Wisconsin Department of Administration
Division of Executive Budget and Finance

Fiscal Estimate - 2003 Session

[X] Original [ ] Updated [ ] Corrected [ ] Supplemental

LRB Number **03-3137/1**	Introduction Number **SB-305**

Subject

Changes to tax incremental financing (TIF) statutes

Fiscal Effect

State:

[ ] No State Fiscal Effect
[ ] Indeterminate
- [ ] Increase Existing Appropriations
- [ ] Decrease Existing Appropriations
- [ ] Create New Appropriations
- [ ] Increase Existing Revenues
- [ ] Decrease Existing Revenues
- [X] Increase Costs - May be possible to absorb within agency's budget [ ] Yes [X] No
- [ ] Decrease Costs

Local:

[ ] No Local Government Costs
[ ] Indeterminate

1. [X] Increase Costs — [X] Permissive [ ] Mandatory
2. [ ] Decrease Costs — [ ] Permissive [ ] Mandatory
3. [X] Increase Revenue — [X] Permissive [ ] Mandatory
4. [ ] Decrease Revenue — [ ] Permissive [ ] Mandatory
5. Types of Local Government Units Affected — [ ] Towns [X] Village [X] Cities [X] Counties [ ] Others [ ] School Districts [ ] WTCS Districts

Fund Sources Affected

[ ] GPR [ ] FED [ ] PRO [ ] PRS [ ] SEG [ ] SEGS

Affected Ch. 20 Appropriations

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Fiscal Estimate Narratives

DOR 11/6/2003

LRB Number **03-3137/1**	Introduction Number **SB-305**	Estimate Type **Original**
Subject Changes to tax incremental financing (TIF) statutes		

Assumptions Used in Arriving at Fiscal Estimate

The bill makes changes to tax incremental finance (TIF) law related to restrictions to tax incremental districts (TIDs), procedures and reporting requirements, and to department of revenue (DOR) responsibilities. The bill also makes several changes to environmental tax incremental finance (ER TIF) law.

Restrictions to TIDs:

1. Allows counties outside of a metropolitan statistical area (MSA) to create a TID in a town that is contiguous to a city or village if a) the town board approves the creation of the TID; b) the governing bodies of every contiguous city and village approves, by resolution, the creation of the TID in the town; and c) there is a cooperative plan boundary agreement between the town and every contiguous municipality. Current law grants TIF authority only to cities and villages. Counties and towns have authority to create environmental remediation TIDs.

2. Prohibits cash grants to owners or developers of land in a TID as eligible TIF project costs unless the grant recipient has signed a developer's agreement with municipality. If there is a grant, the public hearing notice on the TID plan must include a statement to that effect. Current law does not prohibit cash grants and does not impose notice requirements for project expenditures that include cash grants.

3. Allows for a mixed-use TID if 50% of the land in the TID is suitable for a combination of industrial, commercial or residential development, so long as no more than 35% of the proposed TID area is for newly-platted residential use. The bill also requires a municipality to declare whether the TID is a blighted area district, a rehabilitation or conservation district, an industrial district or a mixed-use district. Current law allows the creation of a TID if at least 50% of the area is a blighted area, an area in need of rehabilitation or conservation work, or is suitable for industrial use and is zoned industrial. Current law does not require a declaration of the type of TID created.

4. Allows costs for newly-platted residential development as eligible project costs. Under current law, project costs may not include expenditures or monetary obligations for newly-platted residential development for TIDs created after September 30, 1995.

5. Increases the amount of a municipality's total value allowed in TIDs. Under current law, a municipality may create a TID only if either a) the equalized value of the proposed TID plus the value of all existing TIDs (base and value increments) do not exceed 7% of the municipality's total equalized value or b) the equalized value of the proposed TID plus the value increments of all existing TIDs do not exceed 5% of the municipality's total equalized value. The bill repeals the 7% test and replaces the 5% test with 12%.

6. Prohibits land annexed after Jan. 1, 2004 to be included in a TID unless a) the city/village enters into cooperative plan boundary agreement with town, b) three years have elapsed since annexation, or c) the city/village compensates the town for property taxes lost as a result of annexation.

7. Establishes a 20-year maximum life for industrial and mixed-use TIDs. A one to five year extension for industrial and mixed-use TIDs would be allowed with joint review board approval. Establishes a 27-year maximum life for blighted and rehabilitation/conservation districts. Current law allows a 23-year maximum life for all TIDs created after September 30, 1995;TIDs created before October 1, 1995 have a 27 -year maximum life.

8. Expands the expenditure period allowed in a TID so that expenditures could be made up to two years

prior to termination. Industrial and mixed-use TIDs would have 18 years to make expenditures; blighted or rehabilitation TIDs would have 25 years to expend. Current law allows seven years for expenditures in TIDs created after September 30, 1995. TIDs created before October 1, 1995 have ten years to expend.

9. Allows municipalities to amend a TID project plan four times during its life to either add or subtract territory. Current law allows a TID to be amended once during the first seven years to add territory.

10. Allows pooling of TIF increments from one TID to another so long as the recipient TID either a) has project costs for the creation or rehabilitation of low-cost housing or for environmental remediation; or b) is created upon a finding that not less than 50% of its area is blighted or in needed or rehabilitation. The joint review board must approve the pooling. Current law allows TIF increments to be allocated from one TID to another only if both donor and recipient TID were created before October 1, 1995. Special pooling provisions are allowed for specific TIDs, primarily to TIDs affected by environmental contamination.

11. Applies same filing requirements, territorial limits, and restrictions on municipally owned property for amended TIDs as for newly created TIDs. The bill also prohibits DOR from certifying the base value of a new or amended TID if the territorial limits are exceeded. There are no specific filing deadlines, territorial limits or limits on municipally owned property for amending TIDs under current law. Also DOR has no authority under current law to deny a TID that exceeds the territorial limits.

12. Makes exception to vacant land restriction for land that is environmentally contaminated. Under current law, no more than 25% of a TID can be comprised of land that was vacant for seven years prior to the TID's creation unless the TID is suitable for industrial use. Under current law, vacant land does not include property acquired by the local legislative body under ch. 32, property included within the abandoned Park East and West freeway corridors in Milwaukee county.

Procedures and Reporting Requirements

1. Allows representatives from a union high school district and from an elementary school district to each have one-half vote on a joint review board (JRB). Current law does not specify which of these districts is to be represented on the JRB. The bill also requires the JRB to inform affected local governmental units that are not represented on the board of prospective board meetings.

2. Allows a municipality to create a standing JRB that may remain in existence for the entire time that any TID exists in the municipality. Currently a JRB may vote to disband following the approval or rejection of a TID proposal.

3. Prescribes the representatives to the JRB for each taxing jurisdiction to include high-level officials or their designee. Current law specifies the taxing jurisdictions that must be represented on the JRB but does not specify who the representatives must be.

4. Requires the JRB approval of a TID to include a positive assertion that the proposed development would not occur without the creation of the proposed TID. Under current law, the JRB must base its decision to approve or deny a proposed TID based on a) whether the development expected in the TID would occur without the use of TIF; b) whether the economic benefits of the TID, as measured by increased employment, business and personal income and property value, are insufficient to compensate for the costs of the improvements; and c) whether the benefits of the proposed TID outweigh the anticipated TID tax increments. A JRB is required to issue a written explanation describing why it any rejected proposal fails to meet any of the criteria; however, no written explanation is required for approved TIDs.

5. Requires municipalities to provide DOR with a final accounting of TID project expenditures, costs and positive tax increment upon termination of a TID. DOR may not certify the base value of future TIDs until it receives this report. Current law requires three audits to be conducted to determine if all financial transactions are made in a legal manner and to determine if the TID is complying with its project plan; however, these audits are not submitted to DOR and do not provide uniform detail on actual expenditures and uses over the life of the TID.

6. Changes the timeline for TIF activities, including the time between the public hearing on a proposed TID and the adoption by the municipal planning commission and the time between the municipal resolution creating the TID and JRB approval. These changes would allow for a more expedited approval process.

7. Requires the application for creating a TID district to include an estimate of the percentage of territory in the TID that will be devoted to retail business at the end of the maximum expenditure period. This requirement only applies if the estimate is at least 35%.

DOR Role and Responsibilities

1. Allows DOR to determine if a municipality has substantially complied with specified TIF procedures. If DOR determines that the municipality was in substantial compliance with these procedures, DOR is to certify the TID base value. Under current law, DOR may not certify the TID base value if specific procedures are not followed.

2. Requires DOR to redetermine the base value of TIDs that are amended to subtract territory. Also requires DOR to redetermine the base value of a town ER TID in case of annexation. Under current law, DOR redetermines the base value of TIDs that are amended only to add territory.

3. Requires DOR to deny a TID that exceeds the territorial limits. Under current law, DOR may not deny a TID that exceeds the territorial limit.

4. Requires DOR to monitor the different maximum life of TIDs based on the TID designation. Under current law, TIDs have the same maximum life depending on whether the TID was created before or after September 30, 1995.

5. Requires to DOR to negotiate and monitor compliance with final reporting requirements. The bill also requires DOR to compile data on costs and expenditures of terminated TIDs.

6. Requires DOR to monitor new notice requirements related to public hearings that must include a statement regarding any cash grants and to notices to taxing jurisdictions not represented on the JRB. Additionally, DOR would be required to collect and monitor new requirements under the bill. These include cooperative plan boundary agreements, compensation to towns for lost property taxes in the case of annexed land in TIDs, and approval resolutions required for county TIDs.

7. Requires DOR to revise application materials to require an estimate of territory within a TID devoted to retail.

Environmental Remediation (ER) TIF

Requires a municipality that annexes land that is part of a town ER TID to reimburse the town for eligible costs that are attributable to the annexed territory. The bill requires that the municipality and town negotiate an agreement on the amount that is to be paid. The bill directs DOR to redetermine the ER TID base value if part of the TID is annexed.

Fiscal Effect

The bill is expected to result in the creation of significantly more TIDs due to a) the increase in the territorial limit, b) the ability of counties to create TIDs, c) the ability to create mixed-use TIDs and d) the ability to use TIF for newly-platted residential development.

In addition, the bill is likely to increase TID expenditures and therefore the length of TIDs relative to current law. The bill will likely increase the expenditures made in many TIDs due to a) a longer expenditure period, b) ability to use TIF for newly-platted residential development costs, and c) increased reporting requirements. Additionally, the ability to allocate tax increments from one TID to another will likely increase the length of donor TIDs. On the other hand, the lengthened expenditure period allowed under the bill may allow municipalities to delay expenditures until later in the project, thereby reducing financing costs.

The bill is likely to increase the number of project plan and territory amendments of many TIDs. Under the bill, TIDs could be amended to add or subtract territory in a TID up to four times throughout the life of the TID. Amendments would also be required for allocation of tax increments from one TID to another.

Restrictions on the inclusion of annexed property may reduce the number or size of industrial TIDs, since TIDs created on annexed property tend to be ones suitable for industrial development. Failure to reach a cooperative plan boundary agreement, as required by the bill, could result in the municipality either not creating the TID or creating a smaller one that does not contain annexed land. Inclusion of annexed land will likely raise project costs, as municipalities would be required to compensate the town for lost property taxes for five years. These additional costs would result in slightly longer TID life.

The bill reduces industrial TID life to 20 years. On the one hand, the fewer years allowed to recoup project costs could result in reduced TID expenditures; on the other hand, to the extent that the average TID life is

12.4 years, it is unlikely that the reduced maximum life under the bill would impact the project plans of many industrial TIDs.

It is expected that fewer TIDs will terminate each year due to the ability to a) expend on mixed-use and newly-platted residential development and for a longer period and
b) allocate tax increments to another TID. Thus, it is expected that there will be more active TIDs due to the increase in newly-created TIDs and the decrease in terminated TIDs. It is expected that over time, the number of active TIDs could increase 60% from the current 791 to over 1,200.

The large increase in the number of TIDs created or amended under the bill will significantly increase DOR costs. The department would also be required to annually determine the value increments of signficantly more active TIDs. In addition, DOR would be required to a) compile aggregate data from TID termination reports; b) monitor new reporting and docmentation requirements under the bill; c) determine if TIDs comply with territorial limits; and d) determine whether a municipality in substantial compliance with procedural requirements.

Under current law, 2.5 FTE positions are responsible for the following: a) the annual value certification of approximately 791 active TIDs; b) the base determination of 84 newly created or amended TIDS each year; and c) reviewing the procedural requirements for 32 project plan and allocation amendments. It is estimated that the bill would result in an additional 114 newly created or amended TIDs annually and an additional 50 project plan and allocation amendments annually. This represents a 236% increase in the number of base determinations required each year [(114+84)/84] and a 256% increase in the number of project plan and allocation amendments reviewed each year [(50+32)/32]. In addition, the bill would require revision to training and application materials related to new provisions in the bill. It is estimated that 3 FTE positions would be required to administer the changes under the bill at an annual cost of $159,400 for staff, printing and mailing activities and a one-time cost of $25,200 for computer and furniture equipment required for the additional positions.

Long-Range Fiscal Implications

Wisconsin Department of Administration
Division of Executive Budget and Finance

Fiscal Estimate Worksheet - 2003 Session

Detailed Estimate of Annual Fiscal Effect

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number 03-3137/1	Introduction Number SB-305	
Subject		
Changes to tax incremental financing (TIF) statutes		
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):		
II. Annualized Costs:	**Annualized Fiscal Impact on funds from:**	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	$145,918	
(FTE Position Changes)	(3.0 FTE)	
State Operations - Other Costs	13,500	
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	**$159,418**	**$**
B. State Costs by Source of Funds		
GPR	159,418	
FED		
PRO/PRS		
SEG/SEG-S		
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)		
	Increased Rev	Decreased Rev
GPR Taxes	$	$
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
TOTAL State Revenues	**$**	**$**
NET ANNUALIZED FISCAL IMPACT		
	State	Local
NET CHANGE IN COSTS	$159,418	$See
NET CHANGE IN REVENUE	$	$See

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