

## 2005 SENATE BILL 83

1     **AN ACT** *to amend* 66.1105 (4) (gm) 1., 66.1105 (4) (gm) 4. c., 66.1105 (4) (h) 1.,  
2           66.1105 (4) (h) 2., 66.1105 (5) (a), 66.1105 (5) (c), 66.1105 (5) (ce), 66.1105 (5) (d)  
3           and 66.1105 (6) (am) 1.; and *to create* 66.1105 (4) (h) 6., 66.1105 (4) (h) 7.,  
4           66.1105 (5) (de) and 66.1105 (5) (dm) of the statutes; **relating to:** technical  
5           changes to the tax incremental financing law.

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*Analysis by the Legislative Reference Bureau*

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

7           **SECTION 1.** 66.1105 (4) (gm) 1. of the statutes is amended to read:

8           66.1105 (4) (gm) 1. Describes the boundaries, which may, but need not, be the  
9           same as those recommended by the planning commission, of a tax incremental  
10          district with sufficient definiteness to identify with ordinary and reasonable  
11          certainty the territory included in the district. The boundaries of the tax incremental

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1 district may not include any annexed territory that was not within the boundaries  
2 of the city on January 1, 2004, unless at least 3 years have elapsed since the territory  
3 was annexed by the city, unless the city enters into a cooperative plan boundary  
4 agreement, under s. 66.0307, with the town from which the territory was annexed,  
5 or unless the city and town enter into another kind of agreement relating to the  
6 annexation except that, notwithstanding these conditions, the city may include  
7 territory that was not within the boundaries of the city on January 1, 2004, if the city  
8 pledges to pay the town an amount equal to the property taxes levied on the territory  
9 by the town at the time of the annexation for each of the next 5 years. If, as the result  
10 of a pledge by the city to pay the town an amount equal to the property taxes levied  
11 on the territory by the town at the time of the annexation for each of the next 5 years,  
12 the city includes territory in a tax incremental district that was not within the  
13 boundaries of the city on January 1, 2004, the city's pledge is enforceable by the town  
14 from which the territory was annexed. The boundaries shall include only those  
15 whole units of property as are assessed for general property tax purposes. Property  
16 standing vacant for an entire 7-year period immediately preceding adoption of the  
17 resolution creating a tax incremental district may not comprise more than ~~25%~~ 25  
18 percent of the area in the tax incremental district, unless the tax incremental district  
19 is suitable ~~for industrial sites~~ under subd. 4. a. for either industrial sites or mixed  
20 use development and the local legislative body implements an approved project plan  
21 to promote industrial development within the meaning of s. 66.1101 if the district has  
22 been designated as suitable for industrial sites, or mixed-used development if the  
23 district has been designated as suitable for mixed-use development. In this  
24 subdivision, "vacant property" includes property where the fair market value or  
25 replacement cost value of structural improvements on the parcel is less than the fair

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1 market value of the land. In this subdivision, “vacant property” does not include  
2 property acquired by the local legislative body under ch. 32, property included within  
3 the abandoned Park East freeway corridor or the abandoned Park West freeway  
4 corridor in Milwaukee County, or property that is contaminated by environmental  
5 pollution, as defined in s. 66.1106 (1) (d).

6 **SECTION 2.** 66.1105 (4) (gm) 4. c. of the statutes is amended to read:

7 66.1105 (4) (gm) 4. c. The equalized value of taxable property of the district plus  
8 the value increment of all existing districts does not exceed 12 percent of the total  
9 equalized value of taxable property within the city, ~~except if a city subtracts territory~~  
10 ~~from a district under par. (h) 2., the 12 percent limit does not apply to that finding.~~  
11 In determining the equalized value of taxable property under this subd. 4. c., the  
12 department of revenue shall base its calculations on the most recent equalized value  
13 of taxable property of the district that is reported under s. 70.57 (1m) before the date  
14 on which the resolution under this paragraph is adopted.

15 **SECTION 3.** 66.1105 (4) (h) 1. of the statutes is amended to read:

16 66.1105 (4) (h) 1. Subject to subds. 2., 4., and 5., and 6., the planning  
17 commission may, by resolution, adopt an amendment to a project plan. The  
18 amendment is subject to approval by the local legislative body and approval requires  
19 the same findings as provided in ~~pars. par. (g) and, if the amendment adds territory~~  
20 to a district under subd. 2., approval also requires the same findings as provided in  
21 par. (gm) 4. c. Any amendment to a project plan is also subject to review by a joint  
22 review board, acting under sub. (4m). Adoption of an amendment to a project plan  
23 shall be preceded by a public hearing held by the plan commission at which  
24 interested parties shall be afforded a reasonable opportunity to express their views  
25 on the amendment. Notice of the hearing shall be published as a class 2 notice, under

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1 ch. 985. The notice shall include a statement of the purpose and cost of the  
2 amendment and shall advise that a copy of the amendment will be provided on  
3 request. Before publication, a copy of the notice shall be sent by 1st class mail to the  
4 chief executive officer or administrator of all local governmental entities having the  
5 power to levy taxes on property within the district and to the school board of any  
6 school district which includes property located within the proposed district. For a  
7 county with no chief executive officer or administrator, this notice shall be sent to the  
8 county board chairperson.

9 **SECTION 4.** 66.1105 (4) (h) 2. of the statutes is amended to read:

10 66.1105 (4) (h) 2. ~~Except as provided in subds. 4. and 5., 5., and 7.,~~ the planning  
11 commission may adopt an amendment to a project plan under subd. 1. to modify the  
12 district's boundaries, not more than 4 times during the district's existence, by  
13 subtracting territory from the district in a way that does not remove contiguity from  
14 the district or by adding territory to the district that is contiguous to the district and  
15 that is served by public works or improvements that were created as part of the  
16 district's project plan. A single amendment to a project plan that both adds and  
17 subtracts territory shall be counted under this subdivision as one amendment of a  
18 project plan.

19 **SECTION 5.** 66.1105 (4) (h) 6. of the statutes is created to read:

20 66.1105 (4) (h) 6. Notwithstanding subd. 1., a project plan shall be considered  
21 to have been amended, without compliance with any of the procedures required  
22 under subd. 1., if the only change to the project plan is the extension of the period  
23 during which expenditures may be made under sub. (6) (am) 1., as authorized under  
24 that subdivision by a provision of state law that takes effect after a tax incremental  
25 district's project plan is first adopted under par. (f).

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

2           66.1105 (4) (h) 7. If the department of revenue, acting under sub. (5) (dm),  
3 makes a determination that any of the conditions listed in sub. (5) (de) apply, a  
4 planning commission may amend its project plan to ensure that, with regard to that  
5 mixed-use district, the percentage of lands proposed for newly platted residential  
6 use does not exceed the percentage specified in sub. (2) (cm), or that at least one of  
7 the conditions specified in sub. (2) (f) 3. a. to c. applies, even if such an amendment  
8 to a project plan would exceed the number of amendments allowed under subd. 2.

9           **SECTION 5m.** 66.1105 (5) (a) of the statutes is amended to read:

10          66.1105 (5) (a) Subject to sub. (8) (d), upon the creation of a tax incremental  
11 district or upon adoption of any amendment subject to par. (c), its tax incremental  
12 base shall be determined as soon as reasonably possible. The department of revenue  
13 may impose a fee of \$1,000 on a city to determine or redetermine the tax incremental  
14 base of a tax incremental district under this subsection, except that if the  
15 redetermination is based on a single amendment to a project plan that both adds and  
16 subtracts territory, the department may impose a fee of \$2,000.

17          **SECTION 5s.** 66.1105 (5) (c) of the statutes is amended to read:

18          66.1105 (5) (c) If the city adopts an amendment to the original project plan for  
19 any district which subtracts territory from the district or which includes additional  
20 project costs at least part of which will be incurred after the period specified in sub.  
21 (6) (am) 1., the tax incremental base for the district shall be redetermined, if sub. (4)  
22 (h) 2., 4., or 5. applies to the amended project plan, either by subtracting from the tax  
23 incremental base the value of the taxable property and the value of real property  
24 owned by the city, other than property described under par. (bm), that is subtracted  
25 from the existing district or by adding to the tax incremental base the value of the

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1 taxable property and the value of real property owned by the city, other than property  
2 described in par. (bm), that is added to the existing district under sub. (4) (h) 2., 4.,  
3 or 5. or, if sub. (4) (h) 2., 4., or 5. does not apply to the amended project plan, under  
4 par. (b), as of the January 1 next preceding the effective date of the amendment if the  
5 amendment becomes effective between January 2 and September 30, as of the next  
6 subsequent January 1 if the amendment becomes effective between October 1 and  
7 December 31 and if the effective date of the amendment is January 1 of any year, the  
8 redetermination shall be made on that date. With regard to a district to which  
9 territory has been added, the tax incremental base as redetermined under this  
10 paragraph is effective for the purposes of this section only if it exceeds the original  
11 tax incremental base determined under par. (b).

12 **SECTION 6.** 66.1105 (5) (ce) of the statutes is amended to read:

13 66.1105 (5) (ce) If the city adopts an amendment, to which sub. (4) (h) 2., 4., or  
14 5. applies, the tax incremental base for the district shall be redetermined, either by  
15 subtracting from the tax incremental base the value of the taxable property and the  
16 value of real property owned by the city, other than property described under par.  
17 (bm), that is subtracted from the existing district or by adding to the tax incremental  
18 base the value of the taxable property and the value of real property owned by the  
19 city, other than property described in par. (bm), that is added to the existing district  
20 under sub. (4) (h) 2., 4., or 5., as of the January 1 next preceding the effective date  
21 of the amendment if the amendment becomes effective between January 2 and  
22 September 30, as of the next subsequent January 1 if the amendment becomes  
23 effective between October 1 and December 31 and if the effective date of the  
24 amendment is January 1 of any year, the redetermination shall be made on that date.  
25 With regard to a district to which territory has been added, the tax incremental base

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1 as redetermined under this paragraph is effective for the purposes of this section only  
2 if it exceeds the original tax incremental base determined under par. (b).

3 **SECTION 6e.** 66.1105 (5) (d) of the statutes is amended to read:

4 66.1105 (5) (d) The Subject to pars. (de) and (dm), the department of revenue  
5 may not certify the tax incremental base as provided in par. (b) until it determines  
6 that each of the procedures and documents required by sub. (4) (a), (b), (gm) or (h)  
7 and par. (b) has been timely completed and all notices required under sub. (4) (a), (b),  
8 (gm) or (h) timely given. The facts supporting any document adopted or action taken  
9 to comply with sub. (4) (a), (b), (gm) or (h) are not subject to review by the department  
10 of revenue under this paragraph, except that the department may not certify the tax  
11 incremental base as provided in par. (b) until it reviews and approves of the findings  
12 that are described in sub. (4) (gm) 4. c.

13 **SECTION 6g.** 66.1105 (5) (de) of the statutes is created to read:

14 66.1105 (5) (de) With regard to a mixed–use development tax incremental  
15 district, the department of revenue may not certify the tax incremental base of such  
16 a district if the department determines that any of the following apply:

17 1. The lands proposed for newly platted residential use exceed the percentage  
18 specified in sub. (2) (cm).

19 2. Tax increments received by the city are used to subsidize residential  
20 development and none of the conditions specified in sub. (2) (f) 3. a. to c. apply.

21 **SECTION 6i.** 66.1105 (5) (dm) of the statutes is created to read:

22 66.1105 (5) (dm) If the department of revenue certifies the tax incremental base  
23 of a mixed–use development tax incremental district and then determines that any  
24 of the conditions listed in the par. (de) apply, the department may not certify the tax  
25 incremental base of any other tax incremental district in that city until the

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1 department certifies that the mixed-use development district complies with the  
2 percentage specified in sub. (2) (cm) and that at least one of the conditions specified  
3 in sub. (2) (f) 3. a. to c. applies.

4 **SECTION 7.** 66.1105 (6) (am) 1. of the statutes is amended to read:

5 66.1105 **(6)** (am) 1. Except as otherwise provided in this paragraph, no  
6 expenditure may be made later than 5 years before the unextended termination date  
7 of a tax incremental district under sub. (7) (ak) or (am).

8 **SECTION 8. Initial applicability.**

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

12 (END)