

**SENATE SUBSTITUTE AMENDMENT 1,
TO 2003 SENATE BILL 305**

November 13, 2003 – Offered by Senator STEPP.

1 **AN ACT to repeal** 66.1105 (4) (h) 3., 66.1105 (6) (a) 3. and 66.1105 (6) (e) 2.; **to**
2 **renumber and amend** 66.1105 (2) (f) 3.; **to amend** 66.1105 (2) (f) 1. i., 66.1105
3 (4) (e), 66.1105 (4) (gm) 1., 66.1105 (4) (gm) 4. a., 66.1105 (4) (gm) 4. c., 66.1105
4 (4) (h) 1., 66.1105 (4) (h) 2., 66.1105 (4m) (a), 66.1105 (4m) (b) 2., 66.1105 (4m)
5 (b) 2m., 66.1105 (5) (a), 66.1105 (5) (b), 66.1105 (5) (c), 66.1105 (5) (ce), 66.1105
6 (5) (d), 66.1105 (6) (a) 4., 66.1105 (6) (c), 66.1105 (7) (a), 66.1105 (7) (ar), 66.1105
7 (8) (title) and 66.1105 (8) (a); **to repeal and recreate** 66.1105 (6) (am) 1. and
8 66.1105 (7) (am); and **to create** 66.1105 (2) (cm), 66.1105 (2) (f) 2. d., 66.1105
9 (2) (f) 3. a. to c., 66.1105 (3) (g), 66.1105 (4) (gm) 6., 66.1105 (4m) (ae), 66.1105
10 (4m) (am), 66.1105 (4m) (b) 4., 66.1105 (6) (a) 7., 66.1105 (6) (a) 8., 66.1105 (6)
11 (e) 1. d., 66.1105 (6) (f), 66.1105 (8) (c), 66.1105 (8) (d), 66.1105 (15) and 66.1106
12 (13) of the statutes; **relating to:** making technical and policy changes in the tax
13 incremental financing program based in part on the recommendations of the

1 governor's December 2000 working group on tax incremental finance,
2 authorizing certain counties to create tax incremental financing districts, and
3 making a modification to the environmental remediation tax incremental
4 financing program.

Analysis by the Legislative Reference Bureau

Under the current tax incremental financing (TIF) program, a city or village may create a tax incremental district (TID) in part of its territory to foster development if at least 50 percent 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, 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 substitute amendment makes a number of technical and substantive changes to the TIF program. Among the technical changes, the substitute amendment 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. Changes from 10 days to 60 days the time period in which a city or village must notify DOR of a TID’s termination.

4. 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 the time period agreed on by the city or village and DOR, DOR may not certify the tax incremental base of any other TID in the city or village.

Among the substantive changes, the substitute amendment does the following:

1. Authorizes a city or village to create a TID if at least 50 percent 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 newly platted residential portion consists of no more than 35 percent, by area, of the real property within the district.

2. Specifies that, generally, the public schools representative to a TID’s joint review board is the school board president or the president’s designee; that the county representative 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 is the mayor or village board president, or a designee; that for a TID created by a county in a town, the town chooses a representative; and that the technical college representative is the director or the director’s designee.

3. Expands a provision which currently allows the inclusion, as project costs, of expenditures or monetary obligations for newly platted residential development of a TID for which a project plan is approved before September 30, 1995, to also allow the inclusion of such expenditures or obligations for mixed-use development TIDS that have a certain housing density or are located in a conservation subdivision or a traditional neighborhood development.

4. Changes the limits on how much of a city’s or village’s equalized value may be contained within a TID, although the limit does not apply if a city or village subtracts territory from a TID.

5. Allows TIDs to make expenditures for project costs at any time up to five years before the TID's mandatory termination date. Currently, in general, TIDs may make expenditures only for seven or ten years after the TID is created, depending on whether the TID was created after September 30, 1995, or before October 1, 1995.

6. 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 for five years. The city or village may provide the joint review board with an independent audit that demonstrates that the district is unable to pay off its costs within its original 20 year life span. The joint review board may choose to approve or deny a request to extend a TID's life for five years but, if accompanied by an audit, the board must approve a request for a five-year extension.

7. Changes the period during which DOR may allocate positive tax increments for TIDs created on or after the effective date of the substitute amendment, from 23 years to 20 years after a TID's creation if the TID is classified as a mixed-use development or industrial TID, and from 23 to 27 years after a TID's creation if the TID is classified as a blighted area or rehabilitation or conservation TID.

8. Authorizes a TID's project plan to be amended at any time during the TID's life, up to four times, 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.

9. 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 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.

10. Subject to joint review board approval, allows a TID that has not otherwise reached its mandatory termination date, to share its positive tax increments with certain other TIDs that share its overlying taxing jurisdictions.

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

12. 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.

13. 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.

14. 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.

15. 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.

This substitute amendment also makes a technical modification to 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. Under the substitute amendment, 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 substitute amendment 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.** 66.1105 (2) (cm) of the statutes is created to read:

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

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

7 66.1105 (2) (f) 1. i. Payments made, in the discretion of the local legislative body,
8 which are found to be necessary or convenient to the creation of tax incremental
9 districts or the implementation of project plans, including payments made to a town
10 that relate to property taxes levied on territory to be included in a tax incremental
11 district as described in sub. (4) (gm) 1.

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

2 66.1105 **(2)** (f) 2. d. Cash grants made by the city to owners, lessees, or
3 developers of land that is located within the tax incremental district unless the grant
4 recipient has signed a development agreement with the city, a copy of which shall be
5 sent to the appropriate joint review board or, if that joint review board has been
6 dissolved, retained by the city in the official records for that tax incremental district.

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

9 66.1105 **(2)** (f) 3. (intro.) Notwithstanding subd. 1., project costs may ~~not~~ include
10 any expenditures made or estimated to be made or monetary obligations incurred or
11 estimated to be incurred by the city for newly platted residential development only
12 for any tax incremental district for which a project plan is approved ~~after~~ before
13 September 30, 1995, or for a mixed-use development tax incremental district to
14 which one of the following applies:

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

16 66.1105 **(2)** (f) 3. a. The density of the residential housing is at least 3 units per
17 acre.

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

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

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

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

1 (a) apply to a standing joint review board that is created under this paragraph. A
2 city may disband a joint review board that is created under this paragraph at any
3 time.

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

5 66.1105 (4) (e) At least ~~30~~ 14 days before adopting a resolution under par. (gm),
6 holding of a public hearing by the planning commission at which interested parties
7 are afforded a reasonable opportunity to express their views on the proposed project
8 plan. The hearing may be held in conjunction with the hearing provided for in par.

9 (a). If the city anticipates that the proposed project plan's project costs may include
10 cash grants made by the city to owners, lessees, or developers of land that is located
11 within the tax incremental district, the hearing notice shall contain a statement to
12 that effect. Notice of the hearing shall be published as a class 2 notice, under ch. 985.

13 The notice shall include a statement advising that a copy of the proposed project plan
14 will be provided on request. Before publication, a copy of the notice shall be sent by
15 1st class mail to the chief executive officer or administrator of all local governmental
16 entities having the power to levy taxes on property within the district and to the
17 school board of any school district which includes property located within the
18 proposed district. For a county with no chief executive officer or administrator, notice
19 shall be sent to the county board chairperson.

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

21 66.1105 (4) (gm) 1. Describes the boundaries, which may, but need not, be the
22 same as those recommended by the planning commission, of a tax incremental
23 district with sufficient definiteness to identify with ordinary and reasonable
24 certainty the territory included in the district. The boundaries of the tax incremental
25 district may not include any annexed territory that was not within the boundaries

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

1 abandoned Park West freeway corridor in Milwaukee County, or property that is
2 contaminated by environmental pollution, as defined in s. 66.1106 (1) (d).

3 **SECTION 9.** 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 mixed-use development; and

9 **SECTION 10.** 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 the value increment of all existing districts does not exceed 7% 12
12 percent of the total equalized value of taxable property within the city ~~or the~~
13 ~~equalized value of taxable property of the district plus the value increment of all~~
14 ~~existing districts within the city does not exceed 5% of the total equalized value of~~
15 ~~taxable property within the city, except if a city subtracts territory from a district~~
16 under par. (h) 2., the 12 percent limit does not apply to that finding. In determining
17 the equalized value of taxable property under this subd. 4. c., the department of
18 revenue shall base its calculations on the most recent equalized value of taxable
19 property of the district that is reported under s. 70.57 (1m) before the date on which
20 the resolution under this paragraph is adopted.

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

22 66.1105 (4) (gm) 6. Declares that the district is a blighted area district, a
23 rehabilitation or conservation district, an industrial district, or a mixed-use district
24 based on the identification and classification of the property included within the
25 district under par. (c) and subd. 4. a. If the district is not exclusively blighted,

1 rehabilitation or conservation, industrial, or mixed use, the declaration under this
2 subdivision shall be based on which classification is predominant with regard to the
3 area described in subd. 4. a.

4 **SECTION 12.** 66.1105 (4) (h) 1. of the statutes, as affected by 2003 Wisconsin Act
5 34, is amended to read:

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

22 **SECTION 13.** 66.1105 (4) (h) 2. of the statutes, as affected by 2003 Wisconsin Act
23 34, is amended to read:

24 66.1105 (4) (h) 2. Except as provided in subds. ~~3., 4., and 5., not more than once~~
25 ~~during the 7 years after the tax incremental district is created,~~ the planning

1 commission may adopt an amendment to a project plan under subd. 1. to modify the
2 district's boundaries, not more than 4 times during the district's existence, by
3 subtracting territory from the district in a way that does not remove contiguity from
4 the district or by adding territory to the district that is contiguous to the district and
5 that is served by public works or improvements that were created as part of the
6 district's project plan. ~~Expenditures for project costs that are incurred because of an~~
7 ~~amendment to a project plan to which this subdivision applies may be made for not~~
8 ~~more than 3 years after the date on which the local legislative body adopts a~~
9 ~~resolution amending the project plan.~~

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

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

12 66.1105 **(4m)** (a) Any city that seeks to create a tax incremental district or
13 amend a project plan shall convene a temporary joint review board under this
14 paragraph, or a standing joint review board under sub. (3) (g), to review the proposal.
15 The Except as provided in par. (am), and subject to par. (ae), the board shall consist
16 of one representative chosen by the school district that has power to levy taxes on the
17 property within the tax incremental district, one representative chosen by the
18 technical college district that has power to levy taxes on the property within the tax
19 incremental district, one representative chosen by the county that has power to levy
20 taxes on the property within the tax incremental district, one representative chosen
21 by the city, and one public member. If more than one school district, more than one
22 union high school district, more than one elementary school district, more than one
23 technical college district or more than one county has the power to levy taxes on the
24 property within the tax incremental district, the unit in which is located property of
25 the tax incremental district that has the greatest value shall choose that

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

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

11 66.1105 (**4m**) (ae) 1. A representative chosen by a school district under par. (a)
12 or (am) shall be the president of the school board, or his or her designee. If the school
13 board president appoints a designee, he or she shall give preference to the school
14 district's finance director or another person with knowledge of local government
15 finances.

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

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

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

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

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

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

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

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

24 66.1105 **(4m)** (b) 2m. The requirement under subd. 2. that a vote by the board
25 take place ~~not less than 10 days nor more than~~ within 30 days after receiving a

1 resolution does not apply to a resolution amending a project plan under sub. (4) (h)
2 1. if the resolution relates to a tax incremental district, the application for the
3 redetermination of the tax incremental base of which was made in 1998, that is
4 located in a village that was incorporated in 1912, has a population of at least 3,800
5 and is located in a county with a population of at least 108,000.

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

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

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

12 66.1105 (5) (a) Upon Subject to sub. (8) (d), upon the creation of a tax
13 incremental district or upon adoption of any amendment subject to par. (c), its tax
14 incremental base shall be determined as soon as reasonably possible.

15 **SECTION 22.** 66.1105 (5) (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

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 23.** 66.1105 (5) (c) of the statutes, as affected by 2003 Wisconsin Act
7 34, 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 subtracts territory from the district or which includes additional
10 project costs at least part of which will be incurred after the period specified in sub.
11 (6) (am) 1., the tax incremental base for the district shall be redetermined, if sub. (4)
12 (h) 2., 3., 4., or 5. applies to the amended project plan, either by subtracting from the
13 tax incremental base the value of the taxable property that is subtracted from the
14 existing district or by adding to the tax incremental base the value of the taxable
15 property and the value of real property owned by the city, other than property
16 described in par. (bm), that is added to the existing district under sub. (4) (h) 2., 3.,
17 4., or 5. or, if sub. (4) (h) 2., 3., 4., or 5. does not apply to the amended project plan,
18 under par. (b), as of the January 1 next preceding the effective date of the amendment
19 if the amendment becomes effective between January 2 and September 30, as of the
20 next subsequent January 1 if the amendment becomes effective between October 1
21 and December 31 and if the effective date of the amendment is January 1 of any year,
22 the redetermination shall be made on that date. ~~The~~ With regard to a district to
23 which territory has been added, the tax incremental base as redetermined under this
24 paragraph is effective for the purposes of this section only if it exceeds the original
25 tax incremental base determined under par. (b).

1 **SECTION 24.** 66.1105 (5) (ce) of the statutes, as affected by 2003 Wisconsin Act
2 34, 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 25.** 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

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 26.** 66.1105 (6) (a) 3. of the statutes, as affected by 2003 Wisconsin Acts
4 34 and 46, is repealed.

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

7 66.1105 (6) (a) 4. Twenty–three years after the tax incremental district is
8 created if the district is created after September 30, 1995, and before October 1,
9 2004.

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

11 66.1105 (6) (a) 7. Twenty years after the tax incremental district is created if
12 the district is created on or after the effective date of this subdivision ... [revisor
13 inserts date], and if the district is at least predominantly suitable for mixed–use
14 development or industrial sites under sub. (4) (gm) 6.

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

16 66.1105 (6) (a) 8. Twenty–seven years after the tax incremental district is
17 created if the district is created on or after the effective date of this subdivision ...
18 [revisor inserts date], and if the district is a district specified under sub. (4) (gm) 6.
19 other than a district specified under subd. 7.

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

22 66.1105 (6) (am) 1. Except as otherwise provided in this paragraph, no
23 expenditure may be made later than 5 years before the unextended termination date
24 of a tax incremental district under sub. (7) (am).

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

1 66.1105 **(6)** (c) Except for tax increments allocated under par. (d), (dm) or (e),
2 or (f) all tax increments received with respect to a tax incremental district shall, upon
3 receipt by the city treasurer, be deposited into a special fund for that district. The
4 city treasurer may deposit additional moneys into such fund pursuant to an
5 appropriation by the common council. No moneys may be paid out of such fund
6 except to pay project costs with respect to that district, to reimburse the city for such
7 payments, to pay project costs of a district under par. (d), (dm) or (e) or to satisfy
8 claims of holders of bonds or notes issued with respect to such district. Subject to par.
9 (d), (dm) or (e), moneys paid out of the fund to pay project costs with respect to a
10 district may be paid out before or after the district is terminated under sub. (7).
11 Subject to any agreement with bondholders, moneys in the fund may be temporarily
12 invested in the same manner as other city funds if any investment earnings are
13 applied to reduce project costs. After all project costs and all bonds and notes with
14 respect to the district have been paid or the payment thereof provided for, subject to
15 any agreement with bondholders, if there remain in the fund any moneys that are
16 not allocated under par. (d), (dm) or (e), they shall be paid over to the treasurer of each
17 county, school district or other tax levying municipality or to the general fund of the
18 city in the amounts that belong to each respectively, having due regard for that
19 portion of the moneys, if any, that represents tax increments not allocated to the city
20 and that portion, if any, that represents voluntary deposits of the city into the fund.

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

22 66.1105 **(6)** (e) 1. d. The donor tax incremental district is able to demonstrate,
23 based on the positive tax increments that are currently generated, that it has
24 sufficient revenues to pay for all project costs that have been incurred under the

1 project plan for that district and sufficient surplus revenues to pay for some of the
2 eligible costs of the recipient tax incremental district.

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

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

5 66.1105 **(6)** (f) 1. Not later than the date on which a tax incremental district
6 terminates under sub. (7) (am), a planning commission may amend under sub. (4) (h)
7 the project plan of a tax incremental district to allocate positive tax increments
8 generated by that tax incremental district to another tax incremental district
9 created by that planning commission if all of the following conditions are met:

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

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

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

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

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

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

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

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

4 66.1105 (7) (a) That time when the city has received aggregate tax increments
5 with respect to the district in an amount equal to the aggregate of all project costs
6 under the project plan and any amendments to the project plan for the district, except
7 that this paragraph does not apply to a district whose positive tax increments have
8 been allocated under sub. (6) (d), (dm) or (e), or (f) until the district to which the
9 allocation is made has paid off the aggregate of all of its project costs under its project
10 plan.

11 **SECTION 36.** 66.1105 (7) (am) of the statutes, as affected by 2003 Wisconsin Act
12 46, is repealed and recreated to read:

13 66.1105 (7) (am) 1. For a district about which a finding is made under sub. (4)
14 (gm) 4. a. that not less than 50 percent, by area, of the real property within the district
15 is a blighted area or in need of rehabilitation or conservation work, 27 years after the
16 district is created.

17 2. For a district about which a finding is made under sub. (4) (gm) 4. a. that not
18 less than 50 percent, by area, of the real property within the district is suitable for
19 industrial sites or mixed-use development, 20 years after the district is created,
20 except that during the 18th year of such a district's existence, the city that created
21 the district may request that the joint review board extend the life of the district for
22 an additional 5 years. Along with its request for a 5-year extension, the city may
23 provide the joint review board with an independent audit that demonstrates that the
24 district is unable to pay off its project costs within the 20 years after the district is
25 created. The joint review board may deny or approve a request to extend the life of

1 the district for 5 years if the request does not include the independent audit, and the
2 board shall approve a request to extend the life of the district for 5 years if the request
3 includes the audit. If the joint review board extends the district's life, the district
4 shall terminate at the earlier of the end of the extended period or the period specified
5 in par. (a).

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

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

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

12 66.1105 (8) (title) NOTICE OF DISTRICT TERMINATION, REPORTING REQUIREMENTS.

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

14 66.1105 (8) (a) A city which creates a tax incremental district under this section
15 shall give the department of revenue written notice within ~~10~~ 60 days of the
16 termination of the tax incremental district under sub. (7).

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

18 66.1105 (8) (c) After a city transmits to the department of revenue the notice
19 required under par. (a) the city and the department shall agree on a date by which
20 the city shall send to the department, on a form prescribed by the department, all of
21 the following information that relates to the terminated tax incremental district:

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

1 4. The total amount of project costs, if any, not paid for with tax increments that
2 became obligations of the city after the district was terminated.

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

4 66.1105 **(8)** (d) If a city does not send to the department of revenue the form
5 specified in par. (c) within the time limit agreed to by the city and the department
6 under par. (c), the department may not certify the tax incremental base of a tax
7 incremental district under sub. (5) (a) and (b) until the form is sent to the
8 department.

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

10 66.1105 **(15)** SUBSTANTIAL COMPLIANCE. Substantial compliance with subs. (3),
11 (4) (a), (b), (c), (d), (e), (f), and (h), (4m), and (5) (b) by a city that creates, or attempts
12 to create, a tax incremental district is sufficient to give effect to any proceedings
13 conducted under this section if, in the opinion of the department of revenue, any
14 error, irregularity, or informality that exists in the city's attempts to comply with
15 subs. (3), (4) (a), (b), (c), (d), (e), (f), and (h), (4m), and (5) (b) does not affect substantial
16 justice. If the department of revenue determines that a city has substantially
17 complied with subs. (3), (4) (a), (b), (c), (d), (e), (f), and (h), (4m), and (5) (b), the
18 department of revenue shall determine the tax incremental base of the district,
19 allocate tax increments, and treat the district in all other respects as if the
20 requirements under subs. (3), (4) (a), (b), (c), (d), (e), (f), and (h), (4m), and (5) (b) had
21 been strictly complied with based on the date that the resolution described under
22 sub. (4) (gm) 2. is adopted.

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

24 66.1106 **(13)** PAYMENT OF ELIGIBLE COSTS FOR ANNEXED TERRITORY,
25 REDETERMINATION OF TAX INCREMENTAL BASE. If a city or village annexes territory from

1 a town and if the town is using an environmental remediation tax increment to
2 remediate environmental pollution on all or part of the territory that is annexed, the
3 city or village shall pay to the town that portion of the eligible costs that are
4 attributable to the annexed territory. The city or village, and the town, shall
5 negotiate an agreement on the amount that must be paid under this subsection. The
6 department shall redetermine the environmental tax incremental base of any parcel
7 of real property for which the environmental remediation tax incremental base was
8 determined under sub. (4) if part of that parcel is annexed under this subsection.

9 **SECTION 44. Initial applicability.**

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

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

20 (3) The treatment of section 66.1105 (2) (f) 1. i. and 2. d., (4) (gm) 1. and (h) 2.,
21 (4m) (b) 2., (5) (b), (c), and (ce), and (6) (e) 1. d. of the statutes first applies to the
22 amendment of a tax incremental district's project plan that takes effect on October
23 1, 2004.

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

