State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX -

PLEASE DO NOT REMOVE FROM DRAFTING FILE

Date Transfer Requested: 02/13/2008 (Per: MES)

☞ Appendix A

☞ The 2009 drafting file for LRB–0765/1

has been copied/added to the drafting file for

2009 LRB–2111

☞ The attached 2009 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

☞ This cover sheet was added to rear of the original 2009 drafting file. The drafting file was then returned, intact, to its folder and filed.

2009 DRAFTING REQUEST

...ne permits

...: **Cory Mason (608) 266-0634**

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

May Contact: **Judie Gibbon @DOR (6-8131)**
Susan Plakus @DOR (1-5335)
Racine Mayor - Gary Becker (262-636-9111)
John Antaramian (262-697-8566)

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

Received By: **mshovers**

Identical to LRB:

By/Representing: **Rep. Mason**

Drafter: **mshovers**

Addl. Drafters: **emueller**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Expand use of tax incremental distircts (TIDs) for environmental cleanup; increment sharing for environmental remediation TIDs; expand life of TID #2 in Racine

Instructions:

See attached. Expand life of TID #2 in Racine for 10 years, allow new expenditures for first 5 years, all other TID provisions and required approvals apply; Allow sharing/transfer of tax increments between ERTIDs; create new kind of TID -- if at least 50% of project costs go to envir. cleanup, the "12% rule" under s. 66.1105 (4) (gm) 2. c. doesn't apply.

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?							S&L

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/1	mshovers 01/12/2009 emueller 01/28/2009	jdyer 02/04/2009	mduchek 02/04/2009	_____ _____ _____ _____	mbarman 02/04/2009		

FE Sent For:

<END>

2009 DRAFTING REQUEST

Bill

Received: **11/13/2008**

Received By: **mshovers**

Wanted: **As time permits**

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By/Representing: **Rep. Mason**

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/?	mshovers	1/2 jld	MD	~~MD~~ PH 2/4			

FE Sent For:

<END>

Rep Mason

TID #2 expand life 10 yrs +
expand expenditure period (up to 5 yrs before end date)

keep all same rules

ERTIDs – allow one to transfer $ to another

If 50% of funds go to envir cleanup, cap don't apply – –

(?) When was TID #2 in Racine CR;

CR; 1983 ; 27 years → must end 2010
Exp. prd ended 2005

STATE OF WISCONSIN – **LEGISLATIVE REFERENCE BUREAU** – LEGAL SECTION
(608–266–3561)

Rep. Mason

same TID #2 changes

allow ERTIDs to transfer in city of

Cudahy

State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0765/1
MES&EVM

DNote

jld

2009 BILL

wanted: SOON

Before a city or village may create a TID several steps and plans are required.

AN ACT ...; **relating to:** expanding the life of a tax incremental district (TID) in the city of Racine and authorizing sharing of tax increments by certain environmental remediation TID. tax incremental districts

---

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. 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. Also under current law, a city or village may not generally make expenditures for project costs later than 5 years before the unextended termination date of the TID.

Under this bill, for TID #2 in the city of Racine, the 27-year life of the TID and the period of time during which DOR may authorize tax increments is extended from 2010 to 2020, and the expenditure period is extended from 2005 to 2010.

Under current law, the environmental remediation tax incremental financing program permits a city, village, town, or county (political subdivision) to recoup the costs of remediating contaminated property from property taxes that are levied on the remediated property. The mechanism for financing remediation costs is very similar to the mechanism for financing project costs under the tax incremental financing program.

Initially, the governing body of a political subdivision adopts a resolution creating an environmental remediation tax incremental district (ERTID) with particular boundaries. This resolution is then reviewed by a joint review board made up of representatives of the overlying taxing jurisdictions. If the joint review board approves the ERTID, a political subdivision that has incurred eligible costs to remediate environmental pollution on a parcel of property may apply to DOR to certify the environmental remediation tax incremental base of the parcel. DOR is required to certify the environmental remediation tax incremental base if the political subdivision submits to DOR all of the following: 1) a statement that the political subdivision has incurred some eligible costs, together with a detailed proposed remedial action plan approved by the Department of Natural Resources (DNR) that contains cost estimates for anticipated eligible costs, a schedule for the design and implementation that is needed to complete the remediation, and certification from DNR that it has approved the site investigation report that relates to the parcel; 2) a statement that all taxing jurisdictions with authority to levy general property taxes on the parcel of property have been notified that the political subdivision intends to recover its environmental remediation costs by using an environmental remediation tax increment; and 3) a statement that the political subdivision has attempted to recover its environmental remediation costs from the person who is responsible for the environmental pollution that is being remediated. Thereafter, the political subdivision that created the ERTID may use positive environmental remediation tax increments to pay eligible costs of remediating environmental pollution in the ERTID.

Currently, the maximum life of an ERTID is 23 years and no expenditure for an eligible cost may be made by a political subdivision later than 15 years after the environmental remediation tax incremental base is certified by DOR. An ERTID may also terminate when a political subdivision has received sufficient environmental remediation tax increments to cover all of the eligible costs.

BILL

This bill allows the governing body of a political subdivision to adopt a resolution requesting that DOR allocate environmental remediation tax increments from an ERTID that has recovered all eligible costs to another ERTID created by the same governing body. Upon receipt of a copy of this resolution, DOR would continue to allocate environmental remediation tax increments from the donor ERTID after all of the eligible costs for that ERTID have been recovered. These increments would be applied to another ERTID created in the same political subdivision. Increments from the donor ERTID continue to be generated until the earlier of: 1) 23 years after the creation of the donor ERTID or 2) the recovery of all eligible costs for the recipient ERTID.

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:

SECTION 1. 66.1105 (6) (a) 9. of the statutes is created to read:

66.1105 **(6)** (a) 9. Thirty-seven years after the tax incremental district is created if the district is created before October 1, 1995, and the expenditure period is specified in par. (am) 2. d.

SECTION 2. 66.1105 (6) (am) 2. d. of the statutes is created to read:

66.1105 **(6)** (am) 2. d. Expenditures for project costs for ~~Tax Incremental District Number~~ Two in Racine may be made no later than 32 years after the district is created and may be made through 2015.

SECTION 3. 66.1106 (1) (i) of the statutes is amended to read:

66.1106 **(1)** (i) "Period of certification" means a period of not more than 23 years beginning after the department certifies the environmental remediation tax incremental base under sub. (4) or a period before all eligible costs have been paid, or a period before all eligible costs of a recipient district designated under sub. (2) (c) have been paid, whichever occurs first.

History: 1997 a. 27; 1999 a. 9; 1999 a. 150 ss. 473 to 478; Stats. 1999 s. 66.1106; 1999 a. 185 s. 59; 2003 a. 126; 2005 a. 246, 418.

SECTION 4. 66.1106 (2) (c) of the statutes is created to read:

66.1106 **(2)** (c) Notwithstanding par. (a) or (b), or sub. (7) (d) 1. or (11) (a), if the governing body of a political subdivision determines that all eligible costs of an environmental remediation tax incremental district that it created will be paid before the date specified in sub. (11) (b), the governing body of that political subdivision may adopt a resolution requesting that the department allocate positive environmental remediation tax increments generated by that donor environmental remediation tax incremental district to pay the eligible costs of another environmental remediation tax incremental district created by that governing body. A resolution under this paragraph must be adopted before the expiration of the period of certification.

SECTION 5. 66.1106 (7) (a) of the statutes is amended to read:

66.1106 **(7)** (a) Subject to pars. (b), (c) ~~and~~, (d), and (e), the department shall annually authorize the positive environmental remediation tax increment with respect to a parcel or contiguous parcels of property during the period of certification to the political subdivision that incurred the costs to remediate environmental pollution on the property, except that an authorization granted under this paragraph does not apply after the department receives the notice described under sub. (10) (b).

History: 1997 a. 27; 1999 a. 9; 1999 a. 150 ss. 473 to 478; Stats. 1999 s. 66.1106; 1999 a. 185 s. 59; 2003 a. 126; 2005 a. 246, 418.

SECTION 6. 66.1106 (7) (e) of the statutes is created to read:

66.1106 **(7)** (e) Notwithstanding par. (d), if the governing body of a political subdivision adopts a resolution described in sub. (2) (c), it shall provide a copy of the resolution to the department. The department shall authorize a positive environmental remediation tax increment generated by a donor district, as described in sub. (2) (c), to the political subdivision that incurred eligible costs to remediate

environmental pollution in another district within that political subdivision, as described in sub. (2) (c), until the earlier of the following occurs:

1. The political subdivision has received aggregate environmental remediation tax increments with respect to the recipient district in an amount equal to the aggregate of all of the eligible costs for that district.

2. The donor district terminates under sub. (11) (b).

SECTION 7. 66.1106 (11) (a) of the statutes is amended to read:

66.1106 **(11)** (a) ~~The~~ Except as provided in sub. (2) (c), the political subdivision has received aggregate environmental remediation tax increments with respect to the district in an amount equal to the aggregate of all eligible costs.

History: 1997 a. 27; 1999 a. 9; 1999 a. 150 ss. 473 to 478; Stats. 1999 s. 66.1106; 1999 a. 185 s. 59; 2003 a. 126; 2005 a. 246, 418.

(END)

D Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0765/1dn
MES&EVM:...

date

Representative Mason:

This note is meant to alert you that it is possible a Wisconsin court could find that the part of this bill that relates to Tax Incremental District #2 in Racine makes this a "private or local bill" that, under art. IV, sec. 18, of the Wisconsin Constitution, must be enacted as single-subject legislation. If so, it is possible that this legislation cannot validly be enacted because the bill arguably encompasses more than one subject. A court could regard this bill as "multi-subject" legislation because of the part which allows environmental remediation TIDs to share increments. A court could also rule, however, that the entire bill is one subject dealing the tax incremental financing.

Under *Milwaukee Brewers Baseball Club v. Wisconsin Dept. of Health and Social Services*, 130 Wis. 2d 79, 115 (1986), "a legislative provision which is specific to any person, place or thing is a private or local law within the meaning of art. IV, sec. 18, unless: 1) the general subject matter of the provision relates to a state responsibility of statewide dimension; and 2) its enactment will have direct and immediate effect on a specific statewide concern or interest." The first part of this proposal is applicable only to the City of Racine.

Because it is difficult to predict the potential for and outcome of any court action on this proposal, you may wish to consider introducing each part of this proposal as a separate bill.

Marc E. Shovers
Managing Attorney
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E-mail: marc.shovers@legis.wisconsin.gov

EVM

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0765/1dn
MES&EVM:jld:md

February 4, 2009

Representative Mason:

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Eric V. Mueller
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State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0765/1
MES&EVM:jld:md

2009 BILL

AN ACT *to amend* 66.1106 (1) (i), 66.1106 (7) (a) and 66.1106 (11) (a); and *to create* 66.1105 (6) (a) 9., 66.1105 (6) (am) 2. d., 66.1106 (2) (c) and 66.1106 (7) (e) of the statutes; **relating to:** expanding the life of a tax incremental district in the city of Racine and authorizing sharing of tax increments by certain environmental remediation tax incremental districts.

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.

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(END)