

**SENATE SUBSTITUTE AMENDMENT 1,  
TO 2003 ASSEMBLY BILL 437**

**AN ACT** *to amend* 20.566 (1) (go); *to create* 60.85 of the statutes; and *to affect* Laws of 1975, chapter 105, section 1 (1) and (2); **relating to:** granting towns limited authority to create tax incremental financing districts.

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*Analysis by the Legislative Reference Bureau*

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***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, as created by 2003 Wisconsin Act 127,  
2 is amended to read:

3           20.566 **(1)** (go) Administration of tax incremental financing program. All  
4 moneys received from the fees imposed under ~~s.~~ ss. 60.85 (5) (a) and 66.1105 (5) (a)  
5 to pay the costs of the department of revenue in providing staff and administrative  
6 services associated with tax incremental districts under ~~s.~~ ss. 60.85 and 66.1105.

1           **SECTION 2.** 60.85 of the statutes is created to read:

2           **60.85 Town tax increment law. (1) DEFINITIONS.** In this section, unless a  
3 different intent clearly appears from the context:

4           (a) “Agricultural project” means agricultural activities classified in the North  
5 American Industry Classification System, 1997 edition, published by the U.S. office  
6 of management and budget, under the following industry numbers:

- 7           1. 111 – Crop production
- 8           2. 112 – Animal production
- 9           3. 1151 – Support activities for agriculture.
- 10          4. 1152 – Support activities for animal production.

11          (b) “Environmental pollution” has the meaning given in s. 299.01 (4).

12          (c) “Forestry project” means forestry activities classified in the North American  
13 Industry Classification System, 1997 edition, published by the U.S. office of  
14 management and budget, under the following industry numbers:

- 15          1. 113 – Forestry and logging.
- 16          2. 1153 – Support activities for forestry.

17          (d) “Highway” has the meaning provided in s. 340.01 (22).

18          (e) “Manufacturing project” means manufacturing activities classified in the  
19 North American Industry Classification System, 1997 edition, published by the U.S.  
20 office of management and budget, under the following industry numbers:

- 21          1. 3116 – Animal slaughtering and processing.
- 22          2. 321 – Wood product manufacturing
- 23          3. 322 – Paper manufacturing.
- 24          4. 325193 – Ethyl alcohol manufacturing.

25          (f) “Personal property” has the meaning prescribed in s. 70.04.

1 (g) “Planning commission” means a plan commission created under s. 62.23, if  
2 the town board exercises zoning authority under s. 60.62 or the town zoning  
3 committee under s. 60.61 (4) if the town board is not authorized to exercise village  
4 powers.

5 (h) 1. “Project costs” means, subject to sub. (2) (b), any expenditures made or  
6 estimated to be made or monetary obligations incurred or estimated to be incurred  
7 by the town which are listed in a project plan as costs of public works or  
8 improvements within a tax incremental district or, to the extent provided in subd.  
9 1. j., without the district, plus any incidental costs, diminished by any income, special  
10 assessments, or other revenues, including user fees or charges, other than tax  
11 increments, received or reasonably expected to be received by the town in connection  
12 with the implementation of the plan. Only a proportionate share of the costs  
13 permitted under this subdivision may be included as project costs to the extent that  
14 they benefit the tax incremental district. To the extent the costs benefit the town  
15 outside the tax incremental district, a proportionate share of the cost is not a project  
16 cost. “Project costs” include:

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

24 b. Financing costs, including, but not limited to, all interest paid to holders of  
25 evidences of indebtedness issued to pay for project costs and any premium paid over

1 the principal amount of the obligations because of the redemption of the obligations  
2 prior to maturity.

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

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

8 e. Imputed administrative costs, including, but not limited to, reasonable  
9 charges for the time spent by town employees in connection with the implementation  
10 of a project plan.

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

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

17 h. Payments made, in the discretion of the town board, which are found to be  
18 necessary or convenient to the creation of tax incremental districts or the  
19 implementation of project plans.

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

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

8           k. Costs for the removal, or containment, of lead contamination in buildings or  
9 infrastructure if the town declares that such lead contamination is a public health  
10 concern.

11           L. A fee imposed by the department of revenue under sub. (5) (a).

12           2. Notwithstanding subd. 1., none of the following may be included as project  
13 costs for any tax incremental district:

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

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

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

20           d. Cash grants made by the town to owners, lessees, or developers of land that  
21 is located within the tax incremental district.

22           (i) “Project plan” means the properly approved plan for the development or  
23 redevelopment of a tax incremental district, including all properly approved  
24 amendments thereto.

25           (j) “Real property” has the meaning prescribed in s. 70.03.

1           (k) “Residential development” means sleeping quarters, within a proposed tax  
2 incremental district, for employees who work for an employer engaged in a project  
3 that is allowed under sub. (2) (b) 1. to 4. but does not include hotels, motels, or general  
4 residential housing development within a proposed tax incremental district.

5           (L) “Tax increment” means that amount obtained by multiplying the total  
6 county, town, school, and other local general property taxes levied on all taxable  
7 property within a tax incremental district in a year by a fraction having as a  
8 numerator the value increment for that year in the district and as a denominator that  
9 year’s equalized value of all taxable property in the district. In any year, a tax  
10 increment is “positive” if the value increment is positive; it is “negative” if the value  
11 increment is negative.

12           (m) “Tax incremental base” means the aggregate value, as equalized by the  
13 department of revenue, of all taxable property located within a tax incremental  
14 district on the date as of which the district is created, determined as provided in sub.  
15 (5) (b).

16           (n) “Tax incremental district” means a contiguous geographic area within a  
17 town defined and created by resolution of the town board, consisting solely of whole  
18 units of property as are assessed for general property tax purposes, other than  
19 railroad rights-of-way, rivers or highways. Railroad rights-of-way, rivers or  
20 highways may be included in a tax incremental district only if they are continuously  
21 bounded on either side, or on both sides, by whole units of property as are assessed  
22 for general property tax purposes which are in the tax incremental district. “Tax  
23 incremental district” does not include any area identified as a wetland on a map  
24 under s. 23.32.

1 (o) “Taxable property” means all real and personal taxable property located in  
2 a tax incremental district.

3 (p) “Tourism project” means activities that involve retailers classified in the  
4 North American Industry Classification System, 1997 edition, published by the U.S.  
5 office of management and budget, under the following industry numbers:

- 6 1. 721214 — Recreational and vacation camps.
- 7 2. 721211 — Recreational vehicle parks and campgrounds.
- 8 3. 711212 — Racetracks.
- 9 4. Dairy product stores included in 445299.
- 10 5. Public golf courses included in 71391.

11 (q) “Value increment” means the equalized value of all taxable property in a tax  
12 incremental district in any year minus the tax incremental base. In any year “value  
13 increment” is positive if the tax incremental base is less than the aggregate value of  
14 taxable property as equalized by the department of revenue; it is negative if that base  
15 exceeds that aggregate value.

16 **(2) POWERS OF TOWNS.** (a) Subject to par. (b) and except as provided under par.  
17 (c) and in addition to any other powers conferred by law, a town may exercise any  
18 powers necessary and convenient to carry out the purposes of this section, including  
19 the power to:

- 20 1. Create tax incremental districts and define the boundaries of the districts.
- 21 2. Cause project plans to be prepared, approve the plans, and implement the  
22 provisions and effectuate the purposes of the plans.
- 23 3. Deposit moneys into the special fund of any tax incremental district.
- 24 4. Enter into any contracts or agreements, including agreements with  
25 bondholders, determined by the town board to be necessary or convenient to

1 implement the provisions and effectuate the purposes of project plans. The contracts  
2 or agreements may include conditions, restrictions, or covenants which either run  
3 with the land or which otherwise regulate the use of land.

4 5. Designate, by ordinance or resolution, the town industrial development  
5 agency, as agent of the town, to perform all acts under this section.

6 (b) The only projects for which a town may expend money or incur monetary  
7 obligations as a project cost are the following:

8 1. Agricultural projects.

9 2. Forestry projects.

10 3. Manufacturing projects.

11 4. Tourism projects.

12 5. Residential development, but only to the extent that it has a necessary and  
13 incidental relationship to a project listed in subds. 1. to 4.

14 6. Retail development that is limited to the retail sale of products that are  
15 produced due to a project that is developed under subd. 1., 2. or 3.

16 (c) No town may exercise any power under this subsection within the  
17 extraterritorial zoning jurisdiction of a city or village, as that term is defined in s.  
18 62.23 (7a) (a), unless the city's or village's governing body adopts a resolution which  
19 approves the town's exercise of power under this subsection within such an  
20 extraterritorial zoning jurisdiction.

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

24 (a) Holding of a public hearing by the planning commission at which interested  
25 parties are afforded a reasonable opportunity to express their views on the proposed



1 creation of a tax incremental district and the proposed boundaries of the district.  
2 Notice of the hearing shall be published as a class 2 notice, under ch. 985. Before  
3 publication, a copy of the notice shall be sent by first class mail to the chief executive  
4 officer or administrator of all local governmental entities having the power to levy  
5 taxes on property located within the proposed district and to the school board of any  
6 school district which includes property located within the proposed district. For a  
7 county with no chief executive officer or administrator, notice shall be sent to the  
8 county board chairperson.

9 (b) Designation by the planning commission of the boundaries of a tax  
10 incremental district recommended by it and submission of the recommendation to  
11 the town board.

12 (c) Identification of the specific property to be included in the proposed tax  
13 incremental district. Owners of the property identified shall be notified of the  
14 proposed finding and the date of the hearing to be held under par. (e) at least 15 days  
15 prior to the date of the hearing.

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

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

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

5 (f) Adoption by the planning commission of a project plan for each tax  
6 incremental district and submission of the plan to the town board. The plan shall  
7 include a statement listing the kind, number and location of all proposed public  
8 works or improvements within the district or, to the extent provided in sub. (1) (h)  
9 1. j., outside the district, an economic feasibility study, a detailed list of estimated  
10 project costs, and a description of the methods of financing all estimated project costs  
11 and the time when the related costs or monetary obligations are to be incurred. The  
12 plan shall also include a map showing existing uses and conditions of real property  
13 in the district; a map showing proposed improvements and uses in the district;  
14 proposed changes of zoning ordinances, master plan, if any, map, building codes and  
15 town ordinances; a list of estimated nonproject costs; and a statement of the proposed  
16 method for the relocation of any persons to be displaced. The plan shall indicate how  
17 creation of the tax incremental district promotes the orderly development of the  
18 town. The town shall include in the plan an opinion of the town attorney or of an  
19 attorney retained by the town advising whether the plan is complete and complies  
20 with this section.

21 (g) Approval by the town board of a project plan prior to or concurrent with the  
22 adoption of a resolution under par. (h). The approval shall be by resolution which  
23 contains findings that the plan is feasible and in conformity with the master plan,  
24 if any, of the town.

25 (h) Adoption by the town board of a resolution which:

1           1. Describes the boundaries, which may, but need not, be the same as those  
2 recommended by the planning commission, of a tax incremental district with  
3 sufficient definiteness to identify with ordinary and reasonable certainty the  
4 territory included in the district. The boundaries shall include only those whole  
5 units of property as are assessed for general property tax purposes.

6           2. Creates the district as of January 1 of the same calendar year for a resolution  
7 adopted before October 1 or as of January 1 of the next subsequent calendar year for  
8 a resolution adopted after September 30.

9           3. Assigns a name to the district for identification purposes. The first district  
10 created shall be known as “Tax Incremental District Number One, Town of .... in ....  
11 County”. Each subsequently created district shall be assigned the next consecutive  
12 number.

13           4. Declares the district to be either an agricultural project district, forestry  
14 project district, manufacturing project district, or tourism project district, and  
15 identifies the North American Industry Classification System industry number of  
16 each activity under each project for which project costs are to be expended.

17           5. Contains all of the following findings:

18           a. That not less than 75 percent, by area, of the real property within the district  
19 is to be used for projects of a single one of the project types listed under sub. (2) (b)  
20 1. to 4. and in accordance with the declaration under subd. 4.

21           b. That the improvement of the area is likely to enhance significantly the value  
22 of substantially all of the other real property in the district. It is not necessary to  
23 identify the specific parcels meeting the criteria.

1           c. That the project costs of the district are limited to those specified under sub.  
2 (2) (b) and relate directly to promoting agriculture, forestry, manufacturing, or  
3 tourism development.

4           d. That either the equalized value of taxable property of the district plus all  
5 existing districts does not exceed 7 percent of the total equalized value of taxable  
6 property within the town or the equalized value of taxable property of the district  
7 plus the value increment of all existing districts within the town does not exceed 5  
8 percent of the total equalized value of taxable property within the town.

9           6. Confirms that any real property within the district that is intended to be used  
10 for a manufacturing project is zoned for industrial use and will remain zoned for  
11 industrial use for the life of the tax incremental district.

12           (i) Review by a joint review board, acting under sub. (4), that results in its  
13 approval of the resolution under par. (h).

14           (j) 1. Subject to subd. 2., the planning commission may, by resolution, adopt an  
15 amendment to a project plan. The amendment is subject to approval by the town  
16 board and approval requires the same findings as provided in pars. (g) and (h). Any  
17 amendment to a project plan is also subject to review by a joint review board, acting  
18 under sub. (4). Adoption of an amendment to a project plan shall be preceded by a  
19 public hearing held by the plan commission at which interested parties shall be  
20 afforded a reasonable opportunity to express their views on the amendment. Notice  
21 of the hearing shall be published as a class 2 notice, under ch. 985. The notice shall  
22 include a statement of the purpose and cost of the amendment and shall advise that  
23 a copy of the amendment will be provided on request. Before publication, a copy of  
24 the notice shall be sent by 1st class mail to the chief executive officer or administrator  
25 of all local governmental entities having the power to levy taxes on property within

1 the district and to the school board of any school district which includes property  
2 located within the proposed district. For a county with no chief executive officer or  
3 administrator, this notice shall be sent to the county board chairperson.

4 2. Not more than once during the 5 years after the tax incremental district is  
5 created, the planning commission may adopt an amendment to a project plan under  
6 subd. 1. to modify the district's boundaries by adding territory to the district that is  
7 contiguous to the district and that is served by public works or improvements that  
8 were created as part of the district's project plan. Expenditures for project costs that  
9 are incurred because of an amendment to a project plan to which this subdivision  
10 applies may be made for not more than 2 years after the date on which the town board  
11 adopts a resolution amending the project plan.

12 (k) The town board shall provide the joint review board with the following  
13 information and projections:

14 1. The projects included in the district and the specific project costs, the total  
15 dollar amount of these project costs to be paid with the tax increments, and the  
16 amount of tax increments to be generated over the life of the tax incremental district.

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

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

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

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

4           (L) Calculation by the local assessor of the value of all tax-exempt town-owned  
5 property, except property described in sub. (5) (c), in the proposed tax incremental  
6 district, as of the day of the district's creation. This information shall be sent to the  
7 department of revenue for inclusion in the tax incremental district's tax incremental  
8 base that is determined under sub. (5) (b) or (d) 1.

9           **(4) JOINT REVIEW BOARD.** (a) 1. Any town that seeks to create a tax incremental  
10 district or amend a project plan shall convene a joint review board to review the  
11 proposal. Except as provided in subd. 2., and subject to par. (am), the joint review  
12 board shall consist of one representative chosen by the school district that has power  
13 to levy taxes on the property within the tax incremental district, one representative  
14 chosen by the technical college district that has power to levy taxes on the property  
15 within the tax incremental district, one representative chosen by the county that has  
16 power to levy taxes on the property within the tax incremental district, one  
17 representative chosen by the town and one public member. If more than one school  
18 district, more than one union high school district, more than one elementary school  
19 district, or more than one technical college district has the power to levy taxes on the  
20 property within the tax incremental district, the unit in which is located property of  
21 the tax incremental district that has the greatest value shall choose that  
22 representative to the joint review board. The public member and the joint review  
23 board's chairperson shall be selected by a majority of the other joint review board  
24 members before the public hearing under sub. (3) (a) or (j) 1. is held. All joint review  
25 board members shall be appointed and the first joint review board meeting held

1 within 14 days after the notice is published under sub. (3) (a) or (j) 1. Additional  
2 meetings of the joint review board shall be held upon the call of any member. The  
3 town that seeks to create the tax incremental district or to amend its project plan  
4 shall provide administrative support for the joint review board. By majority vote, the  
5 joint review board may disband following approval or rejection of the proposal.

6 2. If a town seeks to create a tax incremental district that is located in a union  
7 high school district, the seat that is described under subd. 1. for the school district  
8 representative to the joint review board shall be held by 2 representatives, each of  
9 whom has one-half of a vote. One representative shall be chosen by the union high  
10 school district that has the power to levy taxes on the property within the tax  
11 incremental district and one representative shall be chosen by the elementary school  
12 district that has the power to levy taxes on the property within the tax incremental  
13 district.

14 (am) 1. A representative chosen by a school district under par. (a) 1. or 2. shall  
15 be the president of the school board, or his or her designee. If the school board  
16 president appoints a designee, he or she shall give preference to the school district's  
17 finance director or another person with knowledge of local government finances.

18 2. The representative chosen by the county under par. (a) 1. shall be the county  
19 executive or, if the county does not have a county executive, the chairperson of the  
20 county board, or the executive's or chairperson's designee. If the county executive or  
21 county board chairperson appoints a designee, he or she shall give preference to the  
22 county treasurer or another person with knowledge of local government finances.

23 3. The representative chosen by the town under par. (a) 1. shall be the town  
24 board chairperson, or his or her designee. If the town board chairperson appoints a  
25 designee, he or she shall give preference to the person in charge of administering the

1 town's economic development programs, the town treasurer, or another person with  
2 knowledge of local government finances.

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

7 (b) 1. The joint review board shall review the public record, planning  
8 documents and the resolution passed by the town board or planning commission  
9 under sub. (3) (h) or (j) 1. As part of its deliberations the joint review board may hold  
10 additional hearings on the proposal.

11 2. No tax incremental district may be created and no project plan may be  
12 amended unless the joint review board approves the resolution adopted under sub.  
13 (3) (h) or (j) 1. by a majority vote not less than 10 days nor more than 30 days after  
14 receiving the resolution.

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

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

19 a. Whether the project costs to be expended in the tax incremental district  
20 comply with the limitations specified in sub. (2) (b).

21 b. Whether the development expected in the tax incremental district would  
22 occur without the use of tax incremental financing.

23 c. Whether the economic benefits of the tax incremental district, as measured  
24 by increased employment, business and personal income, and property value, are  
25 insufficient to compensate for the cost of the improvements.



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

3           2. The joint review board shall issue either a written statement that, in its  
4 judgment, all of the criteria under subd. 1. have been met or a written explanation  
5 describing why any proposal it rejects fails to meet one or more of the criteria  
6 specified in subd. 1.

7           **(5) DETERMINATION OF TAX INCREMENT AND TAX INCREMENTAL BASE.** (a) Subject to  
8 sub. (10) (d), upon the creation of a tax incremental district or upon adoption of any  
9 amendment subject to par. (d) 1., its tax incremental base shall be determined as soon  
10 as reasonably possible. The department of revenue may impose a fee of \$1,000 on  
11 a town to determine or redetermine the tax incremental base of a tax incremental  
12 district under this subsection.

13           (b) Upon application in writing by the town clerk, in a form prescribed by the  
14 department of revenue, the department shall determine according to its best  
15 judgment from all sources available to it the full aggregate value of the taxable  
16 property and, except as provided in par. (c), of the town-owned property in the tax  
17 incremental district. Subject to sub. (10) (d), the department shall certify this  
18 aggregate valuation to the town clerk, and the aggregate valuation constitutes the  
19 tax incremental base of the tax incremental district. The town clerk shall complete  
20 these forms upon the creation of a tax incremental district or upon the amendment  
21 of a district's project plan and shall submit the application on or before December 31  
22 of the year the tax incremental district is created, as defined in sub. (3) (h) 2. or, in  
23 the case of an amendment, on or before December 31 of the year in which the changes  
24 to the project plan take effect.

1           (c) The value of real property owned by a town and used for police and fire  
2 buildings, administrative buildings, libraries, community and recreational  
3 buildings, parks, streets and improvements within any street right-of-way, parking  
4 facilities and utilities shall not be included in the tax incremental base established  
5 under par. (b) or (d) 1.

6           (d) 1. If the town adopts an amendment to the original project plan under sub.  
7 (3) (j) for any district which includes additional project costs at least part of which  
8 will be incurred after the period specified in sub. (6) (b) 1., the tax incremental base  
9 for the district shall be redetermined by adding to the tax incremental base the value  
10 of the taxable property, and, except as provided in par. (c), of the town-owned  
11 property, that is added to the existing district as of the January 1 of the same  
12 calendar year for a resolution adopted before October 1 or as of January 1 of the next  
13 subsequent calendar year for a resolution adopted after September 30. The tax  
14 incremental base as redetermined under this subdivision is effective for the purposes  
15 of this section only if it exceeds the original tax incremental base determined under  
16 par. (b).

17           2. If after January 1 a city or village annexes town territory that contains part  
18 of a tax incremental district that is created by the town, the department of revenue  
19 shall redetermine the tax incremental base of the district by subtracting from the tax  
20 incremental base the value of the taxable property that is annexed from the existing  
21 district as of the following January 1, and if the annexation becomes effective on  
22 January 1 of any year, the redetermination shall be made as of that date. The tax  
23 incremental base as redetermined under this subdivision is effective for the purposes  
24 of this section only if it less than the original tax incremental base determined under  
25 par. (b).

1           (e) Annually, no later than May 15, the town clerk shall file with the  
2 department of revenue, on a form provided by the department, a list of the  
3 expenditures for the district that were made in the previous year.

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

10           (g) The department of revenue may not certify the tax incremental base as  
11 provided in par. (b) until it determines that each of the procedures and documents  
12 required by sub. (3) (a), (b), (h) or (j) and par. (b) has been timely completed and all  
13 notices required under sub. (3) (a), (b), (h) or (j) timely given. The facts supporting  
14 any document adopted or action taken to comply with sub. (3) (a), (b), (h) or (j) are  
15 not subject to review by the department of revenue under this paragraph, except that  
16 the department may not certify the tax incremental base as provided in par. (b) until  
17 it reviews and approves the findings made under sub. (3) (h) 4. and 5. d.

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

22           (i) The department of revenue shall annually give notice to the designated  
23 finance officer of all governmental entities having the power to levy taxes on property  
24 within each district as to the equalized value of the property and the equalized value  
25 of the tax increment base. The notice shall also explain that the tax increment

1 allocated to a town shall be paid to the town as provided under sub. (6) (c) from the  
2 taxes collected.

3 **(6) ALLOCATION OF POSITIVE TAX INCREMENTS.** (a) If the joint review board  
4 approves the creation of the tax incremental district under sub. (4), positive tax  
5 increments with respect to a tax incremental district are allocated to the town which  
6 created the district for each year commencing after the date when a project plan is  
7 adopted under sub. (3) (g). The department of revenue may not authorize allocation  
8 of tax increments until it determines from timely evidence submitted by the town  
9 that each of the procedures and documents required under sub. (3) (d) to (f) has been  
10 completed and all related notices given in a timely manner. The department of  
11 revenue may authorize allocation of tax increments for any tax incremental district  
12 only if the town clerk and assessor annually submit to the department all required  
13 information on or before the 2nd Monday in June. The facts supporting any  
14 document adopted or action taken to comply with sub. (3) (d) to (f) are not subject to  
15 review by the department of revenue under this paragraph except as provided under  
16 par. (e). After the allocation of tax increments is authorized, the department of  
17 revenue shall annually authorize allocation of the tax increment to the town that  
18 created the district until the sooner of the following events:

19 1. The department of revenue receives a notice under sub. (10) and the notice  
20 has taken effect under sub. (10) (b).

21 2. Sixteen years after the tax incremental district is created.

22 (b) 1. No expenditure may be made for a tax incremental district that is created  
23 under this section later than 5 years after the tax incremental district is created.

24 2. The limitations on the period during which expenditures may be made under  
25 subd. 1. do not apply to expenditures to pay project costs incurred under ch. 32.

1           3. The limitations on the period during which expenditures may be made under  
2           subd. 1. do not apply to expenditures authorized by the adoption of an amendment  
3           to the project plan sub. (3) (j), except that in no case may the total number of years  
4           during which expenditures are made exceed 7 years.

5           (c) Every officer charged by law to collect and pay over or retain local general  
6           property taxes shall, on the settlement dates provided by law, pay over to the town  
7           treasurer out of all the taxes which the officer has collected the proportion of the tax  
8           increment due the town that the general property taxes collected in the town bears  
9           to the total general property taxes levied by the town for all purposes included in the  
10          tax roll, exclusive of levies for state trust fund loans, state taxes and state special  
11          charges.

12          (d) All tax increments received with respect to a tax incremental district shall,  
13          upon receipt by the town treasurer, be deposited into a special fund for that district.  
14          The town treasurer may deposit additional moneys into such fund pursuant to an  
15          appropriation by the town board. No moneys may be paid out of such fund except to  
16          pay project costs with respect to that district, to reimburse the town for such  
17          payments, or to satisfy claims of holders of bonds or notes issued with respect to such  
18          district. Moneys paid out of the fund to pay project costs with respect to a district may  
19          be paid out before or after the district is terminated under sub. (9). Subject to any  
20          agreement with bondholders, moneys in the fund may be temporarily invested in the  
21          same manner as other town funds if any investment earnings are applied to reduce  
22          project costs. After all project costs and all bonds and notes with respect to the  
23          district have been paid or the payment thereof provided for, subject to any agreement  
24          with bondholders, if there remain in the fund any moneys, they shall be paid over to  
25          the treasurer of each county, school district or other tax levying municipality or to

1 the general fund of the town in the amounts that belong to each respectively, having  
2 due regard for that portion of the moneys, if any, that represents tax increments not  
3 allocated to the town and that portion, if any, that represents voluntary deposits of  
4 the town into the fund.

5 (e) 1. Any of the following persons may file a written request with the  
6 department of revenue requesting a review of a tax incremental district created  
7 under this section to determine whether money expended, or debt incurred, by the  
8 district in the prior year complied with the requirement under sub. (2) (b):

9 a. An owner of taxable property that is located in the town that has created the  
10 district.

11 b. An owner of taxable property that is located in a taxing jurisdiction which  
12 overlies the town in which the district is located.

13 c. An owner of taxable property in a city or village that borders the town in  
14 which the district is located.

15 d. A taxing jurisdiction that overlies the town in which the district is located.

16 e. A city or village that borders the town in which the district is located.

17 2. A written request described under subd. 1. shall be on a form that is  
18 prescribed by the department of revenue, shall contain the grounds on which the  
19 request is based, and shall be filed with the department no later than July 1.

20 3. The department of revenue may deny any request for review that is made  
21 under this paragraph if the department believes, based on a review of the request,  
22 that insufficient grounds exist to support the alleged noncompliance with sub. (2) (b).  
23 The department shall send written notification of its decision to the person who made  
24 the request for review and to the town.

1           4. If the department of revenue grants a request for review that is made under  
2 this paragraph, it shall hold a hearing and it shall send written notification of the  
3 hearing to the clerk of the town that created the tax incremental district, the person  
4 who requested the review, the clerk of each overlying taxing jurisdiction, and the  
5 clerk of every city or village that borders the town. The written notification shall  
6 include the time, date, and location of the hearing.

7           5. The secretary of revenue, or the secretary's designee, shall preside at the  
8 hearing and shall receive testimony and evidence on all issues that are related to the  
9 request for review. Following the hearing, the secretary shall make one of the  
10 following determinations:

11           a. The town is in compliance with sub. (2) (b).

12           b. The town has made expenditures or incurred debts that are not allowed  
13 under sub. (2) (b). If the secretary makes this determination, the secretary shall  
14 either order the town to pay back all ineligible costs to the district's overlying taxing  
15 jurisdictions, on a proportional basis that relates to each jurisdiction's share of the  
16 tax increment, from funds other than tax increments allocated under this subsection,  
17 or shall order the district to be terminated. If the secretary orders the district to be  
18 terminated, the town becomes liable for all unpaid project costs actually incurred  
19 which are not paid from the special fund under sub. (6) (d).

20           6. Any person or unit of government that received a notice under subd. 4. may  
21 appeal the secretary's decision to the circuit court in Dane County.

22           **(7) NOTIFICATION OF POSITION OPENINGS.** (a) Any person who operates for profit  
23 and is paid project costs under sub. (1) (h) 1. a., d., i. and j. in connection with the  
24 project plan for a tax incremental district shall notify the department of workforce  
25 development and the local workforce development board established under 29 USC

1 2832, of any positions to be filled in the county in which the town which created the  
2 tax incremental district is located during the period commencing with the date the  
3 person first performs work on the project and ending one year after receipt of its final  
4 payment of project costs. The person shall provide this notice at least 2 weeks prior  
5 to advertising the position.

6 (b) Any person who operates for profit and buys or leases property in a tax  
7 incremental district from a town for which the town incurs real property assembly  
8 costs under sub. (1) (h) 1. c. shall notify the department of workforce development  
9 and the local workforce development board established under 29 USC 2832, of any  
10 position to be filled in the county in which the town creating the tax incremental  
11 district is located within one year after the sale or commencement of the lease. The  
12 person shall provide this notice at least 2 weeks prior to advertising the position.

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

19 (b) Audits shall be conducted at all the following times:

20 1. No later than twelve months after 30 percent of the project expenditures are  
21 made.

22 2. No later than twelve months after the end of the expenditure period specified  
23 in sub. (6) (b) 1.

24 3. No later than twelve months after the termination of the tax incremental  
25 district under sub. (9).



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

5 **(9) TERMINATION OF TAX INCREMENTAL DISTRICTS.** A tax incremental district  
6 terminates when the earliest of the following occurs:

7 (a) That time when the town has received aggregate tax increments with  
8 respect to the district in an amount equal to the aggregate of all project costs under  
9 the project plan and any amendments to the project plan for the district.

10 (b) Eleven years after the last expenditure identified in the original,  
11 unamended project plan is made.

12 (c) The town board, by resolution, dissolves the district, at which time the town  
13 becomes liable for all unpaid project costs actually incurred which are not paid from  
14 the special fund under sub. (6) (d).

15 (d) The secretary of revenue determines that tax increments have been used  
16 to pay for ineligible costs and the secretary of revenue orders that the district be  
17 terminated under sub. (6) (e) 5. b.

18 **(10) NOTICE OF DISTRICT TERMINATION.** (a) A town which creates a tax  
19 incremental district under this section shall give the department of revenue written  
20 notice within 10 days of the termination of the tax incremental district under sub.  
21 (9).

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

1 the effective date of the notice is the first January 1 after the department of revenue  
2 receives the notice.

3 (c) Not later than February 15 of the year immediately following the year in  
4 which a town transmits to the department of revenue the notice required under par.

5 (a) the town shall send to the department, on a form prescribed by the department,  
6 all of the following information that relates to the terminated tax incremental  
7 district:

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

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

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

11 (d) If a town does not send to the department of revenue the form specified in  
12 par. (c), the department may not certify the tax incremental base of a tax incremental  
13 district in the town under sub. (5) (a) and (b) until the form is sent to the department.

14 **(11) FINANCING OF PROJECT COSTS.** Payment of project costs may be made by any  
15 one or more of the following methods:

16 (a) Payment by the town from the special fund of the tax incremental district.

17 (b) Payment out of its general funds.

18 (c) Payment out of the proceeds of the sale of bonds or notes issued by it under  
19 ch. 67.

20 (d) Payment out of the proceeds of the sale of public improvement bonds issued  
21 by it under s. 66.0619.

22 (e) Payment as provided under s. 66.0713 (2) and (4) or 67.16.

23 (f) Payment out of the proceeds of revenue bonds or notes issued by it under s.  
24 66.0621.

1 (g) Payment out of the proceeds of revenue bonds issued by the town as provided  
2 by s. 66.1103, for a purpose specified in that section.

3 **(12) OVERLAPPING TAX INCREMENTAL DISTRICTS.** (a) Subject to any agreement  
4 with bondholders, a tax incremental district may be created, the boundaries of which  
5 overlap one or more existing districts, except that districts created as of the same  
6 date may not have overlapping boundaries.

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

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

21 **(14) DEPARTMENT OF COMMERCE REPORT.** The department of commerce, in  
22 cooperation with other state agencies and local governments, shall make a  
23 comprehensive report to the governor and the chief clerk of each house of the  
24 legislature, for distribution to the legislature under s. 13.172 (2), at the beginning

1 of each biennium, beginning with the 2007 biennium, as to the effects and impact of  
2 town tax incremental financing projects socially, economically, and financially.

3 **(16) USE OF TAX INCREMENTAL FINANCING FOR INLAND LAKE PROTECTION AND**  
4 **REHABILITATION PROHIBITED.** Notwithstanding sub. (11), no tax incremental financing  
5 project plan may be approved and no payment of project costs may be made for an  
6 inland lake protection and rehabilitation district or a county acting under s. 59.70  
7 (8).

8 **(17) PAYMENT OF ELIGIBLE COSTS FOR ANNEXED TERRITORY, REDETERMINATION OF TAX**  
9 **INCREMENTAL BASE.** If a city or village annexes territory from a town and if all or part  
10 of the territory that is annexed is part of a tax incremental district created by the  
11 town, the city or village shall pay to the town that portion of the eligible costs that  
12 are attributable to the annexed territory. The city or village, and the town, shall  
13 negotiate an agreement on the amount that must be paid under this subsection. The  
14 department shall redetermine the tax incremental base of any parcel of real property  
15 for which the tax incremental base was determined under sub. (5) if part of that  
16 parcel is annexed under this subsection.

17 **(18) SUBSTANTIAL COMPLIANCE.** Substantial compliance with subs. (2), (3) (a),  
18 (b), (c), (d), (e), (f), and (j), (4), and (5) (b) by a town that creates, or attempts to create,  
19 a tax incremental district is sufficient to give effect to any proceedings conducted  
20 under this section if, in the opinion of the department of revenue, any error,  
21 irregularity, or informality that exists in the town's attempts to comply with subs.  
22 (2), (3) (a), (b), (c), (d), (e), (f), and (j), (4), and (5) (b) does not affect substantial justice.  
23 If the department of revenue determines that a town has substantially complied with  
24 subs. (2), (3) (a), (b), (c), (d), (e), (f), and (j), (4), and (5) (b), the department of revenue  
25 shall determine the tax incremental base of the district, allocate tax increments, and

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

4 **SECTION 3.** Laws of 1975, chapter 105, section 1 (1) and (2) are amended to read:

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

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

23 **SECTION 4. Initial applicability.**

