

SG:ty

11/6/2014

1       **AN ACT** *to amend* 66.1105 (4) (gm) 4. c., (5) (bn), (bo), (bt), (10) (c), (12) (title),  
2       (intro.), (b), (16) (d), (17) (title), (a), 3., (c) (intro.), (18) (c) 3. and (19) (b) 3.; and *to*  
3       *create* 66.1105 (17) (d) of the statutes; **relating to:** limits on TID creation as  
4       measured by total TID value.

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

**JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:** This draft was prepared for the Joint Legislative Council’s Study Committee on Review of Tax Incremental Financing (TIF).

**Background**

As part of the process of creating a tax incremental district (TID), a city or village’s creation resolution must include a finding that the TID complies with the “12 percent limit”. The 12 percent limit requires that the equalized value of the taxable property in the proposed TID, plus the value increments of all existing TIDs does not exceed 12 percent of the total equalized value in the city or village. When certifying a base value for a TID, the department of revenue also evaluates whether the TID exceeds the 12 percent limit. DOR may not certify the base value until it reviews and approves the city or village’s finding that the equalized property value in the TID plus the value increment of all existing TIDs does not exceed 12 percent of the total equalized value of taxable property within the city.

Cities and villages may amend their project plan so that the TID is in compliance if the TID exceeds the 12 percent limit. If DOR determines that the TID exceeds the 12 percent limit, the city or village may either rescind its approval of the project plan or remove parcels of land so that the TID complies with the 12 percent limit. If the city or village decides to remove parcels of land, then it must resubmit the creation application to DOR within 30 days of receiving the noncompliance notice.

Section 66.1105, stats., contains several exceptions to the 12 percent limit that apply to specific communities. Additionally, 2013 Wisconsin Act 193 allows a city or village to create a TID in recently annexed town territory, if certain conditions are satisfied. Under the alternative

creation method created by Act 193, the 12 percent limit does not apply to a TID created in former town territory until the year 2016.

### **The Draft**

Under this draft, references in s. 66.1105, stats., to the 12 percent limit are generally modified to reflect an increase to a 15 percent limit for the ratio of TID value increments to total equalized value of taxable property in a city or village. References to the 12 percent limit that relate to exceptions to the rule for specific communities are maintained at 12 percent and amended to reflect the law in place at the time of the creation of each exception.

Also, a city or village may create one additional TID, even if in so doing, the city or village would exceed the revised 15 percent limit. However, this new TID may not exceed 5 percent of the total equalized value of the property in the city or village. The selection of the 5 percent limit for the size of the single TID reflects the committee's intent that a municipality would use the provision to create an "average" TID, as represented by the approximate statewide average value of TID increments in relation to statewide equalized property value.

1           **SECTION 1.** 66.1105 (4) (gm) 4. c., (5) (bn), (bo), (bt), (10) (c), (12) (title), (intro.), (b),  
2           (16) (d), and (17) (title), (a), 3., (c) (intro.), (18) (c) 3. and (19) (b) 3. of the statutes are amended  
3           to read:

4           66.1105 **(4)** (gm) 4. c. Except as provided in subs. (10) (c), (16) (d), (17), and (18) (c)  
5           3., the equalized value of taxable property of the district plus the value increment of all existing  
6           districts does not exceed ~~12~~ 15 percent of the total equalized value of taxable property within  
7           the city. In determining the equalized value of taxable property under this subd. 4. c. or sub.  
8           (17) (c), the department of revenue shall base its calculations on the most recent equalized  
9           value of taxable property of the district that is reported under s. 70.57 (1m) before the date on  
10          which the resolution under this paragraph is adopted. If the department of revenue determines  
11          that a local legislative body exceeds the ~~12~~ percent limit described in this subd. 4. c. or sub.  
12          (17) (c), the department shall notify the city of its noncompliance, in writing, not later than

1 December 31 of the year in which the department receives the completed application or  
2 amendment forms described in sub. (5) (b).

3 (5) (bn) Notwithstanding the requirement that the total equalized value not exceed 12  
4 percent, as described in sub. (4) (gm) 4. c., 2013-14, stats., if the village of Union Grove  
5 created, or attempted to create, tax incremental district number 4 on January 1, 2006, based  
6 on actions taken by the village board on February 27, 2006, the tax incremental base of the  
7 district shall be calculated by the department of revenue as if the tax incremental district had  
8 been created on January 1, 2006, and, until the tax incremental district terminates, the  
9 department of revenue shall allocate tax increments and treat the district in all other respects  
10 as if the district had been created on January 1, 2006, except that the department of revenue  
11 may not certify a value increment under par. (b) before 2008.

12 (bo) Notwithstanding the requirement that the total equalized value not exceed 12  
13 percent, as described in sub. (4) (gm) 4. c., 2013-14, stats., if the village of Elmwood created,  
14 or attempted to create, tax incremental district number 4 on January 1, 2006, based on actions  
15 taken by the village board on May 8, 2006, the tax incremental base of the district shall be  
16 calculated by the department of revenue as if the tax incremental district had been created on  
17 January 1, 2006, and, until the tax incremental district terminates, the department of revenue  
18 shall allocate tax increments and treat the district in all other respects as if the district had been  
19 created on January 1, 2006, except that the department of revenue may not certify a value  
20 increment under par. (b) before 2010.

21 (bt) If the city of New Lisbon amends, or attempts to amend, the project plan of Tax  
22 Incremental District Number 12 on January 1, 2012, based on actions taken by the common  
23 council between July 1, 2011, and December 31, 2011, the tax incremental base of the district  
24 shall be redetermined by the department of revenue as if the district's project plan had been

1 amended on January 1, 2012, except that the department of revenue may not certify a value  
2 increment under par. (b), that reflects the amendment to the district's plan, before 2012. In  
3 addition, the time limits specified for the city clerk in par. (b), and the provisions relating to  
4 the 12 percent limit findings requirement under sub. (4) (gm) 4. c., 2013-14, stats., do not  
5 apply to an amendment to the project plan of Tax Incremental District Number 12 in the city  
6 of New Lisbon.

7 **(10)** (c) The department of revenue shall exclude any parcel in a newly created tax  
8 incremental district that is located in an existing district when determining compliance with  
9 the ~~12~~ 15 percent limit described in sub. (4) (gm) 4. c.

10 **(12)** EQUALIZED VALUATION; THE ~~12~~ 15 PERCENT LIMIT. If the department of revenue  
11 notifies a local legislative body that is not in compliance with the ~~12~~ 15 percent limit described  
12 in sub. (4) (gm) 4. c., the local legislative body shall do one of the following:

13 (b) Remove parcels from the district's, or proposed district's, boundaries so that the  
14 district, or proposed district, complies with the ~~12~~ 15 percent limit. Such a removal of parcels  
15 may not substantially alter the project plan as approved under sub. (4) (g), or the resolution  
16 adopted under sub. (4) (gm) and approved by the joint review board under sub. (4m) (b) 2.  
17 Not later than 30 days after receiving the department's notice of noncompliance under sub.  
18 (4) (gm) 4. c., the city clerk shall submit, or resubmit, to the department the application  
19 described under sub. (5) (b), and the application shall reflect the removal of parcels under this  
20 paragraph.

21 **(16)** (d) The department of revenue may not include the equalized value of taxable  
22 property of a district created under this subsection when applying the ~~12~~ 15 percent limit  
23 findings requirement under sub. (4) (gm) 4. c. to a city or village which annexes or attaches  
24 such a district.

1           **(17)** EXCEPTIONS TO THE ~~12~~ 15 PERCENT LIMIT. (a) Subject to par. (b), a city may  
2 simultaneously create a tax incremental district under this section and adopt an amendment  
3 to a project plan to subtract territory from an existing district without adopting a resolution  
4 containing the ~~12~~ 15-percent-limit findings specified in sub. (4) (gm) 4. c. if all of the  
5 following occur:

6           3. Both appraisals under subd. 2. demonstrate that the value of the taxable property that  
7 is subtracted from an existing district equals or exceeds the amount that the department of  
8 revenue believes is necessary to ensure that, when the proposed district is created, the ~~12~~ 15  
9 percent limit specified in sub. (4) (gm) 4. c. is met.

10           (c) With regard to the 12 percent limit described under sub. (4) (gm) 4. c., 2013-14,  
11 stats., the following limit applies to the village of Pleasant Prairie:

**NOTE:** This SECTION increases the limit on how much of the city or  
village's total equalized value of property may be placed in a TID from  
12 percent to 15 percent. It also updates statutory references that are  
applicable only to exceptions to the 12 percent limit.

12           **(18)** (c) 3. The ~~12~~ 15 percent limit findings requirement under sub. (4) (gm) 4. c. apply  
13 on an aggregate basis to all cities that are part of a multijurisdictional district except, for one  
14 or more of the participating cities in the multijurisdictional district, the part of the district that  
15 is in an individual city may cause that city to exceed the ~~12~~ 15 percent limit if the governing  
16 bodies of all the taxation districts that overlay that city adopt a resolution approving the  
17 creation of the district even though that city exceeds the ~~12~~ 15 percent limit.

18           **(19)** (b) 3. The ~~12~~ 15 percent limit described in sub. (4) (gm) 4. c. does not apply to a  
19 district created under this subsection until 2016.

20           **SECTION 2.** 66.1105 (17) (d) of the statutes is created to read:

1           66.1105 (17) (d) *Creation of one additional district.* A city may create one additional  
2 tax incremental district notwithstanding the requirement that the total equalized value of  
3 proposed and existing tax incremental districts in the city may not exceed 15 percent, as  
4 described in sub. (4) (gm) 4. c., subject to the limitations that the equalized value of taxable  
5 property of a district created pursuant to this paragraph may not exceed 5 percent of the total  
6 equalized value of the property within the city.

**NOTE:** This SECTION allows a city or village to create one additional TID, even if in so doing, the city or village would exceed the revised 15 percent limit. However, this new TID may not exceed 5 percent of the total equalized value of the property in the city or village. The selection of the 5 percent limit for the size of the single TID reflects the committee's intent that a municipality would use the provision to create an "average" TID, as represented by the approximate statewide average value of TID increments in relation to statewide equalized property value.

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(END)