

## **Committee Name:**

# **Senate Committee – Economic Development, Job Creation and Housing (SC–EDJCH)**

### **Appointments**

03hr\_SC-EDJCH\_Appt\_pt00

### **Committee Hearings**

03hr\_SC-EDJCH\_CH\_pt00

### **Committee Reports**

03hr\_SC-EDJCH\_CR\_pt00

### **Clearinghouse Rules**

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### **Executive Sessions**

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# **Hearing Records**

03hr\_ab0000

# **03hr\_sb0305**

### **Misc.**

03hr\_SC-EDJCH\_Misc\_pt00

### **Record of Committee Proceedings**

03hr\_SC-EDJCH\_RCP\_pt00



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To: Members of the Senate Committee on Economic Development, Job Creation and Housing  
From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities  
Date: November 6, 2003  
Re: SB 305, Technical and Policy Changes to the Tax Incremental Finance Law

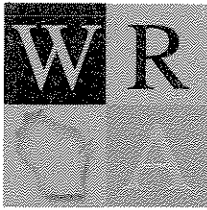
The League of Wisconsin Municipalities supports all but two of the many technical and significant policy changes to the TIF law included in Senate Bill 305. The League participated in a coalition of groups organized by the Wisconsin Economic Development Association that helped develop this legislation. We appreciate Senator Stepp's and Representative Lehman's leadership on this important economic development bill.

TIF is the primary tool available to municipalities to assist business expansion, attract new businesses and/or support redevelopment. SB 305 significantly enhances this central economic development tool. The League particularly supports the following key changes to the TIF law:

- Increase the total amount of a community's equalized value that can be included in TIF districts from 5% to 12%.
- Allow successful TIFs to donate excess current year revenue above and beyond current debt service to a TIF district established for redevelopment, affordable housing, or environmental remediation purposes.
- Allow municipalities to make TIF expenditures throughout the first 18 years of the TIF.
- Allow redevelopment TIFs a life of 27 years, and all other TIFs a life of 20 years with the option of a three-year extension if requested in year 25 or year 18, respectively.
- Allow for up to four boundary amendments throughout the life of a TIF.
- Allow DOR to approve the creation of a new TIF district even if procedural mistakes were made as long as the municipality *substantially complied* with state law and the error does not affect *substantial justice*.

While the League generally supports SB 305, we do have concerns about two of the proposed changes to the TIF law contained in the bill. The League does not support allowing non-MSA counties to create TIFs within towns even though all bordering cities and villages must acquiesce. The League also does not support allowing newly platted residential development to be included in a TIF district. The League is concerned that such a provision will place landlocked communities at a competitive disadvantage and that it will encourage sprawl. The League's preference is that SB 305 advance without these two controversial elements.

Thanks for considering our comments on this important economic development legislation.



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## Memorandum

**To:** Members, Senate Economic Development, Job Creation and Housing Committee  
**From:** Tom Larson and Michael Theo  
**Date:** November 6, 2003 *SB 305*  
**Re:** Tax Incremental Financing (~~LRB-3137/1~~)

The Wisconsin REALTORS® Association strongly supports *SB 305* ~~LRB-3137/1~~ ("TIF Bill"), legislation intended to provide local communities with the tools necessary to attract new and retain existing employers, jobs, and housing opportunities to Wisconsin.

**Background** -- Tax incremental financing ("TIF") is an extremely important economic development tool for local communities. In fact, it is one of the only tools Wisconsin communities have to promote job growth and attract new businesses to their communities. Without TIF, local communities would have an even more difficult time competing with communities in other states and countries for economic development.

Unfortunately, the current TIF law is inadequate to meet the challenges facing the state and local economies. With the loss of over 66,000 manufacturing jobs in Wisconsin over the last several years and more companies considering moves to China or Mexico, local communities need more tools to continue to attract economic development opportunities.

**Key Provisions** – To enable Wisconsin communities to compete more effectively for economic development, the TIF Bill, among other things, recognizes (a) the important link between the cost and accessibility of housing and jobs, and (b) the need to create greater incentives for redevelopment.

**Permitting "mixed use" development in TIF-funded areas.** The cost and proximity of housing to the workplace is often an important consideration by companies in deciding where to locate. Local communities without an adequate supply of housing that is accessible to workers are often passed over for more favorable locations. Locating housing near employment areas also reduces the need for roads and mass transit, resulting in more efficient and cost-effective development patterns, not to mention less traffic congestion and a cleaner environment. The TIF Bill authorizes communities to use TIF to promote "mixed use" developments, which incorporate industrial, commercial, and residential uses in close proximity to one another.

**Donor TIF for redevelopment, affordable housing or environmental remediation.** Risk of financial loss is one of the biggest barriers to redevelopment and affordable housing efforts. Communities are often unwilling to take a chance on these types of development because of the financial uncertainty associated with it. The TIF Bill reduces this risk by allowing communities to donate excess proceeds from successful TIF districts to districts that are not performing as well. This will allow communities to consider multiple TIF districts as part of a financial portfolio, offsetting the financial risks associated with redevelopment and affordable housing efforts against other, less-risky TIF developments.

**Promotes redevelopment efforts by extending the life of Redevelopment TIF's to 27 years.** As an additional incentive to promote redevelopment efforts, the TIF Bill extends the life of redevelopment TIFs to 27 years (compared to 20-23 years for traditional TIFs). This will make redevelopment efforts more attractive by giving communities additional time to pay off the TIF.

We encourage you to support the TIF Bill. If you have any questions or comments, please contact us.



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# METROPOLITAN BUILDERS ASSOCIATION

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## Memorandum

SB-305  
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To: Committee on Economic Development, Job Creation, and Housing  
From: J. Scott Mathie, Director of Government Affairs  
Date: November 6, 2003  
Re: Tax Incremental Financing (TIF) Reform Legislation

The Metropolitan Builders Association encourages your support of the Tax Incremental Financing Reform package introduced by Senator Cathy Stepp and Representative Michael Lehman. This legislative package will go along way toward improving a valuable tool that is utilized by communities to improve and attract real economic development.

Our industry believes that the changes found in the legislation before you will address many of the shortcomings of the current law. The following are areas of the proposed legislation that we would like to bring to your immediate attention:

- **Creates a "Mixed Use" TIF that includes residential, industrial and commercial development** in the economic development equation. Allowing for all development types in a TIF project creates a substantially stronger and more viable long-term tax base for the applicable community.
- **Increases the life of redevelopment TIF** from 23 years to 27 years and an option to extend it for an additional 3 years (total of 30 years). This will improve its ability to succeed and place it on a much-improved playing field with new development TIFs.
- **Establishing Guidelines for Joint Review Board members** – require Board members to have a background in finance or experience in local government finance, which will increase the knowledge base of the board and protect the taxpayer.
- **Eliminate the existing 7% valuation benchmark and increases the valuation from 5% to 12%.** Currently, communities are not able to consider additional projects until the TIF valuation is back to the 5% / 7%. By increasing the standard to 12%, it provides the opportunity for continued economic development while still expecting the municipality to maintain the performance burden.

While I did not address all the positive aspects of this package, our industry believes the proposal before you will provide substantial improvements to the practical application of Tax Incremental Financing Districts. Please feel free to contact me directly at 262-436-1122 ext. 19 with any questions on this matter or any other impacting the building industry.



## WISCONSIN ALLIANCE OF CITIES

SB-305

Date: Nov. 5, 2003

To: Members, Senate Committee on Economic Development, Job Creation and Housing

From: Edward J. Huck, executive director

Re: LRB 03-31371, Tax Incremental Financing (TIF) legislation

While the Wisconsin Alliance of Cities supports the principles underlying the draft legislation, some of our city leaders strongly oppose certain provisions.

Almost a year ago, twelve of my cities — Appleton, Baraboo, Beaver Dam, Beloit, Cudahy, De Pere, Kaukauna, La Crosse, Marinette, Sheboygan, Wausau and Whitewater — found themselves out of the TIF business because of limits in current law that the proposed legislation would correct.

I can't overstate how important it is to these communities and to our ability to create new jobs in Wisconsin that these dozen communities once again be allowed to stimulate the economy via TIF: combined, these 12 cities have generated more than \$1 billion in economic growth through TIF.

The bill provides the flexibility needed to make TIF work better for Wisconsin.

Concerns with the bill among a few of my members center on the following:

1. There is no density requirement for the mixed-use development envisioned in the bill, or any affordable housing requirement, or barrier to "big-box" type development.
2. Towns are not equipped to implement TIFs or deal with economic development issues generally, yet the bill would allow counties to create TIFs in towns, even in metropolitan areas where arguably they're unnecessary. Some of our members are tired of subsidizing services that counties deliver only in towns (the Double Whammy issue) and giving towns the ability to expand their tax base at the expense of a nearby city could be the straw that breaks these city leaders' backs.

One city leader told me his surrounding towns are busy building high-end housing that in an environment less friendly to sprawl would be located in the city.

"Doesn't the state of Wisconsin have enough inefficient urban sprawl without effectively allowing towns to become cities? I know I speak for many cities ... that are just outside the 'urban ring' and trying to grow in appropriate and well-planned manners," this city leader wrote. "If rural TIFs are allowed, the 'Waukesha Countyization' of counties like Walworth and Jefferson will increase in pace. Rural TIFs are just plain bad public policy."

On the other hand, the Alliance just received a phone call from a mayor who said if creation of a TIF in an adjacent town requires his acquiescence (under the bill draft it does), it's O.K. with him.

"I want this (other) stuff that's in the TIF bill," he said.



# State of Wisconsin • DEPARTMENT OF REVENUE

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**Jim Doyle**  
Governor

SB-305

**Michael L. Morgan**  
Secretary of Revenue

Economic Development, Job Creation, and Housing Committee Hearing, November 6, 2003.

## LRB 3137/1 – Related to Tax Incremental Finance Changes

The department is supportive of many of the provisions in the bill that provide greater flexibility, understanding and accountability of tax incremental finance (TIF) law. In particular, the department supports the following:

- changes to the Joint Review Board representatives designed to improve the knowledge and expertise of this body;
- changes in the timelines and deadlines for many procedural steps required in the creation and amendment of TIF districts (TIDs);
- clarification that requirements and restrictions for creating TIDs also apply to amended TIDs;
- ability to amend TIDs to subtract territory in a TID;
- authority granted to DOR to determine whether a municipality is in substantial compliance with TIF procedures;
- restrictions imposed on annexed land in TIDs and changes required for ER TIDs in the case of annexation; and
- restrictions imposed on TIF expenditures on cash grants to private landowners and developers.

The department recognizes the importance of TIF as a development tool and supports enhanced flexibility where warranted; however, the department is concerned that the bill encourages the use of TIF beyond the original intent of TIF law and possibly beyond what is fiscally prudent for many municipalities. Aspects of the bill will contribute to urban sprawl, higher property taxes and could lead to abuse.

In particular, the department has the following concerns:

- The bill promotes greenfield development. TIF was created, in large part, to enhance the ability of urban areas to address blight by improving the cost competitiveness of inner-city development relative to suburban/rural open-space development. Thus, the restriction of TIF authority to cities and villages was an attempt to level the playing field between urban and greenfield development. By allowing mixed-use development and newly-platted residential development, the bill could undermine the purpose of TIF, and as a result, encourage urban sprawl.
- With the designation of a mixed-use TID, practically all types of development would be allowed in TIDs. While this may provide greater flexibility and diverse development within a TID, it is questionable if many types of mixed-use development allowed under the bill require public subsidy. Current law restricts TIDS to areas where at least 50% is blighted, in need of conservation or rehabilitation or is suitable for industrial use. Allowing for mixed-use development would be a significant departure from existing TIF law.

- The bill repeals the prohibition of newly-platted residential development costs as eligible TIF project costs. Subsidizing newly-platted residential development is not in keeping with the original intent of TIF law, namely to address blight or encourage industrial development. The subsidy of newly-platted residential development could worsen the existing urban/suburban imbalance regarding development costs and would contribute to urban sprawl.
- The bill would allow more territory in TIDs. Expanding territory in TIDs would not only limit the expansion of a municipality's tax base, but may increase its general obligation debt and general operating budget. Territorial limits were originally imposed out of concern that the creation of "super TIDs" could create future fiscal demands on a municipality's general operating budget. Even though the property in the TID pay taxes, much of these taxes are committed to pay for the TID and not for general purposes. Thus, any demand on the general operating budget created by a super-TID would be paid by other property owners in the municipality through higher property taxes. Furthermore, the bond rating of a municipality which has "locked up" a large portion of its potential tax base could suffer since ratings are determined, in part on a municipality's ability to tax in relation to all financial obligations.
- The bill would allow pooling of tax increments between TIDs if the recipient TID has project costs used to create or rehabilitate low-cost housing, or used for environmental remediation, or if at least 50% of the area in the TID is blighted. On the one hand, such allocations may improve the viability of TIDs used to address blight or environmental remediation or to provide low-cost housing. On the other hand, allowing a TID to exist years after it has paid off its project costs runs counter to the principles underlying TIF, i.e., all jurisdictions should contribute to the cost of the project because all will benefit from an expanded tax base once the costs have been paid. Pooling has the potential to delay the return of the tax base to overlying jurisdictions for many years. Lengthening the life of successful and mature TIDs may place demands on the municipality's general operating budget and result in higher property taxes for property outside the TID in the municipality and in overlying taxing jurisdictions. Further, the language of the bill does not specifically require the recipient TID to use the pooled tax increments to address blight, environmental remediation or low-cost housing; nor does the bill define low-cost housing.
- Extension of TID expenditure periods would offer greater flexibility for staged development within a TID, with the potential to save financing costs. However, it is likely that an extended expenditure period would result in more speculative TIF projects and in longer TID life. Currently the average TID is terminated 12.4 years after creation. Extending the life of TIDs may place demands on the municipality's general operating budget and result in higher property taxes for property outside the TID in the municipality and in overlying taxing jurisdictions.
- The bill allows the 52 counties outside a metropolitan statistical area to create a TID in a town if there is approval by the town and contiguous municipalities. While the bill grants TIF authority to counties, the bill would essentially result in the creation of town TIDs. The ability for towns to create TIDs extends well beyond the original intent of TIF legislation, namely to address the development cost differentials between suburban/rural and urban projects.

- The bill goes far beyond the recommendations of Governor Thompson's 2000 Working Group on TIF that represented both public and private interests. The recommendations of this group were reached by consensus and offered a balance between increased flexibility and greater accountability of TIF uses and procedures. The group recognized the problems and potential for abuse under current TIF law. The bill creates even further potential for abuse. Attention to the current problems and abuses of TIF law should be made before any further expansions are considered.

#### Fiscal Effect

- The bill would result in a significant increase in the number of TIDs created and amended each year. The department estimates an increase in workload due to a) 114 additional new or amended TIDs each year, requiring base value determination; b) 50 additional project plan amendments due to additional expenditures or allocations; and c) training and form revisions due to the new reporting and documentation requirements, data collection responsibilities, and determinations of substantial compliance. The bill makes no provision for the significant increase in workload associated with these activities. The department estimates these additional responsibilities would require 3 FTE positions at an annual cost of \$159,400 and one-time costs of \$25,200. Under LRB 3585/2, the department would be authorized to impose a \$1,000 fee for the determination and redetermination of the base value of TIDs. It is estimated that this fee would generate sufficient revenues to cover DOR costs. However, neither the bill nor LRB 3585/2 authorizes sufficient FTEs for the additional responsibilities required under both bills.

Prepared by: Rebecca Boldt  
266-6785

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Attachment



## LRB 3137/1 TAX INCREMENTAL FINANCE PROVISIONS

PROVISIONS	EFFECTIVE DATE	POLICY CONSIDERATIONS
<p><b>1. Allows counties outside of a metropolitan statistical area to create a Tax Incremental District (TID) in a town that is contiguous to a city or village with approval by the town and bordering cities and villages and if there is a cooperative boundary agreement between the town and neighboring municipalities.</b></p> <p>Current Law: No town or county TIDs. Only town and county ER TIDs.</p>	<p>10/01/04</p>	<p>Of the 72 counties, 52 are outside a metropolitan statistical area. Thus, the bill will likely result in a very large increase in the number of newly-created TIDs associated with these counties.</p> <p>Counties such as Adams, Vilas, Bayfield, Florence, Marinette, Menominee, and Oconto have few if any towns that are contiguous to a city or village. These counties would not have TIF authority.</p>
<p><b>2. Allows for a mixed use TID if 50% of the land 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.</b></p> <p>Current Law: 50% of TID must be blighted, in need of rehabilitation or suitable for industrial use</p>	<p>10/1/04</p>	<p>Except for a predominantly residential development project, it is unclear what types of development would <u>not</u> be allowed.</p>
<p><b>3. Allows costs for newly-platted residential development.</b></p> <p>Current law: Project costs may not include expenditures or monetary obligations for newly-platted residential development for TIDs created after September 30, 1995.</p>	<p>Four months after publication.</p>	<p>Subsidizing newly-platted residential development is not in keeping with the original intent of TIF law, namely to address blight or encourage industrial development. The subsidy of newly-platted residential development could worsen the existing urban/suburban imbalance regarding development costs and would contribute to urban sprawl.</p>

PROVISIONS	EFFECTIVE DATE	POLICY CONSIDERATIONS
<p><b>4. Increases the territory limit from 5% to 12%.</b></p> <p>Current Law: A city or village may create a TID only if either 1) 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 value or 2) the equalized value of the proposed TID plus the value increments of all existing TIDs do not exceed 5% of the municipality's total value. The bill eliminates the 7% test and replaces the 5% test with 12%.</p>	10/1/04	<p>Currently there are 167 municipalities that, as of September 2003 exceed both the 7% and 5% limit. Of these municipalities, 93 would be under the 12% limit. The Village of Birnamwood currently has over 62% of its total equalized value in TIDs; it currently exceeds the 5% limit as well (the value increments of all its TID comprise 9.1% of its total equalized value). Under the bill, it would be allowed to create more TIDs.</p>
<p><b>5. Changes to Joint Review Board (JRB):</b></p> <ul style="list-style-type: none"> <li>-Allow standing JRBs</li> <li>-Prescribe representatives to JRB for each taxing jurisdiction to include high-level officials or their designee</li> <li>-Require JRB to make positive assertion that the development would not occur without TIF</li> <li>-Require JRB to notify special districts of any meetings</li> <li>-Allow shared JRB representation in case of union high school districts</li> <li>-Change timeline by which JRB must approve TID</li> </ul>	10/01/04	<p>Similar to recommendation of 2000 Governor's Working Group on TIF.</p>

PROVISIONS	EFFECTIVE DATE	POLICY CONSIDERATIONS
<p><b>6. Expand expenditure period</b> 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.</p> <p>Current Law: TIDs created after 1995 have 7 years to expend.</p>	10/01/04	<p>The provision grants greater flexibility to allow for more staged development with in a TID and also allows a municipality to better tailor a TIF for a specific project. This could reduce financing costs for TIF projects.</p> <p>Extended expenditure period may result in more speculative TID projects (i.e., "build it and they may come") and is likely to extend TID life so as to recover the costs of later expenditures.</p>
<p><b>7. Allows municipalities to amend a TID 4 times</b> during its life to either add or subtract territory.</p> <p>Current Law: TIDs can be amended once during first seven years after creation to add territory.</p>	10/01/04	<p>The provision gives municipalities the flexibility to reduce a TID; it is likely that a municipality would do so in order to meet the territorial limit required to create a new TID.</p>
<p><b>8. Changes the maximum TID life for TIDs:</b></p> <ul style="list-style-type: none"> <li>- 20 years for industrial use or mixed-use, with a 1-5 year extension allowed by joint review board</li> <li>- 27 years for blighted or rehabilitation TIDs</li> </ul> <p>Current Law: Pre-1995 TIDs: maximum 27-year life; Post-1995 TIDs: maximum 23 years to exist.</p>	10/01/04	<p>The bill applies only to TIDs created after October 1, 2004. Thus, there will be multiple time limits depending on creation date and type of TID. This has the potential to create confusion and will require closer monitoring by the department.</p> <p>Recommended by the 2000 Governor's Working Group on TIF.</p>

PROVISIONS	EFFECTIVE DATE	POLICY CONSIDERATIONS
<p>9. <b>Allows pooling of TIF increments from one TID to another</b> so long as the recipient TID either 1) has project costs for the creation or rehabilitation of low-cost housing or environmental remediation; or 2) 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.</p> <p>Current Law: pooling allowed only for TIDs created prior to October 1, 1995.</p>	<p>Four months after publication.</p>	<p>Pooling delays the return of the donor tax base to overlying taxing jurisdictions. While the use of TIF increments from one TID to another for the purposes of low-cost housing may have policy merit, it was not the purpose for which the donor project was originally approved. The approval was based on a timeline for paying off only the donor's costs.</p> <p>No specific requirement that recipient TID use tax increments for blight, environmental remediation or low-cost housing.</p> <p>No definition of low cost-housing.</p>
<p>10. <b>Applies same territorial limits for amended TIDs as for newly-created TIDs. The bill also prohibits DOR from certifying a new or amended TID if the territorial limits are exceeded.</b></p> <p>Current Law: No territorial limit on amended TIDs. DOR cannot deny TIDs exceeding the territorial limits.</p>	<p>Four months after publication.</p>	<p>This language was originally proposed by DOR; however the expansion of the territorial limit to 12% significantly reduces the impact of these provisions.</p> <p>Recommended by the 2000 Governor's Working Group on TIF.</p>

PROVISIONS	EFFECTIVE DATE	POLICY CONSIDERATIONS
<p>11. Allows DOR authority to determine substantial compliance with many TIF procedural requirements.</p>	<p>Four months after publication.</p>	<p>May reduce special purpose legislation granting exceptions to TIF law.  Recommended by the 2000 Governor's Working Group on TIF.</p>
<p>12. Directs DOR to redetermine the TID base value for town-created environmental remediation TIDs in the case of annexation. City/village and town must negotiate on payment of outstanding TIF costs</p>	<p>Four months after publication.</p>	<p>Requested by DOR and the Wisconsin Towns Association.</p>
<p>13. Prohibits inclusion of land annexed after Jan. 1, 2004 unless a) city/village enters into border agreement with town, b) 3 years have elapsed since annexation, or c) city/village pays town for property taxes of annexed land for 5 years</p>	<p>10/01/04</p>	<p>Similar to recommendations of the 2000 Governor's Working Group on TIF.</p>
<p>14. Makes exception to restriction regarding vacant land (that TID include no more than 25% of vacant land) for land that is environmentally contaminated.  Current law: vacant land restriction does not apply to industrial TIDs or to land that is acquired by the local unit of government or for land included within the abandoned Park East or Park West freeway corridors in Milwaukee County.</p>	<p>10/01/04</p>	

PROVISIONS	EFFECTIVE DATE	POLICY CONSIDERATIONS
<p><b>15. Requires municipality to report to DOR on total expenditures, project costs and tax increments of terminated TID. DOR and municipality establish date the report is to be due.</b></p> <p>Current law: No final accounting of TID costs and increments required.</p>	10/01/04	Similar to recommendations of the 2000 Governor's Working Group on TIF.
<p><b>16. Prohibits cash grants as TIF project costs unless grant recipient has signed a developer's agreement with city/village. If there is a grant, public hearing notice on TID plan must include a statement to that effect.</b></p> <p>Current Law: Cash grants are eligible project costs.</p>	10/01/04	Similar to recommendations of the 2000 Governor's Working Group on TIF.