

2003 DRAFTING REQUEST

Senate Substitute Amendment (SSA-AB437)

Received: **02/16/2004**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Neal Kedzie (608) 266-2635**

By/Representing: **Matt**

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

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Munis - tax incrmntal financing**

Extra Copies: **Rachel Letzing, Leg. Council;**

Submit via email: **YES**

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Limited authority for towns to use tax incremental financing (TIF)

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 02/20/2004	csicilia 02/22/2004		_____			
/P1			pgreensl 02/23/2004	_____	mbarman 02/23/2004		
/1	mshovers	csicilia	rschluet	_____	sbasford	sbasford	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	03/02/2004	03/03/2004	03/03/2004 _____		03/03/2004	03/03/2004	
/2	mshovers 03/04/2004	csicilia 03/04/2004	jfrantze 03/04/2004 _____		sbasford 03/04/2004	sbasford 03/04/2004	

FE Sent For:

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Handwritten signatures and dates:
2/3/4 [Signature] 2/4 [Signature]

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12 MES 3/4/04

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03

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/P1			pgreensl 02/23/2004		mbarman 02/23/2004		

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Handwritten signatures and initials: '3 3' and '4 p6'.

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1? mshovers

PI cjs 2/22
04

~~PSB~~
PSB
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FE Sent For:

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PSB

Shovers, Marc

From: Letzing, Rachel *63370*
Sent: Tuesday, February 10, 2004 10:42 AM
To: Shovers, Marc
Subject: AB 437



389A2000.tif

Hi Marc,

Attached is proposed statutory language for town TIFs from the Dept. of Revenue. At yesterday's meeting, the participants agreed on most of the proposal's language and on a series of changes they would like made to the proposal. They understand that the proposal plus changes will need to be introduced as a Senate substitute amendment to AB 437. Mark in Sen. Kedzie's office authorized me to request this draft for him; however, the amendment should also be sent to Rep. Loeffelholz, Rep. Ott, and me for review.

Please make the following revisions to the proposal:

1. Revise the numbering so the town TIF provisions are in chapter 60.
2. p. 5, in sub. (3) (b) 5. "subds. 1. to 3." should be changed to "subds. 1. to 4."
3. p. 8, sub. (5) (a) 1. and 2., amend the Joint Review Board membership requirements so they are identical to the Joint Review Board membership requirements in SB 305.
4. p. 9, sub. (6) (a) provide that the town may include the \$1000 fee as a project cost. (Define project costs on p. 2 sub. (2) (i) 1. to include this fee?)
5. p. 7, sub. (4) (i) 1., specify that the 7% limit on the value of property within a town that may be included within a town TID and the 5% limit on the equalized value of taxable property of the TID plus the value increment of all existing districts within the town also apply with respect to amendments to an existing town TID. (SB 305 has similar language in s. 66.1105 (4) (h) 1.)
6. p. 9 sub. (6) (d) 2. and p. 14 sub. (17) provide that the annexation provisions also apply to annexation of part of or all territory in environmental remediation TIDs as provided in SB 305. *I added bill 322 from SB305, as shown by SSA1 to SB305*
7. p. 10 sub. (7) (a) 2. and (b) 1. The intent was to allow 16 years of maximum life for a TID, including the increments generated. So, provide that expenditures could be made no later than 5 years before the termination date of the TID, and expenditures for project costs can be made up to 11 years after the TID is created. *What if pp is Am? -> 7/15/04 ex. on ditmas 2*
8. Amend the proposal to provide that if a town substantially complies with the statutory procedures and the DOR determines any error, irregularity, or informality in the town's attempt to comply with statutory procedures does not affect substantial justice, the DOR is the required to approve the TID (the same language included in SB 305, s. 66.1105 (15).)
9. p. 11 sub. (7) (e) Amend this section to specify that DOR may deny the request for review with written notice to the town and the person requesting the review, if DOR feels that there are insufficient grounds in support of the non-compliance alleged by the request. If DOR grants the request for review, it shall notify the town, the person requesting review, overlying jurisdictions, and neighboring cities and villages of a hearing. At the hearing the Secretary of DOR or his or her designee hears sworn statements and all the evidence. The Secretary then makes one of the following determinations: the town is in compliance; the town must pay back ineligible costs; or the town TID is terminated. The town or any other party may appeal the DOR determination to the Dane Co. Circuit Court.

10. p. 14 The initial applicability date hasn't been agreed upon. The Towns Assoc. wants a July 1, 2004 date for certain types of projects. DOR is considering this request. As soon as they tell me the date they've agreed on, I'll let you know.

If you have any questions, please give me a call.

Rachel

Rachel Letzing
Legislative Council Staff
266-3370
rachel.letzing@legis.state.wi.us

*Rachel said go
with
DOR's 10/1/04
Init app*

Shovers, Marc

From: Gates-Hendrix, Sherrie
Sent: Thursday, February 05, 2004 8:33 AM
To: Shovers, Marc
Subject: AB 437 Amendment



ab437
townlifamendment.doc

Hi Marc -- Nice to see you yesterday, albeit under less than ideal circumstances.

Could you draft the above as an amendment to AB 437 for me? I think it's pretty clear, but if you have any questions, feel free to call me (7-1262) or Rebecca Boldt in our research area (6-6785).

Thanks

Sherrie

AB437 → - 2127
AA1 → a 1026
AA2 → a 1191
AA3 → a 1796

All AM; adopted
passed Assembly & →
to Senate

PROPOSED STATUTORY LANGUAGE FOR TOWN TIF UNDER AB437

66.23 Town Tax increment law.

- (1) **Short title.** This section shall be known and may be cited as the "Town Tax Increment Law".
- (2) **Definitions.** In this section, unless a different intent clearly appears from the context:
- (a) "Agricultural project" means agricultural activities classified in the North American Industry Classification System (NAICS), 1997 edition, under the following industry codes:
 - 1. 111 Crop production.
 - 2. 112. Animal production.
 - 3. 1151 Support activities for agriculture.
 - 4. 1152 Support activities for animal production.
 - (b) "Environmental pollution" has the meaning given in s. 299.01 (4).
 - (c) "Forestry project" means forestry activities classified in the North American Industry Classification System (NAICS), 1997 edition, under the following industry codes:
 - 1. 113 Forestry and Logging
 - 2. 1153 Support Activities for Forestry
 - (d) "Highway" has the meaning provided in s. 340.01 (22).
 - (e) "Local legislative body" means the town board.
 - (f) "Manufacturing project" means manufacturing activities classified in the North American Industry Classification System (NAICS), 1997 edition, under the following industry codes:
 - 1. 3116 Animal slaughtering and processing.
 - 2. 321 Wood product manufacturing.
 - 3. 322 Paper manufacturing.
 - 4. 325193 Ethyl alcohol manufacturing.
 - (g) "Personal property" has the meaning prescribed in s. 70.04.
 - (h) "Planning commission" means a plan commission created under s. 62.23, a board of public land commissioners if the town has no plan commission, or a town plan committee of the local legislative body, if the town has neither a commission nor a board.

- (i)1. "Project costs" mean any expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred by the town which are included in a project allowed under sub. (3)(b) and which are listed in a project plan as costs of public works or improvements within a tax incremental district or, to the extent provided in subd. 1. i., without the district, plus any incidental costs, diminished by any income, special assessments, or other revenues, including user fees or charges, other than tax increments, received or reasonably expected to be received by the town in connection with the implementation of the plan. Only a proportionate share of the costs permitted under this subdivision may be included as project costs to the extent that they benefit the tax incremental district. To the extent the costs benefit the municipality outside the tax incremental district, a proportionate share of the cost is not a project cost. "Project costs" include:
- a. Capital costs including, but not limited to, the actual costs of the construction of public works or improvements, new buildings, structures, and fixtures; the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures other than the demolition of listed properties as defined in s. 44.31 (4); the acquisition of equipment to service the district; the removal or containment of, or the restoration of soil or groundwater affected by, environmental pollution; and the clearing and grading of land.
 - b. Financing costs, including, but not limited to, all interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of the obligations because of the redemption of the obligations prior to maturity.
 - c. Real property assembly costs, meaning any deficit incurred resulting from the sale or lease as lessor by the town of real or personal property within a tax incremental district for consideration which is less than its cost to the city.
 - d. Professional service costs, including, but not limited to, those costs incurred for architectural, planning, engineering, and legal advice and services.
 - e. Imputed administrative costs, including, but not limited to, reasonable charges for the time spent by town employees in connection with the implementation of a project plan.
 - f. Relocation costs, including, but not limited to, those relocation payments made following condemnation under ss. 32.19 and 32.195.
 - g. Organizational costs, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public with respect to the creation of tax incremental districts and the implementation of project plans.
 - h. Except as provided under subd. 2., payments made, in the discretion of the local legislative body, which are found to be necessary or convenient to the creation of tax incremental districts or the implementation of project plans.
 - i. That portion of costs related to the construction or alteration of sewerage treatment plants, water treatment plants or other environmental protection devices,

storm or sanitary sewer lines, water lines, or amenities on streets or the rebuilding or expansion of streets the construction, alteration, rebuilding or expansion of which is necessitated by the project plan for a district and is within the district.

- j. That portion of costs related to the construction or alteration of sewerage treatment plants, water treatment plants or other environmental protection devices, storm or sanitary sewer lines, water lines, or amenities on streets outside the district if the construction, alteration, rebuilding or expansion is necessitated by the project plan for a district, and if at the time the construction, alteration, rebuilding or expansion begins there are improvements of the kinds named in this subdivision on the land outside the district in respect to which the costs are to be incurred.
- k. Costs for the removal, or containment, of lead contamination in buildings or infrastructure if the town declares that such lead contamination is a public health concern.

2. None of the following may be included as project costs for any tax incremental district:

- a. The cost of constructing or expanding administrative buildings, police and fire buildings, libraries, community and recreational buildings and school buildings.
 - b. The cost of constructing or expanding any facility, if the town generally finances similar facilities only with utility user fees.
 - c. General government operating expenses, unrelated to the planning or development of a tax incremental district.
 - d. Cash grants made by the town to owners, lessees, or developers of land that is located within the tax incremental district.
- (j) "Project plan" means the properly approved plan for the development or redevelopment of a tax incremental district which include projects allowed under sub. (3)(b), including all properly approved amendments thereto.
 - (k) "Real property" has the meaning prescribed in s. 70.03.
 - (l) "Residential development" means sleeping quarters, within a proposed tax incremental district, for employees who work for an employer engaged in a project allowed under sub. (3)(b) but does not include hotels, motels or general residential housing development within a proposed tax incremental district.
 - (m) "Tax increment" means that amount obtained by multiplying the total county, town, school and other local general property taxes levied on all taxable property within a tax incremental district in a year by a fraction having as a numerator the value increment for that year in the district and as a denominator that year's equalized value of all taxable property in the district. In any year, a tax increment is "positive" if the value increment is positive; it is "negative" if the value increment is negative.
 - (n) "Tax incremental base" means the aggregate value, as equalized by the department of revenue, of all taxable property located within a tax incremental district on the date as of which the district is created, determined as provided in sub. (5) (b).

- (o) "Tax incremental district" means a contiguous geographic area within a town defined and created by resolution of the local legislative body, consisting solely of whole units of property as are assessed for general property tax purposes, other than railroad rights-of-way, rivers or highways. Railroad rights-of-way, rivers or highways may be included in a tax incremental district only if they are continuously bounded on either side, or on both sides, by whole units of property as are assessed for general property tax purposes which are in the tax incremental district. "Tax incremental district" does not include any area identified as a wetland on a map under s. 23.32.
- (p) "Taxable property" means all real and personal taxable property located in a tax incremental district.
- (q) "Tourism project" means activities that involve retailers classified in the North American Industry Classification System (NAICS), 1997 edition, published by the U.S. office of management and budget under the following industry numbers:
1. 721214 Recreational and vacation camps (NAICS).
 2. 721211 Recreational vehicle parks and campgrounds (NAICS).
 3. 711212 Racetracks (NAICS).
 4. Dairy product stores included in 445299 NAICS.
 5. Public golf courses included in 71391 NAICS.
- (r) "Value increment" means the equalized value of all taxable property in a tax incremental district in any year minus the tax incremental base. In any year "value increment" is positive if the tax incremental base is less than the aggregate value of taxable property as equalized by the department of revenue; it is negative if that base exceeds that aggregate value.
- (3) Powers of towns.** (a) Except as provided under par. (c), in addition to any other powers conferred by law, a town may exercise the powers necessary and convenient to carry out the purposes of this section, including the power to:
1. Create tax incremental districts allowed under par. (b) and define the boundaries of the districts;
 2. Cause project plans to be prepared, approve the plans, and implement the provisions and effectuate the purposes of the plans;
 3. Deposit moneys into the special fund of any tax incremental district; or
 4. Enter into any contracts or agreements, including agreements with bondholders, determined by the local legislative body to be necessary or convenient to implement the provisions and effectuate the purposes of project plans. The contracts or agreements may include conditions, restrictions, or covenants which either run with the land or which otherwise regulate the use of land.
 5. Designate, by ordinance or resolution, the town industrial development agency, as agent of the town, to perform all acts under this section.
- (b) Projects for which a town may expend money or incur monetary obligations as a "project cost," as that term is defined in sub.(2)(i), are limited to the following:

1. Projects related to agriculture as defined in sub. (2)(q).
2. Projects related to forestry as defined in sub. (2)(c).
3. Projects related to manufacturing as defined in sub. (2)(f).
4. Projects related to tourism as defined in sub. (2)(q).
5. Residential development, as defined in sub.(2)(l), but only to the extent that it has a necessary relationship to a project listed in subds. 1. to 3.
6. Retail development that is limited to the retail sale of products that are produced due to project that is developed under subd. (1),(2) or (3).

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

(4) Creation of tax incremental districts and approval of project plans. In order to implement the provisions of this section, the following steps and plans are required:

- (a) Holding of a public hearing by the planning commission at which interested parties are afforded a reasonable opportunity to express their views on the proposed creation of a tax incremental district and the proposed boundaries of the district. Notice of the hearing shall be published as a class 2 notice, under ch. 985. Before publication, a copy of the notice shall be sent by first class mail to the chief executive officer or administrator of all local governmental entities having the power to levy taxes on property located within the proposed district and to the school board of any school district which includes property located within the proposed district. For a county with no chief executive officer or administrator, notice shall be sent to the county board chairperson.
- (b) Designation by the planning commission of the boundaries of a tax incremental district recommended by it and submission of the recommendation to the local legislative body.
- (c) Identification of the specific property to be included in the proposed tax incremental district. Owners of the property identified shall be notified of the proposed finding and the date of the hearing to be held under par. (e) at least 15 days prior to the date of the hearing.
- (d) Preparation and adoption by the planning commission of a proposed project plan for each tax incremental district.
- (e) At least 30 days before adopting a resolution under par. (h), holding of a public hearing by the planning commission at which interested parties are afforded a reasonable opportunity to express their views on the proposed project plan. The hearing may be held in conjunction with the hearing provided for in par. (a). Notice of the hearing shall be published as a class 2 notice, under ch. 985. The notice shall include a statement advising that a copy of the proposed project plan will be provided on request. Before publication, a copy of the notice shall be sent by 1st class mail to the chief executive officer or administrator of all local governmental entities having the power to levy taxes on property within the district and to the school board of any school district which includes property located within the proposed district. For a county with no chief executive officer or administrator, notice shall be sent to the county board chairperson.

- (f) Adoption by the planning commission of a project plan for each tax incremental district and submission of the plan to the local legislative body. The plan shall include a statement listing the kind, number and location of all proposed public works or improvements within the district or, to the extent provided in sub. (2) (i)1. j., outside the district, an economic feasibility study, a detailed list of estimated project costs, and a description of the methods of financing all estimated project costs and the time when the related costs or monetary obligations are to be incurred. The plan shall also include a map showing existing uses and conditions of real property in the district; a map showing proposed improvements and uses in the district; proposed changes of zoning ordinances, master plan, if any, map, building codes and town ordinances; a list of estimated nonproject costs; and a statement of the proposed method for the relocation of any persons to be displaced. The plan shall indicate how creation of the tax incremental district promotes the orderly development of the town. The town shall include in the plan an opinion of the town attorney or of an attorney retained by the town advising whether the plan is complete and complies with this section.
- (g) Approval by the local legislative body of a project plan prior to or concurrent with the adoption of a resolution under par. (h). The approval shall be by resolution which contains findings that the plan is feasible and in conformity with the master plan, if any, of the town.
- (h) Adoption by the local legislative body of a resolution which:
1. Describes the boundaries, which may, but need not, be the same as those recommended by the planning commission, of a tax incremental district with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the district. The boundaries shall include only those whole units of property as are assessed for general property tax purposes.
 2. Creates the district as of January 1 of the same calendar year for a resolution adopted prior to October 1 of that year or as of January 1 of the subsequent calendar year for a resolution adopted after September 30 of that year.
 3. Assigns a name to the district for identification purposes. The first district created shall be known as "Tax Incremental District Number One, Town of". Each subsequently created district shall be assigned the next consecutive number.
 4. Declares the district to be an agricultural district, forestry district, manufacturing district or tourism district and identifies the NAICS industry classifications of the project for which project costs are to be expended.
 5. Contains findings that:
 - a. Not less than 75%, by area, of the real property within the district is intended for agricultural, forestry, manufacturing activities or tourism activities allowed under sub. (3)(b) and identified under subd. 4.; and
 - b. The improvement of the area is likely to enhance significantly the value of substantially all of the other real property in the district. It is not necessary to identify the specific parcels meeting the criteria; and

- c. The project costs of the district are limited to those allowed under sub. (3)(b) and the costs relate directly to promoting agriculture, forestry, manufacturing or tourism development; and
 - d. Either the equalized value of taxable property of the district plus all existing districts does not exceed 7% of the total equalized value of taxable property within the town or the equalized value of taxable property of the district plus the value increment of all existing districts within the town does not exceed 5% of the total equalized value of taxable property within the town.
 - e. Confirms that any real property within the district intended for manufacturing projects allowed under sub. (3)(b) is zoned for industrial use and will remain zoned for industrial use for the life of the tax incremental district.
- (i)1. The planning commission may, by resolution, adopt an amendment to a project plan. The amendment is subject to approval by the local legislative body and approval requires the same findings as provided in par. (g) and (h). Any amendment to a project plan is also subject to review by a joint review board, acting under sub. (5). Adoption of an amendment to a project plan shall be preceded by a public hearing held by the plan commission at which interested parties shall be afforded a reasonable opportunity to express their views on the amendment. Notice of the hearing shall be published as a class 2 notice, under ch. 985. The notice shall include a statement of the purpose and cost of the amendment and shall advise that a copy of the amendment will be provided on request. Before publication, a copy of the notice shall be sent by 1st class mail to the chief executive officer or administrator of all local governmental entities having the power to levy taxes on property within the district and to the school board of any school district which includes property located within the proposed district. For a county with no chief executive officer or administrator, this notice shall be sent to the county board chairperson.
2. Not more than once during the 5 years after the tax incremental district is created, the planning commission may adopt an amendment to a project plan under subd. 1. to modify the district's boundaries by adding territory to the district that is contiguous to the district and that is served by public works or improvements that were created as part of the district's project plan. Expenditures for project costs that are incurred because of an amendment to a project plan to which this subdivision applies may be made for not more than 2 years after the date on which the local legislative body adopts a resolution amending the project plan.
- (j) The local legislative body shall provide the joint review board with the following information and projections:
- 1. The projects included in the district and the specific project costs, the total dollar amount of these project costs to be paid with the tax increments, and the amount of tax increments to be generated over the life of the tax incremental district.
 - 2. The amount of the value increment when the project costs in subd. 1. are paid in full and the tax incremental district is terminated.
 - 3. The reasons why the project costs in subd. 1. may not or should not be paid by the owners of property that benefits by improvements within the tax incremental district.

4. The share of the projected tax increments in subd. 1. estimated to be paid by the owners of taxable property in each of the taxing jurisdictions overlying the tax incremental district.
 5. The benefits that the owners of taxable property in the overlying taxing jurisdictions will receive to compensate them for their share of the projected tax increments in subd. 4.
- (k) Calculation by the local assessor of the value of all tax-exempt town-owned property, except property described in sub. (6) (c), in the proposed tax incremental district, as of the day of the district's creation. This information shall be sent to the department of revenue for inclusion in the tax incremental district's initial tax incremental base under sub. (6) (b).
- (5) Joint review board.**(a)1. Any town that seeks to create a tax incremental district or amend a project plan shall convene a joint review board to review the proposal. The board shall consist of one representative chosen by the school district that has power to levy taxes on the property within the tax incremental district, one representative chosen by the technical college district that has power to levy taxes on the property within the tax incremental district, one representative chosen by the county that has power to levy taxes on the property within the tax incremental district, one representative chosen by the town and one public member. If more than one school district, more than one technical college district or more than one county has the power to levy taxes on the property within the tax incremental district, the unit in which is located property of the tax incremental district that has the greatest value shall choose that representative to the board. The public member and the board's chairperson shall be selected by a majority of the other board members before the public hearing under sub. (4) (a) or (i) 1. is held. All board members shall be appointed and the first board meeting held within 14 days after the notice is published under sub. (4) (a) or (i) 1. Additional meetings of the board shall be held upon the call of any member. The city that seeks to create the tax incremental district or to amend its project plan shall provide administrative support for the board. By majority vote, the board may disband following approval or rejection of the proposal.
2. If a town seeks to create a tax incremental district that is located in a union high school district, the seat that is described under subd. 1. for the school district representative to the board shall be held by 2 representative, each of whom has one-half of a vote. One representative shall be chosen by the union high school district that has the power to levy taxes on the property within the tax incremental district and one representative shall be chosen by the elementary school district that has the power to levy taxes no the property within the tax incremental district.
- (b) 1. The board shall review the public record, planning documents and the resolution passed by the local legislative body or planning commission under sub. (4) (h) or (i) 1. As part of its deliberations the board may hold additional hearings on the proposal.
2. No tax incremental district may be created and no project plan may be amended unless the board approves the resolution adopted under sub. (4) (h) or (i) 1. by a majority vote not more than 30 days after receiving the resolution.
 3. The board shall submit its decision to the town no later than 7 days after the board acts on and reviews the items in subd. 2.

- (c) 1. The board shall base its decision to approve or deny a proposal on the following criteria:
- a. Whether the project costs to expended in the tax incremental district comply with the restrictions under sub. (3)(b).
 - b. Whether the development expected in the tax incremental district would occur without the use of tax incremental financing.
 - c. Whether the economic benefits of the tax incremental district, as measured by increased employment, business and personal income and property value, are insufficient to compensate for the cost of the improvements.
 - d. Whether the benefits of the proposal outweigh the anticipated tax increments to be paid by the owners of property in the overlying taxing districts.
2. The board shall issue either a written statement that in its judgement all of the criteria under subd. 1 have been met or a written explanation describing why any proposal it rejects fails to meet one or more of the criteria specified in subd. 1.

(6) Determination of tax increment and tax incremental base.

- (a) Subject to sub. (11)(d), upon the creation of a tax incremental district or upon adoption of any amendment subject to par. (d)1., its tax incremental base shall be determined as soon as reasonably possible. The department of revenue may impose a fee of \$1,000 on a town to determine or redetermine the tax base of tax incremental district under this section.
- (b) Upon application in writing by the town clerk, in a form prescribed by the department of revenue, the department shall determine according to its best judgment from all sources available to it the full aggregate value of the taxable property and, except as provided in par. (c), of the town-owned property in the tax incremental district. Subject to sub. (11)(d), the department shall certify this aggregate valuation to the town clerk, and the aggregate valuation constitutes the tax incremental base of the tax incremental district. The town clerk shall complete these forms including forms for the amendment of a project plan and submit the application or amendment forms on or before December 31 of the year the tax incremental district is created, as defined in sub. (4) (h) 2.
- (c) The value of real property owned by a town and used for police and fire buildings, administrative buildings, libraries, community and recreational buildings, parks, streets and improvements within any street right-of-way, parking facilities and utilities shall not be included in the tax incremental base determined under par. (b).
- (d) 1. If the town adopts, by resolution, an amendment to the original project plan for any district which includes additional project costs at least part of which will be incurred after the period specified in sub. (7) (b), the tax incremental base for the district shall be redetermined as of January 1 of the same calendar year for a resolution adopted prior to October 1 of that year or as of January 1 of the subsequent calendar year for a resolution adopted after September 30 of that year. The tax incremental base as redetermined under this paragraph is effective for the purposes of this section only if it exceeds the original tax incremental base determined under par. (b).
2. If a city or village annexes territory from a town and any or all of the annexed territory is part of a tax incremental district created by the town, the department shall redetermine the tax incremental tax base by subtracting from the tax incremental base the value of the taxable property that is annexed from the existing district. The tax incremental base under this subpar.

is effective for purposes of this section only if it is less than the original tax incremental base determined under par. (b).

(e) The town clerk shall file no later than May 15 a statement, on a form prescribed by the department of revenue, listing the public expenditures made in the district in the previous year.

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

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

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

(i) The department of revenue shall annually give notice to the designated finance officer of all governmental entities having the power to levy taxes on property within each district as to the equalized value of the property and the equalized value of the tax incremental base. The notice shall also explain that the tax increment allocated to a town shall be paid to the town as provided under sub. (7)(c) from the taxes collected.

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

1. The department of revenue receives a notice under sub. (11) and the notice has taken effect under sub. (11) (b).
2. Eleven years after the tax incremental district is created.

- (b) 1. No expenditure may be made later than 5 years after the tax incremental district is created.
 2. The limitations on the period during which expenditures may be made under subd. 1. do not apply to expenditures to pay project costs incurred under ch. 32.
 3. The limitation on the period during which expenditures may be made under subd. 1. do not apply to expenditures authorized by the adoption of an amendment to the project plan under sub. (4)(i); except that in no case may the total number of years during which expenditures are made exceed 7 years.
- (c) Every officer charged by law to collect and pay over or retain local general property taxes shall, on the settlement dates provided by law, pay over to the town treasurer out of all the taxes which the officer has collected the proportion of the tax increment due the town that the general property taxes collected in the town bears to the total general property taxes levied by the town for all purposes included in the tax roll, exclusive of levies for state trust fund loans, state taxes and state special charges.
- (d) All tax increments received with respect to a tax incremental district shall, upon receipt by the town treasurer, be deposited into a special fund for that district. The town treasurer may deposit additional moneys into such fund pursuant to an appropriation by the legislative body. No moneys may be paid out of such fund except to pay project costs allowed under sub. (3)(b) with respect to that district, to reimburse the town for such payments, or to satisfy claims of holders of bonds or notes issued with respect to such district. Moneys paid out of the fund to pay project costs with respect to a district may be paid out before or after the district is terminated under sub. (10). Subject to any agreement with bondholders, moneys in the fund may be temporarily invested in the same manner as other town funds if any investment earnings are applied to reduce project costs. After all project costs and all bonds and notes with respect to the district have been paid or the payment thereof provided for, subject to any agreement with bondholders, if there remain in the fund any moneys, they shall be paid over to the treasurer of each county, school district or other tax levying municipality or to the general fund of the town in the amounts that belong to each respectively, having due regard for that portion of the moneys, if any, that represents tax increments not allocated to the city and that portion, if any, that represents voluntary deposits of the town into the fund.
- (e) Owners of taxable property located in a town that creates a tax incremental district under this section or in any taxing jurisdiction overlying the town, taxing jurisdictions overlying a town that creates a tax incremental district under this section, or a city or village that borders a town that creates a tax incremental district under this section may seek a review by the department of revenue of the tax incremental district's compliance with the provisions under sub. (3)(b). The request must be in writing, on a form prescribed by the department of revenue and filed with the department no later than May 15. If the department of revenue determines that any expenditures have been made on projects not allowed under sub. (3)(b), the department of revenue may not authorize allocation of tax increments for the tax incremental district. The department of revenue shall notify the town that the tax incremental district is terminated.

(8) Notification of position openings.

(a) Any person who operates for profit and is paid project costs under sub. (2) (i) 1. a., d., j. and k. in connection with the project plan for a tax incremental district shall notify the department of workforce development and the local workforce development board established under 29 USC 2832, of any positions to be filled in the county in which the town which created the tax incremental district under this section is located during the period commencing with the date the person first performs work on the project and ending one year after receipt of its final payment of project costs. The person shall provide this notice at least 2 weeks prior to advertising the position.

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

(9) Review.

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

(b) Audits shall be conducted no later than:

1. Twelve months after 30% of the project expenditures are made;
2. Twelve months after the end of the expenditure period specified in sub. (7)(b); and
3. Twelve months after the termination of the tax incremental district under sub. (10).

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

(10) Termination of tax incremental districts. A tax incremental district terminates when the earlier of the following occurs:

- (a) That time when the town has received aggregate tax increments with respect to the district in an amount equal to the aggregate of all project costs under the project plan and any amendments to the project plan for the district.
- (b) Eleven years after the last expenditure identified in the project plan is made.
- (c) The local legislative body, by resolution, dissolves the district at which time the town becomes liable for all unpaid project costs actually incurred which are not paid from the

special fund under sub. (7)(d), except this paragraph does not make the town liable for any tax incremental bonds or notes issued.

- (d) The department determines that tax increments have paid for ineligible costs, as determined under sub. (7)(e).

(11) Notice of district termination, Reporting Requirements.

- (a) A town which creates a tax incremental district under this section shall give the department of revenue written notice within 10 days of the termination of the tax incremental district under sub. (10).
- (b) If the department of revenue receives a notice under par. (a) during the period from January 1 to May 15, the effective date of the notice is the date the notice is received. If the notice is received during the period from May 16 to December 31, the effective date of the notice is the first January 1 after the department of revenue receives the notice.
- (c) Not later than February 15 of the year after the year in which a town transmits to the department of revenue the notice required under par. (a) the town shall send the to the department, on a form prescribed by the department, all of the following information that relates to the terminated tax incremental district:
1. A final accounting of all expenditures made by the town.
 2. The total amount of project costs incurred by the town.
 3. The total amount of positive tax increments received by the town.
- (d) If a town does not send to the department of revenue the form specified in par. (c), the department may not certify the tax incremental base of a tax incremental district under sub. (6)(a) and (b) until the form is sent to the department.

(12) Financing of project costs. Payment of project costs may be made by any one or more of the following methods:

- a. Payment by the town from the special fund of the tax incremental district;
- b. Payment out of its general funds;
- c. Payment out of the proceeds of the sale of bonds or notes issued by it under ch. 67;
- d. Payment out of the proceeds of the sale of public improvement bonds issued by it under s. 66.0619;
- e. Payment as provided under s. 66.0713 (2) and (4) or 67.16;
- f. Payment out of the proceeds of revenue bonds or notes issued by it under s. 66.0621;
- g. Payment out of the proceeds of revenue bonds issued by the town as provided by s. 66.1103, for a purpose specified in that section.

(13) Overlapping tax incremental districts.

- (a) Subject to any agreement with bondholders, a tax incremental district may be created, the boundaries of which overlap one or more existing districts, except that districts created as of the same date may not have overlapping boundaries.

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

- (14) **Equalized valuation for apportionment of property taxes.** With respect to the county, school districts and any other local governmental body having the power to levy taxes on property located within a tax incremental district, if the allocation of positive tax increments has been authorized by the department of revenue under sub. (7) (a), the calculation of the equalized valuation of taxable property in a tax incremental district for the apportionment of property taxes may not exceed the tax incremental base of the district until the district is terminated.
- (15) The department of commerce, in cooperation with other state agencies and local governments, shall make a comprehensive report to the governor and the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), at the beginning of each biennium, beginning with the 1977 biennium, as to the effects and impact of tax incremental financing projects socially, economically and financially.
- (16) **Use of tax incremental financing for inland lake protection and rehabilitation prohibited.** Notwithstanding sub. (9), no tax incremental financing project plan may be approved and no payment of project costs may be made for an inland lake protection and rehabilitation district or a county acting under s. 59.70 (8).
- (17) **Payment of Eligible Costs for Annexed Territory.** If a city or village annexes territory from a town and if part or all of the annexed territory is part of a tax incremental district created by the town, the city or village shall pay to the town that portion of the eligible costs that are attributable to the annexed territory. The city or village, and the town, shall negotiate an agreement on the amount that must be paid under this subsection.

Initial Applicability. The bill takes effect on October 1, 2004.

RB:skr

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State of Wisconsin
Department of
Revenue

Fax

To: Rick Stadelman From: Sherrie Gates-Hendrix
Fax: 256-3980 Date: 2-3-04
Phone: _____ Pages: 15
 Per our Conversation FYI Per Your Request

•COMMENTS:

Attached is the town TIF language
we talked about. Please call
if you have questions. Thanks.

Sherrie Gates-Hendrix
DOR Legislative Liaison
608-267-1262

cc: Rep. Loeffelholz 282-3649
Sen. Kedzie 282-3551
Sen. Stepp 267-6793

Wisconsin Department of Revenue
Division of Research and Policy
February 3, 2004

PROPOSED STATUTORY LANGUAGE FOR TOWN TIF UNDER AB437

66.23 Town Tax increment law.

(1) **Short title.** This section shall be known and may be cited as the "Town Tax Increment Law".

(2) **Definitions.** In this section, unless a different intent clearly appears from the context:

(a) "Agricultural project" means agricultural activities classified in the North American Industry Classification System (NAICS), 1997 edition, under the following industry codes:

1. 111 Crop production.
2. 112. Animal production.
3. 1151 Support activities for agriculture.
4. 1152 Support activities for animal production.

(b) "Environmental pollution" has the meaning given in s. 299.01 (4).

(c) "Forestry project" means forestry activities classified in the North American Industry Classification System (NAICS), 1997 edition, under the following industry codes:

1. 113 Forestry and Logging
2. 1153 Support Activities for Forestry

(d) "Highway" has the meaning provided in s. 340.01 (22).

(e) "Local legislative body" means the town board.

(f) "Manufacturing project" means manufacturing activities classified in the North American Industry Classification System (NAICS), 1997 edition, under the following industry codes:

1. 3116 Animal slaughtering and processing.
2. 321 Wood product manufacturing.
3. 322 Paper manufacturing.
4. 325193 Ethyl alcohol manufacturing.

(g) "Personal property" has the meaning prescribed in s. 70.04.

(h) "Planning commission" means a plan commission created under s. 62.23, a board of public land commissioners if the town has no plan commission, or a town plan committee of the local legislative body, if the town has neither a commission nor a board.

- (i)1. "Project costs" mean any expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred by the town which are included in a project allowed under sub. (3)(b) and which are listed in a project plan as costs of public works or improvements within a tax incremental district or, to the extent provided in subd. 1. i., without the district, plus any incidental costs, diminished by any income, special assessments, or other revenues, including user fees or charges, other than tax increments, received or reasonably expected to be received by the town in connection with the implementation of the plan. Only a proportionate share of the costs permitted under this subdivision may be included as project costs to the extent that they benefit the tax incremental district. To the extent the costs benefit the municipality outside the tax incremental district, a proportionate share of the cost is not a project cost. "Project costs" include:
- a. Capital costs including, but not limited to, the actual costs of the construction of public works or improvements, new buildings, structures, and fixtures; the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures other than the demolition of listed properties as defined in s. 44.31 (4); the acquisition of equipment to service the district; the removal or containment of, or the restoration of soil or groundwater affected by, environmental pollution; and the clearing and grading of land.
 - b. Financing costs, including, but not limited to, all interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of the obligations because of the redemption of the obligations prior to maturity.
 - c. Real property assembly costs, meaning any deficit incurred resulting from the sale or lease as lessor by the town of real or personal property within a tax incremental district for consideration which is less than its cost to the city.
 - d. Professional service costs, including, but not limited to, those costs incurred for architectural, planning, engineering, and legal advice and services.
 - e. Imputed administrative costs, including, but not limited to, reasonable charges for the time spent by town employees in connection with the implementation of a project plan.
 - f. Relocation costs, including, but not limited to, those relocation payments made following condemnation under ss. 32.19 and 32.195.
 - g. Organizational costs, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public with respect to the creation of tax incremental districts and the implementation of project plans.
 - h. Except as provided under subd. 2., payments made, in the discretion of the local legislative body, which are found to be necessary or convenient to the creation of tax incremental districts or the implementation of project plans.
 - i. That portion of costs related to the construction or alteration of sewerage treatment plants, water treatment plants or other environmental protection devices, storm or

- sanitary sewer lines, water lines, or amenities on streets or the rebuilding or expansion of streets the construction, alteration, rebuilding or expansion of which is necessitated by the project plan for a district and is within the district.
- j. That portion of costs related to the construction or alteration of sewerage treatment plants, water treatment plants or other environmental protection devices, storm or sanitary sewer lines, water lines, or amenities on streets outside the district if the construction, alteration, rebuilding or expansion is necessitated by the project plan for a district, and if at the time the construction, alteration, rebuilding or expansion begins there are improvements of the kinds named in this subdivision on the land outside the district in respect to which the costs are to be incurred.
 - k. Costs for the removal, or containment, of lead contamination in buildings or infrastructure if the town declares that such lead contamination is a public health concern.
2. None of the following may be included as project costs for any tax incremental district:
- a. The cost of constructing or expanding administrative buildings, police and fire buildings, libraries, community and recreational buildings and school buildings.
 - b. The cost of constructing or expanding any facility, if the town generally finances similar facilities only with utility user fees.
 - c. General government operating expenses, unrelated to the planning or development of a tax incremental district.
 - d. Cash grants made by the town to owners, lessees, or developers of land that is located within the tax incremental district.
- (j) "Project plan" means the properly approved plan for the development or redevelopment of a tax incremental district which include projects allowed under sub. (3)(b), including all properly approved amendments thereto.
- (k) "Real property" has the meaning prescribed in s. 70.03.
- (l) "Residential development" means sleeping quarters, within a proposed tax incremental district, for employees who work for an employer engaged in a project allowed under sub. (3)(b) but does not include hotels, motels or general residential housing development within a proposed tax incremental district.
- (m) "Tax increment" means that amount obtained by multiplying the total county, town, school and other local general property taxes levied on all taxable property within a tax incremental district in a year by a fraction having as a numerator the value increment for that year in the district and as a denominator that year's equalized value of all taxable property in the district. In any year, a tax increment is "positive" if the value increment is positive; it is "negative" if the value increment is negative.
- (n) "Tax incremental base" means the aggregate value, as equalized by the department of revenue, of all taxable property located within a tax incremental district on the date as of which the district is created, determined as provided in sub. (5) (b).

- (o) "Tax incremental district" means a contiguous geographic area within a town defined and created by resolution of the local legislative body, consisting solely of whole units of property as are assessed for general property tax purposes, other than railroad rights-of-way, rivers or highways. Railroad rights-of-way, rivers or highways may be included in a tax incremental district only if they are continuously bounded on either side, or on both sides, by whole units of property as are assessed for general property tax purposes which are in the tax incremental district. "Tax incremental district" does not include any area identified as a wetland on a map under s. 23.32.
- (p) "Taxable property" means all real and personal taxable property located in a tax incremental district.
- (q) "Tourism project" means activities that involve retailers classified in the North American Industry Classification System (NAICS), 1997 edition, published by the U.S. office of management and budget under the following industry numbers:
1. 721214 Recreational and vacation camps (NAICS).
 2. 721211 Recreational vehicle parks and campgrounds (NAICS).
 3. 711212 Racetracks (NAICS).
 4. Dairy product stores included in 445299 NAICS.
 5. Public golf courses included in 71391 NAICS.
- (r) "Value increment" means the equalized value of all taxable property in a tax incremental district in any year minus the tax incremental base. In any year "value increment" is positive if the tax incremental base is less than the aggregate value of taxable property as equalized by the department of revenue; it is negative if that base exceeds that aggregate value.
- (3) **Powers of towns.** (a) Except as provided under par. (c), in addition to any other powers conferred by law, a town may exercise the powers necessary and convenient to carry out the purposes of this section, including the power to:
1. Create tax incremental districts allowed under par. (b) and define the boundaries of the districts;
 2. Cause project plans to be prepared, approve the plans, and implement the provisions and effectuate the purposes of the plans;
 3. Deposit moneys into the special fund of any tax incremental district; or
 4. Enter into any contracts or agreements, including agreements with bondholders, determined by the local legislative body to be necessary or convenient to implement the provisions and effectuate the purposes of project plans. The contracts or agreements may include conditions, restrictions, or covenants which either run with the land or which otherwise regulate the use of land.
 5. Designate, by ordinance or resolution, the town industrial development agency, as agent of the town, to perform all acts under this section.
- (b) Projects for which a town may expend money or incur monetary obligations as a "project cost," as that term is defined in sub.(2)(l), are limited to the following:

1. Projects related to agriculture as defined in sub. (2)(q).
 2. Projects related to forestry as defined in sub. (2)(c).
 3. Projects related to manufacturing as defined in sub. (2)(f).
 4. Projects related to tourism as defined in sub. (2)(q).
 5. Residential development, as defined in sub.(2)(l), but only to the extent that it has a necessary relationship to a project listed in subds. 1. to 3.
 6. Retail development that is limited to the retail sale of products that are produced due to project that is developed under subd. (1),(2) or (3).
- (c) No town may exercise any power under this section within the extraterritorial zoning jurisdiction of a city or village, as that term is defined in s. 62.23(7a)(a), unless the city's or village's governing body adopts a resolution which approves the town's exercise of power under this section within such an extraterritorial zoning jurisdiction.
- (4) Creation of tax incremental districts and approval of project plans.** In order to implement the provisions of this section, the following steps and plans are required:
- (a) Holding of a public hearing by the planning commission at which interested parties are afforded a reasonable opportunity to express their views on the proposed creation of a tax incremental district and the proposed boundaries of the district. Notice of the hearing shall be published as a class 2 notice, under ch. 985. Before publication, a copy of the notice shall be sent by first class mail to the chief executive officer or administrator of all local governmental entities having the power to levy taxes on property located within the proposed district and to the school board of any school district which includes property located within the proposed district. For a county with no chief executive officer or administrator, notice shall be sent to the county board chairperson.
 - (b) Designation by the planning commission of the boundaries of a tax incremental district recommended by it and submission of the recommendation to the local legislative body.
 - (c) Identification of the specific property to be included in the proposed tax incremental district. Owners of the property identified shall be notified of the proposed finding and the date of the hearing to be held under par. (e) at least 15 days prior to the date of the hearing.
 - (d) Preparation and adoption by the planning commission of a proposed project plan for each tax incremental district.
 - (e) At least 30 days before adopting a resolution under par. (h), holding of a public hearing by the planning commission at which interested parties are afforded a reasonable opportunity to express their views on the proposed project plan. The hearing may be held in conjunction with the hearing provided for in par. (a). Notice of the hearing shall be published as a class 2 notice, under ch. 985. The notice shall include a statement advising that a copy of the proposed project plan will be provided on request. Before publication, a copy of the notice shall be sent by 1st class mail to the chief executive officer or administrator of all local governmental entities having the power to levy taxes on property within the district and to the school board of any school district which includes property located within the proposed district. For a county with no chief executive officer or administrator, notice shall be sent to the county board chairperson.

- (f) Adoption by the planning commission of a project plan for each tax incremental district and submission of the plan to the local legislative body. The plan shall include a statement listing the kind, number and location of all proposed public works or improvements within the district or, to the extent provided in sub. (2) (i)1. j., outside the district, an economic feasibility study, a detailed list of estimated project costs, and a description of the methods of financing all estimated project costs and the time when the related costs or monetary obligations are to be incurred. The plan shall also include a map showing existing uses and conditions of real property in the district; a map showing proposed improvements and uses in the district; proposed changes of zoning ordinances, master plan, if any, map, building codes and town ordinances; a list of estimated nonproject costs; and a statement of the proposed method for the relocation of any persons to be displaced. The plan shall indicate how creation of the tax incremental district promotes the orderly development of the town. The town shall include in the plan an opinion of the town attorney or of an attorney retained by the town advising whether the plan is complete and complies with this section.
- (g) Approval by the local legislative body of a project plan prior to or concurrent with the adoption of a resolution under par. (h). The approval shall be by resolution which contains findings that the plan is feasible and in conformity with the master plan, if any, of the town.
- (h) Adoption by the local legislative body of a resolution which:
1. Describes the boundaries, which may, but need not, be the same as those recommended by the planning commission, of a tax incremental district with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the district. The boundaries shall include only those whole units of property as are assessed for general property tax purposes.
 2. Creates the district as of January 1 of the same calendar year for a resolution adopted prior to October 1 of that year or as of January 1 of the subsequent calendar year for a resolution adopted after September 30 of that year.
 3. Assigns a name to the district for identification purposes. The first district created shall be known as "Tax Incremental District Number One, Town of". Each subsequently created district shall be assigned the next consecutive number.
 4. Declares the district to be an agricultural district, forestry district, manufacturing district or tourism district and identifies the NAICS industry classifications of the project for which project costs are to be expended.
 5. Contains findings that:
 - a. Not less than 75%, by area, of the real property within the district is intended for agricultural, forestry, manufacturing activities or tourism activities allowed under sub. (3)(b) and identified under subd. 4.; and
 - b. The improvement of the area is likely to enhance significantly the value of substantially all of the other real property in the district. It is not necessary to identify the specific parcels meeting the criteria; and

- c. The project costs of the district are limited to those allowed under sub. (3)(b) and the costs relate directly to promoting agriculture, forestry, manufacturing or tourism development; and
- d. Either the equalized value of taxable property of the district plus all existing districts does not exceed 7% of the total equalized value of taxable property within the town or the equalized value of taxable property of the district plus the value increment of all existing districts within the town does not exceed 5% of the total equalized value of taxable property within the town.
- e. Confirms that any real property within the district intended for manufacturing projects allowed under sub. (3)(b) is zoned for industrial use and will remain zoned for industrial use for the life of the tax incremental district.

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

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

(j) The local legislative body shall provide the joint review board with the following information and projections:

1. The projects included in the district and the specific project costs, the total dollar amount of these project costs to be paid with the tax increments, and the amount of tax increments to be generated over the life of the tax incremental district.
2. The amount of the value increment when the project costs in subd. 1. are paid in full and the tax incremental district is terminated.
3. The reasons why the project costs in subd. 1. may not or should not be paid by the owners of property that benefits by improvements within the tax incremental district.

4. The share of the projected tax increments in subd. 1. estimated to be paid by the owners of taxable property in each of the taxing jurisdictions overlying the tax incremental district.
 5. The benefits that the owners of taxable property in the overlying taxing jurisdictions will receive to compensate them for their share of the projected tax increments in subd. 4.
- (k) Calculation by the local assessor of the value of all tax-exempt town-owned property, except property described in sub. (6) (c), in the proposed tax incremental district, as of the day of the district's creation. This information shall be sent to the department of revenue for inclusion in the tax incremental district's initial tax incremental base under sub. (6) (b).
- (5) **Joint review board.**(a)1. Any town that seeks to create a tax incremental district or amend a project plan shall convene a joint review board to review the proposal. The board shall consist of one representative chosen by the school district that has power to levy taxes on the property within the tax incremental district, one representative chosen by the technical college district that has power to levy taxes on the property within the tax incremental district, one representative chosen by the county that has power to levy taxes on the property within the tax incremental district, one representative chosen by the town and one public member. If more than one school district, more than one technical college district or more than one county has the power to levy taxes on the property within the tax incremental district, the unit in which is located property of the tax incremental district that has the greatest value shall choose that representative to the board. The public member and the board's chairperson shall be selected by a majority of the other board members before the public hearing under sub. (4) (a) or (i) 1. is held. All board members shall be appointed and the first board meeting held within 14 days after the notice is published under sub. (4) (a) or (i) 1. Additional meetings of the board shall be held upon the call of any member. The city that seeks to create the tax incremental district or to amend its project plan shall provide administrative support for the board. By majority vote, the board may disband following approval or rejection of the proposal.
2. If a town seeks to create a tax incremental district that is located in a union high school district, the seat that is described under subd. 1. for the school district representative to the board shall be held by 2 representative, each of whom has one-half of a vote. One representative shall be chosen by the union high school district that has the power to levy taxes on the property within the tax incremental district and one representative shall be chosen by the elementary school district that has the power to levy taxes no the property within the tax incremental district.
- (b) 1. The board shall review the public record, planning documents and the resolution passed by the local legislative body or planning commission under sub. (4) (h) or (i) 1. As part of its deliberations the board may hold additional hearings on the proposal.
2. No tax incremental district may be created and no project plan may be amended unless the board approves the resolution adopted under sub. (4) (h) or (i) 1. by a majority vote not more than 30 days after receiving the resolution.
 3. The board shall submit its decision to the town no later than 7 days after the board acts on and reviews the items in subd. 2.

- (c) 1. The board shall base its decision to approve or deny a proposal on the following criteria:
- Whether the project costs to expended in the tax incremental district comply with the restrictions under sub. (3)(b).
 - Whether the development expected in the tax incremental district would occur without the use of tax incremental financing.
 - Whether the economic benefits of the tax incremental district, as measured by increased employment, business and personal income and property value, are insufficient to compensate for the cost of the improvements.
 - Whether the benefits of the proposal outweigh the anticipated tax increments to be paid by the owners of property in the overlying taxing districts.
2. The board shall issue either a written statement that in its judgement all of the criteria under subd. 1 have been met or a written explanation describing why any proposal it rejects fails to meet one or more of the criteria specified in subd. 1.

(6) Determination of tax increment and tax incremental base.

- (a) Subject to sub. (11)(d), upon the creation of a tax incremental district or upon adoption of any amendment subject to par. (d)1., its tax incremental base shall be determined as soon as reasonably possible. The department of revenue may impose a fee of \$1,000 on a town to determine or redetermine the tax base of tax incremental district under this section.
- (b) Upon application in writing by the town clerk, in a form prescribed by the department of revenue, the department shall determine according to its best judgment from all sources available to it the full aggregate value of the taxable property and, except as provided in par. (c), of the town-owned property in the tax incremental district. Subject to sub. (11)(d), the department shall certify this aggregate valuation to the town clerk, and the aggregate valuation constitutes the tax incremental base of the tax incremental district. The town clerk shall complete these forms including forms for the amendment of a project plan and submit the application or amendment forms on or before December 31 of the year the tax incremental district is created, as defined in sub. (4) (h) 2.
- (c) The value of real property owned by a town and used for police and fire buildings, administrative buildings, libraries, community and recreational buildings, parks, streets and improvements within any street right-of-way, parking facilities and utilities shall not be included in the tax incremental base determined under par. (b).
- (d) 1. If the town adopts, by resolution, an amendment to the original project plan for any district which includes additional project costs at least part of which will be incurred after the period specified in sub. (7) (b), the tax incremental base for the district shall be redetermined as of January 1 of the same calendar year for a resolution adopted prior to October 1 of that year or as of January 1 of the subsequent calendar year for a resolution adopted after September 30 of that year. The tax incremental base as redetermined under this paragraph is effective for the purposes of this section only if it exceeds the original tax incremental base determined under par. (b).

2. If a city or village annexes territory from a town and any or all of the annexed territory is part of a tax incremental district created by the town, the department shall redetermine the tax incremental tax base by subtracting from the tax incremental base the value of the taxable property that is annexed from the existing district. The tax incremental base under this subpar.

is effective for purposes of this section only if it is less than the original tax incremental base determined under par. (b).

(e) The town clerk shall file no later than May 15 a statement, on a form prescribed by the department of revenue, listing the public expenditures made in the district in the previous year.

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

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

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

(i) The department of revenue shall annually give notice to the designated finance officer of all governmental entities having the power to levy taxes on property within each district as to the equalized value of the property and the equalized value of the tax increment base. The notice shall also explain that the tax increment allocated to a town shall be paid to the town as provided under sub. (7)(c) from the taxes collected.

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

1. The department of revenue receives a notice under sub. (11) and the notice has taken effect under sub. (11) (b).
2. Eleven years after the tax incremental district is created.

- (b) 1. No expenditure may be made later than 5 years after the tax incremental district is created.
2. The limitations on the period during which expenditures may be made under subd. 1. do not apply to expenditures to pay project costs incurred under ch. 32.
3. The limitation on the period during which expenditures may be made under subd. 1. do not apply to expenditures authorized by the adoption of an amendment to the project plan under sub. (4)(i); except that in no case may the total number of years during which expenditures are made exceed 7 years.
- (c) Every officer charged by law to collect and pay over or retain local general property taxes shall, on the settlement dates provided by law, pay over to the town treasurer out of all the taxes which the officer has collected the proportion of the tax increment due the town that the general property taxes collected in the town bears to the total general property taxes levied by the town for all purposes included in the tax roll, exclusive of levies for state trust fund loans, state taxes and state special charges.
- (d) All tax increments received with respect to a tax incremental district shall, upon receipt by the town treasurer, be deposited into a special fund for that district. The town treasurer may deposit additional moneys into such fund pursuant to an appropriation by the legislative body. No moneys may be paid out of such fund except to pay project costs allowed under sub. (3)(b) with respect to that district, to reimburse the town for such payments, or to satisfy claims of holders of bonds or notes issued with respect to such district. Moneys paid out of the fund to pay project costs with respect to a district may be paid out before or after the district is terminated under sub. (10). Subject to any agreement with bondholders, moneys in the fund may be temporarily invested in the same manner as other town funds if any investment earnings are applied to reduce project costs. After all project costs and all bonds and notes with respect to the district have been paid or the payment thereof provided for, subject to any agreement with bondholders, if there remain in the fund any moneys, they shall be paid over to the treasurer of each county, school district or other tax levying municipality or to the general fund of the town in the amounts that belong to each respectively, having due regard for that portion of the moneys, if any, that represents tax increments not allocated to the city and that portion, if any, that represents voluntary deposits of the town into the fund.
- (e) Owners of taxable property located in a town that creates a tax incremental district under this section or in any taxing jurisdiction overlying the town, taxing jurisdictions overlying a town that creates a tax incremental district under this section, or a city or village that borders a town that creates a tax incremental district under this section may seek a review by the department of revenue of the tax incremental district's compliance with the provisions under sub. (3)(b). The request must be in writing, on a form prescribed by the department of revenue and filed with the department no later than May 15. If the department of revenue determines that any expenditures have been made on projects not allowed under sub. (3)(b), the department of revenue may not authorize allocation of tax increments for the tax incremental district. The department of revenue shall notify the town that the tax incremental district is terminated.

(8) Notification of position openings.

(a) Any person who operates for profit and is paid project costs under sub. (2) (i) 1. a., d., j. and k. in connection with the project plan for a tax incremental district shall notify the department of workforce development and the local workforce development board established under 29 USC 2832, of any positions to be filled in the county in which the town which created the tax incremental district under this section is located during the period commencing with the date the person first performs work on the project and ending one year after receipt of its final payment of project costs. The person shall provide this notice at least 2 weeks prior to advertising the position.

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

(9) Review.

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

(b) Audits shall be conducted no later than:

1. Twelve months after 30% of the project expenditures are made;
2. Twelve months after the end of the expenditure period specified in sub. (7)(b); and
3. Twelve months after the termination of the tax incremental district under sub. (10).

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

(10) Termination of tax incremental districts. A tax incremental district terminates when the earlier of the following occurs:

- (a) That time when the town has received aggregate tax increments with respect to the district in an amount equal to the aggregate of all project costs under the project plan and any amendments to the project plan for the district.
- (b) Eleven years after the last expenditure identified in the project plan is made.
- (c) The local legislative body, by resolution, dissolves the district at which time the town becomes liable for all unpaid project costs actually incurred which are not paid from the

special fund under sub. (7)(d), except this paragraph does not make the town liable for any tax incremental bonds or notes issued.

- (d) The department determines that tax increments have paid for ineligible costs, as determined under sub. (7)(e).

(11) Notice of district termination, Reporting Requirements.

- (a) A town which creates a tax incremental district under this section shall give the department of revenue written notice within 10 days of the termination of the tax incremental district under sub. (10).
- (b) If the department of revenue receives a notice under par. (a) during the period from January 1 to May 15, the effective date of the notice is the date the notice is received. If the notice is received during the period from May 16 to December 31, the effective date of the notice is the first January 1 after the department of revenue receives the notice.
- (c) Not later than February 15 of the year after the year in which a town transmits to the department of revenue the notice required under par. (a) the town shall send to the department, on a form prescribed by the department, all of the following information that relates to the terminated tax incremental district:
1. A final accounting of all expenditures made by the town.
 2. The total amount of project costs incurred by the town.
 3. The total amount of positive tax increments received by the town.
- (d) If a town does not send to the department of revenue the form specified in par. (c), the department may not certify the tax incremental base of a tax incremental district under sub. (6)(a) and (b) until the form is sent to the department.

(12) Financing of project costs. Payment of project costs may be made by any one or more of the following methods:

- a. Payment by the town from the special fund of the tax incremental district;
- b. Payment out of its general funds;
- c. Payment out of the proceeds of the sale of bonds or notes issued by it under ch. 67;
- d. Payment out of the proceeds of the sale of public improvement bonds issued by it under s. 66.0619;
- e. Payment as provided under s. 66.0713 (2) and (4) or 67.16;
- f. Payment out of the proceeds of revenue bonds or notes issued by it under s. 66.0621;
- g. Payment out of the proceeds of revenue bonds issued by the town as provided by s. 66.1103, for a purpose specified in that section.

(13) Overlapping tax incremental districts.

- (a) Subject to any agreement with bondholders, a tax incremental district may be created, the boundaries of which overlap one or more existing districts, except that districts created as of the same date may not have overlapping boundaries.

- (b) If the boundaries of 2 or more tax incremental districts overlap, in determining how positive tax increments generated by that area which is within 2 or more districts are allocated among the overlapping districts, but for no other purpose, the aggregate value of the taxable property in the area as equalized by the department of revenue in any year as to each earlier created district is that portion of the tax incremental base of the district next created which is attributable to the overlapped area.
- (14) **Equalized valuation for apportionment of property taxes.** With respect to the county, school districts and any other local governmental body having the power to levy taxes on property located within a tax incremental district, if the allocation of positive tax increments has been authorized by the department of revenue under sub. (7) (a), the calculation of the equalized valuation of taxable property in a tax incremental district for the apportionment of property taxes may not exceed the tax incremental base of the district until the district is terminated.
- (15) The department of commerce, in cooperation with other state agencies and local governments, shall make a comprehensive report to the governor and the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), at the beginning of each biennium, beginning with the 1977 biennium, as to the effects and impact of tax incremental financing projects socially, economically and financially.
- (16) **Use of tax incremental financing for inland lake protection and rehabilitation prohibited.** Notwithstanding sub. (9), no tax incremental financing project plan may be approved and no payment of project costs may be made for an inland lake protection and rehabilitation district or a county acting under s. 59.70 (8).
- (17) **Payment of Eligible Costs for Annexed Territory.** If a city or village annexes territory from a town and if part or all of the annexed territory is part of a tax incremental district created by the town, the city or village shall pay to the town that portion of the eligible costs that are attributable to the annexed territory. The city or village, and the town, shall negotiate an agreement on the amount that must be paid under this subsection.

Initial Applicability. The bill takes effect on October 1, 2004.

RB:skr

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Shovers, Marc

From: Boldt, Rebecca A
Sent: Friday, February 13, 2004 4:08 PM
To: Shovers, Marc
Cc: Collier, Dennis J; Gibbon, Judie A; Gates-Hendrix, Sherrie
Subject: town tif

Marc:

Here is my attempt to identify the changes to regular TIF law for towns under current law (i.e. before Stepp Lehman). The sections highlighted in yellow are deviations from regular TIF law.

The intent was to be faithful to TIF law except for the specifications under AB 437 (as amended), some DOR concerns, plus a few reforms in Stepp Lehman that we think should apply to town TIF as well. I note the provisions that follow from Stepp Lehman (or Lehman's original bill).

I probably didn't i.d. all the changes from "city or village" to "town", but I can do a search and replace.

In general, town TIF is to be similar to CURRENT law regular TIF except for:

1. 5 year expenditure, 16 year life (though this might have been changed per Rachel's memo).
2. Limited only to specified projects
3. Annual filing of expenditures to DOR
4. Annexation language covering liability of costs
5. no vacant land restriction
6. 75% of land in TID must be for the project
7. DOR review process for allowed expenditures
8. Extraterritorial restrictions
9. \$1000 fee
10. One time amendment to add territory in first 5 years/2 additional years for expenditures
11. Additional final reporting requirement per Stepp-Lehman
12. union high jrb representation per Stepp Lehman
13. prohibits DOR from certifying under certain conditions (per Stepp Lehman plus additional project restriction.)

I assume Rachel's memo lays out the other changes that were agreed on.

Clearly the numbering is not the same as regular TIF law due to the many special exceptions found in regular law.

I hope this is helpful to you. Judie, Dennis - please let Marc know if you see anything I missed.



AB 437 town tif with
highlight...

STATE OF WISCONSIN

Tax Incremental Finance

66.23 **Town Tax increment law.**

(1) **Short title.** This section shall be known and may be cited as the "Town Tax Increment Law".

(2) **Definitions.** In this section, unless a different intent clearly appears from the context:

(a) "Agricultural project" means agricultural activities classified in the North American Industry Classification System (NAICS), 1997 edition, under the following industry codes:

1. 111 Crop production.
2. 112. Animal production.
3. 1151 Support activities for agriculture.
4. 1152 Support activities for animal production.

(b) "Environmental pollution" has the meaning given in s. 299.01 (4).

(c) "Forestry project" means forestry activities classified in the North American Industry Classification System (NAICS), 1997 edition, under the following industry codes:

1. 113 Forestry and Logging
2. 1153 Support Activities for Forestry

(d) "Highway" has the meaning provided in s. 340.01 (22).

(e) "Local legislative body" means the town board

(didn't include e)

(e) (f) "Manufacturing project" means manufacturing activities classified in the North American Industry Classification System (NAICS), 1997 edition, under the following industry codes:

1. 3116 Animal slaughtering and processing.
2. 321 Wood product manufacturing.
3. 322 Paper manufacturing.
4. 325193 Ethyl alcohol manufacturing.

(f) (g) "Personal property" has the meaning prescribed in s. 70.04.

(g) (h) "Planning commission" means a plan commission created under s. 62.23, a board of public land commissioners if the town has no plan commission, or a town plan committee of the local legislative body, if the town has neither a commission nor a board.

(h) (i) 1. "Project costs" mean any expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred by the town which are included in a project allowed under sub. (3)(b) and which are listed in a project plan as costs of public works or improvements within a tax incremental district or, to the extent provided in subd. 1. i., without the district, plus any incidental costs, diminished by any income, special assessments, or other revenues, including user fees or charges, other than tax increments, received or reasonably expected to be received by the town in

connection with the implementation of the plan. Only a proportionate share of the costs permitted under this subdivision may be included as project costs to the extent that they benefit the tax incremental district. To the extent the costs benefit the municipality outside the tax incremental district, a proportionate share of the cost is not a project cost. "Project costs" include:

- a. Capital costs including, but not limited to, the actual costs of the construction of public works or improvements, new buildings, structures, and fixtures; the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures other than the demolition of listed properties as defined in s. 44.31 (4); the acquisition of equipment to service the district; the removal or containment of, or the restoration of soil or groundwater affected by, environmental pollution; and the clearing and grading of land.
- b. Financing costs, including, but not limited to, all interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of the obligations because of the redemption of the obligations prior to maturity.
- c. Real property assembly costs, meaning any deficit incurred resulting from the sale or lease as lessor by the town of real or personal property within a tax incremental district for consideration which is less than its cost to the city.
- d. Professional service costs, including, but not limited to, those costs incurred for architectural, planning, engineering, and legal advice and services.
- e. Imputed administrative costs, including, but not limited to, reasonable charges for the time spent by town employees in connection with the implementation of a project plan.
- f. Relocation costs, including, but not limited to, those relocation payments made following condemnation under ss. 32.19 and 32.195.
- g. Organizational costs, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public with respect to the creation of tax incremental districts and the implementation of project plans.
- h. Except as provided under subd. 2, payments made, in the discretion of the local legislative body, which are found to be necessary or convenient to the creation of tax incremental districts or the implementation of project plans.
- i. That portion of costs related to the construction or alteration of sewerage treatment plants, water treatment plants or other environmental protection devices, storm or sanitary sewer lines, water lines, or amenities on streets or the rebuilding or expansion of streets the construction, alteration, rebuilding or expansion of which is necessitated by the project plan for a district and is within the district.
- j. That portion of costs related to the construction or alteration of sewerage treatment plants, water treatment plants or other environmental protection devices, storm or sanitary sewer lines, water lines, or amenities on streets outside the district if the construction, alteration, rebuilding or expansion is necessitated by the project plan for a district, and if at the time the construction, alteration, rebuilding or expansion begins there are improvements of the kinds named in this subdivision on the land outside the district in respect to which the costs are to be incurred.

NOT needed - re: 2 (in town)

- k. Costs for the removal, or containment, of lead contamination in buildings or infrastructure if the town declares that such lead contamination is a public health concern.
2. None of the following may be included as project costs for any tax incremental district:
- a. The cost of constructing or expanding administrative buildings, police and fire buildings, libraries, community and recreational buildings and school buildings.
 - b. The cost of constructing or expanding any facility, if **the town** generally finances similar facilities only with utility user fees.
 - c. General government operating expenses, unrelated to the planning or development of a tax incremental district.
 - d. Cash grants made by the **town** to owners, lessees, or developers of land that is located within the tax incremental district.

NOTE: subd. d above is changed in Stepp Lehman but remains in town law

- (j) "Project plan" means the properly approved plan for the development or redevelopment of a tax incremental district **which include projects allowed under sub. (3)(b)**, including all properly approved amendments thereto.
- (k) "Real property" has the meaning prescribed in s. 70.03.
- (l) **"Residential development" means sleeping quarters, within a proposed tax incremental district, for employees who work for an employer engaged in a project allowed under sub. (3)(b) but does not include hotels, motels or general residential housing development within a proposed tax incremental district.**
- (m) "Tax increment" means that amount obtained by multiplying the total county, **town**, school and other local general property taxes levied on all taxable property within a tax incremental district in a year by a fraction having as a numerator the value increment for that year in the district and as a denominator that year's equalized value of all taxable property in the district. In any year, a tax increment is "positive" if the value increment is positive; it is "negative" if the value increment is negative.
- (n) "Tax incremental base" means the aggregate value, as equalized by the department of revenue, of all taxable property located within a tax incremental district on the date as of which the district is created, determined as provided in sub. (5) (b).
- (o) "Tax incremental district" means a contiguous geographic area within a **town** defined and created by resolution of the local legislative body, consisting solely of whole units of property as are assessed for general property tax purposes, other than railroad rights-of-way, rivers or highways. Railroad rights-of-way, rivers or highways may be included in a tax incremental district only if they are continuously bounded on either side, or on both sides, by whole units of property as are assessed for general property tax purposes which are in the tax incremental district. "Tax incremental district" does not include any area identified as a wetland on a map under s. 23.32.
- (p) "Taxable property" means all real and personal taxable property located in a tax incremental district.

(q) "Tourism project" means activities that involve retailers classified in the North American Industry Classification System (NAICS), 1997 edition, published by the U.S. office of management and budget under the following industry numbers:

1. 721214 Recreational and vacation camps (NAICS)
2. 721211 Recreational vehicle parks and campgrounds (NAICS)
3. 711212 Racetracks (NAICS)
4. Dairy product stores included in 445299 NAICS
5. Public golf courses included in 71391 NAICS

(r) "Value increment" means the equalized value of all taxable property in a tax incremental district in any year minus the tax incremental base. In any year "value increment" is positive if the tax incremental base is less than the aggregate value of taxable property as equalized by the department of revenue; it is negative if that base exceeds that aggregate value.

2 (3) Powers of towns. (a) Except as provided under par. (c) in addition to any other powers conferred by law, a town may exercise the powers necessary and convenient to carry out the purposes of this section, including the power to:

1. Create tax incremental districts allowed under par. (b) and define the boundaries of the districts;
2. Cause project plans to be prepared, approve the plans, and implement the provisions and effectuate the purposes of the plans;
3. Deposit moneys into the special fund of any tax incremental district; or
4. Enter into any contracts or agreements, including agreements with bondholders, determined by the local legislative body to be necessary or convenient to implement the provisions and effectuate the purposes of project plans. The contracts or agreements may include conditions, restrictions, or covenants which either run with the land or which otherwise regulate the use of land.
5. Designate, by ordinance or resolution, the town industrial development agency, as agent of the town, to perform all acts under this section.

(b) Projects for which a town may expend money or incur monetary obligations as a "project cost," as that term is defined in sub.(2)(i), are limited to the following:

1. Projects related to agriculture as defined in sub. (2)(q).
2. Projects related to forestry as defined in sub. (2)(c).
3. Projects related to manufacturing as defined in sub. (2)(f).
4. Projects related to tourism as defined in sub. (2)(q).
5. Residential development, as defined in sub.(2)(l), but only to the extent that it has a necessary relationship to a project listed in subs. 1. to 3.
6. Retail development that is limited to the retail sale of products that are produced due to project that is developed under subd. (1),(2) or (3).

2/17/04:
Rachel Letzing says
this shld be 1. to 4. "

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

(3) **(4) Creation of tax incremental districts and approval of project plans.** In order to implement the provisions of this section, the following steps and plans are required:

- (a) Holding of a public hearing by the planning commission at which interested parties are afforded a reasonable opportunity to express their views on the proposed creation of a tax incremental district and the proposed boundaries of the district. Notice of the hearing shall be published as a class 2 notice, under ch. 985. Before publication, a copy of the notice shall be sent by first class mail to the chief executive officer or administrator of all local governmental entities having the power to levy taxes on property located within the proposed district and to the school board of any school district which includes property located within the proposed district. For a county with no chief executive officer or administrator, notice shall be sent to the county board chairperson.
- (b) Designation by the planning commission of the boundaries of a tax incremental district recommended by it and submission of the recommendation to the local legislative body.
- (c) Identification of the specific property to be included in the proposed tax incremental district. Owners of the property identified shall be notified of the proposed finding and the date of the hearing to be held under par. (e) at least 15 days prior to the date of the hearing.
- (d) Preparation and adoption by the planning commission of a proposed project plan for each tax incremental district.
- (e) At least 30 days before adopting a resolution under par. (h), holding of a public hearing by the planning commission at which interested parties are afforded a reasonable opportunity to express their views on the proposed project plan. The hearing may be held in conjunction with the hearing provided for in par. (a). Notice of the hearing shall be published as a class 2 notice, under ch. 985. The notice shall include a statement advising that a copy of the proposed project plan will be provided on request. Before publication, a copy of the notice shall be sent by 1st class mail to the chief executive officer or administrator of all local governmental entities having the power to levy taxes on property within the district and to the school board of any school district which includes property located within the proposed district. For a county with no chief executive officer or administrator, notice shall be sent to the county board chairperson.
- (f) Adoption by the planning commission of a project plan for each tax incremental district and submission of the plan to the local legislative body. The plan shall include a statement listing the kind, number and location of all proposed public works or improvements within the district or, to the extent provided in sub. (2) (i)1. j., outside the district, an economic feasibility study, a detailed list of estimated project costs, and a description of the methods of financing all estimated project costs and the time when the related costs or monetary obligations are to be incurred. The plan shall also include a map showing existing uses and conditions of real property in the district; a map showing proposed improvements and uses in the district; proposed changes of zoning ordinances, master plan, if any, map, building codes and town ordinances; a list of estimated nonproject costs; and a statement of the proposed method for the relocation of any persons to be displaced. The plan shall indicate how creation of the tax incremental district promotes the orderly development of the town. The town shall include in the plan an opinion of the town attorney or of an attorney retained by the town advising whether the plan is complete and complies with this section.
- (g) Approval by the local legislative body of a project plan prior to or concurrent with the adoption of a resolution under par. (h). The approval shall be by resolution which contains findings that the plan is

feasible and in conformity with the master plan, if any, of the town.

(h) Adoption by the local legislative body of a resolution which:

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

NOTE: Dropped is the restrictions on vacant land

2. Creates the district as of January 1 of the same calendar year for a resolution adopted prior to October 1 of that year or as of January 1 of the subsequent calendar year for a resolution adopted after September 30 of that year.

Above is just a restatement of current law.

3. Assigns a name to the district for identification purposes. The first district created shall be known as "Tax Incremental District Number One, Town of". Each subsequently created district shall be assigned the next consecutive number.

4. Declares the district to be an agricultural district, forestry district, manufacturing district or tourism district and identifies the NAICS industry classifications of the project for which project costs are to be expended.

5. Contains findings that:

- a. Not less than 75%, by area, of the real property within the district is intended for agricultural, forestry, manufacturing activities or tourism activities allowed under sub. (3)(b) and identified under subd. 4.; and
- b. The improvement of the area is likely to enhance significantly the value of substantially all of the other real property in the district. It is not necessary to identify the specific parcels meeting the criteria; and

NOTE: DROPPED REFERENCE TO BLIGHTED/REDEVELOP

- c. The project costs of the district are limited to those allowed under sub. (3)(b) and the costs relate directly to promoting agriculture, forestry, manufacturing or tourism development; and
- d. Either the equalized value of taxable property of the district plus all existing districts does not exceed 7% of the total equalized value of taxable property within the town or the equalized value of taxable property of the district plus the value increment of all existing districts within the town does not exceed 5% of the total equalized value of taxable property within the town.
- e. Confirms that any real property within the district intended for manufacturing projects allowed under sub. (3)(b) is zoned for industrial use and will remain zoned for industrial use for the life of the tax incremental district.

SHOULD PROBABLY ADD SIMILAR LANGAGUE AS (4)(gs)?

I added it

- (i) 1. The planning commission may, by resolution, adopt an amendment to a project plan. The amendment is subject to approval by the local legislative body and approval requires the same findings as provided in par. (g) and (h). Any amendment to a project plan is also subject to review by a joint review board, acting under sub. (5). Adoption of an amendment to a project plan shall be preceded by a public hearing held by the plan commission at which interested parties shall be afforded a reasonable opportunity to express their views on the amendment. Notice of the hearing shall be published as a class 2 notice, under ch. 985. The notice shall include a statement of the purpose and cost of the amendment and shall advise that a copy of the amendment will be provided on request. Before publication, a copy of the notice shall be sent by 1st class mail to the chief executive officer or administrator of all local governmental entities having the power to levy taxes on property within the district and to the school board of any school district which includes property located within the proposed district. For a county with no chief executive officer or administrator, this notice shall be sent to the county board chairperson.
2. Not more than once during the 5 years after the tax incremental district is created, the planning commission may adopt an amendment to a project plan under subd. 1. to modify the district's boundaries by adding territory to the district that is contiguous to the district and that is served by public works or improvements that were created as part of the district's project plan. Expenditures for project costs that are incurred because of an amendment to a project plan to which this subdivision applies may be made for not more than 2 years after the date on which the local legislative body adopts a resolution amending the project plan.

NOTE: DROPPED ALL SPECIAL EXCEPTION LANGUAGE

(j) The local legislative body shall provide the joint review board with the following information and projections:

1. The projects included in the district and the specific project costs, the total dollar amount of these project costs to be paid with the tax increments, and the amount of tax increments to be generated over the life of the tax incremental district.
2. The amount of the value increment when the project costs in subd. 1. are paid in full and the tax incremental district is terminated.
3. The reasons why the project costs in subd. 1. may not or should not be paid by the owners of property that benefits by improvements within the tax incremental district.
4. The share of the projected tax increments in subd. 1. estimated to be paid by the owners of taxable property in each of the taxing jurisdictions overlying the tax incremental district.
5. The benefits that the owners of taxable property in the overlying taxing jurisdictions will receive to compensate them for their share of the projected tax increments in subd. 4.

(k) Calculation by the local assessor of the value of all tax-exempt town-owned property, except property described in sub. (5)(b), in the proposed tax incremental district, as of the day of the district's creation. This information shall be sent to the department of revenue for inclusion in the tax incremental district's initial tax incremental base under sub. (5)(b).

(5) Joint review board. (a) 1. Any town that seeks to create a tax incremental district or amend a project plan shall convene a joint review board to review the proposal. The board shall consist of one

representative chosen by the school district that has power to levy taxes on the property within the tax incremental district, one representative chosen by the technical college district that has power to levy taxes on the property within the tax incremental district, one representative chosen by the county that has power to levy taxes on the property within the tax incremental district, one representative chosen by the town and one public member. If more than one school district, more than one technical college district or more than one county has the power to levy taxes on the property within the tax incremental district, the unit in which is located property of the tax incremental district that has the greatest value shall choose that representative to the board. The public member and the board's chairperson shall be selected by a majority of the other board members before the public hearing under sub. (4) (a) or (i) 1. is held. All board members shall be appointed and the first board meeting held within 14 days after the notice is published under sub. (4) (a) or (i) 1. Additional meetings of the board shall be held upon the call of any member. The city that seeks to create the tax incremental district or to amend its project plan shall provide administrative support for the board. By majority vote, the board may disband following approval or rejection of the proposal.

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

this is in Stepp-Lehman

- (b) 1. The board shall review the public record, planning documents and the resolution passed by the local legislative body or planning commission under sub. (4) (h) or (i) 1. As part of its deliberations the board may hold additional hearings on the proposal.
2. No tax incremental district may be created and no project plan may be amended unless the board approves the resolution adopted under sub. (4) (h) or (i) 1. by a majority vote not more than 30 days after receiving the resolution.
3. The board shall submit its decision to the town no later than 7 days after the board acts on and reviews the items in subd. 2.
- (c) 1. The board shall base its decision to approve or deny a proposal on the following criteria:
 - a. Whether the project costs to expended in the tax incremental district comply with the restrictions under sub. (3)(b).
 - b. Whether the development expected in the tax incremental district would occur without the use of tax incremental financing.
 - c. Whether the economic benefits of the tax incremental district, as measured by increased employment, business and personal income and property value, are insufficient to compensate for the cost of the improvements.
 - d. Whether the benefits of the proposal outweigh the anticipated tax increments to be paid by the owners of property in the overlying taxing districts.

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

(5) (6) **Determination of tax increment and tax incremental base.**

- (a) Subject to sub. (11)(d), upon the creation of a tax incremental district or upon adoption of any amendment subject to par. (d)1., its tax incremental base shall be determined as soon as reasonably possible. The department of revenue may impose a fee of \$1,000 on a town to determine or redetermine the tax base of tax incremental district under this section.
- (b) Upon application in writing by the town clerk, in a form prescribed by the department of revenue, the department shall determine according to its best judgment from all sources available to it the full aggregate value of the taxable property and, except as provided in par. (c), of the town-owned property in the tax incremental district. Subject to sub. (11)(d), the department shall certify this aggregate valuation to the town clerk, and the aggregate valuation constitutes the tax incremental base of the tax incremental district. The town clerk shall complete these forms including forms for the amendment of a project plan and submit the application or amendment forms on or before December 31 of the year the tax incremental district is created, as defined in sub. (4)(h) 2.
- (c) The value of real property owned by a town and used for police and fire buildings, administrative buildings, libraries, community and recreational buildings, parks, streets and improvements within any street right-of-way, parking facilities and utilities shall not be included in the tax incremental base determined under par. (b).
- (d) 1. If the town adopts, by resolution, an amendment to the original project plan for any district which includes additional project costs at least part of which will be incurred after the period specified in sub. (b), the tax incremental base for the district shall be redetermined as of January 1 of the same calendar year for a resolution adopted prior to October 1 of that year or as of January 1 of the subsequent calendar year for a resolution adopted after September 30 of that year. The tax incremental base as redetermined under this paragraph is effective for the purposes of this section only if it exceeds the original tax incremental base determined under par. (b).
2. If a city or village annexes territory from a town and any or all of the annexed territory is part of a tax incremental district created by the town, the department shall redetermine the tax incremental tax base by subtracting from the tax incremental base the value of the taxable property that is annexed from the existing district. The tax incremental base under this subpar. is effective for purposes of this section only if it is less than the original tax incremental base determined under par. (b).
- (e) The town clerk shall file no later than May 15 a statement, on a form prescribed by the department of revenue, listing the public expenditures made in the district in the previous year.
- (f) The town clerk shall annually, after May 1 but before May 21, by written notice, inform the department of revenue of any amendment to the project plan that has been adopted. The town clerk shall also give written notice of the adoption of an amendment to the department of revenue within 60 days after its adoption. The department of revenue may prescribe forms to be used by the town clerk when giving notice as required by this paragraph.
- (g) The department of revenue may not certify the tax incremental base as provided in par. (b) until it determines that each of the procedures and documents required by sub. (4) (a), (b), (h) or (i) and par. (b) has been timely completed and all notices required under sub. (4) (a), (b), (h) or (i) timely given. The facts supporting any document adopted or action taken to comply with sub. (4) (a), (b), (h) or (i) are not subject to review by the department of revenue under this paragraph, except that the

department may not certify the tax incremental base until it reviews and approves the findings in sub. (4) (h) 4. and 5. d..

NOTE: intent is to prohibit DOR from certifying if territorial limit is exceeded for creation AND amendment and if resolution does not i.d. the allowed project.

- (h) The town assessor shall identify upon the assessment roll returned and examined under s. 70.45 those parcels of property which are within each existing tax incremental district, specifying the name of each district. A similar notation shall appear on the tax roll made by the town clerk under s. 70.65.
- (i) The department of revenue shall annually give notice to the designated finance officer of all governmental entities having the power to levy taxes on property within each district as to the equalized value of the property and the equalized value of the tax increment base. The notice shall also explain that the tax increment allocated to a town shall be paid to the town as provided under sub. (c) from the taxes collected.

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

1. The department of revenue receives a notice under sub. (1) and the notice has taken effect under sub. (1) (b).
2. Sixteen years after the tax incremental district is created.

- (b) 1. No expenditure may be made later than 5 years after the tax incremental district is created.
2. The limitations on the period during which expenditures may be made under subd. 1. do not apply to expenditures to pay project costs incurred under ch. 32 (EMINENT DOMAIN)???
3. The limitation on the period during which expenditures may be made under subd. 1. do not apply to expenditures authorized by the adoption of an amendment to the project plan under sub. (4) (i) except that in no case may the total number of years during which expenditures are made exceed 7 years.

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

(j) All tax increments received with respect to a tax incremental district shall, upon receipt by the town treasurer, be deposited into a special fund for that district. The town treasurer may deposit additional

NOT necessarily it's a defined term

moneys into such fund pursuant to an appropriation by the legislative body. No moneys may be paid out of such fund except to pay project costs allowed under sub. (3)(b) with respect to that district, to reimburse the town for such payments, or to satisfy claims of holders of bonds or notes issued with respect to such district. Moneys paid out of the fund to pay project costs with respect to a district may be paid out before or after the district is terminated under sub. (10). Subject to any agreement with bondholders, moneys in the fund may be temporarily invested in the same manner as other town funds if any investment earnings are applied to reduce project costs. After all project costs and all bonds and notes with respect to the district have been paid or the payment thereof provided for, subject to any agreement with bondholders, if there remain in the fund any moneys, they shall be paid over to the treasurer of each county, school district or other tax levying municipality or to the general fund of the town in the amounts that belong to each respectively, having due regard for that portion of the moneys, if any, that represents tax increments not allocated to the city and that portion, if any, that represents voluntary deposits of the town into the fund.

(e)² (d) Owners of taxable property located in a town that creates a tax incremental district under this section or in any taxing jurisdiction overlying the town, taxing jurisdictions overlying a town that creates a tax incremental district under this section, or a city or village that borders a town that creates a tax incremental district under this section may seek a review by the department of revenue of the tax incremental district's compliance with the provisions under sub. (3)(b). The request must be in writing, on a form prescribed by the department of revenue and filed with the department no later than May 15. If the department of revenue determines that any expenditures have been made on projects not allowed under sub. (3)(b), the department of revenue may not authorize allocation of tax increments for the tax incremental district. The department of revenue shall notify the town that the tax incremental district is terminated.

✓ NOTE: See DOR suggested changes to this process

7 (8) Notification of position openings.

(a) Any person who operates for profit and is paid project costs under sub. (1) (b) 1. a., d., j. and k. in connection with the project plan for a tax incremental district shall notify the department of workforce development and the local workforce development board established under 29 USC 2832, of any positions to be filled in the county in which the town which created the tax incremental district under this section is located during the period commencing with the date the person first performs work on the project and ending one year after receipt of its final payment of project costs. The person shall provide this notice at least 2 weeks prior to advertising the position.

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

8 (9) Review.

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

(b) Audits shall be conducted no later than:

1. Twelve months after 30% of the project expenditures are made;
2. Twelve months after the end of the expenditure period specified in sub. ~~(7)~~⁶(b); and
3. Twelve months after the termination of the tax incremental district under sub. ~~(10)~~⁹.

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

⁹ ~~(10)~~ **Termination of tax incremental districts.** A tax incremental district terminates when the earlier of the following occurs:

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

~~(b) Eleven years after the last expenditure identified in the project plan is made.~~

(c) The local legislative body, by resolution, dissolves the district at which time the town becomes liable for all unpaid project costs actually incurred which are not paid from the special fund under sub. ~~(7)~~(d), except this paragraph does not make the town liable for any tax incremental bonds or notes issued.

~~(d) The department determines that tax increments have paid for ineligible costs, as determined under sub. ~~(7)~~(e).~~

¹⁰ ~~(11)~~ **Notice of district termination, Reporting Requirements.**

(a) A town which creates a tax incremental district under this section shall give the department of revenue written notice within 10 days of the termination of the tax incremental district under sub. ~~(10)~~¹.

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

~~(c) Not later than February 15 of the year after the year in which a town transmits to the department of revenue the notice required under par. (a) the town shall send the to the department, on a form prescribed by the department, all of the following information that relates to the terminated tax incremental district:~~

1. A final accounting of all expenditures made by the town.
2. The total amount of project costs incurred by the town.
3. The total amount of positive tax increments received by the town.

~~(d) If a town does not send to the department of revenue the form specified in par. (c), the department~~

5
may not certify the tax incremental base of a tax incremental district under sub. (b)(a) and (b) until the form is sent to the department.

NOTE this is in Stepp Lehman

(11) (12) **Financing of project costs.** Payment of project costs may be made by any one or more of the following methods:

- a. Payment by the town from the special fund of the tax incremental district;
- b. Payment out of its general funds;
- c. Payment out of the proceeds of the sale of bonds or notes issued by it under ch. 67;
- d. Payment out of the proceeds of the sale of public improvement bonds issued by it under s. 66.0619;
- e. Payment as provided under s. 66.0713 (2) and (4) or 67.16;
- f. Payment out of the proceeds of revenue bonds or notes issued by it under s. 66.0621;
- g. Payment out of the proceeds of revenue bonds issued by the town as provided by s. 66.1103, for a purpose specified in that section.

NOTE: Dropped TIF bonding

(12) (13) **Overlapping tax incremental districts.**

(a) Subject to any agreement with bondholders, a tax incremental district may be created, the boundaries of which overlap one or more existing districts, except that districts created as of the same date may not have overlapping boundaries.

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

(13) (14) **Equalized valuation for apportionment of property taxes.** With respect to the county, school districts and any other local governmental body having the power to levy taxes on property located within a tax incremental district, if the allocation of positive tax increments has been authorized by the department of revenue under sub. (b) (a), the calculation of the equalized valuation of taxable property in a tax incremental district for the apportionment of property taxes may not exceed the tax incremental base of the district until the district is terminated.

(14) (15) The department of commerce, in cooperation with other state agencies and local governments, shall make a comprehensive report to the governor and the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), at the beginning of each biennium, beginning with the 1977 biennium, as to the effects and impact of tax incremental financing projects socially, economically and financially.

(16) **Use of tax incremental financing for inland lake protection and rehabilitation prohibited.** Notwithstanding sub. (b), no tax incremental financing project plan may be approved and no payment of project costs may be made for an inland lake protection and rehabilitation district or a county acting under s. 59.70 (8).

(17) **Payment of Eligible Costs for Annexed Territory.** If a city or village annexes territory from a town and if part or all of the annexed territory is part of a tax incremental district created by the

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

Initial Applicability. The bill takes effect on October 1, 2004.

Shovers, Marc

From: Letzing, Rachel
Sent: Thursday, February 19, 2004 2:54 PM
To: Shovers, Marc
Subject: FW: AB 437 - Horse Show Arena

Hi Marc,

The horse show language to include in the draft is at the bottom of this message. Thanks again -

Rachel

Rachel Letzing
Legislative Council Staff
266-3370
rachel.letzing@legis.state.wi.us

-----Original Message-----

From: Gates-Hendrix, Sherrie
Sent: Wednesday, February 18, 2004 12:53 PM
To: Letzing, Rachel
Subject: RE: AB 437 - Horse Show Arena

Hi Rachel -- Regarding the horse show issue, I've relayed to Rick Stadelman and the authors that DOR is OK with adding the language below.

Regarding the effective date issue, at this point I don't have any indication that our executive assistant (Jason Helgerson) thinks the date should change from what we originally suggested. (Oct 1st)

Hope this helps. Sorry you won't be able to make it this afternoon. It's a busy time now ! I'll be glad when the Legislature is out for a while.

-----Original Message-----

From: Gates-Hendrix, Sherrie
Sent: Wednesday, February 11, 2004 3:56 PM
To: Ford, William; Letzing, Rachel; Rose, Laura
Subject: AB 437 - Horse Show Arena

Rachel, Bill, Laura --

Here's what I'm suggesting to Rick Stadelman regarding NAICS codes for horse shows per our discussion on AB 437 on Monday. Let me know if you need anything else from us.

Add the following to the list of entities included in the definition of "tourism project" in proposed section 66.23 (2)(q) [page 4 of the DOR draft language]:

6. Horse show ^{managers, organizers or promoters} ~~managers, organizers or promoters~~ with facilities included in 71131 NAICS.

This language would limit projects to such entities when they have facilities. If you would like to include horse show managers, organizers or promoters without facilities, you would want to also reference 71132 NAICS.

Sherrie

*call Rick Stadelman
715-584-2936
(cell)*