

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2253/P1dn
MES:cjs:jf

June 5, 2001

Representative Lehman:

Please review this draft very carefully to insure that it meets your intent. There are quite a few changes of time periods or deadlines in certain statutes, and some of these statutes are interrelated with, or contingent on, time periods or deadlines in other statutes. In addition, you may want the department of revenue to review the draft, especially the timing changes. I have done this bill as a preliminary draft because I have a number of questions and comments that must be resolved before I can produce an introducible version of the bill. Some of the questions or comments are contained in the text of the bill as "****NOTES", and some are listed here.

1. As your instructions specified, based on the Governor's Working Group on TIF, the wording in created s. 66.1105 (15) is based on s. 62.71 (13), although I'm not sure what the legal effect is of the standard in ss. 62.71 (13) and 66.1105 (15), "not affecting substantial justice."

2. Problem # 2 in the "technical" proposals states, in part, that "territory amendments have no value limit restrictions." I don't think this is the case, so I did not execute the instruction to "amend the statutes to specify that territory amendments to TIDS will be subject to the value limit restrictions not required for new TIDS." Section 66.1105 (4) (h) 2., which allows the amendment of a project plan, refers back to 66.1105 (4) (h) 1., which requires the same findings as provided in par. (g), which requires the adoption of a resolution under s. 66.1105 (4) (gm). That resolution, in s. 66.1105 (4) (gm) 4. c., contains the value limits. Consequently, I believe that an amendment to a project plan is already subject to the value limit restrictions.

3. I believe that the amendment of s. 66.1105 (4m) (a) and the creation of par. (am) are consistent with your instructions, but I'm not sure that your instructions address all of the potential situations and I'm not sure how s. 66.1105 (4m) (a) works under current law. For example, how is representation on a joint review board to be handled if a proposed TID is partly in a school district and partly in a union high school district? Currently, how is representation on a joint review board handled if a proposed TID is in a union high school district and wholly in one of the underlying elementary districts? The property of the TID in such a case does not contain property that has a greater value in one of the two districts because all of the TID is in both districts.

4. Please review carefully created s. 66.1105 (4m) (b) 4.; the instructions for this item, "policy" proposal 2, the second item under "*Resolved*", are a little unclear to me. First,

it seems unusual to allow a member to ask for DOR review after all the hearings and reviews have taken place, and after the city has been notified of the board's decision. Second, the instructions state that if DOR finds an error or ambiguity in a "TIF filing", DOR shall return the filing to the board for "correction and/or clarification." This last part of the instruction doesn't make sense to me. A member of the board has asked for a DOR review of the proposal submitted by a city. If DOR finds a problem, it's in the materials submitted by the *city*. Consequently, it doesn't make sense to me to require the *board* to "correct or clarify" the city's proposal. In created s. 66.1105 (4m) (b) 4., I required the city to correct the problem and resubmit the proposal, and the board to review the resubmitted proposal. Is this OK?

5. I increased from seven years to ten years the length of time during which expenditures may be made under s. 66.1105 (6) (am) 1. c. I couldn't tell from your instructions, however, whether you wanted to change the time after which a tax increment may not be allocated under s. 66.1105 (6) (a) or the time after which a TID must terminate under s. 66.1105 (7) (am). See s. 66.1105 (6) (a) 5. and 6. Is this OK, or did you want a change made in sub. (6) (a) or (7) (am)?

6. The creation of s. 60.23 (32) and the amendment of the Laws of 1975, chapter 105, section 1 (1) and (2) accomplishes the intent of your instruction # 17 in the "policy" proposals to allow towns that are located in counties with no cities or villages to use TIF, but I believe that should this provision become law, it could be challenged as a violation of article IV, section 23, of the Wisconsin Constitution. That provision states that "The legislature shall establish but one system of town government, which shall be as nearly uniform as practicable . . ." It could be argued that the proposal to allow TIF to be used only by towns in Menominee County and Florence County is inconsistent with the constitutional requirement that the legislature create "but one system of town government."

7. Instruction # 22 of the "policy" proposals states that "[c]urrent law requires a time lapse of 10 to 30 days from action on a proposed TID by the municipal planning body, and action by the municipal governing body," and requests that this time period be changed to "not less than 14 days." There is no statutory requirement under current law, however, that relates to a time lapse for action on a proposed TID by the city planning commission and the common council. There is a "not less than 10 days nor more than 30 days" requirement for action by a joint review board on a resolution adopted by a common council under sub. (4m) (b) 2. and 2m., and I've amended these two provisions. Is this your intent? Also see s. 66.1105 (4) (b), (c), (d), and (e).

8. With regard to the creation of a standing joint review board under s. 66.1105 (3) (g) and (4m) (a), as described in "policy" proposal # 26, do you want a city or village that is acting under s. 66.1106, the environmental remediation TIF statute, to be able to require the use of a standing joint review board under s. 66.1106 (3) (d)?

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