AN ACT to renumber and amend 66.1105 (2) (i); to amend 66.1105 (4m) (a), 66.1105 (6) (f) 1. (intro.), 66.1105 (6) (g) 2., 66.1105 (8) (e), 66.1105 (18) (b) 11. a., 66.1106 (3) (a) and 66.1106 (7) (e) 2.; and to create 66.1105 (2) (ak), 66.1105 (2) (f) 4., 66.1105 (2) (hm), 66.1105 (2) (i) 2., 66.1105 (4) (bm), 66.1105 (4) (gm) 2m., 66.1105 (4m) (aw), 66.1105 (6) (a) 12., 66.1105 (7) (ao), 66.1105 (7) (c), 66.1105 (17) (d), 66.1105 (19), 66.1106 (1) (jt), 66.1106 (1m) (am), 66.1106 (3) (e) and 66.1106 (11) (bm) of the statutes; relating to: short-term tax incremental districts and expenditure of tax increments for relocation of commercial or industrial enterprises.

Analysis by the Legislative Reference Bureau

Under the current tax incremental financing program, a city or village may create a tax incremental district (TID) in part of its territory to foster development if at least 50 percent of the area to be included in the TID is blighted, in need of rehabilitation or conservation, suitable for industrial sites, or suitable for mixed-use development. Currently, towns and counties also have a limited ability to create a TID under certain circumstances. 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, approval of the city's or village's proposed TID by a joint review board that consists of members who represent the overlying taxation districts, and adoption of a resolution by the common council or village board that creates the TID 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 incremental 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 in excess of the base value 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, 20 years, 23 years, or 27 years after the TID is created, depending on the type of TID and the year in which it was created.

This bill allows the creation of a short-term TID. The procedure for creating a short-term TID is generally the same as for creating a full-term TID, except that the joint review board that must approve a short-term TID may not include a representative of a school district. A short-term TID generally operates as a full-term TID with three exceptions. First, a short-term TID terminates 14 years after the short-term TID is created, but the termination date may, upon approval by the joint review board, be extended to 27 years after creation. Second, tax increments for short-term TIDs do not include the portion of taxes collected in the TID for school districts, i.e. the school district taxes collected on the value increment continue to go to the school district. Third, a short-term TID generally may not include as project costs any expenditures for “enterprise transfer” for enterprises not currently located in the municipality. The term “enterprise transfer” is defined to mean “the initiation or operation in a location by the same or an affiliated enterprise that has closed or substantially reduced operations in the same county or a contiguous county in the state.” The prohibition on the use of project cost expenditures for enterprise transfer does not apply if, within one year, the enterprise involved increases the number of individuals it employs in the combination of the location to which, and the location from which, the enterprise moved and maintains the increase for not less than one year. This bill also provides that if the municipality from which the enterprise moved reasonably believes that the transfer is an “enterprise transfer” and that the municipality to which the enterprise moved improperly used project costs in the transfer, the municipality from which the enterprise moved may request that the municipality to which the enterprise moved pay the the estimated amount of property taxes that the enterprise would have paid over the subsequent five years. If the municipality to which the enterprise moved denies the request, either municipality may petition DOR for review. If DOR finds for the municipality from
which the enterprise transferred, DOR may order the municipality to which the enterprise moved pay the estimated amount of property taxes that the enterprise would have paid over the subsequent ten years or may order the TID terminated.

Also under current law, before a TID may be created or its project plan amended, the city or village must adopt a resolution containing a finding that the equalized value of taxable property of the TID plus the value increment of all existing TIDs does not exceed 12 percent of the total equalized value of taxable property in the city or village, subject to one general exception. Under this bill, the 12 percent limit does not apply to a short-term TID.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 66.1105 (2) (ak) of the statutes is created to read:

66.1105 (2) (ak) “Enterprise transfer” means the initiation of operations in a location by the same or an affiliated enterprise that has closed or substantially reduced operations in the same county or a contiguous county in the state.

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

66.1105 (2) (f) 4.  a. Notwithstanding subd. 1. and except as provided in subd. 4. b., project costs for a short-term tax incremental district may not include expenditures for, or used in connection with, the enterprise transfer of a commercial or industrial enterprise not currently located within the city.

b. Project costs for a short-term tax incremental district may include costs excluded under subd. 4. a. if, within one year after the enterprise transfer, the enterprise has increased the number of individuals it employs in the combination of the location from which it reduced or closed operations and the location to which it transferred and maintains the increase for not less than one year.

SECTION 3. 66.1105 (2) (hm) of the statutes is created to read:
66.1105 (2) (hm) “Short-term tax incremental district” means a tax incremental district designated as a short-term tax incremental district under sub. (4) (gm) 2m. and approved by the joint review board under sub. (4m).

SECTION 4. 66.1105 (2) (i) of the statutes is renumbered 66.1105 (2) (i) 1. and amended to read:

66.1105 (2) (i) 1. “Tax Except as provided in subd. 2., “tax increment” means that amount obtained by multiplying the total county, city, 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.

3. In any year, a tax increment is “positive” if the value increment is positive; it is “negative” if the value increment is negative.

SECTION 5. 66.1105 (2) (i) 2. of the statutes is created to read:

66.1105 (2) (i) 2. For a short-term tax incremental district, “tax increment” means that amount obtained by multiplying the total county, city, and other local general property taxes, except the portion of the general property taxes that is set by the school board, 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.

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

66.1105 (4) (bm) Recommendation by the planning commission to the local legislative body as to whether the proposed tax incremental district should be a full-term tax incremental district or a short-term tax incremental district.
 SECTION 7. 66.1105 (4) (gm) 2m. of the statutes is created to read:

   66.1105 (4) (gm) 2m. Designates the district as either a full-term tax
incremental district or a short-term tax incremental district.

 SECTION 8. 66.1105 (4m) (a) of the statutes is amended to read:

   66.1105 (4m) (a) Any city that seeks to create a tax incremental district, amend
a project plan, or incur project costs as described in sub. (2) (f) 1. n. for an area that
is outside of a district’s boundaries, shall convene a temporary joint review board
under this paragraph, or a standing joint review board under sub. (3) (g), to review
the proposal. Except as provided in pars. (am), (as), and (aw), and subject
to par. (ae), the board shall consist of one representative chosen by the school district
that has power to levy taxes on the property within the tax incremental district, one
representative chosen by the technical college district that has power to levy taxes
on the property within the tax incremental district, one representative chosen by the
county that has power to levy taxes on the property within the tax incremental
district, one representative chosen by the city, and one public member. If more than
one school district, more than one union high school district, more than one
elementary school district, more than one technical college district or more than one
county has the power to levy taxes on the property within the tax incremental
district, the unit in which is located property of the tax incremental district that has
the greatest value shall choose that representative to the board. The public member
and the board’s chairperson shall be selected by a majority of the other board
members before the public hearing under sub. (4) (a) or (h) 1. is held. All board
members shall be appointed and the first board meeting held within 14 days after
the notice is published under sub. (4) (a) or (h) 1. Additional meetings of the board
shall be held upon the call of any member. The city that seeks to create the tax
incremental district, amend its project plan, or make or incur an expenditure as described in sub. (2) (f) 1. n. for an area that is outside of a district’s boundaries shall provide administrative support for the board. By majority vote, the board may disband following approval or rejection of the proposal, unless the board is a standing board that is created by the city under sub. (3) (g).

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

66.1105 (4m) (aw) If review under this section relates to a short-term tax incremental district, the board may not include any representative chosen by a school district.

**SECTION 10.** 66.1105 (6) (a) 12. of the statutes is created to read:

66.1105 (6) (a) 12. Notwithstanding subs. 7. and 8., 14 years after the tax incremental district is created if the district is a short-term tax incremental district, except that, if the life of the district is extended under sub. (7) (ao), an allocation under this subsection may be made for the period for which the district is extended not to exceed 27 years.

**SECTION 11.** 66.1105 (6) (f) 1. (intro.) of the statutes is amended to read:

66.1105 (6) (f) 1. (intro.) Not later than the date on which a tax incremental district terminates under sub. (7) (am) or (ao), a planning commission may amend under sub. (4) (h) the project plan of 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 if all of the following conditions are met:

**SECTION 12.** 66.1105 (6) (g) 2. of the statutes is amended to read:

66.1105 (6) (g) 2. If the department of revenue receives a notice described under subd. 1. b., it shall continue authorizing the allocation of tax increments to the district under par. (a) during the district’s life, as extended by the city, as if the
district’s costs had not been paid off and without regard to whether any of the time periods specified in par. (a) 2. to 8. or 12. would otherwise require terminating the allocation of such increments.

SECTION 13. 66.1105 (7) (ao) of the statutes is created to read:

66.1105 (7) (ao) Notwithstanding par. (am), for a short−term tax incremental district, 14 years, except that the city that created the district may, subject to sub. (8) (e), request that the joint review board extend the life of the district for not more than 13 years.

SECTION 14. 66.1105 (7) (c) of the statutes is created to read:

66.1105 (7) (c) The department orders the district terminated under s. 66.1105 (19). Upon termination under this paragraph, the city becomes liable for all unpaid projects costs actually incurred which are not paid from the special fund under sub. (6) (c), except this paragraph does not make the city liable for any tax incremental bonds or notes issued.

SECTION 15. 66.1105 (8) (e) of the statutes is amended to read:

66.1105 (8) (e) A city shall notify the department of revenue at least one year before the date on which a tax incremental district is required to terminate under sub. (7) (am) or (ao) if a joint review board approves a request to extend the life of the district under sub. (7) (am) or (ao). If a city does not notify the department of revenue by that date, the department may deny the extension.

SECTION 16. 66.1105 (17) (d) of the statutes is created to read:

66.1105 (17) (d) Short−term tax incremental district exception. The 12 percent limit in sub. (4) (gm) 4. c. does not apply to a short−term tax incremental district.

SECTION 17. 66.1105 (18) (b) 11. a. of the statutes is amended to read:
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66.1105 (18) (b) 11. a. Whether the district’s life may be extended under sub. (6) (g) 1. or (7) (am) 2. or 3. or (ao).

SECTION 18. 66.1105 (19) of the statutes is created to read:

66.1105 (19) Disputes related to enterprise transfers. (a) In this subsection, “municipality” means a city, village, or town.

(b) A municipality in which an enterprise closed or substantially reduced operations may request that the municipality in which the enterprise initiated operations pay not more than the estimated amount of property taxes that would have been paid over the subsequent 5 years by the enterprise if the municipality in which an enterprise closed or substantially reduced operations reasonably believes each of the following:

1. The closing or substantial reduction of operations and the initiation of operations of the enterprise constitutes an enterprise transfer, as defined in s. 66.1105 (2) (ak).

2. The municipality in which the enterprise initiated operations included in project costs expenditures that are not permitted under par. (2) (f) 4. a. in relation to the enterprise.

(c) If the municipality in which the enterprise initiated operations denies the request under par. (b), the municipality in which the enterprise closed or substantially reduced operations may petition the department of revenue for a determination of whether par. (b) 1. and 2. applies.

(d) If the department of revenue determines that the petitioner municipality has demonstrated the application of par. (b) 1. and 2., the department may order the respondent municipality to pay not more than the estimated amount of property
taxes that would have been paid over the subsequent 10 years by the enterprise or
may order the tax incremental district be terminated.

Section 19. 66.1106 (1) (jt) of the statutes is created to read:

66.1106 (1) (jt) “Short-term environmental remediation tax incremental
district” means an environmental remediation tax incremental district designated
as a short-term environmental remediation tax incremental district under sub. (1m)
(am) and approved by the joint review board under sub. (3).

Section 20. 66.1106 (1m) (am) of the statutes is created to read:

66.1106 (1m) (am) Designates the district as either a full-term environmental
remediation tax incremental district or a short-term environmental remediation tax
incremental district.

Section 21. 66.1106 (3) (a) of the statutes is amended to read:

66.1106 (3) (a) Any political subdivision that seeks to use an environmental
remediation tax increment under sub. (2) shall convene a joint review board to review
the proposal. The Except as provided in par. (e), the board shall consist of one
representative chosen by the school district that has power to levy taxes on the
property that is remediated, one representative chosen by the technical college
district that has power to levy taxes on the property, one representative chosen by
the county that has power to levy taxes on the property that is remediated, one
representative chosen by the city, village or town that has power to levy taxes on the
property that is remediated and one public member. If more than one city, village or
town, more than one school district, more than one technical college district or more
than one county has the power to levy taxes on the property that is remediated, the
unit in which is located property that has the greatest value shall choose that
representative to the board. The public member and the board’s chairperson shall
be selected by a majority of the other board members at the board’s first meeting. All board members shall be appointed and the first board meeting held within 14 days after the political subdivision’s governing body approves the written proposal under sub. (2). Additional meetings of the board shall be held upon the call of any member. The political subdivision that seeks to act under sub. (2) shall provide administrative support for the board. By majority vote, the board may disband following approval or rejection of the proposal.

**SECTION 22.** 66.1106 (3) (e) of the statutes is created to read:

66.1106 (3) (e) If review under this section relates to a short-term environmental remediation tax incremental district, the board may not include any representative chosen by a school district.

**SECTION 23.** 66.1106 (7) (e) 2. of the statutes is amended to read:

66.1106 (7) (e) 2. The donor district terminates under sub. (11) (b) or (bm).

**SECTION 24.** 66.1106 (11) (bm) of the statutes is created to read:

66.1106 (11) (bm) Fourteen years after the department certifies the short-term environmental remediation tax incremental base of a parcel or contiguous parcels or property under sub. (4), except that the city that created the district may, subject to sub. (12), request that the joint review board extend the life of the district for not more than 13 years.