

2003 DRAFTING REQUEST

Bill

Received: **08/19/2003**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Cathy Stepp (608) 266-1832**

By/Representing: **Bill Ford**

This file may be shown to any legislator: **NO**

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Munis - tax incrmntal financing**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Stepp@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Changes to tax incremental financing (TIF) statutes

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 09/15/2003	csicilia 09/17/2003		_____			S&L
/P1			pgreensl 09/18/2003	_____	lemery 09/18/2003		S&L
/P2	mshovers	csicilia	pgreensl	_____	lemery		S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	10/16/2003	10/20/2003	10/20/2003	_____	10/20/2003		
/1	mshovers 10/27/2003	csicilia 10/29/2003	pgreensl 10/29/2003	_____	sbasford 10/29/2003	Inorthro 11/03/2003	

FE Sent For: **11/03/2003.**

<END>

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FE Sent For:

<END>

"/1"
11/3
Scott
Rush for 11/6
hearing

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/P1			pgreensl 09/18/2003		lemery 09/18/2003		S&L
/P2	mshovers	csicilia	pgreensl		lemery		

10/25
108 gfp/pv

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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11 MES 10/27/03
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<END>

1 jr 10/29/03

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/?	mshovers 09/15/2003	csicilia 09/17/2003					S&L
/P1			pgreensl 09/18/2003		lemery 09/18/2003		

102 MES 10/16/03

10/20
PS

10/20
PS/1/15

FE Sent For:

<END>

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MES 2 total copies

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Instructions:

Hold - wait for new instructions. May be integrated w/ AB478 (LRB-2574/2)

See Attached.

Drafting History:

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/? mshovers

/Pl ojs 9/17/03

1 P1 MES 9/15/03

9/17 PG submit
PG <END> PG JR

FE Sent For:



WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director
Laura D. Rose, Deputy Director*

TO: SENATOR CATHY STEPP
FROM: William Ford, Senior Staff Attorney *WF*
RE: Description of Proposal to Revise Tax Incremental Financing Laws
DATE: August 13, 2003

This memorandum provides a description of your proposal for legislation to revise tax incremental financing laws. The proposal discussed in this memorandum was initially presented in a July 2, 2003 meeting, organized by your staff, by Peter Thillman, Director of Economic Development, City of Green Bay, and Rob Kleman, Executive Director, Oshkosh Commercial Development Corp. Jim Hough, representing the Wisconsin Economic Development Association, Laura Rose, Deputy Director, Legislative Council Staff, and I were also present at this meeting.

On August 11, 2003, the above group (now including Amy Boyer, representing the Wisconsin Economic Development Association) met again to discuss modifications to the proposal. The proposal described in this memorandum is the product of the August 11, 2003 meeting and was agreed to by Scott Manley and Jay Risch of your staff.

~~Proposal~~ has been submitted to the Legislative Reference Bureau to be drafted as a bill.

The following is a description of your proposal.

1. Require that the four members of the joint review board that represent taxing jurisdictions be appointed as follows:
 - a. The public schools representative would be the school board president, or his or her designee. In appointing a designee, the school board president would be required to give preference to appointing the finance director for the school system or another person with knowledge of local government finances.
 - b. The county representative would be the county executive in counties with a county executive or, in counties without a county executive, the chairperson of the county board, or that person's designee. In appointing a designee, the county executive or county board

chairperson would be required to give preference to appointing the county treasurer or another person with knowledge of local government finances.

c. The city or village representative would be the mayor (or city administrator, if appropriate) or the village board president, or that person's designee. In appointing a designee, the mayor or village board president would be required to give preference to appointing the person in charge of administering economic development programs, the municipal treasurer, or another person with knowledge of local government finances.

d. The technical college representative would be the director, or his or her designee. In appointing a designee, the director would be required to give preference to the district's chief financial officer or another person with knowledge of local government finances.

2. Repeal s. 66.1105 (2) (f) 3., Stats., which provides that project costs may not include any expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred by the city or village for newly platted residential development for any tax incremental district (TID) for which a project plan is approved after September 30, 1995.

3. Repeal the current law which restricts how much of a city or village's equalized value may be contained within a TID and instead provide that a city or village may create a TID if the equalized value of taxable property of the TID plus all existing TIDs of the city or village does not exceed 20% of the total equalized value of taxable property within the city or village. This provision should be drafted so that it affects cities and villages with respect to existing TIDs, because territorial amendments to existing TIDs will be subject to the 20% of equalized value limitation. (Under current law, a city or village may create a TID if either the equalized value of taxable property of the TID plus all existing TIDs does not exceed 7% of the total equalized value of taxable property within the city or village or if the equalized value of taxable property of the TID plus the value incremental of all existing TIDs within the city or village does not exceed 5% of the total equalized value of taxable property within the city or village.)

4. Allow tax increments from a TID that has paid all of its project costs but has not reached its termination date to be used to pay the project costs of any TID in that city or village where: (a) the project costs in the donee TID are for the purpose of creating, providing, or rehabilitating low-cost housing or remediating environmental contamination; or (b) the donee TID was created upon a finding that at least 50% of the property within the TID is blighted or in need of rehabilitation or conservation work. The payment of project costs of the donee TID with tax increments from the donor TID are to be allowed only if both TIDs have the same overlying taxing jurisdictions and if the payment is approved by a joint review board.

5. Extend from 23 to 30 years the maximum existence of a TID created by a city or village upon a finding that 50% or more of the real property within the TID is blighted or in need of rehabilitation or conservation work.

6. Repeal the restriction under current law that no expenditure for project costs may be made later than seven years after the TID is created, with respect to TIDs created after September 30, 1995 or 10 years, for TIDs created before October 1, 1995. Allow expenditures for project costs to be made at any time during the existence of a TID.

7. Allow taxing jurisdictions that contain taxable property within a TID to elect to tax up to 25% of the value increment of the TID. This election would be required to be made prior to the time that the city council or the village board adopts a resolution creating the TID.

8. Revise s. 66.1105 (4) (h) 2., which limits amendments to a TID project plan to add territory to the TID to one amendment during the seven years after it is created. Allow a city or village to adopt up to four territorial amendments at any time during the lifespan of the TID.

9. Allow any county that is not included in a metropolitan statistical area to create a TID within a town if the TID is approved by the town board and if any city or village that is contiguous to the town acquiesces to the designation. A representative of a city or village that is contiguous to the town within which a TID is created would be added as a sixth number on the joint review board with respect to that TID.

10. Authorize the Department of Revenue (DOR) to approve a proposed TID in an instance where one or more of the procedural steps required by state statutes about the problem by the city or village if, in the opinion of the DOR, any error or irregularity, that exists does not affect substantial justice.

11. Revise s. 66.1105 (4m) (b) 2., Stats., so that the joint review board may approve the resolution creating a TID at any time within 30 days after receiving the resolution.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

WF:ksm:wu;ksm



WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director
Laura D. Rose, Deputy Director*

TO: MARC E. SHOEVERS, SENIOR ATTORNEY
FROM: William Ford, Senior Staff Attorney
RE: Description of Proposal to Revise Tax Incremental Financing Laws
DATE: September 5, 2003

Please incorporate the following provisions into LRB-2574/2 for Representative M. Lehman and Senator Stepp.

1. Require that the four members of the joint review board that represent taxing jurisdictions be appointed as follows:

CR;
6.6.11.05 (4m) (ae)

a. The public schools representative would be the school board president, or his or her designee. In appointing a designee, the school board president would be required to give preference to appointing the finance director for the school system or another person with knowledge of local government finances.

b. The county representative would be the county executive in counties with a county executive or, in counties without a county executive, the chairperson of the county board, or that person's designee. In appointing a designee, the county executive or county board chairperson would be required to give preference to appointing the county treasurer or another person with knowledge of local government finances.

c. The city or village representative would be the mayor (or city administrator, if appropriate) or the village board president, or that person's designee. In appointing a designee, the mayor or village board president would be required to give preference to appointing the person in charge of administering economic development programs, the municipal treasurer, or another person with knowledge of local government finances.

d. The technical college representative would be the director, or his or her designee. In appointing a designee, the director would be required to give preference to the district's chief financial officer or another person with knowledge of local government finances.

2. Repeal s. 66.1105 (2) (f) 3., Stats., which provides that project costs may not include any expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred by the city or village for newly platted residential development for any tax incremental district (TID) for which a project plan is approved after September 30, 1995.

3. Repeal the current law which restricts how much of a city or village's equalized value may be contained within a TID and instead provide that a city or village may create a TID if the equalized value of taxable property of the TID plus the value increment of all existing TIDs of the city or village does not exceed 12% of the total equalized value of taxable property within the city or village. ~~This provision should be drafted so that it affects cities and villages with respect to existing TIDs, because territorial amendments to existing TIDs will be subject to the 12% of equalized value limitation.~~

4. Allow tax increments from a TID that has paid all of its project costs but has not reached its termination date to be used to pay the project costs of any TID in that city or village where: (a) the project costs in the donee TID are for the purpose of creating, providing, or rehabilitating low-cost housing or remediating environmental contamination; or (b) the donee TID was created upon a finding that at least 50% of the property within the TID is blighted or in need of rehabilitation or conservation work. The payment of project costs of the donee TID with tax increments from the donor TID are to be allowed only if both TIDs have the same overlying taxing jurisdictions and if the payment is approved by a joint review board.

Payments from the donor TID to one or more donee TIDs for any year may not exceed the donor TID's project costs plus debt service costs paid on the donor TID's project costs for that year.

Provision #4 is in addition to s. 66.1105 (6) (e), which allows for the transfer of tax increments between TIDs created prior to 1995 or 1996 under certain circumstances.

5. Extend from 23 to 27 years the maximum existence of a TID created by a city or village upon a finding that 50% or more of the real property within the TID is blighted or in need of rehabilitation or conservation work.

Reduce from 23 to 20 years the maximum existence of a TID created by a city or a village upon a finding that at least 50% of the property is suitable for industrial sites. However, during (only) the 18th year that the TID is in existence, the city or village that created the TID may request a joint review board to extend the maximum existence of the TID for a period of up to five years. The maximum existence of the TID is then extended for any period approved by the joint review board. The 20-year period and up to five-year extension is also applicable to "mixed-use development" TIDs.

6. Repeal the restriction under current law that no expenditure for project costs may be made later than seven years after the TID is created, with respect to TIDs created after September 30, 1995 or 10 years, for TIDs created before October 1, 1995. Allow expenditures for project costs to be made at any time prior to two years before the unextended termination date of the TID.

7. Allow taxing jurisdictions that contain taxable property within an industrial development or mixed use development TID to elect to tax up to 25% of the value increment of the TID. This election would be required to be made prior to the time that the city council or the village board adopts a resolution creating the TID. However, if the project plan for the TID is amended at a later date, any taxing jurisdiction would be authorized to change its election prior to the time that the TID amendment

Am 66.1105 (f) (3) (g) (4) c.

RC; (b) (f)

RC; sub. (7) (am) Am. (7) (am)

RC; P. 66.1105 (6) (am) 1. Am. (4) (am)

RC; (b) (ae)

added to sub. (2) of eff. date - install already of this

is approved by the governing body of the city or village.

also relates to item #6

8. Revise s. 66.1105 (4) (h) 2., which limits amendments to a TID project plan to add territory to the TID to one amendment during the seven years after it is created. Allow a city or village to adopt up to four territorial amendments, which may add to or reduce the area of the TID at any time during the lifespan of the TID.

cf: s. 66.1105 (2)(b) & (3) + s. 66.1105 (2)(b)(e) 5.

Allow any county that is not included in a metropolitan statistical area to create a TID within a town if the TID is approved by the town board, if any city or village that is contiguous to the town acquiesces to the designation and if the town and any contiguous cities and villages have entered into a cooperative plan boundary agreement under s. 66.0307, Stats. A representative of a city or village that is contiguous to the town within which a TID is created would be added as a sixth member on the joint review board with respect to that TID.

10. Revise s. 66.1105 (4m) (b) 2., Stats., so that the joint review board may approve the resolution creating a TID at any time within 30 days after receiving the resolution.

Am: (b) (2)

11. Amend s. 66.1105 (8), Stats., to require cities to report to the Department of Revenue (DOR) within 60, rather than 10, days after a TID is terminated. The city and the DOR are to be required to establish a date by which the report under SECTION 37 of LRB-2574/2 will be made to DOR.

12. Eliminate the underscored language on lines 11-14, page 15 and all of the language in SECTIONS 1 and 72 of LRB-2574/2.

13. Eliminate SECTIONS 40 to 60 and 63 to 71 of LRB-2574/2, relating to technical revisions in the environmental remediation tax incremental financing program.

14. Eliminate SECTIONS 6 and 8 of LRB-2574/2, relating to notice and public hearing requirements for TID project plans that anticipate providing cash grants to developers. Instead, provide that if it is anticipated that project costs for a proposed TID will include cash grants to owners, lessees, or developers of property within a TID, the notice of the public hearing under s. 66.1105 (4) (e) is required to contain a statement to that effect. In addition, require that the joint review board be provided with any development agreement entered into under SECTION 4 of LRB-2574/2.

see sub. (2)(f) 2.d.

15. On page 6, line 5 of LRB-2574/2, insert "newly-platted" before "residential."

If you have any questions, please contact me at the Legislative Council staff offices.

WF:wu:tlu:ksm;jal;ksm;wu

-3137/p1

SAV
x-repts ✓
new CRS ✓

RMK

2003 ASSEMBLY BILL 478

stays

WANTED:
Thursday 3:00 PM
FN 9/15

Submit

D-one

August 26, 2003 - Introduced by Representatives M. LEHMAN, W. WOOD, HAHN, BIES, ALBERS, HINES and SERATTI, cosponsored by Senators A. LASEE and DARLING. Referred to Committee on Ways and Means.

regr

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

ASSEMBLY BILL 478

1 66.1105 (8) (d), 66.1105 (15), 66.1106 (1) (fm), 66.1106 (1) (jm), 66.1106 (1m),
 2 66.1106 (10) (c), 66.1106 (10) (d), 66.1106 (11), 66.1106 (12), 66.1106 (13) and
 3 73.03 (57) of the statutes; **relating to:** making technical and policy changes in
 4 the tax incremental financing program based ^{in part} on the recommendations of the
 5 governor's December 2000 working group on tax incremental finance and
 6 ~~modifying~~ ^{making a modification to} the environmental remediation tax incremental financing program.

*authorizing certain counties to
create tax incremental financing
districts,*

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 determine the full aggregate value of the taxable property, and of certain city or village owned property, that lies within the TID.

Once the aggregate value is determined, DOR certifies the "tax incremental base" of the TID, which is the equalized value of all taxable property within the TID at the time of its creation. If 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 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 project 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,

ASSEMBLY BILL 478

or 27 years in certain cases, after the TID is created, whichever is sooner. Under current law, TIDs are required to terminate, 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. *the time period agreed on by the city or village and DOR*

INS
ANL-1

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. However, the city or village is not required to correct or resubmit its proposal.

INS A:
Moved from
p. 4

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.

INS
ANL-2

4. Requires that before a "donor" TID may transfer positive tax increments to another TID, it must demonstrate that it has sufficient revenues to pay for all incurred or expected project costs and surplus revenues to pay for some of the "donee" TID's eligible costs. Under current law, the "donor" TID need only have sufficient revenues to pay costs that are due in the current year.

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

15. 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.

16. 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.

17. 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.

18. 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 predominantly 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.

19. Authorizes a city or village to create a TID if at least 50% of the area to be included in the TID is a "mixed-use development," which is defined as a development that contains a combination of industrial, commercial, and residential uses and in which the residential portion consists of no more than 35%, by area, of the real property within the district.

This bill also ~~modifies~~ ^{technically} 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

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remedial action plan approved by the Department of Natural Resources (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 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," "period of certification," 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.

Generally, this bill takes effect on the first day of the 4th month after the bill is enacted.

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

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SECTION 1

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~~department of revenue in providing staff and administrative services associated with tax incremental districts under s. 66.1105.~~

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

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

SECTION 3. 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 4. 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, ^{copy of which shall be sent to the joint review board}

SECTION 5. 66.1105 (2) (f) 3. of the statutes is ~~amended to read~~ ^{repealed}

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

SECTION 6. 66.1105 (3) (e) of the statutes is amended to read:

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1 ~~66.1105 (3) (e) Enter into any contracts or agreements, including agreements~~
2 ~~with bondholders, determined by the local legislative body to be necessary or~~
3 ~~convenient to implement the provisions and effectuate the purposes of project plans.~~
4 ~~The contracts or agreements may include conditions, restrictions, or covenants~~
5 ~~which either run with the land or which otherwise regulate the use of land. A city~~
6 ~~may not enter into a development agreement as described under sub. (2) (f) 2. d.~~
7 ~~unless, at least 14 days before entering into the agreement, a public hearing is held~~
8 ~~by the city or by the planning commission at which interested parties are afforded~~
9 ~~a reasonable opportunity to express their views on the proposed development~~
10 ~~agreement. Notice of the hearing shall be published as a class 2 notice, under ch. 985,~~
11 ~~shall state that the proposed project plan's project costs include cash grants, and~~
12 ~~shall state that the cash grants will be on the agenda of the public hearing. The~~
13 ~~hearing may be held in conjunction with the hearing provided for in sub. (4) (e). The~~
14 ~~notice shall include a statement advising that a copy of the proposed development~~
15 ~~agreement will be provided on request. Before publication, a copy of the notice shall~~
16 ~~be sent by 1st class mail to the chief executive officer or administrator of all local~~
17 ~~governmental entities having the power to levy taxes on property within the district~~
18 ~~and to the school board of any school district which includes property located within~~
19 ~~the proposed district. For a county with no chief executive officer or administrator,~~
20 ~~notice shall be sent to the county board chairperson.~~

21 SECTION 7. 66.1105 (3) [✓](g) of the statutes is created to read:

22 66.1105 (3) (g) Create a standing joint review board that may remain in
23 existence for the entire time that any tax incremental district exists in the city. All
24 of the provisions that apply to a joint review board that is convened under sub. (4m)
25 (a) apply to a standing joint review board that is created under this paragraph. A

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1 city may disband a joint review board that is created under this paragraph at any
2 time.

3 **SECTION 8.** 66.1105 (4) (e) of the statutes is amended to read:

4 66.1105 (4) (e) At least ^{plain} 30 ~~in~~ days before adopting a resolution under par. (gm),

5 holding of a public hearing by the planning commission at which interested parties
6 are afforded a reasonable opportunity to express their views on the proposed project
7 plan. The hearing may be held in conjunction with the hearing provided for in par.

8 (a). If the ^{city anticipates that the} proposed project plan's project costs ^{may} include cash grants made by the city
9 to owners, lessees, or developers of land that is located within the tax incremental

10 district, the ~~hearing agenda shall include a separate item for the cash grants and for~~

11 ~~any development agreement described under sub. (2)(f) 2, d, and (m) hearing notice~~

12 shall ^{contain a statement to that effect,} state that the cash grants are a proposed project cost that will be on the agenda

13 ~~of the hearing.~~ Notice of the hearing shall be published as a class 2 notice, under ch.

14 985. The notice shall include a statement advising that a copy of the proposed project

15 plan will be provided on request. Before publication, a copy of the notice shall be sent

16 by 1st class mail to the chief executive officer or administrator of all local

17 governmental entities having the power to levy taxes on property within the district

18 and to the school board of any school district which includes property located within

19 the proposed district. For a county with no chief executive officer or administrator,

20 notice shall be sent to the county board chairperson.

21 **SECTION 9.** 66.1105 (4) [✓](gm) 1. of the statutes is amended to read:

22 66.1105 (4) (gm) 1. Describes the boundaries, which may, but need not, be the

23 same as those recommended by the planning commission, of a tax incremental

24 district with sufficient definiteness to identify with ordinary and reasonable

25 certainty the territory included in the district. The boundaries of the tax incremental

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1 district may not include any territory that was not within the boundaries of the city
2 on January 1, 2004, unless at least 3 years have elapsed since the territory was
3 annexed by the city, unless the city enters into a cooperative plan boundary
4 agreement, under s. 66.0307, with the town from which the territory was annexed,
5 or unless the city and town enter into another kind of agreement relating to the
6 annexation except that, notwithstanding these conditions, the city may include
7 territory that was not within the boundaries of the city on January 1, 2004, if the city
8 pledges to pay the town an amount equal to the property taxes levied on the territory
9 by the town at the time of the annexation for each of the next 5 years. If, as the result
10 of a pledge by the city to pay the town an amount equal to the property taxes levied
11 on the territory by the town at the time of the annexation for each of the next 5 years,
12 the city includes territory in a tax incremental district that was not within the
13 boundaries of the city on January 1, 2004, the city's pledge is enforceable by the town
14 from which the territory was annexed. The boundaries shall include only those
15 whole units of property as are assessed for general property tax purposes. Property
16 standing vacant for an entire 7-year period immediately preceding adoption of the
17 resolution creating a tax incremental district may not comprise more than 25% of the
18 area in the tax incremental district, unless the tax incremental district is suitable
19 for industrial sites under subd. 4. a. and the local legislative body implements an
20 approved project plan to promote industrial development within the meaning of s.
21 66.1101. In this subdivision, "vacant property" includes property where the fair
22 market value or replacement cost value of structural improvements on the parcel is
23 less than the fair market value of the land. In this subdivision, "vacant property"
24 does not include property acquired by the local legislative body under ch. 32 or

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1 property included within the abandoned Park East freeway corridor or the
2 abandoned Park West freeway corridor in Milwaukee County.

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

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

9 **SECTION 11.** 66.1105 (4) (gm) 4. c. of the statutes is amended to read:

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

18 **SECTION 12.** 66.1105 (4) (gm) 6. of the statutes is created to read:

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

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1 SECTION 13. 66.1105 (4) (h) 1. of the statutes, as affected by 2003 Wisconsin Act
2 ~~(Senate Bill 188)~~, is amended to read:

3 66.1105 (4) (h) 1. Subject to subds. 2., ~~3.~~ 4., and 5., the planning commission
4 may, by resolution, adopt an amendment to a project plan. The amendment is subject
5 to approval by the local legislative body and approval requires the same findings as
6 provided in ~~par.~~ pars. (g) and (gm) 4. c. Any amendment to a project plan is also
7 subject to review by a joint review board, acting under sub. (4m). Adoption of an
8 amendment to a project plan shall be preceded by a public hearing held by the plan
9 commission at which interested parties shall be afforded a reasonable opportunity
10 to express their views on the amendment. Notice of the hearing shall be published
11 as a class 2 notice, under ch. 985. The notice shall include a statement of the purpose
12 and cost of the amendment and shall advise that a copy of the amendment will be
13 provided on request. Before publication, a copy of the notice shall be sent by 1st class
14 mail to the chief executive officer or administrator of all local governmental entities
15 having the power to levy taxes on property within the district and to the school board
16 of any school district which includes property located within the proposed district.
17 For a county with no chief executive officer or administrator, this notice shall be sent
18 to the county board chairperson.

19 SECTION 14. 66.1105 (4) (h) 2. of the statutes, as affected by 2003 Wisconsin Act
20 ~~(Senate Bill 188)~~, is amended to read:

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21 66.1105 (4) (h) 2. Except as provided in subds. ~~3., 4., and 5.,~~ not more than once
22 during the 7 years after the tax incremental district is created, the planning
23 commission may adopt an amendment to a project plan under subd. 1. to modify the
24 district's boundaries by subtracting territory from the district in a way that does not
25 remove contiguity from the district or, ~~not more than once during the 7 years after~~

during the district's existence

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~~the tax incremental district is created~~ 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 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.~~

SECTION 15. 66.1105 (4) (h) 3. of the statutes is repealed.

↑ statute period ✓

SECTION 16. 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

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1 majority of the other board members before the public hearing under sub. (4) (a) or
 2 (h) 1. is held. All board members shall be appointed and the first board meeting held
 3 within 14 days after the notice is published under sub. (4) (a) or (h) 1. Additional
 4 meetings of the board shall be held upon the call of any member. The city that seeks
 5 to create the tax incremental district or to amend its project plan shall provide
 6 administrative support for the board. By majority vote, the board may disband
 7 following approval or rejection of the proposal, unless the board is a standing board
 8 that is created by the city under sub. (3) (g).

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

10 66.1105 (4m) (am) If a city seeks to create a tax incremental district that is
 11 located in a union high school district, the seat that is described under par. (a) for the
 12 school district representative to the board shall be held by 2 representatives, each
 13 of whom has one-half of a vote. ^{Subject to par. (ae) ↑} One representative shall be chosen by the union high
 14 school district that has the power to levy taxes on the property within the tax
 15 incremental district and one representative shall be chosen by the elementary school
 16 district that has the power to levy taxes on the property within the tax incremental
 17 district.

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

19 66.1105 (4m) (b) 2. Except as provided in subd. 2m. and subject to subd. 4., no
 20 tax incremental district may be created and no project plan may be amended unless
 21 the board approves the resolution adopted under sub. (4) (gm) or (h) 1. by a majority
 22 vote ~~not less than 10~~ [↓] ~~days~~ [↓] ~~nor more than 30~~ ^{within} ~~days~~ [↓] after receiving the resolution.

23 The board may not approve the resolution under this subdivision unless the board's
 24 approval contains a positive assertion that, in its judgment, the development

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1 described in the documents the board has reviewed under subd. 1. would not occur
 2 without the creation of a tax incremental district.

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

4 66.1105 (4m) (b) 2m. The requirement under subd. 2. that a vote by the board
 5 take place ~~not less than 10 days nor more than 30~~ ^{within} ~~days~~ ³⁰ ~~days~~ after receiving a resolution
 6 does not apply to a resolution amending a project plan under sub. (4) (h) 1. if the
 7 resolution relates to a tax incremental district, the application for the
 8 redetermination of the tax incremental base of which was made in 1998, that is
 9 located in a village that was incorporated in 1912, has a population of at least 3,800
 10 and is located in a county with a population of at least 108,000.

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

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

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1 its proposal, the board shall review the resubmitted proposal and vote to approve or
2 deny the proposal as specified in this paragraph.

3 **SECTION 21.** 66.1105 (4m) (b) [✓]5. of the statutes is created to read:

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

8 **SECTION 22.** 66.1105 (5) (a) [✓](a) of the statutes is amended to read:

9 66.1105 (5) (a) ~~Upon~~ Subject to sub. (8) (d), upon the creation of a tax
10 incremental district or upon adoption of any amendment subject to par. (c), its tax
11 incremental base shall be determined as soon as reasonably possible. The

12 ~~department of revenue may impose a fee of \$1,000 on a city to determine or~~
13 ~~redetermine the tax incremental base of a tax incremental district under this~~
14 ~~subsection.~~

15 **SECTION 23.** 66.1105 (5) (b) [✓](b) of the statutes is amended to read:

16 66.1105 (5) (b) Upon application in writing by the city clerk, in a form
17 prescribed by the department of revenue, the department shall determine according
18 to its best judgment from all sources available to it the full aggregate value of the
19 taxable property and, except as provided in par. (bm), of the city-owned property in
20 the tax incremental district. The application shall state the percentage of territory
21 within the tax incremental district which the local legislative body estimates will be
22 devoted to retail business at the end of the maximum expenditure period specified
23 in sub. (6) (am) 1. [✓]if that estimate is at least 35%. Subject to sub. (8) (d), the
24 department shall certify this aggregate valuation to the city clerk, and the aggregate
25 valuation constitutes the tax incremental base of the tax incremental district. The

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1 city clerk shall complete these forms, including forms for the amendment of a project
2 plan, and submit the application or amendment forms on or before December 31 of
3 the year the tax incremental district is created, as defined in sub. (4) (gm) 2. or, in
4 the case of an amendment, on or before December 31 of the year in which the changes
5 to the project plan take effect.

6 SECTION 24. 66.1105 (5) (c) of the statutes, as affected by 2003 Wisconsin Act, ³⁴
7 ~~(Senate Bill 186)~~, is amended to read:

8 66.1105 (5) (c) If the city adopts an amendment to the original project plan for
9 any district which reduces project costs by subtracting territory from the district or
10 which includes additional project costs at least part of which will be incurred after
11 the period specified in sub. (6) (am) 1., the tax incremental base for the district shall
12 be redetermined, if sub. (4) (h) 2., 3., 4., or 5. applies to the amended project plan,
13 either by subtracting from the tax incremental base the value of the taxable property
14 that is subtracted from the existing district or by adding to the tax incremental base
15 the value of the taxable property and the value of real property owned by the city,
16 other than property described in par. (bm), that is added to the existing district under
17 sub. (4) (h) 2., 3., 4., or 5. or, if sub. (4) (h) 2., 3., 4., or 5. does not apply to the amended
18 project plan, under par. (b), as of the January 1 next preceding the effective date of
19 the amendment if the amendment becomes effective between January 2 and
20 September 30, as of the next subsequent January 1 if the amendment becomes
21 effective between October 1 and December 31 and if the effective date of the
22 amendment is January 1 of any year, the redetermination shall be made on that date.
23 The ~~With regard to a district to which territory has been added,~~ the tax incremental
24 base as redetermined under this paragraph is effective for the purposes of this
25 section only if it exceeds the original tax incremental base determined under par. (b).

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1 **SECTION 25.** 66.1105 (5) (ce) of the statutes, as affected by 2003 Wisconsin Act
2 ~~A. (Senate Bill 188)~~, is amended to read:

3 66.1105 (5) (ce) If the city adopts an amendment, to which sub. (4) (h) 2., 3., 4.,
4 or 5. applies, the tax incremental base for the district shall be redetermined, either
5 by subtracting from the tax incremental base the value of the taxable property that
6 is subtracted from the existing district or by adding to the tax incremental base the
7 value of the taxable property and the value of real property owned by the city, other
8 than property described in par. (bm), that is added to the existing district under sub.
9 (4) (h) 2., 3., 4., or 5., as of the January 1 next preceding the effective date of the
10 amendment if the amendment becomes effective between January 2 and
11 September 30, as of the next subsequent January 1 if the amendment becomes
12 effective between October 1 and December 31 and if the effective date of the
13 amendment is January 1 of any year, the redetermination shall be made on that date.

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

17 **SECTION 26.** 66.1105 (5) (d) of the statutes is amended to read:
18 66.1105 (5) (d) The department of revenue may not certify the tax incremental
19 base as provided in par. (b) until it determines that each of the procedures and
20 documents required by sub. (4) (a), (b), (gm) or (h) and par. (b) has been timely
21 completed and all notices required under sub. (4) (a), (b), (gm) or (h) timely given.
22 The facts supporting any document adopted or action taken to comply with sub. (4)
23 (a), (b), (gm) or (h) are not subject to review by the department of revenue under this
24 paragraph, except that the department may not certify the tax incremental base as

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1 provided in par. (b) until it reviews and approves of the findings that are described
2 in sub. (4) (gm) 4. c.

3 SECTION 27. 66.1105 (6) (a) of the statutes is renumbered as 66.1105 (6) (a) (intro.)
4 ~~and~~ amended to read:

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66.1105 (6) (a) (intro.) If the joint review board approves the creation of the tax
6 incremental district under sub. (4m), and subject to par. (a e), positive tax increments with respect to a tax
7 incremental district are allocated to the city which created the district for each year
8 commencing after the date when a project plan is adopted under sub. (4) (g). The
9 department of revenue may not authorize allocation of tax increments until it
10 determines from timely evidence submitted by the city that each of the procedures
11 and documents required under sub. (4) (d) to (f) has been completed and all related
12 notices given in a timely manner. The department of revenue may authorize
13 allocation of tax increments for any tax incremental district only if the city clerk and
14 assessor annually submit to the department all required information on or before the
15 2nd Monday in June. The facts supporting any document adopted or action taken
16 to comply with sub. (4) (d) to (f) are not subject to review by the department of revenue
17 under this paragraph. After the allocation of tax increments is authorized, the
18 department of revenue shall annually authorize allocation of the tax increment to
19 the city that created the district until the soonest of the following events: plain

- 20 1. The department of revenue receives a notice under sub. (8) and the notice
21 has taken effect under sub. (8) (b), 27.
- 22 2. Twenty-seven years after the tax incremental district is created if the
23 district is created before October 1, 1995, ~~38 years after the tax incremental district~~
24 ~~is created if the district is created before October 1, 1995, and the project plan is~~
25 ~~amended under sub. (4) (h) 3. or 23.~~

sec. #: RP; 66.1105 (6) (a) 3. as affected by 2003 Wisconsin Acts 34 and 46

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3. Twenty-three years after the tax incremental district is created if the district is created after September 30, 1995, whichever is sooner.

SECTION 28. 66.1105 (6) (a) 4. of the statutes is created to read:

66.1105 (6) (a) 4. 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 industrial sites under sub. (4) (gm) 6.

FIX COMPONENT

SECTION 29. 66.1105 (6) (am) 1. of the statutes, as affected by 2003 Wisconsin Act 34 (Senate Bill 188), is repealed and recreated

is renumbered 66.1105 (6) (am) 1. a. and amended to read:

66.1105 (6) (am) 1. a. For a tax incremental district that is created after

September 30, 1995, and before the effective date of this subd. 1. a., [revisor inserts date]

no expenditure may be made later than 7 years after the tax incremental district is created and before the effective date of this subd. 1. a. [revisor inserts date]

b. For a tax incremental district that is created before October 1, 1995, no

expenditure may be made later than 10 years after the tax incremental district is created, except that, for a tax incremental district that is created before October 1, 1995, and which is located in a city to which par. (d) applies, no expenditure may be made later than 17 years after the tax incremental district is created.

SECTION 30. 66.1105 (6) (am) 1. c. of the statutes is created to read:

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

SECTION 31. 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 and that are

INS
19-8

INS
19-22

TID's.
As drafted,
it applies
to existing
TID's too

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1 expected to be generated, that it has sufficient revenues to pay for all project costs
2 that have been incurred, or are expected to be incurred, under the project plan for
3 that district and sufficient surplus revenues to pay for some of the eligible costs of
4 the recipient tax incremental district.

5 SECTION 32. 66.1105 (6) (e) 2. of the statutes is repealed.

6 SECTION 33. 66.1105 (7) (ae) of the statutes is created to read.

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

11 SECTION 34. 66.1105 (7) (am) of the statutes, as affected by 2003 Wisconsin Act
12 (Senate Bill 167), is amended to read:

13 66.1105 (7) (am) Sixteen years after the last expenditure identified in the
14 project plan is made if the district to which the plan relates is created after
15 September 30, 1995, and before October 1, 2003, 13 years after the last expenditure
16 identified in the project plan is made if the district to which the plan relates is created
17 on or after October 1, 2003, or 20 years after the last expenditure identified in the
18 project plan is made if the district to which the plan relates is created before
19 October 1, 1995, except that in no case may the total number of years during which
20 expenditures are made under sub. (6) (am) 1. plus the total number of years during
21 which tax increments are allocated under this sub. (6) (a) exceed 27 years.

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

23 66.1105 (7) (ar) Notwithstanding par. (am), 22 years after the last expenditure
24 identified in the project plan is made if the district to which the plan relates is created
25 before October 1, 1995, and ^{if} the project plan is amended under sub. (4) (h) 3. or 4.

if it was created

INS
20-5

(23)

35 ← score

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INS
21-2

✓
1 SECTION 36. 66.1105 (8) (title) of the statutes is amended to read:

2 66.1105 (8) (title) NOTICE OF DISTRICT TERMINATION, REPORTING REQUIREMENTS.

3 SECTION 37. 66.1105 (8) (c) ✓ of the statutes is created to read:

4 66.1105 (8) (c) ^{After} ~~Not later than February 15 of the year after the year in which~~

5 a city transmits to the department of revenue the notice required under par. (a) the

6 ^{and the department shall agree on a date by which the city} city shall send to the department, on a form prescribed by the department, all of the ✓

7 following information that relates to the terminated tax incremental district:

8 1. A final accounting of all expenditures made by the city.

9 2. The total amount of project costs incurred by the city.

10 3. The total amount of positive tax increments received by a city.

11 SECTION 38. 66.1105 (8) (d) ✓ of the statutes is created to read:

12 66.1105 (8) (d) If a city does not send to the department of revenue the form
13 specified in par. (c) within the time limit ^{agreed to by the city and the department} ~~specified in~~ par. (c), the department may not ^{under}

14 certify the tax incremental base of a tax incremental district under sub. (5) (a) and ✓

15 (b) until the form is sent to the department.

16 SECTION 39. 66.1105 (15) ✓ of the statutes is created to read:

17 66.1105 (15) SUBSTANTIAL COMPLIANCE. Substantial compliance with subs. (3),

18 (4) (a), (b), (c), (d), (e), (f), and (h), (4m), and (5) (b) by a city that creates, or attempts

19 to create, a tax incremental district is sufficient to give effect to any proceedings

20 conducted under this section if, in the opinion of the department of revenue, any

21 error, irregularity, or informality that exists in the city's attempts to comply with

22 subs. (3), (4) (a), (b), (c), (d), (e), (f), and (h), (4m), and (5) (b) does not affect substantial

23 justice. If the department of revenue determines that a city has substantially

24 complied with subs. (3), (4) (a), (b), (c), (d), (e), (f), and (h), (4m), and (5) (b), the

25 department of revenue shall determine the tax incremental base of the district,

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1 allocate tax increments, and treat the district in all other respects as if the
2 requirements under subs. (3), (4) (a), (b), (c), (d), (e), (f), and (h), (4m), and (5) (b) had
3 been strictly complied with based on the date that the resolution described under
4 sub. (4) (gm) 2. is adopted.

5 ~~SECTION 40. 66.1106 (1) (c) of the statutes is amended to read:~~

6 66.1106 (1) (c) "Eligible costs" means capital costs, financing costs and
7 administrative and professional service costs, incurred or estimated to be incurred
8 by a political subdivision, for the investigation, removal, containment or monitoring
9 of, or the restoration of soil, air, surface water, sediments or groundwater affected by,
10 environmental pollution, including monitoring costs incurred within 2 years after
11 the date on which the department of natural resources certifies that environmental
12 pollution on the property has been remediated, cancellation of delinquent taxes if the
13 political subdivision demonstrates that it has not already recovered such costs by
14 any other means, property acquisition costs, demolition costs including asbestos
15 removal, and removing and disposing of underground storage tanks or abandoned
16 containers, as defined in s. 292.41 (1), except that for any parcel of land "eligible
17 costs" shall be reduced by any amounts received from persons responsible for the
18 discharge, as defined in s. 292.01 (3), of a hazardous substance on the property to pay
19 for the costs of remediating environmental pollution on the property, by any amounts
20 received, or reasonably expected by the political subdivision to be received, from a
21 local, state or federal program for the remediation of contamination in the district
22 that do not require reimbursement or repayment and by the amount of net gain from
23 the sale of the property by the political subdivision. "Eligible costs" associated with
24 groundwater affected by environmental pollution include investigation and

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1 remediation costs for groundwater that is located in, and extends beyond, the
2 property that is being remediated.

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

4 66.1106 (1) (e) “Environmental remediation tax increment” means that
5 amount obtained by multiplying the total city, county, school and other local general
6 property taxes levied on a ~~parcel of real property that is certified under this section~~
7 taxable property in a year by a fraction having as a numerator the environmental
8 remediation value increment for that year ~~for that parcel in such district~~ and as a
9 denominator that year’s equalized value of that ~~parcel~~ taxable property. In any year,
10 an environmental remediation tax increment is “positive” if the environmental
11 remediation value increment is positive; it is “negative” if the environmental
12 remediation value increment is negative.

13 **SECTION 42.** 66.1106 (1) (f) of the statutes is amended to read:

14 66.1106 (1) (f) “Environmental remediation tax incremental base” means the
15 aggregate value, as equalized by the department, of a ~~parcel of real~~ taxable property
16 that is certified under this section as of the January 1 preceding the date on which
17 ~~the department of natural resources issues a certificate certifying that~~
18 ~~environmental pollution on the property has been remediated in accordance with~~
19 ~~rules promulgated by the department of natural resources~~ environmental
20 remediation tax incremental district is created, as determined under sub. (1m) (b).

21 **SECTION 43.** 66.1106 (1) (fm) of the statutes is created to read:

22 66.1106 (1) (fm) “Environmental remediation tax incremental district” means
23 a contiguous geographic area within a political subdivision defined and created by
24 resolution of the governing body of the political subdivision consisting solely of whole
25 units of property as are assessed for general property tax purposes, other than

ASSEMBLY BILL 478**SECTION 43**

1 railroad rights-of-way, rivers, or highways. Railroad rights-of-way, rivers, or
2 highways may be included in an environmental remediation tax incremental district
3 only if they are continuously bounded on either side, or on both sides, by whole units
4 of property as are assessed for general property tax purposes which are in the
5 environmental remediation tax incremental district. “Environmental remediation
6 tax incremental district” does not include any area identified as a wetland on a map
7 under s. 23.32.

8 **SECTION 44.** 66.1106 (1) (g) of the statutes is amended to read:

9 66.1106 (1) (g) “Environmental remediation value increment” means the
10 equalized value of a ~~parcel of real~~ taxable property that is certified under this section
11 minus the environmental remediation tax incremental base. In any year, the
12 environmental remediation value increment is “positive” if the environmental
13 remediation tax incremental base of the ~~parcel of~~ taxable property is less than the
14 aggregate value of the ~~parcel of~~ taxable property as equalized by the department; it
15 is “negative” if that base exceeds that aggregate value.

16 **SECTION 45.** 66.1106 (1) (i) of the statutes is amended to read:

17 66.1106 (1) (i) “Period of certification” means a period of not more than ~~16~~ 23
18 years beginning after the department certifies the environmental remediation tax
19 incremental base of a ~~parcel of property~~ under sub. (4) or a period before all eligible
20 costs have been paid, whichever occurs first.

21 **SECTION 46.** 66.1106 (1) (jm) of the statutes is created to read:

22 66.1106 (1) (jm) “Project expenditures” means the sum of eligible costs and all
23 other costs incurred by a political subdivision in the creation and operation of an
24 environmental remediation tax incremental district.

25 **SECTION 47.** 66.1106 (1) (k) of the statutes is amended to read:

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

3 **SECTION 48.** 66.1106 (1m) of the statutes is created to read:

4 66.1106 (1m) CREATION OF ENVIRONMENTAL REMEDIATION TAX INCREMENTAL
5 DISTRICTS. In order to implement the provisions of this section, the governing body
6 of the political subdivision shall adopt a resolution which does all of the following:

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

10 (b) Creates such district as of a date therein provided. If the resolution is
11 adopted during the period between January 2 and September 30, then such date
12 shall be the next preceding January 1. If such resolution is adopted during the period
13 between October 1 and December 31, then such date shall be the next subsequent
14 January 1. If the resolution is adopted on January 1, the environmental remediation
15 tax incremental district shall be created as of the date of the resolution.

16 **SECTION 49.** 66.1106 (2) (a) of the statutes is amended to read:

17 66.1106 (2) (a) A political subdivision that develops, and whose governing body
18 approves, a written proposal to remediate environmental pollution may use an
19 environmental remediation tax increment to pay the eligible costs of remediating
20 environmental pollution on contiguous parcels of property that are located in an
21 environmental remediation tax incremental district within the political subdivision
22 and that are not part of a tax incremental district created under s. 66.1105, as
23 provided in this section, except that a political subdivision may use an
24 environmental remediation tax increment to pay the cost of remediating
25 environmental pollution of groundwater without regard to whether the property

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1 above the groundwater is owned by the political subdivision. No political subdivision
2 may submit an application to the department under sub. (4) until the joint review
3 board approves the political subdivision's written proposal under sub. (3).

4 **SECTION 50.** 66.1106 (4) (intro.) of the statutes is amended to read:

5 66.1106 (4) CERTIFICATION. (intro.) Upon written application to the department
6 of revenue by the clerk of a political subdivision on or before ~~April 1 of the year~~
7 ~~following the year in which the certification described in par. (a) is received from the~~
8 ~~department of natural resources~~ December 31 of the year the environmental
9 remediation tax incremental district is created, as determined under sub. (1m) (b),
10 except that if the environmental remediation tax incremental district is created
11 during the period between October 1 and December 31, on or before December 31 of
12 the following year, the department of revenue shall certify to the clerk of the political
13 subdivision the environmental remediation tax incremental base of a parcel of real
14 property if all of the following apply:

15 **SECTION 51.** 66.1106 (4) (b) of the statutes is amended to read:

16 66.1106 (4) (b) The political subdivision submits a statement that all taxing
17 jurisdictions with the authority to levy general property taxes on the parcel or
18 contiguous parcels of property have been notified that the political subdivision
19 intends to recover the costs of remediating environmental pollution on the property
20 and have been provided a statement of the estimated costs to be recovered.

21 **SECTION 52.** 66.1106 (7) (a) of the statutes is amended to read:

22 66.1106 (7) (a) Subject to pars. (b), (c) and (d), the department shall annually
23 authorize the positive environmental remediation tax increment with respect to a
24 parcel or contiguous parcels of property during the period of certification to the
25 political subdivision that incurred the costs to remediate environmental pollution on

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1 the property, except that an authorization granted under this paragraph does not
2 apply after the department receives the notice described under sub. (10) (b).

3 **SECTION 53.** 66.1106 (7) (d) 1. of the statutes is amended to read:

4 66.1106 (7) (d) 1. The department may not authorize a positive environmental
5 remediation tax increment under par. (a) to pay otherwise eligible costs that are
6 incurred by the political subdivision after the department of natural resources
7 certifies to the department of revenue that environmental pollution on the parcel or
8 contiguous parcels of property has been remediated unless the costs are associated
9 with activities, as determined by the department of natural resources, that are
10 necessary to close the site described in the site investigation report.

11 **SECTION 54.** 66.1106 (9) of the statutes is amended to read:

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

23 **SECTION 55.** 66.1106 (10) (a) of the statutes is amended to read:

24 66.1106 (10) (a) Prepare and make available to the public updated annual
25 reports describing the status of all projects to remediate environmental pollution

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1 funded under this section, including revenues and expenditures. A copy of the report
2 shall be sent to all taxing jurisdictions with authority to levy general property taxes
3 on the parcel or contiguous parcels of property by May 1 annually.

4 **SECTION 56.** 66.1106 (10) (b) of the statutes is amended to read:

5 66.1106 (10) (b) Notify the department within 10 days after the period of
6 certification for a parcel or contiguous parcels of property has expired.

7 **SECTION 57.** 66.1106 (10) (c) of the statutes is created to read:

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

17 **SECTION 58.** 66.1106 (10) (d) of the statutes is created to read:

18 66.1106 (10) (d) Not later than February 15 of the year after the year in which
19 an environmental remediation tax incremental district terminates under sub. (11),
20 provide the department with all of the following on a form that is prescribed by the
21 department:

22 1. A final accounting of project expenditures that are made for the
23 environmental remediation tax incremental district.

24 2. The final amount of eligible costs that have been paid for the environmental
25 remediation tax incremental district.

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1 ~~8. The total amount of environmental remediation tax increments that have~~
2 ~~been paid to the political subdivision.~~

3 **SECTION 59.** 66.1106 (11) of the statutes is created to read:

4 66.1106 (11) TERMINATION OF ENVIRONMENTAL REMEDIATION TAX INCREMENTAL
5 DISTRICTS. An environmental remediation tax incremental district terminates when
6 the earliest of the following occurs:

7 (a) The political subdivision has received aggregate environmental
8 remediation tax increments with respect to the district in an amount equal to the
9 aggregate of all eligible costs.

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

12 (c) The political subdivision's legislative body, by resolution, dissolves the
13 district. Upon dissolving the district, the political subdivision becomes liable for all
14 unpaid eligible costs actually incurred which are not paid from the separate fund
15 under sub. (9).

16 **SECTION 60.** 66.1106 (12) of the statutes is created to read:

17 66.1106 (12) (a) NOTICE OF DISTRICT TERMINATION. A political subdivision that
18 creates an environmental remediation tax incremental district under this section
19 shall give the department written notice within 10 days of the termination of the
20 environmental remediation tax incremental district under sub. (11).

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

25 **SECTION 61.** 66.1106 (13) of the statutes is created to read:

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SECTION 61

1 66.1106 (13) PAYMENT OF ELIGIBLE COSTS FOR ANNEXED TERRITORY,
2 REDETERMINATION OF TAX INCREMENTAL BASE. If a city or village annexes territory from
3 a town and if the town is using an environmental remediation tax increment to
4 remediate environmental pollution on all or part of the territory that is annexed, the
5 city or village shall pay to the town that portion of the eligible costs that are
6 attributable to the annexed territory. The city or village, and the town, shall
7 negotiate an agreement on the amount that must be paid under this subsection. The
8 department shall redetermine the environmental tax incremental base of any parcel
9 of real property for which the environmental remediation tax incremental base was
10 determined under sub. (4) if part of that parcel is annexed under this subsection.

11 ^A
SECTION 62. 73.03 (57) of the statutes is created to read:

12 73.03 (57) To create, and update, a manual on the tax incremental finance
13 program under s. 66.1105. The manual shall contain the rules relating to the
14 program, common problems faced by cities and villages under the program, possible
15 side effects of the use of tax incremental financing, and any other information the
16 department determines is appropriate. The department may consult with, and
17 solicit the views of, any interested person while preparing or updating the manual.

18 ~~**SECTION 63.** 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 personal property taxes for
3 each environmental remediation tax incremental district created by the county.

4 **SECTION 64.** 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 personal property taxes for each environmental remediation tax incremental district
14 created by the county.

15 **SECTION 65.** 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 real property taxes for each environmental remediation tax
24 incremental district created by the county.

25 **SECTION 66.** 74.30 (1) (i) of the statutes is amended to read:

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SECTION 66

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 personal property taxes for each environmental remediation tax incremental district
10 created by the county.

11 **SECTION 67.** 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 real property taxes for each environmental remediation tax incremental
20 district created by the county.

21 **SECTION 68.** 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 real property taxes for each environmental remediation tax incremental
6 district created by the county.

7 **SECTION 69.** 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 70.** 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 71.** 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 72. Nonstatutory provisions.** ~~_____~~

21 (1) The authorized FTE positions for the department of revenue are increased
22 by 1.0 PR position to be funded from the appropriation under section 20.566 (1) (go)
23 of the statutes, as created by this act, for the purpose of performing services related
24 to tax incremental districts.

25 **SECTION 73. Initial applicability.**

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1 (1) Except as provided in subsections (2) and (4), this act first applies to a tax
2 incremental district that is in existence on the effective date of this subsection or that
3 is created on the effective date of this subsection.

4 (2) Except as provided in subsection (4), the treatment of section 66.1105 (2) (f)
5 1. i. and 2. d., (3) (e) and (g), (4) (e), (gm) 1. and 6., and (h) 2., (4m) (a),
6 2., 2m., 4., and 5., (5) (a) (as it relates to the department of revenue's certification of
7 a tax incremental base), (b), (c), and (ce), (6) (e) 1. d. and 2., (7) (am), and (ar),
8 and (8) (title), (c), and (d) of the statutes, the renumbering and amendment of section
9 66.1105 (6) (a) and (am) 1. of the statutes, and the creation of section 66.1105 (6) (a)
10 5) and (am) 1. c. of the statutes first apply to a tax incremental district that is created
11 on October 1, 2004.

12 (3) This act first applies to an environmental remediation tax incremental
13 district, the written remediation proposal for which is approved by the political
14 subdivision's governing body on the effective date of this subsection.

15 (4) The treatment of section 66.1105 (2) (f) 1. i. and 2. d., (4) (gm) 1. and (h) 2.,
16 (4m) (b) 2. and 4., (5) (b), (c), and (ce), and (6) (e) 1. d. of the statutes first applies to
17 the amendment of a tax incremental district's project plan that takes effect on
18 October 1, 2004.

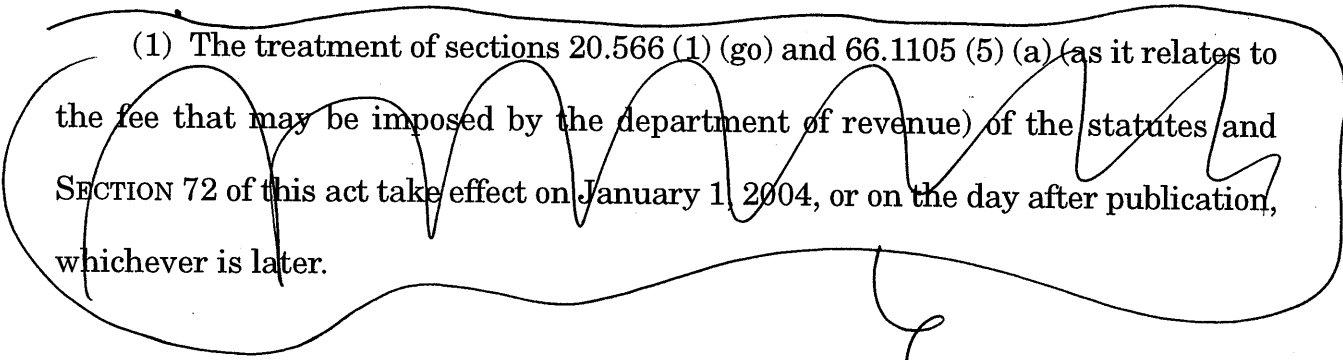
19 **SECTION 74. Effective dates.** This act takes effect on the first day of the 4th
20 month beginning after publication, except as follows:

21 (1) The treatment of sections 20.566 (1) (go) and 66.1105 (5) (a) (as it relates to
22 the fee that may be imposed by the department of revenue) of the statutes and
23 SECTION 72 of this act take effect on January 1, 2004, or on the day after publication,
24 whichever is later.

(a) ~~STATUTE~~
AND (b) ~~STATUTE~~

(ae), ~~am~~ and (a)

e applies



ASSEMBLY BILL 478

sections 59.57(3) and

1
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(2) The treatment of section 66.1105 (2) (f) 1. i. and 2. d., (3) (e) and (g), (4) (e),
 (gm) 1., 4. a. ^{and c.} and 6., and (h) 2., (4m) (a), (am), (b) 2., 2m., 4. and 5., (5) (a) (as it relates
 to the department of revenue's certification of a tax incremental base), (b), (c), and
 (ce), (6) (e) 1. d. and 2., (7) (ae) (am), and (ar), and (8) (title), (c), and (d) of the statutes,
 the renumbering and amendment of section 66.1105 (6) (a) and (am) 1. of the
 statutes, and the creation of section 66.1105 (6) (a) 5. and (am) 1. c. of the statutes
 take^s effect on October 1, 2004, or on the day after publication, whichever is later.

(END)

(a) (intro.), 3., and 6.,
 (am) 1., and

D. Note

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INSERT ANL-1

3. Changes from 10 days to 60 days the time period in which a city or village must notify DOR of a TID's termination.

INSERT ANL-2

4. Authorizes a county that is not included in a metropolitan statistical area to create a TID in a town, if the town board agrees, if all contiguous cities and villages agree, and if the town and such cities and villages enter into a cooperative plan boundary agreement.

5. Specifies that, generally, the public schools representative to the joint review board ~~be~~^{is} the school board president or the president's designee; that the county representative ~~would be~~^{is} the county executive if there is one, or the county board chair, or the executive's, or board chair's designee; that the city or village representative ~~would be~~^{is} the mayor or village board president, or a designee; and that the technical college representative ~~would be~~^{is} the director or the director's designee.

AS project costs,
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6. Repeals a provision which currently prohibits ~~in the inclusion of project costs~~ expenditures or monetary obligations for newly platted residential development ~~for~~ a TID, ~~the~~ project plan ~~of which~~ is approved after September 30, 1995.

7. Changes the limits on how much of a city's or village's equalized value may be contained within a TID. ~~seven~~ ^{seven} ~~ten~~ ^{ten}

8. Allows TIDs to make expenditures for project costs at any time ~~up to~~ ^{two} years before the TID's mandatory termination date. Currently, in general, TIDs may make expenditures only for ~~7~~ or ~~10~~ years after the TID is created, depending on whether the TID was created after September 30, 1995, or before October 1, 1995.

9. Extends from 23 years to 27 years the maximum life of a "blighted area" or "rehabilitation or conservation" TID, and reduces from 23 years to 20 years the maximum life of an "industrial site" or "mixed-use development" TID. In the 18th year of an industrial or mixed use TID's life, however, the creating city or village may ask the joint review board to extend the TID's life up to five years. The joint review board ~~choose~~ ^{may} to extend such a TID's life for one to five years, or may reject the city's or village's request.

10. Allows taxing jurisdictions that contain taxable property within an industrial or mixed-use TID to elect to tax in their jurisdiction up to 25% of the value increment of the TID if the election is made before the TID is created. If such an election is made, the amount that the overlying taxing jurisdiction taxes is subtracted from the city's or village's tax increment that is allocated by DOR.

11. Authorizes a TID's project plan to be amended at any time during the TID's life ~~to~~ allow the addition or subtraction of territory from the TID. Currently, a TID's project plan may only be so amended once, and only during the TID's first seven years of existence.

up to four times,

INSERT ANL-3

13. Subject to joint review board approval, allows a TID that has paid all of its project costs, but has not otherwise reached its mandatory termination date, to share its positive tax increments with certain other TIDs that share its overlying taxing jurisdictions.

INSERT 6-2

SECTION 1. 59.57 (3) of the statutes is created to read:

59.57 (3) COUNTY TAX INCREMENT POWERS. (a) Subject to par. (b), a county that is completely outside of a metropolitan statistical area, as defined in s. 560.70 (5), may exercise all powers of ^(a) cities under s. 66.1105. If ^(a) the county board exercises the powers of a city under s. 66.1105, ^(a) it is subject to the same duties as a common council under s. 66.1105, and the county is subject to the same duties and liabilities as a city under s. 66.1105.

(b) A county that wishes to create a tax incremental district as provided in par. (a) may do so only in a town whose board has approved the creation of such a district and only if all of the following occur:

1. The common council^s of every city that is contiguous to the town and the village board^s of every village that is contiguous to the town adopt resolutions approving of the creation of a tax incremental district in the town.

2. The town and every city and village that is contiguous to the town enter into a cooperative plan boundary agreement under s. 66.0307.

^{cities} ****NOTE: Do you want to require that in the cooperative plan under subd. 2., the city and village must agree not to annex any part of the town that is in the TID until the TID terminates?

INSERT 13-8

SECTION 2. 66.1105 (4m) (ae) of the statutes is created to read:

66.1105 (4m) (ae) 1. [^] ~~The~~ ^(A) representative chosen by ~~the~~ ^(a) school district ~~described~~
 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 ~~described~~ 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.

5. If a county creates a ^{tax incremental} district ~~as authorized~~ under s. 59.57 (3), the joint review
 board for that district shall have an additional representative who shall be chosen
 by the city or village which has the longest contiguous border with the town.

****NOTE: Your instructions don't specify how the city or village member of a joint
 review board for a county-created TID shall be selected. Is subd. 5. consistent with your
 intent? Also, I believe that such a joint review board would ~~also~~ have ^{two} county members

two

— the one specified for counties in sub. (4m) (a), and the one specified for the creating city, because the county is acting as the city. Is this OK? Do you want to specify that one of the "county" members be from the town?

INS 19-8

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

66.1105 (6) (ae) 1. After the chief executive officer^s or administrator^s of ^{stet: leave as typed} all local governmental entities^s having the power to levy taxes on property within the ^{proposed} district ^{have been sent} receive copies of the notice described under sub. (4) (d), each such local governmental entity may adopt a resolution that entitles it to levy a tax on the taxable property in ^{either} the ^{proposed} district as calculated under subd. 2. ^{if the district is ~~any~~ suitable for industrial sites or mixed-use development.} No resolution may be adopted under this paragraph after ^{the} a local legislative body adopts a resolution under sub. (4) (gm).

2. A tax ^{imposed} under subd. 1. ^{may} shall be up to 25 percent of the value increment ^{levied by a local governmental entity} of the district multiplied by a fraction, the numerator of which is ^{the} that local governmental entity's local general property taxes levied on all taxable property within ^{the} a district and the denominator of which is the total general property taxes levied on all taxable property within ^{the} a district.

3. If any local governmental entity ^{levies} imposes a tax under this paragraph, the amount of the tax that it collects shall be subtracted from a city's tax increment that is allocated under par. (a).

4. If a planning commission amends a project plan under sub. (4) (h), a local governmental entity that is ^{levying} collecting a tax under this paragraph may adopt a resolution that discontinues the ^{levy} collection of that tax, and a local governmental entity that is not ^{levying} collecting a tax under this paragraph may adopt a resolution that entitles it to levy a tax under this paragraph. No resolution may be adopted under this ^{the} paragraph after a local legislative body approves the amendment of the district's project plan.

INS 19-22

SECTION 4. 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 to satisfy claims of holders of bonds or notes issued with respect to such district. Subject to par. (d), (dm) or (e), moneys paid out of the fund to pay project costs with respect to a district may be paid out before or after the district is terminated under sub. (7). Subject to any agreement with bondholders, moneys in the fund may be temporarily invested in the same manner as other city funds if any investment earnings are applied to reduce project costs. After all project costs and all bonds and notes with respect to the district have been paid or the payment thereof provided for, subject to any agreement with bondholders, if there remain in the fund any moneys that are not allocated under par. (d), (dm) or (e), they shall be paid over to the treasurer of each county, school district or other tax levying municipality or to the general fund of the city in the amounts that belong to each respectively, having due regard for that portion of the moneys, if any, that represents tax increments not allocated to the city and that portion, if any, that represents voluntary deposits of the city into the fund.

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, 11, 16, 104.

INS 20-5

SECTION 5. 66.1105 (6) (f) of the statutes is created to read:

66.1105 (6) (f) 1. ~~(intro.)~~ 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 that has paid off all of its project costs 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.

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2. An allocation of tax increments under this paragraph may be used by the recipient district only if one or more 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, in any year, may not exceed the donor district's project costs, plus debt service paid on the donor district's project costs, in that year.

****NOTE: This subd. 3. may work better with a limit of the donor district's project costs, plus debt service paid on the costs, in the prior year because no such sharing may occur unless the donor TID has paid off all of its project costs. Also, as drafted, par. (f) applies to existing and newly-created TIDs. Is this your intent?

SECTION 6. 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.

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, 11, 16, 104; 2003 a. 34.

SECTION 7. 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 one to ⁵ ~~five~~ years. The joint review board may deny the request or may extend the life of the district for one to ⁵ ~~five~~ years. 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).

INSERT 21-2

SECTION 8. 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 ~~10~~ 60 days of the termination of the tax incremental district under sub. (7).

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, 11, 16, 104; 2003 a. 34.

INSERT 33-24

SECTION 9. Laws of 1975, chapter 105, section 1 (1) and (2) are amended to read:

[Laws of 1975, chapter 105] Section 1 (1) The legislature finds that the existing system of allocating aggregate property tax revenues among tax levying municipalities has resulted in significant inequities and disincentives. The cost of public works or improvements within a city ~~or~~, village, town, or county has been borne entirely by the city ~~or~~, village, town, or county while the expansion of tax base which is stimulated, directly or indirectly, by such improvements, benefits not only the city ~~or~~, village, town, or county but also all municipalities which share such tax base. This situation is inequitable. Moreover, when the cost to a city ~~or~~, village, town, or county of a public improvement project exceeds the future benefit to the city ~~or~~, village, town, or county resulting therefrom, the city ~~or~~, village, town, or county may decide not to undertake such project. This situation has resulted in the postponement or cancellation of socially desirable projects.

(2) The legislature further finds that accomplishment of the vital and beneficial public purposes of sections 66.405 to 66.425, 66.43, 66.431, 66.435 and 66.52 of the statutes, is being frustrated because of a lack of incentives and financial resources. The purpose of this act is to create a viable procedure by which a city ~~or~~, village, town, or county, through its own initiative and efforts, may finance projects which will tend to accomplish these laudable objectives.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3137/?dn

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Senator Stepp:

** ← add 1 more "star"*

This bill is based on AB 473, as modified by the instructions contained in Bill Ford's September 5, 2003 memo. I have a number of questions, some of which appear as "***Notes" in the text of the bill.

The first instruction specifies that various members of the joint review board be an office holder (i.e., the school board president, mayor, county executive, technical college director) or his or her designee, and further requires that if a designee is appointed, the appointing authority must "give preference" to certain people (i.e. the school district's finance director or another person with knowledge of local government finances). See created s. 66.1105 (4m) (ae). ✓

The "give preference" language doesn't seem to have much legal effect, and I'm not sure what legal effect you intend for this paragraph to have. I don't know what it means to "require" someone to "give preference." You're not really requiring that a school board president's designee, for example, be the school district's finance director or another person with knowledge of local government finances. Under the requested language, I believe that the school board president could appoint anyone he or she wants as his or her designee. If challenged, he or she could say, "Well, I gave preference to the district's finance director, but when I weighed all the variables I decided that Jane Doe, who has no background in finance, but great political instincts, really is the better choice for our school district." Is this potential result consistent with your intent?

DDR raised a number of technical issues in a technical memo related to AB 478, the base document for this bill. You may wish to have DDR review this bill before it is redrafted.

Marc E. Shovers
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3137/P1dn

MES:cjs:pg

September 17, 2003

Senator Stepp:

This bill is based on AB 473, as modified by the instructions contained in Bill Ford's September 5, 2003 memo. I have a number of questions, some of which appear as "****Notes" in the text of the bill.

The first instruction specifies that various members of the joint review board be an office holder (i.e., the school board president, mayor, county executive, technical college director) or his or her designee, and further requires that if a designee is appointed, the appointing authority must "give preference" to certain people (i.e. the school district's finance director or another person with knowledge of local government finances). See created s. 66.1105 (4m) (ae).

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