



2013 ASSEMBLY BILL 416

October 4, 2013 – Introduced by Representatives STEINEKE, MURPHY, BORN and OHNSTAD, cosponsored by Senator COWLES. Referred to Committee on State and Local Finance.

1 **AN ACT to amend** 66.1105 (6) (f) 1. (intro.), 66.1106 (1) (i), 66.1106 (2) (c), 66.1106
2 (7) (e) (intro.), 66.1106 (7) (e) 1. and 66.1106 (7) (e) 2.; and **to create** 66.1105 (6)
3 (f) 2. d. of the statutes; **relating to:** the sharing of tax increments.

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. 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, 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 increment 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. The costs of a TID, which are initially incurred by the creating city

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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.

Under certain limited circumstances, a TID that has paid off all of its project costs but has not reached its mandatory termination date may become a donor TID, continue to receive tax increments, and forward those increments to a recipient TID created by the same city or village.

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 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 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.

Under current law, the governing body of a political subdivision may adopt a resolution requesting that DOR allocate environmental remediation tax increments

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from an ERTID that will recover 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.

Under this bill, upon approval by the joint review board, a TID may become a donor TID and provide increments to a recipient ERTID created by the same city or village. Also, the governing body of a political subdivision may adopt a resolution requesting that DOR allocate environmental remediation tax increments from an ERTID that has recovered all eligible costs to certain TIDs that are not ERTIDs. Generally, an ERTID may become a donor ERTID to a TID in the same situations when a TID may become a donor TID. Increments from the donor ERTID may be generated until the earlier of 1) 23 years after the creation of the donor ERTID; or 2) the recovery of all project costs for the recipient TID.

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 (6) (f) 1. (intro.) of the statutes is amended to read:

2 66.1105 (6) (f) 1. (intro.) Not later than the date on which a tax incremental
3 district terminates under sub. (7) (am), a planning commission may amend under
4 sub. (4) (h) the project plan of a tax incremental district to allocate positive tax
5 increments generated by that tax incremental district to another tax incremental
6 district created by that planning commission or to an environmental remediation tax
7 incremental district created under s. 66.1106 by the same governing body if all of the
8 following conditions are met:

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

10 66.1105 (6) (f) 2. d. The recipient district is an environmental remediation tax
11 incremental district created under s. 66.1106.

12 **SECTION 3.** 66.1106 (1) (i) of the statutes is amended to read:

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

6 **SECTION 4.** 66.1106 (2) (c) of the statutes is amended to read:

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

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

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

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

5 **SECTION 6.** 66.1106 (7) (e) 1. of the statutes is amended to read:

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

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

11 66.1106 (7) (e) 2. The donor district terminates under sub. (11) (b) or 66.1105
12 (7).

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(END)