2011 Sel DRAFTING REQUEST

Bill

Received: **10/06/2011**

Received By: **mshovers**

Wanted: **As time permits**

Companion to LRB:

For: **Jeff Fitzgerald (608) 266-2540**

By/Representing: **Bob**

May Contact: **Susan Plakus @ DOR**

Drafter: **mshovers**

Subject: **Local Gov't - tax incr financing**

Addl. Drafters:

Extra Copies: **EVM**

Submit via email: **YES**

Requester's email: **Rep.Fitzgerald@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Authorize multi-jurisdictional tax incremental financing (TIF) districts

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Instructions:

Two or more cities/villages may create; must enter into s. 66.0301 agreement; the cities may agree that one city is in charge, and pretty much makes all the decisions, or makes decisions as agreed to in the s. 66.0301 agreement. All issues/requiremnts related to TIDs, as specified in s. 66.1105, must be in the agreement.

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	mshovers 10/06/2011	jdyer 10/06/2011		_____ _____			S&L
/1			rschluet 10/06/2011	_____ _____	mbarman 10/06/2011	mbarman 10/06/2011	

FE Sent For:

at intro 10-11-11

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Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	mshovers	10/6 jld	10/6			JACKET FOR ASSEMBLY	

FE Sent For:

<END>

State of Wisconsin
2011 – 2012 LEGISLATURE

LRB–~~1856~~/2 -3111/1
MES:jld:rs

SPEC SESS

Keep

~~2011 ASSEMBLY BILL 179~~

TODAY

~~June 13, 2011 – Introduced by Representatives WEININGER, JACQUE, KLENKE, NYGREN, STEINEKE and VAN ROY, cosponsored by Senator COWLES. Referred to Committee on Ways and Means.~~

AN ACT ***to amend*** 66.1105 (4) (gm) 3., 66.1105 (4) (gm) 4. c., 66.1105 (4m) (a), 66.1105 (4m) (ae), 66.1105 (4m) (b) 2., 66.1105 (6) (a) (intro.) and 66.1105 (10) (a); and ***to create*** 66.1105 (4m) (as), 66.1105 (6) (ag), 66.1105 (10) (d) and 66.1105 (18) of the statutes; **relating to:** authorizing the creation of a multijurisdictional tax incremental financing district.

Analysis by the Legislative Reference Bureau

Under the current tax incremental financing program, a city or village may create a tax incremental district (TID) in part of its territory to foster development if at least 50 percent of the area to be included in the TID is blighted, in need of rehabilitation or conservation, suitable for industrial sites, or suitable for mixed–use development. Currently, towns and counties also have a limited ability to create a TID under certain circumstances. Before a city or village may create a TID, several steps and plans are required. These steps and plans include public hearings on the proposed TID within specified time frames, preparation and adoption by the local planning commission of a proposed project plan for the TID, approval of the proposed project plan by the common council or village board, approval of the city's or village's proposed TID by a joint review board that consists of members who represent the overlying taxation districts, and adoption of a resolution by the common council or village board that creates the TID as of a date provided in the resolution.

Also under current law, once a TID has been created, the Department of Revenue (DOR) calculates the "tax incremental base" value of the TID, which is the

equalized value of all taxable property within the TID at the time of its creation. If the development in the TID increases the value of the property in the TID above the base value, a "value increment" is created. That portion of taxes collected on the value increment in excess of the base value is called a "tax increment." The tax increment is placed in a special fund that may be used only to pay back the project costs of the TID. The costs of a TID, which are initially incurred by the creating city or village, include public works such as sewers, streets, and lighting systems; financing costs; site preparation costs; and professional service costs. DOR authorizes the allocation of the tax increments until the TID terminates or, generally, 20 years, 23 years, or 27 years after the TID is created, depending on the type of TID and the year in which it was created. Under certain circumstances, the life of the TID and the allocation period may be extended.

Under current law, a planning commission may adopt an amendment to a project plan, which requires the approval of the common council or village board and the same findings that current law requires for the creation of a new TID. Current law also authorizes the amendment of a project plan up to four times during a TID's existence to change the district's boundaries by adding or subtracting territory.

Currently, before a TID may be created or its project plan amended, the city or village must adopt a resolution containing a finding that the equalized value of taxable property of the TID plus the value increment of all existing TIDs does not exceed 12 percent of the total equalized value of taxable property in the city or village (the "12 percent test"), subject to one exception. Under the exception, a city or village may simultaneously create a new TID and subtract territory from an existing TID without adopting a resolution containing the 12 percent test if the city or village demonstrates to DOR that the value of the territory that is subtracted at least equals the amount that DOR believes is necessary to ensure that, when the new TID is created, the 12 percent test is met. The city or village must also certify to DOR that no other district created under this exception currently exists in the city or village.

Under certain limited circumstances, a TID that has paid off all of its project costs but has not reached its mandatory termination date may become a donor TID, continue to receive tax increments, and forward those increments to a recipient TID created by the same city or village.

This bill authorizes any number of cities and villages (municipalities) to jointly create a multijurisdictional TID (MJTID). Towns may not participate in a MJTID. To create a MJTID, municipalities must enter into an intergovernmental cooperation agreement to create the MJTID. The agreement must specify a number of things, including the proposed membership of the joint review board; a binding procedure to resolve disputes; a procedure to dissolve the MJTID before it would otherwise be required to terminate; a description of the responsibilities of each municipality's clerk, treasurer, and assessor; specification of a lead municipality for purposes of completing and submitting required documents; and procedures that will be followed to amend the project plan or boundaries of the MJTID. A copy of the agreement must be sent to DOR.

With regard to an MJTID, the district must be contiguous, its borders must contain territory in all municipalities that are a party to the agreement, and at least

one parcel in each municipality must touch at least one parcel in at least one of the other municipalities. The agreement must specify that the MJTID's application to DOR will be submitted to DOR as one complete application and that the MJTID will terminate at one time as a single entity.

Generally under the bill, the current law provisions that apply to all TIDs apply to MJTIDs. There are, however, a number of provisions that apply only to MJTIDs, including the following:

1. A MJTID may not become a donor TID or receive tax increments from a donor TID.

2. The 12 percent test applies in the aggregate to the municipalities that participate in a MJTID, but an individual participating municipality may exceed the 12 percent limit for the part of the MJTID that is in that municipality, provided all of the overlaying taxation districts agree to that municipality exceeding the 12 percent limit.

3. DOR may allocate positive tax increments to each participating municipality only to the extent that the municipality's component of the MJTID has generated a positive value increment.

4. Each participating municipality may appoint one public member to the joint review board.

5. Generally, each school district, union high school district, elementary school district, technical college district, and county that may levy taxes on the property within the MJTID may select a representative to the joint review board unless the unit of government's governing body opts out of this authority.

6. Besides the generally required joint review board majority vote to approve the creation of a TID or the amendment of its project plan, all representatives of a participating municipality must be in the majority that votes for such approvals for a MJTID.

7. A MJTID may not incur project costs for an area that is outside the boundaries of the MJTID.

This bill grants DOR the authority to require each participating municipality to submit any forms prescribed by DOR without regard to whether a particular municipality is the lead municipality or what the agreement specifies as the responsibility of a particular municipality. DOR is also authorized to resolve any ambiguity regarding the creation, amendment, administration, and termination of a MJTID and may use the agreement as a guide to resolving the ambiguity.

Generally, DOR may impose only one $1,000 fee, as authorized under current law, for determining or redetermining the tax incremental base of a MJTID no matter how many participating municipalities are part of the district, and DOR may charge only the lead municipality the $150 annual administrative fee.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 66.1105 (4) (gm) 3. of the statutes is amended to read:

2 66.1105 **(4)** (gm) 3. Assigns a name to the district for identification purposes.
3 The first district created shall be known as "Tax Incremental District Number One,
4 City of ...." and the first district created under sub. (18) shall be known as
5 "Multijurisdictional District Number One, City of ...". Each subsequently created
6 district shall be assigned the next consecutive number.

7 **SECTION 2.** 66.1105 (4) (gm) 4. c. of the statutes is amended to read:

8 66.1105 **(4)** (gm) 4. c. Except as provided in subs. (10) (c) ~~and~~, (17), and (18) (c)
9 3., the equalized value of taxable property of the district plus the value increment of
10 all existing districts does not exceed 12 percent of the total equalized value of taxable
11 property within the city. In determining the equalized value of taxable property
12 under this subd. 4. c., the department of revenue shall base its calculations on the
13 most recent equalized value of taxable property of the district that is reported under
14 s. 70.57 (1m) before the date on which the resolution under this paragraph is
15 adopted. If the department of revenue determines that a local legislative body
16 exceeds the 12 percent limit described in this subd. 4. c., the department shall notify
17 the city of its noncompliance, in writing, not later than December 31 of the year in
18 which the department receives the completed application or amendment forms
19 described in sub. (5) (b).

20 **SECTION 3.** 66.1105 (4m) (a) of the statutes is amended to read:

21 66.1105 **(4m)** (a) Any city that seeks to create a tax incremental district, amend
22 a project plan, or incur project costs as described in sub. (2) (f) 1. n. for an area that
23 is outside of a district's boundaries, shall convene a temporary joint review board
24 under this paragraph, or a standing joint review board under sub. (3) (g), to review
25 the proposal. Except as provided in par. (am) and (as), and subject to par. (ae), the

1 board shall consist of one representative chosen by the school district that has power
2 to levy taxes on the property within the tax incremental district, one representative
3 chosen by the technical college district that has power to levy taxes on the property
4 within the tax incremental district, one representative chosen by the county that has
5 power to levy taxes on the property within the tax incremental district, one
6 representative chosen by the city, and one public member. If more than one school
7 district, more than one union high school district, more than one elementary school
8 district, more than one technical college district or more than one county has the
9 power to levy taxes on the property within the tax incremental district, the unit in
10 which is located property of the tax incremental district that has the greatest value
11 shall choose that representative to the board. The public member and the board's
12 chairperson shall be selected by a majority of the other board members before the
13 public hearing under sub. (4) (a) or (h) 1. is held. All board members shall be
14 appointed and the first board meeting held within 14 days after the notice is
15 published under sub. (4) (a) or (h) 1. Additional meetings of the board shall be held
16 upon the call of any member. The city that seeks to create the tax incremental
17 district, amend its project plan, or make or incur an expenditure as described in sub.
18 (2) (f) 1. n. for an area that is outside of a district's boundaries shall provide
19 administrative support for the board. By majority vote, the board may disband
20 following approval or rejection of the proposal, unless the board is a standing board
21 that is created by the city under sub. (3) (g).

22 **SECTION 4.** 66.1105 (4m) (ae) of the statutes is amended to read:

23 66.1105 **(4m)** (ae) 1. A representative chosen by a school district under par. (a)
24 ~~or~~, (am), or (as) shall be the president of the school board, or his or her designee. If
25 the school board president appoints a designee, he or she shall give preference to the

1 school district's finance director or another person with knowledge of local
2 government finances.

3 2. The representative chosen by the county under par. (a) or (as) shall be the
4 county executive or, if the county does not have a county executive, the chairperson
5 of the county board, or the executive's or chairperson's designee. If the county
6 executive or county board chairperson appoints a designee, he or she shall give
7 preference to the county treasurer or another person with knowledge of local
8 government finances.

9 3. The representative chosen by the city under par. (a) or (as) shall be the mayor,
10 or city manager, or his or her designee. If the mayor or city manager appoints a
11 designee, he or she shall give preference to the person in charge of administering the
12 city's economic development programs, the city treasurer, or another person with
13 knowledge of local government finances.

14 4. The representative chosen by the technical college district under par. (a) or
15 (as) shall be the district's director or his or her designee. If the technical college
16 district's director appoints a designee, he or she shall give preference to the district's
17 chief financial officer or another person with knowledge of local government
18 finances.

19 **SECTION 5.** 66.1105 (4m) (as) of the statutes is created to read:

20 66.1105 **(4m)** (as) With regard to a multijurisdictional tax incremental district
21 created under this section, all of the following apply:

22 1. Each participating city may appoint one public member to the joint review
23 board under par. (a).

24 2. If more than one school district, more than one union high school district,
25 more than one elementary school district, 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, each such jurisdiction may select a representative to the joint review board under par. (a), or 2 representatives as provided under par. (am), unless the jurisdiction's governing body opts out of this authority by adopting a resolution to that effect.

SECTION 6. 66.1105 (4m) (b) 2. of the statutes is amended to read:

66.1105 **(4m)** (b) 2. Except as provided in subd. 2m., no tax incremental district may be created and no project plan may be amended unless the board approves the resolution adopted under sub. (4) (gm) or (h) 1. by a majority vote within 30 days after receiving the resolution. <u>With regard to a multijurisdictional tax incremental district created under this section, each public member of a participating city must be part of the majority that votes for approval of the resolution or the district may not be created.</u> The board may not approve the resolution under this subdivision unless the board's approval contains a positive assertion that, in its judgment, the development described in the documents the board has reviewed under subd. 1. would not occur without the creation of a tax incremental district. The board may not approve the resolution under this subdivision unless the board finds that, with regard to a tax incremental district that is proposed to be created by a city under sub. (17) (a), such a district would be the only existing district created under that subsection by that city.

SECTION 7. 66.1105 (6) (a) (intro.) of the statutes is amended to read:

66.1105 **(6)** (a) (intro.) If the joint review board approves the creation of the tax incremental district under sub. (4m), and subject to ~~par.~~ <u>pars.</u> (ae) <u>and (ag)</u>, positive tax increments with respect to a tax incremental district are allocated to the city which created the district for each year commencing after the date when a project

plan is adopted under sub. (4) (g). The department of revenue may not authorize allocation of tax increments until it determines from timely evidence submitted by the city that each of the procedures and documents required under sub. (4) (d) to (f) has been completed and all related notices given in a timely manner. The department of revenue may authorize allocation of tax increments for any tax incremental district only if the city clerk and assessor annually submit to the department all required information on or before the 2nd Monday in June. The facts supporting any document adopted or action taken to comply with sub. (4) (d) to (f) are not subject to review by the department of revenue under this paragraph. After the allocation of tax increments is authorized, the department of revenue shall annually authorize allocation of the tax increment to the city that created the district until the soonest of the following events:

SECTION 8. 66.1105 (6) (ag) of the statutes is created to read:

66.1105 **(6)** (ag) With regard to a multijurisdictional tax incremental district, the department of revenue may allocate positive tax increments to each participating city only to the extent that a city's component of the district has generated a positive value increment.

SECTION 9. 66.1105 (10) (a) of the statutes is amended to read:

66.1105 **(10)** (a) Subject to any agreement with bondholders, <u>and except as provided in par. (d),</u> a tax incremental district may be created, the boundaries of which overlap one or more existing districts, except that districts created as of the same date may not have overlapping boundaries.

SECTION 10. 66.1105 (10) (d) of the statutes is created to read:

1 66.1105 **(10)** (d) A proposed tax incremental district, the boundaries of which
2 would overlap an existing multijurisdictional tax incremental district, may be
3 created only if all of the following apply:
4 1. The creation is approved by a resolution adopted by the governing body of
5 each of the multijurisdictional district's participating cities.
6 2. The creation is approved by a resolution adopted by the multijurisdictional
7 district's joint review board.
8 **SECTION 11.** 66.1105 (18) of the statutes is created to read:
9 66.1105 **(18)** MULTIJURISDICTIONAL DISTRICTS. (a) *Requirements.* Two or more
10 cities may enter into an intergovernmental cooperation agreement under s. 66.0301
11 to jointly create a multijurisdictional tax incremental district under this section if all
12 of the following apply:
13 1. The district's borders contain territory in all of the cities that are a party to
14 the agreement.
15 2. The district is contiguous.
16 3. At least one parcel in each participating city touches at least one parcel in
17 at least one of the other cities.
18 (b) *Contents of an agreement.* The agreement described under par. (a) shall
19 contain provisions that specify at least all of the following with regard to the proposed
20 multijurisdictional tax incremental district:
21 1. A detailed description of how all of the participating cities will be able to
22 exercise the powers authorized under sub. (3) and meet the requirements under sub.
23 (4).

1 2. A detailed description of how determinations will be made that relate to
2 incurring debt, expending funds for project costs, and distributing positive tax
3 increments allocated by the department of revenue.

4 3. The extent to which one of the cities will be authorized by all of the other
5 participating cities to act on behalf of all of the participating cities on some or all
6 matters relating to the district.

7 4. A binding dispute resolution procedure to be used by the cities to resolve in
8 a timely fashion any disputes between the participating cities related to the
9 agreement or to the district, except that this procedure does not apply to any issue
10 resolved by the department of revenue under par. (d) 2. The dispute resolution
11 procedure shall include a dissolution provision that allows all of the participating
12 cities to agree to jointly dissolve the district at any time before a dispute is settled
13 by the binding dispute resolution procedure and before the district would otherwise
14 terminate under sub. (7). The dissolution provision shall describe in detail how and
15 under what circumstances the district may be dissolved before it would otherwise
16 terminate under sub. (7) and shall specify how the district's assets, liabilities, and
17 any other outstanding obligations will be distributed among the participating cities.

18 5. A detailed description of the proposed membership of the joint review board.

19 6. A detailed description of the responsibilities of each city's planning
20 commission, the membership and authority of the planning commission for the
21 district, and the operating procedures to be followed by the district's planning
22 commission.

23 7. A detailed description of the responsibilities of each city's clerk, treasurer,
24 assessor, and any other officer or official to carry out the requirements of this section,

1 and a detailed description of which clerk, treasurer, assessor, officer, or official will
2 be responsible for each task specified in this section.
3 8. Which city will be the lead city for purposes of completing any documents or
4 tasks that this section or the department of revenue require to be completed, which
5 city will be responsible for submitting the district's creation documents, and which
6 city will be responsible for submitting the district's project plan amendment
7 documents.
8 9. That all of the participating cities agree that the district's application will
9 be submitted in its entirety as one complete application by the lead city, as
10 determined by the department of revenue.
11 10. Consistent with the requirements of sub. (7), a statement that the entire
12 district will terminate at one time as a single entity and that the lead city shall
13 submit to the department of revenue all necessary notices and reports relating to the
14 termination of the district.
15 11. A detailed description of the procedures the participating cities will follow
16 to determine all of the following:
17 a. Whether the district's life may be extended under sub. (6) (g) 1. or (7) (am)
18 2. or 3.
19 b. How the project plan or boundaries of the district may be amended under
20 sub. (4) (h) 1. or 2.
21 12. A description of how any annexation costs incurred by a participating city
22 under s. 66.0219 (10) (a) 1. will be shared among all of the participating cities if the
23 annexed territory is part of the district.

1 (c) *Limitations.* 1. Notwithstanding the provisions under sub. (6) (d), (dm), (e),
2 or (f), a multijurisdictional tax incremental district may not become a donor district,
3 or receive tax increments from a donor district.

4 2. Notwithstanding the provisions under sub. (2) (f) 1. k., m., and n., a
5 multijurisdictional tax incremental district may not incur project costs for any area
6 that is outside of the district's boundaries.

7 3. The 12 percent limit findings requirement under sub. (4) (gm) 4. c. apply on
8 an aggregate basis to all cities that are part of a multijurisdictional district except,
9 for one or more of the participating cities in the multijurisdictional district, the part
10 of the district that is in an individual city may cause that city to exceed the 12 percent
11 limit if the governing bodies of all the taxation districts that overlay that city adopt
12 a resolution approving the creation of the district even though that city exceeds the
13 12 percent limit.

14 4. No town may be part of a multijurisdictional tax incremental district.

15 (d) *Role of the department of revenue.* 1. The department of revenue may
16 require each participating city to submit any forms prescribed by the department
17 without regard to whether a particular city is the lead city as described under par.
18 (b) 8. and without regard to the responsibility of each participating city as specified
19 in the agreement described under par. (a).

20 2. Consistent with the provisions of this section, the department of revenue
21 may resolve any ambiguity regarding the creation, amendment, administration, and
22 termination of a multijurisdictional tax incremental district. The department may
23 use the agreement described under par. (a) as a guide to the resolution of any such
24 ambiguity.

1 (e) *Miscellaneous provisions.* 1. A copy of the agreement described under par.
2 (a), as signed by all of the participating cities, shall be forwarded to the department
3 of revenue by the lead city as described under par. (b) 8.

4 2. Without regard to the number of participating cities in the
5 multijurisdictional tax incremental district, the department of revenue may impose
6 only one fee under sub. (5) (a) for each action taken by the department under that
7 paragraph for such a district. Unless the agreement under par. (a) provides
8 otherwise, the lead city, as described under par. (b) 8., is responsible for any fees
9 imposed by the department under sub. (5) (a).

10 3. Without regard to the number of participating cities in the
11 multijurisdictional tax incremental district, the department of revenue may impose
12 only one annual administrative fee described in sub. (6) (ae) in the amount specified
13 in that paragraph. Unless the agreement under par. (a) provides otherwise, the lead
14 city, as described under par. (b) 8., is responsible for the annual fee and shall submit
15 it to the department.

16 **SECTION 12. Effective date.**

17 (1) This act takes effect on October 1, 2012.

18 **(END)**