

Recommendations
For Consideration by TIF Legislative Study Committee

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Following is a list of modifications that the Ehlers team discussed as changes that would significantly improve the law and provide more flexibility to local governments to enhance TID success and make it a more useful economic development tool.

- Eliminate or modify the vacant land test. While intended to avoid use of the blighted or in need of conservation or rehabilitation designation in greenfield situations, the vacant land test often becomes problematic in its application to truly blighted areas:
 - A parcel where the land value exceeds the improvement value is considered vacant, but it is not uncommon to find land in blighted areas that is worth more than the severely blighted structures on that land.
 - In urban areas, privately owned parking lots on separate parcels become a vacant land test problem as they have no improvements value, but are not truly vacant in the sense they have an economic use occurring on them.
- Eliminate or modify the requirement for the Joint Review Board to act within 30 days of receiving the resolution from the city. This can cause a TID creation or amendment to die due to lack of action, which results in time and additional cost to start the process over.
- Make any TID an eligible recipient district for purpose of increment sharing. Currently, only blighted area, in need of conservation or rehabilitation, and distressed/severely distressed TIDs are eligible.
- Eliminate the requirement to provide the estimated amount of retail development (if greater than 35%) expected in the TID at the end of the expenditure period. Based on a conversation with DOR, our understanding is that nothing is done with this information, nor does it relate to any approval criteria. Since this was new with the 2004 round of law changes, We suspect it had something to do with a legislator’s desire to monitor how the new mixed use districts were being used, but is now simply an extraneous piece of information.
- Consider modifying the requirement of same overlapping taxing jurisdictions for TID sharing in the case of “minor” districts like sanitary and lake protection. This was introduced last session as Assembly Bill 4 and never went past public hearing.
- Consider modifying the requirement of same overlapping taxing jurisdictions for TID sharing in the case of “major” entities as well – counties, school districts.
- DOR does not follow the law with respect to 12% EV test and the statement that “currently available” values are to be used. We understand why they do it the way they do, but it would be nice to have the law comport with what actually happens.

- If you create a TID between the dates of October 1 and May 14, it will receive one less revenue period than the maximum life (i.e. 19 or 26 years vs. the full 20 or 27 years). Consider fixing this so that there is not a penalty for acting in this window.
- In the case of territory amendments, clarify whether the use (50%) test and vacant land test (where applicable) apply to the entire TID, as proposed to be amended, or to just the territory to be added. DOR has provided differing guidance on this question in the past.
- Current law requires submission of the Annual Report to overlapping taxing jurisdictions by May 1. Since this date is prior to the completion of most communities audits, a later date should be set.
- Allow 85 percent of the value increment of a former TID to be treated as net new construction and added to the municipality's allowable levy when the district is closed. Current law allows only 50 percent of the value increment to be added to the allowable levy. We think that construction in TIDs should be treated the same as new construction outside of TIDs for levy limit purposes..
- As written, the law presently requires that any lands within a mixed use TID that are "zoned and suitable for industrial development" at the time the TID is created must remain so zoned for the life of the TID. We're not sure that the legislature intended this existing requirement for industrial TIDs to transfer on to mixed use TIDs, so it may have been an inadvertent byproduct of the 2004 law changes. In any event, removing this requirement at least as it applies to Mixed Use TIDs would be beneficial.