#### MS:ty

11/6/2014

# AN ACT *to repeal* 60.85 (6) (e) of the statutes; **relating to:** the department of revenue review and determination of industry–specific town tax incremental district project compliance.

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

**JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:** This draft was prepared for the Joint Legislative Council's Study Committee on Review of Tax Incremental Financing.

### **Background**

Any town may create an industry–specific tax incremental district (TID) for certain agricultural, forestry, manufacturing, or tourism projects. Any town may also create an industry–specific TID for residential development or retail development. However, the residential development must have a necessary and incidental relationship to an agricultural, forestry, manufacturing, or tourism project; and the retail development must be limited to the retail sale of products that are produced due to an agricultural, forestry, or manufacturing project.

Current law provides a process by which the Department of Revenue (DOR) may review an industry–specific town TID and issue a determination as to whether the money expended, or debt incurred, in the prior year by the TID complied with the requirement that the town expended money or incurred monetary obligations for the allowable projects. 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, sewerage districts, public inland lake protection, and rehabilitation districts).

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• A city or village that borders the town in which the district is located.

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 person who made the request for 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 (3) 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 for a TID created by a city or village under s. 66.1105, stats.

#### <u>Bill Draft</u>

This draft repeals the process, described above, relating to DOR's review of industry–specific town TIDs.

**SECTION 1.** 60.85 (6) (e) of the statutes is repealed.

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