

**1999 DRAFTING REQUEST**

**Assembly Amendment (AA-ASA1-AB133)**

Received: **09/27/1999**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau 6-3013**

By/Representing: **Runde**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Alt. Drafters:

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

Extra Copies:

**Pre Topic:**

LFB:.....Runde -

**Topic:**

Environmental remediation tax incremental financing

**Instructions:**

See Attached

**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 09/28/1999	chanaman 09/28/1999	jfrantze 09/28/1999	_____	lrb_docadmin 09/28/1999		
/2	shoveme 09/28/1999	chanaman 09/28/1999	jfrantze 09/29/1999	_____	lrb_docadmin 09/29/1999		
/3	shoveme 10/01/1999	wjackson 10/01/1999	martykr 10/01/1999	_____	lrb_docadmin 10/01/1999		

FE Sent For:

<END>

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9/29  
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<i>11 MES 9/28/99</i>							

FE Sent For:

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**Legislative Fiscal Bureau**

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

Date: 9/27/99

DELIVER TO: Becky Tradewell

Addressee Fax #: 4-8522 Addressee Phone #: 6-7290

# of Pages, Including Cover: 4 Sender's Initials: \_\_\_\_\_

From: Kendra Bonderud

Message: Please distribute this to the appropriate LRB drafters, draft as 4 separate drafts, ~~and~~ and send to the following 4 LFB "requesters":

- 1) Local Government Cost Recovery - Kendra
- 2) Brownfields Grant Program - Ron Shanovich
- 3) ER-TIF - Al Runde
- 34) Special Charges for Cancelled Taxes - Rick Olin

T H A N K S !



**Legislative Fiscal Bureau**

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

September 23, 1999

TO: Senator Brian Burke  
Room 316 South, State Capitol

FROM: Kendra Bonderud, Rick Olin, Al Runde and Ron Shanovich

SUBJECT: Brownfields Modifications to Joint Committee on Finance Provisions in 1999-01 Budget

At your request, this memorandum summarizes potential modifications related to four brownfields provisions in the 1999-01 biennial budget recommended by the Joint Committee on Finance. The Assembly and Senate amendments do not affect these provisions.

**Brownfields – Local Government Cost Recovery**

The Joint Finance Committee would authorize a local government to take action to recover costs it incurs in cleaning up a property on which a hazardous substance has been discharged if the local government acquired the property in one of several ways provided for under the local government liability exemption provisions. The proposed modification would include the following changes.

- a. Specify that a local government may not recover costs under the local government cost recovery process: (1) from a responsible person who "is exempt" from liability (instead of "qualifies for" an exemption under Joint Finance) under the spills law with respect to the discharge that is the subject of the cost recovery action; (2) from a person that has entered into a contract with the Department of Natural Resources (DNR) under s. 292.31(8)(b) (an agreement between DNR and a responsible person regarding actions which DNR and the responsible person would take to cleanup the property), a consent order under Chapters 289 (solid waste facilities), 291 (hazardous waste management) or 292 (remedial action) or a negotiated agreement under s. 292.11(7)(d) (authority for DNR to negotiate and enter into an agreement containing a schedule for conducting required nonemergency actions with a person who possesses or controls a hazardous substance that

was discharged or who caused the discharge of a hazardous substance if the discharge does not endanger public health); with respect to the discharge, and is in compliance with the contract, order or negotiated agreement; (3) from a responsible person who is exempt from liability under s. 292.35(9)(c) of the current local governmental unit negotiation and cost recovery process with respect to the discharge (the responsible person establishes that his or her contribution to the environmental pollution resulting from the discharge was caused solely by an act of God, an act of war or an act or omission of a third party); and (4) with respect to a discharge, if the discharge was in compliance with a permit, license, approval, special order, waiver or variance issued by DNR.

b. Specify that a responsible person who, at the time that the local government acquired the property, possessed or controlled the hazardous substance that was discharged on the property, is not liable for costs that the local government is unable to recover because a person who caused the discharge of the hazardous substance on the property is exempt from liability under (a)(3) and (a)(4) above.

#### Brownfields Grant Program

The proposed modification would delete the Joint Finance provisions related to the brownfields grant program that would: (a) require Commerce to make 50% of awards for projects, like recreation or housing, that would be scored without considering the number of jobs created, and (b) require applicants to document their inability to obtain funding from other sources. Instead, in awarding grants in 2000-01, the Department would be required to reduce the weight accorded to job creation in scoring grant applications by a factor that was approximately 50% lower than that same factor in previous award periods. In addition, the Department would be required to award \$1.4 million for projects that were evaluated without considering the number of jobs created by the projects. Finally, the proposed modification would provide that awards of Round III brownfields grants be limited to those who submitted applications by the original deadline established by Commerce (April 16, 1999).

#### Environmental Remediation Tax Incremental Financing

all 60337, 60338, 60354

The proposed modification would make the following changes to the ER-TIF provisions under the Joint Finance version of the bill.

a. Allow eligible expenditures incurred during the entire 23-year period of the ER-TIF district to be reimbursed through the allocation of tax increments. Under the Joint Finance version of the bill and similar to general TIF law, only expenditures that are incurred during the first seven years of an ER-TIF district would be reimbursed through the allocation of tax increments

b. Delete the Joint Finance provision that would require that contaminated properties within an ER-TIF district 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.)

c. Delete the Joint Finance provisions that would require that a joint review board, prior to approving any proposed ER-TIF district that has incurred costs, or has an environmental

remedial action plan containing cost estimates, in excess of \$80,000, must either: (1) require that any contract entered into by the county or municipality to remediate the identified contamination within the proposed ER-TIF district contain a guaranteed maximum cost that is to be paid by the county or municipality that is consistent with the costs identified in the detailed remedial action plan; or (2) require that the county or municipality have insurance to cover any costs in excess of the costs identified in the detailed remedial action plan.

d. Add a requirement that no costs incurred after DNR notification that a remedial action has been completed would be eligible for reimbursement through the allocation of tax increments unless the costs were identified as a required condition of site closure.

#### **Special Charges for Cancelled Taxes on Contaminated, Tax Delinquent Property**

The Joint Finance provision related to special charges for cancelled taxes on contaminated, tax delinquent property would require county treasurers to charge back as a special charge on the next tax levy all cancelled property taxes subject to a hazardous substance clean-up agreement and provide that the cost of the cancelled taxes be spread among the governments that levied taxes on the property. The proposed modification would delete the Joint Finance changes and maintain current law. Current law provisions allow counties and the City of Milwaukee to cancel all or part of the unpaid property taxes, plus interest and penalties, on certain contaminated real property for which a tax certificate has been issued, but a tax deed has not yet been recorded. As a result, the government that cancels the taxes bears the cost of the taxes.

We hope this information is helpful.

KB/RO/AR/RS/dls



State of Wisconsin  
1999 - 2000 LEGISLATURE

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RMR

LFB:.....Runde - Environmental remediation tax incremental financing

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

D/Note →

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 796, line 24: delete lines 24 and 25 and substitute: "SECTION 1634.

3 66.462 (2) of the statutes is amended to read:"

4 2. Page 797, line 1: delete "66.462(2) (a)" and substitute "66.462(2)".

5 3. Page 797, line 12: delete "If the political".

6 4. Page 797, line 13: delete lines 13 and 14.

7 5. Page 797, line 15: delete "the environmental pollution which is remediated".

8 6. Page 797, line 18: delete lines 18 to 21.

9 7. Page 798, line 18: delete lines 18 to 24.

9  
B  
a

13 13 14 ← 14

15

1           **8.** Page 799, line 1: delete lines 1 to 9.

2           **9.** Page 800, line 2: after that line insert:

3           “**SECTION 1636s.** 66.462 (7) (a) of the statutes is amended to read:

4           66.462 (7) (a) Subject to pars. (b) and (c) and (d), the department shall  
5 annually authorize the positive environmental remediation tax increment with  
6 respect to a parcel of property during the period of certification to the political  
7 subdivision that incurred the costs to remediate environmental pollution on the  
8 property, except that an authorization granted under this paragraph does not apply  
9 after the department receives the notice described under sub. (10) (b).

History: 1997 a. 27.

10           **SECTION 1636u.** 66.462 (7) (d) of the statutes is created to read:

11           66.462 (7) (d) 1. The department may not authorize a positive environmental  
12 remediation tax increment under par. (a) to pay otherwise eligible costs that are  
13 incurred by the political subdivision after the department of natural resources  
14 certifies to the department that environmental pollution on the parcel of property  
15 has been remediated unless the political subdivision certifies to the department that  
16 ~~the~~ costs are necessary to close the site described in the site investigation report.

17           2. The department of natural resources shall certify to the department the  
18 completion of the remediation of environmental pollution at the site described in the  
19 site investigation report.

(END)

20

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

LRBb1827/1dn

MES.....

cmr

DATE

I created s. 66.462 (7) (d) 2. because nothing in current law, or current law as affected by the substitute amendment, requires DNR to notify anyone when environmental remediation at a site is completed. Also, I'm not sure what the instructions mean when it refers to "the costs . . . identified as a required condition of site closure." It's ambiguous to merely require that the costs be "identified" to be eligible for reimbursement, and I'm not sure who is supposed to do the identifying. Does s. 66.462 (7) (d) 1. meet your intent?

MES

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

LRBb1827/1dn  
MES:cmh:jf

September 28, 1999

I created s. 66.462 (7) (d) 2. because nothing in current law, or current law as affected by the substitute amendment, requires DNR to notify anyone when environmental remediation at a site is completed. Also, I'm not sure what the instructions mean when it refers to "the costs . . . identified as a required condition of site closure." It's ambiguous to merely require that the costs be "identified" to be eligible for reimbursement, and I'm not sure who is supposed to do the identifying. Does s. 66.462 (7) (d) 1. meet your intent?

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



State of Wisconsin  
1999 - 2000 LEGISLATURE

TODAY

LRBb1827/2  
MES:cmh:ff

Rmk

LFB:.....Runde - Environmental remediation tax incremental financing

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 1. Page 796, line 24: delete lines 24 and 25 and substitute:
- 3 "SECTION 1634a. 66.462 (2) of the statutes is amended to read:"
- 4 2. Page 797, line 1: delete <sup>←</sup>(2) (a) and substitute <sup>←</sup>(2).
- 5 3. Page 797, line 12: delete "If the political".
- 6 4. Page 797, line 13: delete lines 13 and 14.
- 7 5. Page 797, line 15: delete "the environmental pollution which is remediated".
- 8 6. Page 797, line 18: delete lines 18 to 21.
- 9 7. Page 798, line 18: delete lines 18 to 24.





State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBb1827/2

MES:cmh

3  
FMR

TODAY

LFB:.....Runde - Environmental remediation tax incremental financing

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 1. Page 796, line 24: delete lines 24 and 25 and substitute:
- 3 "SECTION 1634a. 66.462 (2) of the statutes is amended to read:"
- 4 2. Page 797, line 1: delete "(2) (a)" and substitute "(2)".
- 5 3. Page 797, line 12: delete "If the political".
- 6 4. Page 797, line 13: delete lines 13 and 14.
- 7 5. Page 797, line 15: delete "the environmental pollution which is remediated".
- 8 6. Page 797, line 18: delete lines 18 to 21.
- 9 7. Page 798, line 18: delete lines 18 to 24.

INSAN



1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBb1827/3ins  
MES:cmh:jf

INSA

- 1           **1.** Page 797, line 19: delete lines 19 to 21 and substitute:
- 2           “66.462 (2) (b) No expenditure for an eligible cost may be made by a political
- 3           subdivision later than 15 years after the environmental remediation tax incremental
- 4           base is certified by the department under sub. (4).”



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBb1827/3  
MES:wlj&cmh:km

LFB:.....Runde – Environmental remediation tax incremental financing

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

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TO 1999 ASSEMBLY BILL 133

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- 3 “SECTION 1634a. 66.462 (2) of the statutes is amended to read:”
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- 5 **3.** Page 797, line 12: delete “. If the political”.
- 6 **4.** Page 797, line 13: delete lines 13 and 14.
- 7 **5.** Page 797, line 15: delete “the environmental pollution which is remediated”.
- 8 **6.** Page 797, line 19: delete lines 19 to 21 and substitute:

1           “66.462 (2) (b) No expenditure for an eligible cost may be made by a political  
2 subdivision later than 15 years after the environmental remediation tax incremental  
3 base is certified by the department under sub. (4).”.

4           **7.** Page 798, line 18: delete lines 18 to 24.

5           **8.** Page 799, line 1: delete lines 1 to 9.

6           **9.** Page 800, line 2: after that line insert:

7           “**SECTION 1636s.** 66.462 (7) (a) of the statutes is amended to read:

8           66.462 (7) (a) Subject to pars. (b) ~~and~~, (c) ~~and~~ (d), the department shall annually  
9 authorize the positive environmental remediation tax increment with respect to a  
10 parcel of property during the period of certification to the political subdivision that  
11 incurred the costs to remediate environmental pollution on the property, except that  
12 an authorization granted under this paragraph does not apply after the department  
13 receives the notice described under sub. (10) (b).

14           **SECTION 1636u.** 66.462 (7) (d) of the statutes is created to read:

15           66.462 (7) (d) 1. The department may not authorize a positive environmental  
16 remediation tax increment under par. (a) to pay otherwise eligible costs that are  
17 incurred by the political subdivision after the department of natural resources  
18 certifies to the department of revenue that environmental pollution on the parcel of  
19 property has been remediated unless the costs are associated with activities, as  
20 determined by the department of natural resources, that are necessary to close the  
21 site described in the site investigation report.

