

1999 DRAFTING REQUEST**Assembly Amendment (AA-AB133)**Received: **05/18/99**Received By: **shoveme**Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau 6-3013**By/Representing: **Runde (FA)**This file may be shown to any legislator: **NO**Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Munis - miscellaneous
Munis - tax incrmntal financing
Counties**

Extra Copies:

Pre Topic:

LFB:.....Runde (FA) -

Topic:

Environmental remediation tax incremental financing; reduce certification period, expand definition of eligible expenditures definition, DNR approval of action plan, cost recovery from discharger

Instructions:

See Attached. See 1999 LRB -1007/1

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	shoveme 05/20/99	chanaman 05/20/99	ismith 05/21/99	_____	lrb_docadmin 05/21/99		
/2	shoveme 06/2/99	chanaman 06/2/99	martykr 06/3/99	_____	lrb_docadmin 06/3/99		
/3	shoveme 06/14/99	chanaman 06/14/99	jfrantze 06/14/99	_____	lrb_docadmin 06/14/99		

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/2	shoveme 06/2/99	chanaman 06/2/99	martykr 06/3/99	_____	lrb_docadmin 06/3/99		

13 MES 6/14/99
 FE Sent For: *cm4 6/14/99* *Jo 6/14* *Jo 6/14*
 <END>
 6/14

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12 MES
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<END>

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/1	shoveme	cmh sho	IS 5/21/99	IS/JF 5/21/99			
11	MES	5/20/99	1				

FE Sent For:

<END>

TN

Senator Burke

SHARED REVENUE AND TAX RELIEF - PROPERTY TAXATION

Environmental Remediation TIF Districts
[LFB Paper #875]
(Substitute for Alternative Sections A, B and C)

MO#	14-2		
Burke	Y	N	
Decker	Y	N	
Jauch	Y	N	
Moore	Y	N	
Shibitski	Y	N	
Plache	Y	N	
Cowles	Y	N	
Panzer	Y	N	
Gard	Y	N	
Porter	Y	N	
Kaufert	Y	N	
Albers	Y	N	
Dutt	Y	N	
Ward	Y	N	
Huber	Y	N	
Riley	Y	N	

Motion:

Amend current environmental remediation TIF law to do the following:

- a. Allow a county or municipality to apply to DOR for certification of an ER-TIF tax increment base prior to incurring all costs associated with the remediation of the environmental contamination;
- b. Require that a statement containing information on the remediation costs already incurred, plus a detailed DNR-approved remedial action options plan containing remediation cost estimates of anticipated eligible costs within the district, including a schedule for design, implementation and construction, be provided to the joint review board and DOR;
- c. Require that the statement include a certificate of a DNR-approved investigation report that relates to the affected parcels within the district;
- d. Limit the period for which eligible expenditures that are to be repaid by ER-TIF increments can occur to seven years, as under general TIF law;
- e. Specify that a ER-TIF district may only include contiguous parcels within the political subdivision creating the district;
- f. Allow an ER-TIF district to include private properties;
- g. Allow a county or municipality to use an ER-TIF to pay the costs of remediating groundwater contamination whether or not that county or municipality owns the property above the groundwater;
- h. Provide that the property could not be sold to the party responsible for the contamination (properties could still be transferred to other private persons prior to completion of remediation);
- i. Specify that all eligible expenditures must be public expenditures;

j. Provide that costs associated with the removal of underground storage tanks and assessments should be eligible for reimbursement under the ER-TIF;

k. Provide that costs associated with off-site groundwater investigations and cleanups should be eligible for reimbursement under ER-TIF, even if those costs are outside the boundaries of the ER-TIF district;

l. Specify that the political subdivision is required to seek cost recovery from the person who caused the discharge, rather than the person in possession of the property;

m. Expand the definition of eligible costs as recommended by the Governor;

n. Reduce eligible costs by any amount that a county or municipality received, or reasonably expects to receive, from a local, state or federal program; and

o. Specify that any property taxes cancelled by the political subdivision associated with the property are costs eligible for reimbursement under ER-TIF.

Note:

Except for expanding the certification period for an ER-TIF district from 16 to 23 years, the motion would approve the Governor's recommendation. Further, the motion would specify the following:

a. That the detailed remedial action plan site investigation reports presented to the joint review board and DOR be DNR-Approved and that the action plan contain a schedule for design, implementation and construction of remedial action;

b. That the political subdivision is required to seek cost recovery from the person who caused the discharge, rather than the person in possession of the property;

c. That contiguous parcels within an ER-TIF district be within the political subdivision creating the district;

d. That the property could not be sold to the party responsible for the contamination (properties could still be transferred to other private persons prior to completion of remediation);

and The bill removes from the state language relating to transfers of the prop

DNobe
1. note - no done b
D-note: done but no nec.
D-note
already in bill
term doesn't make sense - I used "completion."
already in p. 66.42 (4)(c)
NOT nec. -- to use ER-TIF \$ to pay for cleanup in another pol. sub would violate the public purpose doctrine
transfers of the prop

*D-note
not done
I don't know what this means*

2

c. That all eligible expenditures must be public expenditures; and
f. The period for which eligible expenditures that are to be repaid by ER-TIF increments would be limited to seven years, as under general TIF law. *It's not clear when the 7 yr clock begins to run.*

It's not clear when the 7 yr clock begins to run.

Further, in addition to the Governor's recommendations, the motion would expand the definition of eligible costs to include the following:

- a. That costs associated with groundwater investigations and remediation that occur outside the boundaries of the ER-TIF district should be eligible for reimbursement;
- b. That costs associated with the removal of underground storage tanks be eligible costs; and
- c. That any property taxes cancelled by the political subdivision associated with properties within the ER-TIF would be eligible costs.

D-note

By expanding the definition of eligible costs, the motion would likely increase the level of costs that are to be repaid through the allocation of tax increments.

M-2



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0338/1
MES.....
cmH

LFB:.....Runde – Environmental remediation tax incremental financing; reduce certification period, expand definition of eligible expenditures definition, DNR approval of action plan, cost recovery from discharger

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

SOON

NOTE

- 1 At the locations indicated, amend the bill as follows:
- 2 1. Page 819, line 6: after “remediated,” insert “cancellation of delinquent
- 3 taxes.”
- 4 2. Page 819, line 8: after “disposing of” insert “underground storage tanks or”.
- 5 3. Page 819, line 15: after “subdivision.” insert ““Eligible costs” associated
- 6 with groundwater affected by environmental pollution include investigation and
- 7 remediation costs for groundwater that is located in, and extends beyond, the
- 8 property that is being remediated.”.”
- 9 4. Page 819, line 16: delete lines 16 to 20.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0338/1dn

MES.....

cm 1

in amendment item #7

Al Runde:

I have ~~a number of~~ ^{some} questions and concerns with a number of the instructions in motion # 751. Instruction "a." states that the detailed remedial action plan report be "DNR-Approved" (sic) and that the plan "contain a schedule for design, implementation and construction of remedial action." Bill SECTION 1636, amended, s. 66.462 (4) (a) already provides for DNR approval. Also, it seems to me that not all remediation will involve "construction"; furthermore, "construction of remedial action" just doesn't seem like a proper phrase. I substituted "completion" on page 821, line 20. Is this OK? ①

I did not execute instruction "b." which requires the political subdivision to seek cost recovery from the person who caused the pollution, and not the person who possesses the property. This requirement is in s. 66.462 (4) (c) of the statutes.

I executed instruction "c." which states that "contiguous parcels within an ER-TIF district [must] be within the political subdivision creating the district", although I do not believe that such a requirement is legally necessary. It could be argued that a political subdivision would violate the public purpose doctrine by paying for environmental remediation of property that is located in another political subdivision. You may wish to consider removing this part of the amendment.

The last line of amendment item # 6 relates to instruction "d.", but the bill removes the current statutory language that deals with the transfer of remediated property. See amended s. 66.462 (2) in Bill SECTION 1634. Is this OK? so I'm not sure what the instruction refers to

I did not execute instruction "e." because I don't understand what it means; it states that all "eligible expenditures must be public expenditures." What do you mean by "eligible expenditures" and what does the requirement for "public" expenditures mean? Do you know what the intent is?

There is no indication in instruction "f." when the 7-year "clock" begins to run. Does amendment item #6 meet your intent?

Instruction "c.", which relates to the definition of "eligible costs", states that "property taxes cancelled by the political subdivision" be eligible costs. This language was in an early version of LRB -1007, which is part of AB-133, and I have included it in amendment item 1, but I believe that including "cancellation of delinquent taxes" in the definition of "eligible costs" could have some unintended consequences.

Changing the definition in this way ignores other current law procedures for recovering delinquent taxes and could result in taxpayers paying for the delinquent taxes twice — once through the county levy and then again as a TIF cost. Is this the intent of the requester?

Please let me know if you would like any changes made to this amendment.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: Marc.Shovers@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0338/1dn
MES:cmh:ijs

May 21, 1999

Al Runde:

I have some questions and concerns with a number of the instructions in motion # 751. Instruction "a." states that the detailed remedial action plan report be "DNR-Approved" (sic) and that the plan "contain a schedule for design, implementation and *construction* of remedial action." Bill SECTION 1636, amended s. 66.462 (4) (a) already provides for DNR approval. Also, it seems to me that not all remediation will involve "construction"; furthermore, "construction of remedial action" just doesn't seem like a proper phrase. I substituted "completion" in amendment item #7. Is this OK?

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The last line of amendment item # 6 relates to instruction "d.", but the bill removes the current statutory language that deals with the transfer of remediated property, so I'm not sure what the instruction refers to. See amended s. 66.462 (2) in Bill SECTION 1634. Is this OK?

I did not execute instruction "e." because I don't understand what it means; it states that all "eligible expenditures must be public expenditures." What do you mean by "eligible expenditures" and what does the requirement for "public" expenditures mean? Do you know what the intent is?

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SOON

RMB

LFB:.....Runde (FA) - Environmental remediation tax incremental financing; reduce certification period, expand definition of eligible expenditures definition, DNR approval of action plan, cost recovery from discharger

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

SOON

#, Page 819, line 2: after "costs" insert ", incurred or estimated to be incurred by a political subdivision,"

1 At the locations indicated, amend the bill as follows:

2 1. Page 819, line 6: after "remediated," insert "cancellation of delinquent
3 taxes."

4 2. Page 819, line 8: after "disposing of" insert "underground storage tanks or".

5 3. Page 819, line 15: after "subdivision." insert "Eligible costs associated
6 with groundwater affected by environmental pollution include investigation and
7 remediation costs for groundwater that is located in, and extends beyond, the
8 property that is being remediated."

9 4. Page 819, line 16: delete lines 16 to 20.

#, Page 819, line 21: delete that line and substitute:

"SECTION 1634. RA; 66.462(2); 66.462(2)(a):"

#. Page 819, line 22: after "(2)" insert "(a)".

1 **5.** Page 820, line 1: after “are” insert “located within the political subdivision
2 and that are”.

3 **6.** Page 820, line 7: after “subdivision” insert “. No expenditure may be made
4 later than 7 years after a governing body approves a written proposal to remediate
5 environmental pollution, as described in this subsection. If the political subdivision
6 owns the property that is being remediated, the political subdivision may not sell or
7 otherwise transfer the property to any person who is responsible for the
8 environmental pollution which is remediated”.

INS.
2-8

9 **7.** Page 821, line 10: after “eligible costs” insert “and a schedule for the design,
10 implementation and ~~completion~~ ^{construction that is needed to complete} of the remediation”.

11 (END)

INS.
2-10

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0338/2ins
MES:cmh:ijs

1

INSERT 2-2

2

INSERT 2-8

3

1. Page 820, line 10: after that line insert:

4

“SECTION 1634c. 66.462 (2) (b) of the statutes is created to read:

5

66.462 (2) (b) No expenditure for an eligible cost may be made by a political subdivision later than 7 years after the environmental remediation tax incremental base is certified by the department under sub. (4).”.

6

7

8

2. Page 821, line 6: after that line insert:

9

“SECTION 1635c. 66.462 (3) (b) 2. of the statutes is amended to read:

10

66.462 (3) (b) 2. No written application may be submitted under sub. (4) unless the board approves the written proposal under sub. (2) (a) by a majority vote not less than 10 days nor more than 30 days after receiving the proposal.”.

11

12

History: 1997 a. 27.

13

INSERT 2-10

14

3. Page 821, line 17: after that line insert:

15

“SECTION 1636e. 66.462 (4) (c) of the statutes is amended to read:

16

66.462 (4) (c) The political subdivision submits a statement, signed by its chief executive officer, that the political subdivision has attempted to recover the cost of remediating environmental pollution on the property from responsible parties the person who caused the environmental pollution.”.

17

18

19

History: 1997 a. 27.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0338/2
ME Scmh:lpf

TO DAY

RMR

LFB:.....Runde (FA) - Environmental remediation tax incremental financing; reduce certification period, expand definition of eligible expenditures definition, DNR approval of action plan, cost recovery from discharger

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

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4 2. Page 819, line 6: after "remediated," insert "cancellation of delinquent
5 taxes."

6 3. Page 819, line 8: after "disposing of" insert "underground storage tanks or".

7 4. Page 819, line 15: after "subdivision." insert "Eligible costs" associated
8 with groundwater affected by environmental pollution include investigation and

1 remediation costs for groundwater that is located in, and extends beyond, the
2 property that is being remediated.”.

3 **5.** Page 819, line 16: delete lines 16 to 20.

4 **6.** Page 819, line 21: delete that line and substitute:

5 “SECTION 1634. 66.462 (2) of the statutes is renumbered 66.462 (2) (a) and
6 amended to read:”.

7 **7.** Page 819, line 22: after “(2)” insert “(a)”.

8 **8.** Page 820, line 1: after “are” insert “located within the political subdivision
9 and that are”.

10 **9.** Page 820, line 7: after “subdivision” insert “^{stays} No expenditure may be made
11 later than 7 years after a governing body approves a written proposal to remediate
12 environmental pollution, as described in this subsection. If the political subdivision
13 owns the property that is being remediated, the political subdivision may not sell or
14 otherwise transfer the property to any person who is responsible for the
15 environmental pollution which is remediated”.

16 **10.** Page 820, line 10: after that line insert:

17 “SECTION 1634c. 66.462 (2) (b) of the statutes is created to read:

18 66.462 (2) (b) No expenditure for an eligible cost may be made by a political
19 subdivision later than 7 years after the environmental remediation tax incremental
20 base is certified by the department under sub. (4).”.

21 **11.** Page 821, line 6: after that line insert:

22 “SECTION 1635c. 66.462 (3) (b) 2. of the statutes is amended to read:

" action plan approved by the department of natural resources that contains cost estimates for anticipated eligible costs"

1 66.462 (3) (b) 2. No written application may be submitted under sub. (4) unless
2 the board approves the written proposal under sub. (2) (a) by a majority vote not less
3 than 10 days nor more than 30 days after receiving the proposal."

4 **12.** Page 821, line 10: ~~after "eligible costs" insert~~ and a schedule for the
5 design, implementation and construction that is needed to complete the

6 remediation". with respect

7 **13.** Page 821, line 17: after that line insert:

8 "SECTION 1636e. 66.462 (4) (c) of the statutes is amended to read:

9 66.462 (4) (c) The political subdivision submits a statement, signed by its chief
10 executive officer, that the political subdivision has attempted to recover the cost of
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12 person who caused the environmental pollution".

(END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0338/3
MES:cmh:jf

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16 66.462 (2) (b) No expenditure for an eligible cost may be made by a political
17 subdivision later than 7 years after the environmental remediation tax incremental
18 base is certified by the department under sub. (4).”.

19 **11.** Page 821, line 6: after that line insert:

20 “**SECTION 1635c.** 66.462 (3) (b) 2. of the statutes is amended to read:

21 66.462 (3) (b) 2. No written application may be submitted under sub. (4) unless
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23 than 10 days nor more than 30 days after receiving the proposal.”.

1 **12.** Page 821, line 10: delete that line and substitute “action plan approved
2 by the department of natural resources that contains cost estimates for anticipated
3 eligible costs and a schedule for the design, implementation and construction that
4 is needed to complete the remediation, with respect”.

5 **13.** Page 821, line 17: after that line insert:

6 “**SECTION 1636e.** 66.462 (4) (c) of the statutes is amended to read:

7 66.462 (4) (c) The political subdivision submits a statement, signed by its chief
8 executive officer, that the political subdivision has attempted to recover the cost of
9 remediating environmental pollution on the property from ~~responsible parties~~ the
10 person who caused the environmental pollution.”.

11

(END)