

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, 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 Draft

This draft 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.

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

1 adding territory to the district that is contiguous to the district and that is served by public
2 works or improvements that were created as part of the district's project plan. A single
3 amendment to a project plan that both adds and subtracts territory shall be counted under this
4 subdivision as one amendment of a project plan.

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

6 66.1105 (4) (h) 11. Notwithstanding the limitation in subd. 2., the planning commission
7 may, by resolution, adopt an amendment to a project plan under subd. 1., to modify the
8 district's boundaries by subtracting territory from the district in a way that does not remove
9 contiguity from the district or by adding territory to the district that is contiguous to the district
10 and that is served by public works or improvements that were created as part of the district's
11 project plan at any time during the district's existence if during the district's existence, the
12 annual and total amount of tax increments to be generated over the life of the district are
13 adversely impacted by one or more of the following:

- 14 a. An amendment to the provisions of this section.
15 b. A change made by the department of revenue to the equalized valuation method.
16 c. Legislation enacted on March 24, 2014 that increased state aid to technical college
17 districts in order to reduce the total statewide levy of technical college districts.

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.

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

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

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

4 66.1105 (5) (h) 3m. Notwithstanding the limitation in subd. 3., a local legislative body
5 may adopt a resolution under subd. 1. at any time during the district's existence if during the
6 district's existence, the annual and total amount of tax increments to be generated over the life
7 of the district are adversely impacted by one or more of the following:

8 a. An amendment to the provisions of this section.

9 b. A change made by the department of revenue to the equalized valuation method.

10 c. Legislation enacted on March 24, 2014 that increased state aid to technical college
11 districts in order to reduce the total statewide levy of technical college districts.

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.

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

14 66.1105 (7) (ak) 1. Except as provided in par. (am) 1. and 4., for a district about which
15 a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by area, of the real
16 property within the district is a blighted area or an area in need of rehabilitation or conservation
17 work, and if the district to which the plan relates is created after September 30, 1995, and
18 before October 1, 2004, 27 years after the district is created.

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

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

16 2. ~~For~~ Except as provided in subd. 4., for a district that is created after September 30,
17 2004, about which a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by
18 area, of the real property within the district is suitable for industrial sites or mixed-use
19 development, 20 years after the district is created, except that the city that created the district
20 may, subject to sub. (8) (e), request that the joint review board extend the life of the district
21 for an additional 3 years. Along with its request for a 3-year extension, the city may provide
22 the joint review board with an independent audit that demonstrates that the district is unable
23 to pay off its project costs within the 20 years after the district is created. The joint review
24 board may deny or approve a request to extend the life of the district for 3 years if the request

1 does not include the independent audit, and the board shall approve a request to extend the life
2 of the district for 3 years if the request includes the audit. If the joint review board extends
3 the district's life, the district shall terminate at the earlier of the end of the extended period or
4 the period specified in par. (a).

5 3. ~~For~~ Except as provided in subd. 4., for a district that is created after September 30,
6 2004, about which a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by
7 area, of the real property within the district is a blighted area or in need of rehabilitation, 27
8 years after the district is created, except that the city that created the district may, subject to
9 sub. (8) (e), request that the joint review board extend the life of the district for an additional
10 3 years. Along with its request for a 3-year extension, the city may provide the joint review
11 board with an independent audit that demonstrates that the district is unable to pay off its
12 project costs within the 27 years after the district is created. The joint review board may deny
13 or approve a request to extend the life of the district for 3 years if the request does not include
14 the independent audit, and the board shall approve a request to extend the life of the district
15 for 3 years if the request includes the audit. If the joint review board extends the district's life,
16 the district shall terminate at the earlier of the end of the extended period or the period specified
17 in par. (a).

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

19 66.1105 (7) (am) 4. a. Notwithstanding par. (ak) 1. and 2., and subds. 1., 2., and 3., the
20 city that created the district described under par. (ak) 2. or 3., or subds. 1., 2., or 3., may, subject
21 to sub. (8) (e), request that the joint review board extend the life of the district for an additional
22 5 years, in addition to an extension authorized under subds. 1., 2., or 3., at any time during the
23 district's existence if during the district's existence, the annual and total amount of tax

1 increments to be generated over the life of the district are adversely impacted by one or more
2 of the following:

3 1. An amendment to the provisions of this section.

4 2. A change made by the department of revenue to the equalized valuation method.

5 3. Legislation enacted on March 24, 2014 that increased state aid to technical college
6 districts in order to reduce the total statewide levy of technical college districts.

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

NOTE: SECTIONS 5 and 6 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.

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.

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(END)