

TIF Legislative Proposal
Senate Bill 305 and Assembly Bill 654
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This summary was prepared by Peter Thillman & Jim Hough of WEDA and Mike Harrigan of Ehlers & Associates. The chief authors of this legislation are Senator Cathy Stepp and Representative Mickey Lehman who developed this proposal in conjunction with WEDA's TIF working group and a coalition including the League of Municipalities, Alliance of Cities, Wisconsin Builders Association and Wisconsin Realtors Association.

Following is a summary of the major provisions included in this landmark economic development legislation:

- **Provide guidance regarding qualifications of Joint Review Board members.** A major problem in the process of creating a TIF is the fact that Joint Review Board members often times do not have the necessary expertise to make informed decisions for the taxing entities. This proposal gives the local taxing jurisdiction's guidance when naming their appointees. The intent is to appoint Joint Review Board members who have a background in finance or strong knowledge in local government finance, thereby increasing the sophistication of the board and protecting the taxpayer.
- **Allow newly platted residential development to be TIF eligible.** Different communities have different development needs. When residential projects are not TIF eligible, the purpose of smart growth is defeated. New commercial/industrial development is enhanced and strengthened by incorporating residential development in close proximity, thereby reducing sprawl and increasing tax base density. In order to accomplish this goal a new category was created called "Mixed Use," whereby 50% of the district must be suitable for industrial, commercial or residential projects and no more than 35% of the project may be for newly platted residential development. The proposal further provides that the residential component be restricted by requiring that there be a density limit of no less than 3 units per acre; or, be a development which is a "traditional neighborhood design"; or, be a development which is "conservation subdivision." ("Traditional neighborhood design" and "conservation subdivision" are statutorily defined under the Smart Growth provisions of Wisconsin law.) This removes the existing prohibition on residential development in TIFs and makes residential projects TIF eligible expenses with the above listed restrictions. (Newly platted residential was a TIF eligible expense prior to 1995. This proposal returns the law to its previous form but with the 35% limitation.)
- **Eliminate the existing 7% valuation benchmark and increase the 5% to 12%.** Communities that operate successful TIF districts are punished if they are too successful. Current law does not allow them to create a new district until the TIF valuation is back to the 5% / 7%. This has the effect of impeding future economic growth, as communities must wait before they can take on another project. This results in the potential forfeiture of economic opportunities for both the local community and the state. Raising the 5% standard to 12% retains the performance burden on the local community, but still allows for economic development opportunities. Additionally, this change will help economic development efforts in small, rural and low-value communities that often become "TIF'd out" after one project.
- **Donor TIF for redevelopment, affordable housing or environmental remediation.** One of the past TIF law changes that has had the greatest negative effect on redevelopment TIFs was the elimination of the Donor TIF. Original intent of TIF law included redevelopment, affordable housing and more recently environmental

remediation. Unfortunately developed property is at a significant TIF disadvantage because the baseline is established at a developed level—making these TIFs more of a high risk. Many of these projects require significant investment in demolition and environmental remediation just to make them ready for redevelopment, and such redevelopment may not increase the baseline significantly, but does add significant non-tax base value to the community. These projects are the original intent of TIF, but, as the law currently stands, they are more and more difficult to complete. This proposal allows for a successful TIF to donate excess current year revenue above and beyond current debt service to a TIF district that was established for redevelopment, affordable housing, or environmental remediation purposes, thereby fulfilling the original intent of the TIF law.

- **Allows redevelopment TIF's a life of 27 years, and all other TIF's a life of 20 years with the option of a three year extension if requested in year 25 or year 18, for a total life of 30 years or 23 years.** The marginal profitability in redevelopment TIFs is again at the heart of the argument. One of the original intents of TIF law was to encourage urban renewal. But as explained in the previous point, redevelopment TIFs are relatively high risk. By extending the TIF life from 23 years to 30 years, it will make redevelopment TIFs more feasible. The costs in a greenfield and redevelopment area are basically the same, but redevelopment does not provide the same return to the tax base as a greenfield TIF. Greenfield development begins at general agriculture use assessment while redevelopment areas are already fully assessed, hence the uneven playing field. The Joint review Board would be required to grant the extension if an independent audit demonstrates that the additional time is needed to pay the project costs.
- **Repeal the seven year expenditure rule and allow for expenditures up to 5 years before the termination date of the TID.** Allowing local municipalities the ability to invest in the TIF districts over the districts' life permits the local community the flexibility to address economic development opportunities. The municipality and Wisconsin win if a community can, for example, make the necessary TIF investments in year 15 that result in new jobs and tax base to the area, period. Under current law communities forfeit that opportunity, especially if a tight timeline is proposed. Instead of creating another district the community can make the investment in an existing district.
- **Allow for up to four boundary amendments throughout the life of a TIF.** This proposal is a corollary to the expenditures throughout the life of the TIF. If a TIF can make expenditures up to and through years 23 and 30, it follows that the TIF boundaries must also be able to be amended. Current law allows for one boundary amendment in the first seven years, which is the same time frame as the current expenditure rule. Therefore a change in the expenditure rule should correspond to a change in the boundary amendment rule. The proposal also specifically grants the ability to subtract territory.
- **Provide "Substantial Compliance/Substantial Justice."** This allows DOR to approve a new TIF even if there is some error as long as it does not affect substantial justice. This change will reduce and hopefully eliminate the number of annual legislative requests to approve individual TIF districts which made minor errors in the process.
- **Provide that "vacant land" does not include property that is contaminated by environmental pollution and, therefore, does not impact the "vacancy cap."**
- **Allow the Joint Review Board to approve the resolution creating a TID at any time within the 30 days after receiving the resolution.**
- **Allow a member of the elementary school half of the school district's vote where the establishment of a Joint Review Board is in a Union High School District.**
- **Where a TIF project plan includes possible grants and loans to developers, require that language be incorporated into the public hearing notice and a copy of any**

future development agreement be provided to the taxing entities. Development agreements would be a requirement.

- **Require that all affected taxing entities, including Lake Districts, Sanitary Districts, etc. are notified of the creation of TID by letter.** Failure to do so would not, however, affect substantial compliance.
- **Newly annexed lands must wait 3 years or there must be a cooperative boundary agreement in place or the municipality must pay 5 years of the town's loss in base taxes (TIF eligible expenses) before those areas are TIF eligible.**
- **Require the DOR, in certifying the district, to use the most recent reported equalized value data at the time the governing body approved the district rather than waiting until after August 15.**