



Legislative Fiscal Bureau

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October 15, 2013

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Special Session Assembly Bill LRB-3420/1: Town of Brookfield in Waukesha County Tax Incremental Finance (TIF) District Authority

Special Session Assembly Bill-3420/1 is scheduled for a public hearing and executive session on October 15, 2013, as part of the special session call under Executive Order #117.

CURRENT LAW

City and village governments may create a TIF district to pay for improvements such as public works or infrastructure, environmental remediation, real property assembly, and any related professional or administrative service costs and to make grants to owners, lessees, or developers of land located in the district. A city or village may create a TIF district if 50% or more of the proposed district's area is "blighted," in need of rehabilitation or conservation work, or suitable for industrial sites or mixed-use developments. An area designated as suitable for industrial sites must be zoned for industrial use both at the time the TIF district is created and throughout the life of the project. A TIF district may include areas suitable for mixed-use developments. Mixed-use developments may contain a combination of industrial, commercial, and residential use, except that lands proposed for newly-platted residential use may not exceed 35% of the area of real property within the district.

Once a TIF district has been created, a "tax incremental base value" is established by the Department of Revenue (DOR) for property within the district at the time it was created. The base value includes the equalized value of all taxable property and the value of municipally-owned property, as determined by DOR. It does not include municipally-owned property used for certain municipal purposes (such as police and fire buildings and libraries). DOR has the authority to impose a fee of \$1,000 on cities and villages whenever the Department determines or redetermines the tax incremental base of a TIF district.

The "tax increment" equals the general property taxes levied on the value of the TIF

district in excess of its base value (this is the "value increment"). The amount equals the value increment multiplied by the tax rate for all tax jurisdictions--municipal, county, school district, technical college district, and special purpose districts. Therefore, tax increments can only be generated by an increase in the equalized value of taxable property within a TIF district. DOR is required to charge a municipality a \$150 annual fee for each of its active TIF districts. If a municipality fails to pay this annual fee for one of its TIF districts by May 15th, DOR cannot certify the annual tax increment of that TIF district in that municipality.

Tax increments can only be allocated by DOR to the local body creating the district for a specified period and tax increments can only be used pay for eligible TIF project costs. The allocation of increments may occur up until the required termination period for the district, which can vary depending on when a district was created and depending on the type of district. DOR may allocate tax increments until the project costs are all repaid or the district is required by statute to be terminated. For TIF districts created after October 1, 2004, a TIF district is generally required to be terminated either 20 years after it was created if the district involves substantial industrial site or mixed use development, and 27 years after it was created if the district involves substantial blighted property or is in need of rehabilitation or conservation work.

Towns that have a cooperative plan with a city or village that has plans to annex all or part of the town have the authority to create a TIF district. Also, town governments are provided the authority to create certain industry-specific TIF districts. The industry for which such districts can be created are specifically enumerated in statute.

Town TIF districts involving a cooperative plan with an annexing city have the same 20- to 27-year life span generally allowed for most city or village TIF districts. Industry-specific town TIF districts must be terminated 16 years after the district is created. Both types of TIF districts may be terminated earlier if all the TIF district's project costs are repaid.

SUMMARY OF BILL

The bill would provide the Town of Brookfield in Waukesha County the authority to exercise all the powers of cities or villages relating to the creation of TIF districts. If the Town board exercises these powers, it would be subject to the same duties as any city or village governing board under state TIF law and would be subject to the same duties and liabilities as cities and villages.

If the Town of Brookfield creates a cooperative plan TIF district, the Town may not take any action with regard to that district except by acting under cooperative plan TIF district statutes. Further, if the Town of Brookfield creates a TIF district using the authority provided under the bill, the Town may not take any action with regard to that district except by acting under that authority.

The bill specifies that if any part of a TIF district created under these provisions is annexed by a city or village, any assets or liabilities associated with that annexed territory, including a proportional share of any bonds or other debt associated with the district, would

become the responsibility of the annexing city or village.

If, after January 1 of a year , a city or village annexes any part of a TIF district created under the bill, DOR would be required to redetermine the tax incremental base of the district, as of the following January 1, by subtracting from the tax incremental base the value of the taxable property that is annexed from the existing district. If the annexation becomes effective on January 1 of any year, the redetermination would be required to be made as of that date. However, the redetermined tax incremental base would be effective only if it is less than the original tax incremental base determined by DOR when the district was created.

FISCAL EFFECT

The fiscal of the effect of the bill is unknown at this time. However, if the Town of Brookfield in Waukesha County creates a TIF district using the authority provided under the bill, DOR would have to establish the base value of the TIF district, and annually certify the allocation of tax increments to the district. DOR would have authority to assess the Town of Brookfield a fee of \$1,000 for determining the base value of a TIF district created under the authority provided under the bill, as well as \$1,000 if the base value has to be redetermined. In addition, DOR would be required to charge the Town of Brookfield a \$150 annual fee for each of its active TIF districts. As with all TIF districts, taxes on property in a district created under these provisions would be used to pay costs of the TIF district before becoming available to support the activities of the overlying taxing jurisdictions.

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