

1        **AN ACT** *to amend* 66.1105 (2) (i) and 66.1105 (6) (f) 1. a.; and *to create* 66.1105 (6)  
2            (e) 5. of the statutes; **relating to:** modifying the requirements for sharing tax  
3            increments by tax incremental districts with different overlying taxing districts.

*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**

A tax incremental district (TID) is required to terminate, under current law and with some exceptions, once its project costs are paid back. Under one of the exceptions, a city or village may amend the TID’s project plan to allow the TID to become a “donor TID” and allocate positive tax increments generated by the TID to another TID within the city or village (recipient TID), including an environmental remediation TID. The allocation of positive tax increments from a donor TID to one or more recipient TIDs cannot be made unless the donor TID has first satisfied all of its current–year debt service and project cost obligations and the life of a donor TID may not be extended. Positive tax increments may be allocated from a donor TID to a recipient TID if all of the following conditions have been met:

- Both the donor and recipient TIDs have the same overlying taxing jurisdictions.
- The allocation of tax increments is approved by the joint review board (JRB).

If both the donor TID and recipient TID were created before October 1, 1995 (or before October 1, 1996, for first class cities), the donor TID may, in general, allocate its positive tax increments for up to 10 years if all of the following conditions are met:

- The donor TID and the recipient TID have the same overlying taxing jurisdictions.
- The donor TID is able to demonstrate, based upon the positive tax increments that are currently generated, that it has sufficient revenues to

pay for all project costs that have been incurred under the project plan for that district and sufficient surplus revenues to pay for some of the eligible costs of the recipient TID.

### **The Draft**

This draft provides an exception to the requirement that the donor and recipient TIDs must have the same overlying taxing jurisdictions in order for tax increments to be allocated to the recipient. In order for tax increments to be allocated from a donor TID to a recipient TID with different overlying taxation districts, both of the following conditions must apply:

- The geographical boundaries of both the donor and recipient tax incremental districts lie completely within the geographical boundaries of the same city.
- The tax increments allocated to the recipient TID must exclude all tax increments that may be attributed to the general property taxes levied by any overlying taxation district that is not an overlying taxation district of the recipient TID.
- The tax increments not allocated to the recipient TID are returned to the overlying taxation district that levied the general property tax attributable to that portion of the tax increment and is not an overlying taxation district of the recipient TID.

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

2           66.1105 (2) (i) “Tax increment” means that amount obtained by multiplying the total  
3 county, city, school and other local general property taxes levied on all taxable property within  
4 a tax incremental district in a year by a fraction having as a numerator the value increment for  
5 that year in the district and as a denominator that year’s equalized value of all taxable property  
6 in the district. In any year, a tax increment is “positive” if the value increment is positive; it  
7 is “negative” if the value increment is negative. With regard to tax increments allocated under  
8 sub. (6) (e) 5., a tax increment shall not include general property taxes that may be attributed  
9 to general property taxes levied by any overlying taxation district on all taxable property  
10 within the donor tax incremental district that is not an overlying taxation district of the  
11 recipient TID.

**NOTE:** This SECTION amends the definition of a tax increment to exclude, in instances where tax increments are allocated from a donor TID to a recipient TID with different overlying taxation districts, general property taxes that may be attributed to general property taxes levied by any overlying taxation district on all taxable property within the donor tax incremental district that is not an overlying taxation district of the recipient TID.

1           **SECTION 2.** 66.1105 (6) (e) 5. of the statutes is created to read:

2           66.1105 (6) (e) 5. Positive tax increments generated by one district may be allocated  
3 to another district, as described under pars. (e) and (f), if the two districts do not have the same  
4 overlying taxation districts and all of the following conditions apply:

5           a. The geographical boundaries of both the donor and recipient tax incremental districts  
6 lie completely within the geographical boundaries of the same city.

7           b. The tax increments allocated to the recipient tax incremental district exclude any tax  
8 increment that may be attributed to general property taxes levied by any overlying taxation  
9 district on all taxable property within the donor tax incremental district that is not an overlying  
10 taxation district of the recipient TID.

11           c. All positive tax increments that are not allocated to the recipient tax incremental  
12 district are returned to the overlying taxation district that levied the general property tax  
13 attributable to that portion of the tax increment and is not an overlying taxation district of the  
14 recipient TID.

15           **SECTION 3.** 66.1105 (6) (f) 1. a. of the statutes is amended to read:

16           66.1105 (6) (f) 1. a. The Except as provided in subd. 5., the donor tax incremental  
17 district, the positive tax increments of which are to be allocated, and the recipient tax  
18 incremental district have the same overlying taxing jurisdictions.

**NOTE:** SECTIONS 3 and 2 provide an exception to the requirement that the donor and recipient TIDs must have the same overlying taxing jurisdictions in order for tax increments to be allocated to the recipient.

In order for tax increments to be allocated from a donor TID to a recipient TID with different overlying taxation districts, both of the following conditions must apply: (1) the geographical boundaries of both the donor and recipient tax incremental districts lie completely within the geographical boundaries of the same city; (2) the tax increments allocated to the recipient TID must exclude all tax increments that may be attributed to the general property taxes levied by any overlying taxation district that is not an overlying taxation district of the recipient TID; and (3) all positive tax increments not allocated to the recipient TID are returned to the overlying taxation district that levied the general property tax that is attributable to the tax increment and is not an overlying taxation district of the recipient TID.

**COMMENT:** Does this achieve the committee's intent? Will municipalities be able to determine the amount of tax increments to exclude from the donated allocations? Also, it is unclear whether DOR would be able to administer these provisions or whether they are constitutional under the uniformity clause.