



## 2013 SENATE BILL 455

December 20, 2013 – Introduced by Senators COWLES and GUDEx, cosponsored by Representatives WEININGER, BIES, PRIDEMORE, KAHL and HINTZ. Referred to Committee on Economic Development and Local Government.

1     **AN ACT** *to renumber and amend* 60.85 (8) (c); *to amend* 66.0602 (3) (dm),  
2           66.1105 (2) (f) 2. b. and 66.1105 (6m) (c); and *to create* 60.85 (8) (c) 2., 60.85 (8)  
3           (d), 60.85 (8) (e), 60.85 (8) (f), 60.85 (8) (g), 66.1105 (2) (f) 1. o., 66.1105 (2) (f) 1.  
4           p., 66.1105 (6) (am) 6., 66.1105 (6m) (d), 66.1105 (6m) (e), 66.1105 (6m) (f),  
5           66.1105 (6m) (g), 66.1105 (7) (av) and 66.1105 (17) (d) of the statutes; **relating**  
6           **to:** disseminating information about a tax incremental district’s annual budget  
7           and value increment, requiring a political subdivision to evaluate a tax  
8           incremental district’s performance, increasing the amount that a political  
9           subdivision may add to its levy limit upon the dissolution of a tax incremental  
10          financing district, and extending the life and expenditure period for certain tax  
11          incremental financing districts.

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### *Analysis by the Legislative Reference Bureau*

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

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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 (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.

Generally, under current law, and subject to a number of exceptions, a city, village, town, or county (political subdivision) may not increase its levy by a percentage that exceeds its "valuation factor," which is defined as the greater of either zero percent or the percentage change in the political subdivision's equalized value due to new construction, less improvements removed. The base amount of a political subdivision's levy, on which the levy limit is imposed, is the actual levy for the immediately preceding year.

Under one of the current law exceptions, if DOR does not certify a value increment for a TID as a result of the district's termination, the levy limit otherwise applicable to the political subdivision is increased by a certain amount.

Under the current law exception to the levy limit relating to DOR not certifying a value increment for a TID that is terminated, the allowable increase is an amount equal to the political subdivision's maximum allowable levy for the preceding year, multiplied by a percentage equal to 50 percent of the amount determined by dividing the terminated TID's value increment by the political subdivision's equalized value, as determined by DOR. This bill increases the percentage from 50 percent to 80 percent.

Also under current law, a city, village, or town (municipality) must annually prepare and make available to the public updated reports describing the status of each TID that exists in the municipality. Under this bill, the report must describe the financial status of each existing TID, including an itemized list of prior expenditures made for the TID and revenues received by the TID, as well as anticipated future TID-related expenditures and revenues. The bill requires a municipality to hold a public hearing on the report.

Also under the bill, the annual report that a municipality must prepare must also include a comparison of the district's total actual expenditures to the total amount of tax increments received and determine whether these amounts are the same or if they are out of balance.

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Beginning in 2014, the bill also requires a municipality's chief financial officer to create and distribute annually to the municipality a report card for each TID that is the subject of an annual report. The report card must evaluate the degree to which the district's expenditures and tax increments received are balanced, and the municipality must make the report card available to the public.

Based on the degree to which a TID's expenditures and revenues are balanced, the bill requires a municipality to issue a report card with a grade of A, B, C, D, or F. Subject to an exception, if the amount of a TID's expenditures and tax increments received are balanced, the TID earns an "A." If these amounts are within 5 percent of being balanced, the TID earns a "B." If they are within 10 percent the TID earns a "C." If they are within 15 percent the TID earns a "D", and if they are more than 15 percent out of balance, the TID earns an "F." Under the exception, for a TID's first eight years of life, a municipality's chief financial officer is required to award a "B" to a district in which the TID's projected expenditures and tax increments received are in balance with the projections for those items in the TID's project plan. If a TID does not meet this standard, the TID must be awarded a lower grade.

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.

Under this bill, for a TID that has at least a "B" grade in the year in which it would otherwise be required to terminate, the TID's life may be extended for ten years, and expenditures may be made for an additional five years, if the planning commission amends the district's project plan to change the district's boundaries. An amendment to a TID's project plan is subject to approval by the common council or village board (governing body), and the joint review board. If the TID's project plan has already been amended the maximum number of times that are allowable (four times under current law), the TID's life and expenditure period may still be extended for ten and five years, respectively, if the joint review board approves a planning commission request to do so; final approval would still be subject to the current law provisions for amending a project plan.

This bill creates two new definitions for project costs for a city or village TID. Under the bill, project costs may include expenses incurred by a city or village to recruit a new business to locate in a TID, and expenses incurred by the city or village to remodel the interior space of an existing building located in a TID to make the space useable for a business.

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

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(the “12 percent test”), subject to one exception. Under the exception, a city or village may simultaneously create a new TID and subtract territory from an existing TID without adopting a resolution containing the 12 percent test if the city or village demonstrates to DOR that the value of the territory that is subtracted at least equals the amount that DOR believes is necessary to ensure that, when the new TID is created, the 12 percent test is met. The city or village must also certify to DOR that no other district created under this exception currently exists in the city or village.

Under this bill, subject to a number of exceptions, if the average grade of all of the TIDs in a city or village is at least a B in any year, the 12 percent test becomes a 15 percent test. Under certain circumstances, the 15 percent test may revert back to a 12 percent test, and this limit may change back and forth depending on a number of factors related to the average grade of TIDs in the city or village, the creation of new TIDs, and the equalized value of taxable property of all existing districts within the city.

The bill also expands the definition of project costs to include a parking structure that supports redevelopment activities.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 60.85 (8) (c) of the statutes is renumbered 60.85 (8) (c) 1. and  
2 amended to read:

3           60.85 (8) (c) 1. The town shall prepare and make available to the public updated  
4 annual reports describing the status of each existing tax incremental district,  
5 including expenditures and revenues. The town shall send a copy of the report to  
6 each overlying district by ~~May~~ July 1 annually. Except as provided in subd. 2., the  
7 report shall also contain the most recent annual budget for each existing tax  
8 incremental district and an explanation of each district’s value increment and how  
9 the value increment affects property taxes in the district. The town shall also hold  
10 a hearing on the report.

11           **SECTION 2.** 60.85 (8) (c) 2. of the statutes is created to read:

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1           60.85 (8) (c) 2. A town may decline to include in its report the most recent  
2           annual budget and the value increment explanation described in subd. 1., except  
3           that if it does not include the budget the town shall hold a public hearing at which  
4           each such budget and the value increment explanation is discussed.

5           **SECTION 3.** 60.85 (8) (d) of the statutes is created to read:

6           60.85 (8) (d) In the annual report described under par. (c), the town shall also  
7           include an assessment of each existing tax incremental district's performance. The  
8           assessment shall compare a district's total actual expenditures to the total amount  
9           of tax increments received and determine whether these amounts are the same or  
10          if they are out of balance. This assessment shall be completed by the town's chief  
11          financial officer.

12          **SECTION 4.** 60.85 (8) (e) of the statutes is created to read:

13          60.85 (8) (e) Annually, beginning in 2014, the town's chief financial officer shall  
14          prepare a report card for each tax incremental district for which the town prepares  
15          a report described under par. (c). The report card shall evaluate each tax incremental  
16          district based on the degree to which the district's total actual expenditures and total  
17          tax increments received are balanced or out of balance.

18          **SECTION 5.** 60.85 (8) (f) of the statutes is created to read:

19          60.85 (8) (f) The town shall issue a report card as described in par. (e), which  
20          it shall forward to the town board. The report card shall contain the chief financial  
21          officer's explanation of the methods and data he or she used to evaluate a tax  
22          incremental district. The town board shall make the report card and the explanation  
23          available to members of the public. Subject to par. (g), the town's chief financial  
24          officer shall award a tax incremental district one of the following grades on its report  
25          card:

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1           1. An “A” if the district’s total actual expenditures and total tax increments  
2 received are balanced.

3           2. A “B” if the district’s total actual expenditures and total tax increments  
4 received are within 5 percent of being balanced.

5           3. A “C” if the district’s total actual expenditures and total tax increments  
6 received are within 10 percent of being balanced.

7           4. A “D” if the district’s total actual expenditures and total tax increments  
8 received are within 15 percent of being balanced.

9           5. An “F” if the district’s total actual expenditures and total tax increments  
10 received are more than 15 percent out of balance.

11           **SECTION 6.** 60.85 (8) (g) of the statutes is created to read:

12           60.85 (8) (g) For the first 8 years of a tax incremental district’s life, the town’s  
13 chief financial officer shall award a tax incremental district a “B” if the district’s  
14 projected expenditures and tax increments received are in balance with the  
15 projections for those 2 items, as contained in the district’s project plan. The report  
16 card shall explain how this grade is awarded. A tax incremental district that does  
17 not meet this standard must be awarded a grade that is less than a “B.”

18           **SECTION 7.** 66.0602 (3) (dm) of the statutes is amended to read:

19           66.0602 (3) (dm) If the department of revenue does not certify a value  
20 increment for a tax incremental district for the current year as a result of the  
21 district’s termination, the levy increase limit otherwise applicable under this section  
22 in the current year to the political subdivision in which the district is located is  
23 increased by an amount equal to the political subdivision’s maximum allowable levy  
24 for the immediately preceding year, multiplied by a percentage equal to ~~50~~ 80 percent  
25 of the amount determined by dividing the value increment of the terminated tax

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1 incremental district, calculated for the previous year, by the political subdivision's  
2 equalized value for the previous year, all as determined by the department of  
3 revenue.

4 **SECTION 8.** 66.1105 (2) (f) 1. o. of the statutes is created to read:

5 66.1105 (2) (f) 1. o. Expenses incurred by the city to recruit a new business to  
6 locate in the tax incremental district.

7 **SECTION 9.** 66.1105 (2) (f) 1. p. of the statutes is created to read:

8 66.1105 (2) (f) 1. p. Expenses incurred by the city to remodel the interior space  
9 of an existing building that is located in the tax incremental district to make the  
10 space useable for a business.

11 **SECTION 10.** 66.1105 (2) (f) 2. b. of the statutes is amended to read:

12 66.1105 (2) (f) 2. b. The Except for a parking structure that supports  
13 redevelopment activities, the cost of constructing or expanding any facility, if the city  
14 generally finances similar facilities only with utility user fees.

15 **SECTION 11.** 66.1105 (6) (am) 6. of the statutes is created to read:

16 66.1105 (6) (am) 6. No expenditure may be made later than 5 years before the  
17 termination date of a tax incremental district to which sub. (7) (av) applies.

18 **SECTION 12.** 66.1105 (6m) (c) of the statutes is amended to read:

19 66.1105 (6m) (c) The city shall prepare and make available to the public  
20 updated annual reports describing the financial status of each existing tax  
21 incremental district, including an itemized list of expenditures paid and revenues  
22 received in prior years, and anticipated expenditures to be paid, and revenues to be  
23 received, in future years. The city shall send a copy of the report to each overlying  
24 district by ~~May~~ July 1 annually and shall present the report to the common council

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1 at an open meeting. The city shall also hold a hearing on the report in conjunction  
2 with the presentation of the report.

3 **SECTION 13.** 66.1105 (6m) (d) of the statutes is created to read:

4 66.1105 (6m) (d) In the annual report described under par. (c), the city shall  
5 also include an assessment of each existing tax incremental district's performance.  
6 The assessment shall compare a district's total actual expenditures to the total  
7 amount of tax increments received and determine whether these amounts are the  
8 same or if they are out of balance. This assessment shall be completed by the city's  
9 chief financial officer.

10 **SECTION 14.** 66.1105 (6m) (e) of the statutes is created to read:

11 66.1105 (6m) (e) Annually, beginning in 2014, the city's chief financial officer  
12 shall prepare a report card for each tax incremental district for which the city  
13 prepares a report described under par. (c). The report card shall evaluate each tax  
14 incremental district based on the degree to which the district's total actual  
15 expenditures and total tax increments received are balanced or out of balance.

16 **SECTION 15.** 66.1105 (6m) (f) of the statutes is created to read:

17 66.1105 (6m) (f) The city shall issue a report card as described in par. (e), which  
18 it shall forward to the common council. The report card shall contain the chief  
19 financial officer's explanation of the methods and data he or she used to evaluate a  
20 tax incremental district. The common council shall make the report card and the  
21 explanation available to members of the public. Subject to par. (g), the city's chief  
22 financial officer shall award a tax incremental district one of the following grades on  
23 its report card:

24 1. An "A" if the district's total actual expenditures and total tax increments  
25 received are balanced.

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1           2. A “B” if the district’s total actual expenditures and total tax increments  
2 received are within 5 percent of being balanced.

3           3. A “C” if the district’s total actual expenditures and total tax increments  
4 received are within 10 percent of being balanced.

5           4. A “D” if the district’s total actual expenditures and total tax increments  
6 received are within 15 percent of being balanced.

7           5. An “F” if the district’s total actual expenditures and total tax increments  
8 received are more than 15 percent out of balance.

9           **SECTION 16.** 66.1105 (6m) (g) of the statutes is created to read:

10           66.1105 **(6m)** (g) For the first 8 years of a tax incremental district’s life, the  
11 city’s chief financial officer shall award a tax incremental district a “B” if the district’s  
12 projected expenditures and tax increments received are in balance with the  
13 projections for those 2 items, as contained in the district’s project plan. The report  
14 card shall explain how this grade is awarded. A tax incremental district that does  
15 not meet this standard must be awarded a grade that is less than a “B.”

16           **SECTION 17.** 66.1105 (7) (av) of the statutes is created to read:

17           66.1105 **(7)** (av) Notwithstanding the limits specified in pars. (ak) and (am),  
18 with regard to a district that earns at least a “B” grade on its report card under sub.  
19 (6m) (f) for the year in which the district would otherwise be required to terminate  
20 under par. (ak) or (am), 10 years after that otherwise applicable termination date if  
21 at least one of the following applies:

22           1. The planning commission adopts an amendment to the district’s project plan  
23 under sub. (4) (h) 1.

24           2. If the district’s project plan has been amended the maximum number of times  
25 that are authorized under sub. (4) (h) 2., the planning commission adopts a resolution

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1 requesting that the joint review board authorize an extension of the termination date  
2 as described in this paragraph and the joint review board authorizes the extension,  
3 except that the procedure described in this subdivision may not be used more than  
4 once for that district. If the joint review board authorizes an extension under this  
5 subdivision, the planning commission may amend the district's project plan under  
6 sub. (4) (h) 1. as if the district's project plan had not been amended the maximum  
7 number of times allowed under sub. (4) (h) 2.

8 **SECTION 18.** 66.1105 (17) (d) of the statutes is created to read:

9 66.1105 (17) (d) *Exception based on report card grades.* 1. Subject to subs.  
10 2. to 4., if the average grade of all tax incremental districts in a city, under sub. (6m)  
11 (f), is a "B" in any year, the 12 percent limit under sub. (4) (gm) 4. c. shall be 15  
12 percent.

13 2. If the average grade of all tax incremental districts in a city, under sub. (6m)  
14 (f), is less than a "B" in any year subsequent to a year in which the the 12 percent limit  
15 becomes 15 percent under subd. 1., the limit shall revert back to 12 percent if the  
16 equalized value of taxable property of all existing districts within the city is 12  
17 percent or less of the total equalized value of taxable property within the city.

18 3. If the average grade of all tax incremental districts in a city, under sub. (6m)  
19 (f), is less than a "B" in any year subsequent to a year in which the the 12 percent limit  
20 becomes 15 percent under subd. 1., the limit shall remain at 15 percent if all of the  
21 following apply:

22 a. A new district was created in the city, or the project plan of an existing district  
23 is amended and adds territory to the district, between the time that the limit was  
24 raised to 15 percent under subd. 1. and the year in which the average grade of all tax  
25 incremental districts in a city, under sub. (6m) (f), is less than a "B."

