

**SENATE SUBSTITUTE AMENDMENT 1,
TO 2003 SENATE BILL 428**

February 26, 2004 – Offered by Senators STEPP and PANZER.

1 **AN ACT** *to amend* 66.1105 (6) (a) 4., 66.1105 (6) (a) 7. and 66.1105 (7) (am) 1.; *to*
2 *create* 66.1105 (6) (a) 4m. and 66.1105 (7) (ak) of the statutes; and *to affect*
3 2003 Wisconsin Act 126, section 44 (2) and 2003 Wisconsin Act 126, section 45
4 (1); **relating to:** the lifespan of tax incremental financing districts and the
5 period during which tax increments may be allocated to such districts.

Analysis by the Legislative Reference Bureau

Under the current tax incremental financing (TIF) 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 district 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 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, 23 years, or 27 years in certain cases, after the TID is created, whichever is sooner. TIDs are required to terminate, under current law and with one exception, once these costs are paid back, 16 years, or 20 years in certain cases, after the last expenditure identified in the project plan is made or when the creating city or village dissolves the TID, whichever occurs first. Under the exception, which is limited to certain circumstances, after a TID pays off its project costs, but not later than the date on which it must otherwise terminate, the planning commission may allocate positive tax increments generated by the TID (the “donor” TID) to another TID that has been created by the planning commission.

Under 2003 Wisconsin Act 126, certain provisions of which take effect on October 1, 2004, and which first apply to a TID that is created on October 1, 2004, DOR may allocate tax increments for 23 years if the TID is created after September 30, 1995. Under this substitute amendment, DOR may allocate tax increments for 27 years if the TID is created after September 30, 1995, and before October 1, 2004, and if the TID is a “blighted area” or a “rehabilitation or conservation” TID or for 23 years if the TID is an “industrial site” TID.

Act 126 also extends from 23 years to 27 years the maximum life of a blighted area or rehabilitation or conservation TID, and reduces from 23 years to 20 years the maximum life of an “industrial site” or “mixed-use development” TID. In the 18th year of an industrial or mixed-use TID’s life, however, the creating city or village may ask the joint review board to extend the TID’s life for five years. The city or village may provide the joint review board with an independent audit that demonstrates that the district is unable to pay off its costs within its original 20-year life span. The joint review board may choose to approve or deny a request to extend a TID’s life for five years but, if accompanied by an audit, the board must approve a request for a five-year extension. If the TID’s life is extended for five years, this substitute amendment authorizes DOR to allocate tax increments to the district for 25 years after its creation.

Under this substitute amendment, subject to one exception, a blighted area or a rehabilitation or conservation TID that is created after September 30, 1995, and before October 1, 2004, must terminate 27 years after its creation. Under the exception created in the substitute amendment, the city that created the TID may request that the joint review board extend the TID’s life for five years. The city or village may provide the joint review board with an independent audit that demonstrates that the district is unable to pay off its costs within its original 27-year life span. The joint review board may choose to approve or deny a request to extend

a TID's life for five years but, if accompanied by an audit, the board must approve a request for a five-year extension. If such an extension is granted, the substitute amendment authorizes DOR to allocate tax increments for 32 years.

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

1 **SECTION 1.** 66.1105 (6) (a) 4. of the statutes, as affected by 2003 Wisconsin Act
2 126, is amended to read:

3 66.1105 **(6)** (a) 4. ~~Twenty-three~~ Twenty-seven years after the tax incremental
4 district is created if the district is created after September 30, 1995, and before
5 October 1, 2004, and if the district is a district about which a finding is made under
6 sub. (4) (gm) 4. a. that not less than 50 percent, by area, of the real property within
7 the district is a blighted area or an area in need of rehabilitation or conservation
8 work, except that if the life of the district is extended under sub. (7) (am) 1., an
9 allocation under this subdivision may be made 32 years after such a district is
10 created.

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

12 66.1105 **(6)** (a) 4m. Twenty-three years after the tax incremental district is
13 created if the district is created after September 30, 1995, and before October 1, 2004,
14 and if the district is a district about which a finding is made under sub. (4) (gm) 4.
15 a. that not less than 50 percent, by area, of the real property within the district is
16 suitable for industrial sites.

17 **SECTION 3.** 66.1105 (6) (a) 7. of the statutes, as created by 2003 Wisconsin Act
18 126, is amended to read:

19 66.1105 **(6)** (a) 7. Twenty years after the tax incremental district is created if
20 the district is created on or after October 1, 2004, and if the district is at least

1 predominantly suitable for mixed–use development or industrial sites under sub. (4)
2 (gm) 6., except that if the life of the district is extended under sub. (7) (am) 2. an
3 allocation under this subdivision may be made 25 years after such a district is
4 created.

5 **SECTION 4.** 66.1105 (7) (ak) of the statutes is created to read:

6 66.1105 (7) (ak) 1. Except as provided in par. (am) 1., for a district about which
7 a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by area, of
8 the real property within the district is a blighted area or an area in need of
9 rehabilitation or conservation work, 27 years after the district is created.

10 2. For a district that is created after September 30, 1995, and that is not subject
11 to subd. 1., 23 years after the district was created, and for a district that is created
12 before October 1, 1995, 27 years after the district is created

13 **SECTION 5.** 66.1105 (7) (am) 1. of the statutes, as affected by 2003 Wisconsin
14 Act 126, is amended to read:

15 66.1105 (7) (am) 1. For a district about which a finding is made under sub. (4)
16 (gm) 4. a. that not less than 50 percent, by area, of the real property within the district
17 is a blighted area or in need of rehabilitation or conservation work, 27 years after the
18 district is created described under par. (ak) 1., the time period specified in that
19 subdivision, except that the city that created the district may request that the joint
20 review board extend the life of the district for an additional 5 years. Along with its
21 request for a 5–year extension, the city may provide the joint review board with an
22 independent audit that demonstrates that the district is unable to pay off its project
23 costs within the 27 years after the district is created. The joint review board may
24 deny or approve a request to extend the life of the district for 5 years if the request
25 does not include the independent audit, and the board shall approve a request to

1 extend the life of the district for 5 years if the request includes the audit. If the joint
2 review board extends the district's life, the district shall terminate at the earlier of
3 the end of the extended period or the period specified in par. (a).

4 **SECTION 6.** 2003 Wisconsin Act 126, section 44 (2) is amended to read:

5 [2003 Wisconsin Act 126] Section 44 (2) Except as provided in subsection (3),
6 the treatment of section 66.1105 (2) (f) 1. i. and 2. d., (4) (e) and (gm) 1. and 6., (4m)
7 (a), (ae), (am), and (b) 2., 2m., and 4., (5) (a), (b), (c), and (ce), (6) (a) 4., 7., and 8., (7)
8 (am), and (8) (title), (a), (c), and (d) of the statutes, the renumbering and amendment
9 of section 66.1105 (2) (f) 3. (as it relates to mixed-use development tax incremental
10 districts) of the statutes, and the creation of 66.1105 (2) (f) 3. a. to c. of the statutes
11 first applies to a tax incremental district that is created on October 1, 2004.

12 **SECTION 7.** 2003 Wisconsin Act 126, section 45 (1) is amended to read:

13 [2003 Wisconsin Act 126] Section 45 (1) The treatment of section 66.1105 (2)
14 (f) 1. i. and 2. d., (3) (g), (4) (e), (gm) 1., 4. a. and c., and 6., and (h) 2., (4m) (a), (am),
15 (b) 2., 2m., and 4., (5) (a), (b), (c), and (ce), (6) (a) 4., 7., and 8. and (am) 1., (7) ~~(am)~~,
16 ~~and~~ (ar), and (8) (title), (c), and (d) of the statutes takes effect on October 1, 2004, or
17 on the day after publication, whichever is later.

18 **SECTION 8. Initial applicability.**

19 (1) This act first applies to a tax incremental district that is in existence on the
20 effective date of this subsection or that is created on the effective date of this
21 subsection.

22 **SECTION 9. Effective dates.** This act takes effect on the day after publication,
23 except as follows:

