

# *Proposed TIF Reform Provisions*

## *Senate Substitute Amendment 1 to Senate Bill 305*

Note: Provisions are effective on the first day of the fourth month after enactment unless otherwise indicated. Some key provisions will only apply to TIDs created after October 1, 2004. Many other beneficial provisions will apply to all existing TIDs upon the effective date of the legislation.

### **For All Existing TIDs:**

Changes the equalized value limit for TIDs from 5 percent/7 percent to 12 percent measured as the equalized value of the creating district plus the value increment of all existing districts. The 12 percent limit does not apply if the city subtracts territory from a district. The determination of equalized value is based upon the most recent equalized value report submitted to the Department of Revenue (DOR) before the date of the resolution creating the TID.

The DOR can no longer certify a TID without first reviewing and approving the finding that TID values do not exceed 12 percent of the city's total equalized value.

An amended project plan adoption resolution requires the same findings as current law and a finding regarding the 12 percent equalized value limit.

The plan commission may amend the boundaries of a TID not more than four times during the TID's existence. Boundaries may be amended by subtracting territory in a way that does not remove contiguity or adding territory in the same manner as provided by current law.

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Removes the three-year limit on expenditures for project costs within territory added as a result of a boundary amendment.

The language regarding expenditure periods in 66.1105(6)(am)1 is repealed and replaced with:

Except as otherwise provided in this paragraph, no expenditure may be made later than five years before the unextended termination date of a TID under sub. (7)(am).

For districts created before October 1, 1995, an eligibility criteria has been added to the ability to share revenue between two TIDs as follows:

The donor TID is able to demonstrate, based on the positive tax increments that are currently generated, that it has sufficient revenues to pay for all project costs that have been incurred under the project plan for that district and sufficient surplus revenues to pay for some of the eligible costs of the recipient TID.

Substantial compliance by a city that creates or attempts to create a TID is sufficient to give effect to any proceedings conducted under this section if, in the opinion of the DOR, any error, irregularity, or informality that exists in the city's attempts to comply does not affect substantial justice. If DOR determines that a city has substantially complied with procedural subdivisions, the DOR shall determine the tax incremental base of the district, allocate tax increments, and treat the district in all other respects as if the requirements had been strictly complied with based upon the date that the creation resolution is adopted.

Creates a standing Joint Review Board (JRB) as long as any TID exists in the City. A City may disband a JRB created in this way at any time.

### **For TIDs Created After October 1, 2004:**

Creates definition of "mixed-use development"

- Combination of industrial, commercial or residential uses
- Newly platted residential may not exceed 35 percent of the area of real property within the district

Adds the ability to designate a TID as suitable for mixed-use development in the creation resolution. For most actions that apply to mixed-use development it appears that it would have to be designated as such in the creation resolution.

Allows project costs to be incurred for newly platted residential subdivisions:

- For TIDs created before September 30, 1995
- For mixed-use TIDs that have a residential housing density of at least three units per acre, or located in a conservation subdivision, or located in a traditional neighborhood development. Note: conservation subdivision and traditional neighborhood development are statutorily defined terms.

Requires the creation resolution to declare the type of TID being created as either a blighted area district, a rehabilitation or conservation district, an industrial district or a mixed-use district. If the district is not exclusively one of the types, then the declaration is based on which classification is predominant with regard to the area meeting the 50 percent test (at least 50 percent of the TID must be a blighted area, in need of rehab/conservation, suitable and zoned for industrial or suitable for mixed-use development).

The Life of Any TID is:

- 23 years if the TID was created after September 30, 1995 and before October 1, 2004
- 20 years if the district is created on or after the effective date of this subdivision and if the district is at least predominantly suitable for mixed-use development or industrial sites
- 27 years if the district is created on or after the effective date of this subdivision and if the district is a district other than mixed-use or industrial.

Any TID may be amended to allocate positive tax increments generated by that TID to another TID if the following conditions are met:

- The donor TID, the positive tax increments of which are to be allocated, and the recipient TID have the same overlying taxing jurisdictions
- The allocation of tax increments is approved by the JRB

An allocation of tax increments under this paragraph may be used by the recipient district only if one of the following applies:

- The project costs in the recipient district are used to create, provide, or rehabilitate low-cost housing or to remediate environmental contamination
- The recipient district was created upon a finding that not less than 50 percent by area, of the real property within the district is blighted or in need of rehabilitation

The allocation of positive tax increments from a donor district to one or more recipient districts cannot be made unless the donor district has first satisfied all of its current-year debt service and project cost obligations.

No city may request or receive an extension for the life of a donor TID.

Terminations of TIDs occur when their project costs have been paid or for blighted area and rehab/conservation TIDs 27 years after creation or for industrial and mixed-use TIDs 20 years after creation.

The life of an industrial or mixed-use TID may be extended by five years if, in the 18<sup>th</sup> year the city may request that the JRB extend the life of the district for another five years. Along with its request, the city may provide the JRB with an independent audit that demonstrates that the district is unable to pay off its project costs within the 20 years. The JRB may deny or approve the request if the request does not include the audit. The JRB shall approve a request if the request includes the audit. If the JRB approves the request, the TID shall terminate at the earlier of the end of the extended period or when all project costs are paid.

Makes ineligible cash grant to owners, lessees, or developers of land that is located within the TID, unless the grant recipient has signed a development agreement with the City, a copy of which has been sent to the JRB, or, if dissolved, retained by the City in the official records of the TID. Takes effect for TIDs created after October 1, 2004.

TID creation resolution may be adopted at least 14 days after the public hearing (it is currently 30 days). The public hearing notice must contain a statement regarding cash grants to owners, lessees, or developers if they are anticipated as part of the TIF.

Prohibits the inclusion of property in a TID that was not within the boundaries of the city on January 1, 2004 unless at least three years have elapsed since the annexation, or unless the city enters into a cooperative plan boundary agreement, or if the city pledges to pay the town an amount equal to the property taxes levied on the territory by the town at the time of the annexation for each of the next five years.

Makes an eligible project cost payment to a Town that relates to property taxes made as a result of recent annexation.

Excludes from the definition of "vacant property" any property contaminated by environmental pollution (this applies to blight elimination and rehab TIDs, which cannot have property vacant more than seven years comprising more than 25 percent of the area of the TID).

Joint Review Board is created as either a temporary or standing JRB. The school district representative to the JRB shall be the president of the school board or their designee. If a designee, a preference shall be given to the school district's finance director or another person with knowledge of local government finance. The representative chosen by the county shall be the county executive or their designee, or if no county executive, the chairperson of the county board or their designee. If designee, preference for county treasurer or another person with knowledge of local government finances. The city representative shall be the mayor or city manager or their designee. If designee, preference shall be given to economic development administrator, city treasurer or another person with knowledge of local government finances. The representative chosen by the technical college district shall be the district's director or designee. If designee preference given to chief financial officer or another person with knowledge of local government finance.

For TIDs located in a Union High School district, the school district representation will be split between the elementary school and the Union High School District with a 1/2 vote for each.

The JRB may approve the TID creation/amendment resolution within 30 days after receiving the resolution. Current law is not less than 10 or more than 30 days after receiving the resolution.

The JRB may not approve the creation/amendment resolution unless the JRB's approval contains a positive assertion that, in its judgment, the development described in the reviewed documents would not occur without creation of a TID.

The JRB must notify the governing body of every local governmental unit that is not represented on the JRB and the has power to levy taxes on the property within the TID, of meetings of the board and of the agendas of each meeting for which notification is given.

As part of the base year package, the City Clerk is to report to DOR the percentage of territory within the TID which the local legislative body estimates will be devoted to retail business at the end of the maximum expenditure period, if that estimate is at least 35 percent.

Provides that forms reporting the amendment of a TID be submitted to DOR on or before December 31 of the year in which the changes to the project plan take effect.

If the City amends a project plan to subtract territory from the district, the tax incremental base must be redetermined by subtracting from the tax incremental base the value of the taxable property that is subtracted from the existing district. If territory is added to the TID, the base value is redetermined by adding to the tax incremental base the value of the taxable property and the value of real property owned by the city, other than public buildings and infrastructure used to deliver public services and administration, as described in section (bm) of the TIF Statutes.

The requirement that cities with donor TIDs annually report the amount shared between districts has been repealed.

The city would have 60 days, rather than 10 days to notify the DOR of the termination of a TID. After giving such notice, the city and the DOR shall agree on a date by which the city will send to DOR the following information for the terminated TID:

- A final accounting of all expenditures made by the city
- The total amount of project costs incurred by the city
- The total amount of positive tax increments received by a city
- The total amount of project costs, if any, not paid for with tax increments that became obligations of the city after the district was terminated.

If the city does not provide the DOR with this info by the date agreed, the DOR may not certify the tax incremental base of a new TID until the information is provided.

For environmental remediation TIDs located in Towns that have territory within the TID annexed to a city or village, the city or village shall pay that portion of the eligible costs that are attributable to the annexed territory. The city or village and town shall negotiate an agreement on the amount that must be paid. DOR shall redetermine the environmental tax incremental base of any parcel of real property for which the environmental remediation tax incremental base was determined if part of that parcel was annexed.

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