

2003 Senate Bill 305

Date of enactment: **February 20, 2004**

Date of publication*: **March 5, 2004**

2003 WISCONSIN ACT 126

AN ACT *to repeal* 66.1105 (4) (h) 3., 66.1105 (6) (a) 3. and 66.1105 (6) (e) 2.; *to renumber and amend* 66.1105 (2) (f) 3.; *to amend* 66.1105 (2) (f) 1. i., 66.1105 (4) (e), 66.1105 (4) (gm) 1., 66.1105 (4) (gm) 4. a., 66.1105 (4) (gm) 4. c., 66.1105 (4) (h) 1., 66.1105 (4) (h) 2., 66.1105 (4m) (a), 66.1105 (4m) (b) 2., 66.1105 (4m) (b) 2m., 66.1105 (5) (a), 66.1105 (5) (b), 66.1105 (5) (c), 66.1105 (5) (ce), 66.1105 (5) (d), 66.1105 (6) (a) 4., 66.1105 (6) (c), 66.1105 (7) (a), 66.1105 (7) (ar), 66.1105 (8) (title) and 66.1105 (8) (a); *to repeal and recreate* 66.1105 (6) (am) 1. and 66.1105 (7) (am); and *to create* 66.1105 (2) (cm), 66.1105 (2) (f) 2. d., 66.1105 (2) (f) 3. a. to c., 66.1105 (3) (g), 66.1105 (4) (gm) 6., 66.1105 (4m) (ae), 66.1105 (4m) (am), 66.1105 (4m) (b) 4., 66.1105 (6) (a) 7., 66.1105 (6) (a) 8., 66.1105 (6) (e) 1. d., 66.1105 (6) (f), 66.1105 (8) (c), 66.1105 (8) (d), 66.1105 (15) and 66.1106 (13) of the statutes; **relating to:** making technical and policy changes in the tax incremental financing program based in part on the recommendations of the governor's December 2000 working group on tax incremental finance, authorizing certain counties to create tax incremental financing districts, and making a modification to the environmental remediation tax incremental financing program.

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

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

66.1105 (2) (cm) "Mixed-use development" means development that contains a combination of industrial, commercial, or residential uses, except that lands proposed for newly platted residential use, as shown in the project plan, may not exceed 35 percent, by area, of the real property within the district.

SECTION 2. 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.

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, a copy of which shall be sent to the appropriate joint review board or, if that joint review board has been dissolved, retained by the city in the official records for that tax incremental district.

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

66.1105 (2) (f) 3. (intro.) Notwithstanding subd. 1., project costs may not include any expenditures made or estimated to be made or monetary obligations incurred or

* Section 991.11, WISCONSIN STATUTES 2001-02 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

estimated to be incurred by the city for newly platted residential development only for any tax incremental district for which a project plan is approved ~~after~~ before September 30, 1995, or for a mixed-use development tax incremental district to which one of the following applies:

SECTION 5. 66.1105 (2) (f) 3. a. to c. of the statutes are created to read:

66.1105 (2) (f) 3. a. The density of the residential housing is at least 3 units per acre.

b. The residential housing is located in a conservation subdivision, as defined in s. 66.1027 (1) (a).

c. The residential housing is located in a traditional neighborhood development, as defined in s. 66.1027 (1) (c).

SECTION 6. 66.1105 (3) (g) of the statutes is created to read:

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

SECTION 7. 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). If the city anticipates that the proposed project plan's project costs may include cash grants made by the city to owners, lessees, or developers of land that is located within the tax incremental district, the hearing notice shall contain a statement to that effect. 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.

SECTION 8. 66.1105 (4) (gm) 1. of the statutes is amended to read:

66.1105 (4) (gm) 1. Describes the boundaries, which may, but need not, be the same as those recommended by the planning commission, of a tax incremental district with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the district. The boundaries of the tax incremental district may not

include any annexed territory that was not within the boundaries of the city on January 1, 2004, unless at least 3 years have elapsed since the territory was annexed by the city, unless the city enters into a cooperative plan boundary agreement, under s. 66.0307, with the town from which the territory was annexed, or unless the city and town enter into another kind of agreement relating to the annexation except that, notwithstanding these conditions, the city may include territory that was not within the boundaries of the city on January 1, 2004, if the city pledges to pay the town an amount equal to the property taxes levied on the territory by the town at the time of the annexation for each of the next 5 years. If, as the result of a pledge by the city to pay the town an amount equal to the property taxes levied on the territory by the town at the time of the annexation for each of the next 5 years, the city includes territory in a tax incremental district that was not within the boundaries of the city on January 1, 2004, the city's pledge is enforceable by the town from which the territory was annexed. The boundaries shall include only those whole units of property as are assessed for general property tax purposes. Property standing vacant for an entire 7-year period immediately preceding adoption of the resolution creating a tax incremental district may not comprise more than 25% of the area in the tax incremental district, unless the tax incremental district is suitable for industrial sites under subd. 4. a. and the local legislative body implements an approved project plan to promote industrial development within the meaning of s. 66.1101. In this subdivision, "vacant property" includes property where the fair market value or replacement cost value of structural improvements on the parcel is less than the fair market value of the land. In this subdivision, "vacant property" does not include property acquired by the local legislative body under ch. 32 or property included within the abandoned Park East freeway corridor or the abandoned Park West freeway corridor in Milwaukee County, or property that is contaminated by environmental pollution, as defined in s. 66.1106 (1) (d).

SECTION 9. 66.1105 (4) (gm) 4. a. of the statutes is amended to read:

66.1105 (4) (gm) 4. a. Not less than 50%, by area, of the real property within the district is at least one of the following: a blighted area; in need of rehabilitation or conservation work, as defined in s. 66.1337 (2m) (b); ~~or~~ suitable for industrial sites within the meaning of s. 66.1101 and has been zoned for industrial use; or suitable for mixed-use development; and

SECTION 10. 66.1105 (4) (gm) 4. c. of the statutes is amended to read:

66.1105 (4) (gm) 4. c. ~~Either the~~ The equalized value of taxable property of the district plus the value increment of all existing districts does not exceed 7% ~~12 percent~~ of the total equalized value of taxable property within the city ~~or the equalized value of taxable property~~

of the district plus the value increment of all existing districts within the city does not exceed 5% of the total equalized value of taxable property within the city, except if a city subtracts territory from a district under par. (h) 2., the 12 percent limit does not apply to that finding. In determining the equalized value of taxable property under this subd. 4. c., the department of revenue shall base its calculations on the most recent equalized value of taxable property of the district that is reported under s. 70.57 (1m) before the date on which the resolution under this paragraph is adopted.

SECTION 11. 66.1105 (4) (gm) 6. of the statutes is created to read:

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

SECTION 12. 66.1105 (4) (h) 1. of the statutes, as affected by 2003 Wisconsin Act 34, is amended to read:

66.1105 (4) (h) 1. Subject to subs. 2., ~~3.,~~ 4., and 5., 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. (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.

SECTION 13. 66.1105 (4) (h) 2. of the statutes, as affected by 2003 Wisconsin Act 34, is amended to read:

66.1105 (4) (h) 2. Except as provided in subs. ~~3., 4.,~~ and 5., ~~not more than once during the 7 years after the tax incremental district is created,~~ the planning commission may adopt an amendment to a project plan under subd. 1. to modify the district's boundaries, not more than 4 times

during the district's existence, by subtracting territory from the district in a way that does not remove contiguity from the district or by adding territory to the district that is contiguous to the district and that is served by public works or improvements that were created as part of the district's project plan. Expenditures for project costs that are incurred because of an amendment to a project plan to which this subdivision applies may be made for not more than 3 years after the date on which the local legislative body adopts a resolution amending the project plan.

SECTION 14. 66.1105 (4) (h) 3. of the statutes is repealed.

SECTION 15. 66.1105 (4m) (a) of the statutes is amended to read:

66.1105 (4m) (a) Any city that seeks to create a tax incremental district or amend a project plan shall convene a temporary joint review board under this paragraph, or a standing joint review board under sub. (3) (g), to review the proposal. The Except as provided in par. (am), and subject to par. (ae), the board shall consist of one representative chosen by the school district that has power to levy taxes on the property within the tax incremental district, one representative chosen by the technical college district that has power to levy taxes on the property within the tax incremental district, one representative chosen by the county that has power to levy taxes on the property within the tax incremental district, one representative chosen by the city, and one public member. If more than one school district, more than one union high school district, more than one elementary school district, more than one technical college district or more than one county has the power to levy taxes on the property within the tax incremental district, the unit in which is located property of the tax incremental district that has the greatest value shall choose that representative to the board. The public member and the board's chairperson shall be selected by a majority of the other board members before the public hearing under sub. (4) (a) or (h) 1. is held. All board members shall be appointed and the first board meeting held within 14 days after the notice is published under sub. (4) (a) or (h) 1. Additional meetings of the board shall be held upon the call of any member. The city that seeks to create the tax incremental district or to amend its project plan shall provide administrative support for the board. By majority vote, the board may disband following approval or rejection of the proposal, unless the board is a standing board that is created by the city under sub. (3) (g).

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

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

another person with knowledge of local government finances.

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

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

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

SECTION 17. 66.1105 (4m) (am) of the statutes is created to read:

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

SECTION 18. 66.1105 (4m) (b) 2. of the statutes is amended to read:

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

SECTION 19. 66.1105 (4m) (b) 2m. of the statutes is amended to read:

66.1105 (4m) (b) 2m. The requirement under subd. 2. that a vote by the board take place ~~not less than 10 days nor more than~~ within 30 days after receiving a resolution does not apply to a resolution amending a project plan under sub. (4) (h) 1. if the resolution relates to a tax incre-

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

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

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

SECTION 21. 66.1105 (5) (a) of the statutes is amended to read:

66.1105 (5) (a) ~~Upon~~ Subject to sub. (8) (d), upon the creation of a tax incremental district or upon adoption of any amendment subject to par. (c), its tax incremental base shall be determined as soon as reasonably possible.

SECTION 22. 66.1105 (5) (b) of the statutes is amended to read:

66.1105 (5) (b) Upon application in writing by the city clerk, in a form prescribed by the department of revenue, the department shall determine according to its best judgment from all sources available to it the full aggregate value of the taxable property and, except as provided in par. (bm), of the city-owned property in the tax incremental district. The 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. if that estimate is at least 35%. Subject to sub. (8) (d), the department shall certify this aggregate valuation to the city clerk, and the aggregate valuation constitutes the tax incremental base of the tax incremental district. The city clerk shall complete these forms, including forms for the amendment of a project plan, and submit the application or amendment forms on or before December 31 of the year the tax incremental district is created, as defined in sub. (4) (gm) 2. or, in the case of an amendment, on or before December 31 of the year in which the changes to the project plan take effect.

SECTION 23. 66.1105 (5) (c) of the statutes, as affected by 2003 Wisconsin Act 34, is amended to read:

66.1105 (5) (c) If the city adopts an amendment to the original project plan for any district which subtracts territory from the district or which includes additional project costs at least part of which will be incurred after the period specified in sub. (6) (am) 1., the tax incremental base for the district shall be redetermined, if sub. (4) (h) 2., 3., 4., or 5. applies to the amended project plan, either by subtracting from the tax incremental base the value of the taxable property that is subtracted from the existing district or by adding to the tax incremental base the value of the taxable property and the value of real property

owned by the city, other than property described in par. (bm), that is added to the existing district under sub. (4) (h) 2., 3., 4., or 5. or, if sub. (4) (h) 2., 3., 4., or 5. does not apply to the amended project plan, under par. (b), as of the January 1 next preceding the effective date of the amendment if the amendment becomes effective between January 2 and September 30, as of the next subsequent January 1 if the amendment becomes effective between October 1 and December 31 and if the effective date of the amendment is January 1 of any year, the redetermination shall be made on that date. The With regard to a district to which territory has been added, the tax incremental base as redetermined under this paragraph is effective for the purposes of this section only if it exceeds the original tax incremental base determined under par. (b).

SECTION 24. 66.1105 (5) (ce) of the statutes, as affected by 2003 Wisconsin Act 34, is amended to read:

66.1105 (5) (ce) If the city adopts an amendment, to which sub. (4) (h) 2., 3., 4., or 5. applies, the tax incremental base for the district shall be redetermined, either by subtracting from the tax incremental base the value of the taxable property that is subtracted from the existing district or by adding to the tax incremental base the value of the taxable property and the value of real property owned by the city, other than property described in par. (bm), that is added to the existing district under sub. (4) (h) 2., 3., 4., or 5., as of the January 1 next preceding the effective date of the amendment if the amendment becomes effective between January 2 and September 30, as of the next subsequent January 1 if the amendment becomes effective between October 1 and December 31 and if the effective date of the amendment is January 1 of any year, the redetermination shall be made on that date. The With regard to a district to which territory has been added, the tax incremental base as redetermined under this paragraph is effective for the purposes of this section only if it exceeds the original tax incremental base determined under par. (b).

SECTION 25. 66.1105 (5) (d) of the statutes is amended to read:

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

SECTION 26. 66.1105 (6) (a) 3. of the statutes, as affected by 2003 Wisconsin Acts 34 and 46, is repealed.

SECTION 27. 66.1105 (6) (a) 4. of the statutes, as affected by 2003 Wisconsin Acts 34 and 46, is amended to read:

66.1105 (6) (a) 4. Twenty-three years after the tax incremental district is created if the district is created after September 30, 1995, and before October 1, 2004.

SECTION 28. 66.1105 (6) (a) 7. of the statutes is created to read:

66.1105 (6) (a) 7. Twenty years after the tax incremental district is created if the district is created on or after the effective date of this subdivision ... [revisor inserts date], and if the district is at least predominantly suitable for mixed-use development or industrial sites under sub. (4) (gm) 6.

SECTION 29. 66.1105 (6) (a) 8. of the statutes is created to read:

66.1105 (6) (a) 8. Twenty-seven years after the tax incremental district is created if the district is created on or after the effective date of this subdivision ... [revisor inserts date], and if the district is a district specified under sub. (4) (gm) 6. other than a district specified under subd. 7.

SECTION 30. 66.1105 (6) (am) 1. of the statutes, as affected by 2003 Wisconsin Act 34, is repealed and recreated to read:

66.1105 (6) (am) 1. Except as otherwise provided in this paragraph, no expenditure may be made later than 5 years before the unextended termination date of a tax incremental district under sub. (7) (am).

SECTION 31. 66.1105 (6) (c) of the statutes is amended to read:

66.1105 (6) (c) Except for tax increments allocated under par. (d), (dm) ~~or~~ (e), or (f) all tax increments received with respect to a tax incremental district shall, upon receipt by the city treasurer, be deposited into a special fund for that district. The city treasurer may deposit additional moneys into such fund pursuant to an appropriation by the common council. No moneys may be paid out of such fund except to pay project costs with respect to that district, to reimburse the city for such payments, to pay project costs of a district under par. (d), (dm) ~~or~~ (e), or (f) or to satisfy claims of holders of bonds or notes issued with respect to such district. Subject to par. (d), (dm) ~~or~~ (e), or (f), moneys paid out of the fund to pay project costs with respect to a district may be paid out before or after the district is terminated under sub. (7). Subject to any agreement with bondholders, moneys in the fund may be temporarily invested in the same manner as other city funds if any investment earnings are applied to reduce project costs. After all project costs and all bonds and notes with respect to the district have been paid or the payment thereof provided for, subject to any agreement with bondholders, if there remain in the fund any moneys that are not allocated under par. (d), (dm) ~~or~~ (e), or (f), they shall be paid over to the treasurer of each

county, school district or other tax levying municipality or to the general fund of the city in the amounts that belong to each respectively, having due regard for that portion of the moneys, if any, that represents tax increments not allocated to the city and that portion, if any, that represents voluntary deposits of the city into the fund.

SECTION 32. 66.1105 (6) (e) 1. d. of the statutes is created to read:

66.1105 (6) (e) 1. d. The donor tax incremental district is able to demonstrate, based on the positive tax increments that are currently generated, that it has sufficient revenues to pay for all project costs that have been incurred under the project plan for that district and sufficient surplus revenues to pay for some of the eligible costs of the recipient tax incremental district.

SECTION 33. 66.1105 (6) (e) 2. of the statutes is repealed.

SECTION 34. 66.1105 (6) (f) of the statutes is created to read:

66.1105 (6) (f) 1. Not later than the date on which a tax incremental district terminates under sub. (7) (am), a planning commission may amend under sub. (4) (h) the project plan of a tax incremental district to allocate positive tax increments generated by that tax incremental district to another tax incremental district created by that planning commission if all of the following conditions are met:

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

b. The allocation of tax increments under this paragraph is approved by the joint review board.

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

a. The project costs in the recipient district are used to create, provide, or rehabilitate low-cost housing or to remediate environmental contamination.

b. The recipient district was created upon a finding that not less than 50 percent, by area, of the real property within the district is blighted or in need of rehabilitation.

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

4. No city may request or receive under sub. (7) (am) 2. an extension for the life of a donor tax incremental district.

SECTION 35. 66.1105 (7) (a) of the statutes is amended to read:

66.1105 (7) (a) That time when the city has received aggregate tax increments with respect to the district in an amount equal to the aggregate of all project costs under the project plan and any amendments to the project plan for the district, except that this paragraph does not apply

to a district whose positive tax increments have been allocated under sub. (6) (d), (dm) ~~or~~ (e) or (f) until the district to which the allocation is made has paid off the aggregate of all of its project costs under its project plan.

SECTION 36. 66.1105 (7) (am) of the statutes, as affected by 2003 Wisconsin Act 46, is repealed and recreated to read:

66.1105 (7) (am) 1. For a district about which a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by area, of the real property within the district is a blighted area or in need of rehabilitation or conservation work, 27 years after the district is created.

2. For a district about which a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by area, of the real property within the district is suitable for industrial sites or mixed-use development, 20 years after the district is created, except that during the 18th year of such a district's existence, the city that created the district may request that the joint review board extend the life of the district for an additional 5 years. Along with its request for a 5-year extension, the city may provide the joint review board with an independent audit that demonstrates that the district is unable to pay off its project costs within the 20 years after the district is created. The joint review board may deny or approve a request to extend the life of the district for 5 years if the request does not include the independent audit, and the board shall approve a request to extend the life of the district for 5 years if the request includes the audit. If the joint review board extends the district's life, the district shall terminate at the earlier of the end of the extended period or the period specified in par. (a).

SECTION 37. 66.1105 (7) (ar) of the statutes is amended to read:

66.1105 (7) (ar) Notwithstanding par. (am), ~~22~~ 35 years after the ~~last expenditure identified in the project plan is made if the district to which the plan relates is created if it was created~~ before October 1, 1995, and if the project plan is amended under sub. (4) (h) ~~3- or~~ 4.

SECTION 38. 66.1105 (8) (title) of the statutes is amended to read:

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

SECTION 39. 66.1105 (8) (a) of the statutes is amended to read:

66.1105 (8) (a) A city which creates a tax incremental district under this section shall give the department of revenue written notice within ~~40~~ 60 days of the termination of the tax incremental district under sub. (7).

SECTION 40. 66.1105 (8) (c) of the statutes is created to read:

66.1105 (8) (c) After a city transmits to the department of revenue the notice required under par. (a) the city and the department shall agree on a date by which the city shall send to the department, on a form prescribed by the

department, all of the following information that relates to the terminated tax incremental district:

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

SECTION 41. 66.1105 (8) (d) of the statutes is created to read:

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

SECTION 42. 66.1105 (15) of the statutes is created to read:

66.1105 (15) **SUBSTANTIAL COMPLIANCE.** Substantial compliance with subs. (3), (4) (a), (b), (c), (d), (e), (f), and (h), (4m), and (5) (b) by a city that creates, or attempts to create, a tax incremental district is sufficient to give effect to any proceedings conducted under this section if, in the opinion of the department of revenue, any error, irregularity, or informality that exists in the city's attempts to comply with subs. (3), (4) (a), (b), (c), (d), (e), (f), and (h), (4m), and (5) (b) does not affect substantial justice. If the department of revenue determines that a city has substantially complied with subs. (3), (4) (a), (b), (c), (d), (e), (f), and (h), (4m), and (5) (b), the department of revenue shall determine the tax incremental base of the district, allocate tax increments, and treat the district in all other respects as if the requirements under subs. (3), (4) (a), (b), (c), (d), (e), (f), and (h), (4m), and (5) (b) had been strictly complied with based on the date that the resolution described under sub. (4) (gm) 2. is adopted.

SECTION 43. 66.1106 (13) of the statutes is created to read:

66.1106 (13) **PAYMENT OF ELIGIBLE COSTS FOR ANNEXED TERRITORY, REDETERMINATION OF TAX INCRE-**

MENTAL BASE. 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. The department shall redetermine the environmental tax incremental base of any parcel of real property for which the environmental remediation tax incremental base was determined under sub. (4) if part of that parcel is annexed under this subsection.

SECTION 44. Initial applicability.

(1) Except as provided in subsections (2) and (3), this act first applies to a tax incremental district that is in existence on the effective date of this subsection or that is created on the effective date of this subsection.

(2) Except as provided in subsection (3), the treatment of section 66.1105 (2) (f) 1. i. and 2. d., (4) (e) and (gm) 1. and 6., (4m) (a), (ae), (am), and (b) 2., 2m., and 4., (5) (a), (b), (c), and (ce), (6) (a) 4., 7., and 8., (7) (am), and (8) (title), (a), (c), and (d) of the statutes, the renumbering and amendment of section 66.1105 (2) (f) 3. (as it relates to mixed-use development tax incremental districts) of the statutes, and the creation of 66.1105 (2) (f) 3. a. to c. of the statutes first applies to a tax incremental district that is created on October 1, 2004.

(3) The treatment of section 66.1105 (2) (f) 1. i. and 2. d., (4) (gm) 1. and (h) 2., (4m) (b) 2., and (5) (b), (c), and (ce) of the statutes first applies to the amendment of a tax incremental district's project plan that takes effect on October 1, 2004.

SECTION 45. Effective dates. This act takes effect on the first day of the 4th month beginning after publication, except as follows:

(1) The treatment of section 66.1105 (2) (f) 1. i. and 2. d., (3) (g), (4) (e), (gm) 1., 4. a. and c., and 6., and (h) 2., (4m) (a), (am), (b) 2., 2m., and 4., (5) (a), (b), (c), and (ce), (6) (a) 4., 7., and 8. and (am) 1., (7) (am), and (ar), and (8) (title), (c), and (d) of the statutes takes effect on October 1, 2004, or on the day after publication, whichever is later.