



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2009 Senate Bill 291

Senate Amendments 1 and 2

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SENATE BILL 291

Senate Bill 291 authorizes a city or village to designate a tax incremental district (TID) that was created before October 1, 2008, as a distressed TID. Under the bill, a distressed TID may continue to exist and receive tax increments, as well as contributions from a donor TID, for up to 40 years after the distressed TID was created.

SENATE AMENDMENT 1

Senate Amendment 1 makes the following changes to the bill:

Provides That a TID May Not be Designated as Distressed Unless the Planning Commission Amends the TID's Project Plan to Reflect the TID's Distressed Status

Under **current law**, one of the steps required for creation of a TID is the preparation of a project plan for the TID by the Planning Commission. The project plan must include information such as the types of public works or improvements proposed for the TID, an economic feasibility study, a list of estimated project costs, and a description of the methods of financing the project costs.

Under the **bill**, a TID may not be designated as distressed unless several steps are taken, including holding a public hearing, adoption of a resolution by the local legislative body, and approval of the designation by the Joint Review Board. **Senate Amendment 1** provides that, in addition, the Planning Commission must amend the TID's project plan to reflect the TID's distressed status. When amending the project plan, the Planning Commission must follow the project plan amendment procedures set forth in current law, which include approval by the local legislative body, review by the Joint Review Board, and a public hearing.

Requires Additional Information to be Included in the Notice of the Public Hearing on Designation of a TID as Distressed

Under the **bill**, before a TID may be designated as distressed, the Common Council must hold a public hearing at which interested parties may express their views on the proposed designation. Notice of the hearing must be published as a Class 2 notice and sent to the overlying taxation districts. The notice must describe the resolution supporting designation of the TID as distressed and advise that a copy of the resolution will be provided on request.

Senate Amendment 1 requires the notice of the public hearing to also explain that the life of a distressed TID may be extended, that it may receive excess tax increments from a donor district, and that the life of the donor district may be extended to provide such increments.

Specifies That the Joint Review Board Must Take Action on a Resolution to Designate a TID as Distressed Within 30 Days After Receiving the Resolution and Other Required Information From the Clerk of the Local Legislative Body

Under **current law**, a TID may not be created unless the Joint Review Board approves the resolution creating the TID that is adopted by the local legislative body. The Joint Review Board must approve or deny the resolution within 30 days after receiving it.

Under the **bill**, a TID may not be designated as distressed unless the local legislative body adopts a resolution and forwards a copy of the resolution and the financial data that it used in the adoption process to the Joint Review Board. The Joint Review Board must evaluate the resolution and data to determine whether designation of the TID as distressed or the sharing of tax increments with the TID by a donor district is likely to enhance the ability of the city to pay its project costs related to the TID. The Joint Review Board may approve or deny the designation. A resolution to designate a TID as distressed may not take effect unless the Joint Review Board approves the designation.

Senate Amendment 1 provides that the Joint Review Board must approve or deny the designation within 30 days after receiving the resolution and other required materials from the local legislative body.

Donor TIDs

Senate Amendment 1 makes a technical change to clarify the time period during which a donor TID may provide tax increments to a distressed TID.

Authorizes a Joint Review Board to Ask the Department of Revenue (DOR) to Review the Data Used by the Local Legislative Body in Adopting a Resolution to Designate a TID as Distressed

Under **current law**, a TID may not be created unless the Joint Review Board approves the resolution creating the TID that is adopted by the local legislative body. The local legislative body must provide the Joint Review Board with certain information and projections related to the proposed TID such as the project costs, the amount of the costs to be paid with tax increments, the amount of increments expected to be generated, and the amount of the value increment to be created. The Joint Review Board may request the DOR to review the objective facts contained in any of the documents submitted to it by the local legislative body to determine whether all of the required information has

been provided or whether any of the information contains a factual inaccuracy. DOR must send a written response to the Joint Review Board within 10 working days after receiving the request.

Senate Amendment 1 authorizes a Joint Review Board to request DOR review of documents submitted by a local legislative body in support of a resolution to designate a TID as distressed, in the same manner that it may request DOR review of documentation related to initial creation of a TID.

SENATE AMENDMENT 2

Senate Amendment 2 makes the following changes to the bill:

Distressed and Severely Distressed TIDs

Senate Amendment 2 would modify Senate Bill 291 to create two separate categories of distressed TIDs: distressed TIDs and severely distressed TIDs. To be declared a severely distressed TID, the district's value increment in any year must be determined by DOR to have declined at least 25% from its highest value. Compared to the bill, Senate Amendment 2 would limit the extension of the lifespan of distressed TIDs.

Under **Senate Amendment 2**, a distressed district could extend its life and could be allocated positive tax increments for up to 10 years beyond the point in time the district would otherwise be required to terminate. Similarly, the amendment would allow a donor district to allocate positive tax increments to a distressed district and extend its life for up to 10 years beyond the point in time the district would otherwise be required to terminate.

Lifespan extensions for severely distressed TIDs would remain at the maximum 40-year limits, similar to the allowable time period for any distressed TID under the original bill. Donor districts to a severely distressed TID could allocate positive tax increments to the severely distressed district until the donor district has existed for 40 years or the severely distressed district terminates, whichever occurs first.

Two-Year Time Limit for Local Declaration

Senate Amendment 2 also requires a local legislative body to declare a TID to be distressed or severely distressed before the first day of the 24th month beginning after the effective date of the bill. Under the amendment, a district must have been in existence for seven years before the local legislative body may adopt a resolution declaring the district to be distressed or severely distressed.

Additional Limitations

Under **Senate Amendment 2**, no TID may be declared to be distressed or severely distressed if the local legislative body approves a project amendment for the TID after the effective date of the bill. Any tax increments allocated to a distressed or severely distressed TID that exceed the amounts needed to meet annual expenditures must be used to retire outstanding debt or establish a reserve for the retirement of outstanding debt.

LEGISLATIVE HISTORY

Senator Sullivan offered Senate Amendment 1. Senators Vinehout, Sullivan, and Decker offered Senate Amendment 2. On February 25, 2010, the Senate Committee on Economic Development recommended adoption of Senate Amendment 1, adoption of Senate Amendment 2, and passage of Senate Bill 291, as amended, on successive votes of Ayes, 7; Noes, 0.

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