

Wisconsin Tax Incremental Financing Joint Review Board

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



PE-213 (R. 2/18)

2018

Purpose of the Joint Review Board (JRB)

State law provides for a JRB and defines the JRB's members and responsibilities. JRB members represent a taxing jurisdiction (municipality, county, school, technical college). It is the JRB's responsibility to approve or deny the creation or amendment of a Tax Incremental District (TID). If the JRB approves the TID, it viewed or heard convincing evidence of the need for Tax Incremental Financing (TIF) assistance to make the development a reality. The JRB jurisdictions agree to sacrifice some amount of tax revenue for many years into the future expecting the tax base will ultimately increase.

Who are the JRB members?

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

District representatives

- **School** – the school board president, or their 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 their 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 their 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. There is no legal guidance regarding who is eligible for this seat; preference should be given to residents with financial or economic development knowledge. 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 the representative to the JRB.

Examples:

- School District "A" serves 75 percent of the area in the TID, but only has 40 percent of the TID value. School District "B" serves 25 percent of the area in the TID but has 60 percent of the TID value. District "B" chooses the JRB member.
- In the case of a territory amendment, if adding property from one county to an existing TID in a different county, the county where the additional territory is located chooses the JRB member. After the territory amendment is completed, any future amendments require a new calculation to determine which county has the majority of the land value and voting representation on the JRB.

JRB Procedures

Based on review, the JRB can approve or deny a TID creation or amendment.

- When creating a TID (before the public hearing notice is published), the municipality must send the overlying taxing districts a letter with a copy of the notice (by first class mail) to request a representative to serve on the JRB for that TID
- Within 14 days after the public hearing notice is published and before the public hearing for a TID creation, all JRB members must be appointed and the first organizational meeting held. At the organizational meeting, the members must select a public member and chairperson. They may also review details of the new TID.
- After receiving the municipal resolution, the JRB must meet again to vote on the resolution. The JRB should adopt its own resolution to document its decision based on the decision criteria in state law.
- Any JRB member may request additional JRB meetings or public hearings
- At all JRB meetings, one of the members must take minutes and record votes. The municipality is responsible for keeping these TID records.
- The municipality must publish a notice for any JRB meeting 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 TIDs created under [sec. 60.85 Wis. Stats.](#) or Environmental Remediation TIDs created under [sec. 66.1106](#).

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

- **Within 45 days** – City/Village TIDs created under [sec. 66.1105, Wis. Stats.](#)
- **Between 10 days and 45 days** – Town TIDs created under [sec. 60.85, Wis. Stats.](#) or Environmental Remediation TIDs created under [sec. 66.1106, Wis. Stats.](#)

After the JRB resolution is adopted

- JRB must respond to municipal officials within seven days of its decision
- If the JRB rejects a resolution, the JRB must explain in writing why the proposal did not meet the decision criteria

JRB Document Review

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

Required information

- Specific projects and costs, including the amounts expected to be paid by tax increments and the estimated tax increments over the life of the TID
- Value increment after project costs are paid and the TID terminates
- Reasons why the property owners benefitting from the improvements within the TID should not pay the project costs
- Share of the projected tax increments estimated to be paid by the property owners in each of the overlying taxing districts
- Benefits the tax payers will receive to compensate for their share of the projected tax increments

Additional information the JRB may request

- **Detailed list of project costs, resolutions and public records** – copies of the planning commission and municipal resolutions, project plan, public hearing minutes and notices, signed development agreement
- **For multijurisdictional TIDs** – copy of the signed intergovernmental agreement created under state law ([sec. 66.0301, Wis. Stats.](#)). The agreement must provide the specific information listed in [sec. 66.1105\(18\)\(b\)2, Wis. Stats.](#)
- **Economic Feasibility Study** – detailing the projected tax increments and estimates of increased property values

JRB Decision Criteria

The JRB must make a decision based on the documents and information provided by the municipality and three criteria found in state law ([sec. 66.1105\(4m\)\(c\)](#), [sec. 66.1106\(3\)\(c\)](#), [sec. 60.85\(4\)\(c\)](#), Wis. Stats.). The JRB must determine whether the:

1. Development expected in the tax incremental district would occur without the use of TIF ("but for" test)
2. Economic benefits of the TID, as measured by increased employment, business and personal income and property value, are sufficient to compensate for the cost of the improvements
3. Benefits of the proposal outweigh the anticipated tax increments to be paid by the property owners in the overlying taxing districts

Each criterion is important to ensure the TIF project is beneficial for all taxpayers in the overlying districts. Many consider the first criterion, the "but for" test, the most important. "But for" gets its name from the phrase, "This development would not happen but for the financial support of TIF." This means the project is not economically viable without the use of TIF to pay for the infrastructure improvements. Refer to [Section 5.1](#) for more information on the "but for" test.

Questions to consider

- a. Would the expected development occur without (but for) the use of TIF? Would the development occur if the project was scaled back or the timeframe pushed out? Did similar projects proceed without 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 the planned development fit into the overall economic picture in the district? How does the development fit with other development in the district? Will the potential businesses benefit the district in the long term? How many and what type of jobs will this development create?
- e. How does the TID benefit taxpayers in my district? Is the total expenditure for eligible project costs feasible?
- f. Is there a better use for the development site, the tax revenue and the limited TIF capacity?
- g. What is the general opinion of my district's residents on this TID?
- h. How will the planned development affect the demand for services in my district? Consider items such as: increased population, traffic impact, fire and police protection, Emergency Medical Services, water, sewer, administrative services, increased student population, demand for training or housing.
- i. Is the developer receiving a subsidy, such as a cash grant, incentive or forgivable loan? If so, how was the need and benefit analyzed? Is there a written developer's agreement? Was the public informed of the developer's subsidy in the published hearing notice?
- j. What guarantees are in place to ensure the development will occur as anticipated and the property value will increase as expected?

DOR Review Procedure

Under state law ([sec. 66.1105\(4m\)\(b\)4, Wis. Stats.](#)), the JRB may request that DOR review the facts contained in the documents listed above in the “Additional information the JRB may request” section.

To request a DOR review

- Majority of the JRB members must support the request
- 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
- Within 10 working days of receiving a review request, DOR will review the issues raised and send a written response to the JRB
- Refer to [Section 4.2](#) for more information

What if the information does not comply or is inaccurate?

- If DOR determines the information does not comply with state law or contains a factual inaccuracy, the JRB may request (but may not require) that the municipality correct and resubmit the proposal for review.
 - » **If the municipality resubmits the proposal** – the JRB votes to approve or reject under state law. The JRB must submit its decision to the municipality within 10 working days after receiving the resubmitted proposal.
 - » **If the municipality does not resubmit the proposal** – the TID is not certified
- If DOR does not identify any factual inaccuracies, the JRB votes to approve or reject as otherwise specified in TIF law. The JRB must submit its decision to the municipality within 10 working days of receiving DOR’s written response.

What happens after the JRB approves the TID?

- Municipality sends DOR a request to approve certification and includes all the required documents. If DOR determines procedures were followed, DOR will email the municipality a certification letter. See the [Creation Timeframes](#) table for more information.
- While the TID is active, the JRB must meet yearly to review the annual performance and status of the TID based on the annual report ([sec. 66.1105\(4m\)\(f\), Wis. Stats.](#))

For More Information

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