

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: 10/04/1999

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau 6-3013**

By/Representing: **Runde**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Munis - 1st class cities only**
Munis - tax incrmntal financing

Extra Copies:

Pre Topic:

LFB:.....Runde -

Topic:

Extend certain tax incremental financing deadlines for Milwaukee

Instructions:

See Attached. Same as b1735/2

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	shoveme 10/04/1999	gilfokm 10/04/1999		_____			
/1			hhagen 10/04/1999	_____	lrb_docadmin 10/04/1999		

FE Sent For:

<END>

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1?	shoveme	11-10-4-99 Kmy	10/4	10/4			

10/4/99
FE Sent For:

<END>

State of Wisconsin



GARY R. GEORGE
SENATOR

al -

Here is the change Sen George
would like to make on behalf of
Milwaukee. Please contact me if
you have any questions.

Jan Rossinck
6-2500

Fax cover

City of Milwaukee
Intergovernmental Relations Division

To Dan Rossmiller
Office of Sen. Gary George
Fax (608) 266-7381

From Jeff Bentoff
Phone (414) 286-5588

Date September 7, 1999
Pages 9 (including cover sheet)

Memo Dan: Enclosed is the request that we discussed. Please give the faxed letter and attachments to the senator (I won't be mailing hard copy). You and Catherine are also copied, so please pass a copy on to her as well. Thanks for your help on this.



inter as



Department of Administration Intergovernmental Relations Division

City Hall, Room 606, 200 East Wells Street, Milwaukee, Wisconsin 53202-3515

Phone (414) 286-3747 Fax (414) 286-8547

John O. Norquist
Mayor

David P. Riemer
Administration Director

Patrick T. Curley
Intergovernmental Relations Director

September 7, 1999

Sen. Gary George
Wisconsin Senate
Madison, WI 53707-7882
Sent by fax: (608) 266-7381

Dear Sen. George:

I am writing to request your introduction of an amendment at the legislative conference committee to remove a technical restriction to the transfer of tax increment district (TID) funds between two specific City of Milwaukee TIDs. Transfers are generally allowed under current state law.

The Milwaukee Department of City Department (DCD) is seeking the transfer from the City's TID 19 (Campus Circle), which has recouped its costs. Rather than close out the TID, DCD would like to allocate future TID 19 increments to an adjacent district, TID 30 (Library Hill). State statute (Attachment A) allows transfers but requires both the donor and recipient TID to have been created before Oct. 1, 1995. TID 30 was created April 2, 1996, six months after the statutory date. The proposed amendment would allow the transfer to take place.

Technical modifications to state law for TIDs in other communities have occurred in the past. The Legislative Fiscal Bureau's January 1999 Information Paper #17, "Tax Incremental Financing," lists specific exceptions to TID requirements previously approved for Glendale, Kenosha, Oconomowoc and Coshkosh (Attachment B). The Joint Finance Committee version of the proposed 1999-2001 state budget includes changes in state law for specific TIDs in the Village of Jackson and the Village of Birnamwood (Attachment C).

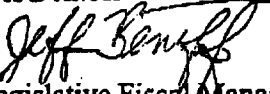
Most immediately relevant is the fact that the Assembly version of the budget now being considered by the conference committee includes a change for a TID in the Village of Ashwaubenon (Attachment D).

The Library Hill project is located in the 6th State Senate District between W. Wisconsin Ave., W. Wells St., N. James Lovell St. (formerly 7th St.) and N. 8th St. The development, now under construction, will consist of 139 apartments valued at more than \$20 million. The Milwaukee Redevelopment Corp. is developing Library Hill with the assistance of Wisconsin Energy Corp., Briggs & Stratton Corp., Northwestern Mutual Life Co. and the City. The City, using the TID financing mechanism, has acquired the site, demolished buildings and removed environmental contamination.

The proposed change would enable a transfer but would not require it. If the language is approved, any transfer would still follow other statutory requirements, including approval by the City Plan Commission, Common Council, Mayor and Joint Review Board.

I've attached suggested amendment language for your consideration (Attachment E). Thank you for your consideration of this amendment. Please contact me if I can provide additional information on this matter.

Jeff Bentoff



Legislative Fiscal Manager

- c: Dan Rossmiller, Office of Sen. Gary George
- Catherine Lange, Office of Sen. Gary George
- Julie A. Penman, Department of City Development
- James Scherer, Department of City Development

ATTACHMENT A

66.46 MUNICIPAL LAW

97-98 Wis. Stats. 1656

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 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 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 donor tax incremental district and the recipient tax incremental district have been created before October 1, 1995.

2. Each year, the city that created the tax incremental districts may determine the portion of the donor tax incremental district's positive tax increment that is in excess of the tax increment that is necessary to pay the donor's project costs in that year that shall be allocated to the recipient tax incremental district and shall inform the department of revenue of these amounts.

3. A project plan that is amended under sub. (4) (h) to authorize the allocation of positive tax increments under subd. 1. may authorize such an 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 such an 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.

(5c) NOTIFICATION OF POSITION OPENINGS. (a) Any person who operates for profit and is paid project costs under sub. (2) (f) 1., s., d., j., and k. in connection with the project plan for a tax incremental district shall notify the department of workforce development and the area private industry council under the job training partnership act, 29 USC 1501 to 1798, 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 area private industry council under the job training partnership act, 29 USC 1501 to 1798, 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. The existence of a tax incremental district shall terminate when the earlier of the following occurs:

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

(am) Sixteen years after the last expenditure identified in the project plan is made if the district to which the plan relates is created after September 30, 1995, or 20 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, except that in no case may the total number of years during which expenditures are made under sub. (6) (am) 1. plus the total number of years during which tax increments are allocated under this paragraph exceed 27 years.

(ar) Notwithstanding par. (am), 22 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 the project plan is amended under sub. (4) (h) 3.

(b) The local legislative body, by resolution, dissolves the district at which time the city shall become 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.

(c) NOTICE OF DISTRICT TERMINATION. (a) A city which creates a tax incremental district under this section shall give the department of revenue written notice within 10 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.

(6) FINANCING OF PROJECT COSTS. (a) Payment of project costs may be made by any one or more of the following methods or any combination thereof:

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. 66.059;

5. Payment as provided under s. 66.54 (2) (c), (d) or (e);

6. Payment out of the proceeds of revenue bonds or notes issued by it under s. 66.066;

ATTACHMENT B

(LFB Information Paper)

APPENDIX

Specific Exceptions to Requirements on Tax Increment Districts

City of Glendale

1. A TID project may be extended when the tax increments of one TID have been shifted to another TID within the city because development in the recipient TID has been impacted by environmental contamination and the project's costs have not been fully covered. However, the allocation of positive tax increments to the district impacted by environmental contamination cannot occur beyond 2002.

City of Kenosha

1. Any amendment to a TID project plan in the City that allows for the allocation of tax increments from that TID to a second district where development is being affected by environmental contamination would have 12 years after the creation of the second district to complete expenditures.

2. A TID project may be extended when the tax increments of one TID have been shifted to another TID within the city because development in the recipient TID has been impacted by environmental contamination and the project's costs have not been fully covered. However, the allocation of positive tax increments to the district impacted by environmental contamination cannot occur beyond 2016.

3. Any TID that is amended to allow for the

allocation of tax increments from that TID to a second district that has been affected by environmental contamination must be terminated before the sum of the number of years for which expenditures are made in the second district and tax increments from the original TID are allocated exceeds 37 years.

City of Oconomowoc

1. Allocation of tax increments may occur 38 years after the creation of a district whose plan is amended to include contiguous territory served by public works or improvements that were created as part of the district plan.

2. If a TID is amended to include contiguous areas served by any public works or improvements created under the original TID plan, the project must be terminated within 22 years after all project costs have been incurred.

City of Oshkosh

1. A TID project may be extended when the tax increments of one TID have been shifted to another TID within the city because development in the recipient TID has been impacted by environmental contamination and the project's costs have not been fully covered. However, the allocation of positive tax increments to the district impacted by environmental contamination cannot occur beyond 2016.

ATTACHMENT C

(Joint Finance Budget)

6. SPECIAL CHARGES FOR CANCELLED TAXES ON CONTAMINATED, TAX DELINQUENT PROPERTY [LFB Paper 876]

Governor: Require county treasurers to charge back as a special charge on the next tax levy any or all property taxes the county cancelled because the property is subject to a hazardous substance clean-up agreement. Provide that the charge would be made against the taxation district (municipality) that included the associated property on its tax roll. Specify that the provision takes effect with the tax year beginning on January 1 of the year the bill takes effect, unless the bill takes effect after July 31, in which case the provision takes effect for the tax year beginning on January 1 following the bill's effective date. Under this provision, the cost of the cancelled taxes would be shifted from the county to the municipality. Through the tax settlement process, other taxing jurisdictions that levied taxes on the property, such as school, technical college and special purpose districts, would continue to be made whole for the unpaid taxes that they levied.

Joint Finance: Modify the provision to require county treasurers to charge back as a special charge on the next tax levy all cancelled property taxes subject to a hazardous substance clean-up agreement and provide that the cost of the cancelled taxes be spread among the governments that levied taxes on the property.

7. TRANSFER OF TAX DELINQUENT, CONTAMINATED PROPERTY

Governor/Joint Finance: Require counties to issue a tax deed on property for which a tax certificate has been issued and which is contaminated by a hazardous substance if the municipality where the property is located requests in writing that the county issue the tax deed and if the request occurs within two years after the period for redeeming delinquent taxes on the property expires (two years after a tax certificate is issued). Authorize the county to retain ownership of the property or, if the county does not wish to retain ownership, require the county to transfer the property for no consideration to the municipality where the property is located within 180 days after the municipality requests the tax deed's issuance. Specify that these provisions take effect beginning with land for which a tax certificate is issued on the bill's effective date.

8. TAX INCREMENTAL FINANCING - VILLAGE OF JACKSON

Joint Finance: Exempt a TIF district, for which an amended certification was applied for in 1998 by a village that was incorporated in 1912 that has a population of at least 3,800 and that is in a county with a population of at least 108,000 from the current law requirement that no TIF district may be created and no project plan may be amended unless the joint review board approves a resolution creating or amending a TIF project plan by a majority vote not less than 10 days nor more than 30 days after receiving the resolution. Further, specify that DOR would be required to determine the amended aggregate base for that district using the January 1, 1998,

aggregate base value. This provision would apply to the Village of Jackson in Washington County.

→ 9. TAX INCREMENTAL FINANCING – VILLAGE OF BIRNAMWOOD

Joint Finance: Specify that if a village clerk of a village that created a tax incremental district in July, 1997, filed the forms and applications for that district with the Department of Revenue by May 31, 1999, DOR would be required to certify the base for the district as if the forms and applications had been filed by December 31, 1997. Further, specify that DOR would be required to allocate tax increments and treat the district in all other respects as if the forms had been filed on or before December 31, 1997, except that DOR could not certify a TIF value increment before 1999. This provision would apply to the Village of Birnamwood in Shawano County.

10. TAX INCREMENTAL FINANCING – LEAD CONTAMINATION COSTS

Joint Finance: Allow the removal of lead contamination from buildings and infrastructure within a tax incremental financing district to be included as an eligible cost that could be repaid from the allocation of tax increments if the city or village declares that the lead contamination is a public health concern.

11. TRUST FUND LANDS IN TAX INCREMENT DISTRICTS

Joint Finance: Prohibit the Governor from concurring with the Secretary of Interior's decision under 25 U.S.C. s. 2719(b)(1)(A) that gaming regulated under the Federal Indian Gaming Regulatory Act on lands acquired by the Secretary in trust for an Indian tribe after October 17, 1988, would not be detrimental to the surrounding area, if the lands are located in a tax increment district, unless the Governor determines that appropriate arrangements have been made so that the location of the lands within the district would not extend the existence of the district for a greater number of years than the district would have been in existence had the land not been located within the district.

12. ASSESSMENT OF LOW-INCOME RENTAL HOUSING

Joint Finance: Modify provisions in state law related to procedures for valuing real estate to require local assessors to exclude federal income tax credits extended under Section 42 of the Internal Revenue Code to owners of low-income, rental housing from calculations related to the value of that housing, effective with property assessed as of January 1, 2000.

ATTACHMENT D
(Assembly Budget)

16. IMPACT FEES

Assembly: Modify the provisions adopted by the Joint Committee on Finance relating to impact fees as follows:

- a. Specify that the first \$3,000 of an impact fee payment is payable before a building permit may be issued. The Joint Committee on Finance provision would specify that payments may not be due on a date that is earlier than the date on which a building permit is issued.
- b. Specify that the provisions adopted by the Joint Committee on Finance become effective on the first day of the twelfth month beginning after the general effective date of the bill.

Senate: Delete all of the provisions adopted by the Joint Committee on Finance related to impact fees. The Committee recommended modifying provisions in state law related to sewerage system service charges and the approval of plats (subdivision regulation) to prohibit certain charges unless they were adopted as part of an ordinance adopted in compliance with the impact fee statute. In addition, the Committee's action would prohibit counties from imposing impact fees and would prohibit the use of impact fees for certain public facilities. Finally, the Committee's action would have delayed the collection of impact fees until the time a building permit is issued for the construction of dwellings or other structures within a land development.

➔ 17. TAX INCREMENTAL FINANCING - VILLAGE OF ASHWAUBENON

Assembly: Extend the period for which expenditures may be made in TIF district number two in the Village of Ashwaubenon from three to five years after the village board adopted an amended project plan adding territory to the district. The Village of Ashwaubenon would have until July 30, 2001, to incur expenditures that could be repaid through the allocation of tax increments. Under current law, no expenditures resulting from such an amended plan can be incurred more than three years after the date on which the amended plan was adopted.

Senate: No change to Joint Finance.

18. LOCAL EXPOSITION DISTRICT ADMINISTRATION

Assembly: Modify the Joint Committee on Finance provision that would reduce the amount of local exposition taxes retained by DOR for administration of the tax collections from 3.0% to 1.75% by establishing this percentage at 2.55%. Compared to the Joint Finance provision, this would increase revenues retained by the Department by \$71,500 in 1999-00 and \$85,500 in 2000-01 and would decrease revenue to the district by corresponding amounts. Compared to current law, the estimated revenue decrease to DOR, and corresponding increase to the district, would be \$40,200 in 1999-00 and \$48,200 in 2000-01.

	Chg. to JFC
PR-REV	\$157,000

ATTACHMENT E

TAX INCREMENTAL FINANCING - CITY OF MILWAUKEE

Revise the date from Oct. 1, 1995, to Oct. 1, 1996, by which TIF districts numbers 19 and 30 in the City of Milwaukee had to be created to allow allocation of positive tax increments between them.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

b1936/1
LRBh1735/2dn
MES:kmg:ary

September 23, 1999

This amendment is identical to 1999 LRB
b1735/2.

This note is meant to alert you that it is possible that a Wisconsin court would find that this legislation is a "private or local bill" that, under art. IV, sec. 18, of the Wisconsin Constitution, must be enacted as single-subject legislation. If so, this legislation cannot validly be enacted as part of the state budget bill because the budget bill clearly encompasses more than one subject.

Under *Milwaukee Brewers Baseball Club v. Wisconsin Dept. of Health and Social Services*, 130 Wis. 2d 79, 115 (1986), "a legislative provision which is specific to any person, place or thing is a private or local law within the meaning of art. IV, sec. 18, unless: 1) the general subject matter of the provision relates to a state responsibility of statewide dimension; and 2) its enactment will have direct and immediate effect on a specific statewide concern or interest". This proposal is applicable only to the city of Milwaukee.

Because it is difficult to predict the potential for and outcome of any court action on this proposal, should it be enacted as part of the budget, you may wish to consider introducing this proposal as a separate bill.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: Marc.Shovers@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1936/1
MES...
R-MNR

Today

LFB:.....Runde - Extend certain tax incremental financing deadlines for Milwaukee

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

D-note

1 At the locations indicated, amend the substitute amendment as follows:

2

(END)



**SENATE AMENDMENT ,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 133**

1 ~~At the locations indicated, amend the substitute amendment as follows:~~

2 **1.** Page 795, line 7: after that line insert:

3 **"SECTION 1630ke.** 66.46 (6) (e) 1. b. of the statutes is amended to read:

4 66.46 (6) (e) 1. b. The Except as provided in subd. 1. c., the donor tax
5 incremental district and the recipient tax incremental district have been created
6 before October 1, 1995.

7 **SECTION 1630ki.** 66.46 (6) (e) 1. c. of the statutes is created to read:

8 66.46 (6) (e) 1. c. With respect to a tax incremental district that has been created
9 by a 1st class city, the donor tax incremental district and the recipient tax
10 incremental district have been created before October 1, 1996."

11

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1936/1dn
MES:kmg:hmh

October 4, 1999

This amendment is identical to 1999 LRBb1735/2.

This note is meant to alert you that it is possible that a Wisconsin court would find that this legislation is a "private or local bill" that, under art. IV, sec. 18, of the Wisconsin Constitution, must be enacted as single-subject legislation. If so, this legislation cannot validly be enacted as part of the state budget bill because the budget bill clearly encompasses more than one subject.

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Because it is difficult to predict the potential for and outcome of any court action on this proposal, should it be enacted as part of the budget, you may wish to consider introducing this proposal as a separate bill.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: Marc.Shovers@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1936/1
MES:kmg:hmh

LFB:.....Runde - Extend certain tax incremental financing deadlines for
Milwaukee

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 795, line 7: after that line insert:

3 "SECTION 1630ke. 66.46 (6) (e) 1. b. of the statutes is amended to read:

4 66.46 (6) (e) 1. b. The Except as provided in subd. 1. c., the donor tax
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