

2017 Senate Bill 173 (LRB -2714)

An Act to renumber 66.0627 (1) (a); to renumber and amend 75.106 (4); to amend 66.0627 (title), 66.0627 (8) (a), 66.0627 (8) (d), 66.1105 (4) (gm) 4. c., 75.106 (2), 292.13 (1m) (intro.) and 292.13 (2); and to create 24.63 (5), 66.0627 (1) (ad), 66.1105 (20), 66.1106 (15), 66.1109 (2m), 66.1109 (4g), 66.1110 (4m), 75.106 (4) (b), 285.675, 292.15 (1) (c) and 292.15 (2) (af) of the statutes; relating to: remediation of contaminated land; air pollution control requirements for certain manufacturing facilities constructed on formerly contaminated land; reassigning tax deeds on tax delinquent brownfield properties; creating a new method for the creation of environmental remediation tax incremental financing districts; loans and repayment assistance by a political subdivision for certain brownfield revitalization projects and collection of the debt by special charge; state trust fund loans for brownfield projects; conversion of business improvement districts; and annexations to business improvement districts and neighborhood improvement districts. (FE)

2017

04-13.	S.	Introduced by Senators Cowles and Olsen ; cosponsored by Representatives Jacque , Thiesfeldt , Skowronski and Allen	196
04-13.	S.	Read first time and referred to Committee on Government Operations, Technology and Consumer Protection	196
04-20.	S.	Fiscal estimate received	
04-20.	S.	Fiscal estimate received	
10-10.	S.	Public hearing held	
10-13.	S.	Senate Amendment 1 offered by Senators Cowles and Stroebel (LRB a1326)	484
10-18.	S.	Senate Amendment 2 offered by Senator Cowles (LRB a1371)	490
10-19.	S.	Executive action taken	
10-24.	S.	Report adoption of Senate Amendment 2 recommended by Committee on Government Operations, Technology and Consumer Protection, Ayes 5, Noes 0	501
10-24.	S.	Report passage as amended recommended by Committee on Government Operations, Technology and Consumer Protection, Ayes 5, Noes 0	501
10-24.	S.	Available for scheduling	
10-26.	S.	Senate Amendment 1 to Senate Amendment 2 offered by Senator Cowles (LRB a1447)	506
11-03.	S.	Referred to joint committee on Finance by Committee on Senate Organization pursuant to Senate Rule 41 (1)(e), Ayes 5, Noes 0	531
11-03.	S.	Withdrawn from joint committee on Finance and made Available for Scheduling by committee on Senate Organization, pursuant to Senate Rule 41 (1)(e), Ayes 5, Noes 0	531
11-03.	S.	Placed on calendar 11-7-2017 pursuant to Senate Rule 18(1)	531
11-07.	S.	Read a second time	
11-07.	S.	Senate Amendment 1 to Senate Amendment 2 adopted	
11-07.	S.	Senate Amendment 2 adopted	
11-07.	S.	Ordered to a third reading	
11-07.	S.	Rules suspended	
11-07.	S.	Read a third time and passed , Ayes 33, Noes 0	
11-07.	S.	Ordered immediately messaged	
11-07.	A.	Received from Senate	521
11-07.	A.	Read first time and referred to calendar of 11-9-2017	522
11-09.	A.	Rules suspended to withdraw from calendar and take up	540
11-09.	A.	Read a second time	540
11-09.	A.	Ordered to a third reading	540
11-09.	A.	Rules suspended	540
11-09.	A.	Read a third time and concurred in	540
11-09.	A.	Ordered immediately messaged	540
11-09.	S.	Received from Assembly concurred in	

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2017 ENROLLED BILL

Adopted Documents

Original

Engrossed

Substitute Amdt

17 2714 / 1

Amendments: None or Listed below.

SA 2

SA 1 to SA 2

Corrections: None or Listed by date below.

11/14/17

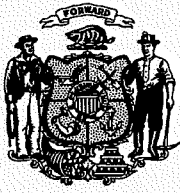
Topic: Same as relating clause or other, indicated below.

Contaminated land policies, tax deeds on tax delinquent brownfield properties, environmental remediation TIF districts, brownfield projects, and business improvement districts

11/14/17

Date

Enrolling Drafter



State of Wisconsin
2017-2018 LEGISLATURE

CORRECTIONS IN:

2017 SENATE BILL 173

Prepared by the Legislative Reference Bureau
(November 17, 2017)

In enrolling, the following corrections were made:

1. Page 7, line 17: delete "subd." and substitute "subds."
2. Page 11, line 5: on lines 5 and 9, delete "40%" and substitute "40 percent".

(END)



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-2714/1
MCP/JK/MES/EVM:all

2017 SENATE BILL 173

April 13, 2017 - Introduced by Senators COWLES and OLSEN, cosponsored by Representatives JACQUE, THIESFELDT, SKOWRONSKI and ALLEN. Referred to Committee on Government Operations, Technology and Consumer Protection.

1 **AN ACT** *to renumber* 66.0627 (1) (a); *to renumber and amend* 75.106 (4); *to*
2 *amend* 66.0627 (title), 66.0627 (8) (a), 66.0627 (8) (d), 66.1105 (4) (gm) 4. c.,
3 75.106 (2), 292.13 (1m) (intro.) and 292.13 (2); and *to create* 24.63 (5), 66.0627
4 (1) (ad), 66.1105 (20), 66.1106 (15), 66.1109 (2m), 66.1109 (4g), 66.1110 (4m),
5 75.106 (4) (b), 285.675, 292.15 (1) (c) and 292.15 (2) (at) of the statutes; **relating**
6 **to:** remediation of contaminated land; air pollution control requirements for
7 certain manufacturing facilities constructed on formerly contaminated land;
8 reassigning tax deeds on tax delinquent brownfield properties; creating a new
9 method for the creation of environmental remediation tax incremental
10 financing districts; loans and repayment assistance by a political subdivision
11 for certain brownfield revitalization projects and collection of the debt by
12 special charge; state trust fund loans for brownfield projects; conversion of

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- 1 business improvement districts; and annexations to business improvement
2 districts and neighborhood improvement districts.

Analysis by the Legislative Reference Bureau

Remediating contaminated land

Current law requires a person who possesses or controls property where there is a hazardous substance in the soil or groundwater, or who caused the discharge of a hazardous substance, to restore the environment and minimize the harmful effects of the discharge. A person who possesses or controls property where there is a hazardous substance in the soil or groundwater is exempt from these requirements if the person did not cause the discharge, if the discharge originated from another person's property, and if the person agrees to allow the Department of Natural Resources or the person who caused the discharge to enter the property to investigate and remedy the discharge.

When there is a hazardous substance in the soil or groundwater, it may be emitted as a vapor. This bill provides that a person who possesses or controls property where there is a hazardous substance in vapor emitted from the soil or groundwater is also exempt from the remediation requirements if the person did not cause the discharge, if the discharge originated from another person's property, and if the person agrees to allow DNR or the person who caused the discharge to enter the property to investigate and remedy the discharge.

Current law also provides that if a person who possesses or controls property contaminated by a hazardous substance, or who caused the discharge of a hazardous substance, voluntarily undertakes certain investigation and remediation actions on the contaminated property that are approved by DNR, the person is exempt from liability for certain other investigation and remediation actions and their costs.

This bill provides a definition of the term "property" in relation to the voluntary party liability exemption for remediation of contaminated land. The bill also provides that a property may be subdivided or transferred without affecting the liability exemption or requiring a new application.

Pilot program

Current federal law and state law require construction permits and operation permits for certain stationary sources of air pollution. Under certain circumstances, DNR may issue a registration permit authorizing construction or operation or both for a stationary source with low actual or potential emissions.

This bill creates a pilot program under which a participating owner or operator of a stationary source is not required to make changes to the source's air pollution controls due to new or modified legal requirements, except as required under the federal Clean Air Act, for ten years after DNR issues a registration permit for the source. This exemption would apply only if the source 1) is classified as a minor source, which is a facility that emits air contaminants from a fixed location in an amount that is less than an amount specified by DNR by rule; 2) is a manufacturing facility that is being constructed on formerly contaminated land that has been

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certified by DNR as having been remediated; and 3) is included in the Green Tier Program, under which entities voluntarily undertake actions that are likely to result in significant reductions in emissions of greenhouse gases or in energy use.

Tax deeds

Under current law, before the county takes a foreclosure judgment on a brownfield property for which the owner has failed to pay property taxes, the county may assign its foreclosure rights to a person who agrees to remediate, maintain, and monitor the property according to rules promulgated by DNR.

This bill provides that a county may also assign its right to take a tax deed on brownfield property to a person who agrees to remediate, maintain, and monitor the property according to DNR rules.

Tax incremental financing; environmental remediation

This bill changes the way environmental remediation tax incremental districts are created.

Under the current tax incremental financing program, a city or village may create a 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. Before a city or village may create a TID, several steps and plans are required. These steps and plans include public hearings on the proposed TID within specified time frames, preparation and adoption by the local planning commission of a proposed project plan for the TID, approval of the proposed project plan by the common council or village board, approval of the city's or village's proposed TID by a joint review board that consists of members who represent the overlying taxation districts, and adoption of a resolution by the common council or village board that creates the TID as of a date provided in the resolution.

Also under current law, once a TID has been created, the Department of Revenue 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.

The project costs of a TID, which are initially incurred by the creating city or village, include public works such as sewers, streets, and lighting systems; financing costs; site preparation costs; and professional service costs. DOR authorizes the allocation of the tax increments until the TID terminates or, generally, 20 years, 23 years, or 27 years after the TID is created, depending on the type of TID and the year in which it was created. Also under current law, a city or village may not generally make expenditures for project costs later than five years before the unextended termination date of the TID. Under certain circumstances, the life of the TID, the expenditure period, and the allocation period may be extended.

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Currently, before a TID may be created or its project plan amended, the city or village must adopt a resolution containing a finding that the equalized value of taxable property of the TID plus the value increment of all existing TIDs does not exceed 12 percent of the total equalized value of taxable property in the city or village (the 12 percent test), subject to one general exception.

Under current law, the environmental remediation tax incremental financing statute permits a city, village, town, or county to recoup the costs of remediating contaminated property from property taxes that are levied on the remediated property. The mechanism for financing remediation costs is similar to the mechanism for financing project costs under the tax incremental financing program, including the political subdivision's adoption of a resolution creating the environmental remediation tax incremental district (ERTID), joint review board project plan approval, and DOR certification of the district's tax incremental base.

DOR is required to certify the environmental remediation tax incremental base if the political subdivision submits to DOR all of the following: 1) a statement that the political subdivision has incurred some eligible costs, together with a detailed proposed remedial action plan approved by DNR that contains cost estimates for anticipated eligible costs, a schedule for the design and implementation that is needed to complete the remediation, and certification from DNR that it has approved the site investigation report that relates to the parcel; 2) a statement that all taxing jurisdictions with authority to levy general property taxes on the parcel of property have been notified that the political subdivision intends to recover its environmental remediation costs by using an environmental remediation tax increment; and 3) a statement that the political subdivision has attempted to recover its environmental remediation costs from the person who is responsible for the environmental pollution that is being remediated. Thereafter, the political subdivision that created the ERTID may use positive environmental remediation tax increments to pay eligible costs of remediating environmental pollution in the ERTID.

Currently, the maximum life of an ERTID is 23 years and no expenditure for an eligible cost may be made by a political subdivision later than 15 years after the environmental remediation tax incremental base is certified by DOR. An ERTID may also terminate when a political subdivision has received sufficient environmental remediation tax increments to cover all of the eligible costs.

Under this bill, no new ERTIDs may be created under current ERTID law. Under the bill, ERTIDs may be created under the existing TID statutes and may operate just like regular TIDs, subject to a number of conditions and exceptions. Under the bill, the city or village creating the ERTID must obtain from DNR a certified site investigation report. To obtain the report, the city or village must submit to DNR detailed information regarding the environmental pollution that exists within the boundaries of the proposed ERTID and a proposed remediation plan. If DNR agrees with the description of the problem and the proposed remediation plan, it must certify the report. Property containing significant environmental pollution must constitute the majority of the territory in the proposed ERTID. A city or village may modify and resubmit the report to DNR if the department does not approve of the proposed report as submitted.

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Under the bill, the 12 percent test does not apply to ERTIDs, and the tax incremental base of an ERTID must be \$1 when the district is created. In addition, an ERTID created under the current TID law would have a maximum life of 27 years. ERTIDs may be created under the process created in the bill by a city, village, town, or county to the same extent that such a political subdivision may currently create a TID.

Property assessed clean energy loans

Under current law, a city, village, or town may impose a special charge against real property for services rendered by allocating the cost of the service to the properties that are served. Generally, a special charge is not payable in installments. Also under current law, a political subdivision may make a loan to, or enter into a loan repayment agreement with, an owner or lessee of a premises for making or installing certain energy or water efficiency improvements (property assessed clean energy or PACE program). The political subdivision may collect a loan repayment under the PACE program as a special charge. A special charge imposed under the PACE program may be collected in installments. Also, a political subdivision may allow a third party that has provided financing for the PACE program project to collect the installments.

Under this bill, a political subdivision may make a PACE loan to, or enter a PACE agreement with, an owner or lessee of a premises for a brownfield revitalization project. Brownfield revitalization projects are certain actions taken upon a commercial or industrial premises that is located on, or that constitutes, a brownfield. A brownfield is an abandoned, idle, or underused industrial or commercial facility or site, the expansion or redevelopment of which is adversely affected by actual or perceived environmental contamination. The actions that may be included within a brownfield revitalization project under this bill are site assessment, remediation, lead or asbestos abatement, demolition, and other standard site preparation actions. A political subdivision that makes a PACE loan, or enters into a PACE agreement, for a brownfield revitalization project must provide a repayment period of not more than 20 years.

Neighborhood improvement districts and business improvement districts

Under current law, a municipality may create a business improvement district (BID), upon being petitioned to do so by a business owner whose business is located in the proposed BID, if a number of steps are taken. A BID consists of contiguous parcels of land and operates under an operating plan approved by the BID board and the municipality. The creating municipality may impose special assessments on real property in the BID, other than real property used exclusively for residential purposes and property exempt from general property taxes, to provide for development, redevelopment, maintenance, operation, and promotion of the BID.

Also under current law, a municipality may create a neighborhood improvement district (NID), upon being petitioned to do so by an owner of real property that is located in the proposed NID, if a number of steps are taken. In general, an NID is an area within a municipality consisting of parcels that are nearby one another, but not necessarily contiguous, at least some of which are used for residential purposes and are subject to general real estate taxes. An NID operates

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under an operating plan approved by the NID board and the municipality. The creating municipality may impose special assessments on real property located within the NID, except real property that is used exclusively for fewer than eight residential dwelling units and real property that is exempt from general property taxes, to provide for the development, redevelopment, maintenance, operation, and promotion of the NID.

Under this bill, territory may be annexed to a BID or NID using essentially the same procedure as for the creation of the BID or NID. Also under this bill, upon petition by an owner of real property that is subject to general real estate taxes, that is used exclusively for residential purposes, and that is located in a BID, a BID may convert to an NID.

State trust fund loans

Under current law, the Board of Commissioners of Public Lands manages the common school fund, the normal school fund, the university fund, and the agricultural college fund (trust funds). BCPL also administers a state trust fund loan program under which it makes loans, from moneys belonging to the trust funds, to school districts, local governments, and certain other public entities for certain public purposes. Also under current law, the Wisconsin Constitution prohibits a municipality from becoming indebted in an amount that exceeds 5 percent of the taxable property located in the municipality.

This bill provides that a state trust fund loan to a municipality made for the purpose of funding a project related to brownfields may not be included in arriving at the constitutional debt limitation if 1) the term of the loan is not more than 15 years, 2) the loan is not in default, and 3) DNR verifies to BCPL that the site on which the project will occur is a brownfield.

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.** 24.63 (5) of the statutes is created to read:
- 2 **24.63 (5) BROWNFIELD PROJECT LOANS.** A state trust fund loan to a city, village,
- 3 or town made for the purpose of funding a project related to brownfields, as defined
- 4 in s. 238.13 (1) (a), may not be included in arriving at the debt limitation under sub.
- 5 (1) or the constitutional debt limitation under article XI, section 3, of the constitution
- 6 if all of the following apply:
- 7 (a) The term of the loan is not more than 15 years.

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1 (b) The loan is not in default.

2 (c) The department of natural resources verifies to the board that the site on
3 which the project will occur is a brownfield, or, if the project encompasses more than
4 one site, verifies that not less than 50 percent of the project area is brownfield.

5 **SECTION 2.** 66.0627 (title) of the statutes is amended to read:

6 **66.0627 (title) Special charges for current services and energy and**
7 **~~water efficiency improvement loans certain loan repayments.~~**

8 **SECTION 3.** 66.0627 (1) (a) of the statutes is renumbered 66.0627 (1) (am).

9 **SECTION 4.** 66.0627 (1) (ad) of the statutes is created to read:

10 66.0627 (1) (ad) "Brownfield revitalization project" means any of the following
11 actions when taken upon commercial or industrial premises that are located on, or
12 that constitute, brownfields, as defined in s. 238.13 (1) (a):

- 13 1. Site assessment.
- 14 2. Remediation.
- 15 3. Lead or asbestos abatement.
- 16 4. Demolition.
- 17 5. Standard site preparation actions not included in subd. 1. to 4.

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18 **SECTION 5.** 66.0627 (8) (a) of the statutes is amended to read:

19 66.0627 (8) (a) A political subdivision may make a loan, or enter into an
20 agreement regarding loan repayments to a 3rd party for owner-arranged or
21 lessee-arranged financing, to an owner or lessee of a premises located in the political
22 subdivision for a brownfield revitalization project or for making or installing an
23 energy efficiency improvement, a water efficiency improvement, or a renewable
24 resource application to the premises. If a political subdivision makes a loan or enters
25 into an agreement under this paragraph, the political subdivision may collect the

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1 loan repayment as a special charge under this section. Notwithstanding sub. (4), a
2 special charge imposed under this paragraph may be collected in installments and
3 may be included in the current or next tax roll for collection and settlement under
4 ch. 74 even if the special charge is not delinquent. If a political subdivision makes
5 a loan, or enters into an agreement regarding loan repayments to a 3rd party, for a
6 brownfield revitalization project under this paragraph, the repayment period may
7 exceed 20 years.

8 **SECTION 6.** 66.0627 (8) (d) of the statutes is amended to read:

9 66.0627 (8) (d) A political subdivision that, under par. (a), makes a loan to, or
10 enters an agreement with, an owner for making or installing an improvement or
11 application that costs \$250,000 or more shall require the owner to obtain a written
12 guarantee from the contractor or project engineer that the improvement or
13 application will achieve a savings-to-investment ratio of greater than 1.0 and that
14 the contract or engineer will annually pay the owner any shortfall in savings below
15 this level. The political subdivision may determine the method by which a guarantee
16 under this paragraph is enforced. This paragraph does not apply to a loan or
17 agreement for a brownfield revitalization project.

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

19 66.1105 (4) (gm) 4. c. Except as provided in subs. (10) (c), (16) (d), (17), and (18)
20 (c) 3., and (20) (c) ^{(d) 1.} the equalized value of taxable property of the district plus the value
21 increment of all existing districts does not exceed 12 percent of the total equalized
22 value of taxable property within the city. In determining the equalized value of
23 taxable property under this subd. 4. c. or sub. (17) (c), the department of revenue
24 shall base its calculations on the most recent equalized value of taxable property of
25 the district that is reported under s. 70.57 (1m) before the date on which the

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1 resolution under this paragraph is adopted. If the department of revenue determines
2 that a local legislative body exceeds the 12 percent limit described in this subd. 4. c.
3 or sub. (17) (c), the department shall notify the city of its noncompliance, in writing,
4 not later than December 31 of the year in which the department receives the
5 completed application or amendment forms described in sub. (5) (b).

6 SECTION 8. 66.1105 (20) of the statutes is created to read:

7 66.1105 (20) ENVIRONMENTAL REMEDIATION DISTRICTS. (a) In this subsection:

8 1. "Environmental pollution" has the meaning given in s. 299.01 (4).

9 2. "Environmental remediation tax incremental district" means a tax
10 incremental district created under this section, most of the territory of which consists
11 of areas that contain significant environmental pollution, and which is subject to the
12 conditions and limitations contained in this subsection.

13 (b) Before a city may adopt a resolution under sub. (4) (gm) with regard to an
14 environmental remediation tax incremental district, the local legislative body shall
15 obtain under par. (c) a certified site investigation report from the department of
16 natural resources. The city shall submit a copy of the certified report to the
17 department of revenue before the department may allocate tax increments under
18 sub. (6).

19 (c) To obtain a certified site investigation report, the city shall send to the
20 department of natural resources a detailed description of the significant
21 environmental pollution that exists in the proposed district, and a proposed remedial
22 action plan that contains cost estimates for anticipated project costs and a schedule
23 for the design, implementation, and construction that is needed to complete the
24 remediation with respect to the proposed district in accordance with rules
25 promulgated by the department of natural resources. If the department of natural

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(41)

do all of
the
following:
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SECTION 8

1 resources agrees with the city's description of the conditions in the proposed district
2 and approves of the city's proposed remedial action plan, it shall provide the city with
3 written certification that the department of natural resources has approved the site
4 investigation report. If the department of natural resources does not approve the
5 report, the city may modify and resubmit the report to the department of natural
6 resources.

7 (d) With regard to an environmental remediation tax incremental district
8 created under this subsection:

9 1. The 12-percent limit specified in sub. (4) (gm) 4. c. does not apply.

SA 2 #4

10 2. Notwithstanding the provisions of sub. (5), the tax incremental base of the
11 district shall be \$1 when the district is created.

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INC SA 2 #5.

12 **SECTION 9.** 66.1106 (15) of the statutes is created to read:

13 66.1106 (15) SUNSET. No district may be created under this section on or after
14 the effective date of this subsection [LRB inserts date].

15 **SECTION 10.** 66.1109 (2m) of the statutes is created to read:

16 66.1109 (2m) A municipality may annex territory to an existing business
17 improvement district if all of the following are met:

18 (a) An owner of real property used for commercial purposes and located in the
19 territory proposed to be annexed has petitioned the municipality for annexation.

20 (b) The planning commission has approved the annexation.

21 (c) At least 30 days before annexation of the territory, the planning commission
22 has held a public hearing on the proposed annexation. Notice of the hearing shall
23 be published as a class 2 notice under ch. 985. Before publication, a copy of the notice
24 together with a copy of a detail map showing the boundaries of the territory proposed
25 to be annexed to the business improvement district shall be sent by certified mail to

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1 all owners of real property within the territory proposed to be annexed. The notice
2 shall state the boundaries of the territory proposed to be annexed.

3 (d) Within 30 days after the hearing under par. (c), the owners of property in
4 the territory to be annexed that would be assessed under the operating plan having
5 a valuation equal to more than 40%^{percent} of the valuation of all property in the territory
6 to be annexed that would be assessed under the operating plan, using the method of
7 valuation specified in the operating plan, or the owners of property in the territory
8 to be annexed that would be assessed under the operating plan having an assessed
9 valuation equal to more than 40%^{percent} of the assessed valuation of all property in the
10 territory to be annexed that would be assessed under the operating plan, have not
11 filed a petition with the planning commission protesting the annexation.

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12 **SECTION 11.** 66.1109 (4g) of the statutes is created to read:

13 66.1109 (4g) A municipality may convert a business improvement district
14 under this section into a neighborhood improvement district under s. 66.1110 if an
15 owner of real property that is subject to general real estate taxes, that is used
16 exclusively for residential purposes, and that is located in the business improvement
17 district petitions the municipality for the conversion. If the municipality approves
18 the petition, the board shall consider and may make changes to the operating plan
19 under s. 66.1110 (4) (b).

20 **SECTION 12.** 66.1110 (4m) of the statutes is created to read:

21 66.1110 (4m) A municipality may annex territory to an existing neighborhood
22 improvement district if all of the following conditions are met:

23 (a) An owner of real property subject to general real estate taxes and located
24 in the territory proposed to be annexed has petitioned the municipality for
25 annexation.

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1 (b) The planning commission has approved the annexation.

2 (c) At least 30 days before annexation, the planning commission has held a
3 public hearing on the proposed annexation. Notice of the hearing shall be published
4 as a class 2 notice under ch. 985. Before publication, a copy of the notice, together
5 with a copy of a detail map showing the boundaries of the territory proposed to be
6 annexed to the neighborhood improvement district, shall be sent by certified mail to
7 all owners of real property within the territory proposed to be annexed. The notice
8 shall state the boundaries of the territory proposed to be annexed.

9 (d) Within 30 days after the hearing under par. (c), one of the following has not
10 filed a petition with the planning commission protesting the proposed annexation:

11 1. The owners of property in the territory to be annexed that would be assessed
12 under the operating plan having a valuation equal to more than 40 percent of the
13 valuation of all property in the territory to be annexed that would be assessed under
14 the operating plan, using the method of valuation specified in the operating plan.

15 2. The owners of property in the territory to be annexed that would be assessed
16 under the operating plan having an assessed valuation equal to more than 40 percent
17 of the assessed valuation of all property in the territory to be annexed that would be
18 assessed under the operating plan.

19 **SECTION 13.** 75.106 (2) of the statutes is amended to read:

20 75.106 (2) ASSIGNMENT AUTHORIZED. Before a judgment is issued under s. 75.521
21 or a tax deed is executed under s. 75.14, the governing body of a county may assign
22 to a person the county's right to take judgment with respect to any parcel that is
23 subject to ~~the county's foreclosure action under s. 75.521~~ or to take a tax deed with
24 respect to any parcel subject to s. 75.14, if all of the following apply:

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1 (a) The governing body of the county provides written notice to the governing
2 body of the city, town, or village in which the parcel ~~that is subject to the county's~~
3 ~~foreclosure action~~ is located at least 15 days before the governing body of the county
4 meets to consider the approval of the assignment.

5 (b) The governing body of the county produces a written assignment that is
6 signed on behalf of the county, the assignee and the city, town, or village in which the
7 parcel ~~that is subject to the county's foreclosure action~~ is located.

8 (c) The assignment identifies the parcel for which a judgment or tax deed is
9 assigned.

10 (d) The parcel for which a judgment or tax deed is assigned is a brownfield.

11 (e) The assignment requires an environmental assessment of the parcel and
12 requires that the department be provided the results of that assessment before a
13 final judgment under s. 75.521 or a tax deed under s. 75.14 related to the parcel is
14 granted to the assignee.

15 (f) The assignment requires that, if the parcel is contaminated by the discharge
16 of a hazardous substance, as determined by the assessment under par. (e), and if the
17 assignee elects to accept the judgment or deed assigned under this subsection
18 regardless of the contamination, the assignee enter into an agreement with the
19 department, before a final judgment is issued under s. 75.521 or a tax deed is issued
20 under s. 75.14 related to the parcel, to clean up the parcel to the extent practicable;
21 to minimize any harmful effects from the hazardous substance pursuant to rules the
22 department promulgates; and to maintain and monitor the parcel pursuant to rules
23 the department promulgates.

24 (g) The assignment and an affidavit from the county treasurer that attests to
25 the county governing body's approval of the assignment are filed with the court that

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1 is presiding over the county's foreclosure action under s. 75.521 or, in the case of a
2 tax deed issued under s. 75.14, with the register of deeds.

3 **SECTION 14.** 75.106 (4) of the statutes is renumbered 75.106 (4) (a) and
4 amended to read:

5 75.106 (4) (a) An assignee who is granted a judgment under sub. (3) shall take
6 title to, and is the owner of, the parcel that is the subject of the assignment, except
7 that a person who commences an action under s. 75.521 (14a) related to the parcel
8 shall commence the action against only the county that assigned judgment to the
9 parcel under sub. (2). An assignment under sub. (2) may provide that an assignee
10 under sub. (2) who is granted a judgement under sub. (3) shall indemnify the county
11 that makes the assignment and hold the county harmless against any loss, expense,
12 liability, or damage that the county may incur as a result of an action under s. 75.521
13 (14a).

14 **SECTION 15.** 75.106 (4) (b) of the statutes is created to read:

15 75.106 (4) (b) An assignee who is assigned a tax deed under sub. (2) shall take
16 title to, and is the owner of, the parcel that is the subject of the assignment, except
17 that a person who commences an action under s. 75.144 or 893.25 related to the
18 parcel shall commence the action against only the county that assigned the tax deed
19 under sub. (2). An assignment of a tax deed under sub. (2) may provide that an
20 assignee shall indemnify the county that makes the assignment and hold the county
21 harmless against any loss, expense, liability, or damage that the county may incur
22 as a result of an action under s. 75.144 or 893.25.

23 **SECTION 16.** 285.675 of the statutes is created to read:

24 **285.675 Pilot program for manufacturing facilities on brownfields. (1)**

25 In this section:

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1 (a) "Green Tier Program" means the program under s. 299.83.

2 (b) "Registration permit" means an air pollution control permit under s. 285.60

3 (2g).

4 (2) The department shall implement a pilot program under which a
5 participating owner or operator is not required to make changes to the air pollution
6 controls for a stationary source due to new or modified legal requirements, except as
7 required under the federal clean air act, for 10 years after the department grants
8 coverage under a registration permit for the stationary source.

9 (3) The department may allow an owner or operator to participate in the pilot
10 program under this section only if all of the following apply:

11 (a) The stationary source is a minor source and is eligible for coverage under
12 a registration permit.

13 (b) The stationary source is a manufacturing facility that the owner or operator
14 is constructing.

15 (c) The stationary source is located on property on which the owner or operator
16 has conducted the activities required under s. 292.15 (2) (a) 2., (ae) 2., or (ag) 1. and
17 the owner or operator has obtained a certificate of completion from the department
18 under s. 292.15 (2) (a) 3., (ae) 3., or (ag) 2. for the property.

19 (d) The owner or operator is a participant in tier I or tier II of the Green Tier
20 Program and the manufacturing facility is included in the program.

21 (4) The department may specify limitations on participation in the pilot
22 program, such as limitations on the number of participants or on the location in
23 which the pilot program operates.

24 (5) No later than the first day of the 60th month beginning after department
25 implements the pilot program, the department shall submit a report, to the governor

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SECTION 16

1 and to the standing committees of the legislature with jurisdiction over
2 environmental matters under s. 13.172 (3), on the pilot program, including the
3 environmental and economic effects of the pilot program and the department's
4 recommendations about whether the pilot program should be expanded.

5 **SECTION 17.** 292.13 (1m) (intro.) of the statutes is amended to read:

6 292.13 (1m) EXEMPTION FROM LIABILITY FOR SOIL CONTAMINATION. (intro.) A
7 person is exempt from s. 292.11 (3), (4) and (7) (b) and (c) with respect to the existence
8 of a hazardous substance in the soil, including sediments, or in vapor emitted from
9 the soil or groundwater on property possessed or controlled by the person if all of the
10 following apply:

11 **SECTION 18.** 292.13 (2) of the statutes is amended to read:

12 292.13 (2) DETERMINATIONS CONCERNING LIABILITY. The department shall, upon
13 request, issue a written determination that a person who possesses or controls
14 property on which a hazardous substance exists in the soil or groundwater, or in
15 vapor emitted from the soil or groundwater, is exempt from s. 292.11 (3), (4) and (7)
16 (b) and (c) if the person satisfies the applicable requirements in subs. (1) and (1m).
17 The department may revoke its determination if it determines that any of the
18 requirements in sub. (1) or (1m) cease to be met.

19 **SECTION 19.** 292.15 (1) (c) of the statutes is created to read:

20 292.15 (1) (c) "Property" means the area of real property that is included in an
21 application to obtain an exemption under this section, made up of a ^{legally identifiable} parcel or
22 ^{legally identifiable} contiguous parcels, the legal description of which is contained in one or more deeds.

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23 **SECTION 20.** 292.15 (2) (at) of the statutes is created to read:

24 292.15 (2) (at) *Subdivision, transfer, or other change in property.* The
25 subdivision or transfer of a property, the combination of a property with another

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created in compliance
with applicable laws

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1 property, or any other similar change to the legal boundaries of the property do not
2 affect a voluntary party's eligibility for the liability exemption under this section if
3 change occurs after the department has approved any required environmental
4 investigation and if all other applicable requirements for the exemption are met.

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(END)

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State of Wisconsin
2017 - 2018 LEGISLATURE

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**SENATE AMENDMENT 2,
TO SENATE BILL 173**

October 18, 2017 - Offered by Senator COWLES.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 8, line 20: delete “(c)” and substitute “(d) 1.”

3 **2.** Page 9, line 15: delete that line and substitute “do. all of the following:

4 1. Obtain under par. (c) a certified site investigation report from the
5 department of”.

6 **3.** Page 9, line 18: after that line insert:

7 “2. Certify to the department of revenue that at least one of the items specified
8 in this subd. 2. a. or b. apply. The starting point for determining a tax incremental
9 district’s remaining life, under this subd. 2. a. and b., is the date on which the
10 planning commission adopts the project plan under sub. (4) (f) or an amendment to
11 the project plan under sub. (4) (h). The certified item shall be one of the following:

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1 a. The project plan specifies that the city expects all project costs to be paid
2 within 90 percent of the tax incremental district's remaining life, based on the
3 district's termination date as calculated under sub. (7) (ak) to (au).

4 b. The project plan specifies that expenditures may be made only within the
5 first half of the tax incremental district's remaining life, based on the district's
6 termination date as calculated under sub. (7) (ak) to (au), and the limitation on the
7 expenditure period does not apply to any expenditure that is made to address
8 significant environmental pollution that was not identified in the original certified
9 site investigation report described in par. (c). No expenditure under this subdivision
10 may be made later than the time during which an expenditure may be made under
11 sub. (6) (am)."

12 **4.** Page 10, line 9: delete that line and substitute:

13 "1. The city may designate one environmental remediation tax incremental
14 district created under this subsection to which the 12 percent limit specified in sub.
15 (4) (gm) 4. c. does not apply. Once the city makes such a designation, it may not so
16 designate another environmental remediation tax incremental district until the
17 current district so designated terminates."

18 **5.** Page 10, line 11: after that line insert:

19 "(e) An environmental remediation tax incremental district created under this
20 subsection may not allocate positive tax increments under sub. (6) (e) or (f) to another
21 tax incremental district that is not an environmental remediation tax incremental
22 district."

23 **6.** Page 16, line 21: delete "a parcel" and substitute "a legally identifiable
24 parcel".

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1 **7.** Page 16, line 22: before “contiguous parcels” insert “legally identifiable”.

2 **8.** Page 16, line 22: delete “, the legal description of which is contained in one
3 or more deeds” and substitute “created in compliance with applicable laws”.

4 **9.** Page 16, line 24: delete the material beginning with that line and ending
5 with page 17, line 4, and substitute:

6 “292.15 (2) (at) *Subdivision, transfer, or other change in property.* If, after the
7 date on which the department approves the environmental investigation of the
8 property, a parcel within the property is subdivided or transferred, a parcel within
9 the property is combined with a parcel not within the property, or any other similar
10 change is made to parcels affecting the property, the property that is included in an
11 application to obtain an exemption under this section shall remain the same unless
12 the voluntary party submits an application to the department to modify the property.
13 If the voluntary party proposes to modify the property because of a subdivision,
14 transfer, or other change to parcels affecting the property, the voluntary party shall
15 submit a revised application or applications to obtain an exemption under this
16 section for the modified property or properties as defined under sub. (1) (c). If the
17 department approves a voluntary party’s proposed modification, each parcel within
18 the modified property not otherwise excluded under sub. (6m) or (7) shall meet all
19 of the requirements under par. (a), (ae), (af), or (ag) to be eligible for an exemption
20 under this section.”.

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to
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(END)

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Voluntary party
submits the
application for
exemption for

