

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

March 9, 2004 – Offered by COMMITTEE ON WAYS AND MEANS.

1 **AN ACT** *to amend* 66.1105 (6) (a) 4., 66.1105 (6) (a) 7., 66.1105 (6) (a) 8., 66.1105
2 (7) (am) 1. and 66.1105 (7) (am) 2.; *to create* 66.1105 (6) (a) 4m., 66.1105 (7) (ak)
3 and 66.1105 (7) (am) 3. of the statutes; and *to affect* 2003 Wisconsin Act 126,
4 section 44 (2) and 2003 Wisconsin Act 126, section 45 (1); **relating to:** the
5 lifespan of tax incremental financing districts and the period during which tax
6 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; for 23 years if the TID is an “industrial site” TID; 27 years if the TID is created after September 30, 2004, and is a blighted area or rehabilitation and conservation TID, although the allocation period may be extended for three years as described below.

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. Under this substitute amendment, the creating city or village may ask a joint review board to extend a TID’s life for three years, and the requirement that request occur in the TID’s 18th year of existence is repealed. If the TID’s life is extended for three years, this substitute amendment authorizes DOR to allocate tax increments to the district for 23 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, (“1995–2004” TIDs) 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 four 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 four years but, if accompanied by an audit, the board must approve a request for a four–year extension. If such an extension is granted, the substitute amendment authorizes DOR to allocate tax increments for 31 years.

Also under this substitute amendment a blighted area or rehabilitation or conservation TID that is created after September 30, 2004, must terminate 27 years after its creation, except that the city that created the TID may request that the joint review board extend the TID’s life for three years. The audit provisions and joint review board provisions that apply to “1995 to 2004” TIDs apply to TIDs described under this paragraph.

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 31 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.

1 a. that not less than 50 percent, by area, of the real property within the district is
2 suitable for industrial sites.

3 **SECTION 3.** 66.1105 (6) (a) 7. of the statutes, as created by 2003 Wisconsin Act
4 126, 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 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.

11 **SECTION 4.** 66.1105 (6) (a) 8. of the statutes, as created by 2003 Wisconsin Act
12 126, is amended to read:

13 66.1105 **(6)** (a) 8. Twenty–seven years after the tax incremental district is
14 created if the district is created on or after October 1, 2004, and if the district is a
15 district specified under sub. (4) (gm) 6. other than a district specified under subd. 7.,
16 except that if the life of the district is extended under sub. (7) (am) 3. an allocation
17 under this subdivision may be made 30 years after such a district is created.

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

19 66.1105 **(7)** (ak) 1. Except as provided in par. (am) 1., for a district about which
20 a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by area, of
21 the real property within the district is a blighted area or an area in need of
22 rehabilitation or conservation work, and if the district to which the plan relates is
23 created after September 30, 1995, and before October 1, 2004, 27 years after the
24 district is created.

1 2. For a district that is created after September 30, 1995, and before October
2 1, 2004, and that is not subject to subd. 1., 23 years after the district was created, and
3 for a district that is created before October 1, 1995, 27 years after the district is
4 created

5 **SECTION 6.** 66.1105 (7) (am) 1. of the statutes, as affected by 2003 Wisconsin
6 Act 126, is amended to read:

7 66.1105 (7) (am) 1. For a district ~~about which a finding is made under sub. (4)~~
8 ~~(gm) 4. a. that not less than 50 percent, by area, of the real property within the district~~
9 ~~is a blighted area or in need of rehabilitation or conservation work, 27 years after the~~
10 ~~district is created~~ described under par. (ak) 1., the time period specified in that
11 subdivision, except that the city that created the district may request that the joint
12 review board extend the life of the district for an additional 4 years. Along with its
13 request for a 4-year extension, the city may provide the joint review board with an
14 independent audit that demonstrates that the district is unable to pay off its project
15 costs within the 27 years after the district is created. The joint review board may
16 deny or approve a request to extend the life of the district for 4 years if the request
17 does not include the independent audit, and the board shall approve a request to
18 extend the life of the district for 4 years if the request includes the audit. If the joint
19 review board extends the district's life, the district shall terminate at the earlier of
20 the end of the extended period or the period specified in par. (a).

21 **SECTION 7.** 66.1105 (7) (am) 2. of the statutes, as affected by 2003 Wisconsin
22 Act 126, is amended to read:

23 66.1105 (7) (am) 2. For a district that is created after September 30, 2004, about
24 which a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by area,
25 of the real property within the district is suitable for industrial sites or mixed-use

1 development, 20 years after the district is created, except that ~~during the 18th year~~
2 ~~of such a district's existence~~, the city that created the district may request that the
3 joint review board extend the life of the district for an additional ~~5~~ 3 years. Along
4 with its request for a ~~5-year~~ 3-year extension, the city may provide the joint review
5 board with an independent audit that demonstrates that the district is unable to pay
6 off its project costs within the 20 years after the district is created. The joint review
7 board may deny or approve a request to extend the life of the district for ~~5~~ 3 years if
8 the request does not include the independent audit, and the board shall approve a
9 request to extend the life of the district for ~~5~~ 3 years if the request includes the audit.
10 If the joint review board extends the district's life, the district shall terminate at the
11 earlier of the end of the extended period or the period specified in par. (a).

12 **SECTION 8.** 66.1105 (7) (am) 3. of the statutes is created to read:

13 66.1105 (7) (am) 3. For a district that is created after September 30, 2004, about
14 which a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by area,
15 of the real property within the district is a blighted area or in need rehabilitation,
16 27 years after the district is created, except that the city that created the district may
17 request that the joint review board extend the life of the district for an additional 3
18 years. Along with its request for a 3-year extension, the city may provide the joint
19 review board with an independent audit that demonstrates that the district is unable
20 to pay off its project costs within the 27 years after the district is created. The joint
21 review board may deny or approve a request to extend the life of the district for 3
22 years if the request does not include the independent audit, and the board shall
23 approve a request to extend the life of the district for 3 years if the request includes
24 the audit. If the joint review board extends the district's life, the district shall

1 terminate at the earlier of the end of the extended period or the period specified in
2 par. (a).

3 **SECTION 9.** 2003 Wisconsin Act 126, section 44 (2) is amended to read:

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

12 **SECTION 10.** 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 11. 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 12. Effective dates.** This act takes effect on the day after publication,
23 except as follows:

