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**WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO**

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<b>2003 Senate Bill 428</b>	<b>Senate Substitute Amendment 1</b>
<i>Memo published: March 1, 2004</i>	<i>Contact: William Ford, Senior Staff Attorney (266-0680)</i>

**Under current law**, the maximum life of a tax incremental district (TID) is established by state law and varies according to when the TID was created and what type of project the TID was created to implement. The significance of a TID's maximum life is that it establishes the number of property tax levies over which tax increments, which normally would be paid to other taxing jurisdictions, can be used to pay for project costs incurred by the TID.

Under current law, a TID is required to terminate either when all project costs have been paid or after a certain number of years, whichever occurs first.

For TIDs created before October 1, 1995, the maximum number of years that the TID may exist is 27.

For TIDs created after September 30, 1995, and before October 1, 2004, the maximum number of years that a TID may exist is 23.

For TIDS that are created on or after October 1, 2004 and that are created to address problems in blighted areas or in areas in need of rehabilitation, as those terms are defined in s. 66.1105, Stats., the maximum number of years that a TID may exist is 27. For TIDs that are created on or after October 1, 2004 and that are created to develop industrial areas or areas of mixed-use development, as those terms are defined in s. 66.1105, Stats., the maximum number of years that a TID may exist is 20. However, under certain circumstances, a city or village that creates an industrial or mixed-use development TID may extend the maximum life of the TID from 20 to 25 years.

Under **Senate Substitute Amendment 1** to 2003 Senate Bill 428, the maximum years of existence that a TID created after September 30, 1995 and before October 1, 2004 that was created to address problems in blighted areas or areas in need of rehabilitation is increased from 23 to 27 years. In addition, the 27-year maximum life of a TID created under these circumstances may be extended from 27 to 32 years.

The process required to obtain a five-year extension is that the city or village that created the TID may request the Joint Review Board to extend the life of the TID for an additional five years. Along with its request for a five-year extension, the city or village may provide the joint review board

with an independent audit that demonstrates that the TID is not able to pay off its project costs within the 27 years after the TID is created. The Joint Review Board must approve the five-year extension if the audit is provided and may, but is not required to, approve the request if the audit is not provided.

**Legislative History**

On February 26, 2004, the Senate adopted Senate Substitute Amendment 1 by voice vote and passed the bill, as amended, by voice vote.

WF:rv



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**WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO**

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<b>2003 Senate Bill 428</b>	<b>Assembly Substitute Amendment 1</b>
<i>Memo published: March 9, 2004</i>	<i>Contact: William Ford, Senior Staff Attorney (266-0680)</i>

**Under current law**, the maximum life of a tax incremental district (TID) is established by state law and varies according to when the TID was created and what type of project the TID was created to implement. The significance of a TID's maximum life is that it establishes the number of property tax levies over which tax increments, which normally would be paid to other taxing jurisdictions, can be used to pay for project costs incurred by the TID.

Under current law, a TID is required to terminate either when all project costs have been paid or after a certain number of years, whichever occurs first.

For TIDs created before October 1, 1995, the maximum number of years that the TID may exist is 27.

For TIDs created after September 30, 1995, and before October 1, 2004, the maximum number of years that a TID may exist is 23.

For TIDS that are created on or after October 1, 2004 and that are created to address problems in blighted areas or in areas in need of rehabilitation, as those terms are defined in s. 66.1105, Stats., the maximum number of years that a TID may exist is 27. For TIDs that are created on or after October 1, 2004 and that are created to develop industrial areas or areas of mixed-use development, as those terms are defined in s. 66.1105, Stats., the maximum number of years that a TID may exist is 20. However, under certain circumstances, a city or village that creates an industrial or mixed-use development TID may extend the maximum life of the TID from 20 to 25 years.

Under **Assembly Substitute Amendment 1** to 2003 Senate Bill 428, the maximum years of existence that a TID created after September 30, 1995 and before October 1, 2004 that was created to address problems in blighted areas or areas in need of rehabilitation is increased from 23 to 27 years. In addition, the 27-year maximum life of a TID created under these circumstances may be extended from 27 to 31 years.

The process required to obtain a four-year extension is that the city or village that created the TID may request the Joint Review Board to extend the life of the TID for an additional four years. Along with its request for a four-year extension, the city or village may provide the joint review board with an independent audit that demonstrates that the TID is not able to pay off its project costs within the 27 years after the TID is created. The Joint Review Board must approve the four-year extension if the audit is provided and may, but is not required to, approve the request if the audit is not provided.

The substitute amendment also provides a possible three-year extension for TIDs created on or after October 1, 2004, using the same procedure that is established for requesting a four-year extension described above. Under this provision of the substitute amendment, the lifespan of a TID created after October 1, 2004 to address blighted areas or areas in need of rehabilitation could be extended from 27 to 30 years. The lifespan of a TID created on or after October 1, 2004 for industrial or mixed use development could be extended from 20 to 23 years. (Note that current law allows industrial or mixed use TIDs created on or after October 1, 2004 to be extended for five years.)

### *Legislative History*

On March 9, 2004, the Assembly Committee on Ways and Means introduced Assembly Substitute Amendment 1, adopted the substitute amendment by a vote of Ayes, 11; Noes, 0, and recommended passage of the bill, as amended, by a vote of Ayes, 11; Noes, 0.

WF:rv:tlu

## Vote Record Committee on Ways and Means

Date: 3/9/04

Moved by: M. Lehman

Seconded by: J. Wood

AB \_\_\_\_\_

SB 428

Clearinghouse Rule \_\_\_\_\_

AJR \_\_\_\_\_

SJR \_\_\_\_\_

Appointment \_\_\_\_\_

AR \_\_\_\_\_

SR \_\_\_\_\_

Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_

A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:

Passage

Adoption

Confirmation

Concurrence *as amended*

Indefinite Postponement

Introduction

Rejection

Tabling

Nonconcurrency

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<b>Representative Michael Lehman, Chair</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Jeffrey Wood</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Stephen Nass</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Eugene Hahn</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Representative Frank Lasee</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Suzanne Jeskewitz</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Samantha Kerkman</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Thomas Lothian</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Wayne Wood</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Leon Young</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Terese Berceau</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Robert Ziegelbauer</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Johnnie Morris</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Tom Hebl</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Totals:</b>	<u>13</u>	<u>0</u>	<u>1</u>	<u>    </u>

Motion Carried

Motion Failed

SB 428

### Vote Record Committee on Ways and Means

Date: 3/9/04

Moved by: W. Wood

Seconded by: Jeskewitz

AB \_\_\_\_\_

SB \_\_\_\_\_

Clearinghouse Rule \_\_\_\_\_

AJR \_\_\_\_\_

SJR \_\_\_\_\_

Appointment \_\_\_\_\_

AR \_\_\_\_\_

SR \_\_\_\_\_

Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_

ⓐ A/S Sub Amdt 0435/2

A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:

Passage

Adoption

Confirmation

Concurrence

Indefinite Postponement

Introduction

Rejection

Tabling

Nonconcurrence

Committee Member

**Representative Michael Lehman, Chair**

Aye

No

Absent

Not Voting

**Representative Jeffrey Wood**

**Representative Stephen Nass**

**Representative Eugene Hahn**

**Representative Frank Lasee**

**Representative Suzanne Jeskewitz**

**Representative Samantha Kerkman**

**Representative Thomas Lothian**

**Representative Wayne Wood**

**Representative Leon Young**

**Representative Terese Berceau**

**Representative Robert Ziegelbauer**

**Representative Johnnie Morris**

**Representative Tom Hebl**

Totals:

13

0

1

Motion Carried

Motion Failed

**James E. Hough**

**From:** "Helgerson, Jason" <jason.helgerson@dor.state.wi.us>  
**To:** "James E. Hough" <hough@hamilton-consulting.com>; "Helgerson, Jason" <jason.helgerson@dor.state.wi.us>  
**Cc:** "Boyce, Katie - Office of Governor Jim Doyle" <Katie.Boyce@gov.state.wi.us>  
**Sent:** Monday, March 08, 2004 10:24 AM  
**Subject:** RE: TIF--SB 428

Jim: I will check in with the Secretary on this issue this morning. Jason

-----Original Message-----

**From:** James E. Hough [mailto:hough@hamilton-consulting.com]  
**Sent:** Monday, March 08, 2004 9:36 AM  
**To:** Jason Helgerson  
**Cc:** Katie Boyce  
**Subject:** TIF--SB 428

Jason,

We have had to make a change in the drafting instructions since our last e-mail exchange. We had all agreed that we need to accommodate West Bend, particularly since SB 428 is the vehicle used to "correct" some other TIF issues and timeframes. Under SB 428, the West Bend TID would have had a lifespan of 31 years. Under the Sub, the lifespan would be 32 years. Under the proposal that you and I have been discussing, the maximum lifespan would be 30 years.

We cannot do a carve-out for West Bend in the Substitute that we have been discussing since that would violate Article IV, Section 18 of the Wisconsin Constitution which provides: "No private or local bill which may be passed by the legislature shall embrace more than one subject, and that shall be expressed in the title."

The drafter has been instructed to solve this problem by allowing for a 4 year extension for those redevelopment/rehab TIDs created between 9/30/95 and 10/1/04. All potential extensions for TIDs created after 10/1/04 would be 3years, as we discussed. No extension is available to industrial TIDs created before 10/1/04.

I have been advised by Senator's Panzer's office that West Bend needs to be taken care of, which I understand. I do believe that the proposal we have been discussing, with the change listed above, is and more reflective of the original intent, and responds to your concerns, better than the Sub passed by the Senate that is currently before the Assembly.

I hope that this is acceptable to you. Please call if you have any questions or wish to discuss this any further.

Thank you.



**James E. Hough**

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Jim

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**James E. Hough**

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**From:** "Helgerson, Jason" <jason.helgerson@dor.state.wi.us>  
**To:** "James E. Hough" <hough@hamilton-consulting.com>  
**Cc:** "Morgan, Michael L" <michael.morgan@dor.state.wi.us>  
**Sent:** Friday, March 05, 2004 11:36 AM  
**Subject:** RE: TIF

Jim:

The proposal is acceptable in concept. Please email us a copy of the sub when its ready. We need to review it before we give final sign-off.

Thanks,  
Jason

-----Original Message-----

**From:** James E. Hough [mailto:hough@hamilton-consulting.com]  
**Sent:** Thursday, March 04, 2004 11:51 AM  
**To:** Jason Helgerson  
**Subject:** TIF

Jason,

Is the last proposal acceptable to the Secretary? I know that we are all stretched at this point, but we will need to proceed with drafting and a discussion with Mickey Lehman soon.

Thanks.

Jim

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**James E. Hough**

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>  
> >>> "James E. Hough" <[hough@hamilton-consulting.com](mailto:hough@hamilton-consulting.com)> 3/3/2004 11:36:42  
> AM >>>  
> Jason,  
>  
> I'm glad that we had an opportunity to talk this morning and I  
> appreciate  
> your counter proposal and your willingness to consider the  
> retroactivity  
  
> issue and to submit that proposal to Secretary Morgan.  
>  
> Specifically, we believe that applying the availability of the 3 year  
> extension retroactively, to redevelopment TIDs only, is consistent with  
> our  
> intent of having a maximum life of 30 years (27 & 3) for redevelopment  
> TIDs  
> and 23 years (current law and 20 & 3 for TIDs created after 10/1/04).  
> The  
> criteria and independent audit requirements would continue to apply to  
> all  
> extensions.  
>  
> I also understand that DOR would like a technical amendment relating  
> to  
> notice requirements for the '95 to '04 TIDs that would be identical  
> with  
> those imposed in the new legislation. We would appreciate more  
> specifics,  
> but, on the surface, it sounds reasonable and may reflect what was  
> intended.  
>  
> Thank you again and I hope that we can present an agreed upon package  
> to  
> Representatives Lehman and Grothman and Senators Stepp and Panzer. It  
> would  
> be nice to put all of the TIF issues behind us--at least for a while.  
>  
> Jim

**James E. Hough**

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**From:** "Helgerson, Jason" <jason.helgerson@dor.state.wi.us>  
**To:** "James E. Hough" <hough@hamilton-consulting.com>  
**Cc:** "Morgan, Michael L" <michael.morgan@dor.state.wi.us>  
**Sent:** Monday, March 01, 2004 11:53 AM  
**Subject:** RE: SB 428--TIF

Jim:

Here is our counter proposal:

1. Provide a 27 year life for those redevelopment/blighted TIDs created between Sept. 30, 1995 and October 1, 2004. This will create greater consistency.
2. Provide the option for extensions of up to 3 years for all three types of TIDs (industrial, mixed-use and redevelopment/blighted). This extension would only apply to TIDs created after Oct. 1 2004. This proposal is consistent with what we believe was the intent of Act 126.
3. Provide specific language to address the needs of the West Bend TID project.

We feel that if these changes are incorporated into SB 428 we will have more consistent treatment of TIDs in Wisconsin.

Let me know what you think.

Jason

-----Original Message-----

**From:** James E. Hough [mailto:hough@hamilton-consulting.com]  
**Sent:** Friday, February 27, 2004 5:33 PM  
**To:** Jason Helgerson  
**Subject:** SB 428--TIF

Jason,

The intention of the Senate Substitute to SB 428 was to amend the recently enacted TIF law to accomplish what we thought we had accomplished in SB 305 in 2 specific areas related to redevelopment TIFs only:

\* To provide a 27 year life for those redevelopment/rehab/blight TIDs created between September 30, 1995 and October 1, 2004 so that all redevelopment TIDs would have a 27 year life. We thought that was accomplished in SB 305.

\* To allow redevelopment TIDs to be eligible for an extension if an independent audit demonstrates that additional time is needed to pay the

project costs.

[Please see our November 13, 2003 memo to the Senate and page 3, the second bullet point, re our understanding, at that point, of what was being accomplished in SB 305.]

The new law has a 5 year extension for industrial TIDs and no extension available to redevelopment TIDs. We obviously missed both of the above as we reviewed the final bill drafts and can only blame ourselves for that.

Per our discussion, the "correction" would be accomplished by providing 27 years for the TIDs created between '95 and '04 and by permitting an extension of 3 years for both industrial and redevelopment TIDs if such extension is applied for in years 18 or 25 respectively.

I can only speak for myself and the WEDA TIF group at this point and cannot speak for Senators Panzer or Stepp or Representatives Grothman or Lehman.

If this approach is acceptable to you, Secretary Morgan, Katie and the Governor, I will recommend that we find a way to achieve that. That does reflect what we thought was being accomplished and we are not trying to slip in any new concepts.

Please contact Andrea in my office--258-9506--if you need to reach me on Monday. I will be returning from Chicago, but reachable.

Thank you.

Jim

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