



WISCONSIN LEGISLATIVE COUNCIL

REVIEW OF TAX INCREMENTAL FINANCING

Room 412 East
State Capitol

October 9, 2014
10:05 a.m. – 3:15 p.m.

[The following is a summary of the October 9, 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. A digital recording of the meeting is available on our Web site at <http://www.legis.wisconsin.gov/lc>.]

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 and Tod Ohnstad; and Public Members Jennifer Andrews, Eileen Kelley, Richard Lincoln, David Rasmussen, Brian Ruechel, Jason Serck, Mike Slavish, Peter Thillman, Thomas Wilson, and Hal Wortman.

COMMITTEE MEMBERS EXCUSED: Sen. Robert Jauch; Rep. Josh Zepnick; and Public Members Michael Harrigan and John Kovari.

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

Approval of the Minutes of the September 10, 2014 Meeting

Representative Ohnstad moved, seconded by Mr. Serck, to approve the minutes of the September 10, 2014 meeting. The motion passed on a voice vote.

Discussion of Committee Assignment

The committee continued its review of options presented in Memo No. 2, *Committee Options for Possible Legislation* (September 3, 2014). Building on its efforts from the September meeting, the

committee reviewed the remaining portion of the Memo for options that should be developed into draft proposals for further consideration.

Changes in State Statutes Adversely Impacting TIDs

The committee discussed options relating to changes in state statutes that adversely impact TIDs, including possible responses to changes in technical college tax rates and other state policy changes. After discussion, Chair Gudex instructed Legislative Council staff to prepare a draft for further consideration that allows for TIDs to respond to changes in state policies through revised Joint Review Board (JRB) review if the JRB receives evidence of the impact of the state policy change to previous projections and if the TID has not otherwise been amended since the impact of the state policy change.

Donor TIDs

The committee discussed several options relating to donor TIDs, and Legislative Council staff reminded the committee of previous questions on the topic that were addressed in Memo No. 1, *The Public Purpose Doctrine's Limitation on Donating Positive Tax Increments to a Tax Incremental Financing District with Different Overlying Taxing Districts* (August 7, 2014). Chair Gudex instructed Legislative Council staff to prepare three drafts for further consideration, relating to the qualifications of donor TID, including a draft that excludes small overlying taxing jurisdictions from the donor TID process, a draft that allows the donor TID process to apply outside of overlying taxing jurisdictions with unanimous JRB approval, and a draft that permits all types of TIDs to receive donor increments.

Mixed-Use TIDs

After discussion and review of the impact of current law relating to the 35% limit for newly platted residential property and the limitation on zoning changes within mixed-use TIDs, Chair Gudex instructed Legislative Council staff to prepare a draft to remove the limitation on future zoning changes within mixed-use TIDs in circumstances where the ratio of property zoning remains the same as at the time of a TID's creation.

Town TIDs

The committee discussed the merits of expanding town authority to create TIDs, as well as the differences in town TID authority under current law. After discussion, Chair Gudex instructed Legislative Council staff to prepare a draft to align the reporting and review requirements for industry-specific town TIDs with the requirements generally applicable to city or village TIDs.

Types of TIDs

After discussion of options and current law relating to types of TIDs and the "SuperTIF" option, the committee decided to make no changes to the types of TIDs authorized under state law, noting in particular that the option relating to "SuperTIF" authority would be outside the committee's scope.

TID Creation Process

In its discussions relating to the TID creation process, the committee focused on the option presented by Mr. Rasmussen to replace "legal description" requirements with a boundary map requirement. In particular, the committee discussed whether completion of a metes and bounds description of a TID was burdensome to complete in terms of time or cost. Chair Gudex instructed

Legislative Council staff to discuss the requirement of a metes and bounds description with the Department of Revenue in order to provide more information to the committee.

The committee also considered a suggested option to eliminate a timing penalty for a TID's lifespan as it relates to the date of TID creation; Chair Gudex instructed Legislative Council staff to prepare a draft for further consideration that would address the timing penalty. The committee briefly discussed the relationship between farming on real property and TID creation but decided to take no action on the topic.

TID Amendment Process

The committee discussed options relating to the length of the TID amendment process; Chair Gudex instructed Legislative Council staff to prepare a draft for further consideration that would shorten the public hearing notice requirement for TID amendments.

Project Plans

The committee discussed options relating to TID project plans that related to the elimination of the vacant land test and Chair Gudex instructed Legislative Council staff to prepare a draft for further consideration that would address eliminating that test and the treatment of municipal property in a TID's base value. The committee also noted that options relating to mixed-use TIDs and project plans were previously discussed by the committee.

Annual Reports, Clarity of TIF Statutes, and Data Collection and Study

With regard to options relating to TID annual reports and data collection and study, Legislative Council staff noted that these topics overlapped with the subject matter of a draft, WLC: 0018/P1, to be discussed later on the agenda. The committee decided to combine its discussions of those topics with discussion of the draft. Legislative Council staff also updated the committee on progress regarding identification of outdated references in the TIF statutes, and noted that, per previous instructions, a draft would be prepared to repeal those references.

TIF Best Practices

The committee briefly discussed options relating to TIF best practices but decided to take no action on that topic, noting many best practices were already well-utilized. As the committee wrapped up its discussion of Memo No. 2, Representative Kuglitsch noted that the committee has identified numerous options to advance to bill drafts and possible recommendations to the Joint Legislative Council (JLC). He advised the committee that it may wish to consider selecting only its "best" ideas for submission to the JLC rather than overwhelming it with submission of all of the ideas the committee determines to be "good."

Description of Materials Distributed and Continued Discussion of Committee Assignment

The committee continued its meeting with review of several of the bill drafts prepared by Legislative Council staff as instructed at the previous meeting. During the meeting, the committee reviewed drafts but did not yet vote as to whether to recommend any drafts for introduction by the JLC.

WLC: 0012/P1

The first draft reviewed by the committee was WLC: 0012/P1, relating to the review period for JRB approval of a tax incremental district creation or amendment resolution. The committee generally agreed with the assumption by Legislative Council staff that it was the committee's intent to apply the changes of the draft to industrial town TIDs and to environmental remediation TIDs.

WLC: 0013/P1

The next draft reviewed by the committee was WLC: 0013/P1, relating to the timing and increase of the amount that a political subdivision may add to its levy limit upon the dissolution of a tax incremental financing district. Representative Kuglitsch suggested that this draft may not be popular with the Legislature. Other members also expressed concern that the draft may raise questions about current policy regarding the relationship between levy limits and TID dissolution. Mr. Ruechel asked for a question to be clarified regarding the calculation of the adjustment to the levy limit for TID dissolution under current law.

WLC: 0015/P1

The third draft reviewed by the committee was WLC: 0015/P1, relating to redetermination of base value for blighted or rehabilitation tax incremental districts. The committee addressed questions raised in the initial draft and generally agreed with the drafting assumptions made by Legislative Council staff.

WLC: 0016/P1

The fourth draft reviewed by the committee was WLC: 0016/P1, relating to limits on TID creation as measured by total TID value. Regarding a question raised by Legislative Council staff, the committee asked that the size of the "extra" TID authorized under the draft be limited to 5% of the community's total equalized value, representing the size of an "average" TID as approximated by the total statewide TID value compared to total state equalized value.

WLC: 0017/P1

The last draft reviewed by the committee was WLC: 0017/P1, relating to designation of tax incremental districts as distressed or severely distressed districts. Members of the committee discussed the likelihood of legislative support for the draft and asked for a new version of the draft that would extend the sunset to 2020 for designation of TIDs as distressed or severely distressed districts, rather than repealing the sunset outright.

Plans for Future Meetings

The committee discussed its plans for future meetings, selecting November 13th based on committee member availability.

Adjournment

The meeting was adjourned at 3:15 p.m.

SG:ty