



2013 ASSEMBLY BILL 546

December 9, 2013 - Introduced by Representatives WEININGER, BALLWEG, BIES and KAHL, cosponsored by Senators COWLES, GROTHMAN, GUDEx and SCHULTZ. Referred to Committee on State and Local Finance.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to renumber and amend* 66.1105 (2) (i); *to amend* 66.1105 (4m) (a),
2 66.1105 (6) (f) 1. (intro.), 66.1105 (6) (g) 2., 66.1105 (8) (e), 66.1105 (18) (b) 11.
3 a., 66.1106 (3) (a) and 66.1106 (7) (e) 2.; and *to create* 66.1105 (2) (ak), 66.1105
4 (2) (f) 4., 66.1105 (2) (hm), 66.1105 (2) (i) 2., 66.1105 (4) (bm), 66.1105 (4) (gm)
5 2m., 66.1105 (4m) (aw), 66.1105 (6) (a) 12., 66.1105 (7) (ao), 66.1105 (7) (c),
6 66.1105 (17) (d), 66.1105 (19), 66.1106 (1) (jt), 66.1106 (1m) (am), 66.1106 (3) (e)
7 and 66.1106 (11) (bm) of the statutes; **relating to:** short-term tax incremental
8 districts and expenditure of tax increments for relocation of commercial or
9 industrial enterprises.

Analysis by the Legislative Reference Bureau

Under the current tax incremental financing program, a city or village may create a tax incremental district (TID) in part of its territory to foster development if at least 50 percent of the area to be included in the TID is blighted, in need of rehabilitation or conservation, suitable for industrial sites, or suitable for mixed-use development. Currently, towns and counties also have a limited ability to create a TID under certain circumstances. Before a city or village may create a TID, several steps and plans are required. These steps and plans include public hearings on the

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proposed TID within specified time frames, preparation and adoption by the local planning commission of a proposed project plan for the TID, approval of the proposed project plan by the common council or village board, approval of the city's or village's proposed TID by a joint review board that consists of members who represent the overlying taxation districts, and adoption of a resolution by the common council or village board that creates the TID as of a date provided in the resolution.

Also under current law, once a TID has been created, the Department of Revenue (DOR) calculates the "tax incremental base" value of the TID, which is the equalized value of all taxable property within the TID at the time of its creation. If the development in the TID increases the value of the property in the TID above the base value, a "value increment" is created. That portion of taxes collected on the value increment in excess of the base value is called a "tax increment." The tax increment is placed in a special fund that may be used only to pay back the project costs of the TID. The costs of a TID, which are initially incurred by the creating city or village, include public works such as sewers, streets, and lighting systems; financing costs; site preparation costs; and professional service costs. DOR authorizes the allocation of the tax increments until the TID terminates or, generally, 20 years, 23 years, or 27 years after the TID is created, depending on the type of TID and the year in which it was created.

This bill allows the creation of a short-term TID. The procedure for creating a short-term TID is generally the same as for creating a full-term TID, except that the joint review board that must approve a short-term TID may not include a representative of a school district. A short-term TID generally operates as a full-term TID with three exceptions. First, a short-term TID terminates 14 years after the short-term TID is created, but the termination date may, upon approval by the joint review board, be extended to 27 years after creation. Second, tax increments for short-term TIDs do not include the portion of taxes collected in the TID for school districts, i.e. the school district taxes collected on the value increment continue to go to the school district. Third, a short-term TID generally may not include as project costs any expenditures for "enterprise transfer" for enterprises not currently located in the municipality. The term "enterprise transfer" is defined to mean "the initiation or operation in a location by the same or an affiliated enterprise that has closed or substantially reduced operations in the same county or a contiguous county in the state." The prohibition on the use of project cost expenditures for enterprise transfer does not apply if, within one year, the enterprise involved increases the number of individuals it employs in the combination of the location to which, and the location from which, the enterprise moved and maintains the increase for not less than one year. This bill also provides that if the municipality from which the enterprise moved reasonably believes that the transfer is an "enterprise transfer" and that the municipality to which the enterprise moved improperly used project costs in the transfer, the municipality from which the enterprise moved may request that the municipality to which the enterprise moved pay the the estimated amount of property taxes that the enterprise would have paid over the subsequent five years. If the municipality to which the enterprise moved denies the request, either municipality may petition DOR for review. If DOR finds for the municipality from

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which the enterprise transferred, DOR may order the municipality to which the enterprise moved pay the estimated amount of property taxes that the enterprise would have paid over the subsequent ten years or may order the TID terminated.

Also under current law, before a TID may be created or its project plan amended, the city or village must adopt a resolution containing a finding that the equalized value of taxable property of the TID plus the value increment of all existing TIDs does not exceed 12 percent of the total equalized value of taxable property in the city or village, subject to one general exception. Under this bill, the 12 percent limit does not apply to a short-term TID.

For further information see the *state and 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.** 66.1105 (2) (ak) of the statutes is created to read:

2 66.1105 (2) (ak) "Enterprise transfer" means the initiation of operations in a
3 location by the same or an affiliated enterprise that has closed or substantially
4 reduced operations in the same county or a contiguous county in the state.

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

6 66.1105 (2) (f) 4. a. Notwithstanding subd. 1. and except as provided in subd.
7 4. b., project costs for a short-term tax incremental district may not include
8 expenditures for, or used in connection with, the enterprise transfer of a commercial
9 or industrial enterprise not currently located within the city.

10 b. Project costs for a short-term tax incremental district may include costs
11 excluded under subd. 4. a. if, within one year after the enterprise transfer, the
12 enterprise has increased the number of individuals it employs in the combination of
13 the location from which it reduced or closed operations and the location to which it
14 transferred and maintains the increase for not less than one year.

15 **SECTION 3.** 66.1105 (2) (hm) of the statutes is created to read:

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1 66.1105 (2) (hm) “Short-term tax incremental district” means a tax
2 incremental district designated as a short-term tax incremental district under sub.
3 (4) (gm) 2m. and approved by the joint review board under sub. (4m).

4 **SECTION 4.** 66.1105 (2) (i) of the statutes is renumbered 66.1105 (2) (i) 1. and
5 amended to read:

6 66.1105 (2) (i) 1. “Tax Except as provided in subd. 2., “tax increment” means
7 that amount obtained by multiplying the total county, city, school and other local
8 general property taxes levied on all taxable property within a tax incremental
9 district in a year by a fraction having as a numerator the value increment for that
10 year in the district and as a denominator that year’s equalized value of all taxable
11 property in the district.

12 3. In any year, a tax increment is “positive” if the value increment is positive;
13 it is “negative” if the value increment is negative.

14 **SECTION 5.** 66.1105 (2) (i) 2. of the statutes is created to read:

15 66.1105 (2) (i) 2. For a short-term tax incremental district, “tax increment”
16 means that amount obtained by multiplying the total county, city, and other local
17 general property taxes, except the portion of the general property taxes that is set
18 by the school board, levied on all taxable property within a tax incremental district
19 in a year by a fraction having as a numerator the value increment for that year in
20 the district and as a denominator that year’s equalized value of all taxable property
21 in the district.

22 **SECTION 6.** 66.1105 (4) (bm) of the statutes is created to read:

23 66.1105 (4) (bm) Recommendation by the planning commission to the local
24 legislative body as to whether the proposed tax incremental district should be a
25 full-term tax incremental district or a short-term tax incremental district.

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1 **SECTION 7.** 66.1105 (4) (gm) 2m. of the statutes is created to read:

2 66.1105 (4) (gm) 2m. Designates the district as either a full-term tax
3 incremental district or a short-term tax incremental district.

4 **SECTION 8.** 66.1105 (4m) (a) of the statutes is amended to read:

5 66.1105 (**4m**) (a) Any city that seeks to create a tax incremental district, amend
6 a project plan, or incur project costs as described in sub. (2) (f) 1. n. for an area that
7 is outside of a district's boundaries, shall convene a temporary joint review board
8 under this paragraph, or a standing joint review board under sub. (3) (g), to review
9 the proposal. Except as provided in ~~par. pars.~~ par. (am) and, (as), and (aw), and subject
10 to par. (ae), the board shall consist of one representative chosen by the school district
11 that has power to levy taxes on the property within the tax incremental district, one
12 representative chosen by the technical college district that has power to levy taxes
13 on the property within the tax incremental district, one representative chosen by the
14 county that has power to levy taxes on the property within the tax incremental
15 district, one representative chosen by the city, and one public member. If more than
16 one school district, more than one union high school district, more than one
17 elementary school district, more than one technical college district or more than one
18 county has the power to levy taxes on the property within the tax incremental
19 district, the unit in which is located property of the tax incremental district that has
20 the greatest value shall choose that representative to the board. The public member
21 and the board's chairperson shall be selected by a majority of the other board
22 members before the public hearing under sub. (4) (a) or (h) 1. is held. All board
23 members shall be appointed and the first board meeting held within 14 days after
24 the notice is published under sub. (4) (a) or (h) 1. Additional meetings of the board
25 shall be held upon the call of any member. The city that seeks to create the tax

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1 incremental district, amend its project plan, or make or incur an expenditure as
2 described in sub. (2) (f) 1. n. for an area that is outside of a district's boundaries shall
3 provide administrative support for the board. By majority vote, the board may
4 disband following approval or rejection of the proposal, unless the board is a standing
5 board that is created by the city under sub. (3) (g).

6 **SECTION 9.** 66.1105 (4m) (aw) of the statutes is created to read:

7 66.1105 (**4m**) (aw) If review under this section relates to a short-term tax
8 incremental district, the board may not include any representative chosen by a
9 school district.

10 **SECTION 10.** 66.1105 (6) (a) 12. of the statutes is created to read:

11 66.1105 (**6**) (a) 12. Notwithstanding subds. 7. and 8., 14 years after the tax
12 incremental district is created if the district is a short-term tax incremental district,
13 except that, if the life of the district is extended under sub. (7) (ao), an allocation
14 under this subsection may be made for the period for which the district is extended
15 not to exceed 27 years.

16 **SECTION 11.** 66.1105 (6) (f) 1. (intro.) of the statutes is amended to read:

17 66.1105 (**6**) (f) 1. (intro.) Not later than the date on which a tax incremental
18 district terminates under sub. (7) (am) or (ao), a planning commission may amend
19 under sub. (4) (h) the project plan of a tax incremental district to allocate positive tax
20 increments generated by that tax incremental district to another tax incremental
21 district created by that planning commission if all of the following conditions are met:

22 **SECTION 12.** 66.1105 (6) (g) 2. of the statutes is amended to read:

23 66.1105 (**6**) (g) 2. If the department of revenue receives a notice described under
24 subd. 1. b., it shall continue authorizing the allocation of tax increments to the
25 district under par. (a) during the district's life, as extended by the city, as if the

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1 district's costs had not been paid off and without regard to whether any of the time
2 periods specified in par. (a) 2. to 8. or 12. would otherwise require terminating the
3 allocation of such increments.

4 **SECTION 13.** 66.1105 (7) (ao) of the statutes is created to read:

5 66.1105 (7) (ao) Notwithstanding par. (am), for a short-term tax incremental
6 district, 14 years, except that the city that created the district may, subject to sub.
7 (8) (e), request that the joint review board extend the life of the district for not more
8 than 13 years.

9 **SECTION 14.** 66.1105 (7) (c) of the statutes is created to read:

10 66.1105 (7) (c) The department orders the district terminated under s. 66.1105
11 (19). Upon termination under this paragraph, the city becomes liable for all unpaid
12 projects costs actually incurred which are not paid from the special fund under sub.
13 (6) (c), except this paragraph does not make the city liable for any tax incremental
14 bonds or notes issued.

15 **SECTION 15.** 66.1105 (8) (e) of the statutes is amended to read:

16 66.1105 (8) (e) A city shall notify the department of revenue at least one year
17 before the date on which a tax incremental district is required to terminate under
18 sub. (7) (am) or (ao) if a joint review board approves a request to extend the life of the
19 district under sub. (7) (am) or (ao). If a city does not notify the department of revenue
20 by that date, the department may deny the extension.

21 **SECTION 16.** 66.1105 (17) (d) of the statutes is created to read:

22 66.1105 (17) (d) *Short-term tax incremental district exception.* The 12 percent
23 limit in sub. (4) (gm) 4. c. does not apply to a short-term tax incremental district.

24 **SECTION 17.** 66.1105 (18) (b) 11. a. of the statutes is amended to read:

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1 66.1105 (18) (b) 11. a. Whether the district's life may be extended under sub.
2 (6) (g) 1. or (7) (am) 2. or 3. or (ao).

3 **SECTION 18.** 66.1105 (19) of the statutes is created to read:

4 66.1105 (19) DISPUTES RELATED TO ENTERPRISE TRANSFERS. (a) In this subsection,
5 "municipality" means a city, village, or town.

6 (b) A municipality in which an enterprise closed or substantially reduced
7 operations may request that the municipality in which the enterprise initiated
8 operations pay not more than the estimated amount of property taxes that would
9 have been paid over the subsequent 5 years by the enterprise if the municipality in
10 which an enterprise closed or substantially reduced operations reasonably believes
11 each of the following:

12 1. The closing or substantial reduction of operations and the initiation of
13 operations of the enterprise constitutes an enterprise transfer, as defined in s.
14 66.1105 (2) (ak).

15 2. The municipality in which the enterprise initiated operations included in
16 project costs expenditures that are not permitted under par. (2) (f) 4. a. in relation
17 to the enterprise.

18 (c) If the municipality in which the enterprise initiated operations denies the
19 request under par. (b), the municipality in which the enterprise closed or
20 substantially reduced operations may petition the department of revenue for a
21 determination of whether par. (b) 1. and 2. applies.

22 (d) If the department of revenue determines that the petitioner municipality
23 has demonstrated the application of par. (b) 1. and 2., the department may order the
24 respondent municipality to pay not more than the estimated amount of property

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1 taxes that would have been paid over the subsequent 10 years by the enterprise or
2 may order the tax incremental district be terminated.

3 **SECTION 19.** 66.1106 (1) (jt) of the statutes is created to read:

4 66.1106 (1) (jt) “Short-term environmental remediation tax incremental
5 district” means an environmental remediation tax incremental district designated
6 as a short-term environmental remediation tax incremental district under sub. (1m)
7 (am) and approved by the joint review board under sub. (3).

8 **SECTION 20.** 66.1106 (1m) (am) of the statutes is created to read:

9 66.1106 (1m) (am) Designates the district as either a full-term environmental
10 remediation tax incremental district or a short-term environmental remediation tax
11 incremental district.

12 **SECTION 21.** 66.1106 (3) (a) of the statutes is amended to read:

13 66.1106 (3) (a) Any political subdivision that seeks to use an environmental
14 remediation tax increment under sub. (2) shall convene a joint review board to review
15 the proposal. The Except as provided in par. (e), the board shall consist of one
16 representative chosen by the school district that has power to levy taxes on the
17 property that is remediated, one representative chosen by the technical college
18 district that has power to levy taxes on the property, one representative chosen by
19 the county that has power to levy taxes on the property that is remediated, one
20 representative chosen by the city, village or town that has power to levy taxes on the
21 property that is remediated and one public member. If more than one city, village or
22 town, more than one school district, more than one technical college district or more
23 than one county has the power to levy taxes on the property that is remediated, the
24 unit in which is located property that has the greatest value shall choose that
25 representative to the board. The public member and the board’s chairperson shall

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1 be selected by a majority of the other board members at the board's first meeting.
2 All board members shall be appointed and the first board meeting held within 14
3 days after the political subdivision's governing body approves the written proposal
4 under sub. (2). Additional meetings of the board shall be held upon the call of any
5 member. The political subdivision that seeks to act under sub. (2) shall provide
6 administrative support for the board. By majority vote, the board may disband
7 following approval or rejection of the proposal.

8 **SECTION 22.** 66.1106 (3) (e) of the statutes is created to read:

9 66.1106 (3) (e) If review under this section relates to a short-term
10 environmental remediation tax incremental district, the board may not include any
11 representative chosen by a school district.

12 **SECTION 23.** 66.1106 (7) (e) 2. of the statutes is amended to read:

13 66.1106 (7) (e) 2. The donor district terminates under sub. (11) (b) or (bm).

14 **SECTION 24.** 66.1106 (11) (bm) of the statutes is created to read:

15 66.1106 (11) (bm) Fourteen years after the department certifies the short-term
16 environmental remediation tax incremental base of a parcel or contiguous parcels or
17 property under sub. (4), except that the city that created the district may, subject to
18 sub. (12), request that the joint review board extend the life of the district for not
19 more than 13 years.

20 (END)