



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1067/1
EVM:wlj:jf

2015 SENATE BILL 53

February 27, 2015 – Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Economic Development and Commerce.

1 **AN ACT** *to amend* 66.1105 (4) (h) 2., 66.1105 (5) (h) 3., 66.1105 (6) (a) 4., 66.1105
2 (6) (a) 7., 66.1105 (6) (a) 8. and 66.1105 (7) (ak) 1. and 2. and (am) 1., 2. and 3.;
3 and *to create* 66.1105 (4) (h) 11., 66.1105 (5) (h) 3m. and 66.1105 (7) (am) 4. of
4 the statutes; **relating to:** tax incremental financing project plan amendments
5 and extending the life of a tax incremental district if the district is adversely
6 impacted by statutory changes to the method of calculating equalized
7 valuation.

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.

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A city or village, and a town or county under certain circumstances, may in general, amend the project plan of a tax incremental district (TID) that is created under s. 66.1105, stats., subject to the review and approval of a joint review board (JRB). There is no limit to the number of project plan amendments that may be made if they are related to the projects included in the original plan. However, only four amendments modifying the TID's boundaries by either adding or subtracting parcels are allowed. Also, a TID that has been in a decrement situation for two years in a row may, after amending its project plan, adopt a resolution requiring the Department of Revenue (DOR) to redetermine the tax incremental base of the TID, but may do so only once during the life of the TID.

Also under current law, a TID must terminate when the political subdivision has received aggregate tax increments with respect to the TID in an amount equal to pay all of the TID's project costs, when the political subdivision dissolves the TID by resolution, or when the TID reaches its maximum lifespan, whichever is earlier. A political subdivision may, however, request that the JRB extend the life of the TID if the TID is unable to pay off its project costs within the maximum lifespan of the TID. The maximum lifespan of a TID, and the extension to this lifespan allowed under current law, are as follows:

- For any TID created before October 1, 1995: the maximum lifespan is 27 years and the political subdivision may not request an extension to this lifespan.
- For a TID that was created between October 1, 1995 and September 30, 2004, and is blighted or in need of rehabilitation or conservation: the maximum life is 27 years and the political subdivision may request a four-year extension.
- For a TID that was created between October 1, 1995 and September 30, 2004, and is an industrial district: the maximum life is 23 years and the political subdivision may not request an extension to this lifespan.
- For a TID that was created on or after October 1, 2004, and is blighted or in need of rehabilitation or conservation: the maximum lifespan is 27 years and the political subdivision may request a three-year extension.
- For a TID that was created on or after October 1, 2004, and is an industrial district or mixed-use district: the maximum lifespan is 20 years and the political subdivision may request a three-year extension.

The Bill

This bill allows a political subdivision to make any type of amendment to the project plan of a TID created under s. 66.1105, stats., or to request an additional five-year extension to the TID's maximum lifespan at any time during the life of the TID, or both, if during the life of a TID, the annual and total amount of tax increments to be generated over the life of the district are adversely impacted by one or more of the following:

- An amendment to the provisions of TIF law found under s. 66.1105, stats.
- A change made by DOR to the equalized valuation method.
- A change made by 2013 Wisconsin Act 145 (2013 Act 145) that increased state aid to technical college districts in order to reduce the total statewide levy of technical college districts.

1 **SECTION 1.** 66.1105 (4) (h) 2. of the statutes is amended to read:
2 66.1105 (4) (h) 2. Except as provided in subds. 4., 5., 7., 8., 9., and 10., and 11.,
3 the planning commission may adopt an amendment to a project plan under subd. 1.
4 to modify the district's boundaries, not more than 4 times during the district's
5 existence, by subtracting territory from the district in a way that does not remove

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1 contiguity from the district or by adding territory to the district that is contiguous
2 to the district and that is served by public works or improvements that were created
3 as part of the district's project plan. A single amendment to a project plan that both
4 adds and subtracts territory shall be counted under this subdivision as one
5 amendment of a project plan.

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

7 66.1105 (4) (h) 11. Notwithstanding the limitation in subd. 2., the planning
8 commission may at any time during the district's existence, by resolution, adopt an
9 amendment to a project plan under subd. 1., to modify the district's boundaries by
10 subtracting territory from the district in a way that does not remove contiguity from
11 the district or by adding territory to the district that is contiguous to the district and
12 that is served by public works or improvements that were created as part of the
13 district's project plan if during the district's existence, the annual and total amount
14 of tax increments to be generated over the life of the district are adversely impacted
15 by one or more of the following:

16 a. A legislative change to this section.

17 b. A change by the department of revenue to the method of calculating
18 equalized valuation under s. 70.57.

19 c. 2013 Wisconsin Act 145.

NOTE: SECTIONS 1 and 2 allow a planning commission, subject to approval by the political subdivisions and review by the JRB, to adopt an amendment to a TID's project plan to modify the TID's boundaries at any time during the life of the TID if during the TID's existence, the annual and total amount of tax increments to be generated over the life of the TID are adversely impacted by one or more of the following: (1) an amendment to TIF law under s. 66.1105, stats.; (2) a change made by DOR to the equalized valuation method; or (3) a change made by 2013 Act 145 that increased state aid to technical college districts in order to reduce the total statewide levy of the districts.

20 **SECTION 3.** 66.1105 (5) (h) 3. of the statutes is amended to read:

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1 66.1105 (5) (h) 3. ~~A~~ Except as provided in 3m., a local legislative body may not
2 adopt a resolution under subd. 1. more than once during the life of a tax incremental
3 district.

4 **SECTION 4.** 66.1105 (5) (h) 3m. of the statutes is created to read:

5 66.1105 (5) (h) 3m. A local legislative body may adopt a resolution under subd.
6 1. at any time during the district's existence if during the district's existence, the
7 annual and total amount of tax increments to be generated over the life of the district
8 are adversely impacted by one or more of the following:

9 a. A legislative change to this section.

10 b. A change by the department of revenue to the method of calculating
11 equalized valuation under s. 70.57.

12 c. 2013 Wisconsin Act 145.

NOTE: SECTIONS 3 and 4 allow political subdivisions to adopt a resolution requiring DOR to redetermine the tax incremental base value of a TID in a decrement situation if, at any time during the life of the TID, TIF law under s. 66.1105, stats., is amended, the equalized valuation method is changed by DOR, or both, and the amendment or change in the equalized valuation method adversely impacts the annual and total amount of tax increments to be generated over the life of the TID are adversely impacted by one or more of the following: (1) an amendment to TIF law under s. 66.1105, stats.; (2) a change made by DOR to the equalized valuation method; or (3) a change made by 2013 Act 145 that increased state aid to technical college districts in order to reduce the total statewide levy of the districts.

13 **SECTION 5.** 66.1105 (6) (a) 4. of the statutes is amended to read:

14 66.1105 (6) (a) 4. Twenty-seven years after the tax incremental district is
15 created if the district is created after September 30, 1995, and before October 1, 2004,
16 and if the district is a district about which a finding is made under sub. (4) (gm) 4.

17 a. that not less than 50 percent, by area, of the real property within the district is a
18 blighted area or an area in need of rehabilitation or conservation work, ~~except that~~
19 if ~~if~~ the life of the district is extended under sub. (7) (am) 1., an allocation under this
20 subdivision may be made 31 years after ~~such a~~ the district is created. If the life of

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1 the district is extended under sub. (7) (am) 4., an allocation under this subdivision
2 may be made for not more than an additional 5 years after allocations would
3 otherwise have been terminated under this subdivision.

4 **SECTION 6.** 66.1105 (6) (a) 7. of the statutes is amended to read:

5 66.1105 (6) (a) 7. Twenty years after the tax incremental district is created if
6 the district is created on or after October 1, 2004, and if the district is at least
7 predominantly suitable for mixed-use development or industrial sites under sub. (4)
8 (gm) 6., ~~except that if~~ If the life of the district is extended under sub. (7) (am) 2. an
9 allocation under this subdivision may be made 23 years after such a district is
10 created. If the life of the district is extended under sub. (7) (am) 4., an allocation
11 under this subdivision may be made for not more than an additional 5 years after
12 allocations would otherwise have been terminated under this subdivision.

13 **SECTION 7.** 66.1105 (6) (a) 8. of the statutes is amended to read:

14 66.1105 (6) (a) 8. Twenty-seven years after the tax incremental district is
15 created if the district is created on or after October 1, 2004, and if the district is a
16 district specified under sub. (4) (gm) 6. other than a district specified under subd. 7.,
17 ~~except that if~~ If the life of the district is extended under sub. (7) (am) 3. an allocation
18 under this subdivision may be made 30 years after such a district is created. If the
19 life of the district is extended under sub. (7) (am) 4., an allocation under this
20 subdivision may be made for not more than an additional 5 years after allocations
21 would otherwise have been terminated under this subdivision.

22 **SECTION 8.** 66.1105 (7) (ak) 1. and 2. and (am) 1., 2. and 3. of the statutes are
23 amended to read:

24 66.1105 (7) (ak) 1. Except as provided in par. (am) 1. and 4., for a district about
25 which a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by area,

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1 of the real property within the district is a blighted area or an area in need of
2 rehabilitation or conservation work, and if the district to which the plan relates is
3 created after September 30, 1995, and before October 1, 2004, 27 years after the
4 district is created.

5 2. ~~For~~ Except as provided in subd. 4., for a district that is created after
6 September 30, 1995, and before October 1, 2004, and that is not subject to subd. 1.,
7 23 years after the district was created, and, except as provided in subd. 3., for a
8 district that is created before October 1, 1995, 27 years after the district is created.

9 (am) 1. ~~For~~ Except as provided in subd. 4., for a district described under par.
10 (ak) 1., the time period specified in that subdivision, except that the city that created
11 the district may, subject to sub. (8) (e), request that the joint review board extend the
12 life of the district for an additional 4 years. Along with its request for a 4-year
13 extension, the city may provide the joint review board with an independent audit
14 that demonstrates that the district is unable to pay off its project costs within the 27
15 years after the district is created. The joint review board may deny or approve a
16 request to extend the life of the district for 4 years if the request does not include the
17 independent audit, and the board shall approve a request to extend the life of the
18 district for 4 years if the request includes the audit. If the joint review board extends
19 the district's life, the district shall terminate at the earlier of the end of the extended
20 period or the period specified in par. (a).

21 2. ~~For~~ Except as provided in subd. 4., for a district that is created after
22 September 30, 2004, about which a finding is made under sub. (4) (gm) 4. a. that not
23 less than 50 percent, by area, of the real property within the district is suitable for
24 industrial sites or mixed-use development, 20 years after the district is created,
25 except that the city that created the district may, subject to sub. (8) (e), request that

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1 the joint review board extend the life of the district for an additional 3 years. Along
2 with its request for a 3-year extension, the city may provide the joint review board
3 with an independent audit that demonstrates that the district is unable to pay off its
4 project costs within the 20 years after the district is created. The joint review board
5 may deny or approve a request to extend the life of the district for 3 years if the
6 request does not include the independent audit, and the board shall approve a
7 request to extend the life of the district for 3 years if the request includes the audit.
8 If the joint review board extends the district's life, the district shall terminate at the
9 earlier of the end of the extended period or the period specified in par. (a).

10 3. ~~For~~ Except as provided in subd. 4., for a district that is created after
11 September 30, 2004, about which a finding is made under sub. (4) (gm) 4. a. that not
12 less than 50 percent, by area, of the real property within the district is a blighted area
13 or in need of rehabilitation, 27 years after the district is created, except that the city
14 that created the district may, subject to sub. (8) (e), request that the joint review
15 board extend the life of the district for an additional 3 years. Along with its request
16 for a 3-year extension, the city may provide the joint review board with an
17 independent audit that demonstrates that the district is unable to pay off its project
18 costs within the 27 years after the district is created. The joint review board may
19 deny or approve a request to extend the life of the district for 3 years if the request
20 does not include the independent audit, and the board shall approve a request to
21 extend the life of the district for 3 years if the request includes the audit. If the joint
22 review board extends the district's life, the district shall terminate at the earlier of
23 the end of the extended period or the period specified in par. (a).

24 **SECTION 9.** 66.1105 (7) (am) 4. of the statutes is created to read:

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1 66.1105 (7) (am) 4. a. At any time during the district's existence, but subject
2 to sub. (8) (e), the city that created the district described under subd. 1., 2., or 3. or
3 par. (ak) 1. or 2. may request that the joint review board extend the life of the district
4 for an additional 5 years, in addition to an extension authorized under subd. 1., 2.,
5 or 3., but if during the district's existence, the annual and total amount of tax
6 increments to be generated over the life of the district are adversely impacted by a
7 legislative change to this section, a change by the department of revenue to the
8 method of calculating equalized valuation under s. 70.57, or 2013 Wisconsin Act 145.

9 b. Together with its request for a 5-year extension under this subd. 4. b., the
10 city may provide the joint review board with an independent audit that demonstrates
11 that the district is unable to pay off its project costs within the time specified under
12 subd. 1., 2., or 3., whichever is applicable. The joint review board may deny or
13 approve a request to extend the life of the district for 5 years if the request does not
14 include the independent audit, and the board shall approve a request to extend the
15 life of the district for 5 years if the request includes the audit. If the joint review board
16 extends the district's life, the district shall terminate at the earlier of the end of the
17 extended period or the period specified in par. (a).

NOTE: SECTIONS 8 and 9 authorize a political subdivision to request the JRB to extend the life of a TID for an additional 5 years, in addition to the extension of a TID's lifespan already authorized under current law, at any time during life of the TID, if during the TID's existence, the annual and total amount of tax increments to be generated over the life of the TID are adversely impacted by one or more of the following: (1) an amendment to TIF law under s. 66.1105, stats.; (2) a change made by DOR to the equalized valuation method; or (3) a change made by 2013 Act 145 that increased state aid to technical colleges districts in order to reduce the statewide levy of the districts.

Along with its request, the political subdivision may provide the JRB with an independent audit that demonstrates that the TID is unable to pay off its project costs within the TID's lifespan (27, 20, or 23 years, depending upon the type or creation date of the TID). Consistent with current law, the JRB may deny or approve a request to extend the life of the TID, if the request does not include the independent audit, and the JRB shall approve the extension if the request includes the audit. If the JRB extends the life of the TID, the TID shall terminate at the earlier of the end of the extended period

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or when the city or village has received enough tax increments to pay off all of the project costs.

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(END)