AN ACT to repeal 60.85 (6) (e) and 66.1105 (3) (g); to renumber and amend 66.1105 (6m) (c) and 66.1106 (10) (a); to amend 60.85 (4) (a) 1., 60.85 (8) (c) (intro.), 66.1105 (4m) (a) and 66.1106 (3) (a); and to create 60.85 (4) (d), 60.85 (6) (f), 60.85 (8) (c) 1. to 7., 66.1105 (4m) (f), 66.1105 (6m) (c) 1. to 7., 66.1105 (6m) (d), 66.1106 (3) (e), 66.1106 (10) (a) 1. to 7. and 66.1106 (10m) of the statutes; relating to: standing joint review boards, annual joint review board meetings, annual reports on tax incremental districts, and granting rule-making authority.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council’s Study Committee on Review of Tax Incremental Financing (TIF).

Joint Review Boards and Tax Incremental District Annual Reports Background

Under current law, a city or village may create a tax incremental financing district (TID) in part of its territory to foster economic development or to conduct environmental remediation. Currently, towns and counties also have a limited ability to create a TID under certain circumstances. Any city, village, town, or county (political subdivision) that seeks to create a TID, amend a TID project plan, have a TID’s base readetermined, or incur project costs for an area that is outside of the TID’s boundaries must convene a Joint Review Board (JRB). The JRB may be a temporary body, with a membership comprised of the city, village, or town; school district; and technical college district; and one public member. Alternatively, a political subdivision that creates a TID under general TIF authority (s. 66.1105, stats.), may choose instead to create a standing JRB. By a majority vote, a temporary JRB may disband following approval or rejection of the proposal. A standing JRB, however, may remain in existence for the entire time that any TID created under s. 66.1105, stats., exists in the political subdivision, except that the political subdivision may disband a standing JRB at any time.

Also under current law, the political subdivision must prepare and make available to the public an updated annual report describing the status of each existing TID, including expenditures and revenues. The political subdivision must also send a copy of the report by May 1, annually, to each overlying taxing jurisdiction (county, school district, technical college district, lake sanitary district, public inland lake protection and rehabilitation district, and town sanitary district).

The Bill

The bill requires a political subdivision to always convene a standing JRB in order to create a TID, including an industry-specific town TID or an environmental remediation TID, and requires the standing JRB to remain in existence for the entire time that any TID exists in the political subdivision with the same overlying taxing jurisdictions as the overlying taxing jurisdictions represented on the standing JRB. The standing JRB may, by majority vote, disband following the termination of all existing TIDs located in the political subdivision with the same overlying taxing jurisdictions as the overlying taxing jurisdictions represented on the standing JRB. The standing JRB must also meet annually to review the political subdivision’s annual report that describes the status of each existing TID to review the performance and status of each existing TID. It must meet on July 1, or as soon as the updated annual report becomes available.

The political subdivision must submit the annual report describing the status of each existing TID to each overlying taxing jurisdiction as well as the Department of Revenue (DOR), by July 1, annually. The copy of the annual report filed with DOR must be in electronic format and DOR must,
the TID in the prior year complied with the requirement that the town only spend money or incur monetary obligations for the type of projects allowed under current law. Any of the following persons, including persons residing outside of the town, may file no later than July 1, a written request with DOR for such a review:
- An owner of taxable property that is located in the town that has created the district.
- An owner of taxable property that is located in a taxing jurisdiction which overlies the town in which the district is located (e.g. county, school districts, technical college districts, sewerage districts, and public inland lake protection and rehabilitation districts).
- An owner of taxable property in a city or village that borders the town in which the district is located.
- A taxing jurisdiction that overlies the town in which the district is located (e.g. county, school districts, technical college districts, public inland lake protection, and rehabilitation districts).

DOR may deny any request for review if DOR believes, based on a review of the request, that insufficient grounds exist to support the alleged noncompliance. DOR must send written notification of its decision to the persons who requested the review and to the town. If DOR grants a request for review that is made under this paragraph, it must hold a hearing and send written notification of the hearing to all of the following: (1) the clerk of the town that created the industry−specific town TID; (2) the person who requested the review; (3) the clerk of each overlying taxing jurisdiction; and (4) the clerk of every city or village that borders the town. The written notification shall include the time, date, and location of the hearing.

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 DOR secretary must make a determination that either the town is in compliance or that the town made expenditures or incurred debts that are not allowed under current law. If the secretary makes a determination of noncompliance, the secretary must either order: (1) the town to pay back all ineligible costs to the district’s overlying taxing jurisdictions, on a proportional basis that relates to each jurisdiction’s share of the tax increment, from funds other than tax increments; or (2) the TID to be terminated. If the secretary orders the district to be terminated, the town becomes liable for all unpaid project costs actually incurred which are not paid from the special fund which contain the industry−specific town TID’s allocated tax increments. Current law also allows any person or unit of government that received a notice to appeal the secretary’s decision to the circuit court in Dane County.

Current law does not provide a similar review process applicable to a TID created by a city or village under s. 60.85 (4) (a), or to an environmental remediation TID.

The Bill
This bill repeals the entire process, described above, relating to DOR’s review and determination as to whether the money expended, or debt incurred, by an industry−specific town TID complied with current law.

SECTION 1. 60.85 (4) (a) 1. of the statutes is amended to read:

60.85 (4) (a) 1. Any town that seeks to create a tax incremental district or amend a project plan shall convene a standing joint review board to review the proposal.
If a town creates more than one tax incremental district consisting of different overlying taxing jurisdictions, it shall create a separate standing joint review board for each combination of overlying jurisdictions, except that if a town creates a tax incremental district under this section and s. 66.1105 that share the same overlying taxing jurisdictions, the town may create one standing joint review board for the districts. The joint review board shall remain in existence for the entire time that any tax incremental district exists in the town with the same overlying taxing jurisdictions as the overlying taxing jurisdictions represented on the standing joint review board. Except as provided in subd. 2., and subject to par. (am), the joint review board shall consist of one representative chosen by the school district that has power to levy taxes on the property within the tax incremental district, one representative chosen by the technical college district that has power to levy taxes on the property within the tax incremental district, one representative chosen by the county that has power to levy taxes on the property within the tax incremental district, one representative chosen by the town and one public member. If more than one school district, more than one union high school district, more than one elementary school district, or more than one technical college district 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) 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) 1. Additional meetings Meetings of the joint review board in addition to the meeting required under this subdivision or par. (d) shall be held upon the call of any member. The 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 the termination under sub. (9) of all existing tax incremental districts in the town with the same overlying taxing jurisdictions as the overlying taxing jurisdictions represented on the joint review board.

NOTE: This Section requires a town to create a standing JRB that must remain in existence for the entire time that any TID exists in the town with the same overlying taxing jurisdictions as the overlying taxing jurisdictions represented on the JRB. If a town creates an industry–specific town TID and a TID under s. 66.1105, stats., and both TIDs share the same overlying taxing jurisdictions, the town may use the same standing JRB for both TIDs. Also a standing JRB may, by majority vote, disband following the termination of all existing TIDs located in the town with the same overlying district as the overlying taxing jurisdictions represented on the JRB.

SECTION 2. 60.85 (4) (d) of the statutes is created to read:

60.85 (4) (d) A joint review board shall meet annually on July 1, or when an annual report under sub. (8) (c) becomes available, to review annual reports under sub. (8) (c) and to review the performance and status of each district governed by the board.

NOTE: This Section requires a standing JRB to meet annually on July 1, or as soon as the updated annual report describing the status of each existing industry–specific town TID becomes available. The purpose of the annual meeting is to review the performance and status of each existing industry–specific town TID.

SECTION 3. 60.85 (6) (e) of the statutes is repealed.

NOTE: This Section repeals the entire process described above, relating to DOR’s review and determination as to whether the money expended, or debt incurred, by an industry–specific town TID complied with current law.

SECTION 4. 60.85 (6) (f) of the statutes is created to read:

60.85 (6) (f) 1. The department of revenue shall, by rule, designate a format for annual reports under sub. (8) (c) and shall require these reports to be filed electronically.

2. The department of revenue shall post annual reports on its official Internet site no later than 45 days after the department receives the report from the town. The department shall also post a list of towns that have not submitted a required annual report to the department of revenue.

3. Notwithstanding sub. (8) (c), if a town provides the department of revenue with sufficient evidence that an annual report is in the process of being completed, the department of revenue may grant an extension of time for submitting the report. The department shall post on its official Internet site a list of towns that have received an extension granted under this subdivision, the period of the extension, and an indication of whether the town timely filed the report within the extension.

4. If an annual report is not timely filed under sub. 3. or sub. (8) (c), the department of revenue shall notify the town that the report is past due. If the town does not file the report within 60 days of the date on the notice, the department shall charge the town a fee of $100 per day for each day that the report is past due.

NOTE: This Section requires DOR to create a format for towns to use for the submission of annual reports describing the status of each existing TID that are to be electronically filed to DOR. DOR must create this format by rule. DOR must post on its official Internet site the annual reports filed with it no later than 45 days after it receives the annual report. However, DOR may grant a municipality an extension of time for filing the annual report if the municipality provides DOR with sufficient evidence that the report is in the process of being completed. DOR must post on its official Internet site a list of towns that received an extension of time for filing the annual report, the time period of the extension, and whether the municipality timely filed the annual report within the extension of time.
Also under this Section, DOR must notify a town that its annual report is past due if the town does not file the annual report by July 1, or within the extension of time granted by DOR. Under this Section, if the town does not file the required annual report within 60 days of the notice, DOR must charge the town a fee of $100 per day for each day that the annual report is past due.

Section 5. 60.85 (8) (c) (intro.) of the statutes is amended to read:

60.85 (8) (c) (intro.) The town shall prepare and make available to the public updated annual reports describing the status of each existing tax incremental district, including expenditures and revenues. The town shall send a copy of the report to with each overlying district and the department of revenue by May 1, July 1, annually. The copy of the report filed with the department of revenue shall be in electronic format. The annual report shall contain at least all of the following information:

Section 6. 60.85 (8) (c) 1. to 7. of the statutes are created to read:

60.85 (8) (c) 1. The name assigned to the district under sub. (3) (h) 3.
2. The types of projects under sub. (2) (b) that are included in the project plan and the scope of the project.
3. The name of any developer who is named in a developer’s agreement with the town or who receives any financial assistance from tax increments allocated for the tax incremental district.
4. The date that the town expects the tax incremental district to terminate under sub. (9).
5. The amount of tax increments to be deposited into a special fund for that district under sub. (6) (d).
6. An analysis of the special fund under sub. (6) (d) for the district. The analysis shall include all of the following:
   a. The balance in the special fund at the beginning of the fiscal year.
   b. All amounts deposited in the special fund by source, including all amounts received from another tax incremental district.
   c. An itemized list of all expenditures from the special fund by category of permissible project costs.
   d. The balance in the special fund at the end of the fiscal year, including a breakdown of the balance by source and a breakdown of the balance identifying any portion of the balance that is required, pledged, earmarked, or otherwise designated for payment of, or securing of, obligations and anticipated project costs. Any portion of the ending balance that has not been previously identified and is not identified in the current analysis as being required, pledged, earmarked, or otherwise designated for payment of, or securing of, obligations or anticipated project costs shall be designated as surplus.
7. The contact information of a person designated by the town to respond to questions or concerns regarding the annual report.
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) (4) the termination under sub. (7) of all existing tax incremental districts in the city with the same overlying taxing jurisdictions as the overlying taxing jurisdictions represented on the joint review board.

NOTE: Sections 7 and 8 eliminate a political subdivision’s ability to create either a temporary JRB or a standing JRB, at its discretion and instead, require a political subdivision to convene a standing JRB that must remain in existence for the entire time that any TID exists in the political subdivision with the same overlying taxing jurisdictions as the overlying taxing jurisdictions represented on the JRB. Section 8 provides that the JRB may, by majority vote, disband following the termination of all existing TIDs located in the political subdivision with the same overlying taxing jurisdictions as the overlying taxing jurisdictions represented on the JRB.

SECTION 9. 66.1105 (6m) (c) 1. to 7. of the statutes is created to read:

66.1105 (6m) (f) The joint review board shall meet annually on July 1, or when an annual report under sub. (6m) (c) becomes available, to review annual reports under sub. (6m) (c) and to review the performance and status of each district governed by the board.

NOTE: This Section requires a JRB to meet annually on July 1, or as soon as the updated annual report describing the status of each existing TID becomes available. The purpose of the annual meeting is to review the performance and status of each existing TID.

SECTION 10. 66.1105 (6m) (c) of the statutes is renumbered 66.1105 (6m) (c) (intro.) and amended to read:

66.1105 (6m) (c) (intro.) The city 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 shall send a copy of the report to each overlying district and the department of revenue by May 1 annually. The copy of the report filed with the department of revenue shall be in electronic format. The annual report shall contain at least all of the following information:

SECTION 11. 66.1105 (6m) (c) 1. to 7. of the statutes are created to read:

66.1105 (6m) (c) 1. The name assigned to the district under sub. (4) (gm) 3.

2. The declared classification of the tax incremental district under sub. (4) (gm) 6. and the scope of the project.

3. The name of any developer who is named in a developer’s agreement with the city or who receives any financial assistance from tax increments allocated for the tax incremental district.

4. The date that the city expects the tax incremental district to terminate under sub. (7).

5. The amount of tax increments to be deposited into a special fund for that district under sub. (6) (c).

6. An analysis of the special fund under sub. (6) (c) for the district. The analysis shall include all of the following:

a. The balance in the special fund at the beginning of the fiscal year.

b. All amounts deposited in the special fund by source, including all amounts received from another tax incremental district.

c. An itemized list of all expenditures from the special fund by category of permissible project costs.

d. The balance in the special fund at the end of the fiscal year, including a breakdown of the balance by source and a breakdown of the balance identifying any portion of the balance that is required, pledged, earmarked, or otherwise designated for payment of, or securing of, obligations and anticipated project costs. Any portion of the ending balance that has not been previously identified and is not identified in the current analysis as being required, pledged, earmarked, or otherwise designated for payment of, or securing of, obligations or anticipated project costs shall be designated as surplus.

7. The contact information of a person designated by the city to respond to questions or concerns regarding the annual report.

NOTE: Sections 10 and 11 require the political subdivision to file an annual report describing the status of each existing TID, including expenditures and revenues to each overlying taxing jurisdiction and to DOR. The annual report filed with DOR must be in electronic format. The deadline for filing an annual report is extended from May 1 to July 1. Section 11 also includes a list of information that must be included in the annual report.

SECTION 12. 66.1105 (6m) (d) of the statutes is created to read:

66.1105 (6m) (d) 1. The department of revenue shall, by rule, designate a format for annual reports under par. (c) and shall require these reports to be filed electronically.

2. The department of revenue shall post annual reports on its official Internet site no later than 45 days after the department receives the report from the city. The department shall also post a list of cities that have not submitted a required annual report to the department of revenue.

3. Notwithstanding par. (c), if a city provides the department of revenue with sufficient evidence that an annual report is in the process of being completed, the department of revenue may grant an extension of time for submitting the report. The department shall post on its official Internet site a list of cities that have received an extension granted under this subdivision, the period of the extension, and an indication of whether the municipality timely filed the report within the extension.

4. If an annual report is not timely filed under subd. 3. or par. (c), the department of revenue shall notify the
NOTE: This section requires DOR to create a format for political subdivisions to use for the submission of annual reports describing the status of each existing TID, that are to be electronically submitted to DOR. DOR must create this format by rule. DOR must post on its official Internet site the annual report filed with it no later than 45 days after it receives the annual report. However, DOR may grant a political subdivision an extension of time for submitting the annual report if the political subdivision provides DOR with sufficient evidence that the report is in the process of being completed. DOR must post on its official Internet site, a list of political subdivisions that received an extension of time for filing the annual report, the time period of the extension, and whether the political subdivision timely filed the annual report within the extension of time.

This section also requires DOR to notify a political subdivision that its annual report is past due if the political subdivision does not file the annual report by May 1, or within the extension of time granted by DOR. Under this section, if the political subdivision does not file the required annual report within 60 days of the date of the notice, DOR must charge the political subdivision a fee of $100 per day for each day that the annual report is past due.

Section 13. 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 standing joint review board to review the proposal. If a political subdivision creates more than one tax incremental district under this section consisting of different overlying taxing jurisdictions, it shall create a separate standing joint review board for each combination of overlying jurisdictions, except that if a political subdivision creates a tax incremental district under this section and s. 66.1105 that share the same overlying taxing jurisdictions, the political subdivision may create one standing joint review board for the districts. The joint review board shall remain in existence for the entire time that any tax incremental district exists in the political subdivision with the same overlying taxing jurisdictions as the overlying taxing jurisdictions represented on the joint review board.

Note: This section requires a political subdivision to create a standing JRB that must remain in existence for the entire time that any environmental remediation TID exists in the political subdivision with the same overlying taxing jurisdictions as the overlying taxing jurisdictions represented on the JRB. If a political subdivision creates an environmental remediation TID, and a TID under s. 66.1105, Stats., and both TIDs share the same overlying taxing jurisdictions, the political subdivision may use the same standing JRB for both TIDs. Also, a standing JRB may, by majority vote, disband following the termination of all existing environmental remediation TIDs located in the political subdivision with the same overlying district as the overlying taxing jurisdictions represented on the JRB.

Section 14. 66.1106 (3) (e) of the statutes is created to read:

66.1106 (3) (e) The joint review board shall meet annually on July 1, or when an annual report under sub. (10) (a) becomes available, to review annual reports under sub. (10m) (a) and to review the performance and status of each district governed by the board.

Note: This section requires a standing JRB to meet annually on July 1, or as soon as the updated annual report describing the status of each existing environmental remediation TID becomes available. The purpose of the annual meeting is to review the performance and status of each existing environmental remediation TID.

Section 15. 66.1106 (10) (a) of the statutes is renumbered 66.1106 (10) (a) (intro.) and amended to read:

66.1106 (10) (a) (intro.) Prepare and make available to the public updated annual reports describing the status of all projects to remediate environmental pollution funded under this section, including revenues and expenditures. A copy of the report shall be sent to filed with all taxing jurisdictions with authority to levy general property taxes on the parcel or contiguous parcels of property and the department of revenue by May 1 annually. The copy of the report filed with the department of revenue shall be in electronic format. The annual report shall contain at least all of the following information:

Section 16. 66.1106 (10) (a) 1. to 7. of the statutes are created to read:
66.1106 (10) (a) 1. The name assigned to the district.
2. The classification of the tax incremental district as an environmental remediation tax incremental district and the scope of the project.
3. The name of any developer who is named in a developer’s agreement with the town or who receives any financial assistance from tax increments allocated for the tax incremental district.
4. The date that the town expects the tax incremental district to terminate under sub. (11).
5. The amount of tax increments to be deposited into a special fund for that district under sub. (9).
6. An analysis of the special fund under sub. (9) for the district. The analysis shall include all of the following:
   a. The balance in the special fund at the beginning of the fiscal year.
   b. All amounts deposited in the special fund by source, including all amounts received from another tax incremental district.
   c. An itemized list of all expenditures from the special fund by category of permissible project costs.
   d. The balance in the special fund at the end of the fiscal year, including a breakdown of the balance by source and a breakdown of the balance identifying any portion of the balance that is required, pledged, earmarked, or otherwise designated for payment of, or securing of, obligations and anticipated project costs. Any portion of the ending balance that has not been previously identified and is not identified in the current analysis as being required, pledged, earmarked, or otherwise designated for payment of, or securing of, obligations or anticipated project costs shall be designated as surplus.
7. The contact information of a person designated by the political subdivision to respond to questions or concerns regarding the annual report.

NOTE: This Section requires the political subdivision to file an annual report describing the status of each existing environmental remediation TID, including expenditures and revenues, to each overlying taxing jurisdiction and to DOR. The annual report filed with DOR must be in electronic format. The deadline for filing an annual report is extended from May 1 to July 1. This Section also includes a list of information that must be included in the annual report.

SECTION 17. 66.1106 (10m) of the statutes is created to read:

66.1106 (10m) REVIEW. (a) 1. The department of revenue shall, by rule, designate a format for annual reports under sub. (10) (a) and shall require these reports to be filed electronically.
2. The department of revenue shall post annual reports on its official Internet site no later than 45 days after the department receives the report from the political subdivision. The department shall also post a list of political subdivisions that have not submitted an annual report to the department.
3. Notwithstanding sub. (10) (a), if a political subdivision provides the department of revenue with sufficient evidence that an annual report is in the process of being completed, the department may grant an extension of time for submitting the report. The department shall post on its official Internet site a list of political subdivisions that have received an extension granted under this subdivision, the period of the extension, and an indication of whether the political subdivision timely filed the report within the extension.
4. If an annual report is not timely filed under sub. 3. or sub. (10) (a), the department of revenue shall notify the political subdivision that the annual report is past due. If the political subdivision does not file the report within 60 days of the date on the notice, the department shall charge the political subdivision a fee of $100 per day for each day that the report is past due.

NOTE: This Section requires DOR to create a format for political subdivisions to use for the submission of annual reports describing the status of each existing environmental remediation TID that are to be electronically filed to DOR. DOR must create this format by rule. DOR must post on its official Internet site the annual reports filed with it no later than 45 days after it receives the annual report. However, DOR may grant a political subdivision an extension of time for filing the annual report if the political subdivision provides DOR with sufficient evidence that the report is in the process of being completed. DOR must post on its official Internet site a list of political subdivisions that received an extension of time for filing the annual report, the time period of the extension, and whether the political subdivision timely filed the annual report within the extension of time.

Also under this Section, DOR must notify a political subdivision that its annual report is past due if the political subdivision does not file the annual report by July 1, or within the extension of time granted by DOR. Under this Section, if the political subdivision does not file the required annual report within 60 days of the notice, DOR must charge the political subdivision a fee of $100 per day for each day that the annual report is past due.

SECTION 18m. Effective dates. This act takes effect on October 1, 2016, except as follows:

(1) The treatment of section 60.85 (4) (a) 1. and (d), (6) (e) and (f), and (8) (c) (intro.) and 1. to 7. of the statutes takes effect on October 1, 2015.