

**2009 DRAFTING REQUEST**

**Bill**

Received: **07/15/2009**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Bill Kramer (608) 266-8580**

By/Representing: **Cameron**

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

Drafter: **mshovers**

May Contact: **Susan Plakus @ DOR  
1-5335**

Addl. Drafters: **jozalp**

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

Extra Copies: **EVM**

Submit via email: **YES**

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

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

---

**Topic:**

Fix problem with city of Waukesha TID; authorize DOR to certify the base

---

**Instructions:**

See attached. Cameron says I should just call Susan Plakus at DOR and figure out how to address DOR's concerns.

---

**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>
/?	mshovers			_____			S&L
	08/04/2009			_____			
	jozalp			_____			
	08/04/2009			_____			
	mshovers			_____			
	08/06/2009			_____			
	jozalp			_____			
	08/06/2009			_____			

<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	mshovers 08/06/2009	jdye 08/20/2009	rschluet 08/20/2009	_____	cduerst 08/20/2009	cduerst 09/15/2009	

FE Sent For:

↳ At Intro.

<END>

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1/?	mshovers	1/8/20jld			8/20		
1/1	MEs	8/6/09					

FE Sent For:

 <END>

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

Rep Kramer  
6-8580

Cameron

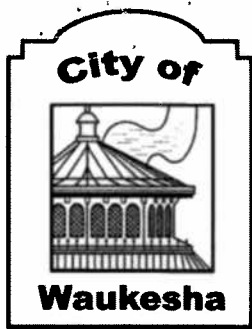
DOR won't certify tax inc.  
base of proposed TID in  
Waukesha.

Call Susan Plakys @ DOR @  
1-5335 and find out what  
DOR needs to fix the problem

All AB173

called Susan  
will hear back by 7/15  
81

Waukesha: Steve Crandall 262-524-3154



## COMMUNITY DEVELOPMENT

201 DELAFIELD STREET  
WAUKESHA, WISCONSIN 53188-3633  
TELEPHONE 262/524-3750 FAX 262/524-3751

Steven P. Crandell, Director

scrandel@ci.waukesha.wi.us

March 20, 2009

Susan Plakus  
Department of Revenue  
Tax Incremental Financing  
Bureau of Property Tax, MS 6-97  
PO Box 8971 Madison, WI 53708-8971

Dear Ms. Plakus,

With respect to the certification of the City of Waukesha's TID No. 18, it is my understanding the Department has concerns with the specific wording of the resolution passed by the Common Council which authorized the creation of the district. That resolution indicates that not less than 50% of the subject property in the district meets the requirement that it be blighted, in need of rehabilitation or conservation, or is suitable and zoned for industrial sites. It is clear from the additional submittals and the development agreement with the landowner that the project is intended to be predominantly classified as a rehabilitation district. Substantial compliance with the requirements of the statute are evident in the submittals of the City. On behalf of the City of Waukesha, I ask for consideration of the intention set forth in all of the paperwork submitted, rather than giving undue weight to form over substance.

Certainly, the Department has a prior practice with the City of Waukesha of elevating substance over form. As you are aware, with regard to TID No. 16, the same forms were used in the request for certification. When you questioned the classification for the TID, we responded by email that it was blighted property and that satisfied the Department and certification of the district followed. Similarly, with regard to TID No. 17, (using the same forms) you accepted email verification of the type of district. While I realize that more than one individual reviews TID submittals for certification, it does seem that the Department as a whole should apply the same practices.

The City of Waukesha would like to work with the Department in rectifying the current situation. Would the Department accept a statement from the Common Council, retroactively (*nunc pro tunc*) clarifying (not changing) the intended classification of the property? Please contact me to discuss how this matter can be resolved to the satisfaction of all parties. Thank you for your attention in this matter.

Sincerely,

Steven Crandell  
Community Development Director





# State of Wisconsin • DEPARTMENT OF REVENUE

DIVISION OF STATE AND LOCAL FINANCE • BUREAU OF PROPERTY TAX • EQUALIZATION SECTION • MADISON, WI

ADDRESS MAIL TO:

Area 6-97  
2135 Rimrock Road • P.O. Box 8971  
Madison, WI 53708-8971  
TELEPHONE: (608) 266-2149  
FAX: (608) 264-6897

July 20, 2009

The Honorable Bill Kramer  
State Representative  
97th Assembly District  
P.O. Box 8952  
Madison, WI 53708-8952

Dear Representative Kramer,

I am responding to your July 15, 2009, letter to Susan Plakus regarding the City of Waukesha's request for certification of Tax Increment District (TID) number 18. As you know, the Department of Revenue is bound by state statutes that identify specific TID creation requirements. The Department reviews each TID application in order to determine compliance with the statutory requirements. Since the City of Waukesha's TID did not adhere to the statutory requirements, the Department was forced to deny the TID. The following provides additional information for you to consider.

Sec. 66.1105(4)(gm)6, Wis. Stats., requires the municipal resolution to declare the type of TID being created. The City of Waukesha's resolution specified an environmental remediation TID. Environmental remediation TIDs are specified under sec. 66.1106, Wis. Stats., and have unique requirements. As outlined in my April 15, 2009, letter to the City, the Department's denial was based upon the fact that the City did not complete the statutory requirements for an environmental remediation TID. The Department must adhere to the language included in the municipal resolution and does not have the authority to waive these statutory requirements.

While the Department is not able to reconsider this particular application, the City may proceed with a new application process that adheres to state statutes. In this regard, Department staff is always available to discuss the procedure and requirements. However, municipalities are encouraged to initiate contact with the Department early in the process. With such contact the municipality can avert any errors and omissions, which will enable the Department to approve the TID in accord with state statutes.

I hope you find the information helpful. Please let us know if you have any questions.

Sincerely,

Scott R. Shields  
Equalization Section Chief  
Bureau of Property Tax

cc: Larry Nelson, Mayor, City of Waukesha  
Steven Crandell, Director, Waukesha Community Development  
Roger Ervin, Secretary, Department of Revenue  
Susan Plakus, Community Services Specialist, Department of Revenue





**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

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2  
3

AN ACT ...; relating to <sup>requiring</sup> the method by which the Department of Revenue <sup>to certify the tax base of</sup> makes ~~certain determinations regarding~~ tax incremental financing district number 18 in the city of Waukesha.

**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. ~~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, and adoption of a resolution by the common council or village board that creates the TID as of a date provided in the resolution.~~

<sup>Set</sup> Also ~~u~~ Under current law, once a TID has been created, the Department of Revenue (DOR) calculates the "tax increment 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;

Set

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.~~

net

~~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.~~

Currently, before a TID may be created, the city or village's application must specify ~~must specify~~ that 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. ~~ALTERNATIVE: Currently, before a TID may be created, the city or village must identify the specific property to be included as blighted or in need of rehabilitation or conservation work.~~

contains findings

~~Notwithstanding the 12-percent test identification of the area as blighted, this bill specifies, with regard to TID number 18, which the city of Waukesha created, or attempted to create on January 1, 2008, based on action taken by ~~the~~ the village board on May 8, 2006, that DOR must proceed as if the TID was created on January 1, 2008, except that DOR may not certify a value increment before 2009.~~

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

check date

The findings in affect, determine the type of TID that is being created.

The common council on this bill requires

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

- 1 SECTION 1. 66.1105 (5) (br) of the statutes is created to read:
- 2 66.1105 (5) (br) Notwithstanding the requirement ~~to identify~~ the specific
- 3 ~~property to be included under sub. (4)(b)~~ as blighted, or in need of rehabilitation or
- 4 conservation work, ~~as described in sub. (4)(b)~~ suitable for industrial sites, or suitable for
- 5 attempted to create, tax incremental district number 18 on January 1, 2008, based
- 6 on actions taken by ~~the~~ <sup>the common council on</sup> the village board on May 8, 2006, the tax incremental base
- 7 of the district shall be certified by the department of revenue as if the tax incremental
- 8 district had been created on January 1, 2008, and, until the tax incremental district
- 9 terminates, the department of revenue shall allocate tax increments and treat the

that the findings under sub. (4)(b) do specify

type of district that is being created

mixed-use development

notwithstanding the fact that the city's findings did not specify the type of TID that was being created. Also under the bill,

1 district in all other respects as if the district had been created on January 1, 2008,  
2 except that the department of revenue may not certify a value increment under par.  
3 (b) before 2009.

(END)

4  
*Check  
date*



STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

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LRB

Steve Crandell

8/4 meeting w/ Jessica, and + Jennifer Andrews of city  
city never intended to create an ERTID

City spent \$480K on project already

City's form said it was ~~an~~ a regular TID

but didn't pay "Blight"  
resolution

0.66.1105(4)(gm) 4,

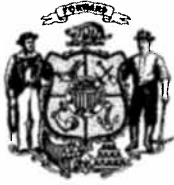
project costs in 0.66.1105(2)(af) l.a.

In the bill, TID should be  
★ certified as of 1/1/08

bill should say DOR shall treat application  
as if the resolution specifies that the

TID was a "blighted" TID under

0.66.1105(4)(gm) 4.



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-3134/?

MES: A...

Handwritten initials: jld, FMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Handwritten initials: gm

1

AN ACT ...; relating to: requiring the Department of Revenue to certify the tax

2

base of tax incremental financing district number 18 in the city of Waukesha.

*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. 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, 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 increment 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.

Currently, before a TID may be created, the city or village's application must contain findings that 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. The findings, in effect, determine the type of TID that is being created.

With regard to TID number 18, which the city of Waukesha created, or attempted to create on January 1, 2008, based on action taken by the common council on July 16, 2008, this bill requires that DOR proceed as if the TID was created on January 1, 2008, notwithstanding the fact that the city's findings did not specify the type of TID that was being created. Also under the bill, DOR may not certify a value increment before 2010.

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 (5) (br) of the statutes is created to read:

2 66.1105 (5) (br) Notwithstanding the requirement that the findings under sub.

3 (4)(gm) a. specify the type of district that is being created as blighted, in need of  
4 rehabilitation or conservation work, suitable for industrial sites, or suitable for

5 mixed-use development, if the city of Waukesha created, or attempted to create, tax

6 incremental district number 18 on January 1, 2008, based on actions taken by the

7 common council on July 16, 2008, the tax incremental base of the district

8 ~~certified by the~~ department of revenue as if the tax incremental district had been

9 created on January 1, 2008, and, until the tax incremental district terminates, the

10 department of revenue shall allocate tax increments and treat the district in all other

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△ △ △  
make  
shall certify the  
will be  
certified by the

\*

1 respects as if the district had been created on January 1, 2008, ✓ except that the  
2 department of revenue may not certify a value increment under par. ✓(b) before ✓2010.

3 (END)

**Duerst, Christina**

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**From:** Sholty, Cameron  
**Sent:** Tuesday, September 15, 2009 10:41 AM  
**To:** LRB.Legal  
**Subject:** Please jacket LRB 3134/1 FOR ASSEMBLY

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Cameron Sholty  
Office of State Representative Bill Kramer  
97th Assembly District

p: 608-266-8580  
e-mail: [cameron.sholty@legis.wisconsin.gov](mailto:cameron.sholty@legis.wisconsin.gov)