2003 ASSEMBLY BILL 379

June 5, 2003 – Introduced by Representatives STEINBRINK, KREUSER and KERKMAN, cosponsored by Senators WIRCH, STEPP, PANZER and SCHULTZ. Referred to Committee on Ways and Means.

1   AN ACT *to renumber and amend* 66.1105 (6) (a); *to amend* 66.1105 (4) (h) 1.,

2   66.1105 (4) (h) 2., 66.1105 (5) (c), 66.1105 (5) (ce), 66.1105 (6) (am) 1., 66.1105

3   (6) (d) 2m. and 66.1105 (6) (d) 3.; and *to create* 66.1105 (4) (h) 5., 66.1105 (6)

4   (a) 5., 66.1105 (6) (d) 5. and 66.1105 (7) (as) of the statutes; **relating to:**

5   extending the expenditure period and the life of tax incremental districts in

6   Kenosha.

Analysis by the Legislative Reference Bureau

Under the current tax incremental financing (TIF) program, a city or village may create a tax incremental district (TID) in part of its territory to foster development if at least 50% of the area to be included in the TID is blighted, in need of rehabilitation, or suitable for industrial sites. Before a city or village may create a TID, several steps and plans are required. These steps and plans include public hearings on the 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, and adoption of a resolution by the common council or village board that creates the district 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 increment 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, 23 years, or 27 years in certain cases, after the TID is created, whichever is sooner. TIDs are required to terminate, under current law and with one exception, once these costs are paid back, 16 years, or 20 years in certain cases, after the last expenditure identified in the project plan is made or when the creating city or village dissolves the TID, whichever occurs first. Under the exception, which is limited to certain circumstances, after a TID pays off its project costs, but not later than the date on which it must otherwise terminate, the planning commission may allocate positive tax increments generated by the TID (the "donor" TID) to another TID that has been created by the planning commission.

Also under current law, certain TIDs in the city of Kenosha may share their tax increments (donor TIDs) with other TIDs in that city (donee TIDs) if environmental pollution in the donee TID slows development in that TID. Currently, expenditures by a donee TID may be made no later than 12 years after the creation of such a TID, and a donee TID may be allocated tax increments no later than 30 years after the last expenditure identified in the donor TID's project plan is made, except that in no case may the total number of years during which such expenditures are made and tax increments are allocated exceed 37 years.

Under this bill, expenditures of any TID that is located in Kenosha and that is created before January 1, 2004, may be made no later than l7 years after the creation of such a TID, and a donee TID may be allocated tax increments no later than 35 years after the last expenditure identified in the donor TID's project plan is made, except that in no case may the total number of years during which such expenditures are made and tax increments are allocated exceed 42 years. The bill also authorizes DOR to allocate tax increments to any TID that is located in Kenosha, and that is created before January 2, 2004, for not longer than 42 years after the TID is created. This bill also specifies that a donor and donee TID must terminate not later than 35 years after the last expenditures identified in their project plans are made.

Generally under current law, during the seven years after a TID is created, a planning commission may adopt an amendment to a project plan to modify the district's boundaries not more than once. Under this bill, with regard to TIDs in the city of Kenosha that are created before January 2, 2004, a planning commission may adopt an amendment to modify the district's boundaries by adding contiguous territory to the district as often during the TID's expenditure period as the planning commission determines is necessary.

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 (4) (h) 1. of the statutes is amended to read:

2   66.1105 **(4)** (h) 1.   Subject to subds. 2., 3. ~~and,~~ 4., <u>and 5.,</u> the planning

3   commission may, by resolution, adopt an amendment to a project plan.   The

4   amendment is subject to approval by the local legislative body and approval requires

5   the same findings as provided in par. (g).   Any amendment to a project plan is also

6   subject to review by a joint review board, acting under sub. (4m).   Adoption of an

7   amendment to a project plan shall be preceded by a public hearing held by the plan

8   commission at which interested parties shall be afforded a reasonable opportunity

9   to express their views on the amendment.   Notice of the hearing shall be published

10   as a class 2 notice, under ch. 985.   The notice shall include a statement of the purpose

11   and cost of the amendment and shall advise that a copy of the amendment will be

12   provided on request.   Before publication, a copy of the notice shall be sent by 1st class

13   mail to the chief executive officer or administrator of all local governmental entities

14   having the power to levy taxes on property within the district and to the school board

15   of any school district which includes property located within the proposed district.

16   For a county with no chief executive officer or administrator, this notice shall be sent

17   to the county board chairperson.

18   **SECTION 2.** 66.1105 (4) (h) 2. of the statutes is amended to read:

19   66.1105 **(4)** (h) 2.   Except as provided in subds. 3. ~~and,~~ 4., <u>and 5.,</u> not more than

20   once during the 7 years after the tax incremental district is created, the planning

21   commission may adopt an amendment to a project plan under subd. 1. to modify the

1   district's boundaries by adding territory to the district that is contiguous to the

2   district and that is served by public works or improvements that were created as part

3   of the district's project plan. Expenditures for project costs that are incurred because

4   of an amendment to a project plan to which this subdivision applies may be made for

5   not more than 3 years after the date on which the local legislative body adopts a

6   resolution amending the project plan.

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

8   66.1105 **(4)** (h) 5. With regard to a city that has a population of at least 80,000

9   that was incorporated in 1850 and that is in a county with a population of less than

10   175,000 which is adjacent to one of the Great Lakes, the planning commission may

11   adopt an amendment to a project plan under subd. 1. to modify the district's

12   boundaries by adding territory to the district that is contiguous to the district and

13   that is served by public works or improvements that were created as part of the

14   district's project plan as often as the plan commission considers necessary during the

15   expenditure period specified in sub. (6) (am) 1. for a district which is located in a city

16   to which sub. (6) (d) applies, except that in no case may expenditures for project costs

17   that are incurred because of an amendment to a project plan that is authorized under

18   this subdivision be made later than 17 years after the district is created. This

19   subdivision does not apply to a tax incremental district that is created after January

20   1, 2004.

21   **SECTION 4.** 66.1105 (5) (c) of the statutes is amended to read:

22   66.1105 **(5)** (c) If the city adopts an amendment to the original project plan for

23   any district which includes additional project costs at least part of which will be

24   incurred after the period specified in sub. (6) (am) 1., the tax incremental base for the

25   district shall be redetermined, if sub. (4) (h) 2., 3. ~~or,~~ 4., or 5. applies to the amended

1   project plan, by adding to the tax incremental base the value of the taxable property

2   that is added to the existing district under sub. (4) (h) 2., 3. or, 4., or 5. or, if sub. (4)

3   (h) 2., 3. or, 4., or 5. does not apply to the amended project plan, under par. (b), as of

4   the January 1 next preceding the effective date of the amendment if the amendment

5   becomes effective between January 2 and September 30, as of the next subsequent

6   January 1 if the amendment becomes effective between October 1 and December 31

7   and if the effective date of the amendment is January 1 of any year, the

8   redetermination shall be made on that date.   The tax incremental base as

9   redetermined under this paragraph is effective for the purposes of this section only

10   if it exceeds the original tax incremental base determined under par. (b).

11   **SECTION 5.** 66.1105 (5) (ce) of the statutes is amended to read:

12   66.1105 **(5)** (ce) If the city adopts an amendment, to which sub. (4) (h) 2., 3. or,

13   4., or 5. applies, the tax incremental base for the district shall be redetermined, by

14   adding to the tax incremental base the value of the taxable property that is added

15   to the existing district under sub. (4) (h) 2., 3. or, 4., or 5., as of the January 1 next

16   preceding the effective date of the amendment if the amendment becomes effective

17   between January 2 and September 30, as of the next subsequent January 1 if the

18   amendment becomes effective between October 1 and December 31 and if the

19   effective date of the amendment is January 1 of any year, the redetermination shall

20   be made on that date.   The tax incremental base as redetermined under this

21   paragraph is effective for the purposes of this section only if it exceeds the original

22   tax incremental base determined under par. (b).

23   **SECTION 6.** 66.1105 (6) (a) of the statutes is renumbered 66.1105 (6) (a) (intro.)

24   and amended to read:

1   66.1105 **(6)** (a) (intro.) If the joint review board approves the creation of the tax

2   incremental district under sub. (4m), positive tax increments with respect to a tax

3   incremental district are allocated to the city which created the district for each year

4   commencing after the date when a project plan is adopted under sub. (4) (g). The

5   department of revenue may not authorize allocation of tax increments until it

6   determines from timely evidence submitted by the city that each of the procedures

7   and documents required under sub. (4) (d) to (f) has been completed and all related

8   notices given in a timely manner. The department of revenue may authorize

9   allocation of tax increments for any tax incremental district only if the city clerk and

10   assessor annually submit to the department all required information on or before the

11   2nd Monday in June. The facts supporting any document adopted or action taken

12   to comply with sub. (4) (d) to (f) are not subject to review by the department of revenue

13   under this paragraph. After the allocation of tax increments is authorized, the

14   department of revenue shall annually authorize allocation of the tax increment to

15   the city that created the district until the <u>soonest of the following events:</u>

16   <u>1. The</u> department of revenue receives a notice under sub. (8) and the notice

17   has taken effect under sub. (8) (b)<s>, 27</s><u>.</u>

18   <u>2. Twenty–seven</u> years after the tax incremental district is created if the

19   district is created before October 1, 1995<s>, 38</s><u>.</u>

20   <u>3. Thirty–eight</u> years after the tax incremental district is created if the district

21   is created before October 1, 1995, and the project plan is amended under sub. (4) (h)

22   3. <s>or 23</s>

23   <u>4. Twenty–three</u> years after the tax incremental district is created if the district

24   is created after September 30, 1995<s>, whichever is sooner</s>.

25   **SECTION 7.** 66.1105 (6) (a) 5. of the statutes is created to read:

1   66.1105 **(6)** (a) 5. Forty–two years after the tax incremental district is created

2   if the district is created before October 1, 1995, and if the district is located in a city

3   to which par. (d) applies.

4   **SECTION 8.** 66.1105 (6) (am) 1. of the statutes is amended to read:

5   66.1105 **(6)** (am) 1.   For a tax incremental district that is created after

6   September 30, 1995, no expenditure may be made later than 7 years after the tax

7   incremental district is created, and for a tax incremental district that is created

8   before October 1, 1995, no expenditure may be made later than 10 years after the tax

9   incremental district is created, except that, for a tax incremental district that is

10   created before October 1, 1995, and which ~~receives tax increments under~~ is located

11   in a city to which par. (d) applies, no expenditure may be made later than ~~12~~ 17 years

12   after the tax incremental district is created.

13   **SECTION 9.** 66.1105 (6) (d) 2m. of the statutes is amended to read:

14   66.1105 **(6)** (d) 2m. No tax increments may be allocated under this paragraph

15   later than ~~30~~ 35 years after the last expenditure identified in the project plan of the

16   tax incremental district, the positive tax increments of which are to be allocated, is

17   made if the district is created before October 1, 1995, except that in no case may the

18   total number of years during which expenditures are made under par. (am) 1. plus

19   the total number of years during which tax increments are allocated under this

20   paragraph exceed ~~37~~ 42 years.

21   **SECTION 10.** 66.1105 (6) (d) 3. of the statutes is amended to read:

22   66.1105 **(6)** (d) 3. This paragraph applies only in a city with a population of at

23   least 80,000 that was incorporated in 1850 and that is in a county with a population

24   of less than ~~150,000~~ 175,000 which is adjacent to one of the Great Lakes.

25   **SECTION 11.** 66.1105 (6) (d) 4. of the statutes is amended to read:

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ASSEMBLY BILL 379   **SECTION 11**

1   66.1105 **(6)** (d) 4. This paragraph does not apply after August 1, ~~2016~~ 2031.

2   **SECTION 12.** 66.1105 (6) (d) 5. of the statutes is created to read:

3   66.1105 **(6)** (d) 5. This paragraph does not apply to a tax incremental district

4   that is created after January 1, 2004.

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

6   66.1105 **(7)** (as) Notwithstanding par. (am), 35 years after the last expenditure

7   identified in the project plan is made if the district to which the plan relates is created

8   before October 1, 1995, and sub. (6) (d) applies to the district.

9   **(END)**