

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

*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.

**Background**

A city or village may, in general, amend a tax incremental district’s (TID) project plan, 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 only do so once during the life of the TID.

Also under current law, a TID must terminate when the city or village 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 city or village dissolves the TID by resolution, or when the TID reaches its maximum lifespan, whichever is earlier. A city or village 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 city 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 city 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 city 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 city 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 city may request a three-year extension.

### **The Draft**

This draft allows a city or village to amend a TID's project plan or request an additional extension to the TID's maximum lifespan if, during the life of a TID, the provisions of tax incremental financing (TIF) law, found under s. 66.1105, stats., are 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 district. Specifically, this bill authorizes a city or village to do any of the following:

- Amend the TID's project plan to modify the TID's boundaries 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.
- Adopt a resolution requiring DOR to redetermine the tax incremental base value if the TID is 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.
- Request that the JRB extend the life of the TID for an additional [ ] years, in addition to the extension of a TID's lifespan already authorized under current law, if 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. Consistent with current law, the JRB may deny or approve a request to extend the life of the TID, if the city or village's request does not include the independent audit, and the JRB shall approve the extension if the request includes the audit.

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

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

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

11           66.1105 (4) (h) 11. Notwithstanding the limitation in subd. 2., the planning commission  
12           may, by resolution, adopt an amendment to a project plan under subd. 1., to modify the  
13           district's boundaries by subtracting territory from the district in a way that does not remove  
14           contiguity from the district or by adding territory to the district that is contiguous to the district  
15           and that is served by public works or improvements that were created as part of the district's  
16           project plan at any time during the district's existence if during the district's existence the  
17           provisions under this section are amended, the equalized valuation method is changed by the  
18           department of revenue, or both, and the amendment or change in the equalized valuation  
19           method adversely impacts the annual and total amount of tax increments to be generated over  
20           the life of the district.

**NOTE:** SECTIONS 1 and 2 allow a planning commission, subject to approval by the local legislative body and review by the JRB, to adopt an amendment to a TID's project plan to modify the TID's boundaries 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.

**COMMENT:** In order for DOR to redetermine the base value of a TID in a decrement situation, the local legislative body must conduct a financial analysis to the TID. Should a financial analysis be required here as well?

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

2           66.1105 (5) (h) 3. A Except as provided in 3m., a local legislative body may not adopt  
3 a resolution under subd. 1. more than once during the life of a tax incremental district.

4           **SECTION 4.** 66.1105 (5) (h) 3m. of the statutes is created to read:

5           66.1105 (5) (h) 3m. Notwithstanding the limitation in subd. 3., a local legislative body  
6 may adopt a resolution under subd. 1. at any time during the district's existence if during the  
7 district's existence the provisions under this section are amended, the equalized valuation  
8 method is changed by the department of revenue, or both, and the amendment or change in  
9 the equalized valuation method adversely impacts the annual and total amount of tax  
10 increments to be generated over the life of the district.

**NOTE:** SECTIONS 3 and 4 allow a local legislative body 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.

**COMMENT:** Does the committee want a TID in a decrement situation to have its base value redetermined more than once if the situation is a result of a change in state law or DOR's equalized valuation method?

1           **SECTION 5.** 66.1105 (7) (ak) 1. and 2. and (am) 1., 2. and 3. of the statutes are amended  
2 to read:

3           66.1105 (7) (ak) 1. Except as provided in par. (am) 1. and 4., for a district about which  
4 a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by area, of the real  
5 property within the district is a blighted area or an area in need of rehabilitation or conservation  
6 work, and if the district to which the plan relates is created after September 30, 1995, and  
7 before October 1, 2004, 27 years after the district is created.

8           2. ~~For~~ Except as provided in subd. 4., for a district that is created after September 30,  
9 1995, and before October 1, 2004, and that is not subject to subd. 1., 23 years after the district  
10 was created, and, except as provided in subd. 3., for a district that is created before  
11 October 1, 1995, 27 years after the district is created.

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

23           2. ~~For~~ Except as provided in subd. 4., for a district that is created after September 30,  
24 2004, about which a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by

1 area, of the real property within the district is suitable for industrial sites or mixed-use  
2 development, 20 years after the district is created, except that the city that created the district  
3 may, subject to sub. (8) (e), request that the joint review board extend the life of the district  
4 for an additional 3 years. Along with its request for a 3-year extension, the city may provide  
5 the joint review board with an independent audit that demonstrates that the district is unable  
6 to pay off its project costs within the 20 years after the district is created. The joint review  
7 board may deny or approve a request to extend the life of the district for 3 years if the request  
8 does not include the independent audit, and the board shall approve a request to extend the life  
9 of the district for 3 years if the request includes the audit. If the joint review board extends  
10 the district's life, the district shall terminate at the earlier of the end of the extended period or  
11 the period specified in par. (a).

12 3. ~~For~~ Except as provided in subd. 4., for a district that is created after September 30,  
13 2004, about which a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by  
14 area, of the real property within the district is a blighted area or in need of rehabilitation, 27  
15 years after the district is created, except that the city that created the district may, subject to  
16 sub. (8) (e), request that the joint review board extend the life of the district for an additional  
17 3 years. Along with its request for a 3-year extension, the city may provide the joint review  
18 board with an independent audit that demonstrates that the district is unable to pay off its  
19 project costs within the 27 years after the district is created. The joint review board may deny  
20 or approve a request to extend the life of the district for 3 years if the request does not include  
21 the independent audit, and the board shall approve a request to extend the life of the district  
22 for 3 years if the request includes the audit. If the joint review board extends the district's life,  
23 the district shall terminate at the earlier of the end of the extended period or the period specified  
24 in par. (a).

1           **SECTION 6.** 66.1105 (7) (am) 4. of the statutes is created to read:

2           66.1105 (7) (am) 4. Notwithstanding par. (ak) 1. and 2., and subds. 1., 2., and 3., the city  
3           that created the district described under par. (ak) 2. or 3., or subds. 1., 2., or 3., may, subject  
4           to sub. (8) (e), request that the joint review board extend the life of the district for an additional  
5           [ ] years, in addition to an extension authorized under subds. 1., 2., or 3., if during the district's  
6           existence the provisions under this section are amended, the equalized valuation method is  
7           changed by the department of revenue, or both, and the amendment or change in the equalized  
8           valuation method adversely impacts the annual and total amount of tax increments to be  
9           generated over the life of the district. Along with its request for a [ ] extension, the city may  
10          provide the joint review board with an independent audit that demonstrates that the district is  
11          unable to pay off its project costs within the time specified under subds. 1., 2., or 3., whichever  
12          is applicable. The joint review board may deny or approve a request to extend the life of the  
13          district for [ ] years if the request does not include the independent audit, and the board shall  
14          approve a request to extend the life of the district for [5] years if the request includes the audit.  
15          If the joint review board extends the district's life, the district shall terminate at the earlier of  
16          the end of the extended period or the period specified in par. (a).

**NOTE:** SECTIONS 5 and 6 authorize a city or village to request the JRB to extend the life of a TID for an additional [ ] years, in addition to the extension of a TID's lifespan, already authorized under current law, if 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.

Along with the city or village's request, the city 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.

**COMMENT:** Does this achieve the committee's intent? What does the committee want the length of the extension to be? Does the committee want a lifespan extension for a distressed TID or severely distressed TID?

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(END)