

2005 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB366)

Received: **07/25/2005**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Jon Richards (608) 266-0650**

By/Representing: **Jeff**

This file may be shown to any legislator: **NO**

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Local Gov't - misc**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Richards@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Authorize the creation of neighborhood improvement districts

Instructions:

See Attached. Based on AB 366 (LRB -1111/1) w/ attached changes

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 08/04/2005	lkunkel 08/05/2005		_____			
/1			jfrantze 08/05/2005	_____	sbasford 08/05/2005	sbasford 08/05/2005	

FE Sent For:

<END>

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/?	mshovers	1/mk 8/5	<i>[Signature]</i>	<i>[Signature]</i>			
11 NRS	8/4/05		6/8/5	8/2			

FE Sent For:

<END>

Shovers, Marc

From: Kostelic, Jeff
Sent: Monday, July 18, 2005 9:29 AM
To: Shovers, Marc
Subject: RE: AB366 (NID) possible amendments

Marc,

It was a little unclear to me as well. I'm going to make an executive decision and request that you prepare a substitute amendment containing the three points referenced in my first email.

Thank you for clearing up this matter and providing some direction.

Jeff

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Sent: Monday, July 18, 2005 9:00 AM
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Hi Jeff:

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If you are looking for discussion points, it seems to me that you could simply use the 3 points you've laid out. Once an agreement is reached between the parties, I could at that point prepare amendments or a sub. Short of drafting another version of the bill, simple amendments, or a substitute amendment, however, I'm not sure how you'd like me to proceed. Please advise.

Marc

Marc E. Shovers

Senior Legislative Attorney
Legislative Reference Bureau
Phone: (608) 266-0129
Fax: (608) 264-8522
e-mail: marc.shovers@legis.state.wi.us

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

From: Kostelic, Jeff
Sent: Friday, July 15, 2005 3:02 PM
To: Shovers, Marc
Subject: AB366 (NID) possible amendments

Marc,

Representative Jon Richards would like some language prepared for a possible substitute amendment to his NID bill, AB366. It is not necessary to prepare individual amendments, but Rep. Richards does not want you to draft a substitute amendment either. He would prefer that you prepare language pursuant to the instructions below so that he

can discuss possible changes to the bill with the cosponsor and other parties. I'm not sure if this is proper protocol. Please contact me if this request is not appropriate.

Rep. Richards requests that language be prepared to do the following:

1. Change the eight (8) unit restriction to a five (5) unit restriction. Page 10, line 1
2. Similar to the requirements under (3)(c) on page 4, require that notice of the hearing before the common council be sent to all owners of real property within the proposed NID.
3. Require that appointments to the board be handled by election at an annual meeting. One meeting would be held by residential property owners to elect their representatives to the NID board and another meeting would be held by the commercial property owners for the same purpose. As drafted, the bill has the mayor making the appointments.

Thank you

Jeff Kostelic
Office of Representative Jon Richards
266-0650

Shovers, Marc

From: Kostelic, Jeff
Sent: Wednesday, August 03, 2005 9:44 AM
To: Shovers, Marc
Subject: RE: AB366 (NID) possible amendments

Thanks Marc. Just a heads up, the other change that *might* be coming your way relates to the definition of "parcel". As drafted, the bill does not explicitly state that a parcel is a parcel of land. Therefore, as drafted, a local jurisdiction could treat a multi-unit condominium as 40 separate tax parcels. If interpreted in that manner condominiums would be exempt from the NID assessment. We may want to clarify the definition of "parcel".

From: Shovers, Marc
Sent: Wednesday, August 03, 2005 9:35 AM
To: Kostelic, Jeff
Subject: RE: AB366 (NID) possible amendments

Hi Jeff:

No, I haven't done it yet, but I should be able to get it to you this week so Rep. Richards can review it before the exec. Let me know if you need to modify the instructions at all.

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

From: Kostelic, Jeff
Sent: Wednesday, August 03, 2005 9:32 AM
To: Shovers, Marc
Subject: FW: AB366 (NID) possible amendments

Marc,

The Assembly Committee on Urban and Local Affairs has scheduled AB366 for an executive session next week. Is the substitute amendment Rep. Richards requested available? He may want to make one more minor modification to the bill. I'll let you know about that later today or tomorrow.

Thanks.

Jeff Kostelic
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Office of Representative Jon Richards
266-0650

Shovers, Marc

From: Kostelic, Jeff
Sent: Wednesday, August 03, 2005 1:48 PM
To: Shovers, Marc
Subject: NID - AB366

Marc,

Per our correspondance from earlier today, I am providing some language that may be helpful to you.

"(7)(a) Any parcel of real property **or condominium** used exclusively for less than 8 [5] residential dwelling units and real property that is exempted from general property taxes under s. 70.11 may not be specially assessed for purposes of this section. **For purposes of determining assessability under this section, the number of dwelling units in a condominium (as opposed to in a condominium unit) shall control, notwithstanding s. 703.21. "**

Shovers, Marc

From: Kostelic, Jeff
Sent: Thursday, August 04, 2005 3:43 PM
To: Shovers, Marc
Subject: FW: AB366 (NID) possible amendments

Marc,

After consultation with Senator Stepp and Representative LeMahieu, Representative Richards asks that you prepare a substitute amendment that addresses points 2 and 3 of the original amendment request. Concerns were expressed about lowering the unit threshold and modifying the term "parcel". It is likely that Representative Richards will offer amendments related to those two issues when this bill comes to the floor. Rest assured, your work on those two modifications won't go to waste.

Please contact me if you have any questions.

Thanks.

Jeff Kostelic
Office of Representative Jon Richards
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Jeff Kostelic
Office of Representative Jon Richards
266-0650

50173/1

ASA

smk → RMT

to 2005 ASSEMBLY BILL 366

WANTED: 1PM Fri., [unclear]

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.

regen

- 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.

Substitute amendment (LS Use 2X)

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

ASSEMBLY BILL 366

substitute amendment
The provides that in determining assessability, however, the number of dwelling units in a condominium is the controlling factor.

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.

or a condominium unit

substitute amendment
LPS USE 3X

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.

ASSEMBLY BILL 366

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.

ASSEMBLY BILL 366

SECTION 1

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. ✓

ASSEMBLY BILL 366

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. *(NO) FNS 5-10*

neighborhood improvement district

FNS 5-13

~~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~~

ASSEMBLY BILL 366**SECTION 1**

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

ASSEMBLY BILL 366

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.

ASSEMBLY BILL 366**SECTION 1**

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

ASSEMBLY BILL 366

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.

ASSEMBLY BILL 366

SECTION 1

or condominiums

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

*Notwithstanding
p. 703.21 for purposes
of determining*

4 (b) A municipality may terminate a neighborhood improvement district at any
5 time.

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

8 (END)

*assessability under
this subsection, the
number of dwelling units
in a condominium shall
control*

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NOT The local legislative body shall publish a class 2 notice under ch. 985 regarding the meeting at which the *local legislative* body will vote on whether to adopt the proposed initial operating plan for the neighborhood improvement district. Before publication, a copy of the notice shall be sent by certified mail to all owners of real property within the proposed neighborhood improvement district.

INSERT 5-13

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

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

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

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

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

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