



Tax Incremental Districts: A Lifecycle

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Tax incremental financing (TIF) is a tool often used by municipalities to spur economic development. TIF allows municipalities to pay for public improvements and development incentives within a defined, contiguous geographic area of the municipality – a [tax incremental district \(TID\)](#) – using the future taxes collected on the district’s increased property value. The rationale behind a TID is that a municipality’s public expenditures will encourage development, along with increased property value that would not have otherwise occurred.¹ This issue brief will provide an overview of the lifecycle of a TID under Wisconsin’s TIF law, [s. 66.1105, Stats.](#)

CREATION: PREPARATION, NOTICE, AND RESOLUTIONS

Preparing the Project Plan

The first step a municipality must take towards establishing a TID is the creation of a proposed [project plan](#) by a [local planning commission](#). A planning commission’s project plan must address the TID boundaries, projects and project costs, and other information,² and must be submitted to a municipality’s local legislative body. [[s. 66.1105 \(4\), Stats.](#)] Under current law, [cities](#), [villages](#) and, in some cases, [towns](#), may use TIF to create different kinds of TIDs.³

Notices and Hearings

After a local planning commission has created a project plan, it must hold a public hearing to give interested parties an opportunity to express their views on the proposed creation of the TID, its boundaries, and the proposed project plan. [[s. 66.1105 \(4\) \(a\) and \(e\), Stats.](#)] A planning commission may hold the hearings on both issues together or separately; however, it must hold the hearings at least 14 days before the local legislative body may adopt a project plan. [[s. 66.1105 \(4\) \(e\), Stats.](#)]

Resolutions on the Project Plan

After the public hearing, a project plan must be reviewed and recommended by the planning commission. After a project plan has been reviewed and recommended, a [local legislative body](#) and [Joint Review Board \(JRB\)](#) – a body comprised of one member of the public and representatives of each major taxing body within the proposed TID⁴ – must adopt resolutions supporting the TID’s creation, according to specifications required by law.⁵ Although it must adopt supporting resolutions to create the TID, the local legislative body may depart from the commission’s recommendations. Nevertheless, the local legislative body must adhere to two important legal specifications: (1) that a municipality must include in its resolution a finding that **not less than 50 percent** of the real property within the proposed TID is either: blighted, in need of rehabilitation or conservation work, suitable for industrial sites and zoned for industrial use, or suitable for mixed-use development; and (2) a municipality’s compliance with the 12 percent rule, requiring that the equalized value of the taxable property in the TID, plus the value increments of all existing TIDs, does not exceed 12 percent of the total equalized value within the city. [[s. 66.1105 \(4\) \(gm\) 4. a. and c., Stats.](#)] In the case of a multijurisdictional TID, the 12 percent rule applies to each city, town, or village with territory within the TID. [[s. 66.1105 \(18\) \(c\) 3. and 4., Stats.](#)]

APPROVAL

Once a local planning commission has reviewed and recommended a project plan, and both the local legislative body and the JRB have each adopted a resolution, the local municipal clerk may submit an application to the Department of Revenue (DOR) for final approval of the TID. DOR is responsible for, among

other functions, reviewing the application for statutory compliance and distribution of the tax increments. If a municipality missed a certain statutory requirement,⁶ DOR may determine on a case-by-case basis whether the municipality has achieved [substantial compliance](#) with certain application or procedural requirements in order for the tax increments to be paid out. For DOR to make a finding of substantial compliance, a municipality must show that the missed requirement does not affect substantial justice.⁷ [[s. 66.1105 \(15\), Stats.](#)]

TERMINATING, AMENDING, AND EXTENDING

During a TID's lifecycle, a municipality may **amend** a TID to: (1) add parcels, subtract parcels, or both (no more than four times during its lifecycle); (2) [make changes to the project plan](#); or (3) re-determine the [base value](#) of the properties within the TID, if a TID: (a) has a current year equalized value (review the [TID Statement of Changes Report](#)) at least 10 percent below the base value of the TID for two consecutive years (i.e., [decrement](#)); (b) was created under s. 66.1105, Stats; and (c) had no previous redetermination. [[s. 66.1105 \(5\) \(h\)](#) and [\(i\)](#), Stats.] Additionally, a municipality may amend a TID's project plan to allocate positive tax increments generated by that TID to either: (1) another TID created by that municipality's planning commission; or (2) an environmental remediation TID created under [s. 66.1106, Stats.](#),⁸ so long as certain conditions are met.⁹ [[s. 66.1105 \(6\) \(f\), Stats.](#)]

A TID's lifespan may also be **extended**. A TID extension can be accomplished in three ways. First, a TID may be extended via a **standard extension**, ranging from three to four years. [[s. 66.1105 \(7\) \(am\) Stats.](#)] Second, if a municipality has paid off the aggregate of all its projects, it may extend the life of a TID for up to one year via an **affordable housing extension** by adopting a resolution specifying how the municipality intends to improve housing stock. [[s. 66.1105 \(6\) \(g\), Stats.](#)]¹⁰ Third, if [2013 Wisconsin Act 145](#) negatively affected the annual and total increment amounts of its TID, a municipality may extend the life of a TID up to three additional years via a **technical college extension**. [[s. 66.1105 \(7\) \(am\) 4., Stats.](#)]¹¹ For each type of extension request, a municipality may provide the JRB with an independent audit demonstrating that its TID cannot repay project costs within its maximum lifespan. If an independent audit is included in a municipality's request, the JRB must approve it; otherwise, the decision to approve or deny an extension is left to the JRB's discretion. [[s. 66.1105 \(7\) \(am\) 4. b., Stats.](#)]

Under Wisconsin law, a TID's lifecycle **ends** in one of three ways: (1) a municipality repays all project costs using tax increments; (2) the local legislative body dissolves the TID; or (3) the TID is dissolved upon arrival of the TID's maximum statutory end date. [[s. 66.1105 \(7\), Stats.](#)] In the latter cases, any remaining TID debts are paid from the municipality's general fund.¹²

For more information about TIDs, see DOR's [Wisconsin TIF Manual](#) or visit their [TIF Information webpage](#).

¹ See [s. 66.1105 \(4m\) \(b\) 2., Stats.](#)

² See DOR's [Guidelines for Project Plans](#) for a list of all topics that must be covered in the Project Plan.

³ While towns may create TIDs via [s. 66.1105 \(16\), Stats.](#), under certain conditions, they may also do so under [s. 60.85, Stats.](#) See also DOR's [Wisconsin Tax Incremental Financing \(TIF\) Manual](#) for more information about the different kinds of TIDs.

⁴ JRB membership includes school districts, technical college districts, counties, and municipalities – each chosen according to methods prescribed in [s. 66.1105 \(4m\) \(a\), \(ae\), \(am\), and \(as\), Stats.](#)

⁵ See [s. 66.1105 \(4\) \(gm\), Stats.](#)

⁶ DOR's TIF Manual lists several [examples of municipal substantial compliance errors](#) – e.g., failing to notify the overlying taxing jurisdictions timely or correctly, or even failing to include all necessary information in the project plan.

⁷ DOR interprets “substantial justice” as including “the fairness of the process or the public's ability to participate in the process.” [DOR TIF Manual, [p. 33](#)]

⁸ Previously, a municipality with a TID facing financial difficulty could adopt a resolution declaring the TID “Distressed/Severely Distressed,” which allowed additional time to repay project costs. However, that provision sunset in September 2015.

⁹ A municipality wishing to allocate its positive tax increments – i.e., the donor TID – and the TID receiving the positive tax increments must have the same overlying taxing jurisdictions. Additionally, the allocation of tax increments must be approved by the TID's JRB. [See [s. 66.1105 \(6\) \(f\) 1., Stats.](#)] However, the recipient TID may only use the positive tax increments as specified in [s. 66.1105 \(6\) \(f\) 2. and 3., Stats.](#)

¹⁰ Note: a municipality must use at least 75 percent of the increment received to benefit affordable housing. [[s. 66.1105 \(6\) \(g\) 3., Stats.](#)]

¹¹ See also [Legislative Council, 2013 Wisconsin Act 145, Act Memo.](#)

¹² See also [TID Options Near Maximum Life](#), for more information regarding TIDs nearing the end of their lifecycle.