

1       **AN ACT to repeal** 66.1105 (5) (bg) and 66.1105 (6) (am) 4., (dm) 1., 3. a., 4. and (e) 1.  
2           **c.; to amend** 60.85 (4) (b) 2., 66.0602 (3) (dm), 66.1105 (4) (gm) 5., 66.1105 (4) (h)  
3           1., 66.1105 (4e) (b) 3., (4m) (b) 2., and 2m. and 66.1106 (3) (b) 2.; and **to create**  
4           66.1105 (6) (a) 7m. and 8m. and 66.1105 (7) (am) 2m. and 3m. of the statutes;  
5       **relating to:** industrial zoning requirements in tax incremental districts, planning  
6       commission notice for tax incremental district amendments, obsolete references  
7       relating to tax incremental districts, allocation of tax increments, joint review board  
8       review, and calculation of levy limits following dissolution of a tax incremental  
9       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.

**Industrial Zoning Requirements in Tax Incremental Districts**

Under current law, a resolution to create a tax incremental district (TID) must include a finding that not less than 50 percent, by area, of the real property within the district is at least one of the following: a blighted area; in need of rehabilitation or conservation work; suitable for industrial sites and zoned for industrial use; or suitable for mixed-use development. The resolution must also confirm that any real property within the district that is found suitable for industrial sites and is zoned for industrial use will remain zoned for industrial use for the life of the tax incremental district, and must declare that the district is a blighted area district, a rehabilitation or conservation district, an industrial district, or a mixed-use district based on the identification and classification of the property included within the district.

The draft specifies that the requirement related to maintenance of industrial zoning applies only to districts that are declared to be industrial districts.

### **Planning Commission Notice for TID Amendments**

Under current law, a TID project plan may be amended for several reasons, including modification of the allowed expenditures in a TID's project plan, addition or subtraction of territory to the TID's boundaries, extension of the TID's lifespan, and donation of tax increments to another TID.

Generally, the process to amend a TID is similar to the process of creating a TID, requiring a public hearing held by the planning commission and adoption of resolutions by the planning commission, municipality, and joint review board (JRB) to approve the amendment. As part of this process, the planning commission must publish a class 2 notice of its public hearing. The JRB must publish notice of its meeting as a class 1 notice, at least five days before the meeting.

Under current law, a class 2 notice consists of insertions of the notice for two consecutive weeks, with the last insertion at least a week prior to the meeting date, in the appropriate newspaper of record under ch. 985, stats. A class 1 notice, unless otherwise specified (for example, the requirement that the JRB must publish a notice five days before its meeting), requires a single insertion of the notice, at least a week prior to the meeting date, in the appropriate newspaper of record.

The draft amends the notice requirement of the planning commission from a class 2 notice to a class 1 notice with regard to notices relating to the TID amendment process.

### **Obsolete References**

Over time, the statutes relating to tax incremental financing have been amended to include numerous provisions that are significantly limited in their scope, often relating to a single municipality or a particular TID. Often, these amendments offer special statutory authorization regarding creation, amendment, or lifespan of a particular district or class of districts, or to TIDs in a particular municipality.

The draft repeals certain provisions of the statutes relating to tax incremental financing that the Department of Revenue identified as obsolete.

### **Timing Penalty**

Under current law, certain statutory and administrative deadlines relating to the allocation of positive tax increments to a TID combine to result in variation in the maximum number of positive increments that may be allocated to a TID, depending on the date on which a municipality acted to create the TID and its project plan. In particular, the maximum

number of positive increments that a TID may receive is one fewer for a TID and project plan created after September 30 and before May 15 than for TIDs created on or after May 15 and before October 1.

For newly-created TIDs, the draft extends a TID's lifespan and period for allocation of positive TID increments by one year if the municipality that creates the TID adopts the project plan for the TID after September 30 and before May 15.

### **Joint Review Board Review Period**

Before a municipality's resolution to create a TID, amend a TID's project plan, or require the Department of Revenue (DOR) to redetermine the TID's base value may take effect, several steps are required. These steps include approval by a JRB, which consists of members who represent the overlying taxation districts. In general, the JRB must approve the resolution by a majority vote within 30 days after receiving the resolution. The review period applicable to an industry-specific TID located in a town and an environmental remediation TID is not less than 10 days nor more than 30 days.

The draft amends the maximum review period the JRB has to approve a municipality's resolution related to a TID from 30 days to 45 days after receiving the resolution.

Generally, under current law, and subject to a number of exceptions, a municipality may not increase its base levy (the prior year's actual levy) in any year by more than the percentage change in the municipality's equalized value due to new construction, including new construction that occurs in a TID, less improvements removed, between the previous year and the current year, but not less than zero percent. Also, when determining its levy limit, a municipality must exclude the amount of any tax increment generated by property in a TID located in the municipality.

There are numerous exceptions that may be used to adjust a municipality's levy limit. One exception authorizes an increase in a municipality's levy limit for the year that a TID terminates. If DOR does not certify a TID as a result of the district's termination, the levy limit otherwise applicable is increased by an amount equal to the municipality's maximum allowable levy for the preceding year, multiplied by a percentage equal to 50 percent of the amount determined by dividing the terminated TID's value increment by the municipality's equalized value, as determined by DOR. The increase must be applied to the municipality's levy limit in the year that the TID terminates.

The draft specifies that the municipality's equalized value for the preceding year, as used in the calculation of the levy limit exception for the year that a TID terminates, excludes the value of any TID value increments.

1           **SECTION 1.** 60.85 (4) (b) 2. of the statutes is amended to read:

2           60.85 (4) (b) 2. No tax incremental district may be created and no project plan may be  
3 amended unless the joint review board approves the resolution adopted under sub. (3) (h) or  
4 (j) 1. by a majority vote not less than 10 days nor more than 30 45 days after receiving the  
5 resolution.

**NOTE:** This SECTION extends the maximum review period that the JRB has to approve the creation or amendment of an industry-specific town TID from 30 days to 45 days.

6           **SECTION 2.** 66.0602 (3) (dm) of the statutes is amended to read:

7           66.0602 (3) (dm) If the department of revenue does not certify a value increment for  
8 a tax incremental district for the current year as a result of the district's termination, the levy  
9 increase limit otherwise applicable under this section in the current year to the political  
10 subdivision in which the district is located is increased by an amount equal to the political  
11 subdivision's maximum allowable levy for the immediately preceding year, multiplied by a  
12 percentage equal to 50 percent of the amount determined by dividing the value increment of  
13 the terminated tax incremental district, calculated for the previous year, by the political  
14 subdivision's equalized value, exclusive of any tax incremental district value increments, for  
15 the previous year, all as determined by the department of revenue.

**NOTE:** This SECTION excludes the value of any TID increments from the calculation of the levy limit exception that applies for the year a TID terminates.

16           **SECTION 3.** 66.1105 (4) (gm) 5. of the statutes is amended to read:

17           66.1105 (4) (gm) 5. ~~Confirms~~ If the district is declared to be an industrial district under  
18 subd. 6., confirms that any real property within the district that is found suitable for industrial

1 sites and is zoned for industrial use under subd. 4. a. will remain zoned for industrial use for  
2 the life of the tax incremental district.

**NOTE:** This SECTION specifies that maintenance of industrial zoning requirements applies only to districts that are declared to be industrial districts.

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

4 66.1105 (4) (h) 1. Subject to subds. 2., 4., 5., and 6., the planning commission may, by  
5 resolution, adopt an amendment to a project plan. The amendment is subject to approval by  
6 the local legislative body and approval requires the same findings as provided in par. (g) and,  
7 if the amendment adds territory to a district under subd. 2., approval also requires the same  
8 findings as provided in par. (gm) 4. c. Any amendment to a project plan is also subject to  
9 review by a joint review board, acting under sub. (4m). Adoption of an amendment to a project  
10 plan shall be preceded by a public hearing held by the plan commission at which interested  
11 parties shall be afforded a reasonable opportunity to express their views on the amendment.  
12 Notice of the hearing shall be published as a class 2 1 notice, under ch. 985. The notice shall  
13 include a statement of the purpose and cost of the amendment and shall advise that a copy of  
14 the amendment will be provided on request. Before publication, a copy of the notice shall be  
15 sent by 1st class mail to the chief executive officer or administrator of all local governmental  
16 entities having the power to levy taxes on property within the district and to the school board  
17 of any school district which includes property located within the proposed district. For a  
18 county with no chief executive officer or administrator, this notice shall be sent to the county  
19 board chairperson.

**NOTE:** This SECTION amends the notice a planning commission must provide with regard to consideration of a TID amendment.

20 **SECTION 5.** 66.1105 (4e) (b) 3., (4m) (b) 2., and 2m., of the statutes are amended to read:

1           66.1105 **(4e)** (b) 3. A resolution adopted under par. (a) 1. may not take effect unless the  
2 joint review board approves, by resolution, the designation under subd. 2. The joint review  
3 board shall approve or deny the designation within ~~30~~ 45 days after receiving the resolution  
4 under subd. 2.

5           **(4m)** (b) 2. Except as provided in subd. 2m., no tax incremental district may be created  
6 and no project plan may be amended unless the board approves the resolution adopted under  
7 sub. (4) (gm) or (h) 1., and no tax incremental base may be redetermined under sub. (5) (h)  
8 unless the board approves the resolution adopted under sub. (5) (h) 1., by a majority vote  
9 within ~~30~~ 45 days after receiving the resolution. With regard to a multijurisdictional tax  
10 incremental district created under this section, each public member of a participating city must  
11 be part of the majority that votes for approval of the resolution or the district may not be  
12 created. The board may not approve the resolution under this subdivision unless the board's  
13 approval contains a positive assertion that, in its judgment, the development described in the  
14 documents the board has reviewed under subd. 1. would not occur without the creation of a  
15 tax incremental district. The board may not approve the resolution under this subdivision  
16 unless the board finds that, with regard to a tax incremental district that is proposed to be  
17 created by a city under sub. (17) (a), such a district would be the only existing district created  
18 under that subsection by that city.

19           **(4m)** (b) 2m. The requirement under subd. 2., 2013-14 stats., that a vote by the board  
20 take place within 30 days after receiving a resolution does not apply to a resolution amending  
21 a project plan under sub. (4) (h) 1. if the resolution relates to a tax incremental district, the  
22 application for the redetermination of the tax incremental base of which was made in 1998,  
23 that is located in a village that was incorporated in 1912, has a population of at least 3,800 and  
24 is located in a county with a population of at least 108,000.

**NOTE:** This SECTION extends the review period that the JRB has to approve the designation of a TID as distressed or severely distressed from 30 days to 45 days. It also extends the review period that the JRB has to approve the creation or amendment of a TID located in a city or village from 30 days to 45 days and amends the statutory reference applicable to an exception to the 30-day JRB review period.

1           **SECTION 6.** 66.1105 (5) (bg) of the statutes is repealed.

**NOTE:** This SECTION repeals an obsolete reference.

2           **SECTION 7.** 66.1105 (6) (a) 7m. and 8m. of the statutes are created to read:

3           66.1105 (6) (a) 7m. Notwithstanding subd. 7., for a tax incremental district created after  
4           the effective date of this subdivision .... [LRB inserts date], one year after the date specified  
5           in subd. 7., if the district's project plan is adopted under sub. (4) (g) after September 30 and  
6           before May 15.

7           8m. Notwithstanding subd. 8., for a tax incremental district created after the effective  
8           date of this subdivision .... [LRB inserts date], one year after the date specified in subd. 8., if  
9           the district's project plan is adopted under sub. (4) (g) after September 30 and before May 15.

**NOTE:** This SECTION extends a TID's lifespan and allocation period for TID increments if a TID project plan is adopted after September 30 and before May 15.

10          **SECTION 8.** 66.1105 (6) (am) 4., (dm) 1., 3. a., 4. and (e) 1. c. of the statutes are repealed.

**NOTE:** This SECTION repeals obsolete references.

11          **SECTION 9.** 66.1105 (7) (am) 2m. and 3m. of the statutes are created to read:

12          (7) (am) 2m. Notwithstanding subd. 2., for a tax incremental district created after the  
13          effective date of this subdivision .... [LRB inserts date], one year after the date specified in  
14          subd. 2., if the district's project plan is adopted under sub. (4) (g) after September 30 and before  
15          May 15.

16          3m. Notwithstanding subd. 3., increment for a tax incremental district created after the  
17          effective date of this subdivision .... [LRB inserts date], one year after the date specified in

1 subd. 3., if the district's project plan is adopted under sub. (4) (g) after September 30 and before  
2 May 15.

**NOTE:** This SECTION extends a TID's lifespan and allocation period for TID increments if a TID project plan is adopted after September 30 and before May 15.

3 **SECTION 10.** 66.1106 (3) (b) 2. of the statutes is amended to read:

4 66.1106 (3) (b) 2. No written application may be submitted under sub. (4) unless the  
5 board approves the written proposal under sub. (2) by a majority vote not less than 10 days  
6 nor more than ~~30~~ 45 days after receiving the proposal.

**NOTE:** This SECTION extends the maximum review period that the JRB has to approve the written proposal and statement required for the creation of an environmental remediation TID.

7 (END)