



State Senator
Rick Gudex

District 18

April 23, 2015

To: Members of the Senate Economic Development and Commerce Committee
From: Sen. Rick Gudex
Re: Senate Bill 51, Senate Bill 52, & Senate Bill 56

This past year I had the honor of Chairing the Legislative Council Study Committee on Tax Incremental Financing. The committee was directed to study and review the intent behind TIF laws and how the TIF laws are utilized by cities, villages, towns, and counties. The committee was also directed to evaluate current TIF laws and recommend legislation that could improve their effectiveness and study how they impact a local governmental unit's finances and property taxes; economic and community development; and job growth. As you may know, TIF is the only tool that Cities, Villages, and Townships have for economic development across the state on a local level.

The committee membership consisted of two Senators, four Representatives, and 12 public members from various regions throughout the state. Many of the members, I would consider to be experts in the field of Tax Incremental Financing. It was an extremely educational and productive committee. Better yet, we had over 40 people apply to be public members of the committee. We were able to have some of those not chosen, come before the committee to testify, which was extremely helpful in coming to resolution on the three bills before us today.

SB-51- This bill amends the process by which a TID's annual report is reviewed, including an industry-specific town TID and an environmental remediation TID. The bill draft also repeals the process by which DOR may be requested to review and make a determination as to whether the money expended, or debt incurred by an industry-specific town TID in the prior year complied with current law. Specifically, the bill does all of the following:

- Requires a city, village, town, or county to submit an annual report by July 1, describing the status of each existing TID to each overlying taxing jurisdiction as well as to DOR.
- Provides a list of information that must be included in the annual report, including information about any developer who is named in a developer's agreement or receives financial assistance from tax increments generated by the TID, when the TID is expected to terminate, and a financial analysis of the TID.
- Requires every Joint Review Board (JRB) to exist during the life of a TID and requires the JRB to meet annually on July 1, or as soon as the annual report becomes available.
- Requires DOR to post on its official Internet site the annual reports describing the status of a TID and allows DOR to grant an extension of time.

- Requires DOR to charge a fee of \$100 per day for each day that the annual report is past due.
- Repeals the process by which DOR may be requested to review and make a determination as to whether the money expended, or debt incurred by an industry-specific town TID complies with current law. A request may be made by various parties located either inside or outside of the town. This process which is not available for any other type of TID.

This bill is designed to give the JRB the responsibility of annually reviewing the financial conditions of each TID and the transparency of having made available the annual report on a centralized website at the Department of Revenue as well as a penalty if the reports are not filed in a timely manner. In the past legislators have called for more accountability and oversight regarding TIF, we are hopeful that this bill will provide greater oversight and transparency. We are aware that DOR may have some concerns with getting involved in "local" issues and we welcome their comments and thoughts. I am also open to drafting an amendment to address the concerns if there is committee support for the adjustments.

SB-52- A TID is required to terminate, under current law and with some exceptions, once its project costs are paid back. Under one of the exceptions, the city, village, town, or county (political subdivision) may amend the TID's project plan to allow the positive tax increments from the TID (donor" TID) to be allocated to another TID (recipient" TID) also created by the political subdivision. Positive tax increments may not be allocated from a donor TID to recipient TID unless all of the following conditions have been met:

- Both the donor and recipient TIDs are in the same municipality and have the same overlying taxing jurisdictions (county, school district, technical college district, lake sanitary district, a public inland lake protection and rehabilitation district, and a town sanitary district).
- The donor TID has first satisfied all of its current-year debt service and project cost obligations.
- The allocation of tax increments is approved by the Joint Review Board (JRB). If both the donor TID and recipient TID were created before October 1, 1995 (or before October 1, 1996, for first class cities) the donor TID may, in general, allocate its positive tax increments for up to 10 years if all of the following conditions are met:
 - The donor TID and the recipient TID have the same overlying taxation jurisdictions.
 - The donor TID is able to demonstrate, based upon the positive tax increments that are currently generated, that it has sufficient revenues to pay for all project costs that have been incurred under the project plan for the district and sufficient surplus to pay for some of the eligible costs of the recipient TID.

Also, under current law, not all types of TIDs may be a recipient TID and use donated tax increments. Donated tax increments may only be used if one of the following applies to the recipient TID:

- The project costs in the recipient TID are used to create, provide, or rehabilitate low-cost housing or to remediate environmental contamination.

- The recipient TID was created upon a finding that not less than 50 percent, by area, of the real property within the TID is blighted or in need of rehabilitation.
- The recipient TID is a mixed-use or industrial-use district that has been designated as a distressed TID or a severely distressed TID.
- The recipient TID is an environmental remediation TID.

The bill removes certain barriers that prevent TIDs from sharing tax increments. Specifically, the bill draft does all of the following:

- Allows a TID in existence on the effective date of the bill draft to become a donor TID and share tax increments with a recipient TID even if the two TIDs do not have the same overlying taxation jurisdictions if the dissimilarity arises because of a lake sanitary district, a public inland lake protection and rehabilitation district, or a town sanitary district (special districts).
- Prohibits special districts from participating in the financing of a TID for any TID created on or after the effective date of the bill draft.
- Allows any type of a TID to be a recipient of donated tax increments.

The repeal of these restrictions is expected to increase the number of TIF districts that share incremental levies. Compared to current law, this could cause TIF districts generating insufficient incremental levies to be closed sooner than permitted under current law, which is good for taxpayers and all entities in the TID.

SB-56- This bill extends the deadline by which a local government must declare a TID to be distressed or severely distressed from October 1, 2015 to October 1, 2020.

During the 2009-10 Legislative Session, the TIF law was amended to allow the local legislative body of a city or village (local government) to designate a TID that was created before October 1, 2008, as a distressed TID or severely distressed TID.

As originally enacted, the distressed and severely distressed TID law required a local government to declare a TID to be distressed or severely distressed by October 1, 2011. 2011 Wisconsin Act 41 extended that date to 2015 and also repealed a requirement of the distressed and severely distressed TID law that required a district to be at least seven years old before being declared distressed or severely distressed.

Under current law, a local government may designate such a TID as either distressed or severely distressed when the local government, in addition to other procedural requirements, adopts a resolution finding that the project costs exceed the amount of revenues from all sources that the city or village expects the district to generate during the life of the TID.

For a local government to designate a district as a severely distressed TID, current law also requires a finding that the amount of the value increment generated in any year has declined at least 25% from the district's highest value increment over the course of the district's lifespan.

A local government must act by October 1, 2015, to declare a TID as distressed or severely distressed. Also, no TID may be declared distressed or severely distressed if the local government approves a project amendment after October 1, 2009, except for the amendment that declares the TID distressed or severely distressed.

If a district is designated as a distressed TID, it may collect positive tax increments for up to 10 years after it would otherwise have been required to terminate. If a district is designated as a severely distressed TID, then it is able to collect positive tax increments for up to 40 years after the district was originally created.

Committee members discussed the need to extend the deadline by which a local government must declare a TID to be distressed or severely distressed, including options to extend the deadline or repeal it entirely.

This bill extends the deadline for a policy that provides financially distressed TIDs with more time to pay off all of the project costs. Currently, municipalities are responsible for maintaining their TIDs' financial records, and the Department of Revenue (DOR) does not receive the information, including project costs, until a TID terminates. The primary criterion for a municipality to designate its TID as distressed is whether the project costs exceed the tax increments the municipality expects the TID to generate during the life of the TID. It is crucial that both project cost and incremental tax revenue data be available to estimate TIDs' financial vulnerability. Due to the lack of sufficient data on project costs, it is not feasible for DOR to estimate, based on the criterion, the number of currently active TIDs that will likely be designated as distressed or severely distressed.

However, when a TID shows a pattern of negative growth in its value increment, one could assume the TID may have become financially vulnerable. In Wisconsin, there are currently 1,115 active TIDs, of which 67 are designated as distressed and nine as severely distressed. The remaining years for those TIDs are as follows:

- 5-10 years: 22 TIDs (distressed), 5 (severely distressed)
- 11-15 Years: 18 (distressed), 1 (severely distressed)
- 16 or more years: 27 (distressed), 3 (severely distressed)

For those designated as distressed, excluding four TIDs that have amended their base value during the last five years, the median annual growth rates in value increments during the five-year (2009-2014) and three-year (2011-2014) periods are -1.49 percent and -0.67 percent, respectively, and -7.8 percent and -2.8 percent for those designated as severely distressed.

There are currently 717 TIDs that are not designated as distressed or severely distressed and that did not amend base value over the last five years. 253 of them have shown negative average annual percentage growth in value increment during both periods (2009-2014, 2011-2014). The total increment value for those 253 TIDs amounted to approximately \$3.144 billion in 2014. In 2014, 156 out of those 253 TIDs generated value increment that was no more than 75 percent of their highest value increment over the course of their lifespans, and the total increment value for those TIDs amounted to approximately \$1.368 billion in 2014.

It is possible, however, that many of them have been and will be producing tax increment that is sufficient to cover all relevant project costs, and there may be TIDs that would be designated as distressed or severely distressed even though they have not shown negative average annual growth in the value increment in recent years.

The three bills before us today are products of the Legislative Council Study Committee and have bi-partisan support from legislators all across the state. They are designed to enhance and provide further transparency and accountability for the use of tax dollars when using Tax Increment Financing. The topic is a complex one and I invite you to please ask questions to gain more information on how the TIF Statues work in our state.

Thank you and I ask for your support of these bi-partisan economic development bills.



April 23, 2015

Wisconsin State Senate
Committee on Economic Development and Commerce
State Capitol
Madison, Wisconsin

RE: Testimony **in Support of SB 51, SB 52 and SB 56**, Legislative Council Study Bills relating to **tax incremental financing**.

Dear Committee Members,

I am here today to testify in support of these bills as a part of the overall recommendations of the Legislative Council Study Committee on TIF.

I had the privilege of serving on the Legislative Council TIF Study Committee and fully support the work and all of the recommendations of the Committee.

Ehlers is a firm that exclusively serves local governments across the State of Wisconsin. Currently we represent over 300 municipalities in Wisconsin as their Financial Advisor. We have assisted in the creation and ongoing financial management of Tax Increment Districts in Wisconsin since the law was initially created in 1976. Our company also provides financial advisory and tax increment assistance in Minnesota, Illinois, Kansas and Colorado and as such we are well aware of how this law has been used and applied in these competing States as well.

It is our view that all of the recommendations of the TIF Study Committee will significantly improve the accountability and transparency of the program and will advance the original intent of the law---to promote economic development, jobs and tax base growth that would not have otherwise occurred without the use of Tax Incremental Financing.

Specifically the first Bill before you today (SB 51) will provide significantly enhanced reporting requirements for communities using TIF resulting in greater transparency for all taxpayers. SB- 52 will remove restrictions on revenue sharing between districts but only if approved by the Joint Review Board. We believe that this will enable districts to avoid distress and close on average, sooner than would otherwise be the case. Finally SB 56 will extend the sunset for declaration of a district as "distressed" by 5 years to 10/1/20. While there are less than 10% of districts that are currently distressed, there are still communities that have not fully recovered from the Great Recession and this could minimize the potential for general property tax subsidy of these situations.

Very Truly Yours

Michael C. Harrigan, CIPMA
Chairman / Sr. Financial Advisor

www.ehlers-inc.com



TO: Members, Senate Committee on Economic Development and Commerce

FROM: Peter Thillman, Wisconsin Economic Development Association

DATE: April 23, 2015

RE: **Support for SB 51, SB 52, and SB 56 – Legislative Council study bills relating to tax incremental districts and financing**

The Wisconsin Economic Development Association is a statewide association consisting of over 400 economic development practitioners. WEDA supports state policies that strengthen our economy and create jobs. Since 1975, Tax Incremental Financing (TIF) has been one of Wisconsin's primary and most successful economic development tools. Statewide, TIF districts – also referred to as a Tax Incremental District (TID), have revitalized urban corridors and bolstered industrial growth among rural areas throughout Wisconsin.

Over the years, various TIF related changes have been implemented to reconcile or address shifting marketplace conditions. To address the challenges in today's marketplace, legislative members and economic industry professionals – including members from WEDA, participated in the 2014 Legislative Council Study Committee on the Review of Tax Incremental Financing. The purpose of the committee was to “study and review the intent behind TIF laws and how the TIF laws are utilized by cities, villages, towns, and counties.” After months of discussion, the TIF Study Committee has recommended a package of TIF bills to strengthen and refine TIF functionality in Wisconsin.

While WEDA supports the entire bill package to maximize economic growth in Wisconsin communities, today where are here supporting Senate Bills 51, 52, and 56.

Senate Bill 51 requires a standing Joint Review Board to be established in order for a TID to be created, and remain in existence during the lifespan of the TID. In addition, SB 51 modifies annual reporting requirements, incorporates penalties for not reporting annually and repeals the DOR process to review industry-specific town TIDs. These changes will enhance local flexibility and accountability in TIF projects.

Senate Bill 52 allows any type of TID to be a recipient TID and use tax increments. In addition, this bill excludes small taxing jurisdictions (such as lake, sanitary, or public inland lake districts) from donating to tax increments and removes these entities from the tax increment calculation. These changes will increase the ability of cities and towns to utilize TIDs to spur economic growth.

Senate Bill 56 replaces the October 1, 2015 deadline for declaring a TID distressed or severely distressed to October 1, 2020. This change allows local governments to extend the timeframe for positive increments in a TID, through the designation of the TID as distressed or severely distressed. This extended designation period is vital to provide the TID additional time to generate growth.

Your consideration and support SB 51, 52 and 56 are greatly appreciated. Thank you.

**COMMENTS BY WILLIAM J. MIELKE, P.E., PLS
TO
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND COMMERCE
RE: SB 52 AND TID LEGISLATION
APRIL 23, 2015**

Thank you for the opportunity to appear today. My name is William Mielke and I am CEO and the Chairman of the Board of Ruekert & Mielke, Inc. a consulting engineering firm which represents many municipalities in Wisconsin. I am appearing specifically in support of SB 52 and in overall support of the recommended legislation proposed by the Legislative Study Committee. I think they did a great job addressing corrections and improvements to our current tax incremental financing legislation which is our only real tool for economic development in Wisconsin.

I have personally been involved with the need for SB 52 as the engineer for the City of Oconomowoc where a small overlapping lake district prevented the use of the existing donor TIF legislation from being used because the taxing districts were not the same. The donor TIF legislation should be available to all communities and not discriminate against any community that should have a minor taxing district in one of the two TIF's.

Under Wisconsin TID law, all local government entities having the power to levy taxes on property within a TID are overlying taxing jurisdictions for that TID. If such an entity levies property taxes, that entity contributes tax increment to the TID. Overlying taxing entities include the cities, villages, towns, counties, school districts, and technical college districts that are represented on the Joint Review Board, as well as any other special purpose district with the power to levy taxes within a TID. These special districts, while not represented on the Joint Review Board, currently consist of metropolitan sewerage districts, sanitary districts, and public inland lake protection and rehabilitation districts (also known as lake management districts), but could also include other districts authorized by statute to levy property taxes.

The participation of these special purpose districts in tax incremental districts creates obstacles to "donor" TIDs. TID law allows for a TID with excess tax increment to allocate or "donate" a portion of its excess revenues to another TID within the same municipality. However, the law requires that both TIDs have the same overlying taxing jurisdictions. If one TID is within a lake management district, for example, and the other one is not, donation from one TID to the other is not allowed.

Lake management districts and sanitary districts present an obstacle to the ability to create donor TIDs due to the number of such districts. There are approximately 220 lake management districts in Wisconsin, many of them located partially in villages and cities. These districts typically only cover a small portion of the municipality immediately adjacent to the lake, and many municipalities have multiple lake management districts within their borders. Sanitary districts are also numerous and it is not uncommon for more than one sanitary district to exist



within the same municipality. The property tax levies and tax rates of these districts are very small compared to the taxes levied by other taxing jurisdictions. These districts, therefore, generate a very small percentage of tax incremental revenues. However, the sheer number of these districts creates the potential for them to be a frequent obstacle to the creation of donor TIDs.

SB 52 solves the current problem for both existing TID's and future TID's. It allows existing TID's with a lake or sanitary district in one of the two districts to still share in the tax increments. For TID's created after the bill takes effect, special districts will be excluded from participation in the financing of a TID. It should be noted that these special districts contribute very little in tax incremental revenue and also are not represented on the Joint Review Board.

I appreciate the opportunity to comment and thank you for your efforts to advance this bill towards passage.



131 W. Wilson St., Suite 505
Madison, Wisconsin 53703
phone (608) 267-2380; (800) 991-5502
fax: (608) 267-0645
league@lwm-info.org; www.lwm-info.org

To: Senate Committee on Economic Development and Commerce

From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities

Date: April 23, 2015

Re: SB 51, SB 52, and SB 56, TIF Study Committee Recommended Legislation

The League of Wisconsin Municipalities strongly supports SB 51, SB 52 and SB 56, as recommended by the Study Committee on the Review of Tax Incremental Financing and unanimously approved for introduction by the Joint Legislative Council. These three bills, which are summarized below, are the result of months of review, discussion and vetting by the study committee. Each of these bills makes important improvements and clarifications to the only economic development tool available to cities and villages. These bills also make the TIF law clearer and the TIF process more transparent to other taxing jurisdictions.

- **SB 51** requires a municipality to maintain a standing Joint Review Board until the termination of all TIDs within the community, and requires the Joint Review Board to meet annually to review an annual report. In addition, the municipality or county must submit the annual report describing the status of each existing TID to each overlying taxing jurisdiction as well as to the Department of Revenue .
- **SB 52** modifies requirements for sharing tax increments by TIF districts, limits the participation of certain special purpose districts in TIF district financing, and authorizes any TID to use tax increments donated from another TID.
- **SB 56** delays by five years, from 2015-2020, sunset of the distressed TID law.

The League urges you to recommend passage of each of these bills. Thanks for considering our comments.