



Legislative Fiscal Bureau

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October 19, 2005

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 156: County Tax Incremental Financing Districts

Assembly Bill 156 was introduced on March 3, 2005, and referred to the Committee on Ways and Means. On June 9, 2005, the Committee adopted Assembly Amendment 1 (AA 1) to the bill on a vote of 12 to 0 and recommended the bill for passage, as amended, on a vote of 12 to 0. The bill was then referred to the Committee on Rules, placed on the Assembly calendar by the Committee, and passed by the Assembly, as amended by AA 1, on June 14, 2005. The bill was then messaged to the Senate and referred to the Senate Committee on Job Creation, Economic Development, and Consumer Affairs, which concurred with the bill, as amended, on a vote of 5 to 0. On September 19, 2005, the bill, as amended, was referred to Joint Committee on Finance.

BACKGROUND

Tax incremental financing (TIF) is a mechanism for funding development and redevelopment projects in the state. Cities, villages, and under certain circumstances, towns, all have the authority to create TIF districts to develop or redevelop areas within their jurisdiction.

Any municipality that intends to create a TIF district or amend a district project plan must convene a joint review board, which can be either a temporary joint review board that is established for a specific district or a standing joint review board that remains in existence as long as a municipality has a district in existence. The joint review board consists of one member representing each taxing jurisdiction that can levy taxes on property within the TIF district. Generally, the school and technical college districts, county, and city or village each have one public member. No TIF district can be created and no plan can be amended unless approved by a majority vote of the board.

City and Village TIF Districts

City and village governments may create a TIF district if 50% or more of the proposed district's area is "blighted," in need of rehabilitation or conservation work, or suitable for industrial sites or mixed-use developments. Property that was vacant for the seven years preceding creation of a TIF district cannot comprise more than 25% of the district's area, unless the district is created to promote industrial or mixed-use development. Land acquired through condemnation is excluded from this requirement.

Effective July 1, 2004, a TIF district may include areas suitable for mixed-use developments. Mixed-use developments may contain a combination of industrial, commercial, and residential use, except that lands proposed for newly-platted residential use may not exceed 35% of the area of real property within the district.

Once a TIF district has been created, a "tax incremental base value" is established by the Department of Revenue (DOR) for property within the district at the time it was created. The base value includes the equalized value of all taxable property and the value of municipally-owned property, as determined by DOR. Generally, the base value remains constant until the project terminates. However, a planning commission can also adopt an amendment to a TIF project plan at any time, for up to four times during the district's existence, in order to modify the boundaries of that district so as to add contiguous territory served by public works or improvements created as part of that district's project plan. DOR has the authority to impose a fee of \$1,000 on cities and villages whenever the Department determines or redetermines the tax incremental base of a TIF district.

The "tax increment" of the district equals the general property taxes levied on the value of the TIF district in excess of its base value (this is the "value increment"). The amount equals the value increment multiplied by the tax rate for all tax jurisdictions--municipal, county, school district, technical college district, and special purpose districts. Therefore, tax increments can only be generated by an increase in the equalized value of taxable property within a TIF district. The increments are used to pay off the allowable, publicly financed costs of the TIF district.

Town TIF Districts

Certain towns are provided with the same powers and authorities to create TIF districts that are provided to cities and villages. Under 2005 Act 13, certain towns may only create a TIF district if all of the following apply: (a) the town enters into a cooperative plan with a city or village under which all or a part of the town will be annexed by the city or village in the future; (b) the city or village into which the town territory will be annexed adopts a resolution approving the creation of the tax incremental district; and (c) the TIF district is located solely within the territory that is to be annexed by the city or village as outlined in the cooperative agreement.

Also, 2003 Wisconsin Act 231 provides town governments the authority to create specific types of TIF districts. Again, towns, and the joint review boards of town TIF districts, have much of the same authority and the same powers relative to TIF districts that are provided cities and villages. However, the use of the TIF authority is limited to specific types of TIF project types. In addition, towns may not exercise any TIF powers within the extraterritorial zoning jurisdiction of a city or village, unless the city or village adopts a resolution approving the town's exercise of its TIF powers within the extraterritorial zoning jurisdiction.

Under Act 231, the only TIF projects for which a town may expend funds or incur obligations for project costs under this authority are the following: (a) agricultural projects; (b) forestry projects; (c) manufacturing projects; or (d) tourism projects, which include the North American Industry Classifications (NAICs) industry numbers for recreational and vacation camps (721214), recreational vehicle parks and campgrounds (721211), racetracks (711212), dairy product stores (44529), and public golf courses (71391).

SUMMARY OF BILL

AB 156 would provide the county board of a county in which no cities or villages are located the authority to exercise all the powers of cities and villages under the state TIF law. The bill provisions would only apply to Florence and Menominee Counties.

The bill would specify that if the county board exercises the powers provided under the bill, it would be subject to the same duties as a common council and the same duties and liabilities as a city under existing state TIF law. However, a county board would not be allowed to create a TIF district unless the town board of each town in which the proposed district is to be located adopts a resolution approving the creation of the district.

The bill would also amend the legislative findings under the Laws of 1975 relative to TIF districts to include references to county governments in order to incorporate the extension of TIF powers to the two counties that would be eligible to create a TIF district under the bill.

SUMMARY OF ASSEMBLY AMENDMENT 1

For the purposes of establishing a county TIF district, AA 1 to AB 156 would specify that the city and county representatives to the joint review board, as required under current law, would instead be required to be representatives of the town where the county TIF district is located. The amendment would also specify that these town representatives could be the town board chair, or the chair's designee.

Under current law, property standing vacant for an entire 7-year period immediately preceding adoption of the resolution creating a tax incremental district may not comprise more than

25 percent of the area in the tax incremental district, unless the tax incremental district is suitable for either industrial sites or mixed-use development. Under AA 1 to AB 156, the county TIF districts allowed under the bill would not be subject to this limitation for any allowable type of TIF development.

AA 1 also specifies that the provisions included in the bill, as amended by AA 1, would first take effect on October 1, 2005, or October 1, 2006, if the legislation is enacted and published after August 1, 2005.

FISCAL EFFECT

DOR's fiscal estimate to the bill indicates that it is difficult to determine the extent to which Florence and Menominee counties would use the TIF authority provided under the bill, as amended. DOR staff would have to review the project plan, local resolutions, district boundary description, and parcel list for each TIF district established in the two counties under the authority provided under the bill. DOR would also be required to annually determine the value of tax increments of any new TIF districts that may be created as a result of the bill.

In its fiscal estimate to the bill, DOR indicates that it may be possible for the Department to absorb any increased administrative costs resulting from the bill within the Department's existing budget. DOR does indicate that to the extent that the two counties use the TIF authority, the Department's administrative costs would increase. The bill would not provide any funding to DOR to administer the proposed changes to the state's TIF law. However, DOR has authority under current law to impose a fee of \$1,000 whenever the Department is required to determine or redetermine the tax incremental base of a TIF district. Therefore, if a county TIF district is created as a result of the authority provided under the bill, DOR, in determining the base of the TIF district, would receive additional revenue.

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