AN ACT to repeal 66.1105 (4) (k) and 66.1105 (5) (bm); to renumber and amend
66.1105 (5) (c) and 66.1105 (5) (ce); to amend 66.1105 (4) (gm) 1. and 66.1105 (5)
(b); and to create 66.1105 (5) (c) 2. and 66.1105 (5) (ce) 2. of the statutes; relating
to: inclusion of vacant land within the boundaries of a tax incremental district and
exclusion of tax-exempt city-owned property from the initial tax incremental base
of a tax incremental district.

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

With certain exceptions, current law specifies that property standing
vacant for an entire seven-year period immediately preceding adoption
of the resolution creating a tax incremental district (TID) may not
comprise more than 25 percent of the area in the TID. With regard to
the exceptions to this restriction, current law specifies that the restriction
does not apply to property in a TID if the district is suitable for either
industrial sites or mixed use development and the local legislative body
implements an approved project plan to promote industrial development
if the district has been designated as suitable for industrial sites, or
mixed-use development if the district has been designated as suitable for
mixed-use development. Current law defines “vacant property” to
include property where the fair market value or replacement cost value
of structural improvements on the parcel is less than the fair market
value of the land, to exclude property relating to the Park East and Park
West freeway corridors in Milwaukee County, and to exclude property
that is contaminated by environmental pollution.

Additionally, under current law, the Department of Revenue must certify
the initial tax incremental base of a TID. Generally, this value is
calculated as the aggregate value of all taxable property in the TID, plus
the value of all tax-exempt city-owned property, except real property
owned by a city and used for police and fire buildings, administrative
buildings, libraries, community and recreational buildings, parks, streets
and improvements within any street right–of–way, parking facilities, and
utilities.

**The Draft**

This draft removes the restriction that property standing vacant may not
comprise more than 25 percent of the area in a TID, for TIDs created
after the date the draft takes effect.

Additionally, for a TID created on or after the effective date of the draft,
the draft revises the calculation of the initial tax incremental base of the
district to exclude all tax–exempt city–owned property.

**SECTION 1.** 66.1105 (4) (gm) 1. of the statutes is amended to read:

66.1105 (4) (gm) 1. Describes the boundaries, which may, but need not, be the same as
those recommended by the planning commission, of a tax incremental district with sufficient
definiteness to identify with ordinary and reasonable certainty the territory included in the
district. The boundaries of the tax incremental district may not include any annexed territory
that was not within the boundaries of the city on January 1, 2004, unless at least 3 years have
elapsed since the territory was annexed by the city, unless the city enters into a cooperative
plan boundary agreement, under s. 66.0301 (6) or 66.0307, with the town from which the
territory was annexed, or unless the city and town enter into another kind of agreement relating
to the annexation except that, notwithstanding these conditions, the city may include territory
that was not within the boundaries of the city on January 1, 2004, if the city pledges to pay the
town an amount equal to the property taxes levied on the territory by the town at the time of
the annexation for each of the next 5 years. If, as the result of a pledge by the city to pay the
town an amount equal to the property taxes levied on the territory by the town at the time of
the annexation for each of the next 5 years, the city includes territory in a tax incremental
district that was not within the boundaries of the city on January 1, 2004, the city’s pledge is
enforceable by the town from which the territory was annexed. The boundaries shall include
only those whole units of property as are assessed for general property tax purposes. Property
For a tax incremental district created before the effective date of this subdivision ... [LRB
inserts date], property standing vacant for an entire 7-year period immediately preceding
adoption of the resolution creating a tax incremental district may not comprise more than 25
percent of the area in the tax incremental district, unless the tax incremental district is suitable
under subd. 4. a. for either industrial sites or mixed use development and the local legislative
body implements an approved project plan to promote industrial development within the
meaning of s. 66.1101 if the district has been designated as suitable for industrial sites, or
mixed-use development if the district has been designated as suitable for mixed-use
development. In this subdivision, “vacant property” includes property where the fair market
value or replacement cost value of structural improvements on the parcel is less than the fair
market value of the land. In this subdivision, “vacant property” does not include property
acquired by the local legislative body under ch. 32, property included within the abandoned
Park East freeway corridor or the abandoned Park West freeway corridor in Milwaukee
County, or property that is contaminated by environmental pollution, as defined in s. 66.1106
(1) (d).

NOTE: This Section removes the restriction that property standing vacant may not comprise more than 25 percent of the area in a TID, for TIDs created after the date the draft takes effect.

SECTION 2. 66.1105 (4) (k) of the statutes is repealed.

SECTION 3. 66.1105 (5) (b) of the statutes is amended to read:

66.1105 (5) (b) Upon application in writing by the city clerk, in a form prescribed by
the department of revenue, the department shall determine according to its best judgment from
all sources available to it the full aggregate value of the taxable property and, except as
provided in par. (bm), of the city-owned property in the tax incremental district. The
application shall state the percentage of territory within the tax incremental district which the
local legislative body estimates will be devoted to retail business at the end of the maximum
expenditure period specified in sub. (6) (am) 1. if that estimate is at least 35%. Subject to sub.
(8) (d), the department shall certify this aggregate valuation to the city clerk, and the aggregate
valuation constitutes the tax incremental base of the tax incremental district. The city clerk
shall complete these forms, including forms for the amendment of a project plan, and submit
the completed application or amendment forms on or before October 31 of the year the tax
incremental district is created, as defined in sub. (4) (gm) 2. or, in the case of an amendment,
on or before October 31 of the year in which the changes to the project plan take effect.

**SECTION 4.** 66.1105 (5) (bm) of the statutes is repealed.

**SECTION 5.** 66.1105 (5) (c) of the statutes is renumbered 66.1105 (5) (c) 1. and amended
to read:

66.1105 (5) (c) 1. ¶ For a tax incremental district created before the effective date of
this subdivision ... [LRB inserts date], if the city adopts an amendment to the original project
plan for any district which subtracts territory from the district or which includes additional
project costs at least part of which will be incurred after the period specified in sub. (6) (am)
1., the tax incremental base for the district shall be redetermined, if sub. (4) (h) 2., 4., or 5.
applies to the amended project plan, either by subtracting from the tax incremental base the
value of the taxable property and the value of real property owned by the city, other than
property described under par. s. 66.1105 (5) (bm), 2013–14 stats., that is subtracted from the
existing district or by adding to the tax incremental base the value of the taxable property and
the value of real property owned by the city, other than property described in par. s. 66.1105
(5) (bm), 2013–14 stats., that is added to the existing district under sub. (4) (h) 2., 4., or 5. or,
if sub. (4) (h) 2., 4., or 5. does not apply to the amended project plan, under par. s. 66.1105 (b),
2013–14 stats., as of the January 1 next preceding the effective date of the amendment if the amendment becomes effective between January 2 and September 30, as of the next subsequent January 1 if the amendment becomes effective between October 1 and December 31 and if the effective date of the amendment is January 1 of any year, the redetermination shall be made on that date. With regard to a district to which territory has been added, the tax incremental base as redetermined under this paragraph is effective for the purposes of this section only if it exceeds the original tax incremental base determined under par. s.66.1105 (5) (b), 2013–14 stats.

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

66.1105 (5) (c) 2. For a tax incremental district created on or after the effective date of this subdivision ... [LRB inserts date], if the city adopts an amendment to the original project plan for any district which subtracts territory from the district or which includes additional project costs at least part of which will be incurred after the period specified in sub. (6) (am) 1., the tax incremental base for the district shall be redetermined, if sub. (4) (h) 2. applies to the amended project plan, either by subtracting from the tax incremental base the value of the taxable property that is subtracted from the existing district or by adding to the tax incremental base the value of the taxable property that is added to the existing district under sub. (4) (h) 2. or, if sub. (4) (h) 2. does not apply to the amended project plan, under par. (b), as of the January 1 next preceding the effective date of the amendment if the amendment becomes effective between January 2 and September 30, as of the next subsequent January 1 if the amendment becomes effective between October 1 and December 31 and if the effective date of the amendment is January 1 of any year, the redetermination shall be made on that date. With regard to a district to which territory has been added, the tax incremental base as
redetermined under this paragraph is effective for the purposes of this section only if it exceeds
the original tax incremental base determined under par. (b).

SECTION 7. 66.1105 (5) (ce) of the statutes is renumbered 66.1105 (5) (ce) 1. and
amended to read:

66.1105 (5) (ce) 1. If For a tax incremental district created before the effective date of
this subdivision ... [LRB inserts date], if the city adopts an amendment, to which sub. (4) (h)
2., 4., or 5. applies, the tax incremental base for the district shall be redetermined, either by
subtracting from the tax incremental base the value of the taxable property and the value of
real property owned by the city, other than property described under par. s. 66.1105 (5) (bm),
2013–14, stats., that is subtracted from the existing district or by adding to the tax incremental
base the value of the taxable property and the value of real property owned by the city, other
than property described in par. s. 66.1105 (5) (bm), 2013–14, stats., that is added to the existing
district under sub. (4) (h) 2., 4., or 5., as of the January 1 next preceding the effective date of
the amendment if the amendment becomes effective between January 2 and September 30, as
of the next subsequent January 1 if the amendment becomes effective between October 1 and
December 31 and if the effective date of the amendment is January 1 of any year, the
redetermination shall be made on that date. With regard to a district to which territory has been
added, the tax incremental base as redetermined under this paragraph is effective for the
purposes of this section only if it exceeds the original tax incremental base determined under
par. s. 66.1105 (5) (b), 2013–14 stats.

SECTION 8. 66.1105 (5) (ce) 2. of the statutes is created to read:

66.1105 (5) (ce) 2. For a tax incremental district created on or after the effective date
of this subdivision ... [LRB inserts date], if the city adopts an amendment, to which sub. (4)
(h) 2. applies, the tax incremental base for the district shall be redetermined, either by
subtracting from the tax incremental base the value of the taxable property that is subtracted
from the existing district or by adding to the tax incremental base the value of the taxable
property that is added to the existing district under sub. (4) (h) 2. as of the January 1 next
preceding the effective date of the amendment if the amendment becomes effective between
January 2 and September 30, as of the next subsequent January 1 if the amendment becomes
effective between October 1 and December 31 and if the effective date of the amendment is
January 1 of any year, the redetermination shall be made on that date. With regard to a district
to which territory has been added, the tax incremental base as redetermined under this
paragraph is effective for the purposes of this section only if it exceeds the original tax
incremental base determined under par. (b).

**NOTE:** Sections 2 to 8 revise the calculation of the initial tax incremental base of a tax incremental district to exclude all tax-exempt city-owned property for districts created after the date the draft takes effect.