



State of Wisconsin
2003 - 2004 LEGISLATURE

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE SUBSTITUTE AMENDMENT,
TO 2003 ASSEMBLY BILL 437

WANTED:
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1 AN ACT ^{gen}; relating to: granting towns limited authority to create tax
2 incremental financing districts.

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Analysis by the Legislative Reference Bureau

Under the current tax incremental financing (TIF) program, a city or village may create a tax incremental district (TID) in part of its territory to foster development if at least 50% of the area to be included in the TID is blighted, in need of rehabilitation, or suitable for industrial sites. Before a city or village may create a TID, several steps and plans are required. These steps and plans include public hearings on the proposed TID within specified time frames, preparation and adoption by the local planning commission of a proposed project plan for the TID, approval of the proposed project plan by the common council or village board, and adoption of a resolution by the common council or village board that creates the district as of a date provided in the resolution.

Also under current law, once a TID has been created, the Department of Revenue (DOR) calculates the "tax increment base value" of the TID, which is the equalized value of all taxable property within the TID at the time of its creation. If the development in the TID increases the value of the property in the TID above the base value, a "value increment" is created. That portion of taxes collected on the value increment is called a "tax increment." The tax increment is placed in a special

fund that may be used only to pay back the project costs of the TID. The costs of a TID, which are initially incurred by the creating city or village, include public works such as sewers, streets, and lighting systems; financing costs; site preparation costs; and professional service costs. DOR authorizes the allocation of the tax increments until the TID terminates or, generally, 23 years, or 27 years in certain cases, after the TID is created, whichever is sooner. TIDs are required to terminate, under current law and with one exception, once these costs are paid back, 16 years, or 20 years in certain cases, after the last expenditure identified in the project plan is made or when the creating city or village dissolves the TID, whichever occurs first. Under the exception, which is limited to certain circumstances, after a TID pays off its project costs, but not later than the date on which it must otherwise terminate, the planning commission may allocate positive tax increments generated by the TID (the "donor" TID) to another TID that has been created by the planning commission.

This substitute amendment authorizes towns to use tax incremental financing (TIF) for limited purposes. The town TIF authority that is created in this substitute amendment is based on current TIF law that applies to cities and villages, but is more limited in several respects, and imposes additional requirements on towns.

Under the substitute amendment, a town may use the town TIF law to expend money or incur monetary obligations, other than tax incremental bonds and notes, for a limited number of projects related to tourism, agriculture, manufacturing, or forestry. The allowable projects, and project costs, are limited to projects based on industrial classifications specified in the North American Industry Classification System published by the U.S. office of management and budget. A town may also use the TIF law for residential projects, but only to the extent that the residential project has a necessary and incidental relationship to tourism, agriculture, manufacturing, or forestry. Under the bill, towns may also use the TIF law for retail projects to the extent that the retail development is related to the retail sale of a product that is produced due to an agriculture, manufacturing, or forestry project.

The town TIF law is more limited than the city and village TIF law and contains a number of other differences from current TIF law, including the following:

1. The expenditure period is 5 years, and the maximum life of a town TID is 16 years.
2. A project plan may be amended only once during the TID's first 5 years of existence. Such an amendment may extend the expenditure period for an additional 2 years, but the amendment does not extend the maximum life of a town TID.
3. A town TIF proposal must contain findings that at least 75 percent of the real property within the district is to be used for one of the specified allowable projects.
4. DOR may impose on the town a \$1,000 fee to determine, or redetermine, a TID's tax incremental base.
5. A town TID is subject to additional reporting requirements when the TID is terminated and must also report to DOR on annual expenditures.
6. Certain owners of taxable property located within or near ~~the~~ town TID may request that DOR review whether the TID is expending money or incurring debt for an allowable project. If DOR grants the request for a review, the secretary of revenue, or the secretary's designee, must hold a hearing and make a determination as to

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whether the town is in compliance with the law or has made expenditures or incurred debts that are not allowed. If the secretary determines that the town has acted improperly, the secretary may order that all ineligible costs be paid back or that the TID be terminated.

7. If a city or village annexes town territory that includes a TID, the city or village must pay the town the eligible costs that are attributable to the annexed territory.

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

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CP: 60.85

Section # 66.1105 of the statutes is amended to read:

60.85 TOWN

66.1105 Tax increment law. (1) SHORT TITLE. This section shall be known and may be cited as the "Tax Increment Law".

INS 1-A

DEFINITIONS. In this section, unless a different intent clearly appears from the context:

(a) 1 "Blighted area" means any of the following:

a. An area, including a slum area, in which the structures, buildings or improvements, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of these factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime, and is detrimental to the public health, safety, morals or welfare.

b. An area which is predominantly open and which consists primarily of an abandoned highway corridor, as defined in s. 66.1333 (2m) (a), or that consists of land upon which buildings or structures have been demolished and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community.

2 "Blighted area" does not include predominantly open land area that has been developed only for agricultural purposes.

Zoning

INS 1-B

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

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

(c) "Local legislative body" means the common council.

INS 1-C

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

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

board

if the town board exercises authority under s. 60.62

or the town zoning committee under s. 60.61 (4) if the town is not authorized to exercise village powers.

*** Note: Is this definition of "planning commission" consistent with your intent?

(h) 1. "Project costs" ^{means} any expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred by the ^{town} ~~city~~ 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. ^j ~~it~~, 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} ~~city~~ in connection with the implementation of the plan. ~~For any tax incremental district for which a project plan is approved on or after July 31, 1981~~ 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 ^{town} ~~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} ~~city~~ of real or personal property within a tax incremental district for consideration which is less than its cost to the ^{town} ~~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 ~~the~~ ^{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. The amount of any contributions made under s. 66.1333 (13) in connection with the implementation of the project plan.~~

h. ~~(i)~~ Payments made, in the discretion of the ~~local legislative body~~ ^{town board}, which are found to be necessary or convenient to the creation of tax incremental districts or the implementation of project plans.

i. ~~(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 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. ~~(k)~~ 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. ~~(l)~~ ^{town} Costs for the removal, or containment, of lead contamination in buildings or infrastructure if the ~~city~~ ^{town} declares that such lead contamination is a public health concern.

~~l. (m)~~ ^{\$ L.} ~~After~~ ^{imposed by the department of revenue under sub. (5)(a),} 2. Notwithstanding subd. 1., none of the following may be included as project costs for any tax incremental district for which a project plan is approved on or after July 31, 1991:

*** NOTE: I am not sure towns have ³ this authority. Do you want to remove this subd. 1. k.?

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a. The cost of constructing or expanding administrative buildings, police and fire buildings, libraries, community and recreational buildings and school buildings, unless the administrative buildings, police and fire buildings, libraries and community and recreational buildings were damaged or destroyed before January 1, 1997, by a natural disaster.

b. The cost of constructing or expanding any facility, if the ~~city~~^{town} generally finances similar facilities only with utility user fees. *# d. Cash grants made by the town to owners, lessees, or developers of land that is located within the tax incremental district*

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

3. Notwithstanding subd. 1., project costs may not include any expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred by the city for newly platted residential development for any tax incremental district for which a project plan is approved after September 30, 1995.

subject to sub (2)(b)
(i) "Project plan" means the properly approved plan for the development or redevelopment of a tax incremental district, including all properly approved amendments thereto.

(j) "Real property" has the meaning prescribed in s. 70.03. ✓

INS 4-A
(l) "Tax increment" means that amount obtained by multiplying the total county, ~~city~~^{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.

(m) "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). ~~The base of districts created before October 1, 1980, does not include the value of property exempted under s. 70.111 (17).~~

(n) (1) "Tax incremental district" means a contiguous geographic area within a ~~city~~^{town} defined and created by resolution of the ~~local legislative body~~^{town board}, 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.

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

INS
5-8

Subject to par. (b) and

(a) (1) "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) (1) POWERS OF ~~cities~~^{towns} (a) Except as provided under par. (c), and ~~city~~^{town} may exercise any powers necessary and convenient to carry out the purposes of this section, including the power to:

1. ~~(1)~~ ^{Added to par (b)} Create tax incremental districts and define the boundaries of the districts.
2. ~~(2)~~ Cause project plans to be prepared, approve the plans, and implement the provisions and effectuate the purposes of the plans.
3. ~~(c) Issue tax incremental bonds and notes.~~
3. ~~(d)~~ Deposit moneys into the special fund of any tax incremental district.
4. ~~(e)~~ Enter into any contracts or agreements, including agreements with bondholders, determined by the ~~local legislative body~~^{town board} 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. ~~(f)~~ Designate, by ordinance or resolution, the ~~local housing authority, the local redevelopment authority, or both jointly, or the local community development authority~~^{town industrial development agency,} as agent of the ~~city~~^{town} to per-

form all acts, ~~except the development of the master plan of the city, which are otherwise performed~~
by the planning commission under this section ~~and s. 66.1337.~~ ^{stays}

DNS
6-A

(3) 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 ^{town board}

(c) Identification of the specific property to be included under par. (gm) 4. as blighted or in need of rehabilitation or conservation work ^{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. ~~In cities with a redevelopment authority under s. 66.1333, the notification~~

~~required under this paragraph may be provided with the notice required under s. 66.1333 (6) (b) 3., if the notice is transmitted at least 15 days prior to the date of the hearing to be held under par. (e).~~

(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. (gm), holding of a public hearing by the planning commission at which interested parties are afforded a reasonable opportunity to express their views on the proposed project plan. The hearing may be held in conjunction with the hearing provided for in par. (a). 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~~ ^{town board}. 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. ~~(a)~~ ⁽¹⁾ ~~(b)~~ ^(h) 1. ~~h~~ ⁱ, 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 ~~city~~ ^{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 ~~city~~ ^{town}. The ~~city~~ ^{town} shall include in the plan an opinion of the ~~city~~ ^{town} attorney or of an attorney retained by the ~~city~~ ^{town} advising whether the plan is complete and complies with this section. (town) use 2x

(g) Approval by the ~~local legislative body~~ ^{town board} of a project plan prior to or concurrent with the adoption of a resolution under par. ~~(a)~~ ^(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 ~~city~~ ^{town}.

(k) ~~(a)~~ Adoption by the ~~local legislative body~~ ^{town board} 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. ~~Property Standing~~

vacant for an entire 7-year period immediately preceding adoption of the resolution creating a tax incremental district may not comprise more than 25% of the area in the tax incremental district, unless the tax incremental district is suitable for industrial sites under subd. 4. a. and the local legislative body implements an approved project plan to promote industrial development within the meaning of s. 66.1101. In this subdivision, "vacant property" includes property where the fair market value or replacement cost value of structural improvements on the parcel is less than the fair market value of the land. In this subdivision, "vacant property" does not include property acquired by the local legislative body under ch. 32 or property included within the abandoned Park East freeway corridor or the abandoned Park West freeway corridor in Milwaukee County.

2. Creates the district as of ~~a date provided in the resolution~~ ^{January 1 of the same calendar year for a} ~~if the resolution is adopted during the period between January 2 and September 30, then the date shall be the next preceding January~~ ^{before October 1 of that year or as of January 1 of the next subsequent} ~~calendar year for a~~ ^{calendar year for a} ~~if the resolution is adopted during the period between October 1 and December 31, then the date shall be the next subsequent January 1.~~ ^{after September 30 of that year.} ~~If the resolution is adopted on January 1, the district is created on that January 1.~~

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 ^{...}" in ^{...} County. Each subsequently created district shall be assigned the next consecutive number.

INS 8-A

② ^{Question: Can I project a 9, for a 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, 15th, 16th, 17th, 18th, 19th, 20th, 21st, 22nd, 23rd, 24th, 25th, 26th, 27th, 28th, 29th, 30th, 31st, 32nd, 33rd, 34th, 35th, 36th, 37th, 38th, 39th, 40th, 41st, 42nd, 43rd, 44th, 45th, 46th, 47th, 48th, 49th, 50th, 51st, 52nd, 53rd, 54th, 55th, 56th, 57th, 58th, 59th, 60th, 61st, 62nd, 63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 73rd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 87th, 88th, 89th, 90th, 91st, 92nd, 93rd, 94th, 95th, 96th, 97th, 98th, 99th, 100th}
 have a project
 info. for a 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, 15th, 16th, 17th, 18th, 19th, 20th, 21st, 22nd, 23rd, 24th, 25th, 26th, 27th, 28th, 29th, 30th, 31st, 32nd, 33rd, 34th, 35th, 36th, 37th, 38th, 39th, 40th, 41st, 42nd, 43rd, 44th, 45th, 46th, 47th, 48th, 49th, 50th, 51st, 52nd, 53rd, 54th, 55th, 56th, 57th, 58th, 59th, 60th, 61st, 62nd, 63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 73rd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 87th, 88th, 89th, 90th, 91st, 92nd, 93rd, 94th, 95th, 96th, 97th, 98th, 99th, 100th

50. Contains ^{all of the following} findings that:

a. ^{That} ~~Not less than 50%~~ ^{75 percent}, by area, of the real property within the district is ^{at least one of the following} ~~at least one of the following~~: a blighted area, in need of rehabilitation or conservation work, as defined in s. 66.1337 (2m) (b); or suitable for industrial sites within the meaning of s. 66.1101 and has been zoned for industrial use ~~and~~.

b. ^{That} 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~~.

to be used for ^{projects of a single one of the project types listed under sub. (2)(b) 1. to 4. and in accordance with the declaration under subd. 4.} ~~projects of a single one of the project types listed under sub. (2)(b) 1. to 4. and in accordance with the declaration under subd. 4.~~

INS 8-B

~~bm.~~ The project costs relate directly to eliminating blight, directly serve to rehabilitate or conserve the area or directly serve to promote industrial development, consistent with the purpose for which the tax incremental district is created under subd. 4. a.; and

That
(d.) ~~(a)~~ 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 ~~any~~ ^{town} or the equalized value of taxable property of the district plus the value increment of all existing districts within the ~~city~~ ^{town} does not exceed 5% of the total equalized value of taxable property within the ~~any~~ ^{town}

(6.) ~~(a)~~ Confirms that any real property within the district that is ~~found suitable for industrial sites and~~ ^{intended to be used for a manufacturing project} is zoned for industrial use under ~~subd. 4. a.)~~ ^{and} will remain zoned for industrial use for the life of the tax incremental district.

(f.) ~~(b)~~ Review by a joint review board, acting under sub. (4), that results in its approval of the resolution under par. (g).

(j.) ~~(m)~~ 1. Subject to subds. 2., ~~3., 4., and 5.~~ the planning commission may, by resolution, adopt an amendment to a project plan. The amendment is subject to approval by the ~~local legislative body~~ ^{town board} and approval requires the same findings as provided in ~~par. (g)~~ ^{par. (g) and (h)}. Any amendment to a project plan is also subject to review by a joint review board, acting under sub. (4). 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. Except as provided in subds. 3., 4., and 5., not more than once during the 11⁵ 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 5² years after the date on which the local legislative body ^{town board} adopts a resolution amending the project plan. ✓

~~3. With regard to a city that has a population of at least 10,000, was incorporated in 1875 and is located in only one county, not more than once during the 11 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 to be 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 5 years after the date on which the local legislative body adopts a resolution amending the project plan.~~

~~4. With regard to a village that has a population of less than 10,000, was incorporated in 1914 and is located in a county that has a population of less than 25,000 and that contains a portion of the Yellow River and the Chequamegon Waters Flowage, not more than once during the 11 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 to be 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 5 years after the date on which the local legislative body adopts a resolution amending the project plan.~~

~~5. With regard to a city that has a population of at least 80,000 that was incorporated in 1850 and that is in a county with a population of less than 175,000 which is adjacent to one of the Great Lakes, 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 not more than once during the expenditure period specified in sub. (6) (am) 1. for a district which is located in a city to which sub. (6) (d) applies, except that in no case may expenditures for project costs that are incurred because of an amendment to a project plan that is authorized under this subdivision be made later than 17 years after the district is created. This subdivision does not apply to a tax incremental district that is created after January 1, 2004.~~

(k) ~~The local legislative body~~ ^{town board} shall provide the joint review board with the following information and projections:

1. ~~The specific items that constitute the~~ ^{projects included in the district and the} 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.

(L) ~~(M)~~ Calculation by the local assessor of the value of all tax-exempt ~~town~~ ^{town} owned property, except property described in sub. (5) ~~(M)~~, 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

^(B) incremental district's initial tax incremental base under sub. (5) (b).

(4) ~~(M)~~ JOINT REVIEW BOARD. (a) ^{town} Any ~~town~~ ^{town} that seeks to create a tax incremental district or amend a project plan shall convene a joint review board to review the proposal. ^{Except as provided in subd. 2,} The board shall consist of ^{joint review}

elementary school district, or

one representative chosen by the school district that has power to levy taxes on the property within the tax incremental district, one representative chosen by the technical college district that has power to levy taxes on the property within the tax incremental district, one representative chosen by the county that has power to levy taxes on the property within the tax incremental district, one representative chosen by the ~~city~~^{town} and one public member. If more than one school district, ~~more than one~~^{more than one union high school district, more than one} technical college district or ~~more than one county~~^{more than one} 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 ^{joint review} board. The public member and the ^{joint review} board's chairperson shall be selected by a majority of the other ^{joint review} board members before the public hearing under sub. ³ (a) or ^j (b) 1. is held. All ^{joint review} board members shall be appointed and the first ^{joint review} board meeting held within 14 days after the notice is published under sub. ³ (a) or ^j (b) 1. Additional meetings of the ^{joint review} board shall be held upon the call of any member. The ~~city~~^{town} that seeks to create the tax incremental district or to amend its project plan shall provide administrative support for the ^{joint review} board.

By majority vote, the ^{joint review} board may disband following approval or rejection of the proposal.

(b) 1. The board shall review the public record, planning documents and the resolution passed by the ~~local legislative body~~^{town board} or planning commission under sub. ³ (a) ~~(g)~~^h or ^j (b) 1. As part of its deliberations the ^{joint review} board may hold additional hearings on the proposal.

2. Except as provided in ~~sub. 2m~~^{sub. 2m}, no tax incremental district may be created and no project plan may be amended unless the ^{joint review} board approves the resolution adopted under sub. ³ (a) ~~(g)~~^h or ^j (b) 1. by a majority vote not less than 10 days nor more than 30 days after receiving the resolution.

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

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3. The board shall submit its decision to the ~~may~~ ^{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:

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 a written explanation describing why any proposal it rejects fails to meet one or more of the criteria specified in subd. 1.

(5) DETERMINATION OF TAX INCREMENT AND TAX INCREMENTAL BASE. (a) Upon the creation of a tax incremental district or upon adoption of any amendment subject to par. (c), its tax incremental base shall be determined as soon as reasonably possible.

(b) Upon application in writing by the ~~city~~ ^{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 ~~city~~ ^{town} owned property in the tax incremental district.

The department shall certify this aggregate valuation to the ~~city~~ ^{town} clerk, and the aggregate valuation constitutes the tax incremental base of the tax incremental district. The ~~city~~ ^{town} clerk shall complete these forms and submit the application on or before December 31 of the year the tax incremental district is created, as defined in sub. (4) (g) 2.

(be) Notwithstanding the time limits in par. (b), if the city clerk of a city that created a tax incremental district in September 1994 files with the department of revenue, not later than March 30, 1996, the forms and application that were originally due on or before December 31, 1994, the tax incremental base of the district shall be calculated by the department of revenue

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joint review

town

joint review

joint review

either a written statement that, in its judgment, all of the criteria under subd. 1. have been met or

Subject to sub. (10) (d)

The department of revenue may impose a fee of \$1000 on a town to determine or redetermine the tax incremental base of a tax incremental district under this subsection.

Subject to sub. (10) (d)

3 (g) 2

as if the forms and application had been filed on or before December 31, 1994, and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the forms and application had been filed on or before December 31, 1994, except that the department may not certify a value increment under par. (b) before 1996.

(bf) Notwithstanding the time limits in par. (b), if the city clerk of a city that created a tax incremental district in July 1997 files with the department of revenue, not later than May 31, 1999, the forms and application that were originally due on or before December 31, 1997, the tax incremental base of the district shall be calculated by the department of revenue as if the forms and application had been filed on or before December 31, 1997, and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the forms and application had been filed on or before December 31, 1997, except that the department may not certify a value increment under par. (b) before 1999.

(bg) Notwithstanding the time limits in par. (b), if the city clerk of a city that created a tax incremental district in February 1999 files with the department of revenue, not later than May 31, 2000, the forms and application that were originally due on or before December 31, 1999, the tax incremental base of the district shall be calculated by the department of revenue as if the forms and application had been filed on or before December 31, 1999, and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the forms and application had been filed on or before December 31, 1999, except that the department may not certify a value increment under par. (b) before 2001.

(bh) Notwithstanding the time limits in subs. (4) (e) and (4m) (b) 2., if the village clerk of a village that created, or attempted to create, a tax incremental district before June 2000 and amended or tried to amend the district's boundaries in September 2000 files with the department of revenue, not later than November 30, 2000, the forms and application that were originally due on or before December 31, 2000, the tax incremental base of the district shall be calculated by the department of revenue as if the time limits described in subs. (4) (e) and (4m) (b) 2. had been strictly complied with and,

until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the time limits described in subs. (4) (e) and (4m) (b) 2. had been strictly complied with and as if the district were created on January 1, 2000, except that the department of revenue may not certify a value increment under par. (b) before 2002.

(bj) Notwithstanding the requirements in sub. (4) (a), (c), and (e), if a city that created, or attempted to create, a tax incremental district in October 1999 and in September 2000 and published the notices required under sub. (4) (a), (c), and (e), and was in substantial compliance with the notice requirements although such notices contained technical deficiencies regarding the time, place, or subject of the required hearings, the department of revenue shall determine the tax incremental bases of the districts, allocate tax increments, and treat the districts in all other respects as if the requirements under sub. (4) (a), (c), and (e) had been strictly complied with and as if the districts were created on January 1, 2000.

(c) ~~(bm)~~ The value of real property owned by a ~~city~~^{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 established under par. (b).

(d) ~~(b)~~ If the ~~city~~^{town} adopts 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. (6)

~~(am)~~ 1., the tax incremental base for the district shall be redetermined, ~~if sub. (4) (h) 2., 3., 4., or~~

~~5. applies to the amended project plan, by adding to the tax incremental base the value of the taxable property that is added to the existing district under sub. (4) (h) 2., 3., 4., or 5. or, if sub. (4) (h) 2.,~~

~~3., 4., or 5. does not apply to the amended project plan, under par. (b) as of ~~the~~ January 1 next preced-~~

~~ing the effective date of the amendment if the amendment becomes effective between January 2 and September 30, as of the next subsequent January 1 if the amendment becomes effective between October 1 and December 31 and if the effective date of the amendment is January 1 of any year, the redetermination shall be made on that date.~~ The tax incremental base as redetermined under this

→ year for a resolution adopted before October 1 of that year or as of January 1 of the next subsequent calendar year for a resolution adopted after September 30 of that year.

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subdivision

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

~~(ce) If the city adopts an amendment, to which sub. (4) (h) 2., 3., 4., or 5. applies, the tax incremental base for the district shall be redetermined, by adding to the tax incremental base the value of the taxable property that is added to the existing district under sub. (4) (h) 2., 3., 4., or 5., as of the January 1 next preceding the effective date of the amendment if the amendment becomes effective between January 2 and September 30, as of the next subsequent January 1 if the amendment becomes effective between October 1 and December 31 and if the effective date of the amendment is January 1 of any year, the redetermination shall be made on that date. The 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).~~

(cf) If the city adopts an amendment to a plan, to which sub. (4m) (b) 2m. applies, the tax incremental base for the district shall be redetermined by adding to the tax incremental base the value, as of January 1, 1998, of the taxable property that is added to the existing district under sub. (4) (h)

(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 which has been adopted. The ~~city~~ ^{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 ~~city~~ ^{town} clerk when giving notice as required by this paragraph.

(g) ~~The~~ ^{town} 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. ~~(a)~~ ³ (a), (b), ~~(g)~~ ^h or ~~(h)~~ ³ and par. (b) has been timely completed and all notices required under sub. ~~(a)~~ ³ (a), (b), ~~(g)~~ ^h or ~~(h)~~ ³ timely given. The facts supporting any document adopted or action taken to comply with sub. ~~(a)~~ ³ (a), (b), ~~(g)~~ ^h or ~~(h)~~ ³ are not subject to review by the department of revenue under this paragraph.

→, except that the department may not certify the tax incremental base as provided in par. (b) until it reviews and approves the findings ~~of~~ ^{by} sub. (3) (h) 4. and 5. d.

(e) It is a rebuttable presumption that any property within a tax incremental district acquired or leased as lessee by the city, or any agency or instrumentality of the city, within the one year immediately preceding the date of the creation of the district was acquired or leased in contemplation of the creation of the district. The presumption may be rebutted by the city with proof that the property was leased or acquired primarily for a purpose other than to reduce the tax incremental base. If the presumption is not rebutted, in determining the tax incremental base of the district, but for no other purpose, the taxable status of the property shall be determined as if the lease or acquisition had not occurred.

(h) ~~(f)~~ The ~~city~~^{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 ~~city~~^{town}/clerk under s. 70.65.

(i) ~~(g)~~ 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 ~~city~~^{town} shall be paid to the ~~city~~^{town} as provided under sub. (6) ~~(g)~~^c from the taxes collected.

(6) ALLOCATION OF POSITIVE TAX INCREMENTS. (a) If the joint review board approves the creation of the tax incremental district under sub. ~~(4)~~⁴, positive tax increments with respect to a tax incremental district are allocated to the ~~city~~^{town} which created the district for each year commencing after the date when a project plan is adopted under sub. ~~(4)~~³ (g). The department of revenue may not authorize allocation of tax increments until it determines from timely evidence submitted by the ~~city~~^{town} that each of the procedures and documents required under sub. ~~(4)~~³ (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 ~~city~~^{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)~~³ (d) to (f) are not subject to review by the department of revenue under this paragraph. After the allocation of tax increments is authorized except as provided under par. (e) ✓

ized, the department of revenue shall annually authorize allocation of the tax increment to the ^{town} ~~city~~ that created the district until the ^{sooner} ~~soonest~~ of the following events:

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

2. ~~Twenty-seven~~ ^{Sixteen} years after the tax incremental district is created if the district is created before ~~October 1, 1995.~~

~~3. Thirty-eight years after the tax incremental district is created if the district is created before October 1, 1995, and the project plan is amended under sub. (4) (h) 3.~~

~~4. Twenty-three years after the tax incremental district is created if the district is created after September 30, 1995.~~

~~5. Thirty-one years after the tax incremental district is created if the district is created before October 1, 1995, and the expenditure period is specified in par. (am) 2. c.~~

~~6. Forty-two years after the tax incremental district is created if the district is created before October 1, 1995, and if the district is located in a city to which par. (d) applies.~~

~~NOTE: Subd. 6. was created as subd. 5. by 2003 Wis. Act 34 and renumbered by the revisor under s. 13.93 (1) (b).~~

^{For a tax incremental district that is created under this section}
(b) ~~1. For a tax incremental district that is created after September 30, 1995, no expenditure may be made later than 7 years after the tax incremental district is created, and for a tax incremental~~

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

2. The limitations on the period during which expenditures may be made under subd. 1. do not apply to ^{NOT} ~~(a)~~

~~(a) Expenditures to pay project costs incurred under ch. 32.~~

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~~b. Expenditures authorized by the adoption of an amendment to the project plan under sub. (5) (c) or (ce).~~

~~c. Expenditures for project costs for Tax Incremental District Number Six in a city with a population of at least 45,000 that is located in a county that was created in 1836 and that is adjacent to one of the Great Lakes. Such expenditures may be made no later than 15 years after the tax incremental district is created, and may be made through December 31, 2006.~~

~~3. For tax incremental districts for which the resolution under sub. (4) (gm) is adopted on or after July 31, 1981, no expenditure may be made before the date the project plan is approved, except for costs directly related to planning the tax incremental district. In this subdivision "expenditure" means the exchange of money for the delivery of goods or services.~~

~~4. For purposes of this paragraph, the date of creation of a tax incremental district is:~~

~~a. The May 1 date set under s. 66.46 (4) (c) 2., 1975 stats., if the local legislative body adopts a resolution to create the tax incremental district on or before May 1, 1978.~~

~~b. The January 1 date set under sub. (4) (gm) 2., if the local legislative body adopts a resolution to create the tax incremental district after May 1, 1978, and prior to July 31, 1981.~~

~~c. The date the local legislative body adopts the resolution under sub. (4) (gm), if the local legislative body adopts a resolution to create the tax incremental district on or after July 31, 1981.~~

(c) ~~Notwithstanding any other provision of law,~~ 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 ~~city~~ ^{town} treasurer out of all the taxes which the officer has collected the proportion of the tax increment due the ~~city~~ ^{town} that the general property taxes collected in the ~~city~~ ^{town} bears to the total general property taxes levied by the ~~city~~ ^{town} for all purposes included in the tax roll, exclusive of levies for state trust fund loans, state taxes and state special charges.

(d) ~~Except for tax increments allocated under par. (d), (dm) of (A),~~ all tax increments received with respect to a tax incremental district shall, upon receipt by the ~~city~~ ^{town} treasurer, be deposited into a special fund for that district. The ~~city~~ ^{town} treasurer may deposit additional moneys into such fund pursuant

to an appropriation by the ~~common council~~ ^{town board}. No moneys may be paid out of such fund except to pay project costs with respect to that district, to reimburse the ~~city~~ ^{town} for such payments, to pay project costs of a district under par. (d), (dm) or (e) or to satisfy claims of holders of bonds or notes issued with respect to such district. ~~Subject to par. (d), (dm) or (e)~~ moneys paid out of the fund to pay project costs with respect to a district may be paid out before or after the district is terminated under sub. (7). Subject to any agreement with bondholders, moneys in the fund may be temporarily invested in the same manner as other ~~city~~ ^{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 ~~that are not allocated under par. (d), (dm) or (e)~~ ⁽⁷⁾, they shall be paid over to the treasurer of each county, school district or other tax levying municipality or to the general fund of the ~~city~~ ^{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~~ ^{town} and that portion, if any, that represents voluntary deposits of the ~~city~~ ^{town} into the fund.

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~~(d) 1. Subject to subd. 1m., after the date on which a tax incremental district pays off the aggregate of all of its project costs under its project plan, but not later than the date on which a tax incremental district terminates under sub. (7) (am), a planning commission may amend under sub. (4) (h) 1. the project plan of such a tax incremental district to allocate positive tax increments generated by that tax incremental district to another tax incremental district created by that planning commission in which soil affected by environmental pollution exists to the extent that development has not been able to proceed according to the project plan because of the environmental pollution.~~

1m. After December 31, 2016, subd. 1. applies only to Tax Incremental District Number One, Tax Incremental District Number Four, and Tax Incremental District Number Five in the City of Kenosha, and no increments may be allocated under that subdivision, after December 31, 2016, unless the allocation is approved by the joint review board.

2. Except as provided in subd. 2m., no tax increments may be allocated under this paragraph later than 16 years after the last expenditure identified in the project plan of the tax incremental district, the positive tax increments of which are to be allocated, is made.

2m. No tax increments may be allocated under this paragraph later than 35 years after the last expenditure identified in the project plan of the tax incremental district, the positive tax increments of which are to be allocated, is made if the district is created before October 1, 1995, except that in no case may the total number of years during which expenditures are made under par. (am) 1. plus the total number of years during which tax increments are allocated under this paragraph exceed 42 years.

3. This paragraph applies only in a city with a population of at least 80,000 that was incorporated in 1850 and that is in a county with a population of less than 175,000 which is adjacent to one of the Great Lakes.

4. This paragraph does not apply after August 1, 2031.

5. This paragraph does not apply to a tax incremental district that is created after January 1, 2004.

(dm) 1. After the date on which a tax incremental district that is located in a city that is described in subd. 3. a. pays off the aggregate of all of its project costs under its project plan, but not later than the date on which a tax incremental district terminates under sub. (7) (am), a planning commission may amend under sub. (4) (h) 1. the project plan of such a tax incremental district to allocate positive tax increments generated by that tax incremental district to another tax incremental district created by that planning commission in which soil affected by environmental pollution exists to the extent that development has not been able to proceed according to the project plan because of the environmental pollution.

1m. Either before, after or on the date on which a tax incremental district that is located in a city that is described in subd. 3. b. pays off the aggregate of all of its project costs under its project plan, but not later than the date on which a tax incremental district terminates under sub. (7) (am), a planning commission may amend under sub. (4) (h) 1. the project plan of such a tax incremental district

to allocate positive tax increments generated by that tax incremental district to another tax-incremental district created by that planning commission in which soil affected by environmental pollution exists to the extent that development has not been able to proceed according to the project plan because of the environmental pollution.

2. Except as provided in subd. 2m., no tax increments may be allocated under this paragraph later than 16 years after the last expenditure identified in the project plan of the tax incremental district, the positive tax increments of which are to be allocated, is made.

2m. No tax increments may be allocated under this paragraph later than 20 years after the last expenditure identified in the project plan of the tax incremental district, the positive tax increments of which are to be allocated, is made if the district is created before October 1, 1995, except that in no case may the total number of years during which expenditures are made under par. (am) 1. plus the total number of years during which tax increments are allocated under this paragraph exceed 27 years.

3. This paragraph applies only to the following cities:

a. A city with a population of at least 10,000 that was incorporated in 1950 and that is in a county with a population of more than 500,000 which is adjacent to one of the Great Lakes.

b. A city with a population of at least 50,000 that was incorporated in 1853 and that is in a county which has a population of at least 140,000 and that contains a portion of the Fox River and Lake Winnebago.

4. This paragraph, with regard to a city that is described in subd. 3. a., does not apply after January 1, 2002.

5. This paragraph, with regard to a city that is described in subd. 3. b., does not apply after January 1, 2016.

(e) 1. Before the date on which a tax incremental district terminates under sub. (7) (a), but not later than the date on which a tax incremental district terminates under sub. (7) (am), a planning commission may amend under sub. (4) (h) the project plan of the tax incremental district to allocate posi-

positive tax increments generated by that tax incremental district to another tax incremental district created by that planning commission if all of the following conditions are met:

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

b. Except as provided in subd. 1. c., the donor tax incremental district and the recipient tax incremental district have been created before October 1, 1995.

c. With respect to a tax incremental district that has been created by a 1st class city, the donor tax incremental district and the recipient tax incremental district have been created before October 1, 1996.

2. Each year, the city that created the tax incremental districts may determine the portion of the donor tax incremental district's positive tax increment that is in excess of the tax increment that is necessary to pay the donor's project costs in that year that shall be allocated to the recipient tax incremental district and shall inform the department of revenue of these amounts.

3. A project plan that is amended under sub. (4) (h) to authorize the allocation of positive tax increments under subd. 1. may authorize the allocation for a period not to exceed 5 years, except that if the planning commission determines that the allocation may be needed for a period longer than 5 years, the planning commission may authorize the allocation for up to an additional 5 years if the project plan is amended under sub. (4) (h) during the 4th year of the allocation. In no case may positive tax increments under subd. 1. be allocated from one donor tax incremental district for a period longer than 10 years.

(7) ~~(6)~~ NOTIFICATION OF POSITION OPENINGS. (a) Any person who operates for profit and is paid project costs under sub. ~~(1)~~ ¹ ~~(1)~~ ^h 1. a., d., ~~3~~ ⁱ and ~~4~~ ^j 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 ~~city~~ ^{town} which created the tax incremental district 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 ~~city~~^{town} for which the ~~city~~^{town} incurs real property assembly costs under sub. (2) (3) 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 ~~city~~^{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
(8)

(6m) REVIEW. (a) The ~~city~~^{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 ~~city~~^{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:~~ ^{at all of the following times}
~~2 percent~~

1. Twelve months after 30% of the project expenditures are made ^{eo}
2. Twelve months after the end of the expenditure period specified in sub. (6) (1) and ^{b g}
3. Twelve months after the termination of the tax incremental district under sub. (9). ^{9 v}

No later than
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(c) The ~~city~~^{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 ~~city~~^{town} shall send a copy of the report to each overlying district by May 1 annually.

⑧
(9)

(9) TERMINATION OF TAX INCREMENTAL DISTRICTS. A tax incremental district terminates when the ~~earlier~~^{earliest} of the following occurs:

(a) That time when the ~~city~~^{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 ~~except that this paragraph does not apply to a district whose positive~~

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

(b) ~~(am) Sixteen~~ ^{Eleven} years after the last expenditure identified in the ~~project plan~~ ^{original, unamended} is made if the district to which the plan relates is created after September 30, 1995, or 20 years after the last expenditure identified in the project plan is made if the district to which the plan relates is created before October 1, 1995, except that in no case may the total number of years during which expenditures are made under sub. (6) (am) 1. plus the total number of years during which tax increments are allocated under sub. (6) (a) exceed 27 years. ~~that is subject to the time period specified in sub. (6) (b) 1~~

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

~~(as) Notwithstanding par. (am), 35 years after the last expenditure identified in the project plan is made if the district to which the plan relates is created before October 1, 1995, and sub. (6) (d) applies to the district.~~

~~(at) Notwithstanding par. (am), 16 years after the last expenditure identified in the project plan is made if the district to which the plan relates is created before October 1, 1995, and the expenditure period is specified in sub. (6) (am) 2. c.~~

NOTE: Par. (at) was created as par. (as) by 2003 Wis. Act 46 and renumbered by the revisor under s. 13.93 (1)

(b).

(c) ~~The local legislative body~~ ^{town board}, by resolution, dissolves the district at which time the ~~town~~ ^{town} becomes liable for all unpaid project costs actually incurred which are not paid from the special fund under sub. (6) (e), except this paragraph does not make the ~~town~~ ^{town} liable for any tax incremental bonds or notes issued.

INS
25-A

INS
25-A

(10) ~~(8)~~ NOTICE OF DISTRICT TERMINATION. (a) A ~~village~~ ^{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. (9).

(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.

INS
26-A

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

- (a) Payment by the ~~city~~ ^{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.

~~7. Payment out of the proceeds of revenue bonds issued by it under s. 66.0913;
8. Payment out of the proceeds of the sale of tax incremental bonds or notes issued by it under this subsection; or~~

(g) Payment out of the proceeds of revenue bonds issued by the ~~city~~ ^{town} as provided by s. 66.1103, for a purpose specified in that section.

~~(b) 1. For the purpose of paying project costs or of refunding municipal obligations issued under ch. 67 or this subsection for the purpose of paying project costs, the local legislative body may issue tax incremental bonds or notes payable out of positive tax increments. Each bond or note and accompanying interest coupon, if any, is a negotiable instrument. The bonds and notes shall not be included in the computation of the constitutional debt limitation of the city. Bonds and notes issued under this subsection, together with their interest and income, shall be taxed in the same manner as are municipal obligations issued under s. 67.04.~~

2. Tax incremental bonds or notes shall be authorized by resolution of the local legislative body without the necessity of a referendum or any elector approval, but a referendum or election may be held, through the procedures provided in s. 66.1103 (10) (d). The resolution shall state the name of the tax incremental district, the amount of bonds or notes authorized, and the interest rate or rates to be borne by the bond or notes. The resolution may prescribe the terms, form and content of the bonds or notes and any other matters that the local legislative body deems useful.

3. Tax incremental bonds or notes may not be issued in an amount exceeding the aggregate project costs. The bonds or notes shall mature over a period not exceeding 23 years from the date of issuance or a period terminating with the date of termination of the tax incremental district, whichever period terminates earlier. The bonds or notes may contain a provision authorizing the redemption of the bonds or notes, in whole or in part, at stipulated prices, at the option of the city, on any interest payment date and shall provide the method of selecting the bonds or notes to be redeemed. The principal and interest on the bonds and notes may be payable at any time and at any place. The bonds or notes may be payable to bearer or may be registered as to the principal or principal and interest. The bonds or notes may be in any denominations. The bonds or notes may be sold at public or private sale. To the extent consistent with this subsection, the provisions of ch. 67 relating to procedures for issuance, form, contents, execution, negotiation, and registration of municipal bonds and notes apply to bonds or notes issued under this subsection.

4. Tax incremental bonds or notes are payable only out of the special fund created under sub. (6) (c). Each bond or note shall contain the recitals necessary to show that it is only so payable and that it does not constitute an indebtedness of the city or a charge against its general taxing power. The local legislative body shall irrevocably pledge all or a part of the special fund to the payment of the bonds or notes. The special fund or the designated part of the fund may then be used only for the payment of the bonds or notes and interest on the bonds or notes until the bonds or notes have been fully paid; and a holder of the bonds or notes or of any coupons appertaining to the bonds or notes has a lien against the special fund for payment of the bonds or notes and interest on the bonds or notes and may either at law or in equity protect and enforce the lien.

5. To increase the security and marketability of tax incremental bonds or notes, the city may:

- Create a lien for the benefit of the bondholders upon any public improvements or public works financed by the bonds or notes or the revenues from the bonds or notes; or
- Make covenants and do any acts, not inconsistent with the Wisconsin constitution, necessary or convenient or desirable in order to additionally secure the bonds or notes or tend to make the bonds or notes more marketable according to the best judgment of the local legislative body.

(12) (10) 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) (11) EQUALIZED VALUATION FOR APPORTIONMENT OF PROPERTY TAXES. (a) 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. (6) (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) (13) (15) → Department of Commerce report. 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 ~~2007~~ ²⁰⁰⁷ biennium, as to the effects and impact of ^{town} tax incremental financing projects socially, economically, and financially.

*** NOTE. Are the changes I made in this subsection (2007 biennium, town-specific report) OK?

(16) ~~(14)~~ USE OF TAX INCREMENTAL FINANCING FOR INLAND LAKE PROTECTION AND REHABILITATION PROHIBITED. Notwithstanding sub. (9)¹¹ ✓, 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).

History: 1975 c. 105, 199, 311; 1977 c. 29 ss. 724m, 725, 1646 (1), (3); 1977 c. 418; 1979 c. 221, 343; 1979 c. 361 s. 112; 1981 c. 20, 317; 1983 a. 27, 31, 207, 320, 405, 538; 1985 a. 29, 39, 285; 1987 a. 27, 186, 395; 1989 a. 31, 336; 1993 a. 293, 337, 399; 1995 a. 27 ss. 3330c to 3337, 9116 (5), 9130 (4); 1995 a. 201, 225, 227, 335; 1997 a. 3, 27, 237, 252; 1999 a. 9; 1999 a. 150 ss. 457 to 472; Stats. 1999 s. 66.1105; 2001 a. 5, 11, 16, 104; 2003 a. 34, 46; s. 13.93 (1) (b).

FNS 29-A →

(END)

D-note →

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0354/?ins
MES.....

INS 1-A

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

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

INS 1-B

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

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

INS 1-C

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

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

INS 4-A

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

INS 5-A

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

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

NOTE: Because the proposed language relating to horse show managers doesn't seem to flow with the definition of tourism project, I have not included it in this version of the draft.

INS 6-A

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

1. Agricultural projects.
2. Forestry projects.
3. Manufacturing projects.
4. Tourism projects.
5. Residential development, but only to the extent that it has a necessary and incidental relationship to a project listed in subds. 1. to 4.
6. Retail development that is limited to the retail sale of products that are produced due to a project that is developed under subd. 1., 2. or 3.

(c) No town may exercise any power under this subsection 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 subsection within such an extraterritorial zoning jurisdiction.

INS 8-A

4. Declares the district to be ^{either} an agricultural project district, forestry project district, manufacturing project district, or tourism project district, and identifies the North American Industry Classification System industry number of ~~the~~ ^{each activity} project for which project costs are to be expended. ✓

each activity
under each

INS 8-B

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

****NOTE: Are you concerned that the use of the word "promoting" in ^{this} subd. ~~par~~ ^{5.} c. might be too limiting?

INS 12-A

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 ^{joint review} board shall be held by 2 representatives, 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. ✓

INS 13-A

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

INS 16-A

2. If a city or village annexes town territory that contains part of a tax incremental district that is created by the town, the department of revenue shall redetermine the tax incremental base of the district by subtracting from the tax incremental base the value of the taxable property that is annexed from the existing district, as of the January 1 next preceding the effective date of the annexation if the annexation becomes effective between January 2 and September 30, as of the next subsequent January 1 if the annexation becomes effective between October 1 and December 31, and if ~~the effective date of the annexation is~~ ^{becomes effective on} January 1 of any year, the redetermination shall be made ^{as of} on that date. The tax incremental base as redetermined under this subdivision is effective for the purposes of this section only if it less than the original tax incremental base determined under par. (b).

***NOTE: This subdivision is based on AA 1 to AB 437 (LRB a1026/1), and contains language about the effective date of a redetermination of a TID's base. Although such language was not in your instructions, I believe it is necessary. Is this OK?

(e) ^{Annually,} No later than May 15, the town clerk annually shall file with the department of revenue, on a form provided by the department, a list of the expenditures for the district that were made in the previous year.

***NOTE: You instructions specified "public expenditures made in the district", but it seems to me that "in" is too limiting and that you're really interested in expenditures that are made "for" the district. Is this OK?

INS 18-A

3. The limitations 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 sub. (3) (j), except that in no case may the total number of years during which expenditures are made exceed 7 years.

INS 20-A

(e) 1. Any of the following persons may file a written request with the department of revenue requesting a review of a tax incremental district created under this section to determine whether the district is complying with sub. (2) (b):

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

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

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

2. A written request described under subd. 1. shall be on a form that is prescribed by the department of revenue, shall contain the grounds on which the request is based, and shall be filed with the department no later than May 15.

****NOTE: It seems to me that "May 15" is too vague. Do you mean that a request for review may be filed at any time during a TID's lifetime, as long as it is filed between January 1 and May 15 of any particular year?

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

4. If the department of revenue grants a request for review that is made under this paragraph, it shall hold a hearing and it shall send written notification of the hearing to the clerk of the town that created the tax incremental district, the person

If the secretary makes this determination, the secretary shall ~~order~~ either order the town to

who requested the review, the clerk of each overlying taxing jurisdiction, and the clerk of every city or village that borders the town. The written notification shall include the time, date, and location of the hearing.

5. The secretary of revenue, or the secretary's designee, shall preside at the hearing and shall receive testimony and evidence on all issues that are related to the request for review. Following the hearing, the secretary shall make one of the following determinations and may issue an order under subd. par. b. or c:

- a. The town is in compliance with sub. (2) (b).
- b. The town has made expenditures *or incurred debts* that are not allowed under sub. (2) (b) and

must pay back all ineligible costs.

or shall order the district to be terminated. If the secretary orders the district to be terminated,

****NOTE: Who do you intend the town to "pay back" for ineligible costs, and what funds should the town use for this purpose? Is the town supposed to reimburse all overlying taxing jurisdictions for any increments that the town has received?

- c. The town has made expenditures *or incurred debts* that are not allowed under sub. (2) (b) and the district is terminated, at which time the town becomes liable for all unpaid project costs actually incurred which are not paid from the special fund under sub.

(6) (d).

****NOTE: I added the language regarding liability, which is taken from sub (9) (c). Is this OK?

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

****NOTE: Your instructions state that "any party" may appeal the secretary's decision. Are the persons specified in subd. 6. who you intended to be a party?

INS 25-A *secretary of revenue*

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

INS 26-A

(c) Not later than February 15 of the year immediately following 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 a 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. (5) (a) and (b) until the form is sent to the department.

In the town

INS 29-A

(17) PAYMENT OF ELIGIBLE COSTS FOR ANNEXED TERRITORY, REDETERMINATION OF TAX INCREMENTAL BASE. If a city or village annexes territory from a town and if all or part of the territory that is annexed 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. The department shall redetermine the tax incremental base of any parcel of real property for which the tax incremental base was determined under sub. (5) if part of that parcel is annexed under this subsection.

****NOTE: I added the language relating to the redetermination of the tax incremental base because it seems to be necessary, and was included in SB 305, as shown by SSA 1 to SB 305, bill section number 43. Is this OK?

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

SECTION 1. Initial applicability.

(1) This act first applies to a tax incremental district that is created on October 1, 2004.

INS
X

END of INS
29-4

INS X
is here →

NOTE →

ASSEMBLY BILL 437

3
FNSX

1 ~~4. Residential development, but only to the extent that it has a necessary and~~
2 ~~incidental relationship to a project listed in subds. 1. to 3.~~

3 ~~5. Retail development, but only to the extent that it is related to the retail sale~~
4 ~~of products that are produced due to a project that is developed under subd. 2. or 3.~~

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

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

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

24 (END)
of FNSX

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0354/?dn

MES.....

gjs

Senator Kedzie:

gjs
Please review this draft carefully to ensure that it is consistent with your intent. I have a number of questions that I raised in *gjs******NOTES^{gjs} within the text of the bill. As soon as these issues are resolved, I can redraft the substitute amendment in an introducible form.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0354/P1dn
MES:cjs:pg

February 23, 2004

Senator Kedzie:

Please review this draft carefully to ensure that it is consistent with your intent. I have a number of questions that I raised in ****NOTES within the text of the bill. As soon as these issues are resolved, I can redraft the substitute amendment in an introducible form.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.state.wi.us

Shovers, Marc

From: Letzing, Rachel
Sent: Monday, March 01, 2004 9:53 AM
To: Shovers, Marc
Subject: FW: Town TIF draft

Hi Marc,

Senator Kedzie would like you to go ahead and make the changes suggested by DOR (see DOR's comments regarding LRB 0354/p1 below).

Just to clarify, the substantial compliance language Sherrie refers to in comment # 9 should remain in the draft.

One more thing - after speaking with Sherrie the other day, she agreed that we had discussed including language regarding expertise of Joint Review Board members (same language included in Act 126 (SB 305), Section 16, s. 66.1105 (4m) (ae) 1. to 4.), in the draft but no decision was made at that time. We now agree that the language should be included in the town tif draft.

Sen. Kedzie is hoping the draft can be ready for the Senate floor session on Thursday. Let me know what you think is possible. Thanks Marc. I'll be in the office all day.

Rachel

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

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

From: Boldt, Rebecca A
Sent: Friday, February 27, 2004 3:53 PM
To: Letzing, Rachel
Cc: Gates-Hendrix, Sherrie; Gibbon, Judie A; Miller, Eugene R; Collier, Dennis J; Braun, Eng
Subject: FW: Town TIF draft

Rachel:

Regarding point #3 (below), here's how we would like (5)(d)2. to read:

If after January 1, a city or village annexes town territory that contains part of a TID that is created by the town, DOR shall redetermine the tax incremental base of the district by subtracting from the tax incremental base the value of the taxable property that is annexed from the existing district as of the following January 1, and if the annexation becomes effective on January 1 of any year, the redetermination shall be made as of that date.

Let me know if you have any questions.

Rebecca Boldt

*Keep
last sentence?
Yes*

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

From: Gates-Hendrix, Sherrie
Sent: Friday, February 27, 2004 2:24 PM
To: Letzing, Rachel
Subject: FW: Town TIF draft

Rachel -- Just one other comment I forgot to include:

497 I'm thinking that s. 20.566(1)(go) needs to be amended to refer also to the fee on p. 18, lines 6-8. I think this would be s. 60.85 (4) if the numbering is changed per point #1 below.

Sherrie

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

From: Gates-Hendrix, Sherrie
Sent: Friday, February 27, 2004 2:13 PM
To: Letzing, Rachel
Subject: Town TIF draft

Hi Rachel --

Observations, issues, concerns with SSA to AB 437:

1. The draft has an error in the numbering - on page 10, the paragraph related to "CREATION OF TAX INCREMENTAL DISTRICTS" should be numbered par. (3) not (4). All other numbering and cross references appear correct.
2. Page 13 - the drafter questions the wording "promoting" used in (h)4.c. - this language is used in regular TIF law and should be adequate.
3. Page 19 - (5)(d)2. contains language that is unworkable regarding redetermination of base in cases of annexation. It would be preferable if the language not include reference to the preceding or subsequent January 1. I suggest that our draft language is preferable to the SSA language.
4. Page 19 - (5)(e) - our intent was to have the town annually submit a list of public expenditures to ensure compliance with the bill's limitations on TIF use. We did not intend that they include all expenditures.
5. Page 23 - (6)(e)1. - Our intent was to allow a neighboring city or village to request a DOR review, not just property owners in a neighboring city or village.
6. Page 23 - (6)(e)2. - Upon reflection I think a May 15 deadline for request for DOR review is a bit early since the town files its report on expenditures on May 15. Perhaps request for DOR review should be more like July 1. I would prefer Judie make this call so it works for SLF's calendar. Our intent was to allow a request for review of the town's prior year's expenditures. The draft does not specifically mention this. Perhaps it should be clarified in (6)(e)1 that DOR review is for the prior year's expenditures (and the suspicion relates to the prior year's expenditure).
7. Page 24 - (6)(e)5.b. The intent is to require the town to pay back to the TID out of non-TIF funds for any ineligible expenditures, i.e. reimburse the TIF fund with town monies. The liability language included in the subd.5.b. looks good. *see Rebecca Boldt's 2/10/04 email ->*
8. Page 24 - (6)(e)6. This subd. captures our intent; however, see point # 5 above.
9. Page 29 - (18) - Our draft did not include provisions allowing DOR to determine substantial compliance. This may be necessary given that towns may make mistakes. *This was requested in Rachel's 2/10/04 email*
10. Page 31 - Effective Date - We would like to stay with the October 1, 2004 date for all situations.

Hope this is helpful. Feel free to call/email with questions. Also, Rebecca Boldt is available at 6-6785.

Sherrie

key as is?

is town added on p. 24 ok?

delayed what?

Shovers, Marc

From: Boldt, Rebecca A
Sent: Tuesday, March 02, 2004 3:02 PM
To: Shovers, Marc
Cc: Gibbon, Judie A; Collier, Dennis J
Subject: Town TIF

Marc:

I spoke to Judie regarding the payback for ineligible costs. The payments are to go to the overlying taxing jurisdictions (NOT the TIF fund). Perhaps the language on page 24 [(6)(e)5.b.] should read something similar to the last few lines in current law, par. (6)(c). How about something like:

(6)(e)5.b.: The town has made expenditures or incurred debts that are not allowed under sub. (2)(b). If the secretary makes this determination, the secretary shall either order the town to pay back all ineligible costs [insert your language regarding "from Non-TIF funds"] to the treasurer of each county, school district or other tax levying municipality in the amounts that belong to each respectively or shall order the district to be terminated. If the secretary orders the(retain liability language).

Rebecca