



WISCONSIN LEGISLATIVE COUNCIL

REVIEW OF TAX INCREMENTAL FINANCING

Room 411 South
State Capitol

July 17, 2014
10:00 a.m. – 3:53 p.m.

[The following is a summary of the July 17, 2014 meeting of the Study Committee on Review of Tax Incremental Financing. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting.]

Call to Order and Roll Call

Chair Gudex called the meeting to order. The roll was called and a quorum was present.

COMMITTEE MEMBERS PRESENT: Sen. Richard Gudex, Chair; Rep. Amy Loudenbeck, Vice Chair; Reps. Mike Kuglitsch, Tod Ohnstad, and Josh Zepnick; and Public Members Jennifer Andrews, Michael Harrigan, John Kovari, Richard Lincoln, David Rasmussen, Brian Ruechel, Jason Serck, Mike Slavish, Peter Thillman, and Hal Wortman.

COMMITTEE MEMBERS EXCUSED: Sen. Robert Jauch; and Public Members Eileen Kelley and Thomas Wilson.

COUNCIL STAFF PRESENT: Scott Grosz and Melissa Schmidt, Senior Staff Attorneys.

APPEARANCES: Terry C. Anderson, Director, Legislative Council.

Opening Remarks by the Joint Legislative Council

Terry Anderson, Director of the Legislative Council staff, welcomed committee members. At an orientation session immediately preceding the meeting, he had provided background information on the history of the Legislative Council committee process and logistical information for the public members of the committee.

Introduction of Committee Members

Chair Gudex asked the members to introduce themselves and provide some background on their interest in the topic to be studied by the study committee.

Presentation by Legislative Council Committee Staff

Scott Grosz, Senior Staff Attorney, Legislative Council, provided a brief overview of the study committee process. He also discussed the assigned scope of the committee's assignment and welcomed questions from committee members.

Review of Wisconsin Tax Incremental Financing Statutes

Mr. Grosz and Melissa Schmidt, Senior Staff Attorneys, Legislative Council, presented an overview of Wisconsin's tax incremental finance (TIF) laws. They discussed TIF as an economic concept, tax incremental finance district (TID) creation and termination, TID project costs, amendments to TID project plans, financial audits, decrement TIDs, town TIDs, multijurisdictional TIDs, and environmental remediation TIDs. A Staff Brief prepared in advance of the meeting and a link to the presentation's PowerPoint slides are available on the committee's website at: <http://docs.legis.wisconsin.gov/misc/lc/study/2014/1190/>.

Following the presentation, committee members discussed the use of cash grants as a TID project cost. Committee members discussed the varied use of cash grants between municipalities.

Presentation by the Department of Revenue

Nate Ristow, Legislative Advisor, Department of Revenue

Mr. Ristow presented information on DOR's administrative role under Wisconsin's TIF law. Mr. Ristow explained that because TIF is a local economic development mechanism, DOR plays a minor administrative role in the process. He also discussed how tax increments are determined. Mr. Ristow explained that because of its minor administrative role in the life of a TID, the type of data that DOR has about TIDs is limited. For example, Mr. Ristow explained that DOR does not currently have the capability to model the economic growth of a community that results from a TID.

Mr. Ristow also provided data on the number of TIDs created and terminated since TIF law was first enacted and data on the number of distressed TIDs, severely distressed TIDs, and decrement TIDs. In response to questions, Mr. Ristow stated that of the TIDs that have closed, the average lifespan of a TID is about 14 years.

Presentations by TIF Consultants

William J. Mielke, P.E., R.L.S., President and CEO, Municipal Finance Team Leader, Ruckert-Mielke

Mr. Mielke presented information regarding the benefits of TIDs. He explained that TIDs provide an opportunity for the community to become more involved in the economic development process. He said that in the 1970's, the philosophy behind creating a TID was that if a community built a TID, the developers would come and develop it. He said that this mentality has changed in the last six years, in response to the major economic recession. Mr. Mielke explained that now, the developer provides the initial funding for a development, with the community reimbursing the developer as the tax increment is recognized.

In order to increase economic development, Mr. Mielke suggested amending TIF law in the following ways: (1) for a TID in a downtown area that is 80% developed, create a “super TID” to allow municipalities to repay TID project costs with the increase in sales tax realized inside the TID; (2) allow a TID to donate positive tax increments to more TIDs in the municipality by excluding sanitary districts and lake management districts from participation for TIDs; and (3) prevent farming on real property located in a TID once the property has been developed. In response to questions, Mr. Mielke suggested draft language regarding how to amend the statutes to increase the ability for a TID to donate its positive tax increments to other TIDs.

Jared Schmidt, P.E., Civil/Municipal Engineering Manager, Robert E. Lee & Associates

Mr. Schmidt presented information regarding his work as a TIF consultant in the Green Bay area and in smaller communities. He explained that some developers will contact him and ask him to find a municipality for the developer’s. However, Mr. Schmidt said that his job is to protect municipalities and that the municipality must first want development. He explained that when creating a TID, one must not be afraid of becoming distressed, but that the municipality must be prepared in case this does happen.

In order to increase economic development, Mr. Schmidt provided suggestions to amend TIF law, such as increasing the 35% limit on how much newly platted residential use property may be in a mixed-use TID; and treating all towns, regardless of size, the same so that smaller towns may also create a TID just like a large town.

Presentations by TID Project Developers

Michael Mooney, Co-Founder, Chairman, and Principal, MLG Commercial

Mr. Mooney presented information regarding his work as a commercial real estate developer. He shared that many of the projects he has developed are the first TID that the municipality has created. He explained that TIF law allows municipalities to partner with commercial real estate developers to encourage economic development. He stated that it is inevitable for problems to arise during the development of a TID that are beyond a developer’s control, but that TIF is really the only tool municipalities have to encourage economic development in an area. Mr. Mooney agreed with Mr. Mielke that developing a downtown area is difficult, and that municipalities should be able to pay projects costs with the increase in sales taxes in the TID.

In response to questions, Mr. Mooney stated that he was generally opposed to allowing a town to create a TID similar to a city or village. He said town government is very different from city or village government. For example, creating a TID often requires more staff than currently exist in many towns.

In response to other questions, Mr. Mooney also said that regarding sales tax increments for downtown TIDs, there are some downtown areas where this would be a good idea and, others where it would not work. He said that this idea would work best in areas where there is retail activity.

In response to questions about working with the municipality to create a TID project plan, he said that there is certain information that he only shares with the municipal attorney so that it is not subject to open records requests.

Brad Binkowski, President, Urban Land Interests

Mr. Binkowski presented information regarding his work as a developer in downtown Madison. He explained that he developed Block 89, across the street from the Wisconsin State Capitol, located between East Main Street and Doty Street. He said that underground parking was necessary to bring tenants into the office buildings but said that he would have lost roughly \$1.2 million to build this structure without TIF. He said Madison created a TID for Block 89 to assist in the creation of an underground parking structure.

Mr. Binkowski also explained that for economic development to occur, a municipality needs the private sector to provide the creativity; and that where there is enough market pressure, TIF helps. Mr. Binkowski explained that there had not been any investment in redeveloping the downtown capital area between the 1970's and 1995 when the TID for Block 89 was created. He provided photos to illustrate how much development has occurred in the capital area to highlight how the area has now revitalized since the development of Block 89.

In response to questions, Mr. Binkowski explained that Madison's TIF policies have some of the strongest taxpayer protections in the state. He said that Madison does not use cash assistance to lure a tenant from one Madison building to relocate to a TID development. In response to other questions, Mr. Binkowski stated that he thought the "but for" test was good public policy.

Links to the PowerPoint presentations of the speakers may be found on the committee's website [<http://docs.legis.wisconsin.gov/misc/lc/study/2014/1190/>].

Discussion of Committee Assignment

Chairperson Gudex asked committee members to reserve August 14th as the next committee meeting date. Chair Gudex also said he was looking at either a September 10th or 11th meeting date.

Other Business

There was no other business before the committee.

Adjournment

The meeting was adjourned at 3:53 p.m.

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