 (8) (c) 2. A town may decline to include in its report the most recent
13 annual budget and the value increment explanation described in subd. 1., except
14 that if it does not include the budget the town shall hold a public hearing at which
15 each such budget and the value increment explanation is discussed.

16 **SECTION 3.** 60.85 (8) (d) of the statutes is created to read:

1 60.85 (8) (d) In the annual report described under par. (c), the town shall also
2 include an assessment of each existing tax incremental district's performance. The
3 assessment shall compare a district's total actual expenditures to the total amount
4 of tax increments received and determine whether these amounts are the same or
5 if they are out of balance. This assessment shall be completed by the town's chief
6 financial officer.

7 **SECTION 4.** 60.85 (8) (e) of the statutes is created to read:

8 60.85 (8) (e) Annually, beginning in 2014, the town's chief financial officer shall
9 prepare a report card for each tax incremental district for which the town prepares
10 a report described under par. (c). The report card shall evaluate each tax incremental
11 district based on the degree to which the district's total actual expenditures and total
12 tax increments received are balanced or out of balance.

13 **SECTION 5.** 60.85 (8) (f) of the statutes is created to read:

14 60.85 (8) (f) The town shall issue a report card as described in par. (e), which
15 it shall forward to the town board. The report card shall contain the chief financial
16 officer's explanation of the methods and data he or she used to evaluate a tax
17 incremental district. The town board shall make the report card and the explanation
18 available to members of the public. ^{Subject to par. (g),} The town's chief financial officer shall award a
19 tax incremental district one of the following grades on its report card:

20 1. An "A" if the district's total actual expenditures and total tax increments
21 received are balanced.

22 2. A "B" if the district's total actual expenditures and total tax increments
23 received are within 5 percent of being balanced.

24 3. A "C" if the district's total actual expenditures and total tax increments
25 received are within 10 percent of being balanced.

1 4. A "D" if the district's total actual expenditures and total tax increments
2 received are within 15 percent of being balanced.

3 5. An "F" if the district's total actual expenditures and total tax increments
4 received are more than 15 percent out of balance.

INS
6-45

5 **SECTION 6.** 66.0602 (3) (dm) of the statutes is amended to read:

6 66.0602 (3) (dm) If the department of revenue does not certify a value
7 increment for a tax incremental district for the current year as a result of the
8 district's termination, the levy increase limit otherwise applicable under this section
9 in the current year to the political subdivision in which the district is located is
10 increased by an amount equal to the political subdivision's maximum allowable levy
11 for the immediately preceding year, multiplied by a percentage equal to ~~50~~ 80 percent
12 of the amount determined by dividing the value increment of the terminated tax
13 incremental district, calculated for the previous year, by the political subdivision's
14 equalized value for the previous year, all as determined by the department of
15 revenue.

16 **SECTION 7.** 66.1105 (2) (ak) of the statutes is created to read:

17 66.1105 (2) (ak) "Enterprise transfer" means the initiation of operations in a
18 location by the same or an affiliated enterprise that has closed or substantially
19 reduced operations in the same county or a contiguous county in the state.

20 **SECTION 8.** 66.1105 (2) (f) 1. o. of the statutes is created to read:

21 66.1105 (2) (f) 1. o. Subject to subd. 4., expenses incurred by the city to recruit
22 a new business to locate in the tax incremental district.

23 **SECTION 9.** 66.1105 (2) (f) 1. p. of the statutes is created to read:

1 66.1105 (2) (f) 1. p. Subject to subd. 4., expenses incurred by the city to remodel
2 the interior space of an existing building that is located in the tax incremental
3 district to make the space useable for a business.

4 **SECTION 10.** 66.1105 (2) (f) 2. b. of the statutes is amended to read:

5 66.1105 (2) (f) 2. b. The Except for a parking structure that supports
6 redevelopment activities, the cost of constructing or expanding any facility, if the city
7 generally finances similar facilities only with utility user fees.

8 **SECTION 11.** 66.1105 (2) (f) 4. of the statutes is created to read:

9 66.1105 (2) (f) 4. a. Notwithstanding subd. 1. and except as provided in subd.
10 4. b., project costs may not include expenditures described under subd. 1. o. or 1. p.
11 for, or used in connection with, the enterprise transfer of a commercial or industrial
12 enterprise not currently located within the city.

13 b. Project costs described under subd. 1. o. or 1. p. may include costs excluded
14 under subd. 4. a. if, within one year after the enterprise transfer, the enterprise has
15 increased the number of individuals it employs in the combination of the location
16 from which it reduced or closed operations and the location to which it transferred
17 and maintains the increase for not less than one year.

18 **SECTION 12.** 66.1105 (6) (am) 6. of the statutes is created to read:

19 66.1105 (6) (am) 6. No expenditure may be made later than 5 years before the
20 termination date of a tax incremental district to which sub. (7) (av) applies.

21 **SECTION 13.** 66.1105 (6m) (c) of the statutes is amended to read:

22 66.1105 (6m) (c) The city shall prepare and make available to the public
23 updated annual reports describing the financial status of each existing tax
24 incremental district, including an itemized list of expenditures paid and revenues
25 received in prior years, and anticipated expenditures to be paid, and revenues to be

1 received, in future years. The city shall send a copy of the report to each overlying
2 district by ~~May~~ July 1 annually and shall present the report to the common council
3 at an open meeting. The city shall also hold a hearing on the report in conjunction
4 with the presentation of the report.

5 **SECTION 14.** 66.1105 (6m) (d) of the statutes is created to read:

6 66.1105 (6m) (d) In the annual report described under par. (c), the city shall
7 also include an assessment of each existing tax incremental district's performance.
8 The assessment shall compare a district's total actual expenditures to the total
9 amount of tax increments received and determine whether these amounts are the
10 same or if they are out of balance. This assessment shall be completed by the city's
11 chief financial officer.

12 **SECTION 15.** 66.1105 (6m) (e) of the statutes is created to read:

13 66.1105 (6m) (e) Annually, beginning in 2014, the city's chief financial officer
14 shall prepare a report card for each tax incremental district for which the city
15 prepares a report described under par. (c). The report card shall evaluate each tax
16 incremental district based on the degree to which the district's total actual
17 expenditures and total tax increments received are balanced or out of balance.

18 **SECTION 16.** 66.1105 (6m) (f) of the statutes is created to read:

19 66.1105 (6m) (f) The city shall issue a report card as described in par. (e), which
20 it shall forward to the common council. The report card shall contain the chief
21 financial officer's explanation of the methods and data he or she used to evaluate a
22 tax incremental district. The common council shall make the report card and the
23 explanation available to members of the public. ^{Subject to par. (g),} The city's chief financial officer shall
24 award a tax incremental district one of the following grades on its report card:

- 1 1. An "A" if the district's total actual expenditures and total tax increments
- 2 received are balanced.
- 3 2. A "B" if the district's total actual expenditures and total tax increments
- 4 received are within 5 percent of being balanced.
- 5 3. A "C" if the district's total actual expenditures and total tax increments
- 6 received are within 10 percent of being balanced.
- 7 4. A "D" if the district's total actual expenditures and total tax increments
- 8 received are within 15 percent of being balanced.
- 9 5. An "F" if the district's total actual expenditures and total tax increments
- 10 received are more than 15 percent out of balance.

INS
9-10

11 **SECTION 17.** 66.1105 (7) (av) of the statutes is created to read:

12 66.1105 (7) (av) Notwithstanding the limits specified in pars. (ak) and (am),
13 with regard to a district that earns at least a "B" grade on its report card under sub.
14 (6m) (f) for the year in which the district would otherwise be required to terminate
15 under par. (ak) or (am), 10 years after that otherwise applicable termination date if
16 at least one of the following applies:

- 17 1. The planning commission adopts an amendment to the district's project plan
- 18 under sub. (4) (h) 1.
- 19 2. If the district's project plan has been amended the maximum number of times
- 20 that are authorized under sub. (4) (h) 2., the planning commission adopts a resolution
- 21 requesting that the joint review board authorize an extension of the termination date
- 22 as described in this paragraph and the joint review board authorizes the extension,
- 23 except that the procedure described in this subdivision may not be used more than
- 24 once for that district. If the joint review board authorizes an extension under this
- 25 subdivision, the planning commission may amend the district's project plan under

1 sub. (4) (h) 1. as if the district's project plan had not been amended the maximum
2 number of times allowed under sub. (4) (h) 2.

3 **SECTION 18.** 66.1105 (17) (d) of the statutes is created to read:

4 66.1105 (17) (d) *Exception based on report card grades.* 1. Subject to subds.
5 2. to 4., if the average grade of all tax incremental districts in a city, under sub. (6m)
6 (f), is a "B" in any year, the 12 percent limit under sub. (4) (gm) 4. c. shall be 15
7 percent.

8 2. If the average grade of all tax incremental districts in a city, under sub. (6m)
9 (f), is less than a "B" in any year subsequent to a year in which the the 12 percent limit
10 becomes 15 percent under subd. 1., the limit shall revert back to 12 percent if the
11 equalized value of taxable property of all existing districts within the city is 12
12 percent or less of the total equalized value of taxable property within the city.

13 3. If the average grade of all tax incremental districts in a city, under sub. (6m)
14 (f), is less than a "B" in any year subsequent to a year in which the the 12 percent limit
15 becomes 15 percent under subd. 1., the limit shall remain at 15 percent if all of the
16 following apply:

17 a. A new district was created in the city, or the project plan of an existing district
18 is amended and adds territory to the district, between the time that the limit was
19 raised to 15 percent under subd. 1. and the year in which the average grade of all tax
20 incremental districts in a city, under sub. (6m) (f), is less than a "B."

21 b. The equalized value of taxable property of all existing districts within the
22 city is more than 12 percent of the total equalized value of taxable property within
23 the city.

24 4. If a city's limit under sub. (4) (gm) 4. c. becomes 15 percent under subd. 1.
25 and the city creates a new district that increases the equalized value of taxable

1 property of all existing districts within the city above the 12 percent limit under sub.
2 (4) (gm) 4. c., the limit shall revert to 12 percent if all of the following occur:

3 a. Due to the termination of existing districts or the subtraction of territory
4 from an existing district under an amendment to a project plan, the department of
5 revenue determines the equalized value of taxable property of all existing districts
6 within the city is 12 percent or less than the equalized value of taxable property
7 within the city.

8 b. The average grade of all tax incremental districts in a city, under sub. (6m)
9 (f), is less than a “B” in the year in which the determination described in subd. par.
10 4. a. occurs.

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

12 **66.1105 (19) DISPUTES RELATED TO ENTERPRISE TRANSFERS.** (a) In this subsection,
13 “municipality” means a city, village, or town.

14 (b) A municipality in which an enterprise closed or substantially reduced
15 operations may request that the municipality in which the enterprise initiated
16 operations pay not more than the estimated amount of property taxes that would
17 have been paid over the subsequent 5 years by the enterprise if the municipality in
18 which an enterprise closed or substantially reduced operations reasonably believes
19 each of the following:

20 1. The closing or substantial reduction of operations and the initiation of
21 operations of the enterprise constitutes an enterprise transfer.

22 2. The municipality in which the enterprise initiated operations included in
23 project costs expenditures that are not permitted under par. (2) (f) 4. a. in relation
24 to the enterprise.

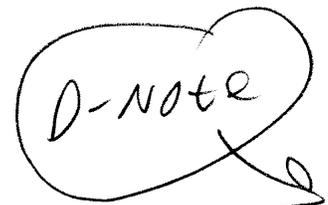
1 (c) If the municipality in which the enterprise initiated operations denies the
2 request under par. (b), the municipality in which the enterprise closed or
3 substantially reduced operations may petition the department of revenue for a
4 determination of whether par. (b) 1. and 2. applies.

5 (d) If the department of revenue determines that the petitioner municipality
6 has demonstrated the applicability of par. (b) 1. and 2., the department may order
7 the respondent municipality to pay not more than the estimated amount of property
8 taxes that would have been paid over the subsequent 10 years by the enterprise or
9 may order the tax incremental district be terminated.

10 **SECTION 20. Initial applicability.**

11 (1) The treatment of section 66.0602 (3) (dm) of the statutes first applies to a
12 levy that is imposed in December 2013.

13 (END)

A handwritten signature, possibly "D. W. B. J.", enclosed in an oval.A handwritten note "D-NOTE" enclosed in a hand-drawn circle with a tail pointing to the right.

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2083/P4ins
MES&EVM:sac:sc

INS ANL-A

^{no fl} Under the exception, for a TID's first ^{eight} 8 years of life, a municipality's chief financial officer is required to award a "B" to a district in which the TID's projected expenditures and tax increments received are in balance with the projections for those items in the TID's project plan. If a TID does not meet this standard, the TID must be awarded a lower grade.

INS ANL-B

^{fl} This bill creates ^{two} 2 new definitions for project costs for a city or village TID. Under the bill, and under certain circumstances, project costs may include expenses incurred by a city or village to recruit a new business to locate in a TID, and expenses incurred by the city or village to remodel the interior space of an existing building located in a TID to make the space useable for a business. Project costs may not include these ^{two} 2 new items, however, in connection with the enterprise transfer of a commercial or industrial enterprise not currently located within the city or village.

^{two} The term "enterprise transfer" is defined to mean "the initiation or operation in a location by the same or an affiliated enterprise that has closed or substantially reduced operations in the same county or a contiguous county in the state." The prohibition on the use of project cost expenditures for enterprise transfer does not apply if, within ^{one} 1 year, the enterprise involved increases the number of individuals in employs in the combination of the location to which, and the location from which, ^{one} the enterprise moved and maintains the increase for not less than 1 year. This bill also provides that if the city or village from which the enterprise moved reasonably believes that the transfer is an "enterprise transfer" and that the city or village to which the enterprise moved improperly used project costs in the transfer, the city or village from which the enterprise moved may request that the city or village to which the enterprise moved pay the the estimated amount of property taxes that the enterprise would have paid over the subsequent ^{five} 5 years. If the city or village to which the enterprise moved denies the request, either city or village may petition DOR for review. If DOR finds for the city or village from which the enterprise transferred, DOR may order the city or village to which the enterprise moved to pay the estimated amount of property taxes that the enterprise would have paid over the subsequent ^{ten} 10 years or may order the TID terminated.

INS 6-4

^{ten} (g) For the first 8 years of a tax incremental district's life, the town's chief financial officer shall award a tax incremental district a "B" if the district's projected expenditures and tax increments received are in balance with the projections for those 2 items, as contained in the district's project plan. The report card shall explain

SEC # CR
60.85(8)(9)

60.85(8)

how this grade is awarded. A tax incremental district that does not meet this standard must be awarded a grade that is less than a "B."

SEC# CR
66.1105 (6m) (g)
66.1105 (8) (6m)

INS 9-10

(g) For the first 8 years of a tax incremental district's life, the city's chief financial officer shall award a tax incremental district a "B" if the district's projected expenditures and tax increments received are in balance with the projections for those 2 items, as contained in the district's project plan. The report card shall explain how this grade is awarded. A tax incremental district that does not meet this standard must be awarded a grade that is less than a "B."

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2083/P4dn
MES&EVM:sac:sc

October 7, 2013

Rep. Weininger:

Please review ss. 60.85 (8) (g) and 66.1105 (6m) (g) to ensure they meet your intent. Do you want to specify any other grade possibilities for TIDs that do not make the standard described in those paragraphs?

Marc E. Shovers
Managing Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2083/P4dn
MES&EVM:sac:rs

October 7, 2013

Rep. Weininger:

Please review ss. 60.85 (8) (g) and 66.1105 (6m) (g) to ensure they meet your intent. Do you want to specify any other grade possibilities for TIDs that do not make the standard described in those paragraphs?

Marc E. Shovers
Managing Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov

~~added to bill~~

Kirschen
65840

weinger

LRB-2083 ~~§~~

remove anti-prayer provision

keep "eligible expenses"

bill §§ 9 & 10

keep as direct proj costs

INSTRUCTIONS
for 1/95



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2083/P
MES&EVM:sac:19

PS
RMA

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

today

repeal

1 AN ACT *to renumber and amend* 60.85 (8) (c); *to amend* 66.0602 (3) (dm),
2 66.1105 (2) (f) 2. b. and 66.1105 (6m) (c); and *to create* 60.85 (8) (c) 2., 60.85 (8)
3 (d), 60.85 (8) (e), 60.85 (8) (f), 60.85 (8) (g), 66.1105 (2) (ak), 66.1105 (2) (f) 1. o.,
4 66.1105 (2) (f) 1. p., 66.1105 (2) (f) 4., 66.1105 (6) (am) 6., 66.1105 (6m) (d),
5 66.1105 (6m) (e), 66.1105 (6m) (f), 66.1105 (6m) (g), 66.1105 (7) (av), 66.1105 (17)
6 (d) and 66.1105 (19) of the statutes; **relating to:** disseminating information
7 about a tax incremental district's annual budget and value increment,
8 requiring a political subdivision to evaluate a tax incremental district's
9 performance, increasing the amount that a political subdivision may add to its
10 levy limit upon the dissolution of a tax incremental financing district,
11 *and* extending the life and expenditure period for certain tax incremental financing

1

2

districts, and the expenditure of tax increments for relocation of commercial or industrial enterprises.

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 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, and subject to a number of exceptions, a city, village, town, or county (political subdivision) may not increase its levy by a percentage that exceeds its "valuation factor," which is defined as the greater of either zero percent or the percentage change in the political subdivision's equalized value due to new construction, less improvements removed. The base amount of a political subdivision's levy, on which the levy limit is imposed, is the actual levy for the immediately preceding year.

Under one of the current law exceptions, if DOR does not certify a value increment for a TID as a result of the district's termination, the levy limit otherwise applicable to the political subdivision is increased by a certain amount.

Under the current law exception to the levy limit relating to DOR not certifying a value increment for a TID that is terminated, the allowable increase is an amount equal to the political subdivision's maximum allowable levy for the preceding year, multiplied by a percentage equal to 50 percent of the amount determined by dividing the terminated TID's value increment by the political subdivision's equalized value, as determined by DOR. This bill increases the percentage from 50 percent to 80 percent.

Also under current law, a city, village, or town (municipality) must annually prepare and make available to the public updated reports describing the status of each TID that exists in the municipality. Under this bill, the report must describe the financial status of each existing TID, including an itemized list of prior expenditures made for the TID and revenues received by the TID, as well as anticipated future TID-related expenditures and revenues. The bill requires a municipality to hold a public hearing on the report.

Also under the bill, the annual report that a municipality must prepare must also include a comparison of the district's total actual expenditures to the total amount of tax increments received and determine whether these amounts are the same or if they are out of balance.

Beginning in 2014, the bill also requires a municipality's chief financial officer to create and distribute annually to the municipality a report card for each TID that is the subject of an annual report. The report card must evaluate the degree to which the district's expenditures and tax increments received are balanced, and the municipality must make the report card available to the public.

Based on the degree to which a TID's expenditures and revenues are balanced, the bill requires a municipality to issue a report card with a grade of A, B, C, D, or F. Subject to an exception, if the amount of a TID's expenditures and tax increments received are balanced, the TID earns an "A." If these amounts are within 5 percent of being balanced, the TID earns a "B." If they are within 10 percent the TID earns a "C." If they are within 15 percent the TID earns a "D", and if they are more than 15 percent out of balance, the TID earns an "F." Under the exception, for a TID's first eight years of life, a municipality's chief financial officer is required to award a "B" to a district in which the TID's projected expenditures and tax increments received are in balance with the projections for those items in the TID's project plan. If a TID does not meet this standard, the TID must be awarded a lower grade.

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 this bill, for a TID that has at least a "B" grade in the year in which it would otherwise be required to terminate, the TID's life may be extended for ten years, and expenditures may be made for an additional five years, if the planning commission amends the district's project plan to change the district's boundaries. An amendment to a TID's project plan is subject to approval by the common council or village board (governing body), and the joint review board. If the TID's project plan has already been amended the maximum number of times that are allowable (four times under current law), the TID's life and expenditure period may still be extended for ten and five years, respectively, if the joint review board approves a planning

commission request to do so; final approval would still be subject to the current law provisions for amending a project plan.

X This bill creates two new definitions for project costs for a city or village TID. Under the bill, ~~and under certain circumstances~~ project costs may include expenses incurred by a city or village to recruit a new business to locate in a TID, and expenses incurred by the city or village to remodel the interior space of an existing building located in a TID to make the space useable for a business. ~~Project costs may not include these two new items, however, in connection with the enterprise transfer of a commercial or industrial enterprise not currently located within the city or village.~~

~~The term "enterprise transfer" is defined to mean "the initiation or operation in a location by the same or an affiliated enterprise that has closed or substantially reduced operations in the same county or a contiguous county in the state." The prohibition on the use of project cost expenditures for enterprise transfer does not apply if, within one year, the enterprise involved increases the number of individuals it employs in the combination of the location to which, and the location from which, the enterprise moved and maintains the increase for not less than one year. This bill also provides that if the city or village from which the enterprise moved reasonably believes that the transfer is an "enterprise transfer" and that the city or village to which the enterprise moved improperly used project costs in the transfer, the city or village from which the enterprise moved may request that the city or village to which the enterprise moved pay the the estimated amount of property taxes that the enterprise would have paid over the subsequent five years. If the city or village to which the enterprise moved denies the request, either city or village may petition DOR for review. If DOR finds for the city or village from which the enterprise transferred, DOR may order the city or village to which the enterprise moved to pay the estimated amount of property taxes that the enterprise would have paid over the subsequent ten years or may order the TID terminated.~~

Currently, before a TID may be created or its project plan amended, the city or village must adopt a resolution containing a finding that the equalized value of taxable property of the TID plus the value increment of all existing TIDs does not exceed 12 percent of the total equalized value of taxable property in the city or village (the "12 percent test"), subject to one exception. Under the exception, a city or village may simultaneously create a new TID and subtract territory from an existing TID without adopting a resolution containing the 12 percent test if the city or village demonstrates to DOR that the value of the territory that is subtracted at least equals the amount that DOR believes is necessary to ensure that, when the new TID is created, the 12 percent test is met. The city or village must also certify to DOR that no other district created under this exception currently exists in the city or village.

Under this bill, subject to a number of exceptions, if the average grade of all of the TIDs in a city or village is at least a B in any year, the 12 percent test becomes a 15 percent test. Under certain circumstances, the 15 percent test may revert back to a 12 percent test, and this limit may change back and forth depending on a number of factors related to the average grade of TIDs in the city or village, the creation of new TIDs, and the equalized value of taxable property of all existing districts within the city.

1 if they are out of balance. This assessment shall be completed by the town's chief
2 financial officer.

3 **SECTION 4.** 60.85 (8) (e) of the statutes is created to read:

4 60.85 (8) (e) Annually, beginning in 2014, the town's chief financial officer shall
5 prepare a report card for each tax incremental district for which the town prepares
6 a report described under par. (c). The report card shall evaluate each tax incremental
7 district based on the degree to which the district's total actual expenditures and total
8 tax increments received are balanced or out of balance.

9 **SECTION 5.** 60.85 (8) (f) of the statutes is created to read:

10 60.85 (8) (f) The town shall issue a report card as described in par. (e), which
11 it shall forward to the town board. The report card shall contain the chief financial
12 officer's explanation of the methods and data he or she used to evaluate a tax
13 incremental district. The town board shall make the report card and the explanation
14 available to members of the public. Subject to par. (g), the town's chief financial
15 officer shall award a tax incremental district one of the following grades on its report
16 card:

17 1. An "A" if the district's total actual expenditures and total tax increments
18 received are balanced.

19 2. A "B" if the district's total actual expenditures and total tax increments
20 received are within 5 percent of being balanced.

21 3. A "C" if the district's total actual expenditures and total tax increments
22 received are within 10 percent of being balanced.

23 4. A "D" if the district's total actual expenditures and total tax increments
24 received are within 15 percent of being balanced.

1 5. An "F" if the district's total actual expenditures and total tax increments
2 received are more than 15 percent out of balance.

3 **SECTION 6.** 60.85 (8) (g) of the statutes is created to read:

4 60.85 (8) (g) For the first 8 years of a tax incremental district's life, the town's
5 chief financial officer shall award a tax incremental district a "B" if the district's
6 projected expenditures and tax increments received are in balance with the
7 projections for those 2 items, as contained in the district's project plan. The report
8 card shall explain how this grade is awarded. A tax incremental district that does
9 not meet this standard must be awarded a grade that is less than a "B."

10 **SECTION 7.** 66.0602 (3) (dm) of the statutes is amended to read:

11 66.0602 (3) (dm) If the department of revenue does not certify a value
12 increment for a tax incremental district for the current year as a result of the
13 district's termination, the levy increase limit otherwise applicable under this section
14 in the current year to the political subdivision in which the district is located is
15 increased by an amount equal to the political subdivision's maximum allowable levy
16 for the immediately preceding year, multiplied by a percentage equal to ~~50~~ 80 percent
17 of the amount determined by dividing the value increment of the terminated tax
18 incremental district, calculated for the previous year, by the political subdivision's
19 equalized value for the previous year, all as determined by the department of
20 revenue.

21 ~~**SECTION 8.** 66.1105 (2) (ak) of the statutes is created to read:~~

22 ~~66.1105 (2) (ak) "Enterprise transfer" means the initiation of operations in a~~
23 ~~location by the same or an affiliated enterprise that has closed or substantially~~
24 ~~reduced operations in the same county or a contiguous county in the state.~~

25 **SECTION 9.** 66.1105 (2) (f) 1. o. of the statutes is created to read:

1 66.1105 (2) (f) 1. o. Subject to subd. 4. expenses incurred by the city to recruit
2 a new business to locate in the tax incremental district.

3 SECTION 10. 66.1105 (2) (f) 1. p. of the statutes is created to read:

4 66.1105 (2) (f) 1. p. Subject to subd. 4. expenses incurred by the city to remodel
5 the interior space of an existing building that is located in the tax incremental
6 district to make the space useable for a business.

7 SECTION 11. 66.1105 (2) (f) 2. b. of the statutes is amended to read:

8 66.1105 (2) (f) 2. b. The Except for a parking structure that supports
9 redevelopment activities, the cost of constructing or expanding any facility, if the city
10 generally finances similar facilities only with utility user fees.

11 ~~SECTION 12. 66.1105 (2) (f) 4. of the statutes is created to read:~~

12 ~~66.1105 (2) (f) 4. a. Notwithstanding subd. 1. and except as provided in subd.~~
13 ~~4. b., project costs may not include expenditures described under subd. 1. o. or 1. p.~~
14 ~~for, or used in connection with, the enterprise transfer of a commercial or industrial~~
15 ~~enterprise not currently located within the city.~~

16 ~~b. Project costs described under subd. 1. o. or 1. p. may include costs excluded~~
17 ~~under subd. 4. a. if, within one year after the enterprise transfer, the enterprise has~~
18 ~~increased the number of individuals it employs in the combination of the location~~
19 ~~from which it reduced or closed operations and the location to which it transferred~~
20 ~~and maintains the increase for not less than one year.~~

21 SECTION 13. 66.1105 (6) (am) 6. of the statutes is created to read:

22 66.1105 (6) (am) 6. No expenditure may be made later than 5 years before the
23 termination date of a tax incremental district to which sub. (7) (av) applies.

24 SECTION 14. 66.1105 (6m) (c) of the statutes is amended to read:

1 66.1105 (6m) (c) The city shall prepare and make available to the public
2 updated annual reports describing the financial status of each existing tax
3 incremental district, including an itemized list of expenditures paid and revenues
4 received in prior years, and anticipated expenditures to be paid, and revenues to be
5 received, in future years. The city shall send a copy of the report to each overlying
6 district by ~~May~~ July 1 annually and shall present the report to the common council
7 at an open meeting. The city shall also hold a hearing on the report in conjunction
8 with the presentation of the report.

9 SECTION 15. 66.1105 (6m) (d) of the statutes is created to read:

10 66.1105 (6m) (d) In the annual report described under par. (c), the city shall
11 also include an assessment of each existing tax incremental district's performance.
12 The assessment shall compare a district's total actual expenditures to the total
13 amount of tax increments received and determine whether these amounts are the
14 same or if they are out of balance. This assessment shall be completed by the city's
15 chief financial officer.

16 SECTION 16. 66.1105 (6m) (e) of the statutes is created to read:

17 66.1105 (6m) (e) Annually, beginning in 2014, the city's chief financial officer
18 shall prepare a report card for each tax incremental district for which the city
19 prepares a report described under par. (c). The report card shall evaluate each tax
20 incremental district based on the degree to which the district's total actual
21 expenditures and total tax increments received are balanced or out of balance.

22 SECTION 17. 66.1105 (6m) (f) of the statutes is created to read:

23 66.1105 (6m) (f) The city shall issue a report card as described in par. (e), which
24 it shall forward to the common council. The report card shall contain the chief
25 financial officer's explanation of the methods and data he or she used to evaluate a

1 tax incremental district. The common council shall make the report card and the
2 explanation available to members of the public. Subject to par. (g), the city's chief
3 financial officer shall award a tax incremental district one of the following grades on
4 its report card:

5 1. An "A" if the district's total actual expenditures and total tax increments
6 received are balanced.

7 2. A "B" if the district's total actual expenditures and total tax increments
8 received are within 5 percent of being balanced.

9 3. A "C" if the district's total actual expenditures and total tax increments
10 received are within 10 percent of being balanced.

11 4. A "D" if the district's total actual expenditures and total tax increments
12 received are within 15 percent of being balanced.

13 5. An "F" if the district's total actual expenditures and total tax increments
14 received are more than 15 percent out of balance.

15 **SECTION 18.** 66.1105 (6m) (g) of the statutes is created to read:

16 66.1105 (6m) (g) For the first 8 years of a tax incremental district's life, the
17 city's chief financial officer shall award a tax incremental district a "B" if the district's
18 projected expenditures and tax increments received are in balance with the
19 projections for those 2 items, as contained in the district's project plan. The report
20 card shall explain how this grade is awarded. A tax incremental district that does
21 not meet this standard must be awarded a grade that is less than a "B."

22 **SECTION 19.** 66.1105 (7) (av) of the statutes is created to read:

23 66.1105 (7) (av) Notwithstanding the limits specified in pars. (ak) and (am),
24 with regard to a district that earns at least a "B" grade on its report card under sub.
25 (6m) (f) for the year in which the district would otherwise be required to terminate

1 under par. (ak) or (am), 10 years after that otherwise applicable termination date if
2 at least one of the following applies:

3 1. The planning commission adopts an amendment to the district's project plan
4 under sub. (4) (h) 1.

5 2. If the district's project plan has been amended the maximum number of times
6 that are authorized under sub. (4) (h) 2., the planning commission adopts a resolution
7 requesting that the joint review board authorize an extension of the termination date
8 as described in this paragraph and the joint review board authorizes the extension,
9 except that the procedure described in this subdivision may not be used more than
10 once for that district. If the joint review board authorizes an extension under this
11 subdivision, the planning commission may amend the district's project plan under
12 sub. (4) (h) 1. as if the district's project plan had not been amended the maximum
13 number of times allowed under sub. (4) (h) 2.

14 **SECTION 20.** 66.1105 (17) (d) of the statutes is created to read:

15 66.1105 (17) (d) *Exception based on report card grades.* 1. Subject to subds.
16 2. to 4., if the average grade of all tax incremental districts in a city, under sub. (6m)
17 (f), is a "B" in any year, the 12 percent limit under sub. (4) (gm) 4. c. shall be 15
18 percent.

19 2. If the average grade of all tax incremental districts in a city, under sub. (6m)
20 (f), is less than a "B" in any year subsequent to a year in which the the 12 percent limit
21 becomes 15 percent under subd. 1., the limit shall revert back to 12 percent if the
22 equalized value of taxable property of all existing districts within the city is 12
23 percent or less of the total equalized value of taxable property within the city.

24 3. If the average grade of all tax incremental districts in a city, under sub. (6m)
25 (f), is less than a "B" in any year subsequent to a year in which the the 12 percent limit

1 becomes 15 percent under subd. 1., the limit shall remain at 15 percent if all of the
2 following apply:

3 a. A new district was created in the city, or the project plan of an existing district
4 is amended and adds territory to the district, between the time that the limit was
5 raised to 15 percent under subd. 1. and the year in which the average grade of all tax
6 incremental districts in a city, under sub. (6m) (f), is less than a "B."

7 b. The equalized value of taxable property of all existing districts within the
8 city is more than 12 percent of the total equalized value of taxable property within
9 the city.

10 4. If a city's limit under sub. (4) (gm) 4. c. becomes 15 percent under subd. 1.
11 and the city creates a new district that increases the equalized value of taxable
12 property of all existing districts within the city above the 12 percent limit under sub.
13 (4) (gm) 4. c., the limit shall revert to 12 percent if all of the following occur:

14 a. Due to the termination of existing districts or the subtraction of territory
15 from an existing district under an amendment to a project plan, the department of
16 revenue determines the equalized value of taxable property of all existing districts
17 within the city is 12 percent or less than the equalized value of taxable property
18 within the city.

19 b. The average grade of all tax incremental districts in a city, under sub. (6m)
20 (f), is less than a "B" in the year in which the determination described in subd. par.
21 4. a. occurs.

22 ~~SECTION 21. 66.1105 (19) of the statutes is created to read:~~

23 ~~66.1105 (19) DISPUTES RELATED TO ENTERPRISE TRANSFERS. (a) In this subsection,~~
24 ~~"municipality" means a city, village, or town.~~

1 (b) A municipality in which an enterprise closed or substantially reduced
2 operations may request that the municipality in which the enterprise initiated
3 operations pay not more than the estimated amount of property taxes that would
4 have been paid over the subsequent 5 years by the enterprise if the municipality in
5 which an enterprise closed or substantially reduced operations reasonably believes
6 each of the following:

7 1. The closing or substantial reduction of operations and the initiation of
8 operations of the enterprise constitutes an enterprise transfer.

9 2. The municipality in which the enterprise initiated operations included in
10 project costs expenditures that are not permitted under par. (2) (f) 4. a. in relation
11 to the enterprise.

12 (c) If the municipality in which the enterprise initiated operations denies the
13 request under par. (b), the municipality in which the enterprise closed or
14 substantially reduced operations may petition the department of revenue for a
15 determination of whether par. (b) 1. and 2. applies.

16 (d) If the department of revenue determines that the petitioner municipality
17 has demonstrated the applicability of par. (b) 1. and 2., the department may order
18 the respondent municipality to pay not more than the estimated amount of property
19 taxes that would have been paid over the subsequent 10 years by the enterprise or
20 may order the tax incremental district be terminated.

21 **SECTION 22. Initial applicability.**

22 (1) The treatment of section 66.0602 (3) (dm) of the statutes first applies to a
23 levy that is imposed in December 2013.

24 (END)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2083/P5
MES&EVM:sac:fm

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

No changes

11/5/13

gen cat

Today

1 AN ACT *to renumber and amend* 60.85 (8) (c); *to amend* 66.0602 (3) (dm),
2 66.1105 (2) (f) 2. b. and 66.1105 (6m) (c); and *to create* 60.85 (8) (c) 2., 60.85 (8)
3 (d), 60.85 (8) (e), 60.85 (8) (f), 60.85 (8) (g), 66.1105 (2) (f) 1. o., 66.1105 (2) (f) 1.
4 p., 66.1105 (6) (am) 6., 66.1105 (6m) (d), 66.1105 (6m) (e), 66.1105 (6m) (f),
5 66.1105 (6m) (g), 66.1105 (7) (av) and 66.1105 (17) (d) of the statutes; **relating**
6 **to:** disseminating information about a tax incremental district's annual budget
7 and value increment, requiring a political subdivision to evaluate a tax
8 incremental district's performance, increasing the amount that a political
9 subdivision may add to its levy limit upon the dissolution of a tax incremental
10 financing district, and extending the life and expenditure period for certain tax
11 incremental financing 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 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, and subject to a number of exceptions, a city, village, town, or county (political subdivision) may not increase its levy by a percentage that exceeds its "valuation factor," which is defined as the greater of either zero percent or the percentage change in the political subdivision's equalized value due to new construction, less improvements removed. The base amount of a political subdivision's levy, on which the levy limit is imposed, is the actual levy for the immediately preceding year.

Under one of the current law exceptions, if DOR does not certify a value increment for a TID as a result of the district's termination, the levy limit otherwise applicable to the political subdivision is increased by a certain amount.

Under the current law exception to the levy limit relating to DOR not certifying a value increment for a TID that is terminated, the allowable increase is an amount equal to the political subdivision's maximum allowable levy for the preceding year, multiplied by a percentage equal to 50 percent of the amount determined by dividing the terminated TID's value increment by the political subdivision's equalized value, as determined by DOR. This bill increases the percentage from 50 percent to 80 percent.

Also under current law, a city, village, or town (municipality) must annually prepare and make available to the public updated reports describing the status of each TID that exists in the municipality. Under this bill, the report must describe the financial status of each existing TID, including an itemized list of prior expenditures made for the TID and revenues received by the TID, as well as anticipated future TID-related expenditures and revenues. The bill requires a municipality to hold a public hearing on the report.

Also under the bill, the annual report that a municipality must prepare must also include a comparison of the district's total actual expenditures to the total amount of tax increments received and determine whether these amounts are the same or if they are out of balance.

Beginning in 2014, the bill also requires a municipality's chief financial officer to create and distribute annually to the municipality a report card for each TID that is the subject of an annual report. The report card must evaluate the degree to which the district's expenditures and tax increments received are balanced, and the municipality must make the report card available to the public.

Based on the degree to which a TID's expenditures and revenues are balanced, the bill requires a municipality to issue a report card with a grade of A, B, C, D, or F. Subject to an exception, if the amount of a TID's expenditures and tax increments received are balanced, the TID earns an "A." If these amounts are within 5 percent of being balanced, the TID earns a "B." If they are within 10 percent the TID earns a "C." If they are within 15 percent the TID earns a "D", and if they are more than 15 percent out of balance, the TID earns an "F." Under the exception, for a TID's first eight years of life, a municipality's chief financial officer is required to award a "B" to a district in which the TID's projected expenditures and tax increments received are in balance with the projections for those items in the TID's project plan. If a TID does not meet this standard, the TID must be awarded a lower grade.

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 this bill, for a TID that has at least a "B" grade in the year in which it would otherwise be required to terminate, the TID's life may be extended for ten years, and expenditures may be made for an additional five years, if the planning commission amends the district's project plan to change the district's boundaries. An amendment to a TID's project plan is subject to approval by the common council or village board (governing body), and the joint review board. If the TID's project plan has already been amended the maximum number of times that are allowable (four times under current law), the TID's life and expenditure period may still be extended for ten and five years, respectively, if the joint review board approves a planning commission request to do so; final approval would still be subject to the current law provisions for amending a project plan.

This bill creates two new definitions for project costs for a city or village TID. Under the bill, project costs may include expenses incurred by a city or village to recruit a new business to locate in a TID, and expenses incurred by the city or village to remodel the interior space of an existing building located in a TID to make the space useable for a business.

Currently, before a TID may be created or its project plan amended, the city or village must adopt a resolution containing a finding that the equalized value of taxable property of the TID plus the value increment of all existing TIDs does not exceed 12 percent of the total equalized value of taxable property in the city or village

(the “12 percent test”), subject to one exception. Under the exception, a city or village may simultaneously create a new TID and subtract territory from an existing TID without adopting a resolution containing the 12 percent test if the city or village demonstrates to DOR that the value of the territory that is subtracted at least equals the amount that DOR believes is necessary to ensure that, when the new TID is created, the 12 percent test is met. The city or village must also certify to DOR that no other district created under this exception currently exists in the city or village.

Under this bill, subject to a number of exceptions, if the average grade of all of the TIDs in a city or village is at least a B in any year, the 12 percent test becomes a 15 percent test. Under certain circumstances, the 15 percent test may revert back to a 12 percent test, and this limit may change back and forth depending on a number of factors related to the average grade of TIDs in the city or village, the creation of new TIDs, and the equalized value of taxable property of all existing districts within the city.

The bill also expands the definition of project costs to include a parking structure that supports redevelopment activities.

For further information see the *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. 60.85 (8) (c) of the statutes is renumbered 60.85 (8) (c) 1. and
2 amended to read:

3 60.85 (8) (c) 1. The town shall prepare and make available to the public updated
4 annual reports describing the status of each existing tax incremental district,
5 including expenditures and revenues. The town shall send a copy of the report to
6 each overlying district by May July 1 annually. Except as provided in subd. 2., the
7 report shall also contain the most recent annual budget for each existing tax
8 incremental district and an explanation of each district’s value increment and how
9 the value increment affects property taxes in the district. The town shall also hold
10 a hearing on the report.

11 SECTION 2. 60.85 (8) (c) 2. of the statutes is created to read:

1 60.85 (8) (c) 2. A town may decline to include in its report the most recent
2 annual budget and the value increment explanation described in subd. 1., except
3 that if it does not include the budget the town shall hold a public hearing at which
4 each such budget and the value increment explanation is discussed.

5 **SECTION 3.** 60.85 (8) (d) of the statutes is created to read:

6 60.85 (8) (d) In the annual report described under par. (c), the town shall also
7 include an assessment of each existing tax incremental district's performance. The
8 assessment shall compare a district's total actual expenditures to the total amount
9 of tax increments received and determine whether these amounts are the same or
10 if they are out of balance. This assessment shall be completed by the town's chief
11 financial officer.

12 **SECTION 4.** 60.85 (8) (e) of the statutes is created to read:

13 60.85 (8) (e) Annually, beginning in 2014, the town's chief financial officer shall
14 prepare a report card for each tax incremental district for which the town prepares
15 a report described under par. (c). The report card shall evaluate each tax incremental
16 district based on the degree to which the district's total actual expenditures and total
17 tax increments received are balanced or out of balance.

18 **SECTION 5.** 60.85 (8) (f) of the statutes is created to read:

19 60.85 (8) (f) The town shall issue a report card as described in par. (e), which
20 it shall forward to the town board. The report card shall contain the chief financial
21 officer's explanation of the methods and data he or she used to evaluate a tax
22 incremental district. The town board shall make the report card and the explanation
23 available to members of the public. Subject to par. (g), the town's chief financial
24 officer shall award a tax incremental district one of the following grades on its report
25 card:

1 1. An “A” if the district’s total actual expenditures and total tax increments
2 received are balanced.

3 2. A “B” if the district’s total actual expenditures and total tax increments
4 received are within 5 percent of being balanced.

5 3. A “C” if the district’s total actual expenditures and total tax increments
6 received are within 10 percent of being balanced.

7 4. A “D” if the district’s total actual expenditures and total tax increments
8 received are within 15 percent of being balanced.

9 5. An “F” if the district’s total actual expenditures and total tax increments
10 received are more than 15 percent out of balance.

11 **SECTION 6.** 60.85 (8) (g) of the statutes is created to read:

12 60.85 (8) (g) For the first 8 years of a tax incremental district’s life, the town’s
13 chief financial officer shall award a tax incremental district a “B” if the district’s
14 projected expenditures and tax increments received are in balance with the
15 projections for those 2 items, as contained in the district’s project plan. The report
16 card shall explain how this grade is awarded. A tax incremental district that does
17 not meet this standard must be awarded a grade that is less than a “B.”

18 **SECTION 7.** 66.0602 (3) (dm) of the statutes is amended to read:

19 66.0602 (3) (dm) If the department of revenue does not certify a value
20 increment for a tax incremental district for the current year as a result of the
21 district’s termination, the levy increase limit otherwise applicable under this section
22 in the current year to the political subdivision in which the district is located is
23 increased by an amount equal to the political subdivision’s maximum allowable levy
24 for the immediately preceding year, multiplied by a percentage equal to ~~50~~ 80 percent
25 of the amount determined by dividing the value increment of the terminated tax

1 incremental district, calculated for the previous year, by the political subdivision's
2 equalized value for the previous year, all as determined by the department of
3 revenue.

4 **SECTION 8.** 66.1105 (2) (f) 1. o. of the statutes is created to read:

5 66.1105 (2) (f) 1. o. Expenses incurred by the city to recruit a new business to
6 locate in the tax incremental district.

7 **SECTION 9.** 66.1105 (2) (f) 1. p. of the statutes is created to read:

8 66.1105 (2) (f) 1. p. Expenses incurred by the city to remodel the interior space
9 of an existing building that is located in the tax incremental district to make the
10 space useable for a business.

11 **SECTION 10.** 66.1105 (2) (f) 2. b. of the statutes is amended to read:

12 66.1105 (2) (f) 2. b. The Except for a parking structure that supports
13 redevelopment activities, the cost of constructing or expanding any facility, if the city
14 generally finances similar facilities only with utility user fees.

15 **SECTION 11.** 66.1105 (6) (am) 6. of the statutes is created to read:

16 66.1105 (6) (am) 6. No expenditure may be made later than 5 years before the
17 termination date of a tax incremental district to which sub. (7) (av) applies.

18 **SECTION 12.** 66.1105 (6m) (c) of the statutes is amended to read:

19 66.1105 (6m) (c) The city shall prepare and make available to the public
20 updated annual reports describing the financial status of each existing tax
21 incremental district, including an itemized list of expenditures paid and revenues
22 received in prior years, and anticipated expenditures to be paid, and revenues to be
23 received, in future years. The city shall send a copy of the report to each overlying
24 district by May July 1 annually and shall present the report to the common council

1 at an open meeting. The city shall also hold a hearing on the report in conjunction
2 with the presentation of the report.

3 **SECTION 13.** 66.1105 (6m) (d) of the statutes is created to read:

4 66.1105 (6m) (d) In the annual report described under par. (c), the city shall
5 also include an assessment of each existing tax incremental district's performance.
6 The assessment shall compare a district's total actual expenditures to the total
7 amount of tax increments received and determine whether these amounts are the
8 same or if they are out of balance. This assessment shall be completed by the city's
9 chief financial officer.

10 **SECTION 14.** 66.1105 (6m) (e) of the statutes is created to read:

11 66.1105 (6m) (e) Annually, beginning in 2014, the city's chief financial officer
12 shall prepare a report card for each tax incremental district for which the city
13 prepares a report described under par. (c). The report card shall evaluate each tax
14 incremental district based on the degree to which the district's total actual
15 expenditures and total tax increments received are balanced or out of balance.

16 **SECTION 15.** 66.1105 (6m) (f) of the statutes is created to read:

17 66.1105 (6m) (f) The city shall issue a report card as described in par. (e), which
18 it shall forward to the common council. The report card shall contain the chief
19 financial officer's explanation of the methods and data he or she used to evaluate a
20 tax incremental district. The common council shall make the report card and the
21 explanation available to members of the public. Subject to par. (g), the city's chief
22 financial officer shall award a tax incremental district one of the following grades on
23 its report card:

24 1. An "A" if the district's total actual expenditures and total tax increments
25 received are balanced.

1 2. A "B" if the district's total actual expenditures and total tax increments
2 received are within 5 percent of being balanced.

3 3. A "C" if the district's total actual expenditures and total tax increments
4 received are within 10 percent of being balanced.

5 4. A "D" if the district's total actual expenditures and total tax increments
6 received are within 15 percent of being balanced.

7 5. An "F" if the district's total actual expenditures and total tax increments
8 received are more than 15 percent out of balance.

9 **SECTION 16.** 66.1105 (6m) (g) of the statutes is created to read:

10 **66.1105 (6m) (g)** For the first 8 years of a tax incremental district's life, the
11 city's chief financial officer shall award a tax incremental district a "B" if the district's
12 projected expenditures and tax increments received are in balance with the
13 projections for those 2 items, as contained in the district's project plan. The report
14 card shall explain how this grade is awarded. A tax incremental district that does
15 not meet this standard must be awarded a grade that is less than a "B."

16 **SECTION 17.** 66.1105 (7) (av) of the statutes is created to read:

17 **66.1105 (7) (av)** Notwithstanding the limits specified in pars. (ak) and (am),
18 with regard to a district that earns at least a "B" grade on its report card under sub.
19 (6m) (f) for the year in which the district would otherwise be required to terminate
20 under par. (ak) or (am), 10 years after that otherwise applicable termination date if
21 at least one of the following applies:

22 1. The planning commission adopts an amendment to the district's project plan
23 under sub. (4) (h) 1.

24 2. If the district's project plan has been amended the maximum number of times
25 that are authorized under sub. (4) (h) 2., the planning commission adopts a resolution

1 requesting that the joint review board authorize an extension of the termination date
2 as described in this paragraph and the joint review board authorizes the extension,
3 except that the procedure described in this subdivision may not be used more than
4 once for that district. If the joint review board authorizes an extension under this
5 subdivision, the planning commission may amend the district's project plan under
6 sub. (4) (h) 1. as if the district's project plan had not been amended the maximum
7 number of times allowed under sub. (4) (h) 2.

8 **SECTION 18.** 66.1105 (17) (d) of the statutes is created to read:

9 66.1105 (17) (d) *Exception based on report card grades.* 1. Subject to subs.
10 2. to 4., if the average grade of all tax incremental districts in a city, under sub. (6m)
11 (f), is a "B" in any year, the 12 percent limit under sub. (4) (gm) 4. c. shall be 15
12 percent.

13 2. If the average grade of all tax incremental districts in a city, under sub. (6m)
14 (f), is less than a "B" in any year subsequent to a year in which the the 12 percent limit
15 becomes 15 percent under subd. 1., the limit shall revert back to 12 percent if the
16 equalized value of taxable property of all existing districts within the city is 12
17 percent or less of the total equalized value of taxable property within the city.

18 3. If the average grade of all tax incremental districts in a city, under sub. (6m)
19 (f), is less than a "B" in any year subsequent to a year in which the the 12 percent limit
20 becomes 15 percent under subd. 1., the limit shall remain at 15 percent if all of the
21 following apply:

22 a. A new district was created in the city, or the project plan of an existing district
23 is amended and adds territory to the district, between the time that the limit was
24 raised to 15 percent under subd. 1. and the year in which the average grade of all tax
25 incremental districts in a city, under sub. (6m) (f), is less than a "B."

Rose, Stefanie

From: Reader, Kirsten
Sent: Tuesday, November 05, 2013 4:15 PM
To: LRB.Legal
Subject: Draft Review: LRB -2083/1 Topic: Require municipalities to approve a budget or hold a budget hearing on a tax incremental district (TID)

Please Jacket LRB -2083/1 for the ASSEMBLY.