



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-2034/1
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2015 ASSEMBLY BILL 133

March 27, 2015 – Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Ways and Means.

1 **AN ACT** *to repeal* 66.1105 (6) (f) 2. (intro.), 66.1105 (6) (f) 2. a., 66.1105 (6) (f) 2.
2 b. and 66.1105 (6) (f) 2. c.; *to renumber* 66.1105 (14); *to renumber and amend*
3 66.1105 (6) (f) 2. d.; *to amend* 66.1105 (2) (i), 66.1105 (6) (e) 1. a., 66.1105 (6)
4 (f) 1. a., 66.1105 (14) (title), 66.1106 (2) (c) and 66.1106 (7) (e) (intro.); and *to*
5 *create* 66.1105 (6) (h) and 66.1105 (14) (b) of the statutes; **relating to:**
6 modifying the requirements for sharing tax increments by tax incremental
7 districts, limiting the participation of certain special purpose districts in tax
8 incremental district financing, and authorizing any tax incremental district to
9 use allocated tax increments donated from another tax incremental district.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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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JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Study Committee on Review of Tax Incremental Financing.

Background

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. Currently, towns and counties also have a limited ability to create a TID under certain circumstances. Also under current law, once a TID has been created, the Department of Revenue (DOR) calculates the "tax incremental 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 costs of the TID.

A TID is required to terminate, under current law and with some exceptions, once its project costs are paid back. Under one of the exceptions, the city, village, town, or county (political subdivision) may amend the TID's project plan to allow the positive tax increments from the TID ("donor" TID) to be allocated to another TID ("recipient" TID) also created by the political subdivision. Positive tax increments may not be allocated from a donor TID to a recipient TID unless all of the following conditions have been met:

- Both the donor and recipient TIDs are in the same municipality and have the same overlying taxing jurisdictions (county, school district, technical college district, lake sanitary district, a public inland lake protection and rehabilitation district, and a town sanitary district).
- The donor TID has first satisfied all of its current-year debt service and project cost obligations.
- The allocation of tax increments is approved by the Joint Review Board (JRB).

If both the donor TID and recipient TID were created before October 1, 1995 (or before October 1, 1996, for first class cities) the donor TID may, in general, allocate its positive tax increments for up to 10 years if all of the following conditions are met:

- The donor TID and the recipient TID have the same overlying taxation jurisdictions.
- The donor TID is able to demonstrate, based upon the positive tax increments that are currently generated, that it has sufficient revenues to pay for all project costs that have been incurred under the project plan for the district and sufficient surplus to pay for some of the eligible costs of the recipient TID.

Also, under current law, not all types of TIDs may be a recipient TID and use donated tax increments. Donated tax increments may only be used if one of the following applies to the recipient TID:

- The project costs in the recipient TID are used to create, provide, or rehabilitate low-cost housing or to remediate environmental contamination.
- The recipient TID was created upon a finding that not less than 50 percent, by area, of the real property within the TID is blighted or in need of rehabilitation.
- The recipient TID is a mixed-use or industrial-use district that has been designated as a distressed TID or a severely distressed TID.
- The recipient TID is an environmental remediation TID.

The Bill

Under the bill, for TIDs that exist on the effective date of the bill, such donor TIDs may share tax increments notwithstanding the fact that they do not have the same overlying taxation jurisdictions as the donee districts if the dissimilarity is because one of the districts includes a lake sanitary district, a public inland lake protection and rehabilitation district, or a town sanitary district (special districts). Also, for TIDs created on or after the day the bill takes effect, special districts may not participate in the

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financing of a TID. Lastly, this bill allows any type of TID to be a recipient TID and use donated tax increments.

1 **SECTION 1.** 66.1105 (2) (i) of the statutes is amended to read:

2 66.1105 (2) (i) “Tax increment” means that amount obtained by multiplying the
3 total county, city, school and other local general property taxes levied on all taxable
4 property within a tax incremental district in a year by a fraction having as a
5 numerator the value increment for that year in the district and as a denominator that
6 year’s equalized value of all taxable property in the district. In any year, a tax
7 increment is “positive” if the value increment is positive; it is “negative” if the value
8 increment is negative. With regard to a tax incremental district created on or after
9 the effective date of this paragraph [LRB inserts date], the calculation of a tax
10 increment may not include general property taxes levied by a lake sanitary district,
11 as defined in s. 30.50 (4q), a public inland lake protection and rehabilitation district
12 organized under ch. 33, or a town sanitary district organized under subch. IX of ch.
13 60.

NOTE: This SECTION amends the definition of a tax increment to exclude general taxes levied by lake sanitary districts, public inland lake protection and rehabilitation districts, and town sanitary districts from the calculation of a tax increment for any TID created on or after the effective date of this bill. The bill also excludes these general taxes from the allocation of tax increments from a donor TID to a recipient TID.

14 **SECTION 2.** 66.1105 (6) (e) 1. a. of the statutes is amended to read:

15 66.1105 (6) (e) 1. a. The Except as provided in par. (h), the donor tax
16 incremental district, the positive tax increments of which are to be allocated, and the
17 recipient tax incremental district have the same overlying taxing jurisdictions.

18 **SECTION 3.** 66.1105 (6) (f) 1. a. of the statutes is amended to read:

19 66.1105 (6) (f) 1. a. The Except as provided in par. (h), the donor tax incremental
20 district, the positive tax increments of which are to be allocated, and the recipient
21 tax incremental district have the same overlying taxing jurisdictions.

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NOTE: SECTIONS 2 and 3 create a cross-reference to an exception to the requirement that the donor and recipient TIDs must have the same overlying taxation jurisdiction in order for positive tax increments to be allocated to the recipient. The exception is created in SECTION 9 of the bill and applies to an existing TID.

1 **SECTION 4.** 66.1105 (6) (f) 2. (intro.) of the statutes is repealed.

2 **SECTION 5.** 66.1105 (6) (f) 2. a. of the statutes is repealed.

3 **SECTION 6.** 66.1105 (6) (f) 2. b. of the statutes is repealed.

4 **SECTION 7.** 66.1105 (6) (f) 2. c. of the statutes is repealed.

NOTE: SECTIONS 4, 5, 6, and 7 repeal the language that allows an allocation of tax increments to be used by a recipient TID only if one of the following applies: (1) the project costs in the recipient TID are used to create, provide, or rehabilitate low-cost housing or to remediate environmental contamination; (2) the recipient TID was created upon a finding that not less than 50 percent, by area, of the real property within the district is blighted or in need of rehabilitation; or (3) the recipient is a mixed-use or industrial use district that has been designated as a distressed TID or a severely distressed TID.

5 **SECTION 8.** 66.1105 (6) (f) 2. d. of the statutes is renumbered 66.1105 (6) (f) 5.

6 and amended to read:

7 66.1105 (6) (f) 5. ~~The recipient district is an~~ An environmental remediation tax
8 incremental district created under s. 66.1106 may be a recipient district and may use
9 any allocated tax increments that are allocated to it under this paragraph.

NOTE: This SECTION clarifies that tax increments generated from a TID created under s. 66.1105, stats., may still be allocated to, and used by, an environmental remediation TID.

10 **SECTION 9.** 66.1105 (6) (h) of the statutes is created to read:

11 66.1105 (6) (h) With regard to a tax incremental district that exists on the
12 effective date of this paragraph [LRB inserts date], positive tax increments
13 generated by one district may be allocated to another district, as described under
14 pars. (e) and (f), if the two districts do not have the same overlying taxation districts
15 because either the donor or recipient district includes one or more of the following:

16 1. A lake sanitary district, as defined in s. 30.50 (4q).

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1 2. A public inland lake protection and rehabilitation district organized under
2 ch. 33.

3 3. A town sanitary district organized under subch. IX of ch. 60.

NOTE: This SECTION creates an exception to the requirement that the donor and recipient TIDs must have the same overlying taxation jurisdictions in order for tax increments to be allocated to the recipient. With regard to a TID that exists on the effective date of the bill, positive tax increments generated by one TID may be allocated to another TID even if the two districts do not have the same overlying taxation districts if their dissimilarity is because either the donor or the recipient TID has one or more special purpose districts not shared by the other.

4 **SECTION 10.** 66.1105 (14) (title) of the statutes is amended to read:

5 66.1105 (14) (title) USE OF TAX INCREMENTAL FINANCING FOR INLAND LAKE
6 PROTECTION AND REHABILITATION PROHIBITED, LIMITING PARTICIPATION OF CERTAIN LAKE
7 AND SANITARY DISTRICTS.

NOTE: This SECTION amends the title of the section of the statutes to include reference to the content created in SECTION 12 of the bill.

8 **SECTION 11.** 66.1105 (14) of the statutes is renumbered 66.1105 (14) (a).

9 **SECTION 12.** 66.1105 (14) (b) of the statutes is created to read:

10 66.1105 (14) (b) For a tax incremental district that is created on or after the
11 effective date of this paragraph [LRB inserts date], none of the following special
12 purpose districts may participate in the financing of a tax incremental district:

- 13 1. A lake sanitary district, as defined in s. 30.50 (4q).
- 14 2. A public inland lake protection and rehabilitation district organized under
15 ch. 33.
- 16 3. A town sanitary district organized under subch. IX of ch. 60.

NOTE: SECTION 11 renumbers a provision of the statutes related to inland lake protection and rehabilitation districts and SECTION 12 provides that lake sanitary districts, public inland lake protection and rehabilitation districts, and town sanitary districts may not participate in the financing of any TID created on or after the effective date of this bill.

17 **SECTION 13.** 66.1106 (2) (c) of the statutes is amended to read:

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1 66.1106 (2) (c) Notwithstanding par. (a) or (b), or sub. (7) (d) 1. or (11) (a), if the
2 governing body of a political subdivision determines that all eligible costs of an
3 environmental remediation tax incremental district that it created will be paid
4 before the date specified in sub. (11) (b), the governing body of that political
5 subdivision may adopt a resolution requesting that the department allocate positive
6 environmental remediation tax increments generated by that donor environmental
7 remediation tax incremental district to pay the eligible costs of another
8 environmental remediation tax incremental district created by that governing body
9 or to pay project costs, as defined in s. 66.1105 (2) (f), of a tax incremental district
10 created under s. 66.1105 and located in the same overlying taxing jurisdictions ~~and~~
11 ~~that satisfies one of the requirements under s. 66.1105 (6) (f) 2.~~ A resolution under
12 this paragraph must be adopted before the expiration of the period of certification.

13 **SECTION 14.** 66.1106 (7) (e) (intro.) of the statutes is amended to read:

14 66.1106 (7) (e) (intro.) Notwithstanding par. (d), if the governing body of a
15 political subdivision adopts a resolution described in sub. (2) (c), it shall provide a
16 copy of the resolution to the department. The department shall authorize a positive
17 environmental remediation tax increment generated by a donor district, as described
18 in sub. (2) (c), to the political subdivision that incurred eligible costs to remediate
19 environmental pollution in another district within that political subdivision or that
20 incurred project costs, as defined in s. 66.1105 (2) (f), for a tax incremental district
21 within that political subdivision that was created under s. 66.1105 ~~and that satisfies~~
22 ~~one of the requirements under s. 66.1105 (6) (f) 2.,~~ as described in sub. (2) (c), until
23 the earlier of the following occurs:

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NOTE: These SECTIONS update a cross-reference to make sure that tax increments generated in an environmental remediation TID may still be a donor TID and allocate positive tax increments to a TID created under s. 66.1105, stats.

1

(END)