

SG:ty

12/5/2014

1 **AN ACT to repeal** 66.1105 (4) (k) and 66.1105 (5) (bm); **to renumber and amend**
2 66.1105 (5) (c) and 66.1105 (5) (ce); **to amend** 66.1105 (4) (gm) 1. and 66.1105 (5)
3 (b); and **to create** 66.1105 (5) (c) 2. and 66.1105 (5) (ce) 2. of the statutes; **relating**
4 **to:** inclusion of vacant land within the boundaries of a tax incremental district and
5 exclusion of tax–exempt city–owned property from the initial tax incremental base
6 of a tax incremental district.

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

With certain exceptions, current law specifies that property standing vacant for an entire seven–year period immediately preceding adoption of the resolution creating a tax incremental district (TID) may not comprise more than 25 percent of the area in the TID. With regard to the exceptions to this restriction, current law specifies that the restriction does not apply to property in a TID if the district is suitable for either industrial sites or mixed use development and the local legislative body implements an approved project plan to promote industrial development if the district has been designated as suitable for industrial sites, or mixed–use development if the district has been designated as suitable for mixed–use development. Current law defines “vacant property” to include property where the fair market value or replacement cost value of structural improvements on the parcel is less than the fair market value of the land, to exclude property relating to the Park East and Park West freeway corridors in Milwaukee County, and to exclude property that is contaminated by environmental pollution.

Additionally, under current law, the Department of Revenue must certify the initial tax incremental base of a TID. Generally, this value is calculated as the aggregate value of all taxable property in the TID, plus the value of all tax–exempt city–owned property, except real property

owned by a city and used for police and fire buildings, administrative buildings, libraries, community and recreational buildings, parks, streets and improvements within any street right-of-way, parking facilities, and utilities.

The Draft

This draft removes the restriction that property standing vacant may not comprise more than 25 percent of the area in a TID, for TIDs created after the date the draft takes effect.

Additionally, for a TID created on or after the effective date of the draft, the draft revises the calculation of the initial tax incremental base of the district to exclude all tax-exempt city-owned property.

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

2 66.1105 (4) (gm) 1. Describes the boundaries, which may, but need not, be the same as
3 those recommended by the planning commission, of a tax incremental district with sufficient
4 definiteness to identify with ordinary and reasonable certainty the territory included in the
5 district. The boundaries of the tax incremental district may not include any annexed territory
6 that was not within the boundaries of the city on January 1, 2004, unless at least 3 years have
7 elapsed since the territory was annexed by the city, unless the city enters into a cooperative
8 plan boundary agreement, under s. 66.0301 (6) or 66.0307, with the town from which the
9 territory was annexed, or unless the city and town enter into another kind of agreement relating
10 to the annexation except that, notwithstanding these conditions, the city may include territory
11 that was not within the boundaries of the city on January 1, 2004, if the city pledges to pay the
12 town an amount equal to the property taxes levied on the territory by the town at the time of
13 the annexation for each of the next 5 years. If, as the result of a pledge by the city to pay the
14 town an amount equal to the property taxes levied on the territory by the town at the time of
15 the annexation for each of the next 5 years, the city includes territory in a tax incremental
16 district that was not within the boundaries of the city on January 1, 2004, the city's pledge is
17 enforceable by the town from which the territory was annexed. The boundaries shall include

1 only those whole units of property as are assessed for general property tax purposes. Property
2 For a tax incremental district created before the effective date of this subdivision ... [LRB
3 inserts date], property standing vacant for an entire 7-year period immediately preceding
4 adoption of the resolution creating a tax incremental district may not comprise more than 25
5 percent of the area in the tax incremental district, unless the tax incremental district is suitable
6 under subd. 4. a. for either industrial sites or mixed use development and the local legislative
7 body implements an approved project plan to promote industrial development within the
8 meaning of s. 66.1101 if the district has been designated as suitable for industrial sites, or
9 mixed-use development if the district has been designated as suitable for mixed-use
10 development. In this subdivision, “vacant property” includes property where the fair market
11 value or replacement cost value of structural improvements on the parcel is less than the fair
12 market value of the land. In this subdivision, “vacant property” does not include property
13 acquired by the local legislative body under ch. 32, property included within the abandoned
14 Park East freeway corridor or the abandoned Park West freeway corridor in Milwaukee
15 County, or property that is contaminated by environmental pollution, as defined in s. 66.1106
16 (1) (d).

NOTE: This SECTION removes the restriction that property standing vacant may not comprise more than 25 percent of the area in a TID, for TIDs created after the date the draft takes effect.

17 **SECTION 2.** 66.1105 (4) (k) of the statutes is repealed.

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

19 66.1105 (5) (b) Upon application in writing by the city clerk, in a form prescribed by
20 the department of revenue, the department shall determine according to its best judgment from
21 all sources available to it the full aggregate value of the taxable property and, except as
22 provided in par. (bm), of the city-owned property in the tax incremental district. The

1 application shall state the percentage of territory within the tax incremental district which the
2 local legislative body estimates will be devoted to retail business at the end of the maximum
3 expenditure period specified in sub. (6) (am) 1. if that estimate is at least 35%. Subject to sub.
4 (8) (d), the department shall certify this aggregate valuation to the city clerk, and the aggregate
5 valuation constitutes the tax incremental base of the tax incremental district. The city clerk
6 shall complete these forms, including forms for the amendment of a project plan, and submit
7 the completed application or amendment forms on or before October 31 of the year the tax
8 incremental district is created, as defined in sub. (4) (gm) 2. or, in the case of an amendment,
9 on or before October 31 of the year in which the changes to the project plan take effect.

10 **SECTION 4.** 66.1105 (5) (bm) of the statutes is repealed.

11 **SECTION 5.** 66.1105 (5) (c) of the statutes is renumbered 66.1105 (5) (c) 1. and amended
12 to read:

13 66.1105 (5) (c) 1. ~~If~~ For a tax incremental district created before the effective date of
14 this subdivision ... [LRB inserts date], if the city adopts an amendment to the original project
15 plan for any district which subtracts territory from the district or which includes additional
16 project costs at least part of which will be incurred after the period specified in sub. (6) (am)
17 1., the tax incremental base for the district shall be redetermined, if sub. (4) (h) 2., 4., or 5.
18 applies to the amended project plan, either by subtracting from the tax incremental base the
19 value of the taxable property and the value of real property owned by the city, other than
20 property described under ~~par. s. 66.1105 (5) (bm), 2013–14 stats.~~ that is subtracted from the
21 existing district or by adding to the tax incremental base the value of the taxable property and
22 the value of real property owned by the city, other than property described in ~~par. s. 66.1105~~
23 (5) (bm), ~~2013–14 stats.~~, that is added to the existing district under sub. (4) (h) 2., 4., or 5. or,
24 if sub. (4) (h) 2., 4., or 5. does not apply to the amended project plan, under ~~par. s. 66.1105 (b),~~

1 2013-14 stats., as of the January 1 next preceding the effective date of the amendment if the
2 amendment becomes effective between January 2 and September 30, as of the next subsequent
3 January 1 if the amendment becomes effective between October 1 and December 31 and if the
4 effective date of the amendment is January 1 of any year, the redetermination shall be made
5 on that date. With regard to a district to which territory has been added, the tax incremental
6 base as redetermined under this paragraph is effective for the purposes of this section only if
7 it exceeds the original tax incremental base determined under par. s.66.1105 (5) (b), 2013-14
8 stats.

9 **SECTION 6.** 66.1105 (5) (c) 2. of the statutes is created to read:

10 66.1105 (5) (c) 2. For a tax incremental district created on or after the effective date of
11 this subdivision ... [LRB inserts date], if the city adopts an amendment to the original project
12 plan for any district which subtracts territory from the district or which includes additional
13 project costs at least part of which will be incurred after the period specified in sub. (6) (am)
14 1., the tax incremental base for the district shall be redetermined, if sub. (4) (h) 2. applies to
15 the amended project plan, either by subtracting from the tax incremental base the value of the
16 taxable property that is subtracted from the existing district or by adding to the tax incremental
17 base the value of the taxable property that is added to the existing district under sub. (4) (h)
18 2. or, if sub. (4) (h) 2. does not apply to the amended project plan, under par. (b), as of the
19 January 1 next preceding the effective date of the amendment if the amendment becomes
20 effective between January 2 and September 30, as of the next subsequent January 1 if the
21 amendment becomes effective between October 1 and December 31 and if the effective date
22 of the amendment is January 1 of any year, the redetermination shall be made on that date.
23 With regard to a district to which territory has been added, the tax incremental base as

1 redetermined under this paragraph is effective for the purposes of this section only if it exceeds
2 the original tax incremental base determined under par. (b).

3 **SECTION 7.** 66.1105 (5) (ce) of the statutes is renumbered 66.1105 (5) (ce) 1. and
4 amended to read:

5 66.1105 (5) (ce) 1. ~~If~~ For a tax incremental district created before the effective date of
6 this subdivision ... [LRB inserts date], if the city adopts an amendment, to which sub. (4) (h)
7 2., 4., or 5. applies, the tax incremental base for the district shall be redetermined, either by
8 subtracting from the tax incremental base the value of the taxable property and the value of
9 real property owned by the city, other than property described under ~~par. s. 66.1105 (5) (bm),~~
10 2013-14, stats., that is subtracted from the existing district or by adding to the tax incremental
11 base the value of the taxable property and the value of real property owned by the city, other
12 than property described in ~~par. s. 66.1105 (5) (bm), 2013-14, stats.,~~ that is added to the existing
13 district under sub. (4) (h) 2., 4., or 5., as of the January 1 next preceding the effective date of
14 the amendment if the amendment becomes effective between January 2 and September 30, as
15 of the next subsequent January 1 if the amendment becomes effective between October 1 and
16 December 31 and if the effective date of the amendment is January 1 of any year, the
17 redetermination shall be made on that date. With regard to a district to which territory has been
18 added, the tax incremental base as redetermined under this paragraph is effective for the
19 purposes of this section only if it exceeds the original tax incremental base determined under
20 ~~par. s. 66.1105 (5) (b), 2013-14 stats.~~

21 **SECTION 8.** 66.1105 (5) (ce) 2. of the statutes is created to read:

22 66.1105 (5) (ce) 2. For a tax incremental district created on or after the effective date
23 of this subdivision ... [LRB inserts date], if the city adopts an amendment, to which sub. (4)
24 (h) 2. applies, the tax incremental base for the district shall be redetermined, either by

1 subtracting from the tax incremental base the value of the taxable property that is subtracted
2 from the existing district or by adding to the tax incremental base the value of the taxable
3 property that is added to the existing district under sub. (4) (h) 2. as of the January 1 next
4 preceding the effective date of the amendment if the amendment becomes effective between
5 January 2 and September 30, as of the next subsequent January 1 if the amendment becomes
6 effective between October 1 and December 31 and if the effective date of the amendment is
7 January 1 of any year, the redetermination shall be made on that date. With regard to a district
8 to which territory has been added, the tax incremental base as redetermined under this
9 paragraph is effective for the purposes of this section only if it exceeds the original tax
10 incremental base determined under par. (b).

NOTE: SECTIONS 2 to 8 revise the calculation of the initial tax incremental base of a tax incremental district to exclude all tax-exempt city-owned property for districts created after the date the draft takes effect.

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(END)