

## 2005 ASSEMBLY BILL 366

April 27, 2005 – Introduced by Representatives RICHARDS, STONE, FIELDS, JENSEN, GRIGSBY, VOS, SEIDEL, HINES and BERCEAU, cosponsored by Senators STEPP, TAYLOR, DARLING and ROESSLER. Referred to Committee on Urban and Local Affairs.

1     **AN ACT** *to create* 66.1110 of the statutes; **relating to:** authorizing the creation  
2           of neighborhood improvement districts.

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### ***Analysis by the Legislative Reference Bureau***

Under current law a city, village, or town (municipality) may create a business improvement district (BID), upon being petitioned to do so by an owner of real property used for commercial purposes, if a number of steps are taken. In general, a BID is an area within a municipality consisting of contiguous parcels that are subject to general real estate taxes, other than railroad rights-of-way. If a BID is created under an approved operating plan, the municipality may impose special assessments on real property located within the BID, other than property used exclusively for residential purposes, to provide for the development, redevelopment, maintenance, operation, and promotion of the BID. A BID may not be created, however, if a petition opposing the proposed BID is submitted to the municipality's governing body by the owners of property to be assessed under the proposed plan having a valuation equal to at least 40 percent of the valuation of all property to be so assessed.

This bill allows a municipality to create a neighborhood improvement district (NID), upon being petitioned to do so by an owner of real property that is located in the NID or in the proposed NID, if a number of steps are taken. These steps are based on the current law that allows the creation of a BID. In general, under the bill, a NID is an area within a municipality consisting of parcels that are nearby, but not necessarily contiguous, at least some of which are used for residential purposes and are subject to general real estate taxes, and also may include property that is

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acquired and owned by the NID board. If a NID is created under an approved operating plan, the municipality may impose special assessments on real property located within the NID to provide for the development, redevelopment, maintenance, operation, and promotion of the NID, except that special assessments may not be imposed on any parcel of real property that is used exclusively for less than eight residential dwelling units and real property that is exempted from general property taxes. Under the bill, a municipality or a NID board, as specified in the operating plan, has all of the powers necessary or convenient to implement the operating plan, and specifically grants a municipality or a NID board the power to enter into contracts. A municipality may authorize a NID board to own real property.

In general, the provisions in this bill related to the filing of a petition to create a NID, the imposition of special assessments on real property located within the NID, and the termination of a NID are very similar to the current law provisions related to a BID, although this bill contains additional procedures under which a NID may be terminated.

Subject to a number of conditions, a NID shall be terminated if the owners of property assessed under the operating plan having a valuation equal to more than 50 percent of the valuation of all property assessed under the operating plan fail to file a petition with the NID's planning commission to continue the NID within one year after the membership of the NID's board changes from a majority which represents commercial properties to a majority that represents residential properties, or vice versa.

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:***

1           **SECTION 1.** 66.1110 of the statutes is created to read:

2           **66.1110 Neighborhood improvement districts. (1)** In this section:

3           (a) "Board" means a neighborhood improvement district board appointed  
4 under sub. (4) (a).

5           (b) "Chief executive officer" means a mayor, city manager, village president, or  
6 town chairperson.

7           (c) "Local legislative body" means a common council, village board of trustees,  
8 or town board of supervisors.

9           (d) "Municipality" means a city, village, or town.

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1 (e) “Neighborhood improvement district” means an area within a municipality  
2 consisting of nearby but not necessarily contiguous parcels, at least some of which  
3 are used for residential purposes and are subject to general real estate taxes, and  
4 property that is acquired and owned by the board if the local legislative body  
5 approved acquisition of the property under sub. (4) (d) as part of its approval of the  
6 initial operating plan under sub. (3) (e).

7 (f) “Operating plan” means a plan adopted or amended under this section for  
8 the development, redevelopment, maintenance, operation, and promotion of a  
9 neighborhood improvement district.

10 (g) “Owner” means the owner of real property that is located within the  
11 boundaries, or the proposed boundaries, of a neighborhood improvement district.

12 (h) “Planning commission” means a plan commission under s. 62.23 or, if none  
13 exists, a board of public land commissioners or, if none exists, a planning committee  
14 of the local legislative body.

15 **(2)** An operating plan shall include at least all of the following elements:

16 (a) The special assessment method applicable to the neighborhood  
17 improvement district.

18 (b) The kind, number, and location of all proposed expenditures within the  
19 neighborhood improvement district.

20 (c) A description of the methods of financing all estimated expenditures and the  
21 time when related costs will be incurred.

22 (d) A description of how the creation of the neighborhood improvement district  
23 promotes the orderly development of the municipality, including its relationship to  
24 any municipal master plan.

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1 (e) A statement as to whether the local legislative body authorizes the board  
2 to own real property and, if so, a description of the real property to be owned, the  
3 purpose of the ownership, and a statement of to whom the real property will be  
4 transferred if the neighborhood improvement district is terminated.

5 (f) A legal opinion that pars. (a) to (e) have been complied with.

6 **(3)** A municipality may create a neighborhood improvement district and adopt  
7 its operating plan if all of the following conditions are met:

8 (a) An owner of real property subject to general real estate taxes and located  
9 in the proposed neighborhood improvement district designated under par. (b) has  
10 petitioned the municipality for creation of a neighborhood improvement district.

11 (b) The planning commission has designated a proposed neighborhood  
12 improvement district and adopted its proposed initial operating plan.

13 (c) At least 30 days before creation of the neighborhood improvement district  
14 and adoption of its initial operating plan by the municipality, the planning  
15 commission has held a public hearing on its proposed neighborhood improvement  
16 district and initial operating plan. Notice of the hearing shall be published as a class  
17 2 notice under ch. 985. Before publication, a copy of the notice, together with a copy  
18 of the proposed initial operating plan and a copy of a detail map showing the  
19 boundaries of the proposed neighborhood improvement district, shall be sent by  
20 certified mail to all owners of real property within the proposed neighborhood  
21 improvement district. The notice shall state the boundaries of the proposed  
22 neighborhood improvement district and shall indicate that copies of the proposed  
23 initial operating plan are available from the planning commission on request.

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1 (d) Within 30 days after the hearing under par. (c), one of the following has not  
2 filed a petition with the planning commission protesting the proposed neighborhood  
3 improvement district or its proposed initial operating plan:

4 1. The owners of property to be assessed under the proposed initial operating  
5 plan having a valuation equal to more than 40 percent of the valuation of all property  
6 to be assessed under the proposed initial operating plan, using the method of  
7 valuation specified in the proposed initial operating plan.

8 2. The owners of property to be assessed under the proposed initial operating  
9 plan having an assessed valuation equal to more than 40 percent of the assessed  
10 valuation of all property to be assessed under the proposed initial operating plan.

11 (e) The local legislative body has voted to adopt the proposed initial operating  
12 plan for the municipality.

13 **(4)** (a) 1. The chief executive officer shall appoint members to a neighborhood  
14 improvement district board to implement the operating plan. Board members shall  
15 be confirmed by the local legislative body and shall serve staggered terms designated  
16 by the local legislative body. The board shall have at least 5 members, all of whom  
17 shall own or occupy real property in the neighborhood improvement district.

18 2. The number of initial board members who represent commercial and  
19 residential property, respectively, shall be, as closely as possible, in the same  
20 proportion as is the aggregate valuation of commercial property in the neighborhood  
21 improvement district to the total assessed value of all property in the district, and  
22 the aggregate valuation of residential property in the district to the total assessed  
23 value of all property in the district.

24 3. Annually, the number of board members who represent commercial and  
25 residential properties, based on the calculation described in subd. 2., may be

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1 reallocated to the greatest extent possible to be consistent with the proportion  
2 described under subd. 2. If the number of board members who represent commercial  
3 and residential properties needs to be reallocated to be consistent with the  
4 proportion described under subd. 2. and if a vacancy on the board does not exist to  
5 accommodate this reallocation, the chief executive officer may decide whether to  
6 remove an existing board member whose term has not expired, and to appoint a new  
7 member, to ensure that the proportion of board members is consistent with the  
8 proportion described under subd. 2.

9 (b) The board shall annually consider and may make changes to the operating  
10 plan, which may include termination of the plan, for the neighborhood improvement  
11 district. The board shall then submit the operating plan to the local legislative body  
12 for its approval. If the local legislative body disapproves the operating plan, the  
13 board shall consider and may make changes to the operating plan and may continue  
14 to resubmit the operating plan until local legislative body approval is obtained. Any  
15 change to the special assessment method applicable to the neighborhood  
16 improvement district shall be approved by the local legislative body.

17 (c) The board shall prepare and make available to the public annual reports  
18 describing the current status of the neighborhood improvement district, including  
19 expenditures and revenues. The report shall include an independent certified audit  
20 of the implementation of the operating plan obtained by the municipality. The  
21 municipality shall obtain an additional independent certified audit upon  
22 termination of the neighborhood improvement district.

23 (d) Either the board or the municipality, as specified in the operating plan as  
24 adopted, or amended and approved under this section, has all of the powers

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1 necessary or convenient to implement the operating plan, including the power to  
2 contract.

3 (5) All special assessments received from a neighborhood improvement district  
4 and all other appropriations by the municipality or other moneys received for the  
5 benefit of the neighborhood improvement district shall be placed in a segregated  
6 account in the municipal treasury. No disbursements from the account may be made  
7 except to reimburse the municipality for appropriations other than special  
8 assessments, to pay the costs of audits required under sub. (4) (c) or on order of the  
9 board for the purpose of implementing the operating plan. On termination of the  
10 neighborhood improvement district by the municipality, all moneys collected by  
11 special assessment remaining in the account shall be disbursed to the owners of  
12 specially assessed property in the neighborhood improvement district, in the same  
13 proportion as the last collected special assessment.

14 (6) (a) Subject to pars. (b) and (c), a municipality shall terminate a  
15 neighborhood improvement district if one of the following occurs:

16 1. The owners of property assessed under the operating plan having a valuation  
17 equal to more than 50 percent of the valuation of all property assessed under the  
18 operating plan, using the method of valuation specified in the operating plan, file a  
19 petition with the planning commission requesting termination of the neighborhood  
20 improvement district.

21 2. The owners of property assessed under the operating plan having an  
22 assessed valuation equal to more than 50 percent of the assessed valuation of all  
23 property assessed under the operating plan, file a petition with the planning  
24 commission requesting termination of the neighborhood improvement district.

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1           3. The owners of property assessed under the operating plan having a valuation  
2 equal to more than 50 percent of the valuation of all property assessed under the  
3 operating plan fail to file a petition with the planning commission to continue the  
4 neighborhood improvement district within one year of the date on which the  
5 membership of the board changes from a majority which represents commercial  
6 properties to a majority that represents residential properties, or vice versa, as  
7 described under sub. (4) (a) 3.

8           (b) 1. A petition may not be filed under this subsection earlier than one year  
9 after the date on which the municipality first adopts the operating plan for the  
10 neighborhood improvement district.

11           2. On and after the date on which a petition is filed under par. (a) 1. or 2., or  
12 on and after the date on which a petition must be filed under par. (a) 3., neither the  
13 board nor the municipality may enter into any new obligations by contract or  
14 otherwise to implement the operating plan until the expiration of 30 days after the  
15 date of the hearing under subd. 3. and unless the neighborhood improvement district  
16 is not terminated under par. (c).

17           3. Within 30 days after the filing of a petition under par. (a) 1. or 2., the planning  
18 commission shall hold a public hearing on the proposed termination. Within 30 days  
19 after the deadline for filing a petition under par. (a) 3. passes, the planning  
20 commission shall hold a public hearing on the proposed termination. Notice of the  
21 hearing shall be published as a class 2 notice under ch. 985. Before publication, a  
22 copy of the notice, together with a copy of a detail map showing the boundaries of the  
23 neighborhood improvement district, shall be sent by certified mail to all owners of  
24 real property within the neighborhood improvement district. The notice shall state  
25 the boundaries of the neighborhood improvement district and shall indicate that



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1 copies of the operating plan are available from the planning commission on request  
2 and are posted in the building in which the municipality's governing body regularly  
3 holds its meetings.

4 4. Within 30 days after the date of the hearing under subd. 3., every owner of  
5 property assessed under the operating plan may send written notice to the planning  
6 commission indicating, if the owner signed a petition under par. (a) 1. or 2., that the  
7 owner retracts the owner's request to terminate the neighborhood improvement  
8 district, or, if the owner did not file or sign a petition under par. (a) 1. or 2., that the  
9 owner requests termination of the neighborhood improvement district under par. (a)  
10 1. or 2.

11 5. Within 30 days after the date of the hearing under subd. 3., every owner of  
12 property assessed under the operating plan may send written notice to the planning  
13 commission indicating, if the owner signed a petition under par. (a) 3., that the owner  
14 retracts the owner's request to continue the neighborhood improvement district, or,  
15 if the owner did not file or sign a petition under par. (a) 3., that the owner requests  
16 continuation of the neighborhood improvement district under subd. 3.

17 (c) After the expiration of 30 days after the date of the hearing under par. (b)  
18 3., and after adding any additions and subtracting any retractions under par. (b) 4.  
19 and 5., the municipality shall terminate the neighborhood improvement district on  
20 the date on which the obligation with the latest completion date entered into to  
21 implement the operating plan expires if the owners who have signed the petition  
22 requesting the termination of the neighborhood improvement district under par. (a)  
23 1. or 2. constitute the required groups specified in par. (a) 1. or 2., or if an insufficient  
24 representation of owners, as described under par. (a) 3., petition to continue the  
25 neighborhood improvement district under par. (a) 3.

