

2005 ASSEMBLY BILL 1015

February 10, 2006 – Introduced by Representatives GOTTLIEB, PETROWSKI, BLACK, GIELOW, GUNDERSON, LOEFFELHOLZ, MUSSER, NISCHKE and POPE-ROBERTS, cosponsored by Senators STEPP, ROESSLER and ERPENBACH. Referred to Committee on Ways and Means.

1 **AN ACT to amend** 66.1105 (4) (gm) 4. c. and 66.1105 (4m) (b) 2.; and **to create**
2 66.1105 (17) of the statutes; **relating to:** authorizing a city or village to
3 simultaneously create a new tax incremental financing district and subtract
4 territory from an existing tax incremental district.

Analysis by the Legislative Reference Bureau

Under the current tax incremental financing 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 TID 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

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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, 20 years, 23 years, or 27 years after the TID is created, depending on the type of TID and the year in which it was created. Under certain circumstances, the life of the TID and the allocation period may be extended.

Under current law, a planning commission may adopt an amendment to a project plan, which requires the approval of the common council or village board and the same findings that current law requires for the creation of a new TID. Current law also authorizes the amendment of a project plan up to four times during a TID's existence to change the district's boundaries by adding or subtracting territory.

Currently, before a TID may be created or its project plan amended, the city or village must adopt a resolution containing a finding that the equalized value of taxable property of the TID plus the value increment of all existing TIDs does not exceed 12 percent of the total equalized value of taxable property in the city or village (the "12-percent test"), unless the amendment of the project plan only subtracts territory from the TID. Currently, it may take DOR up to 18 months to recalculate the value increment of a TID from which territory has been subtracted. Typically under current law, a city or village must wait for such a recalculation of the value increment of a TID from which territory has been subtracted before the city or village will be able to determine whether it can create a new TID and comply with the 12-percent test.

Under this bill, a city or village may simultaneously create a new TID and subtract territory from an existing TID without adopting a resolution containing the 12-percent test if a number of things occur. The bill requires that the city or village provide DOR with two appraisals that demonstrate the current fair market value (FMV) of the territory in the TID that the city or village proposes to create and the current FMV of the territory that the city or village proposes to subtract from an existing TID. The bill also requires that the appraisals demonstrate that the value of the territory that is subtracted at least equals the amount that DOR believes is necessary to ensure that, when the new TID is created, the 12-percent test is met.

The bill prohibits a city or village from creating a new TID using the method authorized in the bill if a similarly created TID currently exists in the city or village, and the bill requires that the city or village certify to DOR that no other district created under this method currently exists in the city or village.

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:

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1 **SECTION 1.** 66.1105 (4) (gm) 4. c. of the statutes, as affected by 2005 Wisconsin
2 Act 6, is amended to read:

3 66.1105 **(4)** (gm) 4. c. The Except as provided in sub. (17), the equalized value
4 of taxable property of the district plus the value increment of all existing districts
5 does not exceed 12 percent of the total equalized value of taxable property within the
6 city. In determining the equalized value of taxable property under this subd. 4. c.,
7 the department of revenue shall base its calculations on the most recent equalized
8 value of taxable property of the district that is reported under s. 70.57 (1m) before
9 the date on which the resolution under this paragraph is adopted.

10 **SECTION 2.** 66.1105 (4m) (b) 2. of the statutes is amended to read:

11 66.1105 **(4m)** (b) 2. Except as provided in subd. 2m., no tax incremental district
12 may be created and no project plan may be amended unless the board approves the
13 resolution adopted under sub. (4) (gm) or (h) 1. by a majority vote within 30 days after
14 receiving the resolution. The board may not approve the resolution under this
15 subdivision unless the board's approval contains a positive assertion that, in its
16 judgment, the development described in the documents the board has reviewed
17 under subd. 1. would not occur without the creation of a tax incremental district. The
18 board may not approve the resolution under this subdivision unless the board finds
19 that, with regard to a tax incremental district that is proposed to be created by a city
20 under sub. (17) (a), such a district would be the only existing district created under
21 that subsection by that city.

22 **SECTION 3.** 66.1105 (17) of the statutes is created to read:

23 66.1105 **(17)** SUBTRACTION OF TERRITORY, CREATION OF NEW DISTRICT. (a) Subject
24 to par. (b), a city may simultaneously create a tax incremental district under this
25 section and adopt an amendment to a project plan to subtract territory from an

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1 existing district without adopting a resolution containing the 12-percent-limit
2 findings specified in sub. (4) (gm) 4. c. if all of the following occur:

3 1. The city includes with its application described under sub. (5) (b) a copy of
4 its amendment to a project plan that subtracts territory from an existing district, as
5 described in sub. (4) (h) 2.

6 2. The city provides the department of revenue with 2 appraisals from certified
7 appraisers, as defined in s. 458.01 (7), which demonstrate all of the following:

8 a. The current fair market value of the taxable property within the district that
9 the city proposes to create.

10 b. The current fair market value of the taxable property that the city proposes
11 to subtract from an existing district.

12 3. Both appraisals under subd. 2. demonstrate that the value of the taxable
13 property that is subtracted from an existing district equals or exceeds the amount
14 that the department of revenue believes is necessary to ensure that, when the
15 proposed district is created, the 12-percent limit specified in sub. (4) (gm) 4. c. is met.

16 4. The city certifies to the department of revenue that no other district created
17 under this paragraph currently exists in the city.

18 (b) A city may not act under par. (a) if a tax incremental district that has been
19 created under par. (a) currently exists in the city.

20 (END)