2015 SENATE BILL 53

February 27, 2015 – Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Economic Development and Commerce.

AN ACT to amend 66.1105 (4) (h) 2., 66.1105 (5) (h) 3., 66.1105 (6) (a) 4., 66.1105 (6) (a) 7., 66.1105 (6) (a) 8. and 66.1105 (7) (ak) 1. and 2. and (am) 1., 2. and 3.; and to create 66.1105 (4) (h) 11., 66.1105 (5) (h) 3m. and 66.1105 (7) (am) 4. of the statutes; relating to: tax incremental financing project plan amendments and extending the life of a tax incremental district if the district is adversely impacted by statutory changes to the method of calculating equalized valuation.

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:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council’s Study Committee on Review of Tax Incremental Financing.
SENATE BILL 53

Background
A city or village, and a town or county under certain circumstances, may in general, amend the project plan of a tax incremental district (TID) that is created under s. 66.1105, stats., subject to the review and approval of a joint review board (JRB). There is no limit to the number of project plan amendments that may be made if they are related to the projects included in the original plan. However, only four amendments modifying the TID's boundaries by either adding or subtracting parcels are allowed. Also, a TID that has been in a decrement situation for two years in a row may, after amending its project plan, adopt a resolution requiring the Department of Revenue (DOR) to redetermine the tax incremental base of the TID, but may do so only once during the life of the TID.

Also under current law, a TID must terminate when the political subdivision has received aggregate tax increments with respect to the TID in an amount equal to pay all of the TID's project costs, when the political subdivision dissolves the TID by resolution, or when the TID reaches its maximum lifespan, whichever is earlier. A political subdivision may, however, request that the JRB extend the life of the TID if the TID is unable to pay off its project costs within the maximum lifespan of the TID. The maximum lifespan of a TID, and the extension to this lifespan allowed under current law, are as follows:

- For any TID created before October 1, 1995: the maximum lifespan is 27 years and the political subdivision may not request an extension to this lifespan.
- For a TID that was created between October 1, 1995 and September 30, 2004, and is blighted or in need of rehabilitation or conservation: the maximum life is 27 years and the political subdivision may request a four-year extension.
- For a TID that was created between October 1, 1995 and September 30, 2004, and is an industrial district: the maximum life is 23 years and the political subdivision may not request an extension to this lifespan.
- For a TID that was created on or after October 1, 2004, and is blighted or in need of rehabilitation or conservation: the maximum lifespan is 27 years and the political subdivision may request a three-year extension.
- For a TID that was created on or after October 1, 2004, and is an industrial district or mixed-use district: the maximum lifespan is 20 years and the political subdivision may request a three-year extension.

The Bill
This bill allows a political subdivision to make any type of amendment to the project plan of a TID created under s. 66.1105, stats., or to request an additional five-year extension to the TID's maximum lifespan at any time during the life of the TID, or both, if during the life of a TID, the annual and total amount of tax increments to be generated over the life of the district are adversely impacted by one or more of the following:

- An amendment to the provisions of TIF law found under s. 66.1105, stats.
- A change made by DOR to the equalized valuation method.
- A change made by 2013 Wisconsin Act 145 (2013 Act 145) that increased state aid to technical college districts in order to reduce the total statewide levy of technical college districts.

SECTION 1. 66.1105 (4) (h) 2. of the statutes is amended to read:

66.1105 (4) (h) 2. Except as provided in subds. 4., 5., 7., 8., 9., and 10., and 11., the planning commission may adopt an amendment to a project plan under subd. 1. to modify the district's boundaries, not more than 4 times during the district's existence, by subtracting territory from the district in a way that does not remove
contiguity from the district or by adding territory to the district that is contiguous
to the district and that is served by public works or improvements that were created
as part of the district's project plan. A single amendment to a project plan that both
adds and subtracts territory shall be counted under this subdivision as one
amendment of a project plan.

SECTION 2. 66.1105 (4) (h) 11. of the statutes is created to read:

66.1105 (4) (h) 11. Notwithstanding the limitation in subd. 2., the planning
commission may at any time during the district's existence, by resolution, adopt an
amendment to a project plan under subd. 1., to modify the district's boundaries by
subtracting territory from the district in a way that does not remove contiguity from
the district or by adding territory to the district that is contiguous to the district and
that is served by public works or improvements that were created as part of the
district's project plan if during the district's existence, the annual and total amount
of tax increments to be generated over the life of the district are adversely impacted
by one or more of the following:

a. A legislative change to this section.

b. A change by the department of revenue to the method of calculating
equalized valuation under s. 70.57.

c. 2013 Wisconsin Act 145.

NOTE: Sections 1 and 2 allow a planning commission, subject to approval by the
political subdivisions and review by the JRB, to adopt an amendment to a TID's project
plan to modify the TID's boundaries at any time during the life of the TID if during the
TID's existence, the annual and total amount of tax increments to be generated over the
life of the TID are adversely impacted by one or more of the following: (1) an amendment
to TIF law under s. 66.1105, stats.; (2) a change made by DOR to the equalized valuation
method; or (3) a change made by 2013 Act 145 that increased state aid to technical college
districts in order to reduce the total statewide levy of the districts.

SECTION 3. 66.1105 (5) (h) 3. of the statutes is amended to read:
SECTION 3

66.1105 (5) (h) 3. Except as provided in 3m., a local legislative body may not adopt a resolution under subd. 1. more than once during the life of a tax incremental district.

SECTION 4.

66.1105 (5) (h) 3m. of the statutes is created to read:

66.1105 (5) (h) 3m. A local legislative body may adopt a resolution under subd. 1. at any time during the district’s existence if during the district’s existence, the annual and total amount of tax increments to be generated over the life of the district are adversely impacted by one or more of the following:

a. A legislative change to this section.

b. A change by the department of revenue to the method of calculating equalized valuation under s. 70.57.

c. 2013 Wisconsin Act 145.

NOTE: Sections 3 and 4 allow political subdivisions to adopt a resolution requiring DOR to redetermine the tax incremental base value of a TID in a decrement situation if, at any time during the life of the TID, TIF law under s. 66.1105, stats., is amended, the equalized valuation method is changed by DOR, or both, and the amendment or change in the equalized valuation method adversely impacts the annual and total amount of tax increments to be generated over the life of the TID are adversely impacted by one or more of the following: (1) an amendment to TIF law under s. 66.1105, stats.; (2) a change made by DOR to the equalized valuation method; or (3) a change made by 2013 Act 145 that increased state aid to technical college districts in order to reduce the total statewide levy of the districts.

SECTION 5.

66.1105 (6) (a) 4. of the statutes is amended to read:

66.1105 (6) (a) 4. Twenty-seven years after the tax incremental district is created if the district is created after September 30, 1995, and before October 1, 2004, and if the district is a district about which a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by area, of the real property within the district is a blighted area or an area in need of rehabilitation or conservation work, except that if the life of the district is extended under sub. (7) (am) 1., an allocation under this subdivision may be made 31 years after such a the district is created. If the life of
the district is extended under sub. (7) (am) 4., an allocation under this subdivision
may be made for not more than an additional 5 years after allocations would
otherwise have been terminated under this subdivision.

SECTION 6. 66.1105 (6) (a) 7. of the statutes is amended to read:

66.1105 (6) (a) 7. Twenty years after the tax incremental district is created if
the district is created on or after October 1, 2004, and if the district is at least
predominantly suitable for mixed-use development or industrial sites under sub. (4)
(gm) 6., except that if the life of the district is extended under sub. (7) (am) 2. an
allocation under this subdivision may be made 23 years after such a district is
created. If the life of the district is extended under sub. (7) (am) 4., an allocation
under this subdivision may be made for not more than an additional 5 years after
allocations would otherwise have been terminated under this subdivision.

SECTION 7. 66.1105 (6) (a) 8. of the statutes is amended to read:

66.1105 (6) (a) 8. Twenty-seven years after the tax incremental district is
created if the district is created on or after October 1, 2004, and if the district is a
district specified under sub. (4) (gm) 6. other than a district specified under subd. 7.,
except that if the life of the district is extended under sub. (7) (am) 3. an allocation
under this subdivision may be made 30 years after such a district is created. If the
life of the district is extended under sub. (7) (am) 4., an allocation under this
subdivision may be made for not more than an additional 5 years after allocations
would otherwise have been terminated under this subdivision.

SECTION 8. 66.1105 (7) (ak) 1. and 2. and (am) 1., 2. and 3. of the statutes are
amended to read:

66.1105 (7) (ak) 1. Except as provided in par. (am) 1. and 4., for a district about
which a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by area,
of the real property within the district is a blighted area or an area in need of rehabilitation or conservation work, and if the district to which the plan relates is created after September 30, 1995, and before October 1, 2004, 27 years after the district is created.

2. Except as provided in subd. 4., for a district that is created after September 30, 1995, and before October 1, 2004, and that is not subject to subd. 1., 23 years after the district was created, and, except as provided in subd. 3., for a district that is created before October 1, 1995, 27 years after the district is created.

(am) 1. Except as provided in subd. 4., for a district described under par. (ak) 1., the time period specified in that subdivision, except that the city that created the district may, subject to sub. (8) (e), request that the joint review board extend the life of the district for an additional 4 years. Along with its request for a 4-year extension, the city may provide the joint review board with an independent audit that demonstrates that the district is unable to pay off its project costs within the 27 years after the district is created. The joint review board may deny or approve a request to extend the life of the district for 4 years if the request does not include the independent audit, and the board shall approve a request to extend the life of the district for 4 years if the request includes the audit. If the joint review board extends the district’s life, the district shall terminate at the earlier of the end of the extended period or the period specified in par. (a).

2. Except as provided in subd. 4., for a district that is created after September 30, 2004, about which a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by area, of the real property within the district is suitable for industrial sites or mixed-use development, 20 years after the district is created, except that the city that created the district may, subject to sub. (8) (e), request that
the joint review board extend the life of the district for an additional 3 years. Along
with its request for a 3-year extension, the city may provide the joint review board
with an independent audit that demonstrates that the district is unable to pay off its
project costs within the 20 years after the district is created. The joint review board
may deny or approve a request to extend the life of the district for 3 years if the
request does not include the independent audit, and the board shall approve a
request to extend the life of the district for 3 years if the request includes the audit.
If the joint review board extends the district’s life, the district shall terminate at the
earlier of the end of the extended period or the period specified in par. (a).

3. For Except as provided in subd. 4., for a district that is created after
September 30, 2004, about which a finding is made under sub. (4) (gm) 4. a. that not
less than 50 percent, by area, of the real property within the district is a blighted area
or in need of rehabilitation, 27 years after the district is created, except that the city
that created the district may, subject to sub. (8) (e), request that the joint review
board extend the life of the district for an additional 3 years. Along with its request
for a 3-year extension, the city may provide the joint review board with an
independent audit that demonstrates that the district is unable to pay off its project
costs within the 27 years after the district is created. The joint review board may
deny or approve a request to extend the life of the district for 3 years if the request
does not include the independent audit, and the board shall approve a request to
extend the life of the district for 3 years if the request includes the audit. If the joint
review board extends the district’s life, the district shall terminate at the earlier of
the end of the extended period or the period specified in par. (a).

SECTION 9. 66.1105 (7) (am) 4. of the statutes is created to read:
66.1105 (7) (am) 4. a. At any time during the district’s existence, but subject to sub. (8) (e), the city that created the district described under subd. 1., 2., or 3. or par. (ak) 1. or 2. may request that the joint review board extend the life of the district for an additional 5 years, in addition to an extension authorized under subd. 1., 2., or 3., but if during the district’s existence, the annual and total amount of tax increments to be generated over the life of the district are adversely impacted by a legislative change to this section, a change by the department of revenue to the method of calculating equalized valuation under s. 70.57, or 2013 Wisconsin Act 145.

b. Together with its request for a 5-year extension under this subd. 4. b., the city may provide the joint review board with an independent audit that demonstrates that the district is unable to pay off its project costs within the time specified under subd. 1., 2., or 3., whichever is applicable. The joint review board may deny or approve a request to extend the life of the district for 5 years if the request does not include the independent audit, and the board shall approve a request to extend the life of the district for 5 years if the request includes the audit. If the joint review board extends the district’s life, the district shall terminate at the earlier of the end of the extended period or the period specified in par. (a).

Note: Sections 8 and 9 authorize a political subdivision to request the JRB to extend the life of a TID for an additional 5 years, in addition to the extension of a TID’s lifespan already authorized under current law, at any time during life of the TID, if during the TID’s existence, the annual and total amount of tax increments to be generated over the life of the TID are adversely impacted by one or more of the following: (1) an amendment to TIF law under s. 66.1105, stats.; (2) a change made by DOR to the equalized valuation method; or (3) a change made by 2013 Act 145 that increased state aid to technical colleges districts in order to reduce the statewide levy of the districts.

Along with its request, the political subdivision may provide the JRB with an independent audit that demonstrates that the TID is unable to pay off its project costs within the TID’s lifespan (27, 20, or 23 years, depending upon the type or creation date of the TID). Consistent with current law, the JRB may deny or approve a request to extend the life of the TID, if the request does not include the independent audit, and the JRB shall approve the extension if the request includes the audit. If the JRB extends the life of the TID, the TID shall terminate at the earlier of the end of the extended period
or when the city or village has received enough tax increments to pay off all of the project costs.