



2019 ASSEMBLY BILL 623

November 21, 2019 - Introduced by Representatives OTT, BOWEN, SARGENT, WICHGERS, BORN, RAMTHUN, GUNDRUM, BROOKS, BRANDTJEN, KULP, STEFFEN, SUBECK, CONSIDINE, PETERSEN, SKOWRONSKI and HUTTON, cosponsored by Senators STROEBEL, ERPENBACH, CRAIG and NASS. Referred to Committee on Ways and Means.

1 **AN ACT to amend** 66.1105 (2) (f) 2. d., 66.1105 (4) (f), 66.1105 (4) (h) 2. and 66.1105
2 (4m) (b) 2.; and **to create** 66.1105 (4m) (b) 2e. of the statutes; **relating to:**
3 changes to a tax incremental district joint review board's voting requirements,
4 requiring that a tax incremental district's project plan include alternative
5 economic projections, and limiting the amount of cash grants a city or village
6 may provide to a developer.

Analysis by the Legislative Reference Bureau

This bill changes the voting requirements for a tax incremental district's joint review board (JRB), generally limits the amount of cash grants that a city or village may make to a person for a tax incremental financing district's project costs, and requires an additional item to be included in a tax incremental district's project plan.

Under the current tax incremental financing program, a city or village may create a TID in part of its territory to foster development under certain conditions. Currently, towns and counties also have a limited ability to create a TID under certain limited 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

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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.

Currently, a project plan must include a number of elements, such as information regarding the kind, number, and location of all proposed public works or improvements within the district, an economic feasibility study, a detailed list of estimated project costs, and a description of financing methods for the project costs. Generally, project costs are defined to include public works such as sewers, streets, and lighting systems; financing costs; site preparation costs; and professional service costs. Certain items are specifically prohibited from being considered project costs, such as the cost of constructing or expanding certain municipal buildings and cash grants to developers, although exceptions are allowed. For example, current law authorizes a city or village to make cash grants to owners, lessees, or developers of land in a TID if the grant recipient has entered into a development agreement with the city or village.

Under this bill, the total of all such allowable cash grants may not exceed 20 percent of the total project costs of a TID, including financing costs attributable to the grants, unless the grant recipient's development agreement with the city or village specifies that the developer agrees to finance the cost of all public infrastructure improvements within the proposed TID, and further agrees to receive reimbursement for these costs solely from the payment of cash grants.

This bill requires the project plan to also include alternative economic projections of the TID's finances and feasibility under different economic situations, including a slower pace of development and lower rate of property value growth than expected in the TID.

Generally, under current law, a JRB consists of five members, three members who represent the TID's overlying taxation districts (school board, county, and technical college districts), one member from the city or village that created the TID, and one public member. To take certain actions, such as approving the creation of a TID, amending a TID's project plan, or having a TID's tax incremental base redetermined, a majority vote is required.

Under this bill, on October 1, 2020, a majority vote will generally require three affirmative votes. However, the bill requires unanimous JRB approval for a vote to amend a TID's project plan that would either add territory to the TID or extend its original termination date. After October 1, 2020, the bill also removes the limit of four amendments to a TID's project plan to modify the TID's boundaries.

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

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

1 **SECTION 1.** 66.1105 (2) (f) 2. d. of the statutes is amended to read:

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1 66.1105 (2) (f) 2. d. Cash grants made by the city to owners, lessees, or
2 developers of land that is located within the tax incremental district unless the grant
3 recipient has signed a development agreement with the city, a copy of which shall be
4 sent to the appropriate joint review board or, if that joint review board has been
5 dissolved, retained by the city in the official records for that tax incremental district.
6 The total of all cash grants that are made under this subd. 2. d. may not exceed 20
7 percent of the total project costs of the tax incremental district, including financing
8 costs attributable to the grants, except that this limitation does not apply if, in the
9 signed development agreement, the private developer or another private entity,
10 agrees to create improvements in the proposed district and agrees to finance the cost
11 of all public infrastructure improvements associated with that district in return for
12 the city's agreement to repay the developer or other entity for those infrastructure
13 costs solely through the payment of cash grants as described in this subd. 2. d.

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

15 66.1105 (4) (f) Adoption by the planning commission of a project plan for each
16 tax incremental district and submission of the plan to the local legislative body. The
17 plan shall include a statement listing the kind, number and location of all proposed
18 public works or improvements within the district or, to the extent provided in sub.
19 (2) (f) 1. k. and 1. n., outside the district, an economic feasibility study, a detailed list
20 of estimated project costs, and a description of the methods of financing all estimated
21 project costs and the time when the related costs or monetary obligations are to be
22 incurred. The project plan shall also contain alternative projections of the district's
23 finances and economic feasibility under different economic scenarios, including the
24 scenario in which work on a public work or improvement specified in the project plan
25 begins 3 years later than expected and the scenario in which the rate of property

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1 value growth in the district is at least 10 percent lower than expected. The plan shall
2 also include a map showing existing uses and conditions of real property in the
3 district; a map showing proposed improvements and uses in the district; proposed
4 changes of zoning ordinances, master plan, if any, map, building codes and city
5 ordinances; a list of estimated nonproject costs; and a statement of the proposed
6 method for the relocation of any persons to be displaced. The plan shall indicate how
7 creation of the tax incremental district promotes the orderly development of the city.
8 The city shall include in the plan an opinion of the city attorney or of an attorney
9 retained by the city advising whether the plan is complete and complies with this
10 section.

11 **SECTION 3.** 66.1105 (4) (h) 2. of the statutes is amended to read:

12 66.1105 (4) (h) 2. Except as provided in subds. 4., 5., 7., 8., 9., 10., and 11., the
13 planning commission may adopt an amendment to a project plan under subd. 1. to
14 modify the district's boundaries, not more than 4 times during the district's
15 existence, by subtracting territory from the district in a way that does not remove
16 contiguity from the district or by adding territory to the district that is contiguous
17 to the district and that is served by public works or improvements that were created
18 as part of the district's project plan. A single amendment to a project plan that both
19 adds and subtracts territory shall be counted under this subdivision as one
20 amendment of a project plan. The limitations on the number of allowable
21 amendments to a project plan specified in this subdivision do not apply after October
22 1, 2020.

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

24 66.1105 (4m) (b) 2. No tax incremental district may be created and no project
25 plan may be amended unless the board approves the resolution adopted under sub.

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1 (4) (gm) or (h) 1., and no tax incremental base may be redetermined under sub. (5)
2 (h) unless the board approves the resolution adopted under sub. (5) (h) 1., by a
3 majority vote within 45 days after receiving the resolution. Except as provided under
4 subd. 2e., for actions described under this subdivision, a majority vote is required,
5 and, except for a multijurisdictional tax incremental district, 3 affirmative votes are
6 required to constitute a majority. With regard to a multijurisdictional tax
7 incremental district created under this section, each public member of a
8 participating city must be part of the majority that votes for approval of the
9 resolution or the district may not be created. The board may not approve the
10 resolution under this subdivision unless the board's approval contains a positive
11 assertion that, in its judgment, the development described in the documents the
12 board has reviewed under subd. 1. would not occur without the creation of a tax
13 incremental district. The board may not approve the resolution under this
14 subdivision unless the board finds that, with regard to a tax incremental district that
15 is proposed to be created by a city under sub. (17) (a), such a district would be the only
16 existing district created under that subsection by that city.

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

18 66.1105 (4m) (b) 2e. A unanimous vote of the board is required for any of the
19 following actions:

20 a. An amendment of a project plan under sub. (4) (h) 1. if the amendment adds
21 any territory to a district.

22 b. An amendment of a project plan if the amendment would extend the original
23 termination date of the district.

24 **SECTION 6. Initial applicability.**

