



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-3127/1
MES:cdc

2019 ASSEMBLY BILL 538

October 14, 2019 - Introduced by Representatives FIELDS, NEYLON, BOWEN, CONSIDINE, CROWLEY, DITTRICH, GRUSZYNSKI, OHNSTAD, POPE, SINICKI, SKOWRONSKI, STEFFEN, SUBECK, C. TAYLOR and VANDERMEER, cosponsored by Senators KOOYENGA, WANGGAARD and L. TAYLOR. Referred to Committee on Jobs and the Economy.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to renumber and amend* 66.1110 (4) (c); *to amend* 66.1109 (2) (c),
2 66.1109 (2m) (c), 66.1109 (4m) (c), 66.1110 (3) (c), 66.1110 (3) (e), 66.1110 (4m)
3 (c), 66.1110 (5) and 66.1110 (6) (b) 3.; and *to create* 66.1109 (1) (ce), 66.1109 (3)
4 (e), 66.1109 (6), 66.1110 (4) (c) 1., 66.1110 (4) (c) 2., 66.1110 (4) (cg), 66.1110 (4)
5 (cr) and 66.1110 (4) (e) of the statutes; **relating to:** authorizing the creation of
6 multijurisdictional business improvement districts, changes to public annual
7 reports for neighborhood improvement districts, and changes to certain
8 notifications for both types of districts.

Analysis by the Legislative Reference Bureau

Under current law, based on the receipt of a petition from certain business owners in a designated area of a city, village, or town (municipality), a municipality may create a business improvement district (BID), which consists of contiguous parcels of land. A BID is governed by a board, whose members are appointed by the creating municipality's chief executive officer (mayor, city manager, village president, or town board chair). The board is required to adopt an initial operating plan for the BID, and may make changes to the operating plan each year, subject to the approval of the municipality's governing body.

Also under current law, a municipality may create a neighborhood improvement district (NID), upon being petitioned to do so by an owner of real

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property that is located in the proposed NID, if a number of steps are taken. In general, a NID is an area within a municipality consisting of parcels that are nearby to one another, but not necessarily contiguous, at least some of which are used for residential purposes and are subject to general real estate taxes, and also may include property that is acquired and owned by the NID board. A NID is governed by a board, whose members are elected. A municipality may adopt an initial operating plan for the NID, and the board may annually make changes to the operating plan, subject to the approval of the municipality's governing body.

The creating municipality may impose special assessments on the property in a BID or a NID, and may appropriate other money to such districts. All such funds must be placed in a segregated account. Generally, the funds in the account must be spent for the benefit of the BID or NID to put into effect its operating plan, and to pay for certain required audits. Generally, the boards determine how such funds are spent. The creating municipality may terminate such districts by following certain procedures that are specified in the statutes.

Also under current law, the state, regional planning commissions, federally recognized Indian tribes and bands, and local units of government, including municipalities, counties, school districts, and other special purpose districts, may enter into intergovernmental cooperation agreements for the receipt or furnishing of services or joint exercise of powers. As part of an intergovernmental cooperation agreement, these units of government may create a commission to perform the service or exercise the joint power.

Subject to a number of conditions, this bill authorizes two or more municipalities to create a single multijurisdictional BID (MJBID). The conditions include a requirement that the district's borders contain contiguous territory in all of the municipalities that are party to the agreement creating the MJBID. An MJBID is governed by a single board whose members are appointed by the chief executive officers of each of the municipalities that are part of a MJBID, and confirmed by all the relevant local legislative bodies. All actions taken by the board that require local legislative body approval, however, must be approved by all the relevant local legislative bodies. If one or more such body does not approve within approximately six months of the first approval of a local legislative body, the district must terminate.

Under the bill, each municipality that is a part of the MJBID must impose, collect, and deposit into its own municipal treasury all special assessments or other funds that relate to properties that are located within its own jurisdiction. Also under the bill, each municipality that is a part of the MJBID must provide any required notices to all property owners whose property is located within its own jurisdiction.

With regard to a BID, current law requires a board that had a cash balance of less than \$300,000 at all times during the prior fiscal year to include a reviewed financial statement in its public annual report. If the cash balance equals or exceeds \$300,000 at any time during the prior fiscal year, the BID is required to include an independent certified audit in its annual report. The reviewed financial statement must be prepared in accordance with generally accepted accounting principles and

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include a review of the financial statement by an independent certified public accountant.

Current law requires a NID's board to include an independent certified audit in its mandatory public annual report describing the current status of the NID, irrespective of the cash balance in the NID's segregated account. This bill makes the financial statement and audit requirements that currently apply to a BID apply in the same way to a NID.

Finally, for BIDs and NIDs, the bill changes the requirement that certain notices be sent by certified mail to a requirement that they must be sent by 1st class mail. In addition, if a person to whom a notice must be sent owns multiple properties in the BID or NID, the municipality may fulfill its notice requirements by sending only one notice to the person. The notice must list all the affected properties or parcels owned by the person.

For further information see the *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:

- 1 **SECTION 1.** 66.1109 (1) (ce) of the statutes is created to read:
- 2 66.1109 (1) (ce) "Commission" means a commission created by 2 or more
- 3 municipalities by contract under s. 66.0301 to act as a board under this section for
- 4 a multijurisdictional business improvement district as described under sub. (6).
- 5 **SECTION 2.** 66.1109 (2) (c) of the statutes is amended to read:
- 6 66.1109 (2) (c) At least 30 days before creation of the business improvement
- 7 district and adoption of its initial operating plan by the municipality, the planning
- 8 commission has held a public hearing on its proposed business improvement district
- 9 and initial operating plan. Notice of the hearing shall be published as a class 2 notice
- 10 under ch. 985. Before publication, a copy of the notice together with a copy of the
- 11 proposed initial operating plan and a copy of a detail map showing the boundaries
- 12 of the proposed business improvement district shall be sent by ~~certified~~ 1st class mail
- 13 to all owners of real property within the proposed business improvement district.
- 14 The notice shall state the boundaries of the proposed business improvement district

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1 and shall indicate that copies of the proposed initial operating plan are available
2 from the planning commission on request.

3 **SECTION 3.** 66.1109 (2m) (c) of the statutes is amended to read:

4 66.1109 **(2m)** (c) At least 30 days before annexation of the territory, the
5 planning commission has held a public hearing on the proposed annexation. Notice
6 of the hearing shall be published as a class 2 notice under ch. 985. Before publication,
7 a copy of the notice together with a copy of a detail map showing the boundaries of
8 the territory proposed to be annexed to the business improvement district shall be
9 sent by certified 1st class mail to all owners of real property within the territory
10 proposed to be annexed. The notice shall state the boundaries of the territory
11 proposed to be annexed.

12 **SECTION 4.** 66.1109 (3) (e) of the statutes is created to read:

13 66.1109 **(3)** (e) With regard to any 1st class mailings that are required to be sent
14 under this section:

15 1. The mailings shall be sent by the municipality itself or by a mailing house
16 service selected by the municipality.

17 2. The municipality may fulfill any notification requirements by sending only
18 one notice to any person who owns multiple properties within the business
19 improvement district. The notice shall list all affected properties or parcels owned
20 by the person.

21 **SECTION 5.** 66.1109 (4m) (c) of the statutes is amended to read:

22 66.1109 **(4m)** (c) Within 30 days after the filing of a petition under this
23 subsection, the planning commission shall hold a public hearing on the proposed
24 termination. Notice of the hearing shall be published as a class 2 notice under ch.
25 985. Before publication, a copy of the notice together with a copy of the operating plan

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1 and a copy of a detail map showing the boundaries of the business improvement
2 district shall be sent by certified 1st class mail to all owners of real property within
3 the business improvement district. The notice shall state the boundaries of the
4 business improvement district and shall indicate that copies of the operating plan
5 are available from the planning commission on request.

6 **SECTION 6.** 66.1109 (6) of the statutes is created to read:

7 66.1109 (6) (a) Subject to the requirements of this section and the modifications
8 of the requirements in this subsection, 2 or more municipalities may jointly create
9 a single multijurisdictional business improvement district under this section if all
10 of the following apply:

11 1. The district's borders contain territory in all of the municipalities that are
12 a part of the district.

13 2. The district is contiguous.

14 3. At least one parcel in each participating municipality touches at least one
15 parcel in at least one of the other municipalities.

16 4. At least one owner of real property used for commercial purposes in each of
17 the municipalities that are a part of the district takes the action described in sub. (2)
18 (a).

19 5. The planning commission of each of the municipalities that are a part of the
20 district adopts under sub. (2) (b) identical initial operating plans for the district.

21 6. The local legislative body of each of the municipalities that are a part of the
22 district adopts under sub. (2) (e) identical initial operating plans for each
23 municipality.

24 (b) 1. The hearing described under sub. (2) (c) may be a joint hearing held by
25 all of the involved planning commissions.

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1 2. Each municipality that is a part of the district shall be responsible for
2 complying with the notice requirements described under sub. (3) (e) for property or
3 parcels that are located within its own jurisdiction, and for determining whether the
4 thresholds described in subs. (2) (d) and (4m) are met with regard to owners of
5 property that is located within its own jurisdiction.

6 3. The chief executive officers of each of the municipalities that are a part of the
7 district shall enter into an agreement which specifies how the members of the board
8 shall be appointed under sub. (3) (a). All board members shall be confirmed by each
9 local legislative body.

10 4. The board, or each municipality that is a part of the district, shall conduct
11 all functions described under sub. (3) except that to take effect, any actions which
12 require local legislative body approval under sub. (3) must be approved by the local
13 legislative body of each of the municipalities that is a part of the district. If one or
14 more local legislative bodies fail to approve an item that must be so approved, as
15 described in sub. (3), before the first day of the 7th month beginning after the first
16 local legislative body approves the item, the district shall terminate.

17 5. Each municipality shall be responsible, as described under sub. (4), for
18 imposing, collecting, and depositing special assessments for those parts of the
19 district's property that are located within its own jurisdiction, and for depositing all
20 other appropriations or other monies received by the municipality, as described
21 under sub. (4), that relate to property that is located within its own jurisdiction.
22 Funds collected by each municipality that is a part of the district shall be deposited
23 by that municipality into a segregated account at a financial institution of the
24 municipality's choice.

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1 6. A multijurisdictional business improvement district may not be converted
2 into a neighborhood improvement district under sub. (4g).

3 **SECTION 7.** 66.1110 (3) (c) of the statutes is amended to read:

4 66.1110 (3) (c) At least 30 days before creation of the neighborhood
5 improvement district and adoption of its initial operating plan by the municipality,
6 the planning commission has held a public hearing on its proposed neighborhood
7 improvement district and initial operating plan. Notice of the hearing shall be
8 published as a class 2 notice under ch. 985. Before publication, a copy of the notice,
9 together with a copy of the proposed initial operating plan and a copy of a detail map
10 showing the boundaries of the proposed neighborhood improvement district, shall be
11 sent by certified 1st class mail to all owners of real property within the proposed
12 neighborhood improvement district. The notice shall state the boundaries of the
13 proposed neighborhood improvement district and shall indicate that copies of the
14 proposed initial operating plan are available from the planning commission on
15 request.

16 **SECTION 8.** 66.1110 (3) (e) of the statutes is amended to read:

17 66.1110 (3) (e) The local legislative body has voted to adopt the proposed initial
18 operating plan for the neighborhood improvement district. The local legislative body
19 shall publish a class 2 notice under ch. 985 regarding the meeting at which the local
20 legislative body will vote on whether to adopt the proposed initial operating plan for
21 the neighborhood improvement district. Before publication, a copy of the notice shall
22 be sent by certified 1st class mail to all owners of real property within the proposed
23 neighborhood improvement district.

24 **SECTION 9.** 66.1110 (4) (c) of the statutes is renumbered 66.1110 (4) (c) (intro.)
25 and amended to read:

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1 66.1110 (4) (c) (intro.) The board shall prepare and make available to the public
2 annual reports describing the current status of the neighborhood improvement
3 district, including expenditures and revenues. The report shall include an
4 ~~independent certified audit of the implementation of the operating plan obtained by~~
5 ~~the municipality. The municipality shall obtain an additional independent certified~~
6 ~~audit upon termination of the neighborhood improvement district. one of the~~
7 following:

8 **SECTION 10.** 66.1110 (4) (c) 1. of the statutes is created to read:

9 66.1110 (4) (c) 1. If the cash balance in the segregated account described under
10 sub. (5) equaled or exceeded \$300,000 at any time during the period covered by the
11 report, the municipality shall obtain an independent certified audit of the
12 implementation of the operating plan.

13 **SECTION 11.** 66.1110 (4) (c) 2. of the statutes is created to read:

14 66.1110 (4) (c) 2. If the cash balance in the segregated account described under
15 sub. (5) was less than \$300,000 at all times during the period covered by the report,
16 the municipality shall obtain a reviewed financial statement for the most recently
17 completed fiscal year. The statement shall be prepared in accordance with generally
18 accepted accounting principles and include a review of the financial statement by an
19 independent certified public accountant.

20 **SECTION 12.** 66.1110 (4) (cg) of the statutes is created to read:

21 66.1110 (4) (cg) For calendar years beginning after December 31, 2019, the
22 dollar amount at which a municipality is required to obtain an independent certified
23 audit under par. (c) 1. and the dollar amount at which a municipality is required to
24 obtain a reviewed financial statement under par. (c) 2. shall be increased each year
25 by a percentage equal to the percentage change between the U.S. consumer price

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1 index for all urban consumers, U.S. city average, for the month of August of the
2 previous year and the U.S. consumer price index for all urban consumers, U.S. city
3 average, for the month of August 2018, as determined by the federal department of
4 labor. Each amount that is revised under this paragraph shall be rounded to the
5 nearest multiple of \$10 if the revised amount is not a multiple of \$10 or, if the revised
6 amount is a multiple of \$5, such an amount shall be increased to the next higher
7 multiple of \$10.

8 **SECTION 13.** 66.1110 (4) (cr) of the statutes is created to read:

9 66.1110 (4) (cr) The municipality shall obtain an additional independent
10 certified audit of the implementation of the operating plan upon termination of the
11 neighborhood improvement district.

12 **SECTION 14.** 66.1110 (4) (e) of the statutes is created to read:

13 66.1110 (4) (e) With regard to any 1st class mailings that are required to be sent
14 under this section:

15 1. The mailings shall be sent by the municipality itself or by a mailing house
16 service selected by the municipality.

17 2. The municipality may fulfill any notification requirements by sending only
18 one notice to any person who owns multiple properties within the neighborhood
19 improvement district. The notice shall list all affected properties or parcels owned
20 by the person.

21 **SECTION 15.** 66.1110 (4m) (c) of the statutes is amended to read:

22 66.1110 (4m) (c) At least 30 days before annexation, the planning commission
23 has held a public hearing on the proposed annexation. Notice of the hearing shall
24 be published as a class 2 notice under ch. 985. Before publication, a copy of the notice,
25 together with a copy of a detail map showing the boundaries of the territory proposed

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1 to be annexed to the neighborhood improvement district, shall be sent by certified
2 1st class mail to all owners of real property within the territory proposed to be
3 annexed. The notice shall state the boundaries of the territory proposed to be
4 annexed.

5 **SECTION 16.** 66.1110 (5) of the statutes is amended to read:

6 66.1110 (5) All special assessments received from a neighborhood
7 improvement district and all other appropriations by the municipality or other
8 moneys received for the benefit of the neighborhood improvement district shall be
9 placed in a segregated account in the municipal treasury. No disbursements from
10 the account may be made except to reimburse the municipality for appropriations
11 other than special assessments, to pay the costs of audits and reviewed financial
12 statements required under sub. (4) (c) or on order of the board for the purpose of
13 implementing the operating plan. On termination of the neighborhood improvement
14 district by the municipality, all moneys collected by special assessment remaining in
15 the account shall be disbursed to the owners of specially assessed property in the
16 neighborhood improvement district, in the same proportion as the last collected
17 special assessment.

18 **SECTION 17.** 66.1110 (6) (b) 3. of the statutes is amended to read:

19 66.1110 (6) (b) 3. Within 30 days after the filing of a petition under par. (a) 1.
20 or 2., the planning commission shall hold a public hearing on the proposed
21 termination. Within 30 days after the deadline for filing a petition under par. (a) 3.
22 passes, the planning commission shall hold a public hearing on the proposed
23 termination. Notice of the hearing shall be published as a class 2 notice under ch.
24 985. Before publication, a copy of the notice, together with a copy of a detail map
25 showing the boundaries of the neighborhood improvement district, shall be sent by

