

1999 DRAFTING REQUEST

Bill

Received: **02/19/99**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Peter Bock (608) 266-8580**

By/Representing: **Dave C., 1000 Friends**

This file may be shown to any legislator: NO

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Munis - tax incrmntal financing**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Limit uses of tax incremental financing

Instructions:

See Attached. Limit TIF to "blighted areas", as currently defined. Do not allow TIF for "undeveloped" open areas, i.e.farmland

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:

<END>

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FE Sent For:

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Dave:

Rep. Bock

limit use of TIF to "blighted ^{areas}
as currently defined - - -

can't use it for "undeveloped" open
areas - i.e., farmland

work in or place any structures in or on any navigable water except as it is otherwise expressly authorized by state law to do.

66.46 Tax increment law. (1) SHORT TITLE. This section shall be known and may be cited as the "Tax Increment Law".

(2) **DEFINITIONS.** In this section, unless a different intent clearly appears from the context:

(a) 1. "Blighted area" means any of the following:

a. An area, including a slum area, in which the structures, buildings or improvements, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of these factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare.

b. An area which is predominantly open and which consists primarily of an abandoned highway corridor, as defined in s. 66.431 (2m) (a), or that consists of land upon which buildings or structures have been demolished and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community.

2. "Blighted area" does not include predominantly open land area that has been developed only for agricultural purposes.

(am) "Environmental pollution" has the meaning given in s. 299.01 (4).

(bm) "Highway" has the meaning provided in s. 340.01 (22).

(c) "Local legislative body" means the common council.

(d) "Personal property" has the meaning prescribed in s. 70.04.

(e) "Planning commission" means a plan commission created under s. 62.23, a board of public land commissioners if the city has no plan commission, or a city plan committee of the local legislative body, if the city has neither such a commission nor such a board.

(f) 1. "Project costs" mean any expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred by the city which are listed in a project plan as costs of public works or improvements within a tax incremental district or, to the extent provided in **subd. 1. k.**, without the district, plus any costs incidental thereto, diminished by any income, special assessments, or other revenues, including user fees or charges, other than tax increments, received or reasonably expected to be received by the city in connection with the implementation of the plan. For any tax incremental district for which a project plan is approved on or after July 3 1, 1981, only a proportionate share of the costs permitted under this subdivision may be included as project costs to the extent that they benefit the tax incremental district. To the extent the costs benefit the municipality outside the tax incremental district, a proportionate share of the cost is not a project cost. The project costs include, but are not limited to:

a. Capital costs including, but not limited to, the actual costs of the construction of public works or improvements, new buildings, structures, and fixtures; the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures other than the demolition of listed properties as defined in s. 44.31 (4); the acquisition of equipment to service the district; the removal or containment of, or the restoration of soil or groundwater affected by, environmental pollution; and the clearing and grading of land.

b. Financing costs, including, but not limited to, all interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount thereof because of the redemption of such obligations prior to maturity.

c. Real property assembly costs, meaning any deficit incurred resulting from the sale or lease as lessor by the city of real or personal property within a tax incremental district for consideration which is less than its cost to the city.

d. Professional service costs, including, but not limited to, those costs incurred for architectural, planning, engineering, and legal advice and services.

e. Imputed administrative costs, including, but not limited to, reasonable charges for the time spent by city employes in connection with the implementation of a project plan.

f. Relocation costs, including, but not limited to, those relocation payments made following condemnation under ss. 32.19 and 32.195.

g. Organizational costs, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public with respect to the creation of tax incremental districts and the implementation of project plans.

h. The amount of any contributions made under s. 66.431 (13) in connection with the implementation of the project plan.

i. Payments made, in the discretion of the local legislative body, which are found to be necessary or convenient to the creation of tax incremental districts or the implementation of project plans.

j. That portion of costs related to the construction or alteration of sewerage treatment plants, water treatment plants or other environmental protection devices, storm or sanitary sewer lines, water lines, or amenities on streets or the rebuilding or expansion of streets the construction, alteration, rebuilding or expansion of which is necessitated by the project plan for a district and is within the district.

k. That portion of costs related to the construction or alteration of sewerage treatment plants, water treatment plants or other environmental protection devices, storm or sanitary sewer lines, water lines, or amenities on streets outside the district if the construction, alteration, rebuilding or expansion is necessitated by the project plan for a district, and if at the time the construction, alteration, rebuilding or expansion begins there are improvements of the kinds named in this subdivision on the land outside the district in respect to which the costs are to be incurred.

2. Notwithstanding **subd. 1.**, none of the following may be included as project costs for any tax incremental district for which a project plan is approved on or after July 3 1, 198 1:

a. The cost of constructing or expanding administrative buildings, police and fire buildings, libraries, community and recreational buildings and school buildings.

b. The cost of constructing or expanding any facility, if the city generally finances similar facilities only with utility user fees.

c. General government operating expenses, unrelated to the planning or development of a tax incremental district.

3. Notwithstanding **subd. 1.**, project costs may not include any expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred by the city for newly platted residential development for any tax incremental district for which a project plan is approved after September 30, 1995.

(g) "Project plan" means the properly approved plan for the development or redevelopment of a tax incremental district, including all properly approved amendments thereto.

(h) "Real property" has the meaning prescribed in s. 70.03.

(i) "Tax increment" means that amount obtained by multiplying the total county, city, school and other local general property taxes levied on all taxable property within a tax incremental district in a year by a fraction having as a numerator the value increment for that year in such district and as a denominator that year's equalized value of all taxable property in the district. In any year, a tax increment is "positive" if the value increment is positive; it is "negative" if the value increment is negative.

(j) "Tax incremental base" means the aggregate value, as equalized by the department of revenue, of all taxable property located within a tax incremental district on the date as of which such district is created, determined as provided in sub. (5) (b). The

base of districts created before October 1, 1980, shall exclude the value of property exempted under s. 70.111 (17).

(k) "Tax incremental district" means a contiguous geographic area within a city defined and created by resolution of the local legislative body, consisting solely of whole units of property as are assessed for general property tax purposes, other than railroad rights-of-way, rivers or highways. Railroad rights-of-way, rivers or highways may be included in a tax incremental district only if they are continuously bounded on either side, or on both sides, by whole units of property as are assessed for general property tax purposes which are in the tax incremental district. "Tax incremental district" does not include any area identified as a wetland on a map under s. 23.32, ~~OR AN AREA IDENTIFIED AS AGRICULTURAL OR FOREST LAND.~~

(L) "Taxable property" means all real and personal taxable property located in a tax incremental district.

(m) "Value increment" means the equalized value of all taxable property in a tax incremental district in any year minus the tax incremental base. In any year "value increment" is positive if the tax incremental base is less than the aggregate value of taxable property as equalized by the department of revenue; it is negative if that base exceeds that aggregate value.

(3) POWERS OF CITIES. In addition to any other powers conferred by law, a city may exercise any powers necessary and convenient to carry out the purposes of this section, including the power to:

(a) Create tax incremental districts and to define the boundaries of such districts;

(b) Cause project plans to be prepared, to approve such plans, and to implement the provisions and effectuate the purposes of such plans;

(c) Issue tax incremental bonds and notes;

(d) Deposit moneys into the special fund of any tax incremental district; or

(e) Enter into any contracts or agreements, including agreements with bondholders, determined by the local legislative body to be necessary or convenient to implement the provisions and effectuate the purposes of project plans. Such contracts or agreements may include conditions, restrictions, or covenants which either run with the land or which otherwise regulate the use of land.

(f) Designate, by ordinance or resolution, the local housing authority, the local redevelopment authority, or both jointly, or the local community development authority, as agent of the city, to perform all acts, except the development of the master plan of the city, which are otherwise performed by, the planning commission under this section and s. 66.435;

(4) CREATION OF TAX INCREMENTAL DISTRICTS AND APPROVAL OF PROJECT PLANS. In order to implement the provisions of this section, the following steps and plans are required:

(a) Holding of a public hearing by the planning commission at which interested parties are afforded a reasonable opportunity to express their views on the proposed creation of a tax incremental district and the proposed boundaries thereof. Notice of such hearing shall be published as a class 2 notice, under ch. 985. Prior to such publication, a copy of the notice shall be sent by first class mail to the chief executive officer or administrator of all local governmental entities having the power to levy taxes on property located within the proposed district and to the school board of any school district which includes property located within the proposed district. For any county with no chief executive officer or administrator, this notice shall be sent to the county board chairperson.

(b) Designation by the planning commission of the boundaries of a tax incremental district recommended by it to be created and submission of such recommendation to the local legislative body.

(c) Identification of the specific property to be included under par. (gm) 4. as blighted or in need of rehabilitation or conservation work. Owners of the property identified shall be notified of the

proposed finding and the date of the hearing to be held under par. (e) at least 15 days prior to the date of the hearing. In cities with a redevelopment authority under s. 66.431, the notification required under this paragraph may be provided with the notice required under s. 66.431 (6) (b) 3., if the notice is transmitted at least 15 days prior to the date of the hearing to be held under par. (e).

(d) Preparation and adoption by the planning commission of a proposed project plan for each tax incremental district.

(e) At least 30 days before adopting a resolution under par. (gm), holding of a public hearing by the planning commission at which interested parties are afforded a reasonable opportunity to express their views on the proposed project plan. The hearing may be held in conjunction with the hearing provided for in par. (a). Notice of the hearing shall be published as a class 2 notice, under ch. 985. The notice shall include a statement advising that a copy of the proposed project plan will be provided on request. Prior to such publication, a copy of the notice shall be sent by 1st class mail to the chief executive officer or administrator of all local governmental entities having the power to levy taxes on property within the district and to the school board of any school district which includes property located within the proposed district. For any county with no chief executive officer or administrator, this notice shall be sent to the county board chairperson.

(f) Adoption by the planning commission of a project plan for, each tax incremental district and submission of the plan to the local legislative body. The plan shall include a statement listing the kind, number and location of all proposed public works or improvements within the district or, to the extent provided in sub. (2) (f) 1. k., outside the district, an economic feasibility study, a detailed list of estimated project costs, and a description of the methods of financing all estimated project costs and the time when the costs or monetary obligations related thereto are to be incurred. The plan shall also include a map showing existing uses and conditions of real property in the district; a map showing proposed improvements and uses in the district; proposed changes of zoning ordinances, master plan, if any, map, building codes and city ordinances; a list of estimated nonproject costs; and a statement of the proposed method for the relocation of any persons to be displaced. The plan shall indicate how creation of the tax incremental district promotes the orderly development of the city. The city shall include in the plan an opinion of the city attorney or of an attorney retained by the city advising whether the plan is complete and complies with this section.

(g) Approval by the local legislative body of a project plan prior to or concurrent with the adoption of a resolution under par. (gm). The approval shall be by resolution which contains findings that the plan is feasible and in conformity with the master plan, if any, of the city.

(gm) Adoption by the local legislative body of a resolution which:

1. Describes the boundaries, which may, but need not, be the same as those recommended by the planning commission, of a tax incremental district with sufficient definiteness to identify with ordinary and reasonable certainty the territory included therein. The boundaries shall include only those whole units of property as are assessed for general property tax purposes. Property standing vacant for an entire 7-year period immediately preceding adoption of the resolution creating a tax incremental district may not comprise more than 25% of the area in the tax incremental district, unless the tax incremental district is suitable for industrial sites under subd. 4. a. and the local legislative body implements an approved project plan to promote industrial development within the meaning of s. 66.52. In this subdivision, "vacant property" includes property where the fair market value or replacement cost value of structural improvements on the parcel is less than the fair market value of the land. In this subdivision, "vacant property" does not include property acquired by the local legislative body under ch. 32 or property included within the abandoned

Park East freeway corridor or the abandoned Park West freeway corridor in Milwaukee county.

2. Creates such district as of a **date** therein provided. If the resolution is adopted during the period between January 2 and September 30, then such **date** shall be the next preceding January 1. If such resolution is adopted during the period between October 1 and December 31, then such date shall be the next subsequent January 1. If the resolution is adopted on January 1, the district shall have been created as of the date of the resolution.

3. Assigns a name to such district for identification purposes. The first such district created shall be known as "Tax Incremental District Number One, City of . . .". Each subsequently created district shall be assigned the next consecutive number.

4. Contains findings that:

a. Not less than 50%, by area, of the **real** property within such district is at least one of the following: a blighted area; in need of rehabilitation or conservation work, as defined in s. 66.435 (2m) (b); ~~or suitable for industrial sites within the meaning of s. 66.52 and has been zoned for industrial use; and~~

b. The improvement of such area is likely to enhance significantly the value of substantially all of the other real property in such district. It shall not be necessary to identify the specific parcels meeting such criteria; and

bm. The project costs relate directly to eliminating blight, & directly serve to rehabilitate or conserve the area ~~or directly serve to promote industrial development~~, consistent with the purpose for which the tax incremental district is created under subd. 4. a.; and

c. Either the equalized value of taxable property of the district plus all existing districts does not exceed 7% of the total equalized value of taxable property within the city or the equalized value of taxable property of the district plus the value increment of all existing districts within the city **does** not exceed 5% of the total equalized value of taxable property within the city.

~~5. Confirms that any real property within the district that is found suitable for industrial sites and is zoned for industrial use under subd. 4. a. will remain zoned for industrial use for the life of the tax incremental district.~~

(gs) Review by a joint review board, acting under sub. (4m), that results in its approval of the resolution under par. (gm).

(h) 1. Subject to subd. 2., the planning commission may at any time, by resolution, adopt an amendment to a project plan, which amendment shall be subject to approval by the local legislative body and approval of the amendment shall require the same findings as provided in par. (g). Any amendment to a project plan is also subject to review by a joint review board, acting under sub. (4m). Adoption of an amendment to a project plan shall be preceded by a public hearing held by the plan commission at which interested parties shall be afforded a reasonable opportunity to express their views on the amendment. Notice of the hearing shall be published as a class 2 notice, under ch. 985. The notice shall include a statement of the purpose and cost of the amendment and shall advise that a copy of the amendment will be provided on request. Prior to such publication, a copy of the notice shall be sent by 1st class mail to the chief executive officer or administrator of all local governmental entities having the power to levy taxes on property within the district and to the school board of any school district which includes property located within the proposed district. For any county with no chief executive officer or administrator, this notice shall be sent to the county board chairperson.

2. Not more than once during the 7 years after the tax incremental district is created, the planning commission may adopt an amendment to a project plan under subd. 1. to modify the district's boundaries by adding territory to the district that is contiguous to the district and that is served by public works or improvements that were created as part of the district's project plan. Expenditures for project costs that are incurred because of an amendment to a project plan to which this subdivision applies may be made for

not more than 3 years after the date on which the local legislative body adopts a resolution amending the project plan.

(i) The local legislative body shall provide the joint review board with the following information and projections:

1. The specific items that constitute the project costs, the total dollar amount of these project costs to be paid with the tax increments, and the amount of tax increments to be generated over the life of the tax incremental district.

2. The amount of the value increment when the project costs in subd. 1. are paid in full and the tax incremental district is **terminated**.

3. The reasons why the project costs in subd. 1. may not or should not be paid by the owners of property that benefits by improvements within the tax incremental district.

4. The share of the projected tax increments in subd. 1. estimated to be paid by the owners of **taxable** property in each of the taxing jurisdictions overlying the **tax incremental** district.

5. The benefits that the owners of taxable property in the overlying taxing jurisdictions will receive to compensate them for their share of the projected tax increments in subd. 4.

(k) Calculation by the local assessor of the value of all tax-exempt city-owned property, except property described in sub. (5) (bm), in the proposed tax incremental district, as of the day of the district's creation. This information shall be sent to the department of revenue for inclusion in the tax incremental district's initial tax incremental base under sub. (5) (b).

(4m) **JOINT REVIEW BOARD.** (a) Any city that seeks to create a tax incremental district or amend a project plan shall convene a joint review board to review the proposal. 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 technical college district or more than one 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 or to amend its project plan shall provide administrative support for the board. By majority vote, the board may disband following approval or rejection of the proposal.

(b) 1. The board shall review the public record, **planning documents** and the resolution passed by the local legislative body or planning commission under sub. (4) (gm) or (h) 1. As part of its deliberations the board may hold additional hearings on the proposal.

2. 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 not less than 10 days nor more than 30 days after receiving the resolution.

3. The board shall submit its decision to the city no later than 7 days after the board acts on and reviews the items in subd. 2.

(c) 1. The board shall base its decision to approve or **deny** a proposal on the following criteria:

a. Whether the development expected in the tax incremental district would occur without the use of tax incremental financing.

b. Whether the economic benefits of the tax incremental district, as measured by increased employment, business and per-

sonal income and property value, are insufficient to compensate for the cost of the improvements.

c. Whether the benefits of the proposal outweigh the anticipated tax increments to be paid by the owners of property in the overlying taxing districts.

2. The board shall issue a written explanation describing why any proposal it rejects fails to meet one or more of the criteria specified in subd. 1.

(5) **DETERMINATION OF TAX INCREMENT AND TAX INCREMENTAL BASE.** (a) Upon the creation of a tax incremental district or upon adoption of any amendment subject to par. (c), its tax incremental base shall be determined as soon as reasonably possible.

(b) Upon application in writing by the city clerk, in such form as the department of revenue may prescribe, the department shall determine according to its best judgment from all sources available to it the full aggregate value of the taxable property and, except as provided in par. (bm), of the city-owned property in the tax incremental district. The department shall certify this aggregate valuation to the city clerk, and the aggregate valuation shall constitute the tax incremental base of the tax incremental district. The city clerk shall complete these forms and submit the application on or before December 31 of the year the tax incremental district is created, as defined in sub. (4) (gm) 2.

(be) Notwithstanding the time limits in par. (b), if the city clerk of a city that created a tax incremental district in September 1994 files with the department of revenue, not later than March 30, 1996, the forms and application that were originally due on or before December 31, 1994, the tax incremental base of the district shall be calculated by the department of revenue as if the forms and application had been filed on or before December 31, 1994, and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the forms and application had been filed on or before December 31, 1994, except that the department may not certify a value increment under par. (b) before 1996.

(bm) The value of real property owned by a city and used for Police and fire buildings, administrative buildings, libraries, community and recreational buildings, parks, streets and improvements within any street right-of-way, parking facilities and utilities shall not be included in the tax incremental base established under par. (b).

(c) If the city adopts an amendment to the original project plan for any district which includes additional project costs at least part of which will be incurred after the period specified in sub. (6) (am) 1., the tax incremental base for the district shall be redetermined, if sub. (4) (h) 2. applies to the amended project plan, by adding to the tax incremental base the value of the taxable property that is added to the existing district under sub. (4) (h) 2. or, if sub. (4) (h) 2. does not apply to the amended project plan, under par. (b), as of the January 1 next preceding the effective date of the amendment if the amendment becomes effective between January 2 and September 30, as of the next subsequent January 1 if the amendment becomes effective between October 1 and December 31 and if the effective date of the amendment is January 1 of any year, the redetermination shall be made on that date. The tax incremental base as redetermined under this paragraph is effective for the purposes of this section only if it exceeds the original tax incremental base determined under par. (b).

(ce) If the city adopts an amendment, to which sub. (4) (h) 2. applies, the tax incremental base for the district shall be redetermined, by adding to the tax incremental base the value of the taxable property that is added to the existing district under sub. (4) (h) 2., as of the January 1 next preceding the effective date of the amendment if the amendment becomes effective between January 2 and September 30, as of the next subsequent January 1 if the amendment becomes effective between October 1 and December 31 and if the effective date of the amendment is January 1 of any year, the redetermination shall be made on that date. The tax

incremental base as redetermined under this paragraph is effective for the purposes of this section only if it exceeds the original tax incremental base determined under par. (b).

(cm) The city clerk shall annually, after May 1 but before May 21, by written notice, inform the department of revenue of any amendment to the project plan which has been adopted. The city clerk shall also give written notice of the adoption of an amendment to the department of revenue within 60 days after its adoption. The department of revenue may prescribe forms to be used by the city clerk when giving notice as required by this paragraph.

(d) The department of revenue shall not certify the tax incremental base as provided in par. (b) until it determines that each of the procedures and documents required by sub. (4) (a), (b), (gm) or (h) and par. (b) has been timely completed and all notices required under sub. (4) (a), (b), (gm) or (h) timely given. The facts supporting any document adopted or action taken to comply with sub. (4) (a), (b), (gm) or (h) shall not be subject to review by the department of revenue under this paragraph.

(e) It is a rebuttable presumption that any property within a tax incremental district acquired or leased as lessee by the city, or any agency or instrumentality thereof, within the one year immediately preceding the date of the creation of such district was so acquired or leased in contemplation of the creation of such district. Such presumption may be rebutted by the city with proof that such property was so leased or acquired primarily for a purpose other than to reduce the tax incremental base. If such presumption is not rebutted, in determining the tax incremental base of such district, but for no other purpose, the taxable status of such property shall be determined as though such lease or acquisition had not occurred.

(f) The city assessor shall identify upon the assessment roll returned and examined under s. 70.45 those parcels of property which are within each existing tax incremental district, specifying thereon the name of each district. A similar notation shall also appear on the tax roll made by the city clerk under s. 70.65.

(g) The department of revenue shall annually give notice to the designated finance officer of all governmental entities having the power to levy taxes on property within each district as to the equalized value of such property and the equalized value of the tax increment base. Such notice shall also explain that the tax increment allocated to a city shall be paid to the city as provided under sub. (6) (b) from the taxes collected.

(6) **ALLOCATION OF POSITIVE TAX INCREMENTS.** (a) If the joint review board approves the creation of the tax incremental district under sub. (4m), 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 shall 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) have 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) shall not be subject to review by the department of revenue under this paragraph. Thereafter, the department of revenue shall annually authorize allocation of the tax increment to the city that created such a district until the department of revenue receives a notice under sub. (8) and the notice has taken effect under sub. (8) (b), 27 years after the tax incremental district is created if the district is created before October 1, 1995, or 23 years after the tax incremental district is created if the district is created after September 30, 1995, whichever is sooner.

(am) 1. For a tax incremental district that is created after September 30, 1995, no expenditure may be made later than 7 years

after the tax incremental district is created, and for a tax incremental district that is created before October 1, 1995, no expenditure may be made later than 10 years after the tax incremental district is created.

2. The limitations on the period during which expenditures may be made under subd. 1. do not apply to:

a. Expenditures to pay project costs incurred under ch. 32.

b. Expenditures authorized by the adoption of an amendment to the project plan under sub. (5) (c).

3. For tax incremental districts for which the resolution under sub. (4) (gm) is adopted on or after July 31, 1981, no expenditure may be made before the date the project plan is approved, except for costs directly related to planning the tax incremental district. In this subdivision "expenditure" means the exchange of money for the delivery of goods or services.

4. For purposes of this paragraph, the date of creation of a tax incremental district is:

a. The May 1 date set under s. 66.46 (4) (c) 2., 1975 stats., if the local legislative body adopts a resolution to create the tax incremental district on or before May 1, 1978.

b. The January 1 date set under sub. (4) (gm) 2., if the local legislative body adopts a resolution to create the tax incremental district after May 1, 1978, and prior to July 31, 1981.

c. The date the local legislative body adopts the resolution under sub. (4) (gm), if the local legislative body adopts a resolution to create the tax incremental district on or after July 31, 1981.

(b) Notwithstanding any other provision of law, every officer charged by law to collect and pay over or retain local general property taxes shall, on the settlement dates provided by law, pay over to the city treasurer out of all the taxes which the officer has collected the proportion of the tax increment due the city that the general property taxes collected in the city bears to the total general property taxes levied by the city for all purposes included in the tax roll, exclusive of levies for state trust fund loans, state taxes and state special charges.

(c) Except for tax increments allocated under par. (d) or (e), all tax increments received with respect to a tax incremental district shall, upon receipt by the city treasurer, be deposited into a special fund for that district. The city treasurer may deposit additional moneys into such fund pursuant to an appropriation by the common council. No moneys may be paid out of such fund except to pay project costs with respect to that district, to reimburse the city for such payments, to pay project costs of a district under par. (d) or (e) or to satisfy claims of holders of bonds or notes issued with respect to such district. Subject to par. (d) or (e), moneys paid out of the fund to pay project costs with respect to a district may be paid out before or after the district is terminated under sub. (7). Subject to any agreement with bondholders, moneys in the fund may be temporarily invested in the same manner as other city funds if any investment earnings are applied to reduce project costs. After all project costs and all bonds and notes with respect to the district have been paid or the payment thereof provided for, subject to any agreement with bondholders, if there remain in the fund any moneys that are not allocated under par. (d) or (e), they shall be paid over to the treasurer of each county, school district or other tax levying municipality or to the general fund of the city in the amounts that belong to each respectively, having due regard for that portion of the moneys, if any, that represents tax increments not allocated to the city and that portion, if any, that represents voluntary deposits of the city into the fund.

(d) 1. After the date on which a tax incremental district pays off the aggregate of all of its project costs under its project plan, but not later than the date on which a tax incremental district terminates under sub. (7) (am), a planning commission may amend under sub. (4) (h) 1. the project plan of such a tax incremental district to allocate positive tax increments generated by that tax incremental district to another tax incremental district created by that planning commission in which soil affected by environmental pollution exists to the extent that development has not been able

to proceed according to the project plan because of the environmental pollution.

2. Except as provided in subd. 2m., no tax increments may be allocated under this paragraph later than 16 years after the last expenditure identified in the project plan of the tax incremental district, the positive tax increments of which are to be allocated, is made.

2m. No tax increments may be allocated under this paragraph later than 20 years after the last expenditure identified in the project plan of the tax incremental district, the positive tax increments of which are to be allocated, is made if the district is created before October 1, 1995, except that in no case may the total number of years during which expenditures are made under par. (am) 1. plus the total number of years during which tax increments are allocated under this paragraph exceed 27 years.

3. This paragraph applies only in a city with a population of at least 80,000 that was incorporated in 1850 and that is in a county with a population of less than 150,000 which is adjacent to one of the Great Lakes.

4. This paragraph does not apply after January 1, 2002.

(e) 1. Before the date on which a tax incremental district terminates under sub. (7) (a), but not later than the date on which a tax incremental district terminates under sub. (7) (am), a planning commission may amend under sub. (4) (h) the project plan of such a tax incremental district to allocate positive tax increments generated by that tax incremental district to another tax incremental district created by that planning commission if all of the following conditions are met:

a. The donor tax incremental district, the positive tax increments of which are to be allocated, and the recipient tax incremental district have the same overlying taxing jurisdictions.

b. The donor tax incremental district and the recipient tax incremental district have been created before October 1, 1995.

2. Each year, the city that created the tax incremental districts may determine the portion of the donor tax incremental district's positive tax increment that is in excess of the tax increment that is necessary to pay the donor's project costs in that year that shall be allocated to the recipient tax incremental district and shall inform the department of revenue of these amounts.

3. A project plan that is amended under sub. (4) (h) to authorize the allocation of positive tax increments under subd. 1. may authorize such an allocation for a period not to exceed 5 years, except that if the planning commission determines that the allocation may be needed for a period longer than 5 years, the planning commission may authorize such an allocation for up to an additional 5 years if the project plan is amended under sub. (4) (h) during the 4th year of the allocation. In no case may positive tax increments under subd. 1. be allocated from one donor tax incremental district for a period longer than 10 years.

(6c) NOTIFICATION OF POSITION OPENINGS. (a) Any person who operates for profit and is paid project costs under sub. (2) (f) 1. a., d., j. and k. in connection with the project plan for a tax incremental district shall notify the department of industry, labor and job development and the area private industry council under the job training partnership act, 29 USC 1501 to 1798, of any positions to be filled in the county in which the city which created the tax incremental district is located during the period commencing with the date the person first performs work on the project and ending one year after receipt of its final payment of project costs. The person shall provide this notice at least 2 weeks prior to advertising the position.

(b) Any person who operates for profit and buys or leases property in a tax incremental district from a city for which the city incurs real property assembly costs under sub. (2) (f) 1. c. shall notify the department of industry, labor and job development and the area private industry council under the job training partnership act, 29 USC 1501 to 1798, of any position to be filled in the county in which the city creating the tax incremental district is located within one year after the sale or commencement of the lease. The

person shall provide this notice at least 2 weeks prior to advertising the position.

(6m) REVIEW. (a) The city shall cause a certified public accountant to conduct audits of each tax incremental district to determine if all financial transactions are made in a legal and proper manner and to determine if the tax incremental district is complying with its project plan and with this section. Any city that creates a tax incremental district under this section and has an annual general audit may include the audits required under this subsection as part of the annual general audit.

(b) Audits shall be conducted no later than:

1. Twelve months after 30% of the project expenditures are made;
2. Twelve months after the end of the expenditure period specified in sub. (6) (am) 1.; and
3. Twelve months after the termination of the tax incremental district under sub. (7).

(c) The city shall prepare and make available to the public updated annual reports describing the status of each existing tax incremental district, including expenditures and revenues. The city shall send a copy of the report to each overlying district by May 1 annually.

(7) TERMINATION OF TAX INCREMENTAL DISTRICTS. The existence of a tax incremental district shall terminate when the earlier of the following occurs:

(a) That time when the city has received aggregate tax increments with respect to such district in an amount equal to the aggregate of all project costs under the project plan and any amendments to the project plan for such district, except that this paragraph does not apply to a district whose positive tax increments have been allocated under sub. (6) (d) or (e) until the district to which the allocation is made has paid off the aggregate of all of its project costs under its project plan.

(am) Sixteen years after the last expenditure identified in the project plan is made if the district to which the plan relates is created after September 30, 1995, or 20 years after the last expenditure identified in the project plan is made if the district to which the plan relates is created before October 1, 1995, except that in no case may the total number of years during which expenditures are made under par. (am) 1. plus the total number of years during which tax increments are allocated under this paragraph exceed 27 years.

(b) The local legislative body, by resolution, dissolves the district at which time the city shall become liable for all unpaid project costs actually incurred which are not paid from the special fund under sub. (6) (c), except this paragraph does not make the city liable for any tax incremental bonds or notes issued.

(8) NOTICE OF DISTRICT TERMINATION. (a) A city which creates a tax incremental district under this section shall give the department of revenue written notice within 10 days of the termination of the tax incremental district under sub. (7).

(b) If the department of revenue receives a notice under par. (a) during the period from January 1 to May 15, the effective date of the notice is the date the notice is received. If the notice is received during the period from May 16 to December 31, the effective date of the notice is the first January 1 after the department of revenue receives the notice.

(9) FINANCING OF PROJECT COSTS. (a) Payment of project costs may be made by any one or more of the following methods or any combination thereof:

1. Payment by the city from the special fund of the tax incremental district;
2. Payment out of its general funds;
3. Payment out of the proceeds of the sale of bonds or notes issued by it under ch. 67;
4. Payment out of the proceeds of the sale of public improvement bonds issued by it under s. 66.059;
5. Payment as provided under s. 66.54 (2) (c), (d) or (e);

6. Payment out of the proceeds of revenue bonds or notes issued by it under s. 66.066;

7. Payment out of the proceeds of revenue bonds issued by it under s. 66.51;

8. Payment out of the proceeds of the sale of tax incremental bonds or notes issued by it under this subsection; or

9. Payment out of the proceeds of revenue bonds issued by the city as provided by s. 66.521, for a purpose specified in that section.

(b) 1. For the purpose of paying project costs or of refunding municipal obligations issued under ch. 67 or this subsection for the purpose of paying project costs, the local legislative body may issue tax incremental bonds or notes payable out of positive tax increments. Each bond or note and accompanying interest coupon, if any, is a negotiable instrument. The bonds and notes shall not be included in the computation of the constitutional debt limitation of the city. Bonds and notes issued under this subsection, together with their interest and income, shall be taxed in the same manner as are municipal obligations issued under s. 67.04.

2. Tax incremental bonds or notes shall be authorized by resolution of the local legislative body without the necessity of a referendum or any elector approval, but such referendum or election may be held, through the procedures provided in s. 66.521 (10) (d). Such resolution shall state the name of the tax incremental district, the amount of bonds or notes authorized, and the interest rate or rates to be borne by such bond or notes. Such resolution may prescribe the terms, form and content of such bonds or notes and such other matters as the local legislative body deems useful.

3. Tax incremental bonds or notes may not be issued in an amount exceeding the aggregate project costs. Such bonds or notes shall mature over a period not exceeding 23 years from the date thereof or a period terminating with the date of termination of the tax incremental district, whichever period terminates earlier. Such bonds or notes may contain a provision authorizing the redemption thereof, in whole or in part, at stipulated prices, at the option of the city, on any interest payment date and shall provide the method of selecting the bonds or notes to be redeemed. The principal and interest on such bonds and notes may be payable at any time and at any place. Such bonds or notes may be payable to bearer or may be registered as to the principal or principal and interest. Such bonds or notes may be in any denominations. Such bonds or notes may be sold at public or private sale. Insofar as they are consistent with this subsection, the provisions of ch. 67 relating to procedures for issuance, form, contents, execution, negotiation, and registration of municipal bonds and notes are incorporated herein by reference.

4. Tax incremental bonds or notes are payable only out of the special fund created under sub. (6) (c). Each such bond or note shall contain such recitals as are necessary to show that it is only so payable and that it does not constitute an indebtedness of such city or a charge against its general taxing power. The local legislative body shall irrevocably pledge all or a part of such special fund to the payment of such bonds or notes. Such special fund or the designated part thereof may thereafter be used only for the payment of such bonds or notes and interest thereon until the same have been fully paid; and a holder of such bonds or notes or of any coupons appertaining thereto shall have a lien against such special fund for payment of such bonds or notes and interest thereon and may either at law or in equity protect and enforce such lien.

5. To increase the security and marketability of tax incremental bonds or notes, the city may:

- a. Create a lien for the benefit of the bondholders upon any public improvements or public works financed thereby or the revenues therefrom; or
- b. Make such covenants and do any and all such acts, not inconsistent with the Wisconsin constitution, as may be necessary or convenient or desirable in order to additionally secure such bonds or notes or tend to make the bonds or notes more marketable according to the best judgment of the local legislative body.

(10) OVERLAPPING TAX INCREMENTAL DISTRICTS. (a) Subject to any agreement with bondholders, 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.

(b) If the boundaries of 2 or more tax incremental districts overlap, in determining how positive tax increments generated by that area which is within 2 or more districts are allocated among such districts, but for no other purpose, the aggregate value of the taxable property in such area as equalized by the department of revenue in any year as to each earlier created district is deemed to be that portion of the tax incremental base of the district next created which is attributable to such overlapped area.

(11) EQUALIZED VALUATION FOR APPORTIONMENT OF PROPERTY TAXES (a) With respect to the county, school districts and any other local governmental body having the power to levy taxes on property located within a tax incremental district, if the allocation of positive tax increments has been authorized by the department of revenue under sub. (6) (a), the calculation of the equalized valuation of taxable property in a tax incremental district for the apportionment of property taxes may not exceed the tax incremental base of the district until the district is terminated.

(13) The department of commerce, in cooperation with other state agencies and local governments, shall make a comprehensive report to the governor and the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), at the beginning of each biennium, beginning with the 1977 biennium, as to the effects and impact of tax incremental financing projects socially, economically and financially.

(14) USE OF TAX INCREMENTAL FINANCING FOR INLAND LAKE PROTECTION AND REHABILITATION PROHIBITED. Notwithstanding sub. (9), no tax incremental financing project plan may be approved and no payment of project costs may be made for an inland lake protection and rehabilitation district or a county acting under s. 59.70 (8).

History: 1975 c. 105, 199, 311; 1977 c. 29 ss. 724m, 725, 1646 (1), (3); 1977 c. 418; 1979 c. 221, 343; 1979 c. 361 s. 112; 1981 c. 20, 317; 1983 a. 27, 31, 207, 320, 405, 538; 1985 a. 29, 39, 285; 1987 a. 27, 186, 395; 1989 a. 31, 336; 1993 a. 293, 337, 399; 1995 a. 27 ss. 3330c to 3337, 9116 (5), 9130 (4); 1995 a.201.225.227.335.

Tax Increment Law constitutionally authorizes financing of described public improvements, but does not authorize acquisition of private property by condemnation Sigma Tau Gamma Fraternity House v. Menomonee, 93 W (2d) 392.288 NW (2d) 85 (1980)

TIF bends which city proposed to issue under this section constituted debt under att. XI, s. 3 and are sublet to its debt limits. City of Hartford v. Kirley, 172 W (2d) 191, 493 NW (2d) 45 (1992).

Tax increment law appears constitutional on its face. 65 Atty. Gen. 194.

66.465 Reinvestment neighborhoods. (1) DEFINITIONS In this section:

(a) An "area in need of rehabilitation" is a neighborhood or area in which buildings, by reason of age, obsolescence, inadequate or outmoded design, or physical deterioration have become economic or social liabilities, or both; in which such conditions impair the economic value of such neighborhood or area, infecting it with economic blight, and which is characterized by depreciated values, impaired investments, and reduced capacity to pay taxes; in which the existence of such conditions and the failure to rehabilitate such buildings results in a loss of population from the neighborhood or area and further deterioration, accompanied by added costs for creation of new public facilities and services elsewhere; in which it is difficult and uneconomic for individual owners independently to undertake to remedy such conditions; in which it is necessary to create, with proper safeguards, inducements and opportunities for the employment of private investment and equity capital in the rehabilitation of such buildings; and in which the presence of such buildings and conditions has resulted, among other consequences, in a severe shortage of financial resources available to finance the purchase and rehabilitation of housing and an inability or unwillingness on the part of private lenders to make loans for and an inability or unwillingness on the part of present and prospective owners of such housing to invest

in the purchase and rehabilitation of housing in such neighborhood or area.

(b) "Local legislative body" means the common council, village board of trustees or town board of supervisors.

(c) "Municipality" means any city, village or town in this state.

(d) "Planning commission" means a plan commission created under s. 62.23 or a plan committee of the local legislative body.

(e) "Reinvestment neighborhood or area" means a geographic area within any municipality not less than one-half of which, by area, meets 3 of the 5 following conditions:

1. It is an area in need of rehabilitation as defined in par. (a).
2. It has a rate of owner-occupancy of residential buildings substantially below the average rate for the municipality as a whole.

3. It is an area within which the market value of residential property, as measured by the rate of change during the preceding 5 years in the average sale price of residential property, has decreased or has increased at a rate substantially less than the rate of increase in average sale price of residential property in the municipality as a whole.

4. It is an area within which the number of persons residing has decreased during the past 5 years, or in which the number of persons residing has increased during that period at a rate substantially less than the rate of population increase in the municipality as a whole.

5. It is an area within which the effect of such detrimental conditions as may exist is to discourage private lenders from making loans for and present or prospective property owners from investing in the purchase and rehabilitation of housing.

(2) DESIGNATION OF REINVESTMENT NEIGHBORHOODS OR AREAS. Any municipality may designate reinvestment neighborhoods or areas after complying with the following steps:

(a) Holding of a public hearing by the planning commission or by the local governing body at which interested parties are afforded a reasonable opportunity to express their views on the proposed designation of a reinvestment neighborhood or area and the proposed boundaries thereof. Notice of such hearing shall be published as a class 2 notice, under ch. 985. Prior to such publication, a copy of the notice shall be sent by 1st class mail to the Wisconsin housing and economic development authority, and a copy shall be posted in each school building and in at least 3 other places of public assembly within the reinvestment neighborhood or area proposed to be designated.

(b) Designation by the planning commission of the boundaries of a reinvestment neighborhood or area recommended by it to be designated and submission of such recommendation to the local legislative body.

(c) Adoption by the local legislative body of a resolution which:

1. Describes the boundaries of a reinvestment neighborhood or area with sufficient definiteness to identify with ordinary and reasonable certainty the territory included therein. Such boundaries may, but need not, be the same as those recommended by the planning commission.

2. Designates such reinvestment neighborhood or area as of a date provided in the resolution.

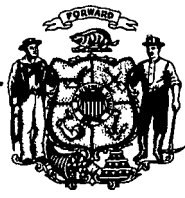
3. Contains findings that the area to be designated constitutes a reinvestment neighborhood or area.

History: 1977 c. 418; 1979 c. 361 s. 112; 1985 a. 29 s. 3200 (14).

66.47 County-city hospitals; village and town powers. (1) DEFINITIONS. In this section:

(a) "Board" means the joint county-city hospital board established under this section.

(b) "Ordinance" means an ordinance adopted by the governing body of a city or county and concurred in by the other governing body or bodies.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2292/P1
MES.....
RMK jlg

PRELIMINARY **DRAFT - NOT READY FOR INTRODUCTION**

gen cat

1 AN ACT ...; relating to: limiting the uses of tax incremental financing.

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, 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 creation by the city or village of a joint review board to review the proposal. The joint review board, which is made up of representatives of the overlying taxing jurisdictions of the proposed TID, must approve the project plan or the TID may not be created. If an existing TID project plan is amended by a planning commission, these steps are also required.

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 only be used to pay back the 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 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.

This bill limits the use tax incremental financing to areas that are blighted or in need of rehabilitation.

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.** 66.46 (2) (k) of the statutes is amended to read:
2 66.46 (2) (k) "Tax incremental district" means a contiguous geographic area
3 within a city defined and created by resolution of the local legislative body, consisting
4 solely of whole units of property as are assessed for general property tax purposes,
5 other than railroad rights-of-way, rivers or highways. Railroad rights-of-way,
6 rivers or highways may be included in a tax incremental district only if they are
7 continuously bounded on either side, or on both sides, by whole units of property as
8 are assessed for general property tax purposes which are in the tax incremental
9 district. "Tax incremental district" does not include any area identified as a wetland
10 on a map under s. 23.32 or an area identified as agricultural or forest land.[✓]

History: 1975 c. 105, 199,311; 1977 c. 29 ss. 724m, 725.1646 (1), (3); 1977 c. 418; 1979 c. 221,343; 1979 c. 361 s. 112; 1981 c. 20,317; 1983 a. 27, 31, 207, 320, 405, 538; 1985 a. 29939,285; 1987 a. 27, 186, 395; 1989 a. 31,336; 1993 a. 293, 337, 399; 1995 a. 27 ss. 3330c to 333799116 (5), 9130 (4); 1995 a. 201, 225, 227, 335; 1997 a. 3, 27, 237, 252.

******NOTE:** This paragraph is amended according to your instructions, but I'm not sure what effect it will have. Generally; if a definition says "ABC means XY.. it is both unnecessary and inadvisable to also state that "ABC does not include DEF." If a definition states that a term *means* something, that is what the term means and one should not develop a partial list of things that are *not* included. Listing a few things that the term does not include could lead a court to wonder what else that is not listed is not included in the definition, even though stating that a term *means* something should limit it to the words in the definition. For example, a definition that states "Municipality means a city, village or town" should not also state "Municipality does not include county" I realize that s. 66.46 (2) (k) already has a "does not include" phrase, but adding to that list may not help you achieve your goal. In addition, what exactly does it mean to be "identified" as agricultural or forest land? The current "does not include" phrase is cross-referenced to a defined term.

1 **SECTION 2.** 66.46 (4) (gm) 1. of the statutes is amended to read:

2 66.46 (4) (gm) 1. Describes the boundaries, which may, but need not, be the
3 same as those recommended by the planning commission, of a tax incremental
4 district with sufficient definiteness to identify with ordinary and reasonable
5 certainty the territory included therein. The boundaries shall include only those
6 whole units of property as are assessed for general property tax purposes. Property
7 standing vacant for an entire 7-year period immediately preceding adoption of the
8 resolution creating a tax incremental district may not comprise more than 25% of the
9 area in the tax incremental district, ~~unless the tax incremental district is suitable~~
10 ~~for industrial sites under subd. 4. a. and the local legislative body implements an~~
11 ~~approved project plan to promote industrial development within the meaning of s.~~
12 ~~66.52.~~ In this subdivision, "vacant property" includes property where the fair market
13 value or replacement cost value of structural improvements on the parcel is less than
14 the fair market value of the land. In this subdivision, "vacant property" does not
15 include property acquired by the local legislative body under ch. 32 or property
16 included within the abandoned Park East freeway corridor or the abandoned Park
17 West freeway corridor in Milwaukee county.

History: 1975 c. 105, 199, 311; 1977 c. 29 ss. 724m, 725, 1646 (1), (3); 1977 c. 418; 1979 c. 221, 343; 1979 c. 361 s. 112; 1981 c. 20, 317; 1983 a. 27, 31, 207, 320, 405, 538; 1985 a. 29, 39, 285; 1987 a. 27, 186, 395; 1989 a. 31, 336; 1993 a. 293, 337, 399; 1995 a. 27 ss. 3330c to 3337, 9116 (S), 9130 (4); 1995 a. 201, 225, 227, 335; 1997 a. 3, 27, 237, 252.

18 **SECTION 3.** 66.46 (4) (gm) 4. a. of the statutes is amended to read:

19 66.46 (4) (gm) 4. a. Not less than 50%, by area, of the real property within such
20 district is at least one of the following: a blighted area; ^{or} in need of rehabilitation or
21 conservation work, as defined in s. ~~66.435~~ (2m) (b); or Z
22 ~~within the meaning of s. 66.52 and has been zoned for industrial use;~~ ^{plain} land

History: 1975 c. 105, 199, 311; 1977 c. 29 ss. 724m, 725, 1646 (1), (3); 1977 c. 418; 1979 c. 221, 343; 1979 c. 361 s. 112; 1981 c. 20, 317; 1983 a. 27, 31, 207, 320, 405, 538; 1985 a. 29, 39, 285; 1987 a. 27, 186, 395; 1989 a. 31, 336; 1993 a. 293, 337, 399; 1995 a. 27 ss. 3330c to 3337, 9116 (S), 9130 (4); 1995 a. 201, 225, 227, 335; 1997 a. 3, 27, 237, 252.

23 **SECTION 4.** 66.46 (4) (gm) 4. bm. of the statutes is amended to read:



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

FMR

D-NOTE

today
4/19

repeal

1 **AN ACT** to **repeal** 66.46 (4) (gm) 5. i and to **amend** 66.46 (2) (k), 66.46 (4) (gm) l.,
2 66.46 (4) (gm) 4. a. and 66.46 (4) (gm) 4. bm. of the statutes; **relating to:**
- 3 limiting the uses of tax incremental financing.

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, 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 creation by the city or village of a joint review board to review the proposal. The joint review board, which is made up of representatives of the overlying taxing jurisdictions of the proposed TID, must approve the project plan or the TID may not be created. If an existing TID project plan is amended by a planning commission, these steps are also required.

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 only be used to pay back the costs of the TID.

NO
and requires the city or village to adopt a finding that no part of the district includes an area identified as agricultural or forest land.

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 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.

This bill limits the use tax incremental financing to areas that are blighted or in need of rehabilitation.

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:

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SECTION 1. 66.46 (2) (k) of the statutes is amended to read:

66.46 (2) (k) "Tax incremental district" means a contiguous geographic area within a city defined and created by resolution of the local legislative body, consisting solely of whole units of property as are assessed for general property tax purposes, other than railroad rights-of-way, rivers or highways. Railroad rights-of-way, rivers or highways may be included in a tax incremental district only if they are continuously bounded on either side, or on both sides, by whole units of property as are assessed for general property tax purposes which are in the tax incremental district. *Tax incremental district" does not include any area identified as a wetland on a map under s. 23.32 or an area identified as agricultural or forest land.

******NOTE:** This paragraph is amended according to your instructions, but I'm not sure what effect it will have. Generally, if a definition says "ABC means XYZ" it is both unnecessary and inadvisable to also state that "ABC does not include DEF." If a definition states that a term means something, that is what the term means and one should not develop a partial list of things that are not included. Listing a few things that the term does not include could lead a court to wonder what else that is not listed is not included in the definition, even though stating that a term means something should limit it to the words in the definition. For example, a definition that states "Municipality means a city, village or town" should not also state "Municipality does not include county." I realize that s. 66.46 (2) (k) already has a "does not include" phrase, but adding to that list may not help you achieve your goal. In addition, what exactly does it mean to be "identified" as

agricultural or forest land? The current "does not include" phrase is cross-referenced to a defined term.

1 **SECTION 2.** 66.46 (4) (gm) 1. of the statutes is amended to read:

2 66.46 (4) (gm) 1. Describes the boundaries, which may, but need not, be the
3 same as those recommended by the planning commission, of a tax incremental
4 district with sufficient definiteness to identify with ordinary and reasonable
5 certainty the territory included therein. The boundaries shall include only those
6 whole units of property as are assessed for general property tax purposes. Property
7 standing vacant for an entire 1-year period immediately preceding adoption of the
8 resolution creating a tax incremental district may not comprise more than 25% of the
9 area in the tax incremental district, ~~unless the tax incremental district is suitable~~
10 ~~for industrial sites under subd. 4. a. and the local legislative body implements an~~
11 ~~approved project plan to promote industrial development within the meaning of s.~~
12 ~~66.52.~~ In this subdivision, "vacant property" includes property where the fair market
13 value or replacement cost value of structural improvements on the parcel is less than
14 the fair market value of the land. In this subdivision, "vacant property" does not
15 include property acquired by the local legislative body under ch. 32 or property
16 included within the abandoned Park East freeway corridor or the abandoned Park
17 West freeway corridor in Milwaukee county.

18 **SECTION 3.** 66.46 (4) (gm) 4. a. of the statutes is amended to read:

19 66.46 (4) (gm) 4. a. Not less than 50%, by area, of the real property within such
20 district is at least one of the following: a blighted area; or in need of rehabilitation
21 or conservation work, as defined in s. 66.435 (2m) (b); ~~or suitable for industrial sites~~
22 ~~within the meaning of s. 66.52 and has been zoned for industrial use;~~ and

23 **SECTION 4.** 66.46 (4) (gm) 4. bm. of the statutes is amended to read:

1 **66.46 (4) (gm) 4. bm.** The project costs relate directly to eliminating blight? or
2 directly serve to rehabilitate or conserve the area ~~or directly serve to promote~~
3 ~~industrial development~~, consistent with the purpose for which the tax incremental
4 district is created under subd. 4. a.; and

5 **SECTION 5.** 66.46 (4) (gm) 5. of the statutes is repealed.

6 **SECTION 6. Initial applicability.**

7 (1) This act first applies to ^a tax incremental financing districts ^{is} that ~~are~~ created
8 on the effective date of this subsection.

9 (END)

or whose project plan is amended,

Sec# CR; 66.46 (4) (gm) 4. d. ✓

66.46 (4) (gm) 4. d. No part of the district

includes an area identified as agricultural or forest land.

D-NOTE

requested
change to the definition of "tax incremental district" in A.66.46(2)(k) ✓
Does this ~~meet~~ achieve your intent?
amended

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2292/1dn
MES:jlg:hmh

April 20, 1999

Created s. 66.46 (4) (gm) 4. d. takes the place of your requested change to the definition of "tax incremental district" in s. 66.46 (2) (k). Does this achieve your intent?

Marc E. Shovers
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**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 4/20/99

To: Representative Bock

Relating to LRB drafting number: LRB-2292

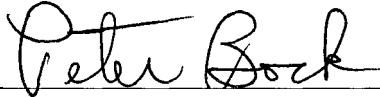
Topic

Limit uses of tax incremental financing

Subject(s)

Munis - tax incrmntal financing

1. **JACKET** the draft for introduction _____



in the **Senate** or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues; you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Marc E. Shovers, Senior Legislative Attorney
Telephone: (608) 266-0129