

MUNICIPAL (CITY /VILLAGE/TOWN) TAX INCREMENTAL FINANCING JOINT REVIEW BOARD SUPPLEMENTAL DATA

The Joint Review Board (JRB) has responsibility to approve or deny the creation of new TIF districts or the amendment of existing districts. The JRB must act to approve the resolution adopted by the city/village governing body **within 30 days** after receiving the resolution. For towns, it is not less than **10** nor more than **30** days after receiving the resolution. No district may be created or amended unless the JRB approves.

Representation of JRB

The JRB shall consist of one representative each from the school district, technical college, and county districts that have power to levy taxes on the property within the tax incremental district. The JRB shall also contain a representative chosen by the municipality and a public member.

- The representative of the school district shall be the president or his or her designee – school district's finance director or another person with knowledge of local government finances. If the tax incremental district is located in a union high school district, the school seat shall be shared by the union high school representative and the representative of the school district, each having 1/2 of a vote.
- The representative of the technical college district shall be the district's director or his or her designee – district's chief financial officer or another person with knowledge of local government finances.
- The county representative 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 – county treasurer or another person with knowledge of local government finances.
- One municipality representative and one public member are also members.
- The JRB's chairperson shall be selected by a majority of the other JRB members before the public hearing.

If more than one school district, more than one union high school district, more than one elementary school district, or 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 JRB.

The public member and the board's chairperson shall be selected by a majority of the other board members before the public hearing. All board members shall be appointed and the first meeting held within **14** days after the notice is published. Additional meetings of the JRB shall be held upon the call of any member.

JRB Document Review

Section 66.1105(4)(i) and s.60.85(3)(k) contains a list of information and projections that the municipality must provide the JRB to assist in their review. These items are:

1. A list of specific project costs included in the district, the total amount to be paid with tax increments, and the tax increments to be generated over the district's life.
2. The increased property value in the district when the project costs are paid and the district is terminated.
3. The reasons why owners of property in the district that benefit from the improvements should not pay for them.
4. The share of projected tax increments that will be paid by owners of taxable property in each of the TID overlying taxing jurisdictions.
5. The benefits received by property owners in these jurisdictions to compensate them for their share of the projected tax increments.

A List of Project Costs, Tax Increments and Increased Property Values (#1 and #2)

Total project costs would be found in the detailed list of project costs. The economic feasibility study should contain a projection of the tax increment to be generated and estimates of increased property values.. **For towns**, the project costs of the district must be related directly to promoting agriculture, forestry, manufacturing, or tourism development.

Why Property Owners In the District Should Not Pay For Public Improvement (#3)

The reasons property owners that benefit from improvements in the district should not pay for them are as varied as the reasons for creating a district. In theory, the property owners in the district do pay the project costs through increased property taxes.

Also, in theory, property owners in other taxing jurisdictions would pay no more than if the district had not been created. This is because the value increments experienced by the district would not occur without TIF, so all else being equal, their share of the various levies would be the same. Another reason might be the conclusion that development would not happen or would occur later without TIF, because high development costs do not make good economic sense. When profit margins are not within an acceptable range, developers look elsewhere for opportunities.

The Share of Tax Increments Paid By Other Taxing Entities (#4)

The share of projected tax increments paid by property owners in the overlying districts should be determined for each year an increment is anticipated. One way to calculate it is to apportion each estimated tax increment in the project plan TIF revenue projection. Each overlying district's share would be based on its historic percent of the tax rate. For instance, if the school levy represents 47% of the tax dollar, its share of the projected tax increments would be 47% of the total.

Benefits Received to Compensate For Tax Increments (#5)

The benefits property owners will receive as compensation for their share of the increments may be easily identified or more subtle. The obvious benefit is increased property values that supposedly would not happen without TIF. When the district is terminated, the increased value will become part of the tax base for all jurisdictions. The result should be lower tax rates than would be the case if the increase had not taken place. Some of the more subtle reasons might be increased job opportunities, a better business climate, and improved economic conditions.

Establishing the "BUT FOR" Finding

The JRB must make a decision based on the documents described above. There are three or four specific criteria they must use to approve a proposal. They are:

1. Would the expected development occur without the use of tax incremental financing?
2. Will the economic benefits of the development as measured by increased employment, business and personal income and property value, compensate for the cost of the improvements?
3. Do the benefits outweigh the taxes that residents of overlying districts are expected to pay?
4. **For towns**, will the project costs to be expended relate directly to agricultural projects, forestry projects, manufacturing projects, tourism projects; related residential development; or related retail development in accordance with Section 60.85(2)(b).

Each of these criteria is important to ensure that the TIF project will be beneficial for all taxpayers in the overlying districts. Many people consider the first one, often called the "but for test," the most important of the criteria.

The "but for test" gets its name from the phrase "This development would not happen but for the use 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 that are needed.

When deciding that a proposal passes the “but for test,” the municipality and the developer must demonstrate that paying for the improvements makes the project unprofitable for the developer. Only with the financial support of the taxpayers will this development happen. One way to demonstrate this would be to compare the net present value of the expected revenues from the development to the anticipated cost of the improvements plus the cost of developing the district.

Department of Revenue (DOR) Review Procedure

Once the JRB has reached a decision and taken action to approve or deny the creation of the district, they have **7 days** to submit the decision to the local governing body.

Section 66.1105(4m)(b)4 creates a procedure for the members of the JRB to request that DOR review the objective facts contained in any of the documents listed above. The process of requesting a DOR review is as follows:

- A majority of the members of the board must support the request.
- A request must be submitted in writing to the DOR, and must specify which particular objective fact or item the members believe is inaccurate or incomplete.
- Not more than **10** working days after receiving a request for review that complies with the filing requirements, the DOR will investigate the issues raised and send a written response to the JRB.
- If the DOR determines that the information does not comply with the law or contains a factual inaccuracy, department staff will return 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 will vote to approve or disapprove as otherwise specified in TIF law. If the JRB requests a DOR review, they must submit their decision to the municipality within **10 working days** of receiving the department’s written response.

If the municipality resubmits the proposal no later than **10** working days after the JRB receives the department’s written response, the JRB shall submit its decision to the municipality no later than **10 working days after** receiving the resubmitted proposal.

Post Approval Role For JRB

THE JRB must issue a written statement that includes the criteria by which in their judgment meets (approval) or does not meet (denial) the requirements in the “BUT FOR” finding.

A standing JRB can remain in existence as long as a district exists, but the municipality can disband the JRB at any time with a majority vote.