

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2005 ASSEMBLY BILL 366**

August 9, 2005 – Offered by 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.

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 substitute amendment 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 substitute amendment, 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 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 substitute amendment, 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 substitute amendment 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 substitute amendment 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.

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 elected under
4 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.

1 (d) “Municipality” means a city, village, or town.

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

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

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

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

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

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

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

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

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

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.

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 neighborhood improvement district. The local legislative body shall
13 publish a class 2 notice under ch. 985 regarding the meeting at which the local
14 legislative body will vote on whether to adopt the proposed initial operating plan for
15 the neighborhood improvement district. Before publication, a copy of the notice shall
16 be sent by certified mail to all owners of real property within the proposed
17 neighborhood improvement district.

18 **(4)** (a) 1. If the local legislative body adopts the proposed initial operating plan
19 under sub. (3) (e), it shall determine the size of board, which shall consist of at least
20 5 members, all of whom shall own or occupy real property in the neighborhood
21 improvement district.

22 2. The number of board members who represent commercial and residential
23 property, respectively, shall be set by the local legislative body, as closely as possible,
24 in the same proportion as is the aggregate valuation of commercial property in the
25 neighborhood improvement district to the total assessed value of all property in the

1 district, and the aggregate valuation of residential property in the district to the total
2 assessed value of all property in the district.

3 3. The local legislative body shall set the time and place for a meeting at which
4 members of the board will be elected, and shall publish a class 2 notice under ch. 985
5 that contains this information. The notice shall specify that all individuals who
6 either own or occupy real property within the neighborhood improvement district are
7 eligible to serve on the board and vote at the election.

8 4. At the meeting, the individuals who own or occupy real property shall be
9 divided into 2 groups. One group shall consist of those individuals who own or occupy
10 commercial property, and one group shall consist of those individuals who own or
11 occupy residential property. Each group shall elect from among its members the
12 number of board members set to represent its group by the local legislative body
13 under subd. 2.

14 5. Board members elected under subd. 4 shall serve a one year term, and may
15 be reelected. Annually, the number of board members who represent commercial and
16 residential properties, based on the calculation described in subd. 2., may be
17 reallocated by the local legislative body to the greatest extent possible to be
18 consistent with the proportion described under subd. 2.

19 6. Annually, board members shall be elected under the procedures contained
20 in this paragraph. If a vacancy occurs during the term of a board member, an
21 individual shall be elected to fill the unexpired term of the member under the
22 procedures contained in this paragraph.

23 (b) The board shall annually consider and may make changes to the operating
24 plan, which may include termination of the plan, for the neighborhood improvement
25 district. The board shall then submit the operating plan to the local legislative body

1 for its approval. If the local legislative body disapproves the operating plan, the
2 board shall consider and may make changes to the operating plan and may continue
3 to resubmit the operating plan until local legislative body approval is obtained. Any
4 change to the special assessment method applicable to the neighborhood
5 improvement district shall be approved by the local legislative body.

6 (c) The board shall prepare and make available to the public annual reports
7 describing the current status of the neighborhood improvement district, including
8 expenditures and revenues. The report shall include an independent certified audit
9 of the implementation of the operating plan obtained by the municipality. The
10 municipality shall obtain an additional independent certified audit upon
11 termination of the neighborhood improvement district.

12 (d) Either the board or the municipality, as specified in the operating plan as
13 adopted, or amended and approved under this section, has all of the powers
14 necessary or convenient to implement the operating plan, including the power to
15 contract.

16 **(5)** All special assessments received from a neighborhood improvement district
17 and all other appropriations by the municipality or other moneys received for the
18 benefit of the neighborhood improvement district shall be placed in a segregated
19 account in the municipal treasury. No disbursements from the account may be made
20 except to reimburse the municipality for appropriations other than special
21 assessments, to pay the costs of audits required under sub. (4) (c) or on order of the
22 board for the purpose of implementing the operating plan. On termination of the
23 neighborhood improvement district by the municipality, all moneys collected by
24 special assessment remaining in the account shall be disbursed to the owners of

1 specially assessed property in the neighborhood improvement district, in the same
2 proportion as the last collected special assessment.

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

5 1. The owners of property assessed under the operating plan having a valuation
6 equal to more than 50 percent of the valuation of all property assessed under the
7 operating plan, using the method of valuation specified in the operating plan, file a
8 petition with the planning commission requesting termination of the neighborhood
9 improvement district.

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

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

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

24 2. On and after the date on which a petition is filed under par. (a) 1. or 2., or
25 on and after the date on which a petition must be filed under par. (a) 3., neither the

1 board nor the municipality may enter into any new obligations by contract or
2 otherwise to implement the operating plan until the expiration of 30 days after the
3 date of the hearing under subd. 3. and unless the neighborhood improvement district
4 is not terminated under par. (c).

5 3. Within 30 days after the filing of a petition under par. (a) 1. or 2., the planning
6 commission shall hold a public hearing on the proposed termination. Within 30 days
7 after the deadline for filing a petition under par. (a) 3. passes, the planning
8 commission shall hold a public hearing on the proposed termination. Notice of the
9 hearing shall be published as a class 2 notice under ch. 985. Before publication, a
10 copy of the notice, together with a copy of a detail map showing the boundaries of the
11 neighborhood improvement district, shall be sent by certified mail to all owners of
12 real property within the neighborhood improvement district. The notice shall state
13 the boundaries of the neighborhood improvement district and shall indicate that
14 copies of the operating plan are available from the planning commission on request
15 and are posted in the building in which the municipality's governing body regularly
16 holds its meetings.

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

24 5. Within 30 days after the date of the hearing under subd. 3., every owner of
25 property assessed under the operating plan may send written notice to the planning

1 commission indicating, if the owner signed a petition under par. (a) 3., that the owner
2 retracts the owner's request to continue the neighborhood improvement district, or,
3 if the owner did not file or sign a petition under par. (a) 3., that the owner requests
4 continuation of the neighborhood improvement district under subd. 3.

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

14 (7) (a) Any parcel of real property used exclusively for less than 8 residential
15 dwelling units and real property that is exempted from general property taxes under
16 s. 70.11 may not be specially assessed for purposes of this section.

17 (b) A municipality may terminate a neighborhood improvement district at any
18 time.

19 (c) This section does not limit the power of a municipality under other law to
20 regulate the use of or specially assess real property.

21 (END)