

2013 DRAFTING REQUEST

Assembly Amendment (AA-SB338)

Received: 2/11/2014 Received By: mshovers
Wanted: As time permits Same as LRB:
For: Robin Vos (608) 266-9171 By/Representing: Craig
May Contact: Drafter: mshovers
Subject: Local Gov't - tax incr financing Addl. Drafters: emueller
jkreye

Extra Copies:

Submit via email: YES
Requester's email: Rep.Vos@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Expanding the authority of towns to create tax incremental financing districts (TID); additional items

Instructions:

See attached. combine the following bills/amendment into a single amendments to the bill: AB 747 (MES, -4162); AB 709 (JK, -4142); AA1 to AB 484 (EVM, a1158); AB 416 (EVM, 2581); and AB 723 (EVM, -3662)

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 2/11/2014	jdye 2/12/2014	jfrantze 2/12/2014	_____			
/1	mshovers 2/14/2014			_____	lparisi 2/12/2014	lparisi 2/12/2014	
/2	jkreye	jdye	jfrantze	_____	sbasford	sbasford	

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	2/17/2014	2/14/2014	2/14/2014	_____	2/14/2014	2/14/2014	
/3		wjackson 2/17/2014	rschluet 2/17/2014	_____	sbasford 2/17/2014	sbasford 2/17/2014	

FE Sent For:

<END>

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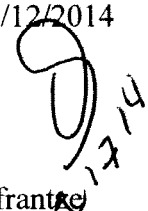
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/1	mshovers 2/14/2014			_____	lparisi 2/12/2014	lparisi 2/12/2014	
/2		jdyer	jfrantze	_____	sbasford	sbasford	

Vers. Drafted

Reviewed
2/14/2014

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2/14/2014

Proofed

Submitted
2/14/2014

Jacketed
2/14/2014

Required

FE Sent For:

13 Wj 2/17

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/?	mshovers 2/11/2014	jdyer 2/12/2014	jfrantze 2/12/2014	_____			
/1 <i>12 MES</i>		<i>1/2 3/4 jld</i> 2/14/14	<i>jo</i>	<i>jo 2/14</i>	lparisi 2/12/2014	lparisi 2/12/2014	

FE Sent For:

<END>

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Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
1/1	mshovers	1/2/14	2/7/14	Km	2/12		
11 MES 2/11/14							
FE Sent For:							

<END>

Shovers, Marc

From: Probst, Nick
Sent: Tuesday, February 11, 2014 5:07 PM
To: Shovers, Marc
Cc: Soper, John; Hanaman, Cathlene
Subject: FW: Template for AA2 to Town TID Bill

Marc,

Please draft two amendments to SB338:

AA2:

Please draft one amendment to include the additions of the following bills:

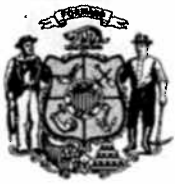
- AB 747 (Kerkman): Burlington TID fix — 4162 ^{MS}
- AB 709 (Knudson): Turtle Lake/Biogas TID fix — 4142 JK
- AA1 to AB 484 (Kooyenga and Kahl): Madison TIF, with language prohibiting a living wage requirement in the TIF. ^{all 58 EVM}
- AB 416 (Steineke): Environmental TID sharing — 2581 — EVM
- AB 723, the Biron village TID from Krug. — 3662 — EVM

AA3:

- Meeting 1 of the 3 previously identified criteria in LRB1566/3 (financial analysis left out)
- 3,500 population and \$500 million

Best,

Craig Summerfield
Policy Advisor
Office of Speaker Robin Vos
217 West, State Capitol
Phone: (608) 266-3387



jld/wlj/sac

RMNR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT,

TO SENATE BILL 338

WANTED:
Wed. a.m.

D-NOTE

LPS - Freeze inserts

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

2

1. Page 1, line 3: after "districts" insert [✓] (2) the definition of project costs for tax
3 incremental districts, creating special provisions for a city or village to create a tax
4 incremental district in recently annexed territory, the property tax exemption for
5 biogas or synthetic gas energy systems and property subject to a tax incremental
6 financing agreement, authorizing the village of Biron [✓] to allocate tax increments from
7 one tax incremental district to another district in the village, and authorizing a tax
8 incremental district to share tax increments with an environmental remediation tax
9 incremental district in the same city or village [✓].

10

WMA





**ASSEMBLY AMENDMENT 1,
TO ASSEMBLY BILL 484**

November 7, 2013 - Offered by Representatives KOBYENGA and KAHL.

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

2 1. Page 1, line 9: delete "and".

3 2. Page 1, line 9: after "credit" insert ", and the definition of project costs for
4 tax incremental districts".

5 *Fix component* → 3. Page 1, line 1: *before* that line insert:
6 *3* *4m* *4* *5* *6* *7* *8* *9* *10* *11*

"SECTION 66.1105 (2) (f) 2. b. of the statutes is amended to read:

66.1105 (2) (f) 2. b. The cost of constructing or expanding any facility, except

8 a parking structure that supports redevelopment activities, if the city generally

9 finances similar facilities only with utility user fees.

10 4. Page 2, line 1: delete "SECTION 1" and substitute "SECTION 1m".

11 (END)

after
after the material inserted by senate amendment 2 and senate amendment 3,





2013 ASSEMBLY BILL 723

February 3, 2014 - Introduced by Representative KRUG, cosponsored by Senator LASSA. Referred to Committee on State and Local Finance.

1 **AN ACT to create** 66.1105 (6) (e) 1. f. of the statutes; **relating to:** authorizing the
2 village of Biron to allocate positive tax increments from Tax Incremental
3 District Number 2 in the village to Tax Incremental District Number 3 in the
4 village.

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



ASSEMBLY BILL 723

costs of the TID. The project costs of a TID, which are initially incurred by the creating city or village, may 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 limited circumstances, a TID that has paid off all of its project costs but has not reached its mandatory termination date may become a donor TID, continue to receive tax increments, and forward those increments to a recipient TID created by the same city or village.

This bill creates an exception that allows TID Number 2 in the village of Biron to allocate its positive tax increments to TID Number 3 in the village.

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:

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SECTION 66.1105 (6) (e) 1. f. of the statutes is created to read:

66.1105 (6) (e) 1. f. Notwithstanding subd. 1. b. and subject to subd. 1. a. and d., the planning commission of the village of Biron may amend, under sub. (4) (h), the project plan of Tax Incremental District Number 2 in the village to allocate positive tax increments generated by that district to Tax Incremental District Number 3 in the village.

(END)





2013 ASSEMBLY BILL 416

October 4, 2013 - Introduced by Representatives STEINEKE, MURPHY, BORN and OHNSTAD, cosponsored by Senator COWLES. Referred to Committee on State and Local Finance.

1 **AN ACT to amend** 66.1105 (6) (f) 1. (intro.), 66.1106 (1) (i), 66.1106 (2) (c), 66.1106
2 (7) (e) (intro.), 66.1106 (7) (e) 1. and 66.1106 (7) (e) 2.; and **to create** 66.1105 (6)
3 (f) 2. d. of the statutes; **relating to:** the sharing of tax increments.

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



ASSEMBLY BILL 416

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 limited circumstances, a TID that has paid off all of its project costs but has not reached its mandatory termination date may become a donor TID, continue to receive tax increments, and forward those increments to a recipient TID created by the same city or village.

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.

Under current law, the governing body of a political subdivision may adopt a resolution requesting that DOR allocate environmental remediation tax increments



ASSEMBLY BILL 416

from an ERTID that will recover 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.

Under this bill, upon approval by the joint review board, a TID may become a donor TID and provide increments to a recipient ERTID created by the same city or village. Also, the governing body of a political subdivision may adopt a resolution requesting that DOR allocate environmental remediation tax increments from an ERTID that has recovered all eligible costs to certain TIDs that are not ERTIDs. Generally, an ERTID may become a donor ERTID to a TID in the same situations when a TID may become a donor TID. Increments from the donor ERTID may be generated until the earlier of 1) 23 years after the creation of the donor ERTID; or 2) the recovery of all project costs for the recipient TID.

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 ^{5s ← (B)} 66.1105 (6) (f) 1. (intro.) ^X of the statutes is amended to read:
2 66.1105 (6) (f) 1. (intro.) Not later than the date on which a tax incremental
3 district terminates under sub. (7) (am), a planning commission may amend under
4 sub. (4) (h) the project plan of a tax incremental district to allocate positive tax
5 increments generated by that tax incremental district to another tax incremental
6 district created by that planning commission or to an environmental remediation tax
7 incremental district created under s. 66.1106 by the same governing body if all of the
8 following conditions are met:

9 SECTION ^{5u ← (B)} 66.1105 (6) (f) 2. d. ^X of the statutes is created to read:
10 66.1105 (6) (f) 2. d. The recipient district is an environmental remediation tax
11 incremental district created under s. 66.1106.

12 SECTION ^{7m ← (B)} 66.1106 (1) (i) ^X of the statutes is amended to read:

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X



ASSEMBLY BILL 416

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

6 SECTION ~~4~~. ^{7P ← (B) ✓} 66.1106 (2) (c) of the statutes is amended to read:

7 66.1106 (2) (c) Notwithstanding par. (a) or (b), or sub. (7) (d) 1. or (11) (a), if the
8 governing body of a political subdivision determines that all eligible costs of an
9 environmental remediation tax incremental district that it created will be paid
10 before the date specified in sub. (11) (b), the governing body of that political
11 subdivision may adopt a resolution requesting that the department allocate positive
12 environmental remediation tax increments generated by that donor environmental
13 remediation tax incremental district to pay the eligible costs of another
14 environmental remediation tax incremental district created by that governing body
15 or to pay project costs, as defined in s. 66.1105 (2) (f), of a tax incremental district
16 created under s. 66.1105 and located in the same overlying taxing jurisdictions and
17 that satisfies one of the requirements under s. 66.1105 (6) (f) 2. A resolution under
18 this paragraph must be adopted before the expiration of the period of certification.

19 SECTION ~~4~~. ^{7S ← (B) ✓} 66.1106 (7) (e) (intro.) of the statutes is amended to read:

20 66.1106 (7) (e) (intro.) Notwithstanding par. (d), if the governing body of a
21 political subdivision adopts a resolution described in sub. (2) (c), it shall provide a
22 copy of the resolution to the department. The department shall authorize a positive
23 environmental remediation tax increment generated by a donor district, as described
24 in sub. (2) (c), to the political subdivision that incurred eligible costs to remediate
25 environmental pollution in another district within that political subdivision or that



ASSEMBLY BILL 416

1 incurred project costs, as defined in s. 66.1105 (2) (f), for a tax incremental district
 2 within that political subdivision that was created under s. 66.1105 and that satisfies
 3 one of the requirements under s. 66.1105 (6) (f) 2., as described in sub. (2) (c), until
 4 the earlier of the following occurs:

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SECTION 7. ^{7u ← ③} 66.1106 (7) (e) 1. of the statutes is amended to read:

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66.1106 (7) (e) 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 or project costs for that
 district.

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SECTION 7. ^{⑦ ← type hard number} ^② 66.1106 (7) (e) 2. of the statutes is amended to read:

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66.1106 (7) (e) 2. The donor district terminates under sub. (11) (b) or 66.1105
(7).

(END)





2013 ASSEMBLY BILL 709

January 31, 2014 - Introduced by Representatives KNUDSON, MURTHA and SEVERSON, cosponsored by Senator JAUCH. Referred to Committee on State and Local Finance.

1 AN ACT to amend 70.111 (18) of the statutes; relating to: the property tax
2 exemption for biogas or synthetic gas energy systems and property subject to
3 a tax incremental financing agreement.

Analysis by the Legislative Reference Bureau

This bill provides that the property tax exemption for biogas or synthetic gas energy systems does not apply to property subject to a tax incremental financing agreement that was in effect on January 1, 2014.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

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:

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SECTION 70.111 (18) of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

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70.111 (18) ENERGY SYSTEMS. Biogas or synthetic gas energy systems, solar energy systems, and wind energy systems. In this subsection, "biogas or synthetic

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ASSEMBLY BILL 709

1 gas energy system” means equipment which directly converts biomass, as defined
2 under section 45K (c) (3) of the Internal Revenue Code, as interpreted by the Internal
3 Revenue Service, into biogas or synthetic gas, equipment which generates electricity,
4 heat, or compressed natural gas exclusively from biogas or synthetic gas, equipment
5 which is used exclusively for the direct transfer or storage of biomass, biogas, or
6 synthetic gas, and any structure used exclusively to shelter or operate such
7 equipment, or the portion of any structure used in part to shelter or operate such
8 equipment that is allocable to such use, if all such equipment, and any such
9 structure, is located at the same site, and includes manure, substrate, and other
10 feedstock collection and delivery systems, pumping and processing equipment,
11 gasifiers and digester tanks, biogas and synthetic gas cleaning and compression
12 equipment, fiber separation and drying equipment, and heat recovery equipment,
13 but does not include equipment or components that are present as part of a
14 conventional energy system. In this subsection, “synthetic gas” is a gas that qualifies
15 as a renewable resource under s. 196.378 (1) (h) 1. h. In this subsection, “solar energy
16 system” means equipment which directly converts and then transfers or stores solar
17 energy into usable forms of thermal or electrical energy, but does not include
18 equipment or components that would be present as part of a conventional energy
19 system or a system that operates without mechanical means. In this subsection,
20 “wind energy system” means equipment which converts and then transfers or stores
21 energy from the wind into usable forms of energy, but does not include equipment or
22 components that would be present as part of a conventional energy system. The
23 exemption under this subsection for biogas or synthetic gas energy systems does not
24 apply to property subject to a tax incremental financing agreement that was in effect
25 on January 1, 2014, and not subsequently modified, amended, or extended.

ASSEMBLY BILL 709

SECTION 7. Initial applicability.

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FIX component (1)

9m ← (B)

(1) ← LPS-type hard number (END)

This section first applies to the property tax assessments as of January 1, 2014.

//
↑↑

NO The treatment of section 70.111(18) of the statutes



D-note



2013 ASSEMBLY BILL 747

February 10, 2014 - Introduced by Representative KERKMAN. Referred to Committee on State and Local Finance.

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P. 7/13

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AN ACT to create 66.1105 (19) of the statutes; **relating to:** creating special provisions for a city or village to create a tax incremental district in recently annexed territory.

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 and counties 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



ASSEMBLY BILL 747

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 project 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. Also under current law, a city or village may not generally make expenditures for project costs later than five years before the unextended termination date of the TID. Under certain circumstances, the life of the TID, the expenditure period, and the allocation period may be extended.

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.

Under this bill, subject to certain limitations and conditions, a city may create a TID in territory that it has recently annexed from a town. The following provisions apply to a TID that is created in former town territory:

1. The TID must terminate in seven years or when its project costs are paid off, whichever comes first.
2. The TID may not share increments with another TID created by that city.
3. Until 2016, the 12 percent limit does not apply to a city that creates such a TID.
4. The TID may make expenditures until October 1, 2016.

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:

SECTION 1. 66.1105 (19) of the statutes is created to read:

66.1105 (19) CREATION OF A DISTRICT IN RECENTLY ANNEXED TOWN TERRITORY. (a)

Authorization. If, within 90 days of annexing town territory, a city holds a hearing under sub. (4) (a) on the proposed creation of a tax incremental district that is to be

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ASSEMBLY BILL 747

INS
X
P.3083

1 located in that former town territory, the city may create a tax incremental district
2 under this section subject to the limitations and conditions in this subsection.

3 (b) *Limitations and conditions.* 1. Notwithstanding sub. (7), a district created
4 under this subsection must terminate upon the earlier of 7 years after the district's
5 creation or when the city has received aggregate tax increments with respect to the
6 district in an amount equal to the aggregate of all project costs under the project plan
7 and any amendments to the project plan for the district.

8 2. A district created under this subsection may not allocate positive tax
9 increments to another district as described in sub. (6) (e) or (f).

10 3. The 12 percent limit described in sub. (4) (gm) 4. c. does not apply to a district
11 created under this subsection until 2016.

12 4. Notwithstanding the limit on expenditures described in sub. (6) (am) 1., a
13 district created under this subsection may make expenditures until October 1, 2016.

14

end
(of INS X)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

date

LRBa1752/dn
MES/ENM/OK
jld

Representative Vos:

This drafter's note is meant to alert you to the possibility that this amendment may be challenged as being nongermane to 2013 SB-338. Assembly Rule 54 (3) (f) states that an amendment to a bill is nongermane if it "substantially expands the scope of the proposal." In addition, the amendment may be considered nongermane under Assembly Rule 54 (1) because it relates to a different subject and is intended to accomplish a different purpose from SB-338. It could be argued that this amendment violates both of these Assembly rules.

* In addition, it is possible that ^{if challenged,} a Wisconsin court would find that this amendment is a "private or local bill" that, under art. IV, sec. 18, of the Wisconsin Constitution, must be enacted as single-subject legislation. If so, this ~~legislation~~ ^{amendment} cannot validly be enacted as part of SB-338 because the bill, as amended, clearly encompasses more than one subject. (=)

* 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." Part of this amendment applies only to the sharing of tax increments by a tax incremental district in the village of Biron.

* If ^{the} village of Biron provision in this amendment is enacted as a separate, single-subject bill, it could not be challenged under art. IV, sec. 18, of the constitution. Please let me know if you have any questions about the issues raised in this drafter's note.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1752/1dn
MES:jld:jf

February 12, 2014

Representative Vos:

This drafter's note is meant to alert you to the possibility that this amendment may be challenged as being nongermane to 2013 SB-338. Assembly Rule 54 (3) (f) states that an amendment to a bill is nongermane if it "substantially expands the scope of the proposal." In addition, the amendment may be considered nongermane under Assembly Rule 54 (1) because it relates to a different subject and is intended to accomplish a different purpose from SB-338. It could be argued that this amendment violates both of these Assembly rules.

In addition, it is possible that, if challenged, a Wisconsin court would find that this amendment is a "private or local bill" that, under art. IV, sec. 18, of the Wisconsin Constitution, must be enacted as single-subject legislation. If so, this amendment cannot validly be enacted as part of SB-338 because the bill, as amended, clearly encompasses more than one subject.

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." Part of this amendment applies only to the sharing of tax increments by a tax incremental district in the village of Biron.

If the village of Biron provision in this amendment is enacted as a separate, single-subject bill, it could not be challenged under art. IV, sec. 18, of the constitution. Please let me know if you have any questions about the issues raised in this drafter's note.

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

Shovers, Marc

From: Summerfield, Craig
Sent: Friday, February 14, 2014 11:13 AM
To: Shovers, Marc
Subject: RE: Revisions needed to LRBa1752/1

Marc,

Yes, please pull the Madison TID. Yeah, it actually has nothing to do with a court challenge...we've just decided to run it as a stand-alone bill.

Sorry for the confusion; thanks for clarifying, though.

Craig

From: Shovers, Marc
Sent: Friday, February 14, 2014 11:08 AM
To: Summerfield, Craig
Subject: RE: Revisions needed to LRBa1752/1

Hi Craig:

Looking at AA 1 to AB 484, I don't think that it could be challenged as being a private or local bill. The amendment simply changes a general definition of project costs under the TIF statutes. The fact that it currently may apply to only one project would not make it subject to challenge as a possible violation of art. IV section 18 of the state constitution because its language and applicability is general. AB 723 is different as it clearly names the village of Biron in the text.

So my question is, would you still like AA 1 to AB 484 removed from a1752? Thanks, Craig.

Marc

From: Summerfield, Craig
Sent: Friday, February 14, 2014 10:24 AM
To: Shovers, Marc
Cc: Probst, Nick
Subject: Revisions needed to LRBa1752/1

Marc,

Thanks for your prompt assistance on the attached amendment. We ultimately worked with Rep. Stroebel to delay the Exec to Tuesday of next week.

Thanks for the note as well. Would you please redraft the amendment with the language for the Biron TID (AB 723) and the Madison TID (AA1 to AB 484) removed? If possible, it would be great to get this back by the end of the day.

Please contact me with any questions.

Best,

Craig Summerfield

Policy Advisor

Office of Speaker Robin Vos

217 West, State Capitol

Phone: (608) 266-3387



RMA

ASSEMBLY AMENDMENT ,
TO SENATE BILL 338

*today
early p.m.*

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

2 1. Page 1, line 3: after "districts" insert "*the definition of project costs for tax*
3 *incremental districts* creating special provisions for a city or village to create a tax
4 incremental district in recently annexed territory, the property tax exemption for
5 biogas or synthetic gas energy systems and property subject to a tax incremental
6 financing agreement, *authorizing the village of Biron to allocate tax increments from*
7 *the tax incremental district to another district in the village* and authorizing a tax
8 incremental district to share tax increments with an environmental remediation tax
9 incremental district in the same city or village".[✓]

10 2. Page 3, line 9: after that line, after the material inserted by senate
11 amendment 2 and senate amendment 3, insert:

12 *SECTION 4m. 66.1105 (2) (f) 2. b. of the statutes is amended to read*

gr

1 ~~66.1105 (2) (f) 2. b. The cost of constructing or expanding any facility, except~~
2 ~~a parking structure that supports redevelopment activities, if the city generally~~
3 ~~finances similar facilities only with utility user fees.~~

4 ~~SECTION 5m. 66.1105 (6) (e) 1. f. of the statutes is created to read:~~

5 ~~66.1105 (6) (e) 1. f. Notwithstanding subd. 1. b. and subject to subd. 1. a. and~~
6 ~~d., the planning commission of the village of Biron may amend, under sub. (4) (h), the~~
7 ~~project plan of Tax Incremental District Number 2 in the village to allocate positive~~
8 ~~tax increments generated by that district to Tax Incremental District Number 3 in~~
9 ~~the village.~~

10 ^{cc} SECTION 5s. 66.1105 (6) (f) 1. (intro.) of the statutes is amended to read:

11 [↑] 66.1105 (6) (f) 1. (intro.) Not later than the date on which a tax incremental
12 district terminates under sub. (7) (am), a planning commission may amend under
13 sub. (4) (h) the project plan of a tax incremental district to allocate positive tax
14 increments generated by that tax incremental district to another tax incremental
15 district created by that planning commission or to an environmental remediation tax
16 incremental district created under s. 66.1106 by the same governing body if all of the
17 following conditions are met:

18 SECTION 5u. 66.1105 (6) (f) 2. d. of the statutes is created to read:

19 66.1105 (6) (f) 2. d. The recipient district is an environmental remediation tax
20 incremental district created under s. 66.1106.

21 SECTION 6m. 66.1105 (19) of the statutes is created to read:

22 66.1105 (19) CREATION OF A DISTRICT IN RECENTLY ANNEXED TOWN TERRITORY. (a)
23 *Authorization.* If, within 90 days of annexing town territory, a city holds a hearing
24 under sub. (4) (a) on the proposed creation of a tax incremental district that is to be

1 located in that former town territory, the city may create a tax incremental district
2 under this section subject to the limitations and conditions in this subsection.

3 (b) *Limitations and conditions.* 1. Notwithstanding sub. (7), a district created
4 under this subsection must terminate upon the earlier of 7 years after the district's
5 creation or when the city has received aggregate tax increments with respect to the
6 district in an amount equal to the aggregate of all project costs under the project plan
7 and any amendments to the project plan for the district.

8 2. A district created under this subsection may not allocate positive tax
9 increments to another district as described in sub. (6) (e) or (f).

10 3. The 12 percent limit described in sub. (4) (gm) 4. c. does not apply to a district
11 created under this subsection until 2016.

12 4. Notwithstanding the limit on expenditures described in sub. (6) (am) 1., a
13 district created under this subsection may make expenditures until October 1, 2016.

14 **SECTION 7m.** 66.1106 (1) (i) of the statutes is amended to read:

15 66.1106 (1) (i) "Period of certification" means a period of not more than 23 years
16 beginning after the department certifies the environmental remediation tax
17 incremental base under sub. (4), a period before all eligible costs have been paid, or
18 a period before all eligible costs or project costs of a recipient district designated
19 under sub. (2) (c) have been paid, whichever occurs first.

20 **SECTION 7p.** 66.1106 (2) (c) of the statutes is amended to read:

21 66.1106 (2) (c) Notwithstanding par. (a) or (b), or sub. (7) (d) 1. or (11) (a), if the
22 governing body of a political subdivision determines that all eligible costs of an
23 environmental remediation tax incremental district that it created will be paid
24 before the date specified in sub. (11) (b), the governing body of that political
25 subdivision may adopt a resolution requesting that the department allocate positive

1 environmental remediation tax increments generated by that donor environmental
2 remediation tax incremental district to pay the eligible costs of another
3 environmental remediation tax incremental district created by that governing body
4 or to pay project costs, as defined in s. 66.1105 (2) (f), of a tax incremental district
5 created under s. 66.1105 and located in the same overlying taxing jurisdictions and
6 that satisfies one of the requirements under s. 66.1105 (6) (f) 2. A resolution under
7 this paragraph must be adopted before the expiration of the period of certification.

8 **SECTION 7s.** 66.1106 (7) (e) (intro.) of the statutes is amended to read:

9 66.1106 (7) (e) (intro.) Notwithstanding par. (d), if the governing body of a
10 political subdivision adopts a resolution described in sub. (2) (c), it shall provide a
11 copy of the resolution to the department. The department shall authorize a positive
12 environmental remediation tax increment generated by a donor district, as described
13 in sub. (2) (c), to the political subdivision that incurred eligible costs to remediate
14 environmental pollution in another district within that political subdivision or that
15 incurred project costs, as defined in s. 66.1105 (2) (f), for a tax incremental district
16 within that political subdivision that was created under s. 66.1105 and that satisfies
17 one of the requirements under s. 66.1105 (6) (f) 2., as described in sub. (2) (c), until
18 the earlier of the following occurs:

19 **SECTION 7u.** 66.1106 (7) (e) 1. of the statutes is amended to read:

20 66.1106 (7) (e) 1. The political subdivision has received aggregate
21 ~~environmental remediation~~ tax increments with respect to the recipient district in
22 an amount equal to the aggregate of all of the eligible costs or project costs for that
23 district.

24 **SECTION 7w.** 66.1106 (7) (e) 2. of the statutes is amended to read:

1 66.1106 (7) (e) 2. The donor district terminates under sub. (11) (b) or 66.1105
2 (7).

3 **SECTION 8m.** 70.111 (18) of the statutes, as affected by 2013 Wisconsin Act 20,
4 is amended to read:

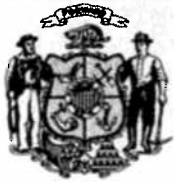
5 **70.111 (18) ENERGY SYSTEMS.** Biogas or synthetic gas energy systems, solar
6 energy systems, and wind energy systems. In this subsection, “biogas or synthetic
7 gas energy system” means equipment which directly converts biomass, as defined
8 under section 45K (c) (3) of the Internal Revenue Code, as interpreted by the Internal
9 Revenue Service, into biogas or synthetic gas, equipment which generates electricity,
10 heat, or compressed natural gas exclusively from biogas or synthetic gas, equipment
11 which is used exclusively for the direct transfer or storage of biomass, biogas, or
12 synthetic gas, and any structure used exclusively to shelter or operate such
13 equipment, or the portion of any structure used in part to shelter or operate such
14 equipment that is allocable to such use, if all such equipment, and any such
15 structure, is located at the same site, and includes manure, substrate, and other
16 feedstock collection and delivery systems, pumping and processing equipment,
17 gasifiers and digester tanks, biogas and synthetic gas cleaning and compression
18 equipment, fiber separation and drying equipment, and heat recovery equipment,
19 but does not include equipment or components that are present as part of a
20 conventional energy system. In this subsection, “synthetic gas” is a gas that qualifies
21 as a renewable resource under s. 196.378 (1) (h) 1. h. In this subsection, “solar energy
22 system” means equipment which directly converts and then transfers or stores solar
23 energy into usable forms of thermal or electrical energy, but does not include
24 equipment or components that would be present as part of a conventional energy
25 system or a system that operates without mechanical means. In this subsection,

1 “wind energy system” means equipment which converts and then transfers or stores
2 energy from the wind into usable forms of energy, but does not include equipment or
3 components that would be present as part of a conventional energy system. The
4 exemption under this subsection for biogas or synthetic gas energy systems does not
5 apply to property subject to a tax incremental financing agreement that was in effect
6 on January 1, 2014, and not subsequently modified, amended, or extended.

7 **SECTION 9m. Initial applicability.**

8 (1) The treatment of section 70.111 (18) of the statutes first applies to the
9 property tax assessments as of January 1, 2014.” ✓

10 (END)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBa1752/2

MES/EVM/JK:jld/wlj/sacsjif

STAYS

RMR

3

ASSEMBLY AMENDMENT,
TO SENATE BILL 338

NOW

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

2 **1.** Page 1, line 3: after "districts" insert ", creating special provisions for a city
3 or village to create a tax incremental district in recently annexed territory, the
4 property tax exemption for biogas or synthetic gas energy systems and property
5 subject to a tax incremental financing agreement, and authorizing a tax incremental
6 district to share tax increments with an environmental remediation tax incremental
7 district in the same city or village".

8 **2.** Page 3, line 9: after that line, after the material inserted by senate
9 amendment 2 and senate amendment 3, insert:

10 "SECTION 5s. 66.1105 (6) (f) 1. (intro.) of the statutes is amended to read:

11 66.1105 (6) (f) 1. (intro.) Not later than the date on which a tax incremental
12 district terminates under sub. (7) (am), a planning commission may amend under
13 sub. (4) (h) the project plan of a tax incremental district to allocate positive tax

1 increments generated by that tax incremental district to another tax incremental
2 district created by that planning commission or to an environmental remediation tax
3 incremental district created under s. 66.1106 by the same governing body if all of the
4 following conditions are met:

5 **SECTION 5u.** 66.1105 (6) (f) 2. d. of the statutes is created to read:

6 66.1105 (6) (f) 2. d. The recipient district is an environmental remediation tax
7 incremental district created under s. 66.1106.

8 **SECTION 6m.** 66.1105 (19) of the statutes is created to read:

9 66.1105 (19) CREATION OF A DISTRICT IN RECENTLY ANNEXED TOWN TERRITORY. (a)
10 *Authorization.* If, within 90 days of annexing town territory, a city holds a hearing
11 under sub. (4) (a) on the proposed creation of a tax incremental district that is to be
12 located in that former town territory, the city may create a tax incremental district
13 under this section subject to the limitations and conditions in this subsection.

14 (b) *Limitations and conditions.* 1. Notwithstanding sub. (7), a district created
15 under this subsection must terminate upon the earlier of 7 years after the district's
16 creation or when the city has received aggregate tax increments with respect to the
17 district in an amount equal to the aggregate of all project costs under the project plan
18 and any amendments to the project plan for the district.

19 2. A district created under this subsection may not allocate positive tax
20 increments to another district as described in sub. (6) (e) or (f).

21 3. The 12 percent limit described in sub. (4) (gm) 4. c. does not apply to a district
22 created under this subsection until 2016.

23 4. Notwithstanding the limit on expenditures described in sub. (6) (am) 1., a
24 district created under this subsection may make expenditures until October 1, 2016.

25 **SECTION 7m.** 66.1106 (1) (i) of the statutes is amended to read:

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

6 **SECTION 7p.** 66.1106 (2) (c) of the statutes is amended to read:

7 66.1106 (2) (c) Notwithstanding par. (a) or (b), or sub. (7) (d) 1. or (11) (a), if the
8 governing body of a political subdivision determines that all eligible costs of an
9 environmental remediation tax incremental district that it created will be paid
10 before the date specified in sub. (11) (b), the governing body of that political
11 subdivision may adopt a resolution requesting that the department allocate positive
12 environmental remediation tax increments generated by that donor environmental
13 remediation tax incremental district to pay the eligible costs of another
14 environmental remediation tax incremental district created by that governing body
15 or to pay project costs, as defined in s. 66.1105 (2) (f), of a tax incremental district
16 created under s. 66.1105 and located in the same overlying taxing jurisdictions and
17 that satisfies one of the requirements under s. 66.1105 (6) (f) 2. A resolution under
18 this paragraph must be adopted before the expiration of the period of certification.

19 **SECTION 7s.** 66.1106 (7) (e) (intro.) of the statutes is amended to read:

20 66.1106 (7) (e) (intro.) Notwithstanding par. (d), if the governing body of a
21 political subdivision adopts a resolution described in sub. (2) (c), it shall provide a
22 copy of the resolution to the department. The department shall authorize a positive
23 environmental remediation tax increment generated by a donor district, as described
24 in sub. (2) (c), to the political subdivision that incurred eligible costs to remediate
25 environmental pollution in another district within that political subdivision or that

1 incurred project costs, as defined in s. 66.1105 (2) (f), for a tax incremental district
2 within that political subdivision that was created under s. 66.1105 and that satisfies
3 one of the requirements under s. 66.1105 (6) (f) 2., as described in sub. (2) (c), until
4 the earlier of the following occurs:

5 **SECTION 7u.** 66.1106 (7) (e) 1. of the statutes is amended to read:

6 66.1106 (7) (e) 1. The political subdivision has received aggregate
7 ~~environmental remediation~~ tax increments with respect to the recipient district in
8 an amount equal to the aggregate of all of the eligible costs or project costs for that
9 district.

10 **SECTION 7w.** 66.1106 (7) (e) 2. of the statutes is amended to read:

11 66.1106 (7) (e) 2. The donor district terminates under sub. (11) (b) or 66.1105
12 (7).

13 **SECTION 8m.** 70.111 (18) of the statutes, as affected by 2013 Wisconsin Act 20,
14 is amended to read:

15 70.111 (18) ENERGY SYSTEMS. Biogas or synthetic gas energy systems, solar
16 energy systems, and wind energy systems. In this subsection, "biogas or synthetic
17 gas energy system" means equipment which directly converts biomass, as defined
18 under section 45K (c) (3) of the Internal Revenue Code, as interpreted by the Internal
19 Revenue Service, into biogas or synthetic gas, equipment which generates electricity,
20 heat, or compressed natural gas exclusively from biogas or synthetic gas, equipment
21 which is used exclusively for the direct transfer or storage of biomass, biogas, or
22 synthetic gas, and any structure used exclusively to shelter or operate such
23 equipment, or the portion of any structure used in part to shelter or operate such
24 equipment that is allocable to such use, if all such equipment, and any such
25 structure, is located at the same site, and includes manure, substrate, and other

1 feedstock collection and delivery systems, pumping and processing equipment,
2 gasifiers and digester tanks, biogas and synthetic gas cleaning and compression
3 equipment, fiber separation and drying equipment, and heat recovery equipment,
4 but does not include equipment or components that are present as part of a
5 conventional energy system. In this subsection, "synthetic gas" is a gas that qualifies
6 as a renewable resource under s. 196.378 (1) (h) 1. h. In this subsection, "solar energy
7 system" means equipment which directly converts and then transfers or stores solar
8 energy into usable forms of thermal or electrical energy, but does not include
9 equipment or components that would be present as part of a conventional energy
10 system or a system that operates without mechanical means. In this subsection,
11 "wind energy system" means equipment which converts and then transfers or stores
12 energy from the wind into usable forms of energy, but does not include equipment or
13 components that would be present as part of a conventional energy system. The

14 exemption under this subsection for biogas or synthetic gas energy systems does not
15 apply to property subject to a tax incremental financing agreement that was in effect
16 on January 1, 2014, and not subsequently modified, amended, or extended.

17 **SECTION 9m. Initial applicability.**

18 (1) The treatment of section 70.111 (18) of the statutes first applies to the
19 property tax assessments as of January 1, 2014."

20 (END)

Insert
5-13

Insert 5-14



ASSEMBLY AMENDMENT ,
TO ASSEMBLY BILL 709

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

2 1. Page 2, line 22: delete "The" and substitute "Until the tax incremental
3 district terminates, the".

4 2. Page 2, line 24: delete lines 24 and 25 and substitute "apply to property in
5 existence on January 1, 2014, and located in a tax incremental financing district in
6 effect on January 1, 2014".

7 (END)

Insert 5-13

Insert 5-14