



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2013 Senate Bill 338	Senate Amendment 1 to Assembly Amendment 2
<i>Memo published:</i> March 20, 2014	<i>Contact:</i> Brian Larson, Staff Attorney (266-0680) Michael Queensland, Staff Attorney (266-3810)

2013 Senate Bill 338 (the bill) generally relates to tax incremental financing. Under current law, a city or village may create a tax incremental district (TID) in part of its territory to foster development if several requirements are met, including if at least 50% 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 limited statutory authority to create a TID under certain circumstances.

SENATE BILL 338; AS CONCURRED IN BY THE ASSEMBLY, AS AMENDED

Large-Town TIDs

The bill permits a town with a population of 5,000 or more, in which the equalized value of taxable property is at least \$500 million, to create a TID under the same law generally applicable to villages and cities (“a large-town TID”).

Large-Town TID Sewer Service and Annexation Requirements¹

The bill establishes certain requirements related to the creation of a large-town TID, which pertain to sewer service requirements and situations in which part of a TID is annexed by a city or village. The requirements provide as follows:

- The boundaries of a large-town TID must be within a sewer service area and sewer service must either be currently available or will be available before the use or operation of any improvements to property in the TID begins.

¹ The three large-town TID sewer service and annexation requirements described in this section of the memorandum were adopted as Senate Amendments 1, 2, and 3 to Senate Bill 338, respectively.

- If any part of a large-town TID is annexed by a city or village, any assets or liabilities associated with that annexed territory become the responsibility of the annexing city or village.
- If any part of a large-town TID is annexed by a city or village, the Department of Revenue (DOR) is required to redetermine the tax incremental base of the district.

Project Plan Approval Requirements²

The bill provides that before a town board may approve a project plan for a large-town TID, the project plan must include at least one of three provisions. These provisions include requirements that at least 51% of the value of the public infrastructure improvements in the district be financed by a private entity, or that the town expects all project costs to be paid within 90% of the proposed TID's remaining life, or that expenditures may generally be made only within the first half of the proposed TID's remaining life.

Other Town-Created TIDs

Current law includes several provisions conferring on towns the statutory authority to establish TIDs, subject to conditions specified in those provisions. The bill provides that if a town creates a TID, other than a large-town TID, it may only take action with regard to that TID under the statutory authority it used to create the TID.

Donor TIDs³

The bill specifies that upon approval by the joint review board, a TID may become a donor TID and provide increments to an environmental remediation tax incremental district (ERTID). In addition, the governing body of a political subdivision may adopt a resolution requesting that DOR allocate tax increments from an ERTID that has recovered all eligible costs to certain TIDs that are not ERTIDs.

TIDs in Recently Annexed Territory⁴

The bill establishes an alternative method for creating a TID in territory that has been recently annexed from a town, subject to certain limitations and conditions. The limitations

² The project plan approval requirements described in this section of the Memo were adopted as part of Assembly Amendment 2 to Senate Bill 338.

³ The provisions related to donor TIDs described in this section of the Memo were originally introduced as 2013 Assembly Bill 416. The provisions were adopted as part of Assembly Amendment 3 to Senate Bill 338.

⁴ The provisions related to TIDs in recently annexed territory described in this section of the memorandum were originally introduced as 2013 Assembly Bill 747. The provisions were adopted as part of Assembly Amendment 3 to Senate Bill 338. Prior to its adoption, Assembly Amendment 3 was amended by the adoption of Assembly Amendment 1 to Assembly Amendment 3, which clarified that the procedure under the bill for creation of a TID in recently annexed territory was an alternative procedure and did not prevent the creation of a TID in such territory using other statutory authority.

include the following requirements: (a) the TID must terminate in seven years or when its project costs are paid off, whichever comes first; (b) the TID may not share increments with another TID; and (c) the TID may make expenditures only until October 1, 2016. In addition, the bill provides that a city or village that creates such a TID is not required to follow the 12% test until 2016. The 12% test is a current law requirement that the equalized value of taxable property of the TID plus the value increment of all existing TIDs in the city or village should not exceed 12% of the total equalized value of taxable property in the city or village.

Property Tax Exemption for Biogas or Synthetic Gas Energy Systems⁵

The bill provides that the current law property tax exemption for biogas or synthetic gas energy systems does not apply to property in existence on January 1, 2014, and located in a TID in effect on January 1, 2014.

SENATE AMENDMENT 1 TO ASSEMBLY AMENDMENT 2

Senate Amendment 1 to Assembly Amendment 2 modifies the requirement in the bill related to population, so that a town is required to have a population of 3,500 or more to create a large-town TID, instead of 5,000 or more.

Bill History

On October 11, 2013, the Senate Committee on Economic Development and Local Government recommended adoption of Senate Amendments 1, 2, and 3 on votes of Ayes, 5; Noes, 0; and passage of the bill, as amended, on votes of Ayes, 4; Noes, 1.

On November 12, 2013, the Senate adopted Senate Amendments 1, 2, and 3 and passed the bill, as amended, on voice votes.

On February 18, 2014, the Assembly Committee on State and Local Finance recommended adoption of Assembly Amendment 2 on a vote of Ayes, 6; Noes, 3; adoption of Assembly Amendment 3 on a vote of Ayes, 8; Noes, 1; and concurrence in the bill, as amended, on a vote of Ayes, 6; Noes, 3.

On February 20, 2014, the Assembly adopted Assembly Amendment 2; Assembly Amendment 1 to Assembly Amendment 3; and Assembly Amendment 3, as amended; and concurred in the bill, as amended, on voice votes.

On March 11, 2014, the Senate adopted Senate Amendment 1 to Assembly Amendment 2, and concurred in the bill, as amended, on voice.

BL:MQ:ksm

⁵ The provisions related to a property tax exemption for biogas or synthetic gas energy systems described in this section of the memorandum were originally introduced as 2013 Assembly Bill 709. The provisions were adopted as part of Assembly Amendment 3 to Senate Bill 338.