

2009 DRAFTING REQUEST

Bill

Received: **09/02/2009**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Jon Erpenbach (608) 266-6670**

By/Representing: **Tryg**

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

Drafter: **mshovers**

May Contact:

Addl. Drafters:

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

Extra Copies: **EVM**

Submit via email: **YES**

Requester's email: **Sen.Erpenbach@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Changes to the administration of the tax incremental financing (TIF) law

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>
/?	mshovers 09/11/2009 emueller 10/01/2009			_____			Local
/1	mshovers 10/13/2009	jdyer 10/19/2009	phenry 10/19/2009	_____	sbasford 10/19/2009	lparisi 11/03/2009	Local
/2	mshovers 11/06/2009	jdyer 11/06/2009	jfrantze 11/09/2009	_____	mbarman 11/09/2009	mbarman 11/09/2009	

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

↳ At Intro.

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12 MES 11/6/09
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JACKET 1/2 for senate

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1/1	mshovers	10/19 jld	10/19 ph	10/19 ph MS			

FE Sent For:

<END>

Shovers, Marc

From: Knutson, Tryg
Sent: Thursday, October 01, 2009 12:20 PM
To: Shovers, Marc
Subject: FW: Additional TIF piece

This is the additional piece on annual administration fee clarification.

Thanks.

Tryg

From: Gates-Hendrix, Sherrie L - DOR [<mailto:Sherrie.GatesHendrix@revenue.wi.gov>]
Sent: Thursday, October 01, 2009 12:05 PM
To: Knutson, Tryg
Subject: FW: Additional TIF piece

Trying again ... not sure why the last one didn't go through

From: Gates-Hendrix, Sherrie L - DOR
Sent: Thursday, October 01, 2009 10:43 AM
To: 'Knutson, Tryg - LEGIS'
Subject: FW: Additional TIF piece

From: Gates-Hendrix, Sherrie L - DOR
Sent: Wednesday, September 02, 2009 3:14 PM
To: Knutson, Tryg - LEGIS
Subject: RE: Additional TIF piece

Thanks Tryg. This piece is not in what I sent you earlier -- a separate issue and I think would not raise a lot of controversy? It says that if municipalities have not paid the DOR TIF admin fee of \$150, the muni TIF increment won't be certified by DOR. There is no enforcement mechanism now.

From: Knutson, Tryg [<mailto:Tryg.Knutson@legis.wisconsin.gov>]
Sent: Wednesday, September 02, 2009 2:53 PM
To: Gates-Hendrix, Sherrie L - DOR
Subject: RE: Additional TIF piece

We talked about the bill -- but this wasn't particularly mentioned. I'll run it by Jon and get back to you.

Thanks.

Tryg

From: Gates-Hendrix, Sherrie L - DOR [<mailto:Sherrie.GatesHendrix@revenue.wi.gov>]
Sent: Wednesday, September 02, 2009 2:43 PM
To: Knutson, Tryg
Subject: Additional TIF piece

Hi Tryg --

Did Roger talk to you about this issue this morning and folding it into the TIF bill? We would like to add this if you're OK

with it.

Sherrie

Tax Incremental Financing (TIF) Annual Administration Fee Clarification

DESCRIPTION OF CURRENT LAW AND PROBLEM

Annual Administration Fee Current laws (60.85 (6)(m), 66.1105 (6)(ae) and 66.1106 (13)(b)), allows the Department of Revenue (DOR) to charge an annual administrative fee of \$150 for each active Tax Incremental District in a municipality. This annual fee is due no later than May 15th each year. At the present time, there is no recourse for DOR should this fee not be paid.

RECOMMENDATION FOR ACTION

Expand the following subparagraphs in sec. 60.85 (6)(m), 66.1105 (6)(ae) and 66.1106 (13)(b) Wis. Stats., to include the following:

60.85 (6)(m) With regard..... If the annual fee payment is not received by May 15th, the department may not authorize the annual allocation of tax increment.

66.1105 (6)(ae) With regard..... If the annual fee payment is not received by May 15th, the department may not authorize the annual allocation of tax increment.

66.1106 (13)(b) With regard..... If the annual fee payment is not received by May 15th, the department may not authorize the annual allocation of tax increment.

FAIRNESS /TAX EQUITY

Current statute already requires the payment of the annual fee. Failure to make the payment by a municipality would not be fair to the municipalities that are following the statute correctly.

EFFECTIVE DATE AND/OR INITIAL APPLICABILITY

October 1, 2009, since first annual payment is due May 15, 2010.

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Shovers, Marc

From: Knutson, Tryg
Sent: Wednesday, September 02, 2009 2:14 PM
To: Shovers, Marc
Subject: TIF Legislative Proposal 8-25 Rev.doc

Marc - Senator Erpenbach would like to have the following proposal drafted. I've been working with Sec. Ervin and Sherri Gates-Hendricks on this - Sherri is out on vacation for the next two weeks - so if you have questions - please direct my way.
 Thanks much. Tryg Knutson

2009-2011 Legislative Proposal
Wisconsin Department of Revenue

August 25, 2009

TITLE: Improved Administration of Tax Incremental Finance (TIF)

DESCRIPTION OF CURRENT LAW AND PROBLEM

1. **12% Value Limit.** Current law prohibits the Department of Revenue (DOR) from certifying any new or amended Tax Increment District (TID) if the equalized property value of the district being created or amended plus the value increment of all existing TIDs exceeds 12% of the municipality's total equalized property value. See sec. 66.1105(4)(gm)4.c.

When a municipality's TID exceeds the statutory 12% value limitation, DOR must deny certification of the TID. Any project funds expended by the municipality for a denied TID become the obligation of the municipality; TID increment revenue will not be available to fund those expenses.

2. **TID Creation & Amendment Due Dates.** TIDs are reviewed and approved on an annual basis. The year a TID is created is the district's "base" year and the property values for that year serve as the measure for subsequent TID "increment" values. Resolutions for creation or amendment approved from October 1 of Year 1 to September 30 of Year 2 are due to DOR by December 31 of Year 2. DOR finalizes certification (or denial) of TIDs by April of Year 3 and notifies municipalities of the outcome at that time. If a TID is denied because of the 12% value limit, there is no opportunity for the municipality to correct the problem. The TID can only proceed if the state Legislature passes special exception legislation.
3. **Overlapping Parcels.** When calculating the 12% value limitation for a new TID, state statutes currently require DOR's calculation to include any parcels that overlap an existing TID. Double counted value can result in TID denial.
4. **Public Notice.** Under current law, property owner notification of a pending TID is only required in the case of TIDs that are blighted or in need of rehabilitation or conservation work. See requirement for property owner notification under sec. 66.1105(4)(c). Since most TIDs (60%) do not fall into these categories, public awareness of pending TIDs is often low. Meetings of Joint Review Boards, the public bodies formed for the purpose of TID review, are not open meetings.

RECOMMENDATION FOR ACTION

1. **12% Value Limit.** Allow DOR to certify a new or amended TID that exceeds the 12% statutory TID value limit if the county board has adopted a resolution recommending the TID for creation. The county board must adopt this resolution by March 15 of the year following the creation (Year 3). If a TID is located in multiple

9/2/2009

counties, the county that contains the largest portion of the TID's value must adopt the resolution. This follows current law [s. 66.1105(4m)(a)], which specifies that the county with the largest portion of the TID's value will represent the county member on the Joint Review Board.

- 2. **TID Creation & Amendment Due Dates.** Modify the date final TID resolutions for creation or amendment are due to DOR. Change the due date from December 31 to October 31. Require DOR to notify a municipality by December 31 if the equalized property value of the district being created or amended plus the value increment of all existing TIDs exceeds 12% of the municipality's total equalized property value. This will provide over 2 months for a municipality to obtain a county board resolution recommending creation of the TID despite the TID exceeding the 12% limit.
- 3. **Overlapping Parcels.** Exclude parcels that overlap a previously created/amended TID when calculating the 12%. Although overlapping parcels will not be included in calculating the 12% limit, these parcels will still be included in the base value of the TID.
- 4. **Public Notice.** Require all meetings regarding the creation or amendment of a TID to be publicly advertised as open to the public. Specifically, require newspaper publication of a Class 2 notice as specified under sec. 985.07(2), by both the municipal and county planning commissions and the Joint Review Board. The notice would include the date, time, and location of the upcoming hearing on the TID's proposed project plan, boundaries, and proposed creation. The hearing notice should include information regarding the proposed project's costs and whether those costs include cash grants made by the municipality to owners, lessees, or developers of land that is located within the tax incremental district.

Require all meetings of the Joint Review Board be open to the public.

- they are under current law - since 1981 - 1984

ADMINISTRATIVE IMPACT

Allowing TIDs over the 12% value limit to proceed with county board approval will provide municipalities with an important alternative to TID denial or a lengthy process to obtain a legislative exception.

Moving the TID resolution due date from December 31 to October 31 will shift the work cycle of both local governments and DOR. Moving up the due date provides a shorter time for DOR review (2 months versus current 4 months) but provides time for county review and possible board resolution to accommodate TIDs that have exceeded the 12% value limit.

FAIRNESS /TAX EQUITY

Under current law, if a proposed TID exceeds the 12% value limit, the only option to continue with that TID is special exception legislation by the state Legislature. Allowing a TID to exceed the 12% limit through a county board resolution shifts the action for exception closer to the affected taxpayers. Compared to state legislative action, affected taxpayers are more likely to know about county board action, review pending resolutions and participate in the board process. The county board resolution option may eliminate the need for most state-level special exception legislation pertaining to the 12% statutory limit.

Moving up the TID resolution due date to October 31 will enable DOR to provide notifications to municipalities earlier in the process should they exceed the 12% value limit. As a result, municipalities will have the opportunity to proceed with the proposed county board resolution process.

The exclusion of an overlapped parcel in the 12% value calculation is an important fix to a technical flaw in current TIF law.

A public notice by the respective county and municipality will ensure the public has been made aware of TIF action and been given the opportunity to voice concerns. Ensuring that Joint Review Board meetings are open to the public is an important change that will provide more public access to government meetings and decisions that may have a significant impact on property tax levels.

?)

IMPACT ON ECONOMIC DEVELOPMENT

With county board approval, the proposal could allow municipalities to realize significant gains in economic development. More public notice with Class 2 notices and public Joint Review Board meetings will ensure that

taxpayers have more opportunity for input on these economic development opportunities.

EFFECTIVE DATE AND/OR INITIAL APPLICABILITY

January 1, 2010



Handwritten initials: jld, RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-NOTE

Handwritten initials: jld

Handwritten mark: X

1 AN ACT ...; relating to: changing certain administrative procedures under the
2 tax incremental financing program.

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. Currently, towns also have a limited ability to create a TID under certain circumstances. 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, approval of the city's or village's proposed TID by a joint review board that consists of members who represent the overlying taxation districts, 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 incremental 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.

Under current law, a planning commission may adopt an amendment to a project plan, which requires the approval of the common council or village board and the same findings that current law requires for the creation of a TID. Current law also authorizes the amendment of a project plan up to four times during a TID's existence to change the district's boundaries by adding or subtracting territory.

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. Under the exception, a city or village may simultaneously create a new TID and subtract territory from an existing TID without adopting a resolution containing the 12 percent test if the city or village demonstrates to DOR that the value of the territory that is subtracted at least equals the amount that DOR believes is necessary to ensure that, when the new TID is created, the 12 percent test is met. The city or village must also certify to DOR that no other district created under this exception currently exists in the city or village.

This bill changes a number of administrative procedures that apply to TIDs. Under the bill, in determining whether a city or village complies with the 12 percent test, DOR must exclude any parcel of land in a newly created TID that is located in an existing TID. If DOR determines that a city or village has violated the 12 percent test, it must notify the city or village in writing. The city or village must then either rescind its approval of the resolution creating a TID or ~~amending a TID's project plan,~~ or notify DOR in writing that the county in which the TID is located approves of the city's or village's action related to the TID even though the 12 percent test is not met.

The bill also changes from December 31 to October 31 the date by which a city or village must submit certain completed forms to DOR and specifies that, in complying with meeting notice requirements, a city or village must use a newspaper that is in general circulation in the county in which the TID is located. With regard to meetings held by a joint review board, the bill requires all such meetings to be preceded by a class 2 notice.

Under current law, any political subdivision (city, village, town, or county) that receives a tax increment for a TID or environmental remediation TID must pay DOR an annual administrative fee. Under this bill, if the political subdivision does not pay the fee by May 15, DOR may not allocate a tax increment to that political subdivision.

The bill takes effect on October 1, 2010.

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

*
*

(political subdivision)

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

1 **SECTION 1.** 60.85 (6) (a) (intro.)^x of the statutes is amended to read:

2 60.85 (6) (a) (intro.) If the joint review board approves the creation of the tax
3 incremental district under sub. (4), and subject to par. (am),^v positive tax increments
4 with respect to a tax incremental district are allocated to the town which created the
5 district for each year commencing after the date when a project plan is adopted under
6 sub. (3) (g). The department of revenue may not authorize allocation of tax
7 increments until it determines from timely evidence submitted by the town that each
8 of the procedures and documents required under sub. (3) (d) to (f) has been completed
9 and all related notices given in a timely manner. The department of revenue may
10 authorize allocation of tax increments for any tax incremental district only if the
11 town clerk and assessor annually submit to the department all required information
12 on or before the 2nd Monday in June. The facts supporting any document adopted
13 or action taken to comply with sub. (3) (d) to (f) are not subject to review by the
14 department of revenue under this paragraph except as provided under par. (e). After
15 the allocation of tax increments is authorized, the department of revenue shall
16 annually authorize allocation of the tax increment to the town that created the
17 district until the sooner of the following events:

History: 2003 a. 231, 326, 327; 2005 a. 330; 2009 a. 28.

18 **SECTION 2.** 60.85 (6) (am)^x of the statutes, as created by 2009 Wisconsin Act 28,
19 is amended to read:

20 60.85 (6) (am) With regard to each district for which the department of revenue
21 authorizes the allocation of a tax increment under par. (a), the department shall

1 charge the town that created the district an annual administrative fee of \$150 that
 2 the town shall pay to the department no later than May 15. If the town does not pay
 3 the fee that is required under this paragraph, by May 15, the department may not
 4 authorize the allocation of a tax increment under par. (a) for that town.

NOTE: NOTE: Par. (am) is created eff. 10-1-09 by 2009 Wis. Act 28. NOTE:
 History: 2003 a. 231, 326, 327; 2005 a. 330; 2009 a. 28.

5 SECTION 3. 66.1105 (4) (a) of the statutes is amended to read:

6 66.1105 (4) (a) Holding of a public hearing by the planning commission at
 7 which interested parties are afforded a reasonable opportunity to express their views
 8 on the proposed creation of a tax incremental district and the proposed boundaries
 9 of the district. Notice of the hearing shall be published as a class 2 notice, under ch.
 10 985, ^{g-2} except that the notice shall be published in a newspaper having general
 11 circulation within the county in which the proposed district is to be created. The
 12 notice shall include information relating to the proposed boundaries of the district,
 13 the proposed project costs of the proposed project, and whether the project costs
 14 include cash grants from the local legislative body to the owners, developers, or
 15 lessees of the land that is located within the proposed district. Before publication,
 16 a copy of the notice shall be sent by first class mail to the chief executive officer or
 17 administrator of all local governmental entities having the power to levy taxes on
 18 property located within the proposed district and to the school board of any school
 19 district which includes property located within the proposed district. For a county
 20 with no chief executive officer or administrator, notice shall be sent to the county
 21 board chairperson.

22 SECTION 4. 66.1105 (4) (gm) 4. c. of the statutes is amended to read:

23 66.1105 (4) (gm) 4. c. Except as provided in sub. subs. (10) (c) and (17), the
 24 equalized value of taxable property of the district plus the value increment of all

1 existing districts does not exceed 12 percent of the total equalized value of taxable
2 property within the city. In determining the equalized value of taxable property
3 under this subd. 4. c., the department of revenue shall base its calculations on the
4 most recent equalized value of taxable property of the district that is reported under
5 s. 70.57 (1m) before the date on which the resolution under this paragraph is
6 adopted. If the department of revenue determines that a local legislative body
7 exceeds the 12 percent limit described in this subd. 4. c., the department shall notify
8 the city of its noncompliance, in writing, not later than December 31 of the year in
9 which the department receives the completed application or amendment forms
10 described in sub. (5) (b).

11 SECTION 5. 66.1105 (4m) (e) of the statutes is created to read:

12 66.1105 (4m) (e) Notice of all meetings held by a joint review board shall be
13 published as a class 2 notice, under ch. 985.

14 SECTION 6. 66.1105 (5) (b) of the statutes is amended to read:

15 66.1105 (5) (b) Upon application in writing by the city clerk, in a form
16 prescribed by the department of revenue, the department shall determine according
17 to its best judgment from all sources available to it the full aggregate value of the
18 taxable property and, except as provided in par. (bm), of the city-owned property in
19 the tax incremental district. The application shall state the percentage of territory
20 within the tax incremental district which the local legislative body estimates will be
21 devoted to retail business at the end of the maximum expenditure period specified
22 in sub. (6) (am) 1. if that estimate is at least 35%. Subject to sub. (8) (d), the
23 department shall certify this aggregate valuation to the city clerk, and the aggregate
24 valuation constitutes the tax incremental base of the tax incremental district. The
25 city clerk shall complete these forms, including forms for the amendment of a project

1 plan, and submit the [✓]completed application or amendment forms on or before
 2 ~~December~~ October [✓]31 of the year the tax incremental district is created, as defined
 3 in sub. (4) (gm) 2. or, in the case of an amendment, on or before ~~December~~ [✓]October
 4 31 of the year in which the changes to the project plan take effect.

5 **SECTION 7.** 66.1105 (6) (a) (intro.) [✓]of the statutes is amended to read:

6 66.1105 (6) (a) (intro.) If the joint review board approves the creation of the tax
 7 incremental district under sub. (4m), and subject to par. (ae), [✓]positive tax increments
 8 with respect to a tax incremental district are allocated to the city which created the
 9 district for each year commencing after the date when a project plan is adopted under
 10 sub. (4) (g). The department of revenue may not authorize allocation of tax
 11 increments until it determines from timely evidence submitted by the city that each
 12 of the procedures and documents required under sub. (4) (d) to (f) has been completed
 13 and all related notices given in a timely manner. The department of revenue may
 14 authorize allocation of tax increments for any tax incremental district only if the city
 15 clerk and assessor annually submit to the department all required information on
 16 or before the 2nd Monday in June. The facts supporting any document adopted or
 17 action taken to comply with sub. (4) (d) to (f) are not subject to review by the
 18 department of revenue under this paragraph. After the allocation of tax increments
 19 is authorized, the department of revenue shall annually authorize allocation of the
 20 tax increment to the city that created the district until the soonest of the following
 21 events:

History: 1975 c. 105, 199, 311; 1977 c. 29 ss. 724m, 725, 1646 (1), (3); 1977 c. 418; 1979 c. 221, 343; 1979 c. 361 s. 112; 1981 c. 20, 317; 1983 a. 27, 31, 207, 320, 405, 538; 1985 a. 29, 39, 285; 1987 a. 27, 186, 395; 1989 a. 31, 336; 1993 a. 293, 337, 399; 1995 a. 27 ss. 3330c to 3337, 9116 (5), 9130 (4); 1995 a. 201, 225, 227, 335; 1997 a. 3, 27, 237, 252; 1999 a. 9; 1999 a. 150 ss. 457 to 472; Stats. 1999 s. 66.1105; 2001 a. 5, 11, 16, 104; 2003 a. 34, 46, 126, 127, 194, 320, 326; 2005 a. 6, 13, 46, 328, 331, 385; 2007 a. 2, 10, 21, 41, 43, 57, 73, 96; 2009 a. 5, 28.

22 **SECTION 8.** 66.1105 (6) (ae) [✓]of the statutes, as created by 2009 Wisconsin Act
 23 28, is amended to read:

1 66.1105 (6) (ae) With regard to each district for which the department of
2 revenue authorizes the allocation of a tax increment under par. (a), the department
3 shall charge the city that created the district an annual administrative fee of \$150
4 that the city shall pay to the department no later than May 15. If the city does not
5 pay the fee that is required under this paragraph, by May 15, the department may
6 not authorize the allocation of a tax increment under par. (a) for that city.

NOTE: Par. (ae) is created eff. 10-1-09 by 2009 Wis. Act 28. NOTE:

History: 1975 c. 105, 196, 311; 1977 c. 29 ss. 724m, 725, 1646(1), (3); 1977 c. 418; 1979 c. 221, 343; 1979 c. 361 s. 112; 1981 c. 20, 317; 1983 a. 27, 31, 207, 320, 405, 538; 1985 a. 29, 39, 285; 1987 a. 27, 186, 395; 1989 a. 31, 336; 1993 a. 293, 337, 399; 1995 a. 27 ss. 3330c to 3337, 9116(5), 9130(4); 1995 a. 201, 225, 227, 335; 1997 a. 3, 27, 237, 252; 1999 a. 9; 1999 a. 150 ss. 457 to 472; Stats. 1999 a. 66.1105; 2001 a. 5, 11, 16, 104; 2003 a. 34, 46, 126, 127, 194, 320, 326; 2005 a. 6, 13, 46, 328, 331, 385; 2007 a. 2, 10, 21, 41, 43, 57, 73, 96; 2009 a. 5, 28.

7 **SECTION 9.** 66.1105 (10) (c) of the statutes is created to read:

8 66.1105 (10) (c) The department of revenue shall exclude any parcel in a newly
9 created tax incremental district that is located in an existing district when
10 determining compliance with the 12 percent limit described in sub. (4) (gm) 4. c.

11 **SECTION 10.** 66.1105 (12) of the statutes is created to read:

12 66.1105 (12) EQUALIZED VALUATION; THE 12 PERCENT LIMIT. If the department of
13 revenue notifies a local legislative body that is not in compliance with the 12 percent
14 limit described in sub. (4) (gm) 4. c., the local legislative body shall do one of the
15 following:

16 (a) Rescind its approval of the project plan resolution described under sub. (4)
17 (g).

18 (b) Not later than March 15 of the year immediately following the year in which
19 the local legislative body receives the notice of noncompliance described in sub. (4)
20 (gm) 4. c., the local legislative body sends the department of revenue by 1st class mail
21 a copy of a resolution adopted by the county board in which the tax incremental
22 district, or proposed district, is located stating that the county board accepts the
23 project plan even if the 12 percent limit is exceeded. If the district or proposed district

1 is in more than one county, only the county that contains the largest portion of the
2 district's value must adopt a resolution as described in this paragraph.

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

4 66.1106 (7) (a) Subject to pars. (b), (c) and (d), and sub. (13) (b), the department
5 shall annually authorize the positive environmental remediation tax increment with
6 respect to a parcel or contiguous parcels of property during the period of certification
7 to the political subdivision that incurred the costs to remediate environmental
8 pollution on the property, except that an authorization granted under this paragraph
9 does not apply after the department receives the notice described under sub. (10) (b).

10 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; 2009 a. 28.

10 **SECTION 12.** 66.1106 (13) (b) of the statutes is amended to read:

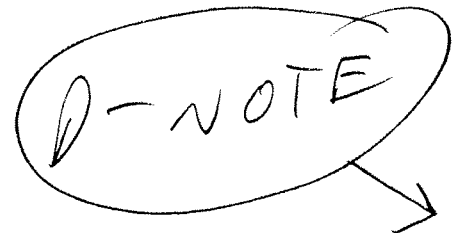
11 66.1106 (13) (b) The department may impose a fee of \$1,000 on a political
12 subdivision to determine or redetermine the environmental remediation tax
13 incremental base of an environmental remediation tax incremental district under
14 this subsection or sub. (4). If the political subdivision does not pay the fee that is
15 required under this paragraph, by May 15, the department may not authorize the
16 allocation of a tax increment under sub. (7) for that political subdivision.

17 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; 2009 a. 28.

17 **SECTION 13. Effective date.**

18 (1) This act takes effect on October 1, 2010.

19 (END)



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

LRB-3421/dn

MES:.....

date

JL

Senator Erpenbach: ✓

I did not include any specific requirement that meetings of a joint review board be open to the public. These meetings are already subject to the open meetings law. Please see ss. 19.81 to 19.84 of the statutes. ✓

Marc E. Shovers
Managing Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov

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

LRB-3421/1dn
MES:jld:ph

October 19, 2009

Senator Erpenbach:

I did not include any specific requirement that meetings of a joint review board be open to the public. These meetings are already subject to the open meetings law. Please see ss. 19.81 to 19.84 of the statutes.

Marc E. Shovers
Managing Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov

Parisi, Lori

From: Knutson, Tryg
Sent: Tuesday, November 03, 2009 3:38 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-3421/1 Topic: Changes to the administration of the tax incremental financing (TIF) law

Please Jacket LRB 09-3421/1 for the SENATE.

Shovers, Marc

From: Knutson, Tryg
Sent: Tuesday, November 03, 2009 3:46 PM
To: Shovers, Marc
Subject: FW: 3421/1 DOR TIF draft

I was looking for these changes incorporated into it – I know I didn't receive this back – I was off on my timing. We did receive the Oct. 19th draft –

Of course, I just hit the jacket button for 3421/1 before realizing I was off....

Can we get the following DOR suggestions incorporated into a /2 that we can then have jacketed?

Thanks.

Tryg

From: Knutson, Tryg
Sent: Monday, October 26, 2009 9:31 AM
To: Shovers, Marc
Subject: FW: 3421/1 DOR TIF draft

Hi Marc –

A couple of suggested clarifications to 3421/1 – and then we should be good to jacket.

Thanks much.

Tryg

From: Gates-Hendrix, Sherrie L - DOR [<mailto:Sherrie.GatesHendrix@revenue.wi.gov>]
Sent: Friday, October 23, 2009 9:28 AM
To: Knutson, Tryg
Subject: RE: 3421/1 DOR TIF draft

Hi Tryg --

It looks good - thanks. We have a couple minor suggestions for changes below. I think you talked to Linda about moving this fairly quickly. Hopefully Marc Shovers can put it on a priority list.

Thanks again

Sherrie

Marc mentions in his drafters note that joint review board meetings are open. While those meetings are open to the public, the notice process is not uniform. DOR is looking for a legislative change to require a class 2 notice for each meeting. Page 5, lines 13 through 15 of the LRB draft provide the remedy. We suggest deleting the newly created language on page 4, lines 12 through 17 and replace with the following.

Page 7, line 23 add the following after the phrase "12 percent limit is exceeded."

Prior to the county board meeting, notice of the meeting shall be published as a class 2 notice, under ch. 985, except

that the notice shall be published in a newspaper having general circulation within the county in which the proposed district is to be created. The notice shall include information relating to the proposed boundaries of the district, the proposed project costs of the proposed project, and whether the project costs include cash grants from the local legislative body to the owners, developers, or lessees of the land that is located within the proposed district

We don't think a public notice for the original creation or territory amendment needs to be posted in a newspaper having general circulation within the county. The notice suggested in the new language above will inform all county residents of the situation.

Page 8, line 2 should read as follows.

66.1106(7)(a) Subject to pars, (b)(c) and (d), and sub. (7)(am)

This change will include the correct statutory reference.

Page 8, lines 8-14 should be removed and replaced with the following.

Section 12. 66.1106 (7)(am) of the statutes is amended to read:
66.1106 (7)(am) With regard to each district for which the department of revenue authorizes the allocation of a tax increment under par. (a), the department shall charge the political subdivision that created the district an annual administrative fee of \$150 that the political subdivision shall pay to the department no later than May 15. If the political subdivision does not pay the fee that is required under this paragraph, by May 15, the department may not authorize the allocation of a tax increment under par. (a) for that political subdivision.

This change will include the correct statutory reference.

From: Knutson, Tryg [<mailto:Tryg.Knutson@legis.wisconsin.gov>]
Sent: Tuesday, October 20, 2009 10:51 AM
To: Gates-Hendrix, Sherrie L - DOR
Subject: 3421/1 DOR TIF draft

Hi Sherrie –

Here is the bill draft for you and your folks to take a look at.

Thanks.

Tryg
<< File: DOR - TIF BILL - Sec Ervin -09-34211.pdf >> << File: DOR - TIF BILL Drafters note 09-34211dn.pdf >>

CONFIDENTIALITY NOTICE: This electronic mail transmission and any accompanying documents contain information belonging to the sender which may be confidential and legally privileged. This information is only for the use of the individual or entity to whom this electronic mail transmission was intended. If you are not the intended recipient, any disclosure, copying, distribution, or action taken in reliance on the contents of the information contained in this transmission is strictly prohibited. If you have received this transmission in error, please immediately contact the sender and delete the message. Thank you.



RMR

2009 BILL

SOON
FN 11/6

JACKET
for
(S)

ref

✓

1 AN ACT *to amend* 60.85 (6) (a) (intro.), 60.85 (6) (am), 66.1105 (4) (a), 66.1105 (4)

2 (gm) 4. c., 66.1105 (5) (b), 66.1105 (6) (a) (intro.), 66.1105 (6) (ae), 66.1106 (7) (a)

3 and 66.1106 (13) (b); and *to create* 66.1105 (4m) (e), 66.1105 (10) (c) and 66.1105

4 (12) of the statutes; **relating to:** changing certain administrative procedures

5 under the tax incremental financing program. ✓

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. Currently, towns also have a limited ability to create a TID under certain circumstances. 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, approval of the city's or village's proposed TID by a joint review board that consists of members who represent the overlying taxation districts, 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 incremental base" value of the TID, which is the

BILL

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.

Under current law, a planning commission may adopt an amendment to a project plan, which requires the approval of the common council or village board and the same findings that current law requires for the creation of a TID. Current law also authorizes the amendment of a project plan up to four times during a TID's existence to change the district's boundaries by adding or subtracting territory.

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. Under the exception, a city or village may simultaneously create a new TID and subtract territory from an existing TID without adopting a resolution containing the 12 percent test if the city or village demonstrates to DOR that the value of the territory that is subtracted at least equals the amount that DOR believes is necessary to ensure that, when the new TID is created, the 12 percent test is met. The city or village must also certify to DOR that no other district created under this exception currently exists in the city or village.

This bill changes a number of administrative procedures that apply to TIDs. Under the bill, in determining whether a city or village complies with the 12 percent test, DOR must exclude any parcel of land in a newly created TID that is located in an existing TID. If DOR determines that a city or village has violated the 12 percent test, it must notify the city or village in writing. The city or village must then either rescind its approval of the resolution creating a TID or notify DOR in writing that the county in which the TID is located approves of the city's or village's action related to the TID even though the 12 percent test is not met.

The bill also changes from December 31 to October 31 the date by which a city or village must submit certain completed forms to DOR and specifies that, in complying with meeting notice requirements, a city or village must use a newspaper that is in general circulation in the county in which the TID is located. With regard to meetings held by a joint review board, the bill requires all such meetings to be preceded by a class 2 notice.

Under current law, any city, village, town, or county (political subdivision) that receives a tax increment for a TID or an environmental remediation TID must pay DOR an annual administrative fee. Under this bill, if the political subdivision does

BILL

not pay the fee by May 15, DOR may not allocate a tax increment to that political subdivision.

The bill takes effect on October 1, 2010.

For further information see the *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.** 60.85 (6) (a) (intro.) of the statutes is amended to read:

2 60.85 (6) (a) (intro.) If the joint review board approves the creation of the tax
3 incremental district under sub. (4), and subject to par. (am), positive tax increments
4 with respect to a tax incremental district are allocated to the town which created the
5 district for each year commencing after the date when a project plan is adopted under
6 sub. (3) (g). The department of revenue may not authorize allocation of tax
7 increments until it determines from timely evidence submitted by the town that each
8 of the procedures and documents required under sub. (3) (d) to (f) has been completed
9 and all related notices given in a timely manner. The department of revenue may
10 authorize allocation of tax increments for any tax incremental district only if the
11 town clerk and assessor annually submit to the department all required information
12 on or before the 2nd Monday in June. The facts supporting any document adopted
13 or action taken to comply with sub. (3) (d) to (f) are not subject to review by the
14 department of revenue under this paragraph except as provided under par. (e). After
15 the allocation of tax increments is authorized, the department of revenue shall
16 annually authorize allocation of the tax increment to the town that created the
17 district until the sooner of the following events:

18 **SECTION 2.** 60.85 (6) (am) of the statutes, as created by 2009 Wisconsin Act 28,
19 is amended to read:

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1 60.85 (6) (am) With regard to each district for which the department of revenue
 2 authorizes the allocation of a tax increment under par. (a), the department shall
 3 charge the town that created the district an annual administrative fee of \$150 that
 4 the town shall pay to the department no later than May 15. If the town does not pay
 5 the fee that is required under this paragraph, by May 15, the department may not
 6 authorize the allocation of a tax increment under par. (a) for that town.

7 ~~SECTION 3. 66.1105 (4) (a) of the statutes is amended to read:~~

8 66.1105 (4) (a) Holding of a public hearing by the planning commission at
 9 which interested parties are afforded a reasonable opportunity to express their views
 10 on the proposed creation of a tax incremental district and the proposed boundaries
 11 of the district. Notice of the hearing shall be published as a class 2 notice, under ch
 12 985, except that the notice shall be published in a newspaper having general
 13 circulation within the county in which the proposed district is to be created. The
 14 notice shall include information relating to the proposed boundaries of the district,
 15 the proposed project costs of the proposed project, and whether the project costs
 16 include cash grants from the local legislative body to the owners, developers, or
 17 lessees of the land that is located within the proposed district. Before publication,
 18 a copy of the notice shall be sent by first class mail to the chief executive officer or
 19 administrator of all local governmental entities having the power to levy taxes on
 20 property located within the proposed district and to the school board of any school
 21 district which includes property located within the proposed district. For a county
 22 with no chief executive officer or administrator, notice shall be sent to the county
 23 board chairperson.

24 SECTION 4. 66.1105 (4) (gm) 4. c. of the statutes is amended to read:

plain

plain

INSA -
 (move to
 p. 7) plain
 text

BILL

1 66.1105 (4) (gm) 4. c. Except as provided in ~~sub.~~ subs. (10) (c) and (17), the
2 equalized value of taxable property of the district plus the value increment of all
3 existing districts does not exceed 12 percent of the total equalized value of taxable
4 property within the city. In determining the equalized value of taxable property
5 under this subd. 4. c., the department of revenue shall base its calculations on the
6 most recent equalized value of taxable property of the district that is reported under
7 s. 70.57 (1m) before the date on which the resolution under this paragraph is
8 adopted. If the department of revenue determines that a local legislative body
9 exceeds the 12 percent limit described in this subd. 4. c., the department shall notify
10 the city of its noncompliance, in writing, not later than December 31 of the year in
11 which the department receives the completed application or amendment forms
12 described in sub. (5) (b).

13 **SECTION 5.** 66.1105 (4m) (e) of the statutes is created to read:

14 66.1105 (**4m**) (e) Notice of all meetings held by a joint review board shall be
15 published as a class 2 notice, under ch. 985.

16 **SECTION 6.** 66.1105 (5) (b) of the statutes is amended to read:

17 66.1105 (**5**) (b) Upon application in writing by the city clerk, in a form
18 prescribed by the department of revenue, the department shall determine according
19 to its best judgment from all sources available to it the full aggregate value of the
20 taxable property and, except as provided in par. (bm), of the city-owned property in
21 the tax incremental district. The application shall state the percentage of territory
22 within the tax incremental district which the local legislative body estimates will be
23 devoted to retail business at the end of the maximum expenditure period specified
24 in sub. (6) (am) 1. if that estimate is at least 35%. Subject to sub. (8) (d), the
25 department shall certify this aggregate valuation to the city clerk, and the aggregate

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1 valuation constitutes the tax incremental base of the tax incremental district. The
2 city clerk shall complete these forms, including forms for the amendment of a project
3 plan, and submit the completed application or amendment forms on or before
4 ~~December~~ October 31 of the year the tax incremental district is created, as defined
5 in sub. (4) (gm) 2. or, in the case of an amendment, on or before ~~December~~ October
6 31 of the year in which the changes to the project plan take effect.

7 **SECTION 7.** 66.1105 (6) (a) (intro.) of the statutes is amended to read:

8 66.1105 (6) (a) (intro.) If the joint review board approves the creation of the tax
9 incremental district under sub. (4m), and subject to par. (ae), positive tax increments
10 with respect to a tax incremental district are allocated to the city which created the
11 district for each year commencing after the date when a project plan is adopted under
12 sub. (4) (g). The department of revenue may not authorize allocation of tax
13 increments until it determines from timely evidence submitted by the city that each
14 of the procedures and documents required under sub. (4) (d) to (f) has been completed
15 and all related notices given in a timely manner. The department of revenue may
16 authorize allocation of tax increments for any tax incremental district only if the city
17 clerk and assessor annually submit to the department all required information on
18 or before the 2nd Monday in June. The facts supporting any document adopted or
19 action taken to comply with sub. (4) (d) to (f) are not subject to review by the
20 department of revenue under this paragraph. After the allocation of tax increments
21 is authorized, the department of revenue shall annually authorize allocation of the
22 tax increment to the city that created the district until the soonest of the following
23 events:

24 **SECTION 8.** 66.1105 (6) (ae) of the statutes, as created by 2009 Wisconsin Act
25 28, is amended to read:

BILL

1 66.1105 (6) (ae) With regard to each district for which the department of
2 revenue authorizes the allocation of a tax increment under par. (a), the department
3 shall charge the city that created the district an annual administrative fee of \$150
4 that the city shall pay to the department no later than May 15. If the city does not
5 pay the fee that is required under this paragraph, by May 15, the department may
6 not authorize the allocation of a tax increment under par. (a) for that city.

7 **SECTION 9.** 66.1105 (10) (c) of the statutes is created to read:

8 66.1105 (10) (c) The department of revenue shall exclude any parcel in a newly
9 created tax incremental district that is located in an existing district when
10 determining compliance with the 12 percent limit described in sub. (4) (gm) 4. c.

11 **SECTION 10.** 66.1105 (12) of the statutes is created to read:

12 66.1105 (12) EQUALIZED VALUATION; THE 12 PERCENT LIMIT. If the department of
13 revenue notifies a local legislative body that is not in compliance with the 12 percent
14 limit described in sub. (4) (gm) 4. c., the local legislative body shall do one of the
15 following:

16 (a) Rescind its approval of the project plan resolution described under sub. (4)
17 (g).

18 (b) Not later than March 15 of the year immediately following the year in which
19 the local legislative body receives the notice of noncompliance described in sub. (4)
20 (gm) 4. c., the local legislative body sends the department of revenue by 1st class mail
21 a copy of a resolution adopted by the county board in which the tax incremental
22 district, or proposed district, is located stating that the county board accepts the
23 project plan even if the 12 percent limit is exceeded. If the district or proposed district
24 is in more than one county, only the county that contains the largest portion of the
25 district's value must adopt a resolution as described in this paragraph.

Notice of the county board meeting at which the board accepts the
project plan shall be published as a class 2 notice under
ch. 985 \wedge INS A (moved from p. 4, ll 12-17) \checkmark

BILL

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

2 66.1106 (7) (a) Subject to pars ^{(am),} (b), (c) and (d), and sub. (13) (b), the department
3 shall annually authorize the positive environmental remediation tax increment with
4 respect to a parcel or contiguous parcels of property during the period of certification
5 to the political subdivision that incurred the costs to remediate environmental
6 pollution on the property, except that an authorization granted under this paragraph
7 does not apply after the department receives the notice described under sub. (10) (b).

8 ~~SECTION 12. 66.1106 (13) (b) of the statutes is amended to read:~~

9 66.1106 (13) (b) The department may impose a fee of \$1,000 on a political
10 subdivision to determine or redetermine the environmental remediation tax
11 incremental base of an environmental remediation tax incremental district under
12 this subsection or sub. (4). If the political subdivision does not pay the fee that is
13 required under this paragraph, by May 15, the department may not authorize the
14 allocation of a tax increment under ~~sub. (10) (b)~~ ^{par. (a) for} that political subdivision.

15 SECTION 13. Effective date.

16 (1) This act takes effect on October 1, 2010.

17 (END)

INS 8-7

INS B to INS 8
(move to
INS 8-7)

Sec # AM 66.1106(7)(am)

INS 8-7

as created by 2009 Wisconsin Act = 28,

INS 8-7 B - (move from p 8, ll 12-14)

66.1106(7)(am)

With regard to each district for which the department authorizes the allocation of a tax increment under par. (a), the department shall charge the political subdivision that created the district an annual administrative fee of \$150 that the political subdivision shall pay to the department no later than May 15.

NOT

(end ins 8-7) ✓