STATE OF WISCONSIN
Tax Incremental Finance

The following is a composite of the Tax Increment Law created by **1975** Chapter 105, 199, 311; with amendments from **1977** Chapters 29, 418; **1979** Chapters 221, 343, 361; **1981** Chapters 20, 317; **1983** Acts 27, 31, 207, 320, 405, 538; **1985** Acts 29, 39, 285; **1987** Acts 27, 186, 395; **1989** Acts 31, 336; **1993** Acts 293, 337, 399; **1995** Acts 27, 201, 225, 227, 335; **1997** Acts 3, 27, 237, 252; **1999** Acts 9, 150; **2001** Acts 5, 11, 16, 104; **2003** Acts 34, 46, 126, 127, 194, 320, 326; **2005** Acts 6, 13, 46, 328, 331, 385; **2007** Acts 2, 10, 21, 41, 57, 73; **2009** Acts 5, 7, 28, 66, 170, 176, 310, 312; **2011** Acts 12, 32, 40, 41, 77. Please refer to the official Wisconsin Statutes for exact wording.

LEGISLATIVE DECLARATION. [See Chapter 105, laws of 1975]

(1) The legislature finds that the existing system of allocating aggregate property tax revenues among tax levying municipalities has resulted in significant inequities and disincentives. The cost of public works or improvements within a city or village has been borne entirely by the city, or village, while the expansion of tax base which is stimulated, directly or indirectly, by such improvements, benefits not only the city or village but also all municipalities which share such tax base. This situation is inequitable. Moreover, when the cost to a city or village of a public improvement project exceeds the future benefit to the city or village resulting therefrom, the city or village may decide not to undertake such project. This situation has resulted in the postponement or cancellation of socially desirable projects.

(2) The legislature further finds that accomplishment of the vital and beneficial public purposes of sections 66.405 to 66.425, 66.43, 66.431, 66.435 and 66.52 of the statutes, is being frustrated because of a lack of incentives and financial resources. The purpose of this act is to create a viable procedure by which a city or village, through its own initiative and efforts, may finance projects which will tend to accomplish these laudable objectives.

(3) It is further found and declared that in establishing a tax increment system, the legislature is acting in all respects for the benefit of the people of this state to serve a public purpose in improving and otherwise promoting their health, safety, welfare and prosperity.

20.566
(2) (hm) Administration of tax incremental, and environmental remediation tax incremental, financing programs.
All moneys received from the fees imposed under ss. 60.85 (5) (a) and (6) (am), 66.1105 (4e) (f), (5) (a) and (6) (ae), and 66.1106 (7) (am) and (13) (b) to pay the costs of the department of revenue in providing staff and administrative services associated with tax incremental districts under ss. 60.85, 66.1105 and 66.1106, and to reimburse a municipality for costs incurred by the municipality related to the department's administration of tax incremental financing program.

59.57(3) Tax Incremental Financing (a) Authority. Subject to par. (b), a county board of a county in which no cities or villages are located may exercise all powers of cities under s. 66.1105. If the board exercises the powers of a city under s. 66.1105, it is subject to the same duties as a common council under s. 66.1105 and the county is subject to the same duties and liabilities as a city under s. 66.1105.

(b) Limitations. 1. A board acting under par. (a) may not create a tax incremental district unless the town board of each town in which the proposed district is to be located adopts a resolution approving of the creation of the district.

2. When a county convenes a joint review board under s. 66.1105 (4m) (a), the county representative specified in that paragraph shall be chosen as specified under s. 66.1105 (4m) (ae) 2., and the city representative specified in s. 66.1105 (4m) (a) and chosen as specified under s. 66.1105 (4m) (ae) 3. shall be a representative of the town where the tax incremental district is located, and shall be the town board chair or his or her designee, consistent with the provisions of s. 66.1105 (4m) (ae) 3.

3. The 25 percent vacant land limitation for a tax incremental district that is not a district suitable for industrial sites, as described in s. 66.1105 (4) (gm) 1., does not apply to a tax incremental district that is created under this subsection.

60.23 (32) Town Tax Increment Powers. Subject to s. 66.1105 (16), exercise all powers of cities under s. 66.1105. If the town board exercises the powers of a city under s. 66.1105, it is subject to the same duties as a common council under s. 66.1105 and the town is subject to the same duties and liabilities as a city under s. 66.1105.

66.1339 VILLAGES TO HAVE CERTAIN CITY POWERS. Villages shall have all of the powers of cities under ss. 66.1105, 66.1201 to 66.1329 and 66.1331 to 66.1337.

66.1105 Tax increment law.
(1) Short title. This section shall be known and may be cited as the "Tax Increment Law".

(2) Definitions. In this section, unless a different intent clearly appears from the context:

(a)
1. "Blighted area" means any of the following:

a. An area, including a slum area, in which the structures, buildings or improvements, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of these factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare.

b. An area which is predominantly open and which consists primarily of an abandoned highway corridor, as defined in s. 66.1333 (2m) (a), or that consists of land upon which buildings or structures have been demolished and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community.

2. "Blighted area" does not include predominantly open land area that has been developed only for agricultural purposes.

(ab) “Affordable housing” means housing that costs a household no more than 30 percent of the household’s gross monthly income.

(am) "Environmental pollution" has the meaning given in s. 299.01 (4).

(bm) "Highway" has the meaning provided in s. 340.01 (22).

(bq) “Household” means an individual and his or her spouse and all minor dependents.

(c) "Local legislative body" means the common council.

(cm) "Mixed-use development" means development that contains a combination of industrial, commercial, or residential uses, except that lands proposed for newly platted residential use, as shown in the project plan, may not exceed 35 percent, by area, of the real property within the district.

(d) "Personal property" has the meaning prescribed in s. 70.04.

(e) "Planning commission" means a plan commission created under s. 62.23, a board of public land commissioners if the city has no plan commission, or a city plan committee of the local legislative body, if the city has neither a commission nor a board.

(f)
1. "Project costs" mean any expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred by the city which are listed in a project plan as costs of public works or improvements within a tax incremental district or, to the extent provided in subds. 1. k., 1. m. and 1.n., without the district, plus any incidental costs, diminished by any income, special assessments, or other revenues, including user fees or charges, other than tax increments, received or reasonably expected to be received by the city in connection with the implementation of the plan. For any tax incremental district for which a project plan is approved on or after July 31, 1981, only a proportionate share of the costs permitted under this subdivision may be included as project costs to the extent that they benefit the tax incremental district. To the extent the costs benefit the municipality outside the tax incremental district, a proportionate share of the cost is not a project cost. "Project costs" include:

a. Capital costs including, but not limited to, the actual costs of the construction of public works or improvements, new buildings, structures, and fixtures; the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures other than the demolition of listed properties as defined in s. 44.31 (4); the acquisition of equipment to service the district; the removal or containment of, or the restoration of soil or groundwater affected by, environmental pollution; and the clearing and grading of land.

b. Financing costs, including, but not limited to, all interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of the obligations because of the redemption of the obligations prior to maturity.

c. Real property assembly costs, meaning any deficit incurred resulting from the sale or lease as lessor by the city of real or personal property within a tax incremental district for consideration which is less than its cost to the city.

d. Professional service costs, including, but not limited to, those costs incurred for architectural, planning, engineering, and legal advice and services.

e. Imputed administrative costs, including, but not limited to, reasonable charges for the time spent by city employees in connection with the implementation of a project plan.

f. Relocation costs, including, but not limited to, those relocation payments made following condemnation under ss. 32.19 and 32.195.

g. Organizational costs, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public with respect to the creation of tax incremental districts and the implementation of project plans.

h. The amount of any contributions made under s. 66.1333 (13) in connection with the implementation of the project plan.

i. Payments made, in the discretion of the local legislative body, which are found to be necessary or convenient to the creation of tax incremental districts or the implementation of project plans, including payments made to a town that relate to property taxes levied on territory to be included in a tax incremental district as described in sub. (4) (gm) 1.

j. That portion of costs related to the construction or alteration of sewerage treatment plants, water treatment plants or other environmental protection devices, storm or sanitary sewer lines, water lines, or amenities on streets or the rebuilding or expansion of streets the construction, alteration, rebuilding or expansion of which is necessitated by the project plan for a district and is within the district.

k. That portion of costs related to the construction or alteration of sewerage treatment plants, water treatment plants or other environmental protection devices, storm or sanitary sewer lines, water lines, or amenities on streets outside the district if the construction, alteration, rebuilding or expansion is necessitated by the project plan for a district, and if at the time the construction, alteration, rebuilding or expansion begins there are improvements of the kinds named in this subdivision on the land outside the district in respect to which the costs are to be incurred.

L. Costs for the removal, or containment, of lead contamination in buildings or infrastructure if the city declares that such lead contamination is a public health concern.

m. With regard to a tax incremental district that is located in a city to which sub. (6) (d) applies and about which a finding has been made that not less than 50 percent, by area, of the real property within the district is a blighted area, project costs incurred for territory that is located within a one-half mile radius of the district's boundaries.

n. With regard to a tax incremental district that is located anywhere other than a city to which sub. (6) (d) applies, and subject to sub. (4m) (d), project costs incurred for territory that is located within a one-half mile radius of the district’s boundaries and within the city that created the district.

2. Notwithstanding subd. 1., none of the following may be included as project costs for any tax incremental district for which a project plan is approved on or after July 31, 1981:

a. The cost of constructing or expanding administrative buildings, police and fire buildings,

libraries, community and recreational buildings and school buildings, unless the administrative buildings, police and fire buildings, libraries and community and recreational buildings were damaged or destroyed before January 1, 1997, by a natural disaster.

b. The cost of constructing or expanding any facility, if the city generally finances similar facilities only with utility user fees.

c. General government operating expenses, unrelated to the planning or development of a tax incremental district.

d. Cash grants made by the city to owners, lessees, or developers of land that is located within the tax incremental district unless the grant recipient has signed a development agreement with the city, a copy of which shall be sent to the appropriate joint review board or, if that joint review board has been dissolved, retained by the city in the official records for that tax incremental district.

3. Notwithstanding subd. 1., project costs may include any expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred by the city for newly platted residential development only for any tax incremental district for which a project plan is approved before September 30, 1995, or for a mixed-use development tax incremental district to which one of the following applies:

a. The density of the residential housing is at least 3 units per acre.

b. The residential housing is located in a conservation subdivision, as defined in s. 66.1027 (1) (a).

c. The residential housing is located in a traditional neighborhood development, as defined in s. 66.1027 (1) (c).

(g) "Project plan" means the properly approved plan for the development or redevelopment of a tax incremental district, including all properly approved amendments thereto.

(h) "Real property" has the meaning prescribed in s. 70.03.

(i) "Tax increment" means that amount obtained by multiplying the total county, city, school and other local general property taxes levied on all taxable property within a tax incremental district in a year by a fraction having as a numerator the value increment for that year in the district and as a denominator that year's equalized value of all taxable property in the district. In any year, a tax increment is "positive" if the value increment is positive; it is "negative" if the value increment is negative.

(j) "Tax incremental base" means the aggregate value, as equalized by the department of revenue, of all taxable property located within a tax incremental district on the date as of which the district is created, determined as provided in sub. (5) (b). The base of districts created before October 1, 1980, does not include the value of property exempted under s. 70.111 (17).

(k) "Tax incremental district" means a contiguous geographic area within a city defined and created by resolution of the local legislative body, consisting solely of whole units of property as

are assessed for general property tax purposes, other than railroad rights-of-way, rivers or highways. Railroad rights-of-way, rivers or highways may be included in a tax incremental district only if they are continuously bounded on either side, or on both sides, by whole units of property as are assessed for general property tax purposes which are in the tax incremental district. "Tax incremental district" does not include any area identified as a wetland on a map under s. 23.32.

(L) "Taxable property" means all real and personal taxable property located in a tax incremental district.

(m) "Value increment" means the equalized value of all taxable property in a tax incremental district in any year minus the tax incremental base. In any year "value increment" is positive if the tax incremental base is less than the aggregate value of taxable property as equalized by the department of revenue; it is negative if that base exceeds that aggregate value.

(3) Powers of cities. In addition to any other powers conferred by law, a city may exercise any powers necessary and convenient to carry out the purposes of this section, including the power to:

(a) Create tax incremental districts and define the boundaries of the districts;

(b) Cause project plans to be prepared, approve the plans, and implement the provisions and effectuate the purposes of the plans;

(c) Issue tax incremental bonds and notes;

(d) Deposit moneys into the special fund of any tax incremental district; or

(e) Enter into any contracts or agreements, including agreements with bondholders, determined by the local legislative body to be necessary or convenient to implement the provisions and effectuate the purposes of project plans. The contracts or agreements may include conditions, restrictions, or covenants which either run with the land or which otherwise regulate the use of land.

(f) Designate, by ordinance or resolution, the local housing authority, the local redevelopmental authority, or both jointly, or the local community development authority, as agent of the city, to perform all acts, except the development of the master plan of the city, which are otherwise performed by the planning commission under this section and s. 66.1337.

(g) Create a standing joint review board that may remain in existence for the entire time that any tax incremental district exists in the city. All of the provisions that apply to a joint review board that is convened under sub. (4m) (a) apply to a standing joint review board that is created under this paragraph. A city may disband a joint review board that is created under this paragraph at any time.

(4) Creation of tax incremental districts and approval of project plans. In order to implement the provisions of this section, the following steps and plans are required:

(a) Holding of a public hearing by the planning commission at which interested parties are

afforded a reasonable opportunity to express their views on the proposed creation of a tax incremental district and the proposed boundaries of the district. Notice of the hearing shall be published as a class 2 notice, under ch. 985. Before publication, a copy of the notice shall be sent by first class mail to the chief executive officer or administrator of all local governmental entities having the power to levy taxes on property located within the proposed district and to the school board of any school district which includes property located within the proposed district. For a county with no chief executive officer or administrator, notice shall be sent to the county board chairperson.

(b) Designation by the planning commission of the boundaries of a tax incremental district recommended by it and submission of the recommendation to the local legislative body.

(c) Identification of the specific property to be included under par. (gm) 4. as blighted or in need of rehabilitation or conservation work. Owners of the property identified shall be notified of the proposed finding and the date of the hearing to be held under par. (e) at least 15 days prior to the date of the hearing. In cities with a redevelopment authority under s. 66.1333, the notification required under this paragraph may be provided with the notice required under s. 66.1333 (6) (b) 3., if the notice is transmitted at least 15 days prior to the date of the hearing to be held under par. (e).

(d) Preparation and adoption by the planning commission of a proposed project plan for each tax incremental district.

(e) At least 14 days before adopting a resolution under par. (gm), holding of a public hearing by the planning commission at which interested parties are afforded a reasonable opportunity to express their views on the proposed project plan. The hearing may be held in conjunction with the hearing provided for in par. (a). If the city anticipates that the proposed project plan's project costs may include cash grants made by the city to owners, lessees, or developers of land that is located within the tax incremental district, the hearing notice shall contain a statement to that effect. Notice of the hearing shall be published as a class 2 notice, under ch. 985. The notice shall include a statement advising that a copy of the proposed project plan will be provided on request. Before publication, a copy of the notice shall be sent by 1st class mail to the chief executive officer or administrator of all local governmental entities having the power to levy taxes on property within the district and to the school board of any school district which includes property located within the proposed district. For a county with no chief executive officer or administrator, notice shall be sent to the county board chairperson.

(f) Adoption by the planning commission of a project plan for each tax incremental district and submission of the plan to the local legislative body. The plan shall include a statement listing the kind, number and location of all proposed public works or improvements within the district or, to the extent provided in sub. (2) (f) 1. k. and 1.n., outside the district, an economic feasibility study, a detailed list of estimated project costs, and a description of the methods of financing all estimated project costs and the time when the related costs or monetary obligations are to be incurred. The plan shall also include a map showing existing uses and conditions of real property in the district; a map showing proposed improvements and uses in the district; proposed changes of zoning ordinances, master plan, if any, map, building codes and city ordinances; a list of estimated nonproject costs; and a statement of the proposed method for the relocation of any persons to be displaced. The plan shall indicate how creation of the tax incremental district promotes the orderly development of the city. The city shall include in the plan an opinion of the

city attorney or of an attorney retained by the city advising whether the plan is complete and complies with this section.

(g) Approval by the local legislative body of a project plan prior to or concurrent with the adoption of a resolution under par. (gm). The approval shall be by resolution which contains findings that the plan is feasible and in conformity with the master plan, if any, of the city.

(gm) Adoption by the local legislative body of a resolution which:

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. 66.0307, 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 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-used 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).

2. Creates the district as of a date provided in the resolution. If the resolution is adopted during the period between January 2 and September 30, then the date shall be the next preceding January 1. If the resolution is adopted during the period between October 1 and December 31, then the date shall be the next subsequent January 1. If the resolution is adopted on January 1, the district is created on that January 1.

3. Assigns a name to the district for identification purposes. The first district created shall be known as "Tax Incremental District Number One, City of ...." and the first district created under sub. (18) shall be known as "Multijurisdictional District Number One, City of …". Each subsequently created district shall be assigned the next consecutive number.

4. Contains findings that:

a. Not less than 50%, by area, of the real property within the district is at least one of the following: a blighted area; in need of rehabilitation or conservation work, as defined in s. 66.1337 (2m) (b); suitable for industrial sites within the meaning of s. 66.1101 and has been zoned for industrial use; or suitable for mixed-use development; and

b. The improvement of the area is likely to enhance significantly the value of substantially all of the other real property in the district. It is not necessary to identify the specific parcels meeting the criteria; and

bm. The project costs relate directly to eliminating blight, directly serve to rehabilitate or conserve the area or directly serve to promote industrial development, consistent with the purpose for which the tax incremental district is created under subd. 4. a.; and

c. Except as provided in subs. (10) (c), (16) (d), (17), and (18) (c) 3., the equalized value of taxable property of the district plus the value increment of all existing districts does not exceed 12 percent of the total equalized value of taxable property within the city. In determining the equalized value of taxable property under this subd. 4. c. or sub. (17) (c), the department of revenue shall base its calculations on the most recent equalized value of taxable property of the district that is reported under s. 70.57 (1m) before the date on which the resolution under this paragraph is adopted. If the department of revenue determines that a local legislative body exceeds the 12 percent limit described in this subd. 4. c. or sub. (17) (c), the department shall notify the city of its noncompliance, in writing, not later than December 31 of the year in which the department receives the completed application or amendment forms described in sub. (5) (b).

5. Confirms that any real property within the district that is found suitable for industrial sites and is zoned for industrial use under subd. 4. a. will remain zoned for industrial use for the life of the tax incremental district.

6. Declares that the district is a blighted area district, a rehabilitation or conservation district, an industrial district, or a mixed-use district based on the identification and classification of the property included within the district under par. (c) and subd. 4. a. If the district is not exclusively blighted, rehabilitation or conservation, industrial, or mixed use, the declaration under this subdivision shall be based on which classification is predominant with regard to the area described in subd. 4. a.

(gs) Review by a joint review board, acting under sub. (4m), that results in its approval of the resolution under par. (gm).

(h)
1. Subject to subds. 2., 4., 5., and 6., the planning commission may, by resolution, adopt an amendment to a project plan. The amendment is subject to approval by the local legislative body and approval requires the same findings as provided in par. (g) and, if the amendment adds territory to a district under subd. 2., approval also requires the same findings as provided in par. (gm) 4. c. Any amendment to a project plan is also subject to review by a joint review board, acting under sub. (4m). Adoption of an amendment to a project plan shall be preceded by a public hearing held by the plan commission at which interested parties shall be afforded a

reasonable opportunity to express their views on the amendment. Notice of the hearing shall be published as a class 2 notice, under ch. 985. The notice shall include a statement of the purpose and cost of the amendment and shall advise that a copy of the amendment will be provided on request. Before publication, a copy of the notice shall be sent by 1st class mail to the chief executive officer or administrator of all local governmental entities having the power to levy taxes on property within the district and to the school board of any school district which includes property located within the proposed district. For a county with no chief executive officer or administrator, this notice shall be sent to the county board chairperson.

2. Except as provided in subds. 4., 5., 7. and 8., the planning commission may adopt an amendment to a project plan under subd. 1. to modify the district's boundaries, not more than 4 times during the district's existence, by subtracting territory from the district in a way that does not remove contiguity from the district or by adding territory to the district that is contiguous to the district and that is served by public works or improvements that were created as part of the district's project plan. A single amendment to a project plan that both adds and subtracts territory shall be counted under this subdivision as one amendment of a project plan.

4. With regard to a village that has a population of less than 10,000, was incorporated in 1914 and is located in a county that has a population of less than 25,000 and that contains a portion of the Yellow River and the Chequamegon Waters Flowage, not more than once during the 11 years after the tax incremental district is created, the planning commission may adopt an amendment to a project plan under subd. 1. to modify the district's boundaries by adding territory to the district that is contiguous to the district and that is to be served by public works or improvements that were created as part of the district's project plan. Expenditures for project costs that are incurred because of an amendment to a project plan to which this subdivision applies may be made for not more than 5 years after the date on which the local legislative body adopts a resolution amending the project plan.

5. With regard to a city that has a population of at least 80,000 that was incorporated in 1850 and that is in a county with a population of less than 175,000 that is adjacent to one of the Great Lakes, the planning commission may adopt an amendment to a project plan under subd. 1. to modify the district's boundaries by adding territory to the district that is contiguous to the district and that is served by public works or improvements that were created as part of the district's project plan not more than once during the expenditure period specified in sub. (6) (am) 1. for a district that is located in a city to which sub. (6) (d) applies, except that in no case may expenditures for project costs that are incurred because of an amendment to a project plan that is authorized under this subdivision be made later than 17 years after the district is created. This subdivision does not apply to a tax incremental district that is created after January 1, 2004.

6. Notwithstanding subd. 1., a project plan shall be considered to have been amended, without compliance with any of the procedures required under subd. 1., if the only change to the project plan is the extension of the period during which expenditures may be made under sub. (6) (am) 1., as authorized under that subdivision by a provision of state law that takes effect after a tax incremental district's project plan is first adopted under par. (f).

7. If the department of revenue, acting under sub. (5) (dm), makes a determination that any of the conditions listed in sub. (5) (de) apply, a planning commission may amend its project plan to ensure that, with regard to that mixed-use district, the percentage of lands proposed for newly platted residential use does not exceed the percentage specified in sub. (2) (cm), or that at least

one of the conditions specified in sub. (2) (f) 3. a. to c. applies, even if such an amendment to a project plan would exceed the number of amendments allowed under subd. (h) 2.

8. Notwithstanding the limitation in subd.2., the planning commission in the village of Pleasant Prairie may adopt an amendment to a project plan under subd.1. to modify the boundaries of tax incremental district number 2 not more than 6 times during the district's existence. A single amendment to a project plan that both adds and subtracts territory shall be counted under this subdivision as one amendment of a project plan.

(i) The local legislative body shall provide the joint review board with the following information and projections:

1. The specific items that constitute the project costs, the total dollar amount of these project costs to be paid with the tax increments, and the amount of tax increments to be generated over the life of the tax incremental district.

2. The amount of the value increment when the project costs in subd. 1. are paid in full and the tax incremental district is terminated.

3. The reasons why the project costs in subd. 1. may not or should not be paid by the owners of property that benefits by improvements within the tax incremental district.

4. The share of the projected tax increments in subd. 1. estimated to be paid by the owners of taxable property in each of the taxing jurisdictions overlying the tax incremental district.

5. The benefits that the owners of taxable property in the overlying taxing jurisdictions will receive to compensate them for their share of the projected tax increments in subd. 4.

(k) Calculation by the local assessor of the value of all tax-exempt city-owned property, except property described in sub. (5) (bm), in the proposed tax incremental district, as of the day of the district's creation. This information shall be sent to the department of revenue for inclusion in the tax incremental district's initial tax incremental base under sub. (5) (b).

(4e) **Distressed, or Severely Distressed, Tax Incremental Districts**.
(a) Before October 1, 2015, and subject to par. (am) and the limitations in this subsection, a city may designate a tax incremental district that it created before October 1, 2008, as a distressed or severely distressed tax incremental district if all of the following occur or apply:

1. The local legislative body adopts a resolution finding that its project costs incurred, with regard to the tax incremental district, exceed the amount of revenues from all sources that the city expects the district to generate to pay off such project costs during the life of the district.

2. The clerk of the local legislative body certifies the resolution and forwards a copy of the certified resolution and a copy of all of the financial data that the local legislative body used in the adoption process under subd. 1. to the department of revenue and the joint review board.

3. Subject to par. (e), the planning commission amends the district's project plan under sub. (4) (h) 1. to reflect the district's distressed status.

4. The tax incremental district has been in existence for at least 7 years before the local legislative body adopts the resolution under subd. 1. Repealed August 17, 2011

5. Except as provided in sub. 3., the local legislative body has not approved an amendment to the tax incremental district's project plan after October 1, 2009.

(am) To be designated as a severely distressed tax incremental district under par. (a), a district must meet all of the conditions under par. (a) and its value increment in any year must have declined at least 25 percent from the district's highest value increment determined by the department of revenue over the course of the district's life. The joint review board may request that the department of revenue certify that a district meets the decline in value increment percentage described in this paragraph.

(b) 1. Adoption of a resolution under par. (a) 1. shall be preceded by a public hearing held by the common council at which interested parties shall be afforded a reasonable opportunity to express their views on the proposed designation of a distressed, or severely distressed, tax incremental district. Notice of the hearing shall be published as a class 2 notice under ch. 985. The notice shall describe the resolution and shall advise that a copy of the resolution will be provided on request. The notice shall also explain that the life of a distressed tax incremental district may be extended, that it may receive excess tax increments from a donor district, and that the life of the donor district may be extended to provide such increments. Before publication, a copy of the notice shall be sent by 1st class mail to the chief executive officer or administrator of all local governmental entities having the power to levy taxes on property within the district and to the school board of any school district that includes property located within the proposed district. For a county with no chief executive officer or administrator, this notice shall be sent to the county board chairperson.

2. Following receipt of the resolution and the financial data under par. (a) 2., the joint review board shall evaluate the resolution and data to determine whether the designation of the district as a distressed, or severely distressed, district or the sharing of tax increments by a donor district with the distressed, or severely distressed, district is likely to enhance the ability of the city to pay its project costs related to the district within the time specified in par. (d) 2. The joint review board may approve or deny the designation and shall send a written copy of its findings to the common council.

3. A resolution adopted under par. (a) 1. may not take effect unless the joint review board approves, by resolution, the designation under subd. 2. The joint review board shall approve or deny the designation within 30 days after receiving the resolution under subd. 2.

(c) If the department of revenue prescribes any forms that the city clerk must complete as part of the designation of a distressed, or severely distressed, tax incremental district, the clerk shall submit the forms to the department on or before December 31 of the year the district is designated as distressed, or severely distressed.

(d) 1. Notwithstanding the time limits for the allocation of positive tax increments under sub. (6) (a), but subject to sub. (6) (a) 1., and notwithstanding the requirement under sub. (6) (f) 1. b., the department of revenue shall allocate positive tax increments for up to 10 years after a district would otherwise be required to terminate, if the district is designated as a distressed district

under this subsection, or up to 40 years after the district is created, if the district is designated as a severely distressed district under this subsection.

2. Notwithstanding the time limits for termination under sub. (7) (ak) to (at), but subject to sub. (7) (a) and (b), a district may remain in existence for up to 10 years after the district would otherwise be required to terminate, if the district is designated as a distressed district under this subsection, or up to 40 years after the district is created, if the district is designated as a severely distressed district under this subsection.

3. Notwithstanding the time limits and other provisions for termination under sub. (7), a donor tax incremental district under sub. (6) (d), (dm), (e), and (f) may share tax increments with a distressed, or severely distressed, district until the earlier of the following occurs:

a. The distressed, or severely distressed, district terminates under sub. (7) (a), (au), or (b).

b. Following its creation, the donor district has existed for 10 years after the district would otherwise be required to terminate, if the district is sharing its increment with a district designated as a distressed district under this subsection, or until the donor district has been in existence for 40 years, if the district is sharing its increment with a district designated as a severely distressed district under this subsection.

(e) A distressed, or severely distressed, tax incremental district may not do any of the following:

1. Amend its project plan to add any new project costs.

2. Become part of a district with overlapping boundaries under sub. (10).

3. Expend any funds outside of the tax incremental district's boundaries.

4. Add any territory to the district under sub. (4) (h) 2.

5. Become a donor district under sub. (6) (d), (dm), (e), or (f).

6. Make any expenditures after its expenditure period, as determined before its designation as a distressed, or severely distressed, district expires.

(f) If the joint review board approves a designation under par. (b) 3., the department of revenue shall certify the district as a distressed, or severely distressed, tax incremental district and shall send a copy of the certification to the city and to all overlying taxation jurisdictions. The department may impose a fee of $500 on a city for each district in the city that is so designated, for the additional costs incurred by the department in administering such a district.

(g) If any tax increments allocated to a distressed, or severely distressed, tax incremental district under this subsection exceed the amount needed to meet the distressed, or severely distressed, district's annual expenditures identified in its existing project plan, the excess amount shall be used to retire any outstanding debt obligations of the district or to establish a reserve fund that may be used only to retire outstanding debt obligations of the distressed, or severely distressed, district.

(4m) Joint review board.
(a) Any city that seeks to create a tax incremental district, amend a project plan or incur project costs as described in sub.(2)(f) 1.n. for an area that is outside of a district's boundaries, shall convene a temporary joint review board under this paragraph, or a standing joint review board under sub. (3) (g), to review the proposal. Except as provided in par. (am) and (as), and subject to par. (ae), the 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 city, and one public member. If more than one school district, more than one union high school district, more than one elementary school district, more than one technical college district or more than one county 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 board. The public member and the board's chairperson shall be selected by a majority of the other board members before the public hearing under sub. (4) (a) or (h) 1. is held. All board members shall be appointed and the first board meeting held within 14 days after the notice is published under sub. (4) (a) or (h) 1. Additional meetings of the board shall be held upon the call of any member. The city that seeks to create the tax incremental district, to amend its project plan, or make or incur an expenditure described in sub.(2)(f) 1.n. for an area that is outside of a district's 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) (g).

(ae)
1. A representative chosen by a school district under par. (a), (am), or (as) shall be the president of the school board, or his or her designee. If the school board president appoints a designee, he or she shall give preference to the school district's finance director or another person with knowledge of local government finances.

2. The representative chosen by the county under par. (a) or (as) shall be the county executive or, if the county does not have a county executive, the chairperson of the county board, or the executive's or chairperson's designee. If the county executive or county board chairperson appoints a designee, he or she shall give preference to the county treasurer or another person with knowledge of local government finances.

3. The representative chosen by the city under par. (a) or (as) shall be the mayor, or city manager, or his or her designee. If the mayor or city manager appoints a designee, he or she shall give preference to the person in charge of administering the city's economic development programs, the city treasurer, or another person with knowledge of local government finances.

4. The representative chosen by the technical college district under par. (a) or (as) shall be the district's director or his or her designee. If the technical college district's director appoints a designee, he or she shall give preference to the district's chief financial officer or another person with knowledge of local government finances.

(am) If a city seeks to create a tax incremental district that is located in a union high school district, the seat that is described under par. (a) for the school district representative to the board shall be held by 2 representatives, each of whom has one-half of a vote. Subject to par. (ae), one

representative shall be chosen by the union high school district that has the power to levy taxes on the property within the tax incremental district and one representative shall be chosen by the elementary school district that has the power to levy taxes on the property within the tax incremental district.

(as) With regard to a multijurisdictional tax incremental district created under this section, all of the following apply:

1. Each participating city may appoint one public member to the joint review board under par. (a).

2. If more than one school district, more than one union high school district, more than one elementary school district, more than one technical college district, or more than one county has the power to levy taxes on the property within the tax incremental district, each such jurisdiction may select a representative to the joint review board under par. (a), or 2 representatives as provided under par. (am), unless the jurisdiction's governing body opts out of this authority by adopting a resolution to that effect.

(b)
1. The board shall review the public record, planning documents and the resolution passed by the local legislative body or planning commission under sub. (4) (gm) or (h) 1. As part of its deliberations the board may hold additional hearings on the proposal.

2. Except as provided in subd. 2m., no tax incremental district may be created and no project plan may be amended unless the board approves the resolution adopted under sub. (4) (gm) or (h) 1. by a majority vote within 30 days after receiving the resolution. With regard to a multijurisdictional tax incremental district created under this section, each public member of a participating city must be part of the majority that votes for approval of the resolution or the district may not be created. The board may not approve the resolution under this subdivision unless the board's approval contains a positive assertion that, in its judgment, the development described in the documents the board has reviewed under subd. 1. would not occur without the creation of a tax incremental district. The board may not approve the resolution under this subdivision unless the board finds that, with regard to a tax incremental district that is proposed to be created by a city under sub. (17) (a), such a district would be the only existing district created under that subsection by that city.

2m. The requirement under subd. 2. that a vote by the board take place within 30 days after receiving a resolution does not apply to a resolution amending a project plan under sub. (4) (h) 1. if the resolution relates to a tax incremental district, the application for the redetermination of the tax incremental base of which was made in 1998, that is located in a village that was incorporated in 1912, has a population of at least 3,800 and is located in a county with a population of at least 108,000.

3. The board shall submit its decision to the city no later than 7 days after the board acts on and reviews the items in subd. 2., except that, if the board requests a department of revenue review under subd. 4., the board shall do one of the following:

a. Submit its decision to the city no later than 10 working days after receiving the department's written response.

b. If the city resubmits its proposal under subd. 4. no later than 10 working days after the board receives the department's written response, submit its decision to the city no later than 10 working days after receiving the city's resubmitted proposal.

4. Before the joint review board submits its decision under subd. 3., or sub. (4e) (b) 3., a majority of the members of the board may request that the department of revenue review the objective facts contained in any of the documents listed in subd. 1., or sub. (4e) (a) 2, to determine whether the information submitted to the board complies with this section or whether any of the information contains a factual inaccuracy. The request must be in writing and must specify which particular objective fact or item the members believe is incomplete or inaccurate. Not later than 10 working days after receiving a request that complies with the requirements of this subdivision, the department of revenue shall investigate the issues raised in the request and shall send its written response to the board. If the department of revenue determines that the information in the proposal does not comply with this section or contains a factual inaccuracy, the department shall return the proposal to the city. The board shall request, but may not require, that the city resolve the problems in its proposal and resubmit the proposal to the board. If the city resubmits its proposal, the board shall review the resubmitted proposal and vote to approve or deny the proposal as specified in this paragraph.

4m. The board shall notify prospectively the governing body of every local governmental unit that is not represented on the board, and that has power to levy taxes on the property within the tax incremental district, of meetings of the board and of the agendas of each meeting for which notification is given.

(c)
1. The board shall base its decision to approve or deny a proposal on the following criteria:

a. Whether the development expected in the tax incremental district would occur without the use of tax incremental financing.

b. Whether the economic benefits of the tax incremental district, as measured by increased employment, business and personal income and property value, are insufficient to compensate for the cost of the improvements.

c. Whether the benefits of the proposal outweigh the anticipated tax increments to be paid by the owners of property in the overlying taxing districts.

2. The board shall issue a written explanation describing why any proposal it rejects fails to meet one or more of the criteria specified in subd. 1.

(d) Before a city may make or incur an expenditure for project costs, as described in sub. (2) (f) 1. n., for an area that is outside of a district’s boundaries, the joint review board must approve the proposed expenditure.

(e) Notice of all meetings held by a joint review board shall be published as a class 1 notice, under ch. 985, at least 5 days before the meeting.

(5) Determination of tax increment and tax incremental base.
(a) Subject to sub. (8) (d), upon the creation of a tax incremental district or upon adoption of any amendment subject to par. (c), its tax incremental base shall be determined as soon as reasonably possible. The department of revenue may impose a fee of $1,000 on a city to determine or redetermine the tax incremental base of a tax incremental district under this subsection, except that if the redetermination is based on a single amendment to a project plan that both adds and subtracts territory, the department may impose a fee of $2,000.

(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.

(be) Notwithstanding the time limits in par. (b), if the city clerk of a city that created a tax incremental district in September 1994 files with the department of revenue, not later than March 30, 1996, the forms and application that were originally due on or before December 31, 1994, the tax incremental base of the district shall be calculated by the department of revenue as if the forms and application had been filed on or before December 31, 1994, and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the forms and application had been filed on or before December 31, 1994, except that the department may not certify a value increment under par. (b) before 1996.

(bf) Notwithstanding the time limits in par. (b), if the city clerk of a city that created a tax incremental district in July 1997 files with the department of revenue, not later than May 31, 1999, the forms and application that were originally due on or before December 31, 1997, the tax incremental base of the district shall be calculated by the department of revenue as if the forms and application had been filed on or before December 31, 1997, and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the forms and application had been filed on or before December 31, 1997, except that the department may not certify a value increment under par. (b) before 1999.
(bg) Notwithstanding the time limits in par. (b), if the city clerk of a city that created a tax incremental district in February 1999 files with the department of revenue, not later than May 31, 2000, the forms and application that were originally due on or before December 31, 1999, the tax incremental base of the district shall be calculated by the department of revenue as if the forms and application had been filed on or before December 31, 1999, and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the forms and application had been filed on or before December 31, 1999, except that the department may not certify a value increment under par. (b) before 2001.

(bh) Notwithstanding the time limits in subs. (4) (e) and (4m) (b) 2., if the village clerk of a village that created, or attempted to create, a tax incremental district before June 2000 and amended or tried to amend the district's boundaries in September 2000 files with the department of revenue, not later than November 30, 2000, the forms and application that were originally due on or before December 31, 2000, the tax incremental base of the district shall be calculated by the department of revenue as if the time limits described in subs. (4) (e) and (4m) (b) 2. had been strictly complied with and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the time limits described in subs. (4) (e) and (4m) (b) 2. had been strictly complied with and as if the district were created on January 1, 2000, except that the department of revenue may not certify a value increment under par. (b) before 2002.

(bi) Notwithstanding the time limits in par. (b), if the village clerk of a village that created, or attempted to create, a tax incremental district on January 1, 2005, based on actions taken by the village board in October 2004, files with the department of revenue, not later than December 31, 2006, the forms and application that were originally due on or before December 31, 2005, the tax incremental base of the district shall be calculated by the department of revenue as if the forms and application had been filed on or before December 31, 2005, and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the forms and application had been filed on or before December 31, 2005, except that the department of revenue may not certify a value increment under par. (b) before 2007.

(bj) Notwithstanding the requirements in sub. (4) (a), (c), and (e), if a city that created, or attempted to create, a tax incremental district in October 1999 and in September 2000 and published the notices required under sub. (4) (a), (c), and (e), and was in substantial compliance with the notice requirements although such notices contained technical deficiencies regarding the time, place, or subject of the required hearings, the department of revenue shall determine the tax incremental bases of the districts, allocate tax increments, and treat the districts in all other respects as if the requirements under sub. (4) (a), (c), and (e) had been strictly complied with and as if the districts were created on January 1, 2000.

(bk) Notwithstanding the requirements in sub. (4) (a), (c), and (e), if the village of Kimberly created, or attempted to create, a tax incremental district on January 1, 2005, based on a resolution described under sub. (4) (gm) 2. that was adopted in April 2005, and attempted to publish, but did not actually publish, the notices required under sub. (4) (a), (c), and (e), but was otherwise in substantial compliance as specified in sub. (15), the department of revenue shall determine the tax incremental base of the district, allocate tax increments, and treat the district in all other respects as if the requirements under sub. (4) (a), (c), and (e) had been strictly complied with and as if the district was created on January 1, 2005.

(bL) The requirement under s. 66.1105 (4m) (b) 2., 2001 stats., that a vote by the board take place not less than 10 days nor more than 30 days after receiving a resolution does not apply to a resolution amending a project plan under sub. (4) (h) 1. if the resolution related to tax incremental district number 3 in the city of Altoona. The department of revenue shall approve the boundary amendment, allocate tax increments, redetermine the tax incremental base of the district using the January 1, 2003, values, and treat the district in all other respects as if the provisions of s. 66.1105 (4m) (b) 2., 2001 stats., had been complied with, except that the department of revenue may not certify a value increment under par. (b) before 2007.

(bm) The value of 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 shall not be included in the tax incremental base established under par. (b).

(bn) Notwithstanding the requirement that the total equalized value not exceed 12 percent, as described in sub. (4) (gm) 4. c., if the village of Union Grove created, or attempted to create, tax incremental district number 4 on January 1, 2006, based on actions taken by the village board on February 27, 2006, the tax incremental base of the district shall be calculated by the department of revenue as if the tax incremental district had been created on January 1, 2006, and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the district had been created on January 1, 2006, except that the department of revenue may not certify a value increment under par. (b) before 2008.

(bo) Notwithstanding the requirement that the total equalized value not exceed 12 percent, as described in sub. (4) (gm) 4. c., if the village of Elmwood created, or attempted to create, tax incremental district number 4 on January 1, 2006, based on actions taken by the village board on May 8, 2006, the tax incremental base of the district shall be calculated by the department of revenue as if the tax incremental district had been created on January 1, 2006, and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the district had been created on January 1, 2006, except that the department of revenue may not certify a value increment under par. (b) before 2010.

(bp) Notwithstanding the time limits in par. (b), if the city clerk of a city that amended, or attempted to amend, the project plan of a tax incremental district on January 1, 2006, based on actions taken by the common council in April 2006, files with the department of revenue, not later than December 31, 2007, the forms and application that were originally due on or before December 31, 2006, the tax incremental base of the district shall be redetermined by the department of revenue as if the forms and application had been filed on or before December 31, 2006, and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the forms and application had been filed on or before December 31, 2006, except that the department of revenue may not certify a value increment under par. (b) before 2008.

(bq) Notwithstanding the time limits in par. (b), if the city clerk of a city that amended, or attempted to amend, the project plan of a tax incremental district on January 1, 2007, based on actions taken by the common council in November 2006, files with the department of revenue, not later than December 31, 2009, the forms and application that were originally due on or before December 31, 2007, the tax incremental base of the district shall be redetermined by the department of revenue as if the forms and application had been filed on or before December 31, 2007, and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the forms and application had been filed on or before December 31, 2007, except that the department of revenue may not certify a value increment under par. (b) before 2010.

(br) Notwithstanding the requirement that the findings under sub. (4) (gm) 4. a. specify the type of district that is being created as blighted, in need of rehabilitation or conservation work, suitable for industrial sites, or suitable for mixed-use development, if the city of Waukesha

created, or attempted to create, Tax Incremental District Number 18 on January 1, 2008, based on actions taken by the common council on July 16, 2008, the department of revenue shall certify the tax incremental base of the district as if the tax incremental district had been created on January 1, 2008, as a blighted area district and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the district had been created on January 1, 2008, except that the department of revenue may not certify a value increment under par. (b) before 2010.

(bs) Notwithstanding the time limits in par. (b), if the city clerk of a city that created, or attempted to create, a tax incremental district on January 1, 2009, based on actions taken by the common council in December 2008, files with the department of revenue, not later than May 31, 2010, the forms and application that were originally due on or before December 31, 2009, the tax incremental base of the district shall be calculated by the department of revenue as if the forms and application had been filed on or before December 31, 2009, and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the forms and application had been filed on or before December 31, 2009, except that the department of revenue may not certify a value increment under par. (b) before 2011.

(bt) If the city of New Lisbon amends, or attempts to amend, the project plan of Tax Incremental District Number 12 on January 1, 2012, based on actions taken by the common council between July 1, 2011, and December 31, 2011, the tax incremental base of the district shall be redetermined by the department of revenue as if the district's project plan had been amended on January 1, 2012, except that the department of revenue may not certify a value increment under par. (b), that reflects the amendment to the district's plan, before 2012. In addition, the time limits specified for the city clerk in par. (b), and the provisions relating to the 12 percent limit findings requirement under sub. (4) (gm) 4. c., do not apply to an amendment to the project plan of Tax Incremental District Number 12 in the city of New Lisbon.

(c) 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. (bm), 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. (bm), 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. (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).

(ce) 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. (bm), 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. (bm), 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. (b).

(cf) If the city adopts an amendment to a plan, to which sub. (4m) (b) 2m. applies, the tax incremental base for the district shall be redetermined by adding to the tax incremental base the value, as of January 1, 1998, of the taxable property that is added to the existing district under sub. (4) (h) 1.

(cm) The city clerk shall annually, after May 1 but before May 21, by written notice, inform the department of revenue of any amendment to the project plan which has been adopted. The city clerk shall also give written notice of the adoption of an amendment to the department of revenue within 60 days after its adoption. The department of revenue may prescribe forms to be used by the city clerk when giving notice as required by this paragraph.

(d) Subject to pars. (de) and (dm), the department of revenue may not certify the tax incremental base as provided in par. (b) until it determines that each of the procedures and documents required by sub. (4) (a), (b), (gm) or (h) and par. (b) has been timely completed and all notices required under sub. (4) (a), (b), (gm) or (h) timely given. The facts supporting any document adopted or action taken to comply with sub. (4) (a), (b), (gm) or (h) are not subject to review by the department of revenue under this paragraph, except that the department may not certify the tax incremental base as provided in par. (b) until it reviews and approves of the findings that are described in sub. (4) (gm) 4. c.

(de) With regard to a mixed-use development tax incremental district, the department of revenue may not certify the tax incremental base of such a district if the department determines that any of the following apply:

1. The lands proposed for newly platted residential use exceed the percentage specified in sub. (2) (cm).

2. Tax increments received by the city are used to subsidize residential development and none of the conditions specified in sub. (2) (f) 3. a. to c. apply.

(dm) If the department of revenue certifies the tax incremental base of a mixed-use development tax incremental district and then determines that any of the conditions listed in the par. (de) apply, the department may not certify the tax incremental base of any other tax incremental district in that city until the department certifies that the mixed-use development district complies with the percentage specified in sub. (2) (cm) and that at least one of the conditions specified in sub. (2) (f) 3. a. to c. applies.

(e) It is a rebuttable presumption that any property within a tax incremental district acquired or leased as lessee by the city, or any agency or instrumentality of the city, within the one year immediately preceding the date of the creation of the district was acquired or leased in contemplation of the creation of the district. The presumption may be rebutted by the city with proof that the property was leased or acquired primarily for a purpose other than to reduce the tax incremental base. If the presumption is not rebutted, in determining the tax incremental base of the district, but for no other purpose, the taxable status of the property shall be determined as if the lease or acquisition had not occurred.

(f) The city assessor shall identify upon the assessment roll returned and examined under s. 70.45 those parcels of property which are within each existing tax incremental district, specifying the name of each district. A similar notation shall appear on the tax roll made by the city clerk under s. 70.65.

(g) The department of revenue shall annually give notice to the designated finance officer of all governmental entities having the power to levy taxes on property within each district as to the equalized value of the property and the equalized value of the tax increment base. The notice shall also explain that the tax increment allocated to a city shall be paid to the city as provided under sub. (6) (b) from the taxes collected.

(6) Allocation of positive tax increments.

(a) If the joint review board approves the creation of the tax incremental district under sub. (4m), and subject to pars. (ae) and (ag), positive tax increments with respect to a tax incremental district are allocated to the city which created the district or, in the case of a city or village that annexes or attaches a district created under sub. (16), to the annexing or attaching city or village, for each year commencing after the date when a project plan is adopted under sub. (4) (g). The department of revenue may not authorize allocation of tax increments until it determines from timely evidence submitted by the city that each of the procedures and documents required under sub. (4) (d) to (f) has been completed and all related notices given in a timely manner. The department of revenue may authorize allocation of tax increments for any tax incremental district only if the city clerk and assessor annually submit to the department all required information on or before the 2nd Monday in June. The facts supporting any document adopted or action taken to comply with sub. (4) (d) to (f) are not subject to review by the department of revenue under this paragraph. After the allocation of tax increments is authorized, the department of revenue shall annually authorize allocation of the tax increment to the city that created the district until the soonest of the following events:

1. The department of revenue receives a notice under sub. (8) and the notice has taken effect under sub. (8) (b).

2. Twenty-seven years after the tax incremental district is created if the district is created before October 1, 1995.

4. Twenty-seven years after the tax incremental district is created if the district is created after September 30, 1995, and before October 1, 2004, and if the district is a district about which a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by area, of the real property within the district is a blighted area or an area in need of rehabilitation or conservation work, except that if the life of the district is extended under sub. (7) (am) 1., an allocation under

this subdivision may be made 31 years after such a district is created.

4m. Twenty-three years after the tax incremental district is created if the district is created after September 30, 1995, and before October 1, 2004, and if the district is a district about which a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by area, of the real property within the district is suitable for industrial sites.

5. Thirty-one years after the tax incremental district is created if the district is created before October 1, 1995, and the expenditure period is specified in par. (am) 2. c.

6. Forty-two years after the tax incremental district is created if the district is created before October 1, 1995, and if the district is located in a city to which par. (d) applies.

7. Twenty years after the tax incremental district is created if the district is created on or after October 1, 2004, and if the district is at least predominantly suitable for mixed-use development or industrial sites under sub. (4) (gm) 6., except that if the life of the district is extended under sub. (7) (am) 2. an allocation under this subdivision may be made 23 years after such a district is created.

8. Twenty-seven years after the tax incremental district is created if the district is created on or after October 1, 2004, and if the district is a district specified under sub. (4) (gm) 6. other than a district specified under subd. 7., except that if the life of the district is extended under sub. (7) (am) 3. an allocation under this subdivision may be made 30 years after such a district is created.

9. Thirty-seven years after the tax incremental district is created if the district is created before October 1, 1983, and the expenditure period is specified in par. (am) 2. d.

(ae) With regard to each district for which the department of revenue authorizes the allocation of a tax increment under par (1), the department shall charge the city that created the district an annual administrative fee of $150 that the city shall pay to the department no later than May 15. If the city does not pay the fee that is required under this paragraph, by May 15, the department may not authorize the allocation of a tax increment under par. (a) for that city.

(ag) With regard to a multijurisdictional tax incremental district, the department of revenue may allocate positive tax increments to each participating city only to the extent that a city's component of the district has generated a positive value increment.

(am)
1. Except as otherwise provided in this paragraph, no expenditure may be made later than 5 years before the unextended termination date of a tax incremental district under sub. (7) (ak) or (am).

2. The limitations on the period during which expenditures may be made under subd. 1. do not apply to:

a. Expenditures to pay project costs incurred under ch. 32.

b. Expenditures authorized by the adoption of an amendment to the project plan under sub. (5) (c) or (ce).

c. Expenditures for project costs for Tax Incremental District Number 6 in a city with a population of at least 45,000 that is located in a county that was created in 1836 and that is adjacent to one of the Great Lakes. Such expenditures may be made no later than 26 years after the tax incremental district is created, and may be made through December 31, 2017.

d. Expenditures for project costs for Tax Incremental District Number 2 in the city of Racine. Such expenditures may be made no later than 32 years after the district is created and may be made through 2015.

3. For tax incremental districts for which the resolution under sub. (4) (gm) is adopted on or after July 31, 1981, no expenditure may be made before the date the project plan is approved, except for costs directly related to planning the tax incremental district. In this subdivision "expenditure" means the exchange of money for the delivery of goods or services.

4. For purposes of this paragraph, the date of creation of a tax incremental district is:

a. The May 1 date set under s. 66.46 (4) (c) 2., 1975 stats., if the local legislative body adopts a resolution to create the tax incremental district on or before May 1, 1978.

b. The January 1 date set under sub. (4) (gm) 2., if the local legislative body adopts a resolution to create the tax incremental district after May 1, 1978, and prior to July 31, 1981.

c. The date the local legislative body adopts the resolution under sub. (4) (gm), if the local legislative body adopts a resolution to create the tax incremental district on or after July 31, 1981.

5. No expenditure may be made later than 5 years before the termination date of a tax incremental district to which par. (d) applies.

(b) Notwithstanding any other provision of law, every officer charged by law to collect and pay over or retain local general property taxes shall, on the settlement dates provided by law, pay over to the city treasurer out of all the taxes which the officer has collected the proportion of the tax increment due the city that the general property taxes collected in the city bears to the total general property taxes levied by the city for all purposes included in the tax roll, exclusive of levies for state trust fund loans, state taxes and state special charges.

(c) Except for tax increments allocated under par. (d), (dm), (e), (f) or (g) all tax increments received with respect to a tax incremental district shall, upon receipt by the city treasurer, be deposited into a special fund for that district. The city treasurer may deposit additional moneys into such fund pursuant to an appropriation by the common council. No moneys may be paid out of such fund except to pay project costs with respect to that district, to reimburse the city for such payments, to pay project costs of a district under par. (d), (dm), (e), (f) or (g) or to satisfy claims of holders of bonds or notes issued with respect to such district. Subject to par. (d), (dm), (e), (f) or (g), moneys paid out of the fund to pay project costs with respect to a district may be paid out before or after the district is terminated under sub. (7). Subject to any agreement with bondholders, moneys in the fund may be temporarily invested in the same manner as other city funds if any investment earnings are applied to reduce project costs. After all project costs and all bonds and notes with respect to the district have been paid or the payment thereof provided

for, subject to any agreement with bondholders, if there remain in the fund any moneys that are not allocated under par. (d), (dm), (e), (f) or (g), they shall be paid over to the treasurer of each county, school district or other tax levying municipality or to the general fund of the city in the amounts that belong to each respectively, having due regard for that portion of the moneys, if any, that represents tax increments not allocated to the city and that portion, if any, that represents voluntary deposits of the city into the fund.

(d)
1. Subject to subd. 1m., after the date on which a tax incremental district pays off the aggregate of all of its project costs under its project plan, but not later than the date on which a tax incremental district terminates under sub. (7) (am), a planning commission may amend under sub. (4) (h) 1. the project plan of such a tax incremental district to allocate positive tax increments generated by that tax incremental district to another tax incremental district created by that planning commission in which soil affected by environmental pollution exists to the extent that development has not been able to proceed according to the project plan because of the environmental pollution.

1m. After December 31, 2016, subd. 1. applies only to Tax Incremental District Number One, Tax Incremental District Number Four, and Tax Incremental District Number Five in the City of Kenosha, and no increments may be allocated under that subdivision, after December 31, 2016, unless the allocation is approved by the joint review board.

2. Except as provided in subd. 2m., no tax increments may be allocated under this paragraph later than 16 years after the last expenditure identified in the project plan of the tax incremental district, the positive tax increments of which are to be allocated, is made.

2m. No tax increments may be allocated under this paragraph later than 35 years after the last expenditure identified in the project plan of the tax incremental district, the positive tax increments of which are to be allocated, is made if the district is created before October 1, 1995, except that in no case may the total number of years during which expenditures are made under par. (am) 1. plus the total number of years during which tax increments are allocated under this paragraph exceed 42 years.

3. This paragraph applies only in a city with a population of at least 80,000 that was incorporated in 1850 and that is in a county with a population of less than 175,000 which is adjacent to one of the Great Lakes.

4. This paragraph does not apply after August 1, 2031.

5. This paragraph does not apply to a tax incremental district that is created after January 1, 2004.

(dm)
1. After the date on which a tax incremental district that is located in a city that is described in subd. 3. a. pays off the aggregate of all of its project costs under its project plan, but not later than the date on which a tax incremental district terminates under sub. (7) (am), a planning commission may amend under sub. (4) (h) 1. the project plan of such a tax incremental district to allocate positive tax increments generated by that tax incremental district to another tax incremental district created by that planning commission in which soil affected by environmental

pollution exists to the extent that development has not been able to proceed according to the project plan because of the environmental pollution.

1m. Either before, after or on the date on which a tax incremental district that is located in a city that is described in subd. 3. b. pays off the aggregate of all of its project costs under its project plan, but not later than the date on which a tax incremental district terminates under sub. (7) (am), a planning commission may amend under sub. (4) (h) 1. the project plan of such a tax incremental district to allocate positive tax increments generated by that tax incremental district to another tax incremental district created by that planning commission in which soil affected by environmental pollution exists to the extent that development has not been able to proceed according to the project plan because of the environmental pollution.

2. Except as provided in subd. 2m., no tax increments may be allocated under this paragraph later than 16 years after the last expenditure identified in the project plan of the tax incremental district, the positive tax increments of which are to be allocated, is made.

2m. No tax increments may be allocated under this paragraph later than 20 years after the last expenditure identified in the project plan of the tax incremental district, the positive tax increments of which are to be allocated, is made if the district is created before October 1, 1995, except that in no case may the total number of years during which expenditures are made under par. (am) 1. plus the total number of years during which tax increments are allocated under this paragraph exceed 27 years.

3. This paragraph applies only to the following cities:

a. A city with a population of at least 10,000 that was incorporated in 1950 and that is in a county with a population of more than 500,000 which is adjacent to one of the Great Lakes.

b. A city with a population of at least 50,000 that was incorporated in 1853 and that is in a county which has a population of at least 140,000 and that contains a portion of the Fox River and Lake Winnebago.

4. This paragraph, with regard to a city that is described in subd. 3. a., does not apply after January 1, 2002.

5. This paragraph, with regard to a city that is described in subd. 3. b., does not apply after January 1, 2016.

(e)
1. Before the date on which a tax incremental district terminates under sub. (7) (a), but not later than the date on which a tax incremental district terminates under sub. (7) (am), a planning commission may amend under sub. (4) (h) the project plan of the tax incremental district to allocate positive tax increments generated by that tax incremental district to another tax incremental district created by that planning commission if all of the following conditions are met:

a. The donor tax incremental district, the positive tax increments of which are to be allocated, and the recipient tax incremental district have the same overlying taxing jurisdictions.

b. Except as provided in subd. 1. c. and e., the donor tax incremental district and the recipient tax incremental district have been created before October 1, 1995.

c. With respect to a tax incremental district that has been created by a 1st class city, the donor tax incremental district and the recipient tax incremental district have been created before October 1, 1996.

d. The donor tax incremental district is able to demonstrate, based on 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 tax incremental district.

e. With respect to a tax incremental district that has been created by a 4th class city incorporated in 1882 that is located in the Pecatonica River watershed, the recipient tax incremental district has been created before October 1, 1996, and the donor tax incremental district has been created before October 1, 2003.

3. A project plan that is amended under sub. (4) (h) to authorize the allocation of positive tax increments under subd. 1. may authorize the allocation for a period not to exceed 5 years, except that if the planning commission determines that the allocation may be needed for a period longer than 5 years, the planning commission may authorize the allocation for up to an additional 5 years if the project plan is amended under sub. (4) (h) during the 4th year of the allocation. In no case may positive tax increments under subd. 1. be allocated from one donor tax incremental district for a period longer than 10 years.

(f)
1. Not later than the date on which a tax incremental district terminates under sub. (7) (am), a planning commission may amend under sub. (4) (h) the project plan of a tax incremental district to allocate positive tax increments generated by that tax incremental district to another tax incremental district created by that planning commission if all of the following conditions are met:

a. The donor tax incremental district, the positive tax increments of which are to be allocated, and the recipient tax incremental district have the same overlying taxing jurisdictions.

b. The allocation of tax increments under this paragraph is approved by the joint review board.

2. An allocation of tax increments under this paragraph may be used by the recipient district only if one of the following applies:

a. The project costs in the recipient district are used to create, provide, or rehabilitate low-cost housing or to remediate environmental contamination.

b. The recipient district was created upon a finding that not less than 50 percent, by area, of the real property within the district is blighted or in need of rehabilitation.

c. The recipient district is a mixed-use or industrial-use district that has been designated as a distressed, or severely distressed, district under sub. (4e).

3. The allocation of positive tax increments from a donor district to one or more recipient districts cannot be made unless the donor district has first satisfied all of its current-year debt service and project cost obligations.

4. No city may request or receive under sub. (7) (am) 2. an extension for the life of a donor tax incremental district.

(g)
1. After the date on which a tax incremental district created by a city pays off the aggregate of all of its project costs, and notwithstanding the time at which such a district would otherwise be required to terminate under sub. (7), a city may extend the life of the district for one year if the city does all of the following:

a. The city adopts a resolution extending the life of the district for a specified number of months. The resolution shall specify how the city intends to improve its housing stock, as required in subd. 3.

b. The city forwards a copy of the resolution to the department of revenue, notifying the department that it
must continue to authorize the allocation of tax increments to the district under par. (a).

2. If the department of revenue receives a notice described under subd. 1. b., it shall continue authorizing
the allocation of tax increments to the district under par. (a) during the district's life, as extended by the city, as if the district's costs had not been paid off and without regard to whether any of the time periods specified in par. (a) 2. to 8. would otherwise require terminating the allocation of such increments.

3. If a city receives tax increments as described in subd. 2., the city shall use at least 75 percent of the increments received to benefit affordable housing in the city. The remaining portion of the increments shall be used by the city to improve the city's housing stock.

(6c) Notification of position openings.
(a) Any person who operates for profit and is paid project costs under sub. (2) (f) 1. a., d., j. and k. in connection with the project plan for a tax incremental district shall notify the department of workforce development and the local workforce development board established under 29 USC 2832, of any positions to be filled in the county in which the city which created the tax incremental district is located during the period commencing with the date the person first performs work on the project and ending one year after receipt of its final payment of project costs. The person shall provide this notice at least 2 weeks prior to advertising the position.

(b) Any person who operates for profit and buys or leases property in a tax incremental district from a city for which the city incurs real property assembly costs under sub. (2) (f) 1. c. shall notify the department of workforce development and the local workforce development board established under 29 USC 2832, of any position to be filled in the county in which the city creating the tax incremental district is located within one year after the sale or commencement of the lease. The person shall provide this notice at least 2 weeks prior to advertising the position.

(6m) Review.
(a) The city shall cause a certified public accountant to conduct audits of each tax incremental district to determine if all financial transactions are made in a legal and proper manner and to determine if the tax incremental district is complying with its project plan and with this section. Any city that creates a tax incremental district under this section and has an annual general audit may include the audits required under this subsection as part of the annual general audit.

(b) Audits shall be conducted no later than:

1. Twelve months after 30% of the project expenditures are made;

2. Twelve months after the end of the expenditure period specified in sub. (6) (am) 1.; and

3. Twelve months after the termination of the tax incremental district under sub. (7).

(c) 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 by May 1 annually.

(7) Termination of tax incremental districts. A tax incremental district terminates when the earlier of the following occurs:

(a) That time when the city has received aggregate tax increments with respect to the district in an amount equal to the aggregate of all project costs under the project plan and any amendments to the project plan for the district, except that this paragraph does not apply to a district whose positive tax increments have been allocated under sub. (6) (d), (dm), (e), or (f) until the district to which the allocation is made has paid off the aggregate of all of its project costs under its project plan.

(ak)
1. Except as provided in par. (am) 1., for a district about which a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by area, of the real property within the district is a blighted area or an area in need of rehabilitation or conservation work, and if the district to which the plan relates is created after September 30, 1995, and before October 1, 2004, 27 years after the district is created.

2. For a district that is created after September 30, 1995, and before October 1, 2004, and that is not subject to subd. 1., 23 years after the district was created, and for a district that is created before October 1, 1995, 27 years after the district is created.

(am)
1. For a district described under par. (ak) 1., the time period specified in that subdivision, except that the city that created the district may, subject to sub. (8) (e), request that the joint review board extend the life of the district for an additional 4 years. Along with its request for a 4-year extension, the city may provide the joint review board with an independent audit that demonstrates that the district is unable to pay off its project costs within the 27 years after the district is created. The joint review board may deny or approve a request to extend the life of the district for 4 years if the request does not include the independent audit, and the board shall approve a request to extend the life of the district for 4 years if the request includes the audit. If

the joint review board extends the district's life, the district shall terminate at the earlier of the end of the extended period or the period specified in par. (a).

2. For a district that is created after September 30, 2004, about which a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by area, of the real property within the district is suitable for industrial sites or mixed-use development, 20 years after the district is created, except that the city that created the district may, subject to sub. (8) (e), request that the joint review board extend the life of the district for an additional 3 years. Along with its request for a 3-year extension, the city may provide the joint review board with an independent audit that demonstrates that the district is unable to pay off its project costs within the 20 years after the district is created. The joint review board may deny or approve a request to extend the life of the district for 3 years if the request does not include the independent audit, and the board shall approve a request to extend the life of the district for 3 years if the request includes the audit. If the joint review board extends the district's life, the district shall terminate at the earlier of the end of the extended period or the period specified in par. (a).

3. For a district that is created after September 30, 2004, about which a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by area, of the real property within the district is a blighted area or in need of rehabilitation, 27 years after the district is created, except that the city that created the district may, subject to sub. (8) (e), request that the joint review board extend the life of the district for an additional 3 years. Along with its request for a 3-year extension, the city may provide the joint review board with an independent audit that demonstrates that the district is unable to pay off its project costs within the 27 years after the district is created. The joint review board may deny or approve a request to extend the life of the district for 3 years if the request does not include the independent audit, and the board shall approve a request to extend the life of the district for 3 years if the request includes the audit. If the joint review board extends the district's life, the district shall terminate at the earlier of the end of the extended period or the period specified in par. (a).

(ar) Notwithstanding par. (am), 35 years after the district is created if it was created before October 1, 1995, and if the project plan is amended under sub. (4) (h) 4.

(as) Notwithstanding par. (am), 35 years after the last expenditure identified in the project plan is made if the district to which the plan relates is created before October 1, 1995, and sub. (6) (d) applies to the district.

(at) Notwithstanding par. (am), 31 years after the district is created if the district is created before October 1, 1995, and the expenditure period is specified in sub. (6) (am) 2. c.

(au) With regard to a distressed, or severely distressed, tax incremental district under sub. (4e), the time period specified in sub. (4e) (d) 2.

(b) The local legislative body, by resolution, dissolves the district at which time the city becomes liable for all unpaid project costs actually incurred which are not paid from the special fund under sub. (6) (c), except this paragraph does not make the city liable for any tax incremental bonds or notes issued.

(8) Notice of district termination, reporting requirements.
(a) A city which creates a tax incremental district under this section shall give the department of revenue written notice within 60 days of the termination of the tax incremental district under sub. (7).

(b) If the department of revenue receives a notice under par. (a) during the period from January 1 to May 15, the effective date of the notice is the date the notice is received. If the notice is received during the period from May 16 to December 31, the effective date of the notice is the first January 1 after the department of revenue receives the notice.

(c) After a city transmits to the department of revenue the notice required under par. (a), the city and the department shall agree on a date by which the city shall send to the department, on a form prescribed by the department, all of the following information that relates to the terminated tax incremental district:

1. A final accounting of all expenditures made by the city.

2. The total amount of project costs incurred by the city.

3. The total amount of positive tax increments received by a city.

4. The total amount of project costs, if any, not paid for with tax increments that became obligations of the city after the district was terminated.

(d) If a city does not send to the department of revenue the form specified in par. (c) within the time limit agreed to by the city and the department under par. (c), the department may not certify the tax incremental base of a tax incremental district under sub. (5) (a) and (b) until the form is sent to the department.

(e) A city shall notify the department of revenue at least one year before the date on which a tax incremental district is required to terminate under sub. (7) (am) if a joint review board approves a request to extend the life of the district under sub. (7) (am). If a city does not notify the department of revenue by that date, the department may deny the extension.

(9) Financing of project costs.
(a) Payment of project costs may be made by any one or more of the following methods:

1. Payment by the city from the special fund of the tax incremental district;

2. Payment out of its general funds;

3. Payment out of the proceeds of the sale of bonds or notes issued by it under ch. 67;

4. Payment out of the proceeds of the sale of public improvement bonds issued by it under s. 66.0619;

5. Payment as provided under s. 66.0713 (2) and (4) or 67.16;

6. Payment out of the proceeds of revenue bonds or notes issued by it under s. 66.0621;

7. Payment out of the proceeds of revenue bonds issued by it under s. 66.0913;

8. Payment out of the proceeds of the sale of tax incremental bonds or notes issued by it under this subsection; or

9. Payment out of the proceeds of revenue bonds issued by the city as provided by s. 66.1103, for a purpose specified in that section.

(b)
1. For the purpose of paying project costs or of refunding municipal obligations issued under ch. 67 or this subsection for the purpose of paying project costs, the local legislative body may issue tax incremental bonds or notes payable out of positive tax increments. Each bond or note and accompanying interest coupon, if any, is a negotiable instrument. The bonds and notes shall not be included in the computation of the constitutional debt limitation of the city. Bonds and notes issued under this subsection, together with their interest and income, shall be taxed in the same manner as are municipal obligations issued under s. 67.04.

2. Tax incremental bonds or notes shall be authorized by resolution of the local legislative body without the necessity of a referendum or any elector approval, but a referendum or election may be held, through the procedures provided in s. 66.1103 (10) (d). The resolution shall state the name of the tax incremental district, the amount of bonds or notes authorized, and the interest rate or rates to be borne by the bond or notes. The resolution may prescribe the terms, form and content of the bonds or notes and any other matters that the local legislative body deems useful.

3. Tax incremental bonds or notes may not be issued in an amount exceeding the aggregate project costs. The bonds or notes shall mature over a period not exceeding 23 years from the date of issuance or a period terminating with the date of termination of the tax incremental district, whichever period terminates earlier. The bonds or notes may contain a provision authorizing the redemption of the bonds or notes, in whole or in part, at stipulated prices, at the option of the city, on any interest payment date and shall provide the method of selecting the bonds or notes to be redeemed. The principal and interest on the bonds and notes may be payable at any time and at any place. The bonds or notes may be payable to bearer or may be registered as to the principal or principal and interest. The bonds or notes may be in any denominations. The bonds or notes may be sold at public or private sale. To the extent consistent with this subsection, the provisions of ch. 67 relating to procedures for issuance, form, contents, execution, negotiation, and registration of municipal bonds and notes apply to bonds or notes issued under this subsection.

4. Tax incremental bonds or notes are payable only out of the special fund created under sub. (6) (c). Each bond or note shall contain the recitals necessary to show that it is only so payable and that it does not constitute an indebtedness of the city or a charge against its general taxing power. The local legislative body shall irrevocably pledge all or a part of the special fund to the payment of the bonds or notes. The special fund or the designated part of the fund may then be used only for the payment of the bonds or notes and interest on the bonds or notes until the bonds or notes have been fully paid; and a holder of the bonds or notes or of any coupons appertaining to the bonds or notes has a lien against the special fund for payment of the bonds or notes and interest on the bonds or notes and may either at law or in equity protect and enforce the lien.

5. To increase the security and marketability of tax incremental bonds or notes, the city may:

a. Create a lien for the benefit of the bondholders upon any public improvements or public works financed by the bonds or notes or the revenues from the bonds or notes; or

b. Make covenants and do any acts, not inconsistent with the Wisconsin constitution, necessary or convenient or desirable in order to additionally secure the bonds or notes or tend to make the bonds or notes more marketable according to the best judgment of the local legislative body.

(10) Overlapping tax incremental districts.
(a) Subject to any agreement with bondholders, and except as provided in par. (d), a tax incremental district may be created, the boundaries of which overlap one or more existing districts, except that districts created as of the same date may not have overlapping boundaries.

(b) If the boundaries of 2 or more tax incremental districts overlap, in determining how positive tax increments generated by that area which is within 2 or more districts are allocated among the overlapping districts, but for no other purpose, the aggregate value of the taxable property in the area as equalized by the department of revenue in any year as to each earlier created district is that portion of the tax incremental base of the district next created which is attributable to the overlapped area.

(c) The department of revenue shall exclude any parcel in a newly created tax incremental district that is located in an existing district when determining compliance with the 12 percent limit described in sub. (4) (gm) 4. c.

(d) A proposed tax incremental district, the boundaries of which would overlap an existing multijurisdictional tax incremental district, may be created only if all of the following apply:

1. The creation is approved by a resolution adopted by the governing body of each of the multijurisdictional district's participating cities.

2. The creation is approved by a resolution adopted by the multijurisdictional district's joint review board.

(11) Equalized valuation for apportionment of property taxes.
(a) With respect to the county, school districts and any other local governmental body having the power to levy taxes on property located within a tax incremental district, if the allocation of positive tax increments has been authorized by the department of revenue under sub. (6) (a), the calculation of the equalized valuation of taxable property in a tax incremental district for the apportionment of property taxes may not exceed the tax incremental base of the district until the district is terminated.

(12) Equalized valuation; the 12 percent limit. If the department of revenue notifies a local legislative body that is not in compliance with the 12 percent limit described in sub. (4) (gm) 4. c., the local legislative body shall do one of the following:
(a) Rescind its approval of the project plan resolution described under sub. (4) (g).
(b) Remove parcels from the district's, or proposed district's, boundaries so that the district, or proposed district, complies with the 12 percent limit. Such a removal of parcels may not substantially alter the project plan as approved under sub. (4) (g), or the resolution adopted under

sub. (4) (gm) and approved by the joint review board under sub. (4m) (b) 2. Not later than 30 days after receiving the department's notice of noncompliance under sub. (4) (gm) 4. c., the city clerk shall submit, or resubmit, to the department the application described under sub. (5) (b), and the application shall reflect the removal of parcels under this paragraph.

(14) Use of tax incremental financing for inland lake protection and rehabilitation prohibited. Notwithstanding sub. (9), no tax incremental financing project plan may be approved and no payment of project costs may be made for an inland lake protection and rehabilitation district or a county acting under s. 59.70 (8).

(15) Substantial compliance. Substantial compliance with subs. (3), (4) (a), (b), (c), (d), (e), (f), and (h), (4m), and (5) (b) by a city that creates, or attempts to create, a tax incremental district is sufficient to give effect to any proceedings conducted under this section if, in the opinion of the department of revenue, any error, irregularity, or informality that exists in the city's attempts to comply with subs. (3), (4) (a), (b), (c), (d), (e), (f), and (h), (4m), and (5) (b) does not affect substantial justice. If the department of revenue determines that a city has substantially complied with subs. (3), (4) (a), (b), (c), (d), (e), (f), and (h), (4m), and (5) (b), the department of revenue shall determine the tax incremental base of the district, allocate tax increments, and treat the district in all other respects as if the requirements under subs. (3), (4) (a), (b), (c), (d), (e), (f), and (h), (4m), and (5) (b) had been strictly complied with based on the date that the resolution described under sub. (4) (gm) 2. is adopted.

(16) Tax incremental districts in towns.

(a) A town may create a tax incremental district under this section if all of the following apply:

1. The town enters into a cooperative plan with a city or village, under s. 66.0307, under which part or all of the town will be annexed or attached by the city or village in the future.

2. The city or village into which the town territory will be annexed or attached adopts a resolution approving the creation of the tax incremental district.

3. The tax incremental district is located solely within territory that is to be annexed or attached by a city or village as described under subd. 1.

(b) Along with the application that is filed under sub. (5) (b), a town shall include a copy of the cooperative plan to which it is a party.

(c) If a district created under this subsection is annexed or attached by a city or village it shall be administered by that city or village, and all of the following apply to the district as if it were created by that city or village:

1. The lifespan of the district and the allocation of tax increments under sub. (6).

2. Except as provided in par. (e), the date on which the district terminates under sub. (7).

3. The creation date of the district by the town.

4. The project plan of the district.

5. The procedures to amend the district's project plan under sub. (4) (h).

6. The procedures to extend the life of the district under sub. (7) (am).

(d) The department of revenue may not include the equalized value of taxable property of a district created under this subsection when applying the 12 percent limit findings requirement under sub. (4) (gm) 4. c. to a city or village which annexes or attaches such a district.

(e) If a city or village annexes or attaches a district created under this subsection before the last day on which the cooperative plan entered into under s. 66.0307 allows a boundary change, the district shall remain in existence at least through December 31 of the last calendar year of the period during which a boundary change could have occurred, notwithstanding sub. (7). The annexing or attaching city or village is responsible for all contracts, agreements, and obligations of the town related to the district.

(f)
1. Except as provided in subd.2., if a city or village is in the process of annexing or attaching a district created under this subsection, but has not completed the process, the city or village may enter into a contract or agreement related to the district, with any person, or may assume an obligation of the district, and the town would continue to receive any tax increments for which it is eligible until the annexation or attachment process in complete.

2. A contract, agreement, or obligation, as described under subd. 1., does not apply and may not be enforced until the annexation or attachment process is complete and the city or village begins to receive tax increments associated with the district.

(17) Exceptions to the 12 percent limit.
(a) **Subtraction of territory, creation of new district**. Subject to par. (b), a city may simultaneously create a tax incremental district under this section and adopt an amendment to a project plan to subtract territory from an existing district without adopting a resolution containing the 12-percent-limit findings specified in sub. (4) (gm) 4. c. if all of the following occur:

1. The city includes with its application described under sub. (5) (b) a copy of its amendment to a project plan that subtracts territory from an existing district, as described in sub. (4) (h) 2.

2. The city provides the department of revenue with 2 appraisals from certified appraisers, as defined in s. 458.01 (7), which demonstrate all of the following:

a. The current fair market value of the taxable property within the district that the city proposes to create.

b. The current fair market value of the taxable property that the city proposes to subtract from an existing district.

3. Both appraisals under subd. 2. demonstrate that the value of the taxable property that is subtracted from an existing district equals or exceeds the amount that the department of revenue believes is necessary to ensure that, when the proposed district is created, the 12-percent limit specified in sub. (4) (gm) 4. c. is met.

4. The city certifies to the department of revenue that no other district created under this paragraph currently exists in the city.

(b) **Limits on creation of new district.** A city may not act under par. (a) if a tax incremental district that has been created under par. (a) currently exists in the city.

(c) **Village of Pleasant Prairie exception.** With regard to the 12 percent limit described under sub. (4) (gm) 4. c., the following limit applies to the village of Pleasant Prairie:

1. If the village would like to create a new district, the sum of the following amounts may not exceed 12 percent of the total equalized value of taxable property within the village: the equalized value of taxable property of the district; the value increment of all existing districts in the village, other than Tax Incremental District Number 2; and 1.33 times the tax incremental base of Tax Incremental District Number 2.

2. If the village would like to amend the project plan of an existing district to add territory to that district, the sum of the following amounts may not exceed 12 percent of the total equalized value of taxable property within the village: the equalized value of the taxable property to be added to the district; the value increment of all existing districts in the village, other than Tax Incremental District Number 2; and 1.33 times the tax incremental base of Tax Incremental District Number 2.

(18) Multijurisdictional districts (Effective October 1, 2012). (a) *Requirements*. Two or more cities may enter into an intergovernmental cooperation agreement under s. 66.0301 to jointly create a multijurisdictional tax incremental district under this section if all of the following apply:

1. The district's borders contain territory in all of the cities that are a party to the agreement.

2. The district is contiguous.

3. At least one parcel in each participating city touches at least one parcel in at least one of the other cities.

(b) *Contents of an agreement*. The agreement described under par. (a) shall contain provisions that specify at least all of the following with regard to the proposed multijurisdictional tax incremental district:

1. A detailed description of how all of the participating cities will be able to exercise the powers authorized under sub. (3) and meet the requirements under sub. (4).

2. A detailed description of how determinations will be made that relate to incurring debt, expending funds for project costs, and distributing positive tax increments allocated by the department of revenue.

3. The extent to which one of the cities will be authorized by all of the other participating cities to act on behalf of all of the participating cities on some or all matters relating to the district.

4. A binding dispute resolution procedure to be used by the cities to resolve in a timely fashion any disputes between the participating cities related to the agreement or to the district. The dispute resolution procedure shall include a dissolution provision that allows all of the participating cities to agree to jointly dissolve the district at any time before a dispute is settled by the binding dispute resolution procedure and before the district would otherwise terminate under sub. (7). The dissolution provision shall describe in detail how and under what circumstances the district may be dissolved before it would otherwise terminate under sub. (7) and shall specify how the district's assets, liabilities, and any other outstanding obligations will be distributed among the participating cities.

5. A detailed description of the proposed membership of the joint review board.

6. A detailed description of the responsibilities of each city's planning commission, the membership and authority of the planning commission for the district, and the operating procedures to be followed by the district's planning commission.

7. A detailed description of the responsibilities of each city's clerk, treasurer, assessor, and any other officer or official to carry out the requirements of this section, and a detailed description of which clerk, treasurer, assessor, officer, or official will be responsible for each task specified in this section.

8. Which city will be the lead city for purposes of completing any documents or tasks that this section or the department of revenue require to be completed, which city will be responsible for submitting the district's creation documents, and which city will be responsible for submitting the district's project plan amendment documents.

9. That all of the participating cities agree that the district's application will be submitted in its entirety as one complete application by the lead city, as determined by the department of revenue.

10. Consistent with the requirements of sub. (7), a statement that the entire district will terminate at one time as a single entity and that the lead city shall submit to the department of revenue all necessary notices and reports relating to the termination of the district.

11. A detailed description of the procedures the participating cities will follow to determine all of the following:

a. Whether the district's life may be extended under sub. (6) (g) 1. or (7) (am) 2. or 3.

b. How the project plan or boundaries of the district may be amended under sub. (4) (h) 1. or 2.

12. A description of how any annexation costs incurred by a participating city under s. 66.0219 (10) (a) 1. will be shared among all of the participating cities if the annexed territory is part of the district.

(c) *Limitations.* 1. Notwithstanding the provisions under sub. (6) (d), (dm), (e), or (f), a multijurisdictional tax incremental district may not become a donor district, or receive tax increments from a donor district.

2. Notwithstanding the provisions under sub. (2) (f) 1. k., m., and n., a multijurisdictional tax incremental district may not incur project costs for any area that is outside of the district's boundaries.

3. The 12 percent limit findings requirement under sub. (4) (gm) 4. c. apply on an aggregate basis to all cities that are part of a multijurisdictional district except, for one or more of the participating cities in the multijurisdictional district, the part of the district that is in an individual city may cause that city to exceed the 12 percent limit if the governing bodies of all the taxation districts that overlay that city adopt a resolution approving the creation of the district even though that city exceeds the 12 percent limit.

4. No town may be part of a multijurisdictional tax incremental district.

(d) *Role of the department of revenue.* The department of revenue may require each participating city to submit any forms prescribed by the department without regard to whether a particular city is the lead city as described under par. (b) 8. and without regard to the responsibility of each participating city as specified in the agreement described under par. (a).

(e) *Miscellaneous provisions.* 1. A copy of the agreement described under par. (a), as signed by all of the participating cities, shall be forwarded to the department of revenue by the lead city as described under par. (b) 8.

2. Without regard to the number of participating cities in the multijurisdictional tax incremental district, the department of revenue may impose only one fee under sub. (5) (a) for each action taken by the department under that paragraph for such a district. Unless the agreement under par. (a) provides otherwise, the lead city, as described under par. (b) 8., is responsible for any fees imposed by the department under sub. (5) (a).

3. Without regard to the number of participating cities in the multijurisdictional tax incremental district, the department of revenue may impose only one annual administrative fee described in sub. (6) (ae) in the amount specified in that paragraph. Unless the agreement under par. (a) provides otherwise, the lead city, as described under par. (b) 8., is responsible for the annual fee and shall submit it to the department.

History:

The tax increment law constitutionally authorizes financing of described public improvements, but does not authorize acquisition of private property by condemnation. Sigma Tau Gamma Fraternity House v. Menomonie, 93 Wis. 2d 392, 288 N.W.2d 85 (1980).

TIF bonds that a city proposed to issue under this section constituted debt under Art. XI, s. 3 and are subject to its debt limits. City of Hartford v. Kirley, 172 Wis. 2d 191, 493 N.W.2d 45 (1992).

Whether the city appropriately determined the project costs under sub. (2) (f) 1. is not a relevant consideration for the joint review board under sub. (4m) (c) 1. The joint review board generally considers the benefits and costs of the TIF district. A failure to consider whether the project plan should include the cost of improving areas outside the TIF district is not grounds for invalidating the board's decision. State ex rel. Olson v. City of Baraboo Joint Review Board,

2002 WI App 64, 252 Wis. 2d 628, 643 N.W.2d 796, 01-0201.

While sub. (4m) (c) 1. directs the joint review board to consider whether the development expected in the TIF district would occur without the use of tax incremental financing, it does not follow that the joint review board is barred from approving a TIF district if there is any land within the district that would have otherwise been developed. State ex rel. Olson v. City of Baraboo Joint Review Board, 2002 WI App 64, 252 Wis. 2d 628, 643 N.W.2d 796, 01-0201.

TIF districts can be created or amended without notice to or input from towns that adjoin the creating municipality. Although property taxpayers in adjoining towns that lie within the same overlying taxing districts are arguably affected when TIF districts are created or amended, the towns themselves are not, and lack legally protected interests at stake in the amendment of the TIF district. Consequently, towns lack standing to challenge the creation of a TIF district by an adjoining municipality. Town of Baraboo v. Village of West Baraboo, 2005 WI App 96, 283 Wis. 2d 479, 699 N.W.2d 610, 04-0980.

A city may lawfully agree to cooperate with a business venture in an effort to create a TIF district as long as it is clear from the agreement that all applicable laws and procedures are to be followed. The city is not bound until the common council votes to approve the agreement. Town of Brockway v. City of Black River Falls, 2005 WI App 174, 285 Wis. 2d 708, 702 N.W.2d 418, 04-2916.

Tax increment law appears constitutional on its face. 65 Atty. Gen. 194.

Developer-Funded Tax Incremental Financing: Promoting Development Without Breaking the Bank. Ishikawa. Wis. Law. May 2006.