

DOA:.....Wong - Technical changes, environmental remediation tax incremental financing program

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

PART OF INSECTS

1 AN ACT ...; relating to: modifying the environmental remediation tax
2 incremental financing program.

Analysis by the Legislative Reference Bureau

LOCAL GOVERNMENT

Under current law, the environmental remediation tax incremental financing program permits a city, village, town, or county (political subdivision) to defray the costs of remediating contaminated property that is owned by the political subdivision. The mechanism for financing costs that are eligible for remediation is very similar to the mechanism under the tax incremental financing (TIF) program. If the remediated property is transferred to another person and is then subject to property taxation, environmental remediation tax incremental financing may be used to allocate some of the property taxes that are levied on the property to the political subdivision to pay for the costs of remediation.

A political subdivision that has incurred "eligible costs" to remediate environmental pollution on a parcel of property may apply to DOR to certify the "environmental remediation tax incremental base" of the parcel. DOR is required to certify the environmental remediation tax incremental base if the political subdivision submits to DOR all of the following: 1) a statement that the political subdivision has incurred some eligible costs, together with a detailed proposed remedial action plan approved by DNR that contains cost estimates for anticipated

eligible costs, a schedule for the design and implementation that is needed to complete the remediation, and certification from DNR that the department has approved the site investigation report that relates to the parcel; 2) a statement that all taxing jurisdictions with authority to levy general property taxes on the parcel of property have been notified that the political subdivision intends to recover its environmental remediation costs by using an "environmental remediation tax increment"; and 3) a statement that the political subdivision has attempted to recover its environmental remediation costs from the person who is responsible for the environmental pollution that is being remediated.

This bill makes technical changes to the environmental remediation tax incremental financing program. These changes include creating a definition of "project expenditures" and a definition of "environmental remediation tax incremental district" (ERTID) that is somewhat similar to the definition of "tax incremental district" under the TIF program; making changes to the definitions of "environmental remediation tax increment," "environmental remediation tax incremental base," and "taxable property"; creating procedures for the termination of an ERTID that are similar to the termination procedures of a tax incremental district under the TIF program; requiring that the final report under the program include an independent certified financial audit; requiring that DOR be provided with a final accounting of the ERTID's project expenditures and the final amount of eligible costs that have been paid for an ERTID; and modifying certain provisions of the program to apply to contiguous parcels of property or land, as well as a parcel of property or land.

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:

SECTION 1. 66.1106 (1) (e) of the statutes is amended to read:

66.1106 (1) (e) "Environmental remediation tax increment" means that amount obtained by multiplying the total city, county, school and other local general property taxes levied on a parcel of real property that is certified under this section taxable property in a year by a fraction having as a numerator the environmental remediation value increment for that year for that parcel in such district and as a denominator that year's equalized value of that parcel taxable property. In any year, an environmental remediation tax increment is "positive" if the environmental

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1 remediation value increment is positive; it is "negative" if the environmental
2 remediation value increment is negative.

3 **SECTION 2.** 66.1106 (1) (f) of the statutes is amended to read:

4 66.1106 (1) (f) "Environmental remediation tax incremental base" means the
5 aggregate value, as equalized by the department, of a parcel of real taxable property
6 that is certified under this section as of the January 1 preceding the date on which
7 the department of natural resources issues a certificate certifying that
8 environmental pollution on the property has been remediated in accordance with
9 rules promulgated by the department of natural resources environmental
10 remediation tax incremental district is created, as determined under sub. (1m) (b).

11 **SECTION 3.** 66.1106 (1) (fm) of the statutes is created to read:

12 66.1106 (1) (fm) "Environmental remediation tax incremental district" means
13 a contiguous geographic area within a political subdivision defined and created by
14 resolution of the governing body of the political subdivision consisting solely of whole
15 units of property as are assessed for general property tax purposes, other than
16 railroad rights-of-way, rivers, or highways. Railroad rights-of-way, rivers, or
17 highways may be included in an environmental remediation tax incremental district
18 only if they are continuously bounded on either side, or on both sides, by whole units
19 of property as are assessed for general property tax purposes which are in the
20 environmental remediation tax incremental district. "Environmental remediation
21 tax incremental district" does not include any area identified as a wetland on a map
22 under s. 23.32.

23 **SECTION 4.** 66.1106 (1) (g) of the statutes is amended to read:

24 66.1106 (1) (g) "Environmental remediation value increment" means the
25 equalized value of a parcel of real taxable property that is certified under this section

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1 minus the environmental remediation tax incremental base. In any year, the
2 environmental remediation value increment is "positive" if the environmental
3 remediation tax incremental base of the ~~parcel of~~ taxable property is less than the
4 aggregate value of the ~~parcel of~~ taxable property as equalized by the department; it
5 is "negative" if that base exceeds that aggregate value.

6 SECTION 5. 66.1106 (1) (i) of the statutes is amended to read:

7 66.1106 (1) (i) "Period of certification" means a period of not more than 16 years
8 beginning after the department certifies the environmental remediation tax
9 incremental base ~~of a parcel of property~~ under sub. (4) or a period before all eligible
10 costs have been paid, whichever occurs first.

11 SECTION 6. 66.1106 (1) (jm) of the statutes is created to read:

12 66.1106 (1) (jm) "Project expenditures" means the sum of eligible costs and all
13 other costs incurred by a political subdivision in the creation and operation of an
14 environmental remediation tax incremental district.

15 SECTION 7. 66.1106 (1) (k) of the statutes is amended to read:

16 66.1106 (1) (k) "Taxable property" means all real and personal taxable property
17 located in an environmental remediation tax incremental district.

18 SECTION 8. 66.1106 (1m) of the statutes is created to read:

19 66.1106 (1m) CREATION OF ENVIRONMENTAL REMEDIATION TAX INCREMENTAL
20 DISTRICTS. In order to implement the provisions of this section, the governing body
21 of the political subdivision shall adopt a resolution which does all of the following:

22 (a) Describes the boundaries of an environmental remediation tax incremental
23 district with sufficient definiteness to identify with ordinary and reasonable
24 certainty the territory included within the district.



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1 (b) Creates such district as of a date therein provided. If the resolution is
2 adopted during the period between January 2 and September 30, then such date
3 shall be the next preceding January 1. If such resolution is adopted during the period
4 between October 1 and December 31, then such date shall be the next subsequent
5 January 1. If the resolution is adopted on January 1, the environmental remediation
6 tax incremental district shall have been created as of the date of the resolution.

7 **SECTION 9.** 66.1106 (2) (a) of the statutes is amended to read:

8 66.1106 (2) (a) A political subdivision that develops, and whose governing body
9 approves, a written proposal to remediate environmental pollution may use an
10 environmental remediation tax increment to pay the eligible costs of remediating
11 environmental pollution on contiguous parcels of property that are located in an
12 environmental remediation tax incremental district within the political subdivision
13 and that are not part of a tax incremental district created under s. 66.1105, as
14 provided in this section, except that a political subdivision may use an
15 environmental remediation tax increment to pay the cost of remediating
16 environmental pollution of groundwater without regard to whether the property
17 above the groundwater is owned by the political subdivision. No political subdivision
18 may submit an application to the department under sub. (4) until the joint review
19 board approves the political subdivision's written proposal under sub. (3).

20 **SECTION 10.** 66.1106 (4) (intro.) of the statutes is amended to read:

21 66.1106 (4) CERTIFICATION. (intro.) Upon written application to the department
22 of revenue by the clerk of a political subdivision on or before ~~April 1 of the year~~
23 ~~following the year in which the certification described in par. (a) is received from the~~
24 ~~department of natural resources~~ December 31 of the year the environmental



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1 remediation tax incremental district is created, as determined under sub. (1m) (b),
2 except that if the environmental remediation tax incremental district is created
3 during the period between October 1 and December 31, on or before December 31 of
4 the following year, the department of revenue shall certify to the clerk of the political
5 subdivision the environmental remediation tax incremental base of a parcel of real
6 property if all of the following apply:

7 SECTION 11. 66.1106 (4) (b) of the statutes is amended to read:

8 66.1106 (4) (b) The political subdivision submits a statement that all taxing
9 jurisdictions with the authority to levy general property taxes on the parcel or
10 contiguous parcels of property have been notified that the political subdivision
11 intends to recover the costs of remediating environmental pollution on the property
12 and have been provided a statement of the estimated costs to be recovered.

13 SECTION 12. 66.1106 (7) (a) of the statutes is amended to read:

14 66.1106 (7) (a) Subject to pars. (b), (c) and (d), the department shall annually
15 authorize the positive environmental remediation tax increment with respect to a
16 parcel or contiguous parcels of property during the period of certification to the
17 political subdivision that incurred the costs to remediate environmental pollution on
18 the property, except that an authorization granted under this paragraph does not
19 apply after the department receives the notice described under sub. (10) (b).

20 SECTION 13. 66.1106 (7) (d) 1. of the statutes is amended to read:

21 66.1106 (7) (d) 1. The department may not authorize a positive environmental
22 remediation tax increment under par. (a) to pay otherwise eligible costs that are
23 incurred by the political subdivision after the department of natural resources
24 certifies to the department of revenue that environmental pollution on the parcel or
25 contiguous parcels of property has been remediated unless the costs are associated

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1 with activities, as determined by the department of natural resources, that are
2 necessary to close the site described in the site investigation report.

3 SECTION 14. 66.1106 (9) of the statutes is amended to read:

4 66.1106 (9) SEPARATE ACCOUNTING REQUIRED. An environmental remediation tax
5 increment received with respect to a parcel or contiguous parcels of land that is
6 subject to this section shall be deposited in a separate fund by the treasurer of the
7 political subdivision. No money may be paid out of the fund except to pay eligible
8 costs for a parcel or contiguous parcels of land, or to reimburse the political
9 subdivision for such costs ~~or to satisfy claims of holders of bonds or notes issued to~~
10 ~~pay eligible costs.~~ If an environmental remediation tax increment that has been
11 collected with respect to a parcel of land remains in the fund after the period of
12 certification has expired, it shall be paid to the treasurers of the taxing jurisdictions
13 in which the parcel is located in proportion to the relative share of those taxing
14 jurisdictions in the most recent levy of general property taxes on the parcel.

15 SECTION 15. 66.1106 (10) (a) of the statutes is amended to read:

16 66.1106 (10) (a) Prepare and make available to the public updated annual
17 reports describing the status of all projects to remediate environmental pollution
18 funded under this section, including revenues and expenditures. A copy of the report
19 shall be sent to all taxing jurisdictions with authority to levy general property taxes
20 on the parcel or contiguous parcels of property by May 1 annually.

21 SECTION 16. 66.1106 (10) (b) of the statutes is amended to read:

22 66.1106 (10) (b) Notify the department within 10 days after the period of
23 certification for a parcel or contiguous parcels of property has expired.

24 SECTION 17. 66.1106 (10) (c) of the statutes is created to read:



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1 66.1106 (10) (c) Not later than 12 months after the last expenditure is made
2 or not later than 12 months after an expenditure may be made under sub. (2) (b),
3 whichever comes first, prepare and make available to the public a report that is
4 similar to the report required under par. (a), except that the report required under
5 this paragraph shall also include an independent certified audit of each project to
6 determine if all financial transactions were made in a legal manner and to determine
7 if each environmental remediation tax incremental district complied with this
8 section. A copy of the report shall be sent out to all taxing jurisdictions which
9 received the reports under par. (a).

10 **SECTION 18.** 66.1106[✓] (10) (d) of the statutes is created to read:

11 66.1106 (10) (d) Not later than 180 days after an environmental remediation
12 tax incremental district terminates under sub. (11), provide the department with all
13 of the following on a form that is prescribed by the department:

14 1. A final accounting of project expenditures that are made for an
15 environmental remediation tax incremental district.

16 2. The final amount of eligible costs that have been paid for an environmental
17 remediation tax incremental district.

18 3. The total amount of environmental remediation tax increments that have
19 been paid to the political subdivision.

20 **SECTION 19.** 66.1106[✓] (11) of the statutes is created to read:

21 66.1106 (11) **TERMINATION OF ENVIRONMENTAL REMEDIATION TAX INCREMENTAL**
22 **DISTRICTS.** An environmental remediation tax incremental district terminates when
23 the earlier of the following occurs:



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1 (a) That time when the political subdivision has received aggregate
2 environmental remediation tax increments with respect to the district in an amount
3 equal to the aggregate of all eligible costs.

4 (b) Sixteen years after the department certifies the environmental remediation
5 tax incremental base of a parcel or contiguous parcels of property under sub. (4).

6 (c) The political subdivision's legislative body, by resolution, dissolves the
7 district at which time the political subdivision becomes liable for all unpaid eligible
8 costs actually incurred which are not paid from the separate fund under sub. (9).

9 SECTION 20. 66.1106 (12) of the statutes is created to read:

10 66.1106 (12) (a) NOTICE OF DISTRICT TERMINATION. A political subdivision which
11 creates a tax incremental district under this section shall give the department
12 written notice within 10 days of the termination of the environmental remediation
13 tax incremental district under sub. (11).

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

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18 SECTION 21. 74.23 (1) (b) of the statutes is amended to read:

19 74.23 (1) (b) *General property taxes*. After making the distribution under par.
20 (a), the taxation district treasurer shall pay to each taxing jurisdiction within the
21 district its proportionate share of general property taxes, except that the treasurer
22 shall pay the state's proportionate share to the county. As part of that distribution,
23 the taxation district treasurer shall retain for the taxation district and for each tax
24 incremental district within the taxation district and each environmental
25 remediation tax incremental district created by the taxation district its

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1 proportionate share of general property taxes. The taxation district treasurer shall
2 also distribute to the county the proportionate share of general property taxes for
3 each environmental remediation tax incremental district created by the county.

4 SECTION 22. 74.25 (1) (b) 1. of the statutes is amended to read:

5 74.25 (1) (b) 1. Pay in full to each taxing jurisdiction within the district all
6 personal property taxes included in the tax roll which have not previously been paid
7 to, or retained by, that taxing jurisdiction, except that the treasurer shall pay the
8 state's proportionate share to the county. As part of that distribution, the taxation
9 district treasurer shall allocate to each tax incremental district within the taxation
10 district and each environmental remediation tax incremental district created by the
11 taxation district its proportionate share of personal property taxes. The taxation
12 district treasurer shall also distribute to the county the proportionate share of
13 general property taxes for each environmental remediation tax incremental district
14 created by the county.

15 SECTION 23. 74.25 (1) (b) 2. of the statutes is amended to read:

16 74.25 (1) (b) 2. Pay to each taxing jurisdiction within the district its
17 proportionate share of real property taxes, except that the treasurer shall pay the
18 state's proportionate share to the county. As part of that distribution, the taxation
19 district treasurer shall retain for the taxation district and for each tax incremental
20 district within the taxation district and each environmental remediation tax
21 incremental district created by the taxation district its proportionate share of real
22 property taxes. The taxation district treasurer shall also distribute to the county the
23 proportionate share of general property taxes for each environmental remediation
24 tax incremental district created by the county.

25 SECTION 24. 74.30 (1) (i) of the statutes is amended to read:



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1 74.30 (1) (i) Pay in full to each taxing jurisdiction within the district all
2 personal property taxes included in the tax roll which have not previously been paid
3 to, or retained by, each taxing jurisdiction, except that the treasurer shall pay the
4 state's proportionate share to the county. As part of that distribution, the taxation
5 district treasurer shall allocate to each tax incremental district within the taxation
6 district and each environmental remediation tax incremental district created by the
7 taxation district its proportionate share of personal property taxes. The taxation
8 district treasurer shall also distribute to the county the proportionate share of
9 general property taxes for each environmental remediation tax incremental district
10 created by the county.

11 SECTION 25. 74.30 (1) (j) of the statutes is amended to read:

12 74.30 (1) (j) Pay to each taxing jurisdiction within the district its proportionate
13 share of real property taxes, except that the treasurer shall pay the state's
14 proportionate share to the county. As part of that distribution, the taxation district
15 treasurer shall retain for the taxation district and for each tax incremental district
16 within the taxation district and each environmental remediation tax incremental
17 district created by the taxation district its proportionate share of real property taxes.
18 The taxation district treasurer shall also distribute to the county the proportionate
19 share of general property taxes for each environmental remediation tax incremental
20 district created by the county.

21 SECTION 26. 74.30 (2) (b) of the statutes is amended to read:

22 74.30 (2) (b) Pay to each taxing jurisdiction within the district its proportionate
23 share of real property taxes collected, except that the taxation district treasurer shall
24 pay the state's proportionate share to the county, and the county treasurer shall
25 settle for that share under s. 74.29. As part of that distribution, the taxation district

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1 treasurer shall retain for the taxation district and for each tax incremental district
2 within the taxation district and each environmental remediation tax incremental
3 district created by the taxation district its proportionate share of real property taxes.
4 The taxation district treasurer shall also distribute to the county the proportionate
5 share of general property taxes for each environmental remediation tax incremental
6 district created by the county.

7 SECTION 27. 79.095 (1) (c) of the statutes is amended to read:

8 79.095 (1) (c) "Taxing jurisdiction" means a municipality, county, school
9 district, special purpose district, tax incremental district, environmental
10 remediation tax incremental district, or technical college district.

11 SECTION 28. 79.095 (2) (b) of the statutes is amended to read:

12 79.095 (2) (b) On or before December 31, the tax rate used for each tax
13 incremental district for which the municipality assesses property and for each
14 environmental remediation tax incremental district for which the municipality
15 assesses property.

16 SECTION 29. 234.01 (4n) (a) 3m. a. of the statutes is amended to read:

17 234.01 (4n) (a) 3m. a. The facility is in a tax incremental district or an
18 environmental remediation tax incremental district or is the subject of an urban
19 development action grant and will result in a net economic benefit to the state.

20 SECTION 9359. Initial applicability; other.

21 (1) ENVIRONMENTAL REMEDIATION TAX INCREMENTAL FINANCING. The treatment of
22 sections 66.1106 (1) (e), (f), (fm), (g), (i), (jm), and (k), (1m), (2) (a), (4) (intro.) and (b),
23 (7) (a) and (d) 1., (9), (10) (a), (b), (c), and (d), (11), and (12), 74.23 (1) (b), 74.25 (1) (b)
24 1. and 2., 74.30 (1) (i) and (j) and (2) (b), 79.095 (1) (c) and (2) (b), and 234.01 (4n) (a)
25 3m. a. of the statutes first applies to an environmental remediation tax incremental

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1 district, the written remediation proposal for which is approved by the political
2 subdivision's governing body on the effective date of this subsection. *e*

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Under the current tax incremental financing (TIF) program, a city or village may create a tax incremental district (TID) in part of its territory to foster development if at least 50% of the area to be included in the TID is blighted, in need of rehabilitation, or suitable for industrial sites. Before a city or village may create a TID, several steps and plans are required. These steps and plans include public hearings on the proposed TID within specified time frames, preparation and adoption by the local planning commission of a proposed project plan for the TID, approval of the proposed project plan by the common council or village board, and adoption of a resolution by the common council or village board that creates the district as of a date provided in the resolution. Another step that must be taken before a TID may be created is the 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 within specified time frames or the TID may not be created. If an existing TID project plan is amended by a planning commission, all of these steps are also required.

Once these steps are accomplished, the city ^{or village} clerk is required to complete certain forms and an application and submit the documents to the department of revenue (DOR) on or before December 31 of the year in which the TID is created. Upon receipt of the application, DOR is required to certify the full aggregate value of the taxable property in the city, which constitutes the tax incremental base of the TID.

^{or village} Also under current law, once a TID has been created, 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 project costs of the TID. The costs of a TID, which are initially incurred by the creating city or village, include public works such as sewers, streets, and lighting systems; financing costs; site preparation costs; and professional service costs. DOR authorizes the allocation of the tax increments until the TID terminates or 23 years, or 27 years in certain cases, after the TID is created, whichever is sooner. TIDs are required to terminate, under current law and with one exception, once these costs are paid back, 16 years, or 20 years in certain cases, after the last expenditure identified in the project plan is made or when the creating city or village dissolves the TID, whichever occurs first. Under the exception, which is limited to certain circumstances, after a TID pays off its project costs, but not later the date on which it must otherwise terminate, the planning commission may allocate positive tax increments generated by the TID (the "donor" TID) to another TID that has been created by the planning commission.

This bill makes a number of technical and substantive changes to the TIF program. The technical changes in the bill include the following:

^{no #} Among the technical changes, the bill does the following:

Among the substantive² changes, the bill does the following:

1. Prohibits DOR from certifying a tax incremental base of a TID until DOR reviews and approves the findings submitted by the city or village relating to the equalized value of taxable property in the TID and the equalized value of all of the taxable property in the city or village.
2. Allows a representative from a union high school district and a representative from an elementary school district to each have one-half vote on a joint review board.
3. Requires a city or village to provide DOR with a final accounting of TID project expenditures, project costs, and positive tax increments received. If the city or village does not provide this information to DOR within 60 days of the TID's termination, DOR may not certify the tax incremental base of any other TID in the city or village.

This bill also makes a number of substantive changes to the TIF program. The substantive changes in the bill include the following:

1. ~~Not~~ ^{Five} later than ~~5~~ days after a joint review board submits its decision on a TIF proposal submitted by a city or village, a majority of the members of the board may request DOR to review the objective facts contained in the documents submitted to the board by the city or village. DOR must investigate the specific fact or item that the members believe is incomplete or inaccurate. If DOR finds that the proposal contains factual inaccuracies or does not comply with other statutory requirements, DOR must return the TIF proposal to the city or village for correction and resubmittal.

2. Requires DOR to prepare and update a manual on the TIF program.

3. For a TID that is created on or after the effective date of the bill, the bill increases from ~~7~~ ^{Seven} years to ~~10~~ ^{Ten} years the period during which expenditures related to the TID may be made by the city or village after the TID's creation. Currently, the ~~10~~ ^{Ten} year period only applies to TIDs created before October 1, 1995, and the ~~7~~ ^{Seven} year period applies to TIDs created after September 30, 1995.

4. Requires that before a "donor" TID may transfer positive tax increments to another TID, it must have in its special fund sufficient revenues to pay for all incurred or expected project costs. Under current law, the "donor" TID need only ^{only} have sufficient revenues to pay costs that are due in the current year.

5. Limits the inclusion in a TID of land that has been annexed by the city or village.

6. Prohibits a joint review board from approving a TID proposal unless the board asserts that, in its judgment, the development project described in the TID documents would not occur without the creation of a TID.

7. Provides that an amendment to a TID's boundary may subtract territory ^{TID} from the TID if the subtraction does not remove contiguity from the ~~district~~.

8. Allows a city or village to create a standing joint review board that may remain in existence for the entire time that any TID exists in the city or village. The city or village may also disband the standing joint review board. Currently, a joint review board may vote to disband following the approval or rejection of a TID proposal.

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9. Specifically requires that an amendment to a project plan requires the same findings by a city or village relating to the equalized value of taxable property in the TID and the equalized value of all of the taxable property in the city or village as is currently required for the creation of a TID. ✓ ✓

10. Limits the life of a TID that is suitable for industrial sites to ^{ten}10 years after the last expenditure in the project plan is made, or a total of 20 years after its creation.

11. Authorizes DOR to impose a fee of \$1,000 on a city or village to determine or redetermine the tax incremental base of a TID. The money generated by the fees goes to DOR to pay for staff and administrative service costs related to the TIF program. The bill also creates a new position in DOR to perform auditing related to TIDs. ✓

This bill also modifies the environmental remediation tax incremental financing program. Under current law, the environmental remediation tax incremental financing program permits a city, village, town, or county (political subdivision) to defray the costs of remediating contaminated property that is owned by the political subdivision. The mechanism for financing costs that are eligible for remediation is very similar to the mechanism under the TIF program. If the remediated property is transferred to another person and is then subject to property taxation, environmental remediation tax incremental financing may be used to allocate some of the property taxes that are levied on the property to the political subdivision to pay for the costs of remediation.

A political subdivision that has incurred "eligible costs" to remediate environmental pollution on a parcel of property may apply to DOR to certify the "environmental remediation tax incremental base" of the parcel. DOR is required to certify the environmental remediation tax incremental base if the political subdivision submits to DOR all of the following: 1) a statement that the political subdivision has incurred some eligible costs, together with a detailed proposed remedial action plan approved by DNR that contains cost estimates for anticipated eligible costs, a schedule for the design and implementation that is needed to complete the remediation, and certification from DNR that the department has approved the site investigation report that relates to the parcel; 2) a statement that all taxing jurisdictions with authority to levy general property taxes on the parcel of property have been notified that the political subdivision intends to recover its environmental remediation costs by using an "environmental remediation tax increment"; and 3) a statement that the political subdivision has attempted to recover its environmental remediation costs from the person who is responsible for the environmental pollution that is being remediated.

This bill makes technical changes to the environmental remediation tax incremental financing program. These changes include creating a definition of "project expenditures" and a definition of "environmental remediation tax incremental district" (ERTID) that is somewhat similar to the definition of "tax incremental district" under the TIF program; making changes to the definitions of "environmental remediation tax increment," "environmental remediation tax incremental base," and "taxable property"; creating procedures for the termination

of an ERTID that are similar to the termination procedures ^{for} of a tax incremental district under the TIF program; requiring that the final report under the program include an independent certified financial audit; requiring that DOR be provided with a final accounting of the ERTID's project expenditures and the final amount of eligible costs that have been paid for an ERTID; and modifying certain provisions of the program to apply to contiguous parcels of property or land, as well as a parcel of property or land. Also under the bill, if a city or village annexes property from a town that is using an ERTID to remediate environmental pollution on all or part of the territory that is annexed, the city or village must pay to the town that portion of the eligible costs that are attributable to the annexed territory. The city or village, and the town, must negotiate an agreement on the amount that must be paid.

This bill takes effect October 1, 2002.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

INS 1-8

SECTION 1. 20.566 (1) (go) of the statutes is created to read:

20.566 (1) (go) *Administration of tax incremental financing program.* All moneys received from the fees imposed under s. 66.1105 (5) (a) to pay the costs of the department of revenue in providing staff and administrative services associated with tax incremental districts under s. 66.1105.

SECTION 2. 66.1105 (2) (f) 1. m. of the statutes is created to read:

66.1105 (2) (f) 1. m. Compensation costs paid by a city to a town for tax revenues lost by the town as a result of annexation, as described in sub. (4) (gm) 1.

SECTION 3. 66.1105 (2) (f) 2. d. of the statutes is created to read:

66.1105 (2) (f) 2. d. Cash grants made by the city to owners, lessees, or developers of land that is located within the tax incremental district unless the grant recipient has signed a development agreement with the city.

Ins 3-14

SECTION 4. 66.1105 (4) (e) of the statutes is amended to read:

66.1105 (4) (e) At least ~~30~~ 14 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. Before 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 a county with no chief executive officer or administrator, notice shall be sent to the county board chairperson. ✓

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; 1997 a. 3, 27, 237, 252; 1999 a. 9; 1999 a. 150 ss. 457 to 472, Stats. 1999 s. 66.1105; 2001 a. 5.

Ins 5-3

SECTION 5. 66.1105 (4) (h) 1. of the statutes is amended to read: ✓

66.1105 (4) (h) 1. Subject to subds. 2., 3. and 4., the planning commission may, by resolution, adopt an amendment to a project plan. The amendment is subject to approval by the local legislative body and approval requires the same findings as provided in ~~par. pars.~~ par. (g) and (gm) 4. c. 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. Before 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 a county with no chief executive officer or administrator, this notice shall be sent to the county board chairperson.

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; 1997 a. 3, 27, 237, 252; 1999 a. 9; 1999 a. 150 ss. 457 to 472; Stats. 1999 s. 66.1105; 2001 a. 5.

Ins 5-15

or not more than the number of years in which expenditures may be made without an amendment to a project plan as specified in sub. (6) (am), whichever period is longer

Ins 14-2

SECTION 6. 66.1105 (7) (am) of the statutes is amended to read:

66.1105 (7) (am) ~~Sixteen~~ Thirteen 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 sub. (6) (am) 1. plus the total number of years during which tax increments are allocated under this paragraph exceed 27 years.

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; 1997 a. 3, 27, 237, 252; 1999 a. 150 ss. 457 to 472; Stats. 1999 s. 66.1105; 2001 a. 5.

Ins 15-6B

SECTION 7. 66.1106 (13) of the statutes is created to read:

66.1106 (13) **PAYMENT OF ELIGIBLE COSTS FOR ANNEXED TERRITORY.** If a city or village annexes territory from a town and if the town is using an environmental remediation tax increment to remediate environmental pollution on all or part of the territory that is annexed, the city or village shall pay to the town that portion of the

eligible costs that are attributable to the annexed territory. The city or village, and the town, shall negotiate an agreement on the amount that must be paid under this subsection. ✓

Ins 17-1

SECTION 8. Nonstatutory provisions.

(1) The authorized FTE positions for the department of revenue are increased by 1.0 ^{PR} ~~FTE~~ positions to be funded from the appropriation under (S) 20.566 (1) (go) for the purpose of performing auditing related to tax incremental districts.

section

of the statutes
~~of the statutes~~
~~of the statutes~~

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2253/1dn
MES:cjs:jf

~~At~~
↓
Representative Lehman:

actually
Instruction # 30, which came from DOR, is unclear to me. It appears that DOR ~~is~~ suggests ~~to~~ some statutory language, and that DOR has some policy "concerns", but the department hasn't made any suggestions for statutory language. Please review carefully amended ss. 66.1105 (4) (h) ² and (5) (c) and (ce); I believe these changes capture DOR's intent, to the extent that Bill Ford and I can understand DOR's intent. I did not "add reference to removal of related project costs for subtraction of territory" because, under the definition of "project costs" in s. 66.1105 (2) (f) ¹, such costs are generally related to costs within a TID and if territory is subtracted from a TID it may not be a project cost, except as provided in s. 66.1105 (2) ¹ (intro.) and 1. k.

↓
wants to

(f)

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2253/1dn
MES:cjs:jf

September 11, 2001

Representative Lehman:

Instruction # 30, which came from DOR, is unclear to me. It appears that DOR wants to suggest some statutory language, and that DOR has some policy "concerns", but the department hasn't actually made any suggestions for statutory language. Please review carefully amended ss. 66.1105 (4) (h) 2. and (5) (c) and (ce); I believe these changes capture DOR's intent, to the extent that Bill Ford and I can understand DOR's intent. I did not "add reference to removal of related project costs for subtraction of territory" because, under the definition of "project costs" in s. 66.1105 (2) (f) 1., such costs are generally related to costs within a TID and if territory is subtracted from a TID it may not be a project cost, except as provided in s. 66.1105 (2) (f) 1. (intro.) and 1. k.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.state.wi.us

Emery, Lynn

From: Emery, Lynn
Sent: Wednesday, September 12, 2001 8:56 AM
To: Rep.Lehman
Subject: LRB-2253/1 (attached as requested)

Lynn Emery

Lynn Emery - Program Asst. (PH: 608-266-3561)
(E-Mail: lynn.emery@legis.state.wi.us) (FAX: 608-264-6948)

Legislative Reference Bureau - Legal Section - Front Office
100 N. Hamilton Street 5th Floor
Madison, WI 53703

9/12/2001

Emery, Lynn

From: Emery, Lynn
Sent: Wednesday, September 12, 2001 9:49 AM
To: Nowlan, Andrew
Subject: LRB-2253/1 (attached as requested)

Lynn Emery

Lynn Emery - Program Asst. (PH. 608-266-3561)
(E-Mail: lynn.emery@legis.state.wi.us) (FAX: 608-264-6948)

Legislative Reference Bureau - Legal Section - Front Office
100 N. Hamilton Street - 5th Floor
Madison, WI 53703

Marv,
Give me a call if
you have any
question.
Andrew.
We would like
to introduce the
bill on Friday

FP instructions
for 12

Item #6

Section 7, LRB 2253/1

Boundaries of TID may not include territory not within the boundaries of the city on Jan. 1, '02 unless:

- 1) 3 years have elapsed since the territory was annexed by the city
- 2) The city enters into a cooperative boundary agreement under s. 66.0307 with the town from which the territory was annexed, or
- 3) "other agreement with the town approving the annexation."
- 4) If none of the three above criteria are met, the city may include the territory if the city agrees to pay the town the amount of property taxes levied on the territory to be included in the TID, at the time of annexation, for each of the next succeeding 5 years after the territory is annexed. *These payments to be TIF eligible costs.*

tif
expend

Indication of retail to be included with TID application. Only if it exceeds 35%. *9/21/01 Andrew says the 35% shd refer to terr. estimated by city to be retail at end of expenditure period*

66.1105 (4)(gm)(6)

do they mean
250% "suitable?"

35% of the development

Section 9 reference in section 24, line 20.

9/21/01 Andrew says to make this "at least predominantly suitable for indus. sites" in CR, Pub. (c)(a) 5,

Instructions
for 17

Conditions for annexation of land

- 1)
- 2) City enters into 66.2307 (in these)
- 3) Other boundary agreement (in these)

① p. 7, ll 16-18 -- a city must compensate town for lost prop tax rev. for 5 yrs, based on value of prop taxes at time of annexation, but only if there's NO boundary agreement

2) When city submits application to DCR, req that city indicates $\hat{=}$ amt of tax that's expected to be ~~at~~ retail



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-2253/2
MES:cjs:jf

RMR

2001 BILL

Now
Wanted today -
1 PM
egen

1 AN ACT *to repeal* 66.1105 (6) (e) 2.; *to renumber and amend* 66.1105 (6) (a) and
2 66.1105 (6) (am) 1.; *to amend* 66.1105 (2) (f) 3., 66.1105 (4) (e), 66.1105 (4) (gm)
3 1., 66.1105 (4) (gm) 4. c., 66.1105 (4) (h) 1., 66.1105 (4) (h) 2., 66.1105 (4m) (a),
4 66.1105 (4m) (b) 2., 66.1105 (4m) (b) 2m., 66.1105 (5) (a), 66.1105 (5) (b), 66.1105
5 (5) (c), 66.1105 (5) (ce), 66.1105 (5) (d), 66.1105 (7) (am), 66.1105 (8) (title),
6 66.1106 (1) (e), 66.1106 (1) (f), 66.1106 (1) (g), 66.1106 (1) (i), 66.1106 (1) (k),
7 66.1106 (2) (a), 66.1106 (4) (intro.), 66.1106 (4) (b), 66.1106 (7) (a), 66.1106 (7)
8 (d) 1., 66.1106 (9), 66.1106 (10) (a), 66.1106 (10) (b), 74.23 (1) (b), 74.25 (1) (b)
9 1., 74.25 (1) (b) 2., 74.30 (1) (i), 74.30 (1) (j), 74.30 (2) (b), 79.095 (1) (c), 79.095
10 (2) (b) and 234.01 (4n) (a) 3m. a.; and *to create* 20.566 (1) (go), 66.1105 (2) (f)
11 1. m., 66.1105 (2) (f) 2. d., 66.1105 (3) (g), 66.1105 (4) (gm) 6., 66.1105 (4m) (am),
12 66.1105 (4m) (b) 4., 66.1105 (4m) (b) 5., 66.1105 (6) (a) 5., 66.1105 (6) (am) 1. c.,
13 66.1105 (6) (e) 1. d., 66.1105 (7) (ae), 66.1105 (8) (c), 66.1105 (8) (d), 66.1105 (15),
14 66.1106 (1) (fm), 66.1106 (1) (jm), 66.1106 (1m), 66.1106 (10) (c), 66.1106 (10) (d),

BILL

1 66.1106 (11), 66.1106 (12), 66.1106 (13) and 73.03 (57) of the statutes; **relating**
2 **to:** making technical and policy changes in the tax incremental financing
3 program based on the recommendations of the governor's working group on tax
4 incremental finance and modifying the environmental remediation tax
5 incremental financing program.

Analysis by the Legislative Reference Bureau

Under the current tax incremental financing (TIF) program, a city or village may create a tax incremental district (TID) in part of its territory to foster development if at least 50% of the area to be included in the TID is blighted, in need of rehabilitation, or suitable for industrial sites. Before a city or village may create a TID, several steps and plans are required. These steps and plans include public hearings on the proposed TID within specified time frames, preparation and adoption by the local planning commission of a proposed project plan for the TID, approval of the proposed project plan by the common council or village board, and adoption of a resolution by the common council or village board that creates the district as of a date provided in the resolution. Another step that must be taken before a TID may be created is the 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 within specified time frames or the TID may not be created. If an existing TID project plan is amended by a planning commission, all of these steps are also required.

Once these steps are accomplished, the city or village clerk is required to complete certain forms and an application and submit the documents to the department of revenue (DOR) on or before December 31 of the year in which the TID is created. Upon receipt of the application, DOR is required to certify the full aggregate value of the taxable property in the city or village, which constitutes the tax incremental base of the TID.

Also under current law, once a TID has been created, 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 project costs of the TID. The costs of a TID, which are initially incurred by the creating city or village, include public works such as sewers, streets, and lighting systems; financing costs; site preparation costs; and professional service costs. DOR authorizes the allocation of the tax increments until the TID terminates or 23 years, or 27 years in certain cases, after the TID is created,

BILL

whichever is sooner. TIDs are required to terminate, under current law and with one exception, once these costs are paid back, 16 years, or 20 years in certain cases, after the last expenditure identified in the project plan is made or when the creating city or village dissolves the TID, whichever occurs first. Under the exception, which is limited to certain circumstances, after a TID pays off its project costs, but not later the date on which it must otherwise terminate, the planning commission may allocate positive tax increments generated by the TID (the "donor" TID) to another TID that has been created by the planning commission.

This bill makes a number of technical and substantive changes to the TIF program. Among the technical changes, the bill does the following:

1. Prohibits DOR from certifying a tax incremental base of a TID until DOR reviews and approves the findings submitted by the city or village relating to the equalized value of taxable property in the TID and the equalized value of all of the taxable property in the city or village.

2. Allows a representative from a union high school district and a representative from an elementary school district to each have one-half vote on a joint review board.

3. Requires a city or village to provide DOR with a final accounting of TID project expenditures, project costs, and positive tax increments received. If the city or village does not provide this information to DOR within 60 days of the TID's termination, DOR may not certify the tax incremental base of any other TID in the city or village.

Among the substantive changes, the bill does the following:

1. Provides that, not later than five days after a joint review board submits its decision on a TIF proposal submitted by a city or village, a majority of the members of the board may request DOR to review the objective facts contained in the documents submitted to the board by the city or village. DOR must investigate the specific fact or item that the members believe is incomplete or inaccurate. If DOR finds that the proposal contains factual inaccuracies or does not comply with other statutory requirements, DOR must return the TIF proposal to the city or village for correction and resubmittal.

2. Requires DOR to prepare and update a manual on the TIF program.

3. For a TID that is created on or after the effective date of the bill, the bill increases from seven years to ten years the period during which expenditures related to the TID may be made by the city or village after the TID's creation. Currently, the ten year period only applies to TIDs created before October 1, 1995, and the seven year period only applies to TIDs created after September 30, 1995.

4. Requires that before a "donor" TID may transfer positive tax increments to another TID, it must have in its special fund sufficient revenues to pay for all incurred or expected project costs. Under current law, the "donor" TID need only have sufficient revenues to pay costs that are due in the current year.

5. Limits the inclusion in a TID of land that has been annexed by the city or village.

BILL

6. Prohibits a joint review board from approving a TID proposal unless the board asserts that, in its judgment, the development project described in the TID documents would not occur without the creation of a TID.

7. Provides that an amendment to a TID's boundary may subtract territory from the TID if the subtraction does not remove contiguity from the TID.

8. Allows a city or village to create a standing joint review board that may remain in existence for the entire time that any TID exists in the city or village. The city or village may also disband the standing joint review board. Currently, a joint review board may vote to disband following the approval or rejection of a TID proposal.

9. Specifically requires that an amendment to a project plan requires the same findings by a city or village relating to the equalized value of taxable property in the TID and the equalized value of all of the taxable property in the city or village as is currently required for the creation of a TID.

10. Limits the life of a TID that is ^{predominant ly} suitable for industrial sites to ten years after the last expenditure in the project plan is made, or a total of 20 years after its creation.

11. Authorizes DOR to impose a fee of \$1,000 on a city or village to determine or redetermine the tax incremental base of a TID. The money generated by the fees goes to DOR to pay for staff and administrative service costs related to the TIF program. The bill also creates a new position in DOR to perform auditing related to TIDs.

This bill also modifies the environmental remediation tax incremental financing program. Under current law, the environmental remediation tax incremental financing program permits a city, village, town, or county (political subdivision) to defray the costs of remediating contaminated property that is owned by the political subdivision. The mechanism for financing costs that are eligible for remediation is very similar to the mechanism under the TIF program. If the remediated property is transferred to another person and is then subject to property taxation, environmental remediation tax incremental financing may be used to allocate some of the property taxes that are levied on the property to the political subdivision to pay for the costs of remediation.

A political subdivision that has incurred "eligible costs" to remediate environmental pollution on a parcel of property may apply to DOR to certify the "environmental remediation tax incremental base" of the parcel. DOR is required to certify the environmental remediation tax incremental base if the political subdivision submits to DOR all of the following: 1) a statement that the political subdivision has incurred some eligible costs, together with a detailed proposed remedial action plan approved by DNR that contains cost estimates for anticipated eligible costs, a schedule for the design and implementation that is needed to complete the remediation, and certification from DNR that the department has approved the site investigation report that relates to the parcel; 2) a statement that all taxing jurisdictions with authority to levy general property taxes on the parcel of property have been notified that the political subdivision intends to recover its environmental remediation costs by using an "environmental remediation tax

BILL

increment"; and 3) a statement that the political subdivision has attempted to recover its environmental remediation costs from the person who is responsible for the environmental pollution that is being remediated.

This bill makes technical changes to the environmental remediation tax incremental financing program. These changes include creating a definition of "project expenditures" and a definition of "environmental remediation tax incremental district" (ERTID) that is somewhat similar to the definition of "tax incremental district" under the TIF program; making changes to the definitions of "environmental remediation tax increment," "environmental remediation tax incremental base," and "taxable property"; creating procedures for the termination of an ERTID that are similar to the termination procedures for a tax incremental district under the TIF program; requiring that the final report under the program include an independent certified financial audit; requiring that DOR be provided with a final accounting of the ERTID's project expenditures and the final amount of eligible costs that have been paid for an ERTID; and modifying certain provisions of the program to apply to contiguous parcels of property or land, as well as a parcel of property or land. Also under the bill, if a city or village annexes property from a town that is using an ERTID to remediate environmental pollution on all or part of the territory that is annexed, the city or village must pay to the town that portion of the eligible costs that are attributable to the annexed territory. The city or village, and the town, must negotiate an agreement on the amount that must be paid.

This bill takes effect October 1, 2002.

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.** 20.566 (1) (go) of the statutes is created to read:

2 20.566 (1) (go) *Administration of tax incremental financing program.* All
3 moneys received from the fees imposed under s. 66.1105 (5) (a) to pay the costs of the
4 department of revenue in providing staff and administrative services associated
5 with tax incremental districts under s. 66.1105.

6 ~~**SECTION 2.** 66.1105 (2) (f) 1. m. of the statutes is created to read:~~

7 66.1105 (2) (f) 1. m. *Compensation costs paid by a city to a town for tax revenues*
8 *lost by the town as a result of annexation, as described in sub. (4) (gm) 1.*

9 **SECTION 3.** 66.1105 (2) (f) 2. d. of the statutes is created to read:

INS
5-5

BILL**SECTION 3**

1 66.1105 (2) (f) 2. d. Cash grants made by the city to owners, lessees, or
2 developers of land that is located within the tax incremental district unless the grant
3 recipient has signed a development agreement with the city.

4 **SECTION 4.** 66.1105 (2) (f) 3. of the statutes is amended to read:

5 66.1105 (2) (f) 3. Notwithstanding subd. 1., project costs may not include any
6 expenditures made or estimated to be made or monetary obligations incurred or
7 estimated to be incurred by the city for newly platted residential development for any
8 tax incremental district for which a project plan is approved after September 30,
9 1995, or for which an amendment of a project plan is approved after the effective date
10 of this subdivision [revisor inserts date].

11 **SECTION 5.** 66.1105 (3) (g) of the statutes is created to read:

12 66.1105 (3) (g) Create a standing joint review board that may remain in
13 existence for the entire time that any tax incremental district exists in the city. All
14 of the provisions that apply to a joint review board that is convened under sub. (4m)
15 (a) apply to a standing joint review board that is created under this paragraph. A
16 city may disband a joint review board that is created under this paragraph at any
17 time.

18 **SECTION 6.** 66.1105 (4) (e) of the statutes is amended to read:

19 66.1105 (4) (e) At least 30 14 days before adopting a resolution under par. (gm),
20 holding of a public hearing by the planning commission at which interested parties
21 are afforded a reasonable opportunity to express their views on the proposed project
22 plan. The hearing may be held in conjunction with the hearing provided for in par.
23 (a). Notice of the hearing shall be published as a class 2 notice, under ch. 985. The
24 notice shall include a statement advising that a copy of the proposed project plan will
25 be provided on request. Before publication, a copy of the notice shall be sent by 1st

BILL

1 class mail to the chief executive officer or administrator of all local governmental
2 entities having the power to levy taxes on property within the district and to the
3 school board of any school district which includes property located within the
4 proposed district. For a county with no chief executive officer or administrator, notice
5 shall be sent to the county board chairperson.

6 **SECTION 7.** 66.1105 (4) (gm) 1. of the statutes is amended to read:

7 66.1105 (4) (gm) 1. Describes the boundaries, which may, but need not, be the
8 same as those recommended by the planning commission, of a tax incremental
9 district with sufficient definiteness to identify with ordinary and reasonable
10 certainty the territory included in the district. The boundaries of the tax incremental
11 district may not include any territory that was not within the boundaries of the city
12 on January 1, 2002, unless at least 3 years have elapsed since the territory was
13 annexed by the city, unless the city enters into a cooperative plan boundary
14 agreement, under s. 66.0307, with the town from which the territory was annexed,
15 or unless the city and town enter into another kind of agreement relating to the
16 annexation. If the city enters into a cooperative plan boundary agreement under s.
17 66.0307 with the town, the city may compensate the town for tax revenues lost by the
18 town as a result of annexation. The boundaries shall include only those whole units
19 of property as are assessed for general property tax purposes. Property standing
20 vacant for an entire 7-year period immediately preceding adoption of the resolution
21 creating a tax incremental district may not comprise more than 25% of the area in
22 the tax incremental district, unless the tax incremental district is suitable for
23 industrial sites under subd. 4. a. and the local legislative body implements an
24 approved project plan to promote industrial development within the meaning of s.
25 66.1101. In this subdivision, "vacant property" includes property where the fair

INS 7-16

BILL

1 market value or replacement cost value of structural improvements on the parcel is
2 less than the fair market value of the land. In this subdivision, “vacant property”
3 does not include property acquired by the local legislative body under ch. 32 or
4 property included within the abandoned Park East freeway corridor or the
5 abandoned Park West freeway corridor in Milwaukee County.

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

7 66.1105 (4) (gm) 4. c. Either the equalized value of taxable property of the
8 district plus all existing districts does not exceed 7% of the total equalized value of
9 taxable property within the city or the equalized value of taxable property of the
10 district plus the value increment of all existing districts within the city does not
11 exceed 5% of the total equalized value of taxable property within the city. The
12 calculations required under this subd. 4. c. shall be based on the most recent
13 equalized value of taxable property of the district that is reported under s. 70.57 (1m)
14 before the date on which a resolution is adopted under this paragraph.

15 **SECTION 9.** 66.1105 (4) (gm) 6. of the statutes is created to read:

16 66.1105 (4) (gm) 6. Declares that the district is a blighted area district, a
17 rehabilitation or conservation district, or an industrial district, based on the
18 identification and classification of the property included within the district under
19 par. (c) and subd. 4. a. If the district is not exclusively blighted, rehabilitation or
20 conservation, or industrial, the declaration under this subdivision shall be based on
21 which classification is predominant with regard to the area described in subd. 4. a.

22 **SECTION 10.** 66.1105 (4) (h) 1. of the statutes is amended to read:

23 66.1105 (4) (h) 1. Subject to subds. 2., 3. and 4., the planning commission may,
24 by resolution, adopt an amendment to a project plan. The amendment is subject to
25 approval by the local legislative body and approval requires the same findings as

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1 provided in ~~par.~~ pars. (g) and (gm) 4. c. Any amendment to a project plan is also
2 subject to review by a joint review board, acting under sub. (4m). Adoption of an
3 amendment to a project plan shall be preceded by a public hearing held by the plan
4 commission at which interested parties shall be afforded a reasonable opportunity
5 to express their views on the amendment. Notice of the hearing shall be published
6 as a class 2 notice, under ch. 985. The notice shall include a statement of the purpose
7 and cost of the amendment and shall advise that a copy of the amendment will be
8 provided on request. Before publication, a copy of the notice shall be sent by 1st class
9 mail to the chief executive officer or administrator of all local governmental entities
10 having the power to levy taxes on property within the district and to the school board
11 of any school district which includes property located within the proposed district.
12 For a county with no chief executive officer or administrator, this notice shall be sent
13 to the county board chairperson.

14 **SECTION 11.** 66.1105 (4) (h) 2. of the statutes is amended to read:

15 66.1105 (4) (h) 2. Except as provided in subds. 3. and 4., not more than once
16 during the 7 years after the tax incremental district is created, the planning
17 commission may adopt an amendment to a project plan under subd. 1. to modify the
18 district's boundaries by subtracting territory from the district in a way that does not
19 remove contiguity from the district or by adding territory to the district that is
20 contiguous to the district and that is served by public works or improvements that
21 were created as part of the district's project plan. Expenditures for project costs that
22 are incurred because of an amendment to a project plan to which this subdivision
23 applies may be made for not more than 3 years after the date on which the local
24 legislative body adopts a resolution amending the project plan or not more than the

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SECTION 11

1 number of years in which expenditures may be made without an amendment to a
2 project plan as specified in sub. (6) (am), whichever period is longer.

3 **SECTION 12.** 66.1105 (4m) (a) of the statutes is amended to read:

4 66.1105 (4m) (a) Any city that seeks to create a tax incremental district or
5 amend a project plan shall convene a temporary joint review board under this
6 paragraph, or a standing joint review board under sub. (3) (g), to review the proposal.

7 The Except as provided in par. (am), the board shall consist of one representative
8 chosen by the school district that has power to levy taxes on the property within the
9 tax incremental district, one representative chosen by the technical college district
10 that has power to levy taxes on the property within the tax incremental district, one
11 representative chosen by the county that has power to levy taxes on the property
12 within the tax incremental district, one representative chosen by the city and one
13 public member. If more than one school district, more than one union high school
14 district, more than one elementary school district, more than one technical college
15 district or more than one county has the power to levy taxes on the property within
16 the tax incremental district, the unit in which is located property of the tax
17 incremental district that has the greatest value shall choose that representative to
18 the board. The public member and the board's chairperson shall be selected by a
19 majority of the other board members before the public hearing under sub. (4) (a) or
20 (h) 1. is held. All board members shall be appointed and the first board meeting held
21 within 14 days after the notice is published under sub. (4) (a) or (h) 1. Additional
22 meetings of the board shall be held upon the call of any member. The city that seeks
23 to create the tax incremental district or to amend its project plan shall provide
24 administrative support for the board. By majority vote, the board may disband

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1 following approval or rejection of the proposal, unless the board is a standing board
2 that is created by the city under sub. (3) (g).

3 **SECTION 13.** 66.1105 (4m) (am) of the statutes is created to read:

4 66.1105 (4m) (am) If a city seeks to create a tax incremental district that is
5 located in a union high school district, the seat that is described under par. (a) for the
6 school board representative to the board shall be held by 2 representatives, each of
7 whom has one-half of a vote. One representative shall be chosen by the union high
8 school district that has the power to levy taxes on the property within the tax
9 incremental district and one representative shall be chosen by the elementary school
10 district that has the power to levy taxes on the property within the tax incremental
11 district.

12 **SECTION 14.** 66.1105 (4m) (b) 2. of the statutes is amended to read:

13 66.1105 (4m) (b) 2. Except as provided in subd. 2m. and subject to subd. 4., no
14 tax incremental district may be created and no project plan may be amended unless
15 the board approves the resolution adopted under sub. (4) (gm) or (h) 1. by a majority
16 vote not less than 10 days nor more than 30 14 days after receiving the resolution.
17 The board may not approve the resolution under this subdivision unless the board's
18 approval contains a positive assertion that, in its judgment, the development
19 described in the documents the board has reviewed under subd. 1. would not occur
20 without the creation of a tax incremental district.

21 **SECTION 15.** 66.1105 (4m) (b) 2m. of the statutes is amended to read:

22 66.1105 (4m) (b) 2m. The requirement under subd. 2. that a vote by the board
23 take place not less than 10 days nor more than 30 14 days after receiving a resolution
24 does not apply to a resolution amending a project plan under sub. (4) (h) 1. if the
25 resolution relates to a tax incremental district, the application for the

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1 redetermination of the tax incremental base of which was made in 1998, that is
2 located in a village that was incorporated in 1912, has a population of at least 3,800
3 and is located in a county with a population of at least 108,000.

4 **SECTION 16.** 66.1105 (4m) (b) 4. of the statutes is created to read:

5 66.1105 (4m) (b) 4. Not later than 5 working days after submitting its decision
6 under subd. 3., a majority of the members of the board may request that the
7 department of revenue review the objective facts contained in any of the documents
8 listed in subd. 1. to determine whether the information submitted to the board
9 complies with this section or whether any of the information contains a factual
10 inaccuracy. The request must be in writing and must specify which particular
11 objective fact or item the members believe is incomplete or inaccurate. Not later than
12 10 working days after receiving a request that complies with the requirements of this
13 subdivision, the department of revenue shall investigate the issues raised in the
14 request and shall send its written response to the board. If the department of
15 revenue determines that the information in the proposal does not comply with this
16 section or contains a factual inaccuracy, the department shall return the proposal to
17 the city. The board shall request that the city resolve the problems in its proposal
18 and resubmit the proposal to the board. The board shall review the resubmitted
19 proposal and vote to approve or deny the proposal as specified in this paragraph.

20 **SECTION 17.** 66.1105 (4m) (b) 5. of the statutes is created to read:

21 66.1105 (4m) (b) 5. The board shall notify prospectively the governing body of
22 every local governmental unit that is not represented on the board, and that has
23 power to levy taxes on the property within the tax incremental district, of meetings
24 of the board and of the agendas of each meeting for which notification is given.

25 **SECTION 18.** 66.1105 (5) (a) of the statutes is amended to read:

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1 66.1105 (5) (a) ~~Upon~~ Subject to sub. (8) (d), upon the creation of a tax
2 incremental district or upon adoption of any amendment subject to par. (c), its tax
3 incremental base shall be determined as soon as reasonably possible. The
4 department of revenue may impose a fee of \$1,000 on a city to determine or
5 redetermine the tax incremental base of a tax incremental district under this
6 subsection.

7 **SECTION 19.** 66.1105 (5) (b) of the statutes is amended to read:

8 66.1105 (5) (b) Upon application in writing by the city clerk, in a form
9 prescribed by the department of revenue, the department shall determine according
10 to its best judgment from all sources available to it the full aggregate value of the
11 taxable property and, except as provided in par. (bm), of the city-owned property in
12 the tax incremental district. The ^{plain} Subject to sub. (8) (d), the department shall certify
13 this aggregate valuation to the city clerk, and the aggregate valuation constitutes the
14 tax incremental base of the tax incremental district. The city clerk shall complete
15 these forms, including forms for the amendment of a project plan, and submit the
16 application or amendment forms on or before December 31 of the year the tax
17 incremental district is created, as defined in sub. (4) (gm) 2. or, in the case of an
18 amendment, on or before December 31 of the year in which the changes to the project
19 plan take effect.

20 **SECTION 20.** 66.1105 (5) (c) of the statutes is amended to read:

21 66.1105 (5) (c) If the city adopts an amendment to the original project plan for
22 any district which reduces project costs by subtracting territory from the district or
23 which includes additional project costs at least part of which will be incurred after
24 the period specified in sub. (6) (am) 1., the tax incremental base for the district shall
25 be redetermined, if sub. (4) (h) 2., 3., or 4. applies to the amended project plan, either

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1 by subtracting from the tax incremental base the value of the taxable property that
2 is subtracted from the existing district or by adding to the tax incremental base the
3 value of the taxable property and the value of real property owned by the city, other
4 than property described in par. (bm), that is added to the existing district under sub.
5 (4) (h) 2., 3., or 4. or, if sub. (4) (h) 2., 3., or 4. does not apply to the amended project
6 plan, under par. (b), as of the January 1 next preceding the effective date of the
7 amendment if the amendment becomes effective between January 2 and
8 September 30, as of the next subsequent January 1 if the amendment becomes
9 effective between October 1 and December 31 and if the effective date of the
10 amendment is January 1 of any year, the redetermination shall be made on that date.

11 The With regard to a district to which territory has been added, the tax incremental
12 base as redetermined under this paragraph is effective for the purposes of this
13 section only if it exceeds the original tax incremental base determined under par. (b).

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

15 66.1105 (5) (ce) If the city adopts an amendment, to which sub. (4) (h) 2., 3., or
16 4. applies, the tax incremental base for the district shall be redetermined, either by
17 subtracting from the tax incremental base the value of the taxable property that is
18 subtracted from the existing district or by adding to the tax incremental base the
19 value of the taxable property and the value of real property owned by the city, other
20 than property described in par. (bm), that is added to the existing district under sub.
21 (4) (h) 2., 3., or 4., as of the January 1 next preceding the effective date of the
22 amendment if the amendment becomes effective between January 2 and
23 September 30, as of the next subsequent January 1 if the amendment becomes
24 effective between October 1 and December 31 and if the effective date of the
25 amendment is January 1 of any year, the redetermination shall be made on that date.

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1 The With regard to a district to which territory has been added, the tax incremental
2 base as redetermined under this paragraph is effective for the purposes of this
3 section only if it exceeds the original tax incremental base determined under par. (b).

4 **SECTION 22.** 66.1105 (5) (d) of the statutes is amended to read:

5 66.1105 (5) (d) The department of revenue may not certify the tax incremental
6 base as provided in par. (b) until it determines that each of the procedures and
7 documents required by sub. (4) (a), (b), (gm) or (h) and par. (b) has been timely
8 completed and all notices required under sub. (4) (a), (b), (gm) or (h) timely given.
9 The facts supporting any document adopted or action taken to comply with sub. (4)
10 (a), (b), (gm) or (h) are not subject to review by the department of revenue under this
11 paragraph, except that notwithstanding the general prohibition against the
12 department's review of the facts supporting any document adopted or action taken
13 to comply with sub. (4) (gm), the department may not certify the tax incremental base
14 as provided in par. (b) until it reviews and approves of the findings that are described
15 in sub. (4) (gm) 4. c.

16 **SECTION 23.** 66.1105 (6) (a) of the statutes is renumbered 66.1105 (6) (a) (intro.)
17 and amended to read:

18 66.1105 (6) (a) (intro.) If the joint review board approves the creation of the tax
19 incremental district under sub. (4m), positive tax increments with respect to a tax
20 incremental district are allocated to the city which created the district for each year
21 commencing after the date when a project plan is adopted under sub. (4) (g). The
22 department of revenue may not authorize allocation of tax increments until it
23 determines from timely evidence submitted by the city that each of the procedures
24 and documents required under sub. (4) (d) to (f) has been completed and all related
25 notices given in a timely manner. The department of revenue may authorize

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1 allocation of tax increments for any tax incremental district only if the city clerk and
 2 assessor annually submit to the department all required information on or before the
 3 2nd Monday in June. The facts supporting any document adopted or action taken
 4 to comply with sub. (4) (d) to (f) are not subject to review by the department of revenue
 5 under this paragraph. After the allocation of tax increments is authorized, the
 6 department of revenue shall annually authorize allocation of the tax increment to
 7 the city that created the district until the soonest of the following events:

8 1. The department of revenue receives a notice under sub. (8) and the notice
 9 has taken effect under sub. (8) (b), ~~27.~~

10 2. Twenty-seven years after the tax incremental district is created if the
 11 district is created before October 1, 1995, ~~38.~~

12 3. Thirty-eight years after the tax incremental district is created if the district
 13 is created before October 1, 1995, and the project plan is amended under sub. (4) (h)

14 ~~3. or 23~~

15 4. Twenty-three years after the tax incremental district is created if the district
 16 is created after September 30, 1995, ~~whichever is sooner.~~

17 **SECTION 24.** 66.1105 (6) (a) 5. of the statutes is created to read:

18 66.1105 (6) (a) 5. Twenty years after the tax incremental district is created if
 19 the district is created on or after the effective date of this subdivision [revisor
 20 inserts date], and if the district is ^{at least predominantly} suitable for industrial sites under sub. (4) (gm) ~~6~~

21 a. ~~9~~

22 **SECTION 25.** 66.1105 (6) (am) 1. of the statutes is renumbered 66.1105 (6) (am)

23 1. a. and amended to read:

24 66.1105 (6) (am) 1. a. For a tax incremental district that is created after
 25 September 30, 1995, and before the effective date of this subd. 1. a. [revisor inserts

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1 date, no expenditure may be made later than 7 years after the tax incremental
2 district is created, ~~and for~~.

3 b. For a tax incremental district that is created before October 1, 1995, no
4 expenditure may be made later than 10 years after the tax incremental district is
5 created, except that, for a tax incremental district that is created before October 1,
6 1995, and which receives tax increments under par. (d), no expenditure may be made
7 later than 12 years after the tax incremental district is created.

8 **SECTION 26.** 66.1105 (6) (am) 1. c. of the statutes is created to read:

9 66.1105 (6) (am) 1. c. For a tax incremental district that is created on or after
10 the effective date of this subd. 1. c. [revisor inserts date], all expenditures shall
11 be completed no later than 10 years after the tax incremental district is created.

12 **SECTION 27.** 66.1105 (6) (e) 1. d. of the statutes is created to read:

13 66.1105 (6) (e) 1. d. The donor tax incremental district has in its special fund,
14 as described under par. (c), sufficient revenues to pay for all project costs that have
15 been incurred, or are expected to be incurred, under the project plan for that district.

16 **SECTION 28.** 66.1105 (6) (e) 2. of the statutes is repealed.

17 **SECTION 29.** 66.1105 (7) (ae) of the statutes is created to read:

18 66.1105 (7) (ae) Notwithstanding par. (am), 10 years after the last expenditure
19 identified in the project plan is made if the district to which the plan relates is created
20 on or after the effective date of this paragraph ... [revisor inserts date], and if the
21 district is suitable for industrial sites under sub. (4) (gm) 4. a.

22 **SECTION 30.** 66.1105 (7) (am) of the statutes is amended to read:

23 66.1105 (7) (am) ~~Sixteen~~ Thirteen years after the last expenditure identified
24 in the project plan is made if the district to which the plan relates is created after
25 September 30, 1995, or 20 years after the last expenditure identified in the project

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1 plan is made if the district to which the plan relates is created before October 1, 1995,
2 except that in no case may the total number of years during which expenditures are
3 made under sub. (6) (am) 1. plus the total number of years during which tax
4 increments are allocated under this paragraph exceed 27 years.

5 **SECTION 31.** 66.1105 (8) (title) of the statutes is amended to read:

6 66.1105 (8) (title) NOTICE OF DISTRICT TERMINATION, REPORTING REQUIREMENTS.

7 **SECTION 32.** 66.1105 (8) (c) of the statutes is created to read:

8 66.1105 (8) (c) Not later than 60 days after a city transmits to the department
9 of revenue the notice required under par. (a) the city shall send to the department,
10 on a form prescribed by the department, all of the following information that relates
11 to the terminated tax incremental district:

- 12 1. A final accounting of all expenditures made by the city.
- 13 2. The total amount of project costs incurred by the city.
- 14 3. The total amount of positive tax increments received by a city.

15 **SECTION 33.** 66.1105 (8) (d) of the statutes is created to read:

16 66.1105 (8) (d) If a city does not send to the department of revenue the form
17 specified in par. (c) within the time limit specified in par. (c), the department may not
18 certify the tax incremental base of a tax incremental district under sub. (5) (a) and
19 (b) until the form is sent to the department.

20 **SECTION 34.** 66.1105 (15) of the statutes is created to read:

21 66.1105 (15) SUBSTANTIAL COMPLIANCE. Substantial compliance with subs. (3),
22 (4) (a), (b), (c), (d), (e), and (f), and (4m) by a city or village that creates, or attempts
23 to create, a tax incremental district is sufficient to give effect to any proceedings
24 conducted under this section if, in the opinion of the department of revenue, any
25 error, irregularity, or informality that exists in the city's or village's attempts to

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1 comply with subs. (3), (4) (a), (b), (c), (d), (e), and (f), and (4m) does not affect
2 substantial justice. If the department of revenue determines that a city or village has
3 substantially complied with subs. (3), (4) (a), (b), (c), (d), (e), and (f), and (4m), the
4 department of revenue shall determine the tax incremental base of the district,
5 allocate tax increments, and treat the district in all other respects as if the
6 requirements under subs. (3), (4) (a), (b), (c), (d), (e), and (f), and (4m) had been
7 strictly complied with based on the date that the resolution described under sub. (4)
8 (gm) 2. is adopted.

9 **SECTION 35.** 66.1106 (1) (e) of the statutes is amended to read:

10 66.1106 (1) (e) “Environmental remediation tax increment” means that
11 amount obtained by multiplying the total city, county, school and other local general
12 property taxes levied on ~~a parcel of real property that is certified under this section~~
13 taxable property in a year by a fraction having as a numerator the environmental
14 remediation value increment for that year ~~for that parcel in such district~~ and as a
15 denominator that year’s equalized value of that ~~parcel~~ taxable property. In any year,
16 an environmental remediation tax increment is “positive” if the environmental
17 remediation value increment is positive; it is “negative” if the environmental
18 remediation value increment is negative.

19 **SECTION 36.** 66.1106 (1) (f) of the statutes is amended to read:

20 66.1106 (1) (f) “Environmental remediation tax incremental base” means the
21 aggregate value, as equalized by the department, of ~~a parcel of real~~ taxable property
22 that is certified under this section as of the January 1 preceding the date on which
23 the ~~department of natural resources issues a certificate certifying that~~
24 ~~environmental pollution on the property has been remediated in accordance with~~

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1 ~~rules promulgated by the department of natural resources~~ environmental
2 remediation tax incremental district is created, as determined under sub. (1m) (b).

3 **SECTION 37.** 66.1106 (1) (fm) of the statutes is created to read:

4 66.1106 (1) (fm) “Environmental remediation tax incremental district” means
5 a contiguous geographic area within a political subdivision defined and created by
6 resolution of the governing body of the political subdivision consisting solely of whole
7 units of property as are assessed for general property tax purposes, other than
8 railroad rights-of-way, rivers, or highways. Railroad rights-of-way, rivers, or
9 highways may be included in an environmental remediation tax incremental district
10 only if they are continuously bounded on either side, or on both sides, by whole units
11 of property as are assessed for general property tax purposes which are in the
12 environmental remediation tax incremental district. “Environmental remediation
13 tax incremental district” does not include any area identified as a wetland on a map
14 under s. 23.32.

15 **SECTION 38.** 66.1106 (1) (g) of the statutes is amended to read:

16 66.1106 (1) (g) “Environmental remediation value increment” means the
17 equalized value of ~~a parcel of real~~ taxable property that is certified under this section
18 minus the environmental remediation tax incremental base. In any year, the
19 environmental remediation value increment is “positive” if the environmental
20 remediation tax incremental base of the ~~parcel of~~ taxable property is less than the
21 aggregate value of the ~~parcel of~~ taxable property as equalized by the department; it
22 is “negative” if that base exceeds that aggregate value.

23 **SECTION 39.** 66.1106 (1) (i) of the statutes is amended to read:

24 66.1106 (1) (i) “Period of certification” means a period of not more than 16 years
25 beginning after the department certifies the environmental remediation tax

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1 incremental base of a parcel of property under sub. (4) or a period before all eligible
2 costs have been paid, whichever occurs first.

3 **SECTION 40.** 66.1106 (1) (jm) of the statutes is created to read:

4 66.1106 (1) (jm) “Project expenditures” means the sum of eligible costs and all
5 other costs incurred by a political subdivision in the creation and operation of an
6 environmental remediation tax incremental district.

7 **SECTION 41.** 66.1106 (1) (k) of the statutes is amended to read:

8 66.1106 (1) (k) “Taxable property” means all real and personal taxable property
9 located in an environmental remediation tax incremental district.

10 **SECTION 42.** 66.1106 (1m) of the statutes is created to read:

11 66.1106 (1m) CREATION OF ENVIRONMENTAL REMEDIATION TAX INCREMENTAL
12 DISTRICTS. In order to implement the provisions of this section, the governing body
13 of the political subdivision shall adopt a resolution which does all of the following:

14 (a) Describes the boundaries of an environmental remediation tax incremental
15 district with sufficient definiteness to identify with ordinary and reasonable
16 certainty the territory included within the district.

17 (b) Creates such district as of a date therein provided. If the resolution is
18 adopted during the period between January 2 and September 30, then such date
19 shall be the next preceding January 1. If such resolution is adopted during the period
20 between October 1 and December 31, then such date shall be the next subsequent
21 January 1. If the resolution is adopted on January 1, the environmental remediation
22 tax incremental district shall have been created as of the date of the resolution.

23 **SECTION 43.** 66.1106 (2) (a) of the statutes is amended to read:

24 66.1106 (2) (a) A political subdivision that develops, and whose governing body
25 approves, a written proposal to remediate environmental pollution may use an

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1 environmental remediation tax increment to pay the eligible costs of remediating
2 environmental pollution on contiguous parcels of property that are located in an
3 environmental remediation tax incremental district within the political subdivision
4 and that are not part of a tax incremental district created under s. 66.1105, as
5 provided in this section, except that a political subdivision may use an
6 environmental remediation tax increment to pay the cost of remediating
7 environmental pollution of groundwater without regard to whether the property
8 above the groundwater is owned by the political subdivision. No political subdivision
9 may submit an application to the department under sub. (4) until the joint review
10 board approves the political subdivision's written proposal under sub. (3).

11 **SECTION 44.** 66.1106 (4) (intro.) of the statutes is amended to read:

12 66.1106 (4) CERTIFICATION. (intro.) Upon written application to the department
13 of revenue by the clerk of a political subdivision on or before ~~April 1 of the year~~
14 ~~following the year in which the certification described in par. (a) is received from the~~
15 ~~department of natural resources~~ December 31 of the year the environmental
16 remediation tax incremental district is created, as determined under sub. (1m) (b),
17 except that if the environmental remediation tax incremental district is created
18 during the period between October 1 and December 31, on or before December 31 of
19 the following year, the department of revenue shall certify to the clerk of the political
20 subdivision the environmental remediation tax incremental base ~~of a parcel of real~~
21 ~~property~~ if all of the following apply:

22 **SECTION 45.** 66.1106 (4) (b) of the statutes is amended to read:

23 66.1106 (4) (b) The political subdivision submits a statement that all taxing
24 jurisdictions with the authority to levy general property taxes on the parcel or
25 contiguous parcels of property have been notified that the political subdivision

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1 intends to recover the costs of remediating environmental pollution on the property
2 and have been provided a statement of the estimated costs to be recovered.

3 **SECTION 46.** 66.1106 (7) (a) of the statutes is amended to read:

4 66.1106 (7) (a) Subject to pars. (b), (c) and (d), the department shall annually
5 authorize the positive environmental remediation tax increment with respect to a
6 parcel or contiguous parcels of property during the period of certification to the
7 political subdivision that incurred the costs to remediate environmental pollution on
8 the property, except that an authorization granted under this paragraph does not
9 apply after the department receives the notice described under sub. (10) (b).

10 **SECTION 47.** 66.1106 (7) (d) 1. of the statutes is amended to read:

11 66.1106 (7) (d) 1. The department may not authorize a positive environmental
12 remediation tax increment under par. (a) to pay otherwise eligible costs that are
13 incurred by the political subdivision after the department of natural resources
14 certifies to the department of revenue that environmental pollution on the parcel or
15 contiguous parcels of property has been remediated unless the costs are associated
16 with activities, as determined by the department of natural resources, that are
17 necessary to close the site described in the site investigation report.

18 **SECTION 48.** 66.1106 (9) of the statutes is amended to read:

19 66.1106 (9) **SEPARATE ACCOUNTING REQUIRED.** An environmental remediation tax
20 increment received with respect to a parcel or contiguous parcels of land that is
21 subject to this section shall be deposited in a separate fund by the treasurer of the
22 political subdivision. No money may be paid out of the fund except to pay eligible
23 costs for a parcel or contiguous parcels of land, or to reimburse the political
24 subdivision for such costs ~~or to satisfy claims of holders of bonds or notes issued to~~
25 ~~pay eligible costs.~~ If an environmental remediation tax increment that has been

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1 collected with respect to a parcel of land remains in the fund after the period of
2 certification has expired, it shall be paid to the treasurers of the taxing jurisdictions
3 in which the parcel is located in proportion to the relative share of those taxing
4 jurisdictions in the most recent levy of general property taxes on the parcel.

5 **SECTION 49.** 66.1106 (10) (a) of the statutes is amended to read:

6 66.1106 (10) (a) Prepare and make available to the public updated annual
7 reports describing the status of all projects to remediate environmental pollution
8 funded under this section, including revenues and expenditures. A copy of the report
9 shall be sent to all taxing jurisdictions with authority to levy general property taxes
10 on the parcel or contiguous parcels of property by May 1 annually.

11 **SECTION 50.** 66.1106 (10) (b) of the statutes is amended to read:

12 66.1106 (10) (b) Notify the department within 10 days after the period of
13 certification for a parcel or contiguous parcels of property has expired.

14 **SECTION 51.** 66.1106 (10) (c) of the statutes is created to read:

15 66.1106 (10) (c) Not later than 12 months after the last expenditure is made
16 or not later than 12 months after an expenditure may be made under sub. (2) (b),
17 whichever comes first, prepare and make available to the public a report that is
18 similar to the report required under par. (a), except that the report required under
19 this paragraph shall also include an independent certified audit of each project to
20 determine if all financial transactions were made in a legal manner and to determine
21 if each environmental remediation tax incremental district complied with this
22 section. A copy of the report shall be sent out to all taxing jurisdictions which
23 received the reports under par. (a).

24 **SECTION 52.** 66.1106 (10) (d) of the statutes is created to read:

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1 66.1106 (10) (d) Not later than 180 days after an environmental remediation
2 tax incremental district terminates under sub. (11), provide the department with all
3 of the following on a form that is prescribed by the department:

4 1. A final accounting of project expenditures that are made for an
5 environmental remediation tax incremental district.

6 2. The final amount of eligible costs that have been paid for an environmental
7 remediation tax incremental district.

8 3. The total amount of environmental remediation tax increments that have
9 been paid to the political subdivision.

10 **SECTION 53.** 66.1106 (11) of the statutes is created to read:

11 66.1106 (11) **TERMINATION OF ENVIRONMENTAL REMEDIATION TAX INCREMENTAL**
12 **DISTRICTS.** An environmental remediation tax incremental district terminates when
13 the earlier of the following occurs:

14 (a) That time when the political subdivision has received aggregate
15 environmental remediation tax increments with respect to the district in an amount
16 equal to the aggregate of all eligible costs.

17 (b) Sixteen years after the department certifies the environmental remediation
18 tax incremental base of a parcel or contiguous parcels of property under sub. (4).

19 (c) The political subdivision's legislative body, by resolution, dissolves the
20 district at which time the political subdivision becomes liable for all unpaid eligible
21 costs actually incurred which are not paid from the separate fund under sub. (9).

22 **SECTION 54.** 66.1106 (12) of the statutes is created to read:

23 66.1106 (12) (a) **NOTICE OF DISTRICT TERMINATION.** A political subdivision which
24 creates a tax incremental district under this section shall give the department

BILL**SECTION 54**

1 written notice within 10 days of the termination of the environmental remediation
2 tax incremental district under sub. (11).

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

7 **SECTION 55.** 66.1106 (13) of the statutes is created to read:

8 66.1106 (13) PAYMENT OF ELIGIBLE COSTS FOR ANNEXED TERRITORY. If a city or
9 village annexes territory from a town and if the town is using an environmental
10 remediation tax increment to remediate environmental pollution on all or part of the
11 territory that is annexed, the city or village shall pay to the town that portion of the
12 eligible costs that are attributable to the annexed territory. The city or village, and
13 the town, shall negotiate an agreement on the amount that must be paid under this
14 subsection.

15 **SECTION 56.** 73.03 (57) of the statutes is created to read:

16 73.03 (57) To create, and update, a manual on the tax incremental finance
17 program under s. 66.1105. The manual shall contain the rules relating to the
18 program, common problems faced by cities and villages under the program, possible
19 side effects on the use of tax incremental financing, and any other information the
20 department determines is appropriate. The department may consult with, and
21 solicit the views of, any interested person while preparing or updating the manual.

22 **SECTION 57.** 74.23 (1) (b) of the statutes is amended to read:

23 74.23 (1) (b) *General property taxes.* After making the distribution under par.
24 (a), the taxation district treasurer shall pay to each taxing jurisdiction within the
25 district its proportionate share of general property taxes, except that the treasurer

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1 shall pay the state's proportionate share to the county. As part of that distribution,
2 the taxation district treasurer shall retain for the taxation district and for each tax
3 incremental district within the taxation district and each environmental
4 remediation tax incremental district created by the taxation district its
5 proportionate share of general property taxes. The taxation district treasurer shall
6 also distribute to the county the proportionate share of general property taxes for
7 each environmental remediation tax incremental district created by the county.

8 **SECTION 58.** 74.25 (1) (b) 1. of the statutes is amended to read:

9 74.25 (1) (b) 1. Pay in full to each taxing jurisdiction within the district all
10 personal property taxes included in the tax roll which have not previously been paid
11 to, or retained by, that taxing jurisdiction, except that the treasurer shall pay the
12 state's proportionate share to the county. As part of that distribution, the taxation
13 district treasurer shall allocate to each tax incremental district within the taxation
14 district and each environmental remediation tax incremental district created by the
15 taxation district its proportionate share of personal property taxes. The taxation
16 district treasurer shall also distribute to the county the proportionate share of
17 general property taxes for each environmental remediation tax incremental district
18 created by the county.

19 **SECTION 59.** 74.25 (1) (b) 2. of the statutes is amended to read:

20 74.25 (1) (b) 2. Pay to each taxing jurisdiction within the district its
21 proportionate share of real property taxes, except that the treasurer shall pay the
22 state's proportionate share to the county. As part of that distribution, the taxation
23 district treasurer shall retain for the taxation district and for each tax incremental
24 district within the taxation district and each environmental remediation tax
25 incremental district created by the taxation district its proportionate share of real

BILL**SECTION 59**

1 property taxes. The taxation district treasurer shall also distribute to the county the
2 proportionate share of general property taxes for each environmental remediation
3 tax incremental district created by the county.

4 **SECTION 60.** 74.30 (1) (i) of the statutes is amended to read:

5 74.30 (1) (i) Pay in full to each taxing jurisdiction within the district all
6 personal property taxes included in the tax roll which have not previously been paid
7 to, or retained by, each taxing jurisdiction, except that the treasurer shall pay the
8 state's proportionate share to the county. As part of that distribution, the taxation
9 district treasurer shall allocate to each tax incremental district within the taxation
10 district and each environmental remediation tax incremental district created by the
11 taxation district its proportionate share of personal property taxes. The taxation
12 district treasurer shall also distribute to the county the proportionate share of
13 general property taxes for each environmental remediation tax incremental district
14 created by the county.

15 **SECTION 61.** 74.30 (1) (j) of the statutes is amended to read:

16 74.30 (1) (j) Pay to each taxing jurisdiction within the district its proportionate
17 share of real property taxes, except that the treasurer shall pay the state's
18 proportionate share to the county. As part of that distribution, the taxation district
19 treasurer shall retain for the taxation district and for each tax incremental district
20 within the taxation district and each environmental remediation tax incremental
21 district created by the taxation district its proportionate share of real property taxes.
22 The taxation district treasurer shall also distribute to the county the proportionate
23 share of general property taxes for each environmental remediation tax incremental
24 district created by the county.

25 **SECTION 62.** 74.30 (2) (b) of the statutes is amended to read:

BILL

1 74.30 (2) (b) Pay to each taxing jurisdiction within the district its proportionate
2 share of real property taxes collected, except that the taxation district treasurer shall
3 pay the state's proportionate share to the county, and the county treasurer shall
4 settle for that share under s. 74.29. As part of that distribution, the taxation district
5 treasurer shall retain for the taxation district and for each tax incremental district
6 within the taxation district and each environmental remediation tax incremental
7 district created by the taxation district its proportionate share of real property taxes.
8 The taxation district treasurer shall also distribute to the county the proportionate
9 share of general property taxes for each environmental remediation tax incremental
10 district created by the county.

11 **SECTION 63.** 79.095 (1) (c) of the statutes is amended to read:

12 79.095 (1) (c) "Taxing jurisdiction" means a municipality, county, school
13 district, special purpose district, tax incremental district, environmental
14 remediation tax incremental district, or technical college district.

15 **SECTION 64.** 79.095 (2) (b) of the statutes is amended to read:

16 79.095 (2) (b) On or before December 31, the tax rate used for each tax
17 incremental district for which the municipality assesses property and for each
18 environmental remediation tax incremental district for which the municipality
19 assesses property.

20 **SECTION 65.** 234.01 (4n) (a) 3m. a. of the statutes is amended to read:

21 234.01 (4n) (a) 3m. a. The facility is in a tax incremental district or an
22 environmental remediation tax incremental district or is the subject of an urban
23 development action grant and will result in a net economic benefit to the state.

24 **SECTION 66. Nonstatutory provisions.**

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2253/2ins
MES:cjs:jf

INS 5-5

SECTION 1. 66.1105 (2) (f) 1. i. of the statutes is amended to read:

66.1105 (2) (f) 1. 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, including payments made to a town that relate to property taxes levied on territory to be included in a tax incremental district as described in sub. (4) (gm) 1.

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; 1997 a. 3, 27, 237, 252; 1999 a. 9; 1999 a. 150 ss. 457 to 472; Stats. 1999 s. 66.1105; 2001 a. 5.

INS 7-16

except that, notwithstanding these conditions, the city may include territory that was not within the boundaries of the city on January 2, 2002, if the city agrees to pay the town an amount equal to the property taxes levied on the territory by the town at the time of the annexation and makes such a payment for each of the next 5 successive years

Ins 13-11

The application shall state the percentage of territory within the tax incremental district which the local legislative body estimates will be devoted to retail business at the end of the maximum expenditure period specified in sub. (6) (am) 1. c. if that estimate is at least 35%.



State of Wisconsin

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STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

September 21, 2001

MEMORANDUM

To: Representative M. Lehman

From: Marc E. Shovers, Senior Legislative Attorney

Re: LRB-2253/2 Tax incremental financing, policy changes

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-0129 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.



State of Wisconsin

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STEPHEN R. MILLER
CHIEF

Lrb

October 1, 2001

MEMORANDUM

To: Representative Lehman

From: Marc E. Shovers, Sr. Legislative Attorney, (608) 266-0129

Subject: Technical Memorandum to 2001 AB 510 (LRB-2253/2)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

Lrb

MEMORANDUM

October 1, 2001

TO: Marc E. Shovers
Legislative Reference Bureau

FROM: Brian Pahnke
Department of Revenue

SUBJECT: Technical Memorandum on LRB 2253/2 - Tax Incremental Financing, Policy Changes

We are concerned with the following items:

- Section 1, Funding for New TIF Position.** Due to the time required to develop the added Department of Revenue (DOR) responsibilities related to substantial compliance, DOR review, compiling final project information and redetermining base values due to reductions in territory, DOR requires authorization and funding of the additional FTE position prior to the enactment of these changes to TIF law. The author may wish to consider providing DOR the authority to add a position and to impose a filing fee as of January 1, 2002. DOR estimates costs of \$35,900 PR in FY02 (assuming a January 1, 2002 effective date) and \$64,600 PR in FY03 for the new position and related costs.
- Section 16, DOR Review.** The bill provides for review by DOR at the request of the joint review board. If DOR determines that the proposed TIF district (TID) does not comply with specified requirements, DOR is to return the proposal to the city. The city is to resolve the problem and "resubmit" the proposal to the joint review board, and the board is to review and vote on the "resubmitted" proposal. We believe greater clarity of this process is required to make clear that any resolution of the identified problem that would require a new resolution by the municipality would have to follow all procedural steps required of the initial resolution. These include notice and public hearing requirements. The term "resubmit" may be interpreted to mean that the municipality can make changes to items contained in a resolution without adopting a new resolution. DOR may not certify a TID until it determines that procedures and documents required for the creation resolution have been timely completed and notice timely given.
- Sections 27 and 28, Allocation of tax increments across districts.** The bill changes the requirement by which a TID may allocate tax increments to another TID. Current law allows TIDs created before October 1, 1995 to amend their project plan to allocate tax increments that are in excess of the amount needed to pay its project costs in that year to another TID. The bill repeals this provision and requires that a TID have sufficient tax increments to pay all incurred and future project costs before it can allocate tax increments to another TID. This new restriction takes effect October 1, 2002, so current law would apply for any amended plans prior to that time. Since amendments to plans allow for tax increment pooling for 5-year periods, current law could apply to certain TIDs up to October 1, 2007. Current law should not be repealed until after October 1, 2007.

4. **Section 30, Maximum life of existing TIF districts.** The bill appears to inadvertently reduce the maximum life of existing TIDs by 3 years. Current law requires that a TID terminate 16 years after the last expenditure. This, coupled with a 7-year expenditure period, allows for a 23-year total life. Under the bill, a TID must terminate 13 years after the last expenditure. This is to ensure that a 23-year total life is maintained with a 10-year expenditure period. The bill extends the expenditure period from 7 years to 10 years for TIDs created after the bill's effective date of October 1, 2002; however, TIDs created before October 1, 2002 continue to have a 7-year expenditure period. The change to the termination language, i.e. referring to 13 years, applies to all TIDs. As a result, the bill inadvertently reduces the total life of TIDs created before enactment from 23 years (7 year expenditure + 16 years) to 20 years (7 year expenditure + 13 years).

The author may wish to clarify that TIDs with a 7-year expenditure period continue to have 16 years after the last expenditure.

5. **Sections 32 and 52, Final reporting of terminated TIDs.** Under the bill, upon termination of a TID or an environmental remediation (ER) TID, municipalities must submit a final report to DOR including, among other things, the total amount of positive tax increments received from the terminated TID. For TIDs, the municipality has 60 days after notice of termination; for ER TIDs, the report must be submitted 180 days after termination. In either case, it is probable that the municipality will not know the amount of tax increments received in the district's final year. For this reason, the author may consider requiring that the final audit of TIDs under s. 66.105(6m)(b)3., Wis. Stats., be provided to DOR so that DOR can determine the total amount of positive tax increments received. Similarly, the author may wish to consider changing Section 51 of the bill such that the audit required of ER TIDs be prepared 12 months after termination of the TID rather than 12 months after the last expenditure. Since ER TIDs have 15 years for expenditures and a 16-year maximum life, this change would typically delay the final audit by no more than a year. This final audit could be provided to DOR in order that DOR can determine the total tax increments received by the ER TID.
6. **Section 34, Substantial compliance.** Under the bill, if DOR determines that the municipality substantially complied with certain, specified requirements, DOR shall allow the creation of the TID and shall determine the tax base. This was a recommendation of the Governor's Working Group on TIF to address the "series of special purpose legislation to create narrow exceptions to TIF law. The working group and the Department acknowledged that a standard of 'substantial compliance' would have enabled DOR to facilitate several of the legislated TIDs without a need for Legislative action." However, the list of requirements specified under the bill does not include all requirements required by DOR for base value certification. In particular, the bill does not provide DOR with discretion to determine substantial compliance with the requirements related to filing of application forms under s. 66.1105(5)(b) and noticing of public hearings on project plan amendments under 66.1105(4)(h). Both of these requirements have resulted in special purpose legislation and would continue to do so under the bill. The author may wish to expand the list of requirements over which DOR would have discretion to determine substantial compliance to include all procedures required for base value certification.
7. **Section 55, Payment of town ER TID project costs in annexations.** This provision specifies that if a city or village annexes property that is part of a town-created ER TIF district, the city or village must pay to the town that portion of the eligible costs properly

attributed to the annexed property. It further states that the city or village must negotiate an agreement that implements the provision. Since this provision would be in s. 66.1106 (ER TIF law), it is not clear if the annexation could proceed even if the required agreement could not be reached. The author may wish to cross-reference this provision with annexation law to ensure that prior to the annexation, such an agreement has been reached.

The provision does not adequately address the situation whereby only part of an ER TIF is annexed. DOR should be directed to redetermine the base value of an ER TIF when annexation occurs. Without such authority, DOR could not reduce the base value; consequently it would be unlikely that the reduced ER district would generate sufficient value and tax increments.

8. **Effective Date.** The author may wish to impose an immediate effective date for those provisions related to technical clarifications of current law. In particular, sections 4, 8, 10, and 22 are clarifications of current law and not new requirements or changes. Similarly, the author may wish to consider an immediate effective date for the technical changes made to ER TIF law since clarity on the administration of ER TIF is required as soon as possible as municipalities begin to create ER TIDs for the first time.

If you have questions regarding this technical memorandum, please contact Rebecca Boldt at 266-6785.

BP:RB