

## 2011 DRAFTING REQUEST

### Bill

Received: 09/28/2011

Received By: **emueller**

Wanted: As time permits

Companion to LRB:

For: **Alberta Darling (608) 266-5830**

By/Representing: **James Emerson**

May Contact:

Drafter: **emueller**

Subject: **Local Gov't - misc**

Addl. Drafters:

Extra Copies: **MES**

Submit via email: **YES**

Requester's email: **Sen.Darling@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Levy limit exception to allow Village of Shorewood mitigation of tax incremental district valuation error.

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### Instructions:

See attached

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### 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>
/P1	emueller 09/29/2011	mduchek 09/29/2011	rschluet 09/29/2011	_____	sbasford 09/29/2011		
/P2	emueller 10/03/2011	mduchek 10/03/2011	phenry 10/03/2011	_____	lparisi 10/03/2011		
/1	emueller 10/05/2011	mduchek 10/05/2011	rschluet 10/05/2011	_____	lparisi 10/05/2011	lparisi 10/05/2011	

yes

FE Sent For:

~~None~~

<END>

10-13-2011  
("1")

see  
attached

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Pre Topic:

No specific pre topic given

Topic:

Levy limit exception to allow Ville

Instructions:

See attached

Drafting History:

*Jacket  
For Senate  
Please*

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/P2	emueller 10/03/2011	mduchek 10/03/2011	phenry 10/03/2011	_____	lparisi 10/03/2011		

/1 EVM 10/5/11  
FE Sent For:

*11 MD  
10/5/11  
10/5/11*

<END>

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/?							
/P1	emueller 09/29/2011	mduchek 09/29/2011	rschluet 09/29/2011	<i>PTL</i>	sbasford 09/29/2011		
/P2	<i>EVM</i> 10/3/11		<i>10/3</i> <i>ph</i>	<i>PTL</i>			

FE Sent For:

<END>

**2011 DRAFTING REQUEST**

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**Topic:**

Levy limit exception to allow Village of Shorewood mitigation of tax incremental district valuation error.

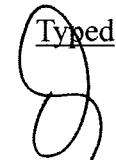

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**Instructions:**

See attached

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**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>
1?	emueller	PI		_____			
1/1	EVM 9/29/11	9/29/11		_____			

FE Sent For:

<END>

**Mueller, Eric**

---

**From:** Shovers, Marc  
**Sent:** Tuesday, September 27, 2011 2:22 PM  
**To:** Mueller, Eric  
**Subject:** FW: Message from "313EAST"

**Attachments:** 20110923135844373.pdf



20110923135844373.pdf (648 KB)...

-----Original Message-----

From: Emerson, James  
Sent: Friday, September 23, 2011 1:55 PM  
To: Shovers, Marc  
Subject: FW: Message from "313EAST"

Marc:

Here's what the Village of Shorewood has put together. They are looking to do option two. The language they are looking to use is at the top of page 5 (their label) or page 3 (of what I sent). Never mind the fourth page of this attachment. I just accidentally scanned page 1 twice.

I'll send the DOR response shortly.

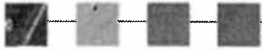
Thanks,  
Jim Emerson  
Senator Darling's Office  
608-266-5830

-----Original Message-----

From: networkscanning@legis.wisconsin.gov [mailto:networkscanning@legis.wisconsin.gov]  
Sent: Friday, September 23, 2011 1:59 PM  
To: Emerson, James  
Subject: Message from "313EAST"

This E-mail was sent from "313EAST" (MP 6001/LD360).

Scan Date: 09.23.2011 13:58:44 (-0500)  
Queries to: networkscanning@legis.wisconsin.gov



September 18, 2011

To: Chris Swartz, Village Manager  
Village of Shorewood

From: Michael C. Harrigan, Chairman, Ehlers & Associates  
Todd Taves, Executive Vice President, Ehlers & Associates  
Dawn Gunderson, Vice President, Ehlers & Associates

Re: **TID No. 1 Valuation Error/Impact on Village Tax Rate**

**SUMMARY & POSSIBLE SOLUTIONS:**

There has been an Error by the Village's Assessor in reporting the 1/1/2011 TID # 1 Increment Valuation which, unless resolved, will result in an over collection of TID revenues by over \$2,000,000 and an increase in the estimated tax rate for all residents of \$1.46 / \$1,000 of Equalized Valuation in 2012. This is an increase of approximately \$511.00 to the owner of a home worth \$350,000 solely attributable to this error and does not include any other increases that would otherwise occur because of increased costs of debt or operations for any of the taxing jurisdictions.

We offer the following options that could be pursued to eliminate or mitigate this problem:

Option 1

- Seek special legislation requiring DOR to recertify the correct value of the TID as of 1/1/2011.

Option 2

- Village could reduce its tax levy by the amount needed to return the overall levy and tax rate to approximately what it would have been but for the error.
- The source of funds used to reduce the levy would be Village cash on hand, or borrowed proceeds.
- Special legislation would be required to:
  - Allow the Village to add back to its 2012 levy the amount it reduced its 2011 levy by for purposes of mitigating the impact of the error.
  - If the source of funds used is cash on hand, allow the Village to exempt from its levy limit in 2012 and 2013 amounts needed to recover the amount of the advance.
  - If the Village were to borrow the funds, we do not believe levy limits poses a constraint due to the debt service exemptions.

[www.ehlers-inc.com](http://www.ehlers-inc.com)



Wisconsin  
Offices also in Illinois and Minnesota

phone 262-785-1520  
fax 262-785-1810  
toll free 800-717-9742

375 Bishops Way, Suite 225  
Brookfield, WI 53005-6202

#### Option 3

- In lieu of using the certified value of the TID when completing the tax increment calculation worksheet for the next three years, a substitute number would be used that reflects the increment value of the TID without the 70.57 correction. This number, to be determined by the DOR, would result in an accurate collection of tax increment in all three years.
- Other than with respect to the tax increment calculation worksheet, the 70.57 correction would otherwise still be implemented.
- We are unsure if this option would require special legislation to implement – is the method by which the tax increment levy is calculated statutory or a matter of rule?

#### Option 4

- Similar to Option 2, the Village would reduce its tax levy, but would use the over collected TID levy dollars as the source of funds to supplement the Village levy.
- Certify a 1/1/2012 TID increment that reflects the actual value of the TID on that date (no 70.57 correction made).
- Certify a 1/1/2012 TID increment that reflects the actual value of the TID on that date (no 70.57 correction made)
- Special legislation would be required to:
  - Direct that the DOR not make the 70.57 correction.
  - We are assuming this special legislation would be needed based on our understanding that the DOR is *required* to make the 70.57 correction.

#### Option 5

- Certify a levy that includes the full amount resulting from the error.
- Provide a tax rebate either via the statement of taxes, or on individual tax bills, to net out the amount of the over collection resulting from the error.

The same special legislation would be required as in Option 4

## BACKGROUND

Each year on August 15<sup>th</sup>, the Wisconsin Department of Revenue (DOR) releases certified equalized values for all municipalities, to include separate valuations for each active Tax Incremental Finance District (TID). In reviewing the Village's 2011 valuations, we noted an unusual increase in the value of TID No. 1. In subsequent discussions with you, your Finance Director, and the DOR, it was determined that the increment value of the property in that TID was incorrectly certified by your Assessor. This had the effect of overstating the District's increment value by \$69,699,925, and understating the Village's "TID OUT" value by a corresponding amount.

Based upon our conversations with the DOR's staff, once equalized values are certified by the DOR, they cannot be changed for that taxation year. Rather, the DOR will make corrections



over the next two valuation cycles to compensate for the error. At the Village's request, we have prepared a spreadsheet model to project the impact that the TID overvaluation and subsequent corrections will have on the Village's 2011, 2012 and 2013 tax levies. **Certain information needed to make the calculations is presently unavailable; therefore the following assumptions have been made:**

- *Village Assessed Value.* The Village's tax rate for the 2011 levy will be determined based on assessed values as of January 1, 2011. The "Statement of Assessment" which is generated by the DOR and certifies these values will not be received until November 15<sup>th</sup>. For projection purposes only, we are assuming that the Village's assessed value for 2011 will be the same as it was for 2010 (available preliminary data suggests that the Village's assessed value will likely not change significantly from 2010).
- *Tax Levy Amounts.* Milwaukee County, Milwaukee Area Technical College, the Shorewood School District, the Whitefish Bay School District and the State of Wisconsin must all provide to the Village their apportioned levies based on their 2012 budget needs. The Village must also determine the levy amount it will require for its 2012 budget. These levy amounts must be certified not later than November 15<sup>th</sup>, but may begin to become available in late-October as the various jurisdictions complete their budget processes. For projection purposes, we are currently assuming that each jurisdiction's (other than the Village's) apportioned levy will increase by 1% from its 2010 actual levy amount. For the Village we are using a number previously supplied as a preliminary estimate by the Finance Director.

## **PRE & POST ERROR CALCULATIONS**

Noting the foregoing limitations as to the information currently available, the projection model indicates that the following would be the effects based on current assumptions (see also **Exhibit 1**, which projects the Village's tax rate as if no valuation error had occurred, and **Exhibit 2**, which models the rate with the error taken into consideration):

1. **TID No. 1 Tax Increment Collections.** Due to the overstatement of TID No. 1's value, the district will collect \$3,398,431 as part of the 2011 levy, when it should only have collected \$1,217,667. In the following two levy years (2012 and 2013), the DOR will recapture the \$69,699,925 in overstated increment value. This will result in no tax increment collections for TID No. 1 in 2012 and only \$438,776 2013, despite the fact that the TID would have collected \$1,229,884 in 2012 and \$1,242,143 in 2013 had there been no error. So for the three year period of 2011 through 2013, total TID No. 1 collections would have been \$3,689,655 on a projected basis. However, since the TID is projected to collect \$3,832,207 as part of the 2011 and 2013 levy, a total of \$145,552 will be levied that the TID was not entitled to collect.
2. **2011 Tax Levy.** Based on our calculations, the 2011 TIF levy would increase from the amount that would have been required for 2011 levy had there been no error of \$1,217,667 to \$3,398,431 (this is the levy for both of the Village's active TIDs although TID 3 currently has no increment value). This is an increase of \$2,180,763, which is attributable to the TID valuation error. Since this additional amount must still be levied by the Village, it will

increase the tax rate in 2011. Our projection model indicates that the tax rate would increase 5.71% from the tax rate that would otherwise have been required of \$25.66 to \$27.13.

One important factor our analysis cannot quantify at this time is the impact the 5.92% decrease in the Village's TID OUT equalized value will have in determination of its share of the levies of Milwaukee County, the Shorewood School District, the Whitefish Bay School District and Milwaukee Area Technical College. Most of the decrease in the TID OUT value is due to the TID No. 1 valuation error (on a "TID IN" basis, the Village's value only dropped by 1.28%). Since levy apportionment is based on TID OUT value, the Village's share of the 2011 apportioned levies will be smaller on a relative basis as compared to other municipalities and towns underlying these taxing jurisdictions. This may mitigate some of the impact of the TID valuation error. We will be unable to fully understand how the reduced TID IN value will impact the Village until we receive the apportioned levy amounts.

## **MODELING OPTION 2 SOLUTION**

As discussed in the summary section above under the 2<sup>nd</sup> option, the Village could consider applying fund balances or borrow funds to reduce the Village's tax levy, and then use the tax increment over-collection to replenish the fund balance or repay the loans. Artificially lowering the tax levy in this fashion would also correspondingly lower the TIF levy and reduce the tax rate. For purposes of illustration only, in **Exhibit 3** we model the impact of reducing the Village tax levy by \$2,010,000. This would result in a tax rate of \$25.66 instead of \$27.13. The TID No. 1 increment would drop from \$3,398,431 to \$3,226,002. This amount would be left in the TID No. 1 fund (representing the increment it would have collected in 2011 through 2013) while \$1,230,000 would be repaid from a debt levy in 2012 and \$780,000 in 2013 thus restoring the \$2,010,000 advanced or borrowed to cover the tax levy reduction in 2011. This would have the effect of making the TID whole (based on what its current increment value should have been), while reducing the tax rate as low as possible.

We would note that our calculation does not address any additional TID revenues that the district would receive as a result of new value established within the TID during the 2011 and 2012 construction seasons.

## **RECOMMENDED STATUTORY CHANGES FOR OPTION 2**

Under Option 2 the Village would need to reduce its 2011 Village levy in an amount necessary to compensate for the impact of the over-valuation of Tax Incremental District No. 1. If it does so, the Village's allowable levy will be permanently reduced by the same amount it reduces its levy by. This is a result of Wisconsin Statute 66.0602 (Levy Limit Law). Special legislation amending this Statute will be required to allow the Village to reduce its levy without incurring the permanent reduction in levy capacity going forward.

One way to achieve this would be to include the following as an additional exception as part of Wisconsin Statute 66.0602 (3) EXCEPTIONS:

***(k) 1. Subject to the limits in this section, if the Village of Shorewood reduces its otherwise required 2011 village levy to compensate for an error in the valuation of Tax Incremental District No. 1, the Village's limit under this section beginning in 2012 is increased by the amount of the reduction, as determined by the department of revenue.***

Since reduction of the Village's levy will result in tax collections smaller than needed to fund its 2012 budget, it will need to supplement that budget with funds from another source. One option is for the Village to apply unreserved funds from its General Fund and then recover those amounts through an additional levy in 2012 and 2013. In these two years, there would be no tax increment levy for Tax Incremental District No. 1, therefore the amounts can be levied without adding additional tax burden. A second special exception will be needed to allow this. The following is suggested language, also to be included in Wisconsin Statute 66.0602 (3) EXCEPTIONS:

***(k) 2. If the Village of Shorewood reduces its 2011 village levy under 1. by applying funds from its General Fund, the Village's limit under this section for 2012 and 2013 is increased by the amount of the General Fund amount applied, as determined by the department of revenue.***

***(k) 3. The total amount levied by the Village of Shorewood in 2012 and 2013 under 2. may not exceed the total of the funds applied to reduce the 2011 Village levy.***

**In lieu of using unreserved funds to reduce its 2011 levy, the Village could borrow those funds, and raise an additional levy in 2012 and 2013 to repay the debt. The Village could exempt from its limit the amounts levied for this purpose under the existing provisions of the Levy Limit Law (specifically, Wisconsin Statute 66.0602 (3) (d) 2..**

While we drafted this as special legislation specific to Shorewood, we think that there would be merit in having this be a general provision if your legislators and the DOR saw merit in that.

Finally, at the Village's request we have contacted the Department of Revenue in an attempt to verify our methodology and to seek their input on our suggested options listed above. Todd Taves of our staff has communicated these options in an email on 9/16/11. In a letter of the same date, Scott Shields, Director of the Bureau of Equalization, has concurred with the fundamentals of our methodology and has indicated the Department's view that the second option is the best of those proposed. A copy of their letter is attached as **Exhibit 4** for your reference. It is noted that they are not able to tie to our numbers as they still are waiting for the assessors amended final report. The numbers will also vary depending upon final levy certifications from the taxing jurisdictions.

We will continue to work with you on this issue and will update our projection model once confirmed data becomes available. At that time, we will have a clearer understanding of the valuation error's impacts, and can assist in modeling a fund balance advance if the Village Board wishes to consider that option.



D Note  
State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-3019/P1  
EVM:.....  
med

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

(RMR)

In 9/29/11

TODM  
9/29

gen

1 **AN ACT**...; relating to: exception to local levy limits for the village of Shorewood.

***Analysis by the Legislative Reference Bureau***

Generally under current law, and subject to a number of exceptions, a city, village, town, or county (political subdivision) may not increase its levy by a percentage that exceeds its "valuation factor," which is defined as the greater of either zero percent or the percentage change in the political subdivision's equalized value due to new construction, less improvements removed. The base amount of a political subdivision's levy, on which the levy limit is imposed, is the actual levy for the immediately preceding year.

Under this bill, the levy limits applicable to the village of Shorewood are increased by: 1) for 2012, the amount by which the village reduces its levy from the amount it would have levied in 2011 if not for an error in the valuation of the village's Tax Incremental District Number 1 to compensate for that error, and 2) for 2012 and 2013, a combined amount equal to the amount of funds applied from the village's general fund in 2011 to replace funds that would have been levied if not for the error in valuation. The actual levy limit increase amounts are determined by the Department of Revenue.

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

2 **SECTION 1.** 66.0602 (3) (k) of the statutes is created to read:



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3019/P1dn

EVM:j.....

Date

med

ATTN: Sen. Alberta Darling

Please review the attached draft carefully to ensure that it is consistent with your intent. The following are several issues you may wish to consider in your review of this draft.

1. I am not entirely sure what the reference in s. 66.0602 (3) (k) 1. of the provided language to "otherwise required 2011 village levy" means. In lieu of this language, I have provided language that I believe, albeit also somewhat imprecisely, explains the baseline amount being reduced. The language remains rather vague and can likely be used to support a variety of amounts. Is there a way to provide a more specific baseline? Does the authority granted the Department of Revenue adequately mitigate the potential issues of an imprecise baseline? Please let me know if ~~would like any~~ <sup>you</sup> changes.
2. I have reworded 66.0602 (3) (k) 2., as created by this draft, fairly significantly to clarify the references. Please review the language to ensure it meets your intent.
3. It is not clear whether under s. 66.0602 (3) (k) 2., as created by this draft, the Department of Revenue has the authority to specify the actual amounts for each of 2012 and 2013 or if its authority extends only to determining the total amount. Do you wish to clarify this provision?

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Eric V. Mueller  
Legislative Attorney  
Phone: (608) 261-7032  
E-mail: eric.mueller@legis.wisconsin.gov

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3019/P1dn  
EVM:med:rs

September 29, 2011

ATTN: Sen. Alberta Darling

Please review the attached draft carefully to ensure that it is consistent with your intent. The following are several issues you may wish to consider in your review of this draft.

1. I am not entirely sure what the reference in s. 66.0602 (3) (k) 1. of the provided language to "otherwise required 2011 village levy" means. In lieu of this language, I have provided language that I believe, albeit also somewhat imprecisely, explains the baseline amount being reduced. The language remains rather vague and can likely be used to support a variety of amounts. Is there a way to provide a more specific baseline? Does the authority granted the Department of Revenue adequately mitigate the potential issues of an imprecise baseline? Please let me know if you would like any changes.
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Eric V. Mueller  
Legislative Attorney  
Phone: (608) 261-7032  
E-mail: [eric.mueller@legis.wisconsin.gov](mailto:eric.mueller@legis.wisconsin.gov)



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-3019/P1  
EVM:med:rs

1P2

Note  
In 10/3/11

Styot RMR

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Today

Because of an error by the village of Shorewood assessor in reporting the valuation of Tax Incremental District (TID) Number 1 in the village, should the village impose its intended <sup>2011</sup> levy, the resulting tax rate would lead to the collection of higher than intended revenues for TID Number 1. If the village reduces its levy and resulting tax rate, however, the levy will be less than initially intended and the levy limit for 2012 would be based on the reduced levy for 2011.

- 1 AN ACT *to create* 66.0602 (3) (k) of the statutes; **relating to:** exception to local
- 2 levy limits for the village of Shorewood.

***Analysis by the Legislative Reference Bureau***

Generally under current law, and subject to a number of exceptions, a city, village, town, or county (political subdivision) may not increase its levy by a percentage that exceeds its "valuation factor," which is defined as the greater of either zero percent or the percentage change in the political subdivision's equalized value due to new construction, less improvements removed. The base amount of a political subdivision's levy, on which the levy limit is imposed, is the actual levy for the immediately preceding year.

Under this bill, the levy limits applicable to the village of Shorewood are increased by: 1) for 2012, the amount by which the village reduces its levy from the amount it would have levied in 2011 if not for an error in the valuation of the village's Tax Incremental District Number 1 to compensate for that error, and 2) for 2012 and 2013, a combined amount equal to the amount of funds applied from the village's general fund in 2011 to replace funds that would have been levied if not for the error in valuation. The actual levy limit increase amounts are determined by the Department of Revenue.

TID

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



1 SECTION 1. 66.0602 (3) (k) of the statutes is created to read:

2 66.0602 (3) (k) 1. Subject to subds. 2. and 3., if the village of Shorewood reduces  
3 its levy from the amount it would have levied for 2011 if not for an error in the  
4 valuation of Tax Incremental District Number 1 in the village to compensate for that  
5 error, the limit otherwise applicable under this section to the village in 2012 is  
6 increased by the amount of the reduction, as determined by the department of  
7 revenue.

8 2. If the village of Shorewood applies funds from the village's general fund in  
9 2011 to replace amounts not levied to compensate for an error in the valuation of Tax  
10 Incremental District Number 1 in the village, the limits otherwise applicable under  
11 this section to the village in 2012 and 2013 are increased by the amount applied from  
12 the general fund in 2011, as determined by the department of revenue.

13 3. The combined amount of increased levy in 2012 and 2013 by the village of  
14 Shorewood under subd. 2. may not exceed the amount of the funds applied from the  
15 general fund to replace amounts not levied in 2011 to compensate for an error in the  
16 valuation of Tax Incremental District Number 1 in the village.

17 (END)

The amounts added to the village's limit for 2012 under this subdivision may not exceed the amount by which the village underutilized its limit for 2011, as determined by the department of revenue.

The village's limit under this subdivision for 2012 and 2013 do not increase the village's limit for any subsequent years.


DN Note

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

*Date*

LRB-3019/P2dn

EVM:med:rs



*1*  
*stays*

ATTN: Sen. Alberta Darling

I do not know if the opinion has any application to the facts surrounding this bill, but the attorney general has opined that the Wisconsin Constitution prohibits a local unit of government from accumulating unappropriated surplus funds. See 76 OAG 77. This does not, however, prohibit, in the attorney general's opinion, retaining a reasonable business reserve or accumulating funds for specific future capital expenditures. Please let me know if you have any further questions or instructions.

Eric V. Mueller  
Legislative Attorney  
Phone: (608) 261-7032  
E-mail: [eric.mueller@legis.wisconsin.gov](mailto:eric.mueller@legis.wisconsin.gov)

**Mueller, Eric**

---

**From:** Emerson, James  
**Sent:** Friday, September 30, 2011 3:32 PM  
**To:** Mueller, Eric  
**Subject:** FW: Draft review: LRB 11-3019/P1 Topic: Levy limit exception to allow Village of Shorewood mitigation of tax incremental district valuation error.

**Attachments:** Shorewood P1 draft comments.doc

Eric:

Attached is DOR's response to the drafter's notes you have for LRB 3019. Please incorporate their changes.

Thanks,  
Jim Emerson  
Senator Darling's Office  
608-266-5830

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**From:** Wagner, Michael W - DOR [mailto:MichaelW.Wagner@revenue.wi.gov]  
**Sent:** Friday, September 30, 2011 2:55 PM  
**To:** Emerson, James  
**Subject:** FW: Draft review: LRB 11-3019/P1 Topic: Levy limit exception to allow Village of Shorewood mitigation of tax incremental district valuation error.

Jim,

See the e-mail below from Paul Ziegler and the attachment.

The attached document contains, suggested language as well.

Regards,

Mike Wagner  
Legislative Advisor, Dept. of Revenue  
608-266-7817

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**From:** Ziegler, Paul D - DOR  
**Sent:** Friday, September 30, 2011 2:50 PM  
**To:** Wagner, Michael W - DOR  
**Cc:** Huegel, Daniel P - DOR; Koskinen, John B - DOR; Nelson, Sue A - DOR  
**Subject:** RE: Draft review: LRB 11-3019/P1 Topic: Levy limit exception to allow Village of Shorewood mitigation of tax incremental district valuation error.

While the draft is workable as it is, especially due to the inclusion in two key locations of the phrase "as determined by the department of revenue", the attached file addresses the drafter's note point by point, and includes two suggestions for tucking in additional language if desired.

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**From:** Sen.Darling [mailto:Sen.Darling@legis.wisconsin.gov]  
**Sent:** Thursday, September 29, 2011 4:30 PM

9/30/2011

**To:** Wagner, Michael W - DOR

**Subject:** FW: Draft review: LRB 11-3019/P1 Topic: Levy limit exception to allow Village of Shorewood mitigation of tax incremental district valuation error.

Mike:

Take a look and let me know. Especially in regards to the drafters notes.

Thanks,  
Jim Emerson  
Senator Darling's Office  
608-266-5830

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**From:** LRB.Legal

**Sent:** Thursday, September 29, 2011 2:35 PM

**To:** Sen.Darling

**Subject:** Draft review: LRB 11-3019/P1 Topic: Levy limit exception to allow Village of Shorewood mitigation of tax incremental district valuation error.

**Following is the PDF version of draft LRB 11-3019/P1 and drafter's note.**

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9/30/2011

## **Village of Shorewood – levy limit adjustment to address TIF valuation error**

In reply to the questions raised in the drafter's note to LRB 3019/P1:

Question 1 -- Should paragraph 1, allowing the village to increase its 2012 levy limit by the amount by which it reduced its 2011 levy, include more specific language?

Response: Since paragraph 1 (lines 1-7 of page 2) includes the phrase "as determined by the department of revenue", it is not necessary to provide more specific language. If, however, there is a desire to include further clarification, an additional sentence could be added at the end of line 7 of page 2 to state: "The amount added to the village's limit for 2012 under this paragraph may not exceed the amount by which the village underutilized its levy limit for 2011 as determined by the department."

Since, under current law, the calculation of the limit for the next year begins with amount actually levied in the prior year, the adjustment under paragraph 1 provides an ongoing increase to the village's levy (relative to the actual amount levied for 2011).

Question 2 – Does paragraph 2 as drafted match the intent to allow the village to restore the village's general fund reserve amounts?

Response: The recovery of the village's general fund balances permitted by paragraph 2 (lines 8-12 of page 2), could explicitly state that the amounts added to the limit for these years is done so on a one-time basis and does not increase future levy limit authority of the village. This may be clarified by adding a sentence to at the end of line 12 of page 2 to state: "The amounts by which the village's levy limits are increased under this paragraph for both 2012 and 2013 do not increase the village's limit for any subsequent year."

Question 3 -- Is there a need to provide additional specification of the allowable increases by year rather than simply in total under paragraph 3?

Response: Given that paragraph 2 addresses both 2012 and 2013 and includes the phrase "as determined by the department of revenue", no further change to the draft is needed for this purpose.

Prepared by:

Paul Ziegler  
Division of Research & Policy  
September 30, 2011

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3019/P2dn  
EVM:med:ph

October 3, 2011

ATTN: Sen. Alberta Darling

I do not know if the opinion has any application to the facts surrounding this bill, but the attorney general has opined that the Wisconsin Constitution prohibits a local unit of government from accumulating unappropriated surplus funds. See 76 OAG 77. This does not, however, prohibit, in the attorney general's opinion, retaining a reasonable business reserve or accumulating funds for specific future capital expenditures. Please let me know if you have any further questions or instructions.

Eric V. Mueller  
Legislative Attorney  
Phone: (608) 261-7032  
E-mail: [eric.mueller@legis.wisconsin.gov](mailto:eric.mueller@legis.wisconsin.gov)

10/5 Jim @ Sen. Darling

- 3019 in introducible form - no changes
- jacket for senate



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-3019/P2 /1

EVM:med:ph

stay

RMR

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

No Changes

In 10/5/11

Today  
10/5

- 1 AN ACT *to create* 66.0602 (3) (k) of the statutes; **relating to:** exception to local
- 2 levy limits for the village of Shorewood.

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***Analysis by the Legislative Reference Bureau***

Generally under current law, and subject to a number of exceptions, a city, village, town, or county (political subdivision) may not increase its levy by a percentage that exceeds its "valuation factor," which is defined as the greater of either zero percent or the percentage change in the political subdivision's equalized value due to new construction, less improvements removed. The base amount of a political subdivision's levy, on which the levy limit is imposed, is the actual levy for the immediately preceding year.

Because of an error by the village of Shorewood assessor in reporting the valuation of Tax Incremental District (TID) Number 1 in the village, should the village impose its intended 2011 levy, the resulting tax rate would lead to the collection of higher than intended revenues for TID Number 1. If the village reduces its levy and resulting tax rate, however, the levy will be less than initially intended and the levy limit for 2012 would be based at the reduced levy for 2011. Under this bill, the levy limits applicable to the village of Shorewood are increased by: 1) for 2012, the amount by which the village reduces its levy from the amount it would have levied in 2011 if not for an error in the valuation of the village's TID Number 1 to compensate for that error, and 2) for 2012 and 2013, a combined amount equal to the amount of funds applied from the village's general fund in 2011 to replace funds that





**Barman, Mike**

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**From:** Hanaman, Cathlene  
**Sent:** Wednesday, October 12, 2011 4:14 PM  
**To:** Barman, Mike

Darling's office and the LRB agree that a fiscal estimate should be prepared for SB-224.



**ACTIVE**

LRB Number: 11-3019/1  
Introduction Number: SB-224  
Comment: FE for this bill is needed. (Per LRB Chief)  
Request Date: 10/13/2011 7:56:23 AM  
Description:  
Subject:



PUBLIC DRAFT/BILL and Assignments

[Edit the Request](#)

Draft/Bill: Not attached

