2015 ASSEMBLY BILL 135

March 27, 2015 – Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Ways and Means.

1   AN ACT *to repeal* 66.1105 (4) (k) and 66.1105 (5) (bm); *to renumber and amend*

2   66.1105 (5) (c) and 66.1105 (5) (ce); *to amend* 66.1105 (4) (gm) 1. and 66.1105

3   (5) (b); and *to create* 66.1105 (5) (c) 2. and 66.1105 (5) (ce) 2. of the statutes;

4   **relating to:** inclusion of vacant land within the boundaries of a tax incremental

5   district and exclusion of tax–exempt city–owned property from the initial tax

6   incremental base of a tax incremental district.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Study Committee on Review of Tax Incremental Financing.

Background

With certain exceptions, current law specifies that property standing vacant for an entire seven−year period immediately preceding adoption of the resolution creating a tax incremental district (TID) may not comprise more than 25 percent of the area in the TID. With regard to the exceptions to this restriction, current law specifies that the restriction does not apply to property in a TID if the district is suitable for either industrial sites or mixed use development and the local legislative body implements an approved project plan to promote industrial development or mixed−use development. Current law defines "vacant property" to include property where the fair market value or replacement cost value of structural improvements on the parcel is less than the fair market value of the land, and excludes property relating to the Park East and Park West freeway corridors in Milwaukee County, and also excludes property that is contaminated by environmental pollution.

Additionally, under current law, the Department of Revenue must certify the initial tax incremental base of a TID. Generally, this value is calculated as the aggregate value of all taxable property in the TID, plus the value of all tax−exempt city−owned property, except real property owned by a city and used for police and fire buildings, administrative buildings, libraries, community and recreational buildings, parks, streets and improvements within any street right−of−way, parking facilities, and utilities.

The Bill

This bill removes the restriction that property standing vacant may not comprise more than 25 percent of the area in a TID for TIDs created after the effective date of the bill.

Additionally, for a TID created on or after the effective date of the bill, the bill revises the calculation of the initial tax incremental base of the district to exclude all tax−exempt city−owned property.

1   SECTION 1. 66.1105 (4) (gm) 1. of the statutes is amended to read:

2   66.1105 **(4)** (gm) 1. Describes the boundaries, which may, but need not, be the

3   same as those recommended by the planning commission, of a tax incremental

4   district with sufficient definiteness to identify with ordinary and reasonable

5   certainty the territory included in the district. The boundaries of the tax incremental

6   district may not include any annexed territory that was not within the boundaries

7   of the city on January 1, 2004, unless at least 3 years have elapsed since the territory

8   was annexed by the city, unless the city enters into a cooperative plan boundary

9   agreement, under s. 66.0301 (6) or 66.0307, with the town from which the territory

10   was annexed, or unless the city and town enter into another kind of agreement

11   relating to the annexation except that, notwithstanding these conditions, the city

12   may include territory that was not within the boundaries of the city on January 1,

1   2004, if the city pledges to pay the town an amount equal to the property taxes levied

2   on the territory by the town at the time of the annexation for each of the next 5 years.

3   If, as the result of a pledge by the city to pay the town an amount equal to the property

4   taxes levied on the territory by the town at the time of the annexation for each of the

5   next 5 years, the city includes territory in a tax incremental district that was not

6   within the boundaries of the city on January 1, 2004, the city's pledge is enforceable

7   by the town from which the territory was annexed. The boundaries shall include only

8   those whole units of property as are assessed for general property tax purposes.

9   ~~Property~~ <u>For a tax incremental district created before the effective date of this</u>

10   <u>subdivision .... [LRB inserts date], property</u> standing vacant for an entire 7–year

11   period immediately preceding adoption of the resolution creating a tax incremental

12   district may not comprise more than 25 percent of the area in the tax incremental

13   district, unless the tax incremental district is suitable under subd. 4. a. for either

14   industrial sites or mixed use development and the local legislative body implements

15   an approved project plan to promote industrial development within the meaning of

16   s. 66.1101 if the district has been designated as suitable for industrial sites, or

17   mixed–use development if the district has been designated as suitable for mixed–use

18   development. In this subdivision, "vacant property" includes property where the fair

19   market value or replacement cost value of structural improvements on the parcel is

20   less than the fair market value of the land. In this subdivision, "vacant property"

21   does not include property acquired by the local legislative body under ch. 32, property

22   included within the abandoned Park East freeway corridor or the abandoned Park

23   West freeway corridor in Milwaukee County, or property that is contaminated by

24   environmental pollution, as defined in s. 66.1106 (1) (d).

NOTE: This SECTION removes the restriction that property standing vacant may not comprise more than 25 percent of the area in a TID for TIDs created after the date on which the bill takes effect.

1   SECTION 2. 66.1105 (4) (k) of the statutes is repealed.

2   SECTION 3. 66.1105 (5) (b) of the statutes is amended to read:

3   66.1105 **(5)** (b) Upon application in writing by the city clerk, in a form

4 prescribed by the department of revenue, the department shall determine according

5 to its best judgment from all sources available to it the full aggregate value of the

6 taxable property ~~and, except as provided in par. (bm), of the city–owned property~~ in

7 the tax incremental district. The application shall state the percentage of territory

8 within the tax incremental district which the local legislative body estimates will be

9 devoted to retail business at the end of the maximum expenditure period specified

10 in sub. (6) (am) 1. if that estimate is at least 35%. Subject to sub. (8) (d), the

11 department shall certify this aggregate valuation to the city clerk, and the aggregate

12 valuation constitutes the tax incremental base of the tax incremental district. The

13 city clerk shall complete these forms, including forms for the amendment of a project

14 plan, and submit the completed application or amendment forms on or before

15 October 31 of the year the tax incremental district is created, as defined in sub. (4)

16 (gm) 2. or, in the case of an amendment, on or before October 31 of the year in which

17 the changes to the project plan take effect.

18   SECTION 4. 66.1105 (5) (bm) of the statutes is repealed.

19   SECTION 5. 66.1105 (5) (c) of the statutes is renumbered 66.1105 (5) (c) 1. and

20 amended to read:

21   66.1105 **(5)** (c) 1. ~~If~~ For a tax incremental district created before the effective

22 date of this subdivision .... [LRB inserts date], if the city adopts an amendment to the

23 original project plan for any district which subtracts territory from the district or

1   which includes additional project costs at least part of which will be incurred after

2   the period specified in sub. (6) (am) 1., the tax incremental base for the district shall

3   be redetermined, if sub. (4) (h) 2., 4., or 5. applies to the amended project plan, either

4   by subtracting from the tax incremental base the value of the taxable property and

5   the value of real property owned by the city, other than property described under ~~par.~~

6   s. 66.1105 (5) (bm), 2013 stats. that is subtracted from the existing district or by

7   adding to the tax incremental base the value of the taxable property and the value

8   of real property owned by the city, other than property described in ~~par.~~ s. 66.1105

9   (5) (bm), 2013 stats., that is added to the existing district under sub. (4) (h) 2., 4., or

10 5. or, if sub. (4) (h) 2., 4., or 5. does not apply to the amended project plan, under ~~par.~~

11 s. 66.1105 (b), 2013 stats., as of the January 1 next preceding the effective date of the

12 amendment if the amendment becomes effective between January 2 and

13 September 30, as of the next subsequent January 1 if the amendment becomes

14 effective between October 1 and December 31 and if the effective date of the

15 amendment is January 1 of any year, the redetermination shall be made on that date.

16 With regard to a district to which territory has been added, the tax incremental base

17 as redetermined under this paragraph is effective for the purposes of this section only

18 if it exceeds the original tax incremental base determined under ~~par.~~ s. 66.1105 (5)

19 (b), 2013 stats.

20   SECTION 6. 66.1105 (5) (c) 2. of the statutes is created to read:

21   66.1105 **(5)** (c) 2. For a tax incremental district created on or after the effective

22 date of this subdivision .... [LRB inserts date], if the city adopts an amendment to the

23 original project plan for any district which subtracts territory from the district or

24 which includes additional project costs at least part of which will be incurred after

25 the period specified in sub. (6) (am) 1., the tax incremental base for the district shall

1   be redetermined, if sub. (4) (h) 2. applies to the amended project plan, either by

2   subtracting from the tax incremental base the value of the taxable property that is

3   subtracted from the existing district or by adding to the tax incremental base the

4   value of the taxable property that is added to the existing district under sub. (4) (h)

5   2. or, if sub. (4) (h) 2. does not apply to the amended project plan, under par. (b), as

6   of the January 1 next preceding the effective date of the amendment if the

7   amendment becomes effective between January 2 and September 30, as of the next

8   subsequent January 1 if the amendment becomes effective between October 1 and

9   December 31 and if the effective date of the amendment is January 1 of any year, the

10   redetermination shall be made on that date. With regard to a district to which

11   territory has been added, the tax incremental base as redetermined under this

12   paragraph is effective for the purposes of this section only if it exceeds the original

13   tax incremental base determined under par. (b).

14   **SECTION 7.** 66.1105 (5) (ce) of the statutes is renumbered 66.1105 (5) (ce) 1. and

15   amended to read:

16   66.1105 **(5)** (ce) 1. ~~If~~ For a tax incremental district created before the effective

17   date of this subdivision .... [LRB inserts date], if the city adopts an amendment, to

18   which sub. (4) (h) 2., 4., or 5. applies, the tax incremental base for the district shall

19   be redetermined, either by subtracting from the tax incremental base the value of the

20   taxable property and the value of real property owned by the city, other than property

21   described under ~~par.~~ s. 66.1105 (5) (bm), 2013, stats., that is subtracted from the

22   existing district or by adding to the tax incremental base the value of the taxable

23   property and the value of real property owned by the city, other than property

24   described in ~~par.~~ s. 66.1105 (5) (bm), 2013, stats., that is added to the existing district

25   under sub. (4) (h) 2., 4., or 5., as of the January 1 next preceding the effective date

1   of the amendment if the amendment becomes effective between January 2 and

2   September 30, as of the next subsequent January 1 if the amendment becomes

3   effective between October 1 and December 31 and if the effective date of the

4   amendment is January 1 of any year, the redetermination shall be made on that date.

5   With regard to a district to which territory has been added, the tax incremental base

6   as redetermined under this paragraph is effective for the purposes of this section only

7   if it exceeds the original tax incremental base determined under ~~par.~~ s. 66.1105 (5)

8   (b), 2013 stats.

9   **SECTION 8.** 66.1105 (5) (ce) 2. of the statutes is created to read:

10   66.1105 **(5)** (ce) 2. For a tax incremental district created on or after the effective

11   date of this subdivision .... [LRB inserts date], if the city adopts an amendment, to

12   which sub. (4) (h) 2. applies, the tax incremental base for the district shall be

13   redetermined, either by subtracting from the tax incremental base the value of the

14   taxable property that is subtracted from the existing district or by adding to the tax

15   incremental base the value of the taxable property that is added to the existing

16   district under sub. (4) (h) 2. as of the January 1 next preceding the effective date of

17   the amendment if the amendment becomes effective between January 2 and

18   September 30, as of the next subsequent January 1 if the amendment becomes

19   effective between October 1 and December 31 and if the effective date of the

20   amendment is January 1 of any year, the redetermination shall be made on that date.

21   With regard to a district to which territory has been added, the tax incremental base

22   as redetermined under this paragraph is effective for the purposes of this section only

23   if it exceeds the original tax incremental base determined under par. (b).

NOTE: SECTIONS 2 to 8 revise the calculation of the initial tax incremental base of a tax incremental district to exclude all tax–exempt city–owned property for districts created after the date on which the bill takes effect.

1   **(END)**