

1 **AN ACT** *to repeal* 66.1105 (3) (g); *to amend* 66.1105 (4m) (a) and (6m) (c); and *to*
2 *create* 66.1105 (4m) (f), (6m) (d) and (e) of the statutes; **relating to:** standing joint
3 review boards, annual joint review board meetings, annual reports on tax incremental
4 districts submitted to joint review boards and the department of revenue, department
5 of revenue audits of political subdivisions failing to comply with annual reporting
6 requirements, and granting rule-making authority.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the Joint Legislative Council’s Study Committee on Review of Tax Incremental Financing (TIF).

Background

Under current law, any city or village (municipality) that seeks to create a tax incremental district (TID), amend a TID project plan, have a TID’s base redetermined, or incur project costs for an area that is outside of the TID’s boundaries must convene a joint review board (JRB). The JRB may either be a temporary or a standing body, with a membership comprised of various taxing jurisdictions with the authority to tax the property located in the TID (the municipality, county, school, and technical college) and one public member. By a majority vote, a temporary JRB may disband following approval or rejection of the proposal. A standing JRB, however, may remain in existence for the entire time that any TID exists in the municipality, except that the city may disband a standing JRB at any time.

Also under current law, the municipality must prepare and make available to the public an updated annual report describing the status of each existing TID, including expenditures and revenues. The municipality must also send a copy of the report to each overlying district by May 1, annually.

The Draft

The draft eliminates a municipality's discretion to create either a temporary JRB or a standing JRB. Instead, the draft requires a municipality to always convene a standing JRB in order to create a TID, and requires the standing JRB to remain in existence for the entire time that any TID exists in the municipality with the same overlying taxing jurisdictions as the overlying taxing jurisdictions represented on the standing JRB. The standing JRB may, by majority vote, disband following the termination of all existing TIDs located in the municipality with the same overlying taxing jurisdictions as the overlying taxing jurisdictions represented on the standing JRB. The standing JRB must also meet annually to review the municipality's annual report that describes the status of each existing TID to review the effectiveness and status of each existing TID. It must meet on May 1, or as soon as the updated annual report becomes available.

The municipality must submit the annual report describing the status of each existing TID to each overlying taxing jurisdiction as well as the Department of Revenue (DOR), on May 1, annually. The copy of the annual report filed with DOR must be in electronic format and DOR must, by rule, create the format for the submission of the annual reports that a municipality must use when electronically filing the reports with DOR. The annual report must contain at least all of the following information:

- The name assigned to the TID.
- The classification of the TID that is included in the project plan and the scope of the project.
- The name of any developer of the land that is located within the TID.
- The date that the city expects the TID to terminate.
- The amount of tax increments to be deposited into a special fund for that TID.
- An analysis of the special fund for the TID that includes all of the following:
 - The balance in the special fund at the beginning of the fiscal year.
 - All amounts deposited in the special fund by source, including amounts received from another TID.
 - An itemized list of all expenditures from the special fund by category of permissible project costs.

○ The balance in the special fund at the end of the fiscal year, including a breakdown of that balance by source and a breakdown of that balance identifying any portion of the balance that is required, pledged, earmarked, or otherwise designated for payment of or securing of obligations and anticipated project costs. Any portion of such ending balance that has not been identified or is not identified as being required, pledged, earmarked, or otherwise designated for payment of or securing of obligations or anticipated project costs shall be designated as surplus.

• The contact information of the person designated by the city to respond to questions or concerns regarding the annual report.

DOR must post on its official website, the annual reports describing the status of each existing TID that is submitted to DOR no later than 45 days after it receives the annual report. However, DOR may grant a municipality an extension of time for submitting the annual report, if the municipality provides DOR with sufficient evidence that the report is in the process of being completed. DOR must post on its official website, a list of cities that received an extension of time for submitting the annual report, the time period of the extension, and whether the municipality timely filed the annual report within the extension of time.

DOR must notify a municipality that its annual report is past due if the municipality does not submit the annual report by May 1, or within the extension of time granted by DOR. If the municipality does not submit the required annual report within 60 days of a notice that the municipality did not submit, DOR must conduct an audit of each TID to determine if all financial transactions are made in a legal and proper manner and to determine if the TID is complying with the project plan and with the tax incremental financing statutes. DOR must also prepare a report of the audit. DOR may, however, decline to order an audit and the preparation of a report if an initial examination of the books and records of the municipality indicate that the books and records are inadequate or unavailable to support the preparation of the report due to the passage of time or the occurrence of a natural disaster. If DOR conducts an audit and prepares a report, then the municipality must pay DOR reasonable compensation and expenses for the cost of preparing or completing such an audit and report.

1 **SECTION 1.** 66.1105 (3) (g) of the statutes is repealed.

2 **SECTION 2.** 66.1105 (4m) (a) and (6m) (c) of the statutes are amended to read:

3 66.1105 (**4m**) (a) Any city that seeks to create a tax incremental district, amend a project

4 plan, have a district's tax incremental base redetermined under sub. (5) (h), or incur project

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

1 redetermined under sub. (5) (h), or make or incur an expenditure as described in sub. (2) (f)
2 1. n. for an area that is outside of a district's boundaries shall provide administrative support
3 for the board. By majority vote, the board may disband following approval or rejection of the
4 proposal, unless the board is a standing board that is created by the city under sub. (3)-(g) the
5 termination under sub. (7) of all existing tax incremental districts in the city with the same
6 overlying taxing jurisdictions as the overlying taxing jurisdictions represented on the joint
7 review board.

NOTE: SECTIONS 1 and 2 eliminate a municipality's ability to create either a temporary JRB or a standing JRB, at its discretion. In doing so, SECTION 2 requires a municipality to convene a standing JRB that must remain in existence for the entire time that any TID exists in the municipality with the same overlying taxing jurisdictions as the overlying taxing jurisdictions represented on the joint review board. SECTION 2 also provides that the JRB may, by majority vote, disband following the termination of all existing TIDs located in the municipality with the same overlying taxing jurisdictions as the overlying taxing jurisdictions represented on the JRB.

COMMENT: The statutes do not specify the length of a JRB public member's term, or the term length of the JRB chair position. All other JRB members are public officials, or the designee of an official. Does the committee want to specify the duration of the public member's term or the length of the JRB chair position? If so, how long should the terms be?

8 **(6m)** (c) The city shall prepare and make available to the public updated annual reports
9 describing the status of each existing tax incremental district, including expenditures and
10 revenues. The city shall ~~send~~ file a copy of the report to each overlying district and the
11 department of revenue by May 1 annually. The copy of the report filed with the department
12 of revenue must be in electronic format. The annual report shall contain at least all of the
13 following information:

14 1. The name assigned to the district under sub. (4) (gm) 3.

1 2. The classification of the tax incremental district, as described in sub. (4) (gm) 6., that
2 is included in the project plan and the scope of the project.

3 3. The name of any developer of the land that is located within the tax incremental
4 district.

5 4. The date that the city expects the tax incremental district to terminate under sub. (7).

6 5. The amount of tax increments to be deposited into a special fund for that district under
7 sub. (6) (c).

8 6. An analysis of the special fund, described under sub. (6) (c), for the district that
9 includes all of the following:

10 a. The balance in the special fund at the beginning of the fiscal year.

11 b. All amounts deposited in the special fund by source, including all amounts received
12 from another tax incremental district.

13 c. An itemized list of all expenditures from the special fund by category of permissible
14 project costs.

15 d. The balance in the special fund at the end of the fiscal year, including a breakdown
16 of that balance by source and a breakdown of that balance identifying any portion of the
17 balance that is required, pledged, earmarked, or otherwise designated for payment of or
18 securing of obligations and anticipated project costs. Any portion of such ending balance that
19 has not been identified or is not identified as being required, pledged, earmarked, or otherwise
20 designated for payment of or securing of obligations or anticipated project costs shall be
21 designated as surplus.

22 7. The contact information of the person designated by the city to respond to questions
23 or concerns regarding the annual report.

NOTE: SECTION 3 requires a JRB to meet annually to review updated annual reports describing the status of each existing TID, including expenditures and revenues. It must meet either on May 1 or as soon as the updated annual report become available. SECTION 4 requires a municipality with an existing TID to file in electronic format its updated annual report to DOR annually by May 1, in addition to filing a copy to each overlying taxation district. SECTION 4 also includes a list of information that must be included in the annual report.

COMMENT: The requirements in SECTION 4 are based upon Illinois statutes. [See 65. IL Comp. Stats. 5/11-74.4-5 (d) and (e).] Illinois requires a municipality with an existing TID to annually submit a detailed list of information to each overlying taxing district, and to annually submit electronically the same detailed list of information to the Illinois State Comptroller, no later than 180 days after the closing of the municipal fiscal year. Illinois also a requires the JRB to meet annually, 180 days after the closing of the municipal fiscal year to review this report, in order to review the effectiveness and status of each TID up to that date. SECTIONS 3 and 4 use May 1 as the deadline. Is this the committee's intent?

SECTION 4 lists certain information that must be included in the annual report. The Illinois statute, however, requires inclusion of additional information, such as any amendment to the project plan, audited financial statements, and a statement setting forth all activities undertaken to further the objectives of the project plan. Does the committee want to specify more information that must be included in the annual report?

Does the committee want the JRB to review the effectiveness and status of each existing TID? Should the JRB be required to prepare some type of written document explaining its findings? Should there be any consequences if the JRB's review includes negative findings?

- 1 **SECTION 3.** 66.1105 (4m) (f), (6m) (d) and (e) of the statutes are created to read:
- 2 66.1105 (**4m**) (f) The joint review board shall meet annually to review the updated
- 3 annual report describing the status of each existing tax incremental district as required under
- 4 sub. (6m) (d).
- 5 (**6m**) (d) The standing joint review board shall meet annually on May 1, or as soon as
- 6 the updated annual report describing the status of each existing tax incremental district

1 become available, to review the effectiveness and status of each tax incremental financing
2 district.

NOTE: This SECTION requires a JRB to meet annually on May 1, or as soon as the updated annual report describing the status of each existing TID becomes available. The purpose of the annual meeting is to review the effectiveness and status of each existing TID.

COMMENT: Does the committee want the JRB to review the effectiveness and status of each existing TID? Should the JRB be required to prepare some type of written document explaining its findings? Should there be any consequences if the JRB's review includes negative findings?

3 (e) 1. The department of revenue shall, by rule, create a format for the submission of
4 annual reports filed with the department of revenue as required under par. (c) and shall require
5 these reports to be filed electronically.

6 2. The department of revenue shall post on its official website the annual report
7 submitted by a municipality under par. (c). The annual report shall be posted no later than 45
8 days after the department of revenue receives the annual report from the city. The department
9 of revenue shall also post a list of the cities who have either not submitted an annual report
10 to the joint review board, or to the department of revenue, or both, as required under par. (c).

11 3. If the city provides the department of revenue with sufficient evidence that the report
12 is in the process of being completed, the department of revenue may grant an extension of time
13 for submitting the annual report. The department of revenue shall post on its official website
14 a list of cities that received an extension granted under this subd., the time period of the
15 extension, and whether the municipality timely filed the annual report within the extension
16 of time.

17 4. If the annual report is not timely filed under par. (c) 3., the department of revenue shall
18 notify the city that the annual report is past due. In the event that the city does not file the

1 required annual report within 60 days of the date on the notice, the department of revenue shall
2 conduct an audit of each tax incremental district to determine if all financial transactions are
3 made in a legal and proper manner and to determine if the tax incremental district is complying
4 with the project plan and with this section. The department of revenue shall also prepare a
5 report of the audit. The department of revenue may decline to order an audit and the
6 preparation of a report if an initial examination of the books and records of the city indicates
7 that books and records of the city are inadequate or unavailable to support the preparation of
8 the report due to the passage of time or the occurrence of a natural disaster. If the department
9 of revenue conducts an audit and prepares a report under this subd., the city shall pay the
10 department of revenue reasonable compensation and expenses for the cost of preparing or
11 completing such audit and report.

NOTE: This SECTION requires DOR to create a format for municipalities to use for the submission of annual reports describing the status of each existing TID, that are to be electronically submitted to DOR. DOR must create this format by rule. This SECTION also requires DOR to post on its official website the annual report's submitted to it no later than 45 days after it receives the annual report. However, DOR may grant a municipality an extension of time for submitting the annual report, if the municipality provides DOR with sufficient evidence that the report is in the process of being completed. DOR must post on its official website, a list of cities that received an extension of time for submitting the annual report, the time period of the extension, and whether the municipality timely filed the annual report within the extension of time.

This SECTION also requires DOR to notify a municipality that its annual report is past due if the municipality does not submit the annual report by May 1, or within the extension of time granted by DOR. Under this SECTION, if the municipality does not submit the required annual report within 60 days of the date of the notice, DOR must conduct an audit of each TID to determine if all financial transactions are made in a legal and proper manner and to determine if the TID is complying with the project plan and with s. 66.1105., stats. DOR must also prepare a report of the audit. DOR may, however, decline to order an audit and the preparation of a report if an initial examination of the books and records of the municipality indicate that the books and records are inadequate or

unavailable to support the preparation of the report due to the passage of time or the occurrence of a natural disaster. If DOR conducts an audit and prepares a report, then the municipality must pay DOR reasonable compensation and expenses for the cost of preparing or completing such an audit and report.

COMMENT: The requirements in this SECTION are based upon Illinois statutes. [See 65 IL Comp. Stats. 5/8-8-3.5 and 5/11-74.4-5 (2014).] Do they achieve the committee's intent?

Also, Illinois imposes penalties on any municipality that does not comply with the reporting requirements: \$5 per day for the first 15 days past due; \$10 per day for 16 through 30 days past due; \$15 per day for 31 through 45 days past due; and \$20 per day for the 46th day and every day thereafter. The fees may also be reduced at the Illinois State Comptroller's discretion. Does the committee want to impose a penalty upon a municipality for non-compliance with the reporting? For example, DOR could: (1) wait to allocate value increments to the municipality until the municipality submits its annual report; (2) impose penalties upon the municipality authorized for non-compliance with the levy limit, such as reducing the amount of county and municipal aid payments by a specified amount; or (3) impose a monetary fine similar to Illinois.