

# State of Wisconsin



2011 Assembly Bill 179

Date of enactment: **November 16, 2011**

Date of publication\*: **December 1, 2011**

## 2011 WISCONSIN ACT 77

**AN ACT** *to amend* 66.1105 (4) (gm) 3., 66.1105 (4) (gm) 4. c., 66.1105 (4m) (a), 66.1105 (4m) (ae), 66.1105 (4m) (b) 2., 66.1105 (6) (a) (intro.) and 66.1105 (10) (a); and *to create* 66.1105 (4m) (as), 66.1105 (6) (ag), 66.1105 (10) (d) and 66.1105 (18) of the statutes; **relating to**: authorizing the creation of a multijurisdictional tax incremental financing district.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

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

66.1105 (4) (gm) 3. Assigns a name to the district for identification purposes. The first district created shall be known as "Tax Incremental District Number One, City of ..." and the first district created under sub. (18) shall be known as "Multijurisdictional District Number One, City of ...". Each subsequently created district shall be assigned the next consecutive number.

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

66.1105 (4) (gm) 4. c. Except as provided in subs. (10) (c) ~~and~~ (17), and (18) (c) 3., the equalized value of taxable property of the district plus the value increment of all existing districts does not exceed 12 percent of the total equalized value of taxable property within the city. In determining the equalized value of taxable property under this subd. 4. c., the department of revenue shall base its calculations on the most recent equalized value of taxable property of the district that is reported under s. 70.57 (1m) before the date on which the resolution under this paragraph is adopted. If the department of revenue determines that a local legislative body exceeds the 12

percent limit described in this subd. 4. c., the department shall notify the city of its noncompliance, in writing, not later than December 31 of the year in which the department receives the completed application or amendment forms described in sub. (5) (b).

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

66.1105 (4m) (a) Any city that seeks to create a tax incremental district, amend a project plan, or incur project costs as described in sub. (2) (f) 1. n. for an area that is outside of a district's boundaries, shall convene a temporary joint review board under this paragraph, or a standing joint review board under sub. (3) (g), to review the proposal. Except as provided in par. (am) and (as), and subject to par. (ae), the board shall consist of one representative chosen by the school district that has power to levy taxes on the property within the tax incremental district, one representative chosen by the technical college district that has power to levy taxes on the property within the tax incremental district, one representative chosen by the county that has power to levy taxes on the property within the tax incremental district, one representative chosen by the city, and one public member. If more than one school district, more than one union high school district, more than one elementary school district, more than one technical college district or more than one

\* Section 991.11, WISCONSIN STATUTES 2009-10 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

county has the power to levy taxes on the property within the tax incremental district, the unit in which is located property of the tax incremental district that has the greatest value shall choose that representative to the board. The public member and the board's chairperson shall be selected by a majority of the other board members before the public hearing under sub. (4) (a) or (h) 1. is held. All board members shall be appointed and the first board meeting held within 14 days after the notice is published under sub. (4) (a) or (h) 1. Additional meetings of the board shall be held upon the call of any member. The city that seeks to create the tax incremental district, amend its project plan, or make or incur an expenditure as described in sub. (2) (f) 1. n. for an area that is outside of a district's boundaries shall provide administrative support for the board. By majority vote, the board may disband following approval or rejection of the proposal, unless the board is a standing board that is created by the city under sub. (3) (g).

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

66.1105 (4m) (ae) 1. A representative chosen by a school district under par. (a) ~~or~~ (am) or (as) shall be the president of the school board, or his or her designee. If the school board president appoints a designee, he or she shall give preference to the school district's finance director or another person with knowledge of local government finances.

2. The representative chosen by the county under par. (a) or (as) shall be the county executive or, if the county does not have a county executive, the chairperson of the county board, or the executive's or chairperson's designee. If the county executive or county board chairperson appoints a designee, he or she shall give preference to the county treasurer or another person with knowledge of local government finances.

3. The representative chosen by the city under par. (a) or (as) shall be the mayor, or city manager, or his or her designee. If the mayor or city manager appoints a designee, he or she shall give preference to the person in charge of administering the city's economic development programs, the city treasurer, or another person with knowledge of local government finances.

4. The representative chosen by the technical college district under par. (a) or (as) shall be the district's director or his or her designee. If the technical college district's director appoints a designee, he or she shall give preference to the district's chief financial officer or another person with knowledge of local government finances.

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

66.1105 (4m) (as) With regard to a multijurisdictional tax incremental district created under this section, all of the following apply:

1. Each participating city may appoint one public member to the joint review board under par. (a).

2. If more than one school district, more than one union high school district, more than one elementary school district, more than one technical college district, or more than one county has the power to levy taxes on the property within the tax incremental district, each such jurisdiction may select a representative to the joint review board under par. (a), or 2 representatives as provided under par. (am), unless the jurisdiction's governing body opts out of this authority by adopting a resolution to that effect.

**SECTION 6.** 66.1105 (4m) (b) 2. of the statutes is amended to read:

66.1105 (4m) (b) 2. Except as provided in subd. 2m., no tax incremental district may be created and no project plan may be amended unless the board approves the resolution adopted under sub. (4) (gm) or (h) 1. by a majority vote within 30 days after receiving the resolution. With regard to a multijurisdictional tax incremental district created under this section, each public member of a participating city must be part of the majority that votes for approval of the resolution or the district may not be created. The board may not approve the resolution under this subdivision unless the board's approval contains a positive assertion that, in its judgment, the development described in the documents the board has reviewed under subd. 1. would not occur without the creation of a tax incremental district. The board may not approve the resolution under this subdivision unless the board finds that, with regard to a tax incremental district that is proposed to be created by a city under sub. (17) (a), such a district would be the only existing district created under that subsection by that city.

**SECTION 7.** 66.1105 (6) (a) (intro.) of the statutes is amended to read:

66.1105 (6) (a) (intro.) If the joint review board approves the creation of the tax incremental district under sub. (4m), and subject to ~~par. (ae) and (ag)~~, positive tax increments with respect to a tax incremental district are allocated to the city which created the district for each year commencing after the date when a project plan is adopted under sub. (4) (g). The department of revenue may not authorize allocation of tax increments until it determines from timely evidence submitted by the city that each of the procedures and documents required under sub. (4) (d) to (f) has been completed and all related notices given in a timely manner. The department of revenue may authorize allocation of tax increments for any tax incremental district only if the city clerk and assessor annually submit to the department all required information on or before the 2nd Monday in June. The facts supporting any document adopted or action taken to comply with sub. (4) (d) to (f) are not subject to review by the department of revenue under this paragraph. After the allocation of tax increments is authorized, the department of revenue shall annually authorize allocation of the tax

increment to the city that created the district until the soonest of the following events:

**SECTION 8.** 66.1105 (6) (ag) of the statutes is created to read:

66.1105 (6) (ag) With regard to a multijurisdictional tax incremental district, the department of revenue may allocate positive tax increments to each participating city only to the extent that a city's component of the district has generated a positive value increment.

**SECTION 9.** 66.1105 (10) (a) of the statutes is amended to read:

66.1105 (10) (a) Subject to any agreement with bondholders, and except as provided in par. (d), a tax incremental district may be created, the boundaries of which overlap one or more existing districts, except that districts created as of the same date may not have overlapping boundaries.

**SECTION 10.** 66.1105 (10) (d) of the statutes is created to read:

66.1105 (10) (d) A proposed tax incremental district, the boundaries of which would overlap an existing multijurisdictional tax incremental district, may be created only if all of the following apply:

1. The creation is approved by a resolution adopted by the governing body of each of the multijurisdictional district's participating cities.

2. The creation is approved by a resolution adopted by the multijurisdictional district's joint review board.

**SECTION 11.** 66.1105 (18) of the statutes is created to read:

66.1105 (18) MULTIJURISDICTIONAL DISTRICTS. (a) *Requirements.* Two or more cities may enter into an intergovernmental cooperation agreement under s. 66.0301 to jointly create a multijurisdictional tax incremental district under this section if all of the following apply:

1. The district's borders contain territory in all of the cities that are a party to the agreement.

2. The district is contiguous.

3. At least one parcel in each participating city touches at least one parcel in at least one of the other cities.

(b) *Contents of an agreement.* The agreement described under par. (a) shall contain provisions that specify at least all of the following with regard to the proposed multijurisdictional tax incremental district:

1. A detailed description of how all of the participating cities will be able to exercise the powers authorized under sub. (3) and meet the requirements under sub. (4).

2. A detailed description of how determinations will be made that relate to incurring debt, expending funds for project costs, and distributing positive tax increments allocated by the department of revenue.

3. The extent to which one of the cities will be authorized by all of the other participating cities to act on

behalf of all of the participating cities on some or all matters relating to the district.

4. A binding dispute resolution procedure to be used by the cities to resolve in a timely fashion any disputes between the participating cities related to the agreement or to the district. The dispute resolution procedure shall include a dissolution provision that allows all of the participating cities to agree to jointly dissolve the district at any time before a dispute is settled by the binding dispute resolution procedure and before the district would otherwise terminate under sub. (7). The dissolution provision shall describe in detail how and under what circumstances the district may be dissolved before it would otherwise terminate under sub. (7) and shall specify how the district's assets, liabilities, and any other outstanding obligations will be distributed among the participating cities.

5. A detailed description of the proposed membership of the joint review board.

6. A detailed description of the responsibilities of each city's planning commission, the membership and authority of the planning commission for the district, and the operating procedures to be followed by the district's planning commission.

7. A detailed description of the responsibilities of each city's clerk, treasurer, assessor, and any other officer or official to carry out the requirements of this section, and a detailed description of which clerk, treasurer, assessor, officer, or official will be responsible for each task specified in this section.

8. Which city will be the lead city for purposes of completing any documents or tasks that this section or the department of revenue require to be completed, which city will be responsible for submitting the district's creation documents, and which city will be responsible for submitting the district's project plan amendment documents.

9. That all of the participating cities agree that the district's application will be submitted in its entirety as one complete application by the lead city, as determined by the department of revenue.

10. Consistent with the requirements of sub. (7), a statement that the entire district will terminate at one time as a single entity and that the lead city shall submit to the department of revenue all necessary notices and reports relating to the termination of the district.

11. A detailed description of the procedures the participating cities will follow to determine all of the following:

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

b. How the project plan or boundaries of the district may be amended under sub. (4) (h) 1. or 2.

12. A description of how any annexation costs incurred by a participating city under s. 66.0219 (10) (a)

1. will be shared among all of the participating cities if the annexed territory is part of the district.

(c) *Limitations.* 1. Notwithstanding the provisions under sub. (6) (d), (dm), (e), or (f), a multijurisdictional tax incremental district may not become a donor district, or receive tax increments from a donor district.

2. Notwithstanding the provisions under sub. (2) (f) 1. k., m., and n., a multijurisdictional tax incremental district may not incur project costs for any area that is outside of the district's boundaries.

3. The 12 percent limit findings requirement under sub. (4) (gm) 4. c. apply on an aggregate basis to all cities that are part of a multijurisdictional district except, for one or more of the participating cities in the multijurisdictional district, the part of the district that is in an individual city may cause that city to exceed the 12 percent limit if the governing bodies of all the taxation districts that overlay that city adopt a resolution approving the creation of the district even though that city exceeds the 12 percent limit.

4. No town may be part of a multijurisdictional tax incremental district.

(d) *Role of the department of revenue.* The department of revenue may require each participating city to submit any forms prescribed by the department without regard to whether a particular city is the lead city as

described under par. (b) 8. and without regard to the responsibility of each participating city as specified in the agreement described under par. (a).

(e) *Miscellaneous provisions.* 1. A copy of the agreement described under par. (a), as signed by all of the participating cities, shall be forwarded to the department of revenue by the lead city as described under par. (b) 8.

2. Without regard to the number of participating cities in the multijurisdictional tax incremental district, the department of revenue may impose only one fee under sub. (5) (a) for each action taken by the department under that paragraph for such a district. Unless the agreement under par. (a) provides otherwise, the lead city, as described under par. (b) 8., is responsible for any fees imposed by the department under sub. (5) (a).

3. Without regard to the number of participating cities in the multijurisdictional tax incremental district, the department of revenue may impose only one annual administrative fee described in sub. (6) (ae) in the amount specified in that paragraph. Unless the agreement under par. (a) provides otherwise, the lead city, as described under par. (b) 8., is responsible for the annual fee and shall submit it to the department.

**SECTION 12. Effective date.**

(1) This act takes effect on October 1, 2012.

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