

Wisconsin Tax Incremental Financing Joint Review Board Information

(sec. 66.1105(4m), sec. 66.1106(3), sec. 60.85(4), Wis. Stats.)



PE-213 (R. 7/16)

2016

Purpose of the Joint Review Board (JRB)

Members of the JRB represent a taxing jurisdiction (municipal, county, school, technical college) have the responsibility to approve, deny or amend a Tax Incremental District (TID). If the JRB approves the TID, it viewed or heard convincing evidence of the vital need for TIF assistance to make this development a reality. The JRB jurisdictions are agreeing to sacrifice some amount of tax revenue for many years into the future.

What is Tax Incremental Financing (TIF)?

TIF is a financing tool available to local governing bodies to encourage economic development that would not occur without public assistance. It's a partnership between the taxing jurisdictions allowing municipalities to invest in infrastructure and other project improvements. These investments are funded by collecting property tax revenue from the newly developed property. As property values rise, the property tax paid on that development is used by the municipality to pay for the eligible project costs. After the project costs are paid off, the TID is closed and the whole value of the expanded tax base is shared by the municipality, school, county and technical college.

What is a Tax Incremental District (TID)?

It's a contiguous geographical area within a municipality consisting solely of whole property units assessed for general property tax purposes. A TID does not include railroad rights-of-way, rivers or highways, or wetlands under state law ([sec. 23.32, Wis. Stats.](#)). The municipality must declare a TID type in its municipal resolution where projects are identified to encourage and facilitate the desired development.

Who are the JRB members?

The JRB consists of one representative from the school district, technical college, county, municipality and public. When creating a multijurisdictional TID, each participating municipality may appoint one representative.

District representatives

- **School** – the school board president, or his/her designee with preference to the school district's finance director. If the TID is located in a union high school district, the school seat is shared by the union high school representative and school district representative; each having one-half vote.
- **Technical college** – the technical college district director, or his/her designee with preference to the district's chief financial officer
- **County** – the county executive or the county board chairperson, or this person's designee with preference to the county treasurer
- **City/village/town** – the mayor or city manager, or the village board president, or town board chairperson or this person's designee with preference to the person who administers the economic development programs or the municipal treasurer or another person with knowledge of local government finances
- **Public member** – this member is chosen by a majority of the other members at the JRB's first meeting (held before the public hearing and within 14 days of the public notice being published). There is no guidance with respect to who is eligible for this seat, but preference should be given to residents with knowledge of finance or economic development. A public member can be appointed as chairperson.
- **JRB chairperson** – the chair of the JRB is chosen by a vote of the other members at the first JRB meeting

If more than one school, union high school, elementary school, technical college or county district have the power to levy taxes on the property within the TID, the district with the greatest **value** chooses its representative to the JRB.

Examples:

- School District "A" serves 75 percent of the area in the TID, but only 40 percent of the TID value is in "A." School District "B" serves 25 percent of the area in the TID but has 60 percent of the TID value. "B" would become the JRB member.
- In the case of a territory amendment, if adding property from one county to the existing TID in a different county, the county where the added territory is located should choose the JRB member. Once the amendment is made, any future actions for the JRB require a new calculation to determine which county has the majority of the land value and voting representation on the JRB.

Under state law ([sec. 66.1105\(4m\)\(b\)4m., Wis. Stats.](#)), the JRB must notify every local governmental unit not represented on the JRB and has power to levy taxes on the property within the TID, of each JRB meeting and agenda. This includes special districts that do not have representation on the JRB.

JRB Procedures

JRB duties

When creating or amending a TID, the JRB has the power of final approval. Based on its review, the JRB can approve or deny the creation or amendment of the TID. A TID cannot be created or amended without JRB approval. At the JRB meetings, the members should take minutes, record votes and add them to the record for the TID.

- Before the public hearing notice appears, the municipality must send the overlying taxing jurisdictions a letter with a copy of the notice (by first class mail) to request a representative to serve on the JRB
- All JRB meetings held must be published as a class 1 notice, at least five days before the meeting under state law ([ch. 985, sec. 66.1105 \(4m\)\(e\), Wis. Stats.](#)). This does not apply to town or environmental remediation TIDs.
- Within 14 days after the public hearing notice is published and before the public hearing, all board members must be appointed and the first organizational meeting held. Required actions include selecting a public member and chairperson. The meeting may include explanations of the new or amended TID.
- Additional JRB meetings or public hearings may be held on request of any member

After receiving the municipal resolution, the JRB must act to approve or deny the resolution

- City/Village – within 45 days
- Town TIDs created under [sec. 60.85, Wis. Stats.](#) or Environmental Remediation TIDs created under [sec. 66.1106](#) – between 10 days and 45 days

JRB must respond to the municipal officials

- Within seven days of making the JRB resolution adoption
- If the JRB rejects a plan, the JRB must cite in writing specific decision criteria that was lacking

JRB Document Review

The municipality must provide the JRB with specific information under state law ([sec. 66.1105\(4\)\(i\)](#), [sec. 60.85\(3\)\(k\)](#), [sec. 66.1106\(3\)\(b\)](#), Wis. Stats.). JRB members may request missing information.

Information the JRB may request

- **Detailed list of project costs, resolutions and public records** – copies of the planning commission and municipal resolutions, meeting and project plan, public hearings minutes and affidavits from the newspaper, signed development agreement that includes cash grants
- **For multijurisdictional TIDs - copy of the intergovernmental cooperation agreement** – must sign an intergovernmental agreement under state law ([sec. 66.0301, Wis. Stats.](#)). The agreement should outline specific provisions required under [sec. 66.1105\(18\)\(2\), Wis. Stats.](#)
- **Economic Feasibility Study** – to review a projection of the tax increments and estimates of increased property values

JRB Decision Criteria

The JRB must make a decision based on the documents/information it receives from the municipality. The JRB uses the "JRB standards of review" listed below, for approving or denying a proposal under state law ([sec. 66.1105\(4m\)\(c\)](#), [sec. 66.1106\(3\)\(c\)](#), [sec. 60.85\(4\)\(c\)](#), Wis. Stats.).

Each standard is important to ensure the TIF project is beneficial for all taxpayers in the overlying districts. Many consider the first standard, the "but for test," the most important. The "but for test" gets its name from the phrase, "This development would not happen but for the financial support of TIF." This means that the developer would not consider the project economically viable without the use of TIF to pay for the infrastructure improvements.

JRB standards of review

- a. Would the expected development occur without (but for) the use of TIF?
- b. Will the development's economic benefits measured by increased employment, business and personal income and property value, compensate for the cost of the improvements?
- c. Do the benefits outweigh the taxes residents of overlying districts are expected to pay?
- d. How does this planned development fit with the rest of the development in my district?
- e. Is there a more viable use for the development site, the tax revenue and the limited TIF capacity?
- f. What is the general opinion of my district's residents on this TID?
- g. How will my jurisdiction know what is spent and received for this TID?
- h. How will the planned development affect the demand for services from my district's residents (schools, police, fire, EMS)?
- i. What guarantees are in place to ensure the anticipated tax revenue is actually collected?
- j. For towns – will the project costs relate directly to agricultural, forestry, manufacturing or tourism projects; residential development or related retail development? ([sec. 60.85\(2\)\(b\), Wis. Stats.](#))

Passing the "but for test"

When deciding if a proposal passes the "but for test," the municipality and the developer must demonstrate that the development will only happen with financial support of the taxpayers. One way to show this would be to compare the development's expected revenues net present value to the anticipated cost of the improvements plus the cost of developing the TID.

Examples:

- a. A developer wants to construct a mall on vacant parcels near a freeway interchange. A TIF request is made to pay for roads and the sewer line connections. It is denied, but the development proceeds anyway. The developer pays for the roads and sewer lines, along with the cost of constructing the building. The increase in property value resulting from the site improvements goes onto the tax roll, and the tax payments from the development go into the general fund, increasing collections. This is the way growth usually occurs.
- b. Same scenario, but after the denial the developer decides not to proceed with the project because it is not profitable. The parcels are not developed and remain vacant. The small tax revenue from the vacant parcels continues to the general fund, no new jobs are created and the tax base doesn't grow.
- c. This time, the local governing body negotiates with the developer and agrees to finance some of the desired projects. TIF assistance is approved since the developer shows how the public funding of infrastructure will make the project profitable and increase the municipal tax base. The value of the vacant land will be the base value of the TID. Further improvements (ex: construction of the mall) will increase the value and constitute the value increment. The difference in value between the base and current value is termed the increment. The increment creates the tax revenue that funds the roads and sewer lines project costs.

Note: In example (c), the JRB is endorsing the use of property tax dollars to help bring growth that otherwise would not occur. A growing tax base can help control tax bill increases.

Department of Revenue (DOR) Review Procedure

Once the JRB reaches a decision and takes action to approve or deny the creation of the TID, the JRB has seven days to submit the decision to the municipality. Under state law ([sec. 66.1105\(4m\)\(b\)4, Wis. Stats.](#)), the JRB may request DOR review the facts contained in the documents listed on Page 3 in the "Information the JRB may request" section.

To request a DOR review

- A majority of the JRB members must support the request
- A written request must be submitted to DOR and must specify which fact or item the members believe is inaccurate or incomplete
- Within 10 working days of receiving a request for review that complies with the filing requirements, DOR will investigate the issues raised and send a written response to the JRB

What if the information does not comply or is inaccurate?

- If DOR determines the information does not comply with the law or contains a factual inaccuracy, DOR returns the proposal to the municipality
- The JRB may request, but may not require, that the municipality resubmit the proposal for review. If the proposal is resubmitted, the JRB votes to approve or disapprove as otherwise specified in TIF law. If the JRB requests a DOR review, the JRB must submit its decision to the municipality within 10 working days of receiving DOR's written response.
- If the municipality resubmits the proposal within 10 working days after the JRB receives DOR's written response, the JRB must submit its decision to the municipality within 10 working days after receiving the resubmitted proposal

What happens after the JRB approves the TID?

- JRB must issue a written resolution that includes the decision criteria (on page 3) the JRB used to make its decision in the "but for" finding
- As long as the TID is active, the JRB must meet yearly to review the annual performance of the TID based on the annual report ([sec. 66.1105 \(4m\)\(f\), Wis. Stats.](#))
- Municipality sends DOR a request to approve certification and required documents. **If DOR determines procedures were followed correctly:**
 - » DOR certifies the new creation or amendment after January 1 of the year following the year in which the resolution was adopted
 - » **Exception:** For creations, territory amendments and base value redeterminations when the resolution was adopted between October 1 and December 31, certification will happen two calendar years later

For More Information

Visit the Tax Incremental Financing (TIF) Information page on our [website](#).