

# Vierbicher Bulletin

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## Proposed TIF Law Changes

Tax incremental financing (TIF) is the single most important financing program municipalities in Wisconsin have to address development barriers. The TIF statutes in Wisconsin are periodically updated. Some years the changes are relatively minor and other years the changes are significant. This is one of those years where there are several significant changes being proposed.

### Major TIF Law Changes

#### Joint Review Boards (JRB) and Tax Incremental District (TID) Annual Reports (SB 51)

A municipality is now required to convene a standing JRB in order to create a TID and requires the standing JRB to remain in existence for the entire time that any TID exists in the political subdivision. The standing JRB must also meet annually to review the political subdivision's annual TID report. It must meet on July 1, or as soon as the updated annual report becomes available.

The political subdivision must submit the annual report describing the status of each existing TID to each overlying taxing jurisdiction as well as the Department of Revenue (DOR), by July 1, on a form to be designed by the DOR. Then DOR must post on its official Internet site the annual reports no later than 45 days after it receives the annual report.

DOR must notify a political subdivision that its annual report is past due if the political subdivision does not timely file its annual report, DOR must charge the political subdivision a fee of \$100 per day for each day that the annual report is past due.

Commentary: This change will require additional management of TIDs. Currently Annual Reports are required to be prepared and distributed to the overlying taxing jurisdictions, but not to DOR and there is little oversight to ensure this is completed. The change in law not only enforces annual reporting with a penalty, but also requires on-going annual meetings of the JRB just to review the annual report. TID administration budgets should be adjusted to account for this increased cost over the life of each TID. This new provision is also an opportunity to develop TIF strategy proactively with the overlying taxing jurisdictions.

#### Greater Flexibility to Adapt to State-Imposed Negative Impacts (SB 51)

A municipality may make any type of amendment to a TID's project plan and/or to request an additional five-year extension to the TID's maximum lifespan at any time during the life of the TID if during the life of a TID, the annual and total amount of tax increments to be generated over the life of the district are adversely impacted by one or more of the following:

- An amendment to the provisions of TIF law found under s. 66.1105, stats (Tax Increment Law).
- A change made by DOR to the equalized valuation method.
- A change made by 2013 Wisconsin Act 145 (2013 Act 145) that increased state aid to technical college districts in order to reduce the total statewide levy of technical college districts.

Commentary: Provides greater flexibility to a municipality to react to certain state-imposed changes that have a negative impact on a TID.

#### Vacant Land Restriction Eliminated and City-Owned Property Excluded From Base Value (SB54)

This action removes the restriction that property standing vacant may not comprise more than 25 percent of the area in a TID created after the effective date of the bill. Additionally, for a TID created on or after the effective date of the bill, the bill revises the calculation of the initial tax incremental base of the district to exclude all tax-exempt city-owned property.

Commentary: This is a welcome change and will bring greater rationality to the process of selecting appropriate boundaries, particularly for blight elimination and rehabilitation TIDs.

#### 12% Limit Increased to 15% (SB55)

The 12 percent limit will be increased to a 15 percent limit for the ratio of TID Value increments to total equalized value of taxable property in a city or village.

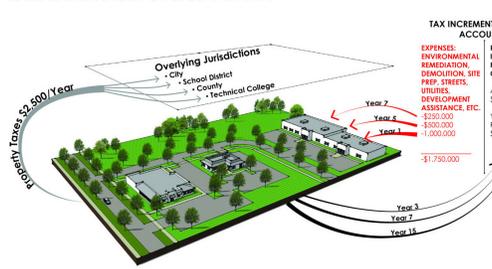
Commentary: Over the years the legislature has provided increased flexibility in the use of TID, seemingly in exchange for state cuts to municipal aids. The trend continues with this change, allowing municipalities to make even greater use of TIF.

### Tax Revenue Allocation Before, During, & After TID

#### I. UNDERUTILIZED PROPERTY



#### II. INFRASTRUCTURE & IMPROVEMENTS



#### III. TAX INCREMENT DISTRICT DISSOLVES



*Five Year Extension to Declare a TID Distressed (SB56)*

The bill replaces the October 1, 2015, deadline by which a local government must declare a TID to be distressed or severely distressed with a new deadline of October 1, 2020.

Commentary: With property values in many municipalities still not rebounding to pre-recession levels, this change gives municipalities more time to declare a TID distressed.

*Base Value Redetermination – Alternate Process (SB57)*

Establishes an alternative process for redetermining the base value of a TID. A municipality may request redetermination any time that a TID is in a decrement situation for a single year. A municipality's ability to require redeterminations under the alternative process must first be included in the TID's project plan, resulting in JRB approval of the possibility of redetermination but not each specific resolution for redetermination. The ability of a local legislative body to request multiple redeterminations also must be specifically stated in the project plan. Under the bill, the \$1,000 fee to DOR would apply to each redetermination.

Commentary: Every project plan should now have a provision that allows the municipality to request a redetermination of the base value of a TID in the event it is ever in a decrement situation.

*Sharing Revenue Between TIDs Regardless of Type and Allowing With Certain Non-Identical Taxing Jurisdictions (SB52)*

Donor TIDs may share tax increments notwithstanding the fact that they do not have the same overlying taxation jurisdictions as the donee districts if the dissimilarity is because one of the districts includes a lake sanitary district, a public inland lake protection and rehabilitation district, or a town sanitary district (special districts). Also, for TIDs created on or after the day the bill takes effect, special districts may not participate in the financing of a TID. Lastly, this bill allows any type of TID to be a recipient TID and use donated tax increments.

Commentary: The big news here is that now any two TIDs may share revenue as long as the major taxing jurisdictions are in alignment.

**Minor TIF Law Changes**

*Industrial Zoning Requirements (SB 50)*

Clarification that the requirement related to maintenance of industrial zoning applies only to districts that are declared to be industrial districts.

*Planning Commission Notice for TID Amendments (SB 50)*

Changes the notice requirement of the planning commission from a class 2 notice to a class 1 notice with regard to notices relating to the TID amendment process.

*Timing Penalty Removed (SB 50)*

For newly created TIDs, a TID's lifespan and allocation period of positive tax increments may be extended by one year if the municipality that creates the TID adopts the project plan for the TID after September 30 and before May 15.

*Joint Review Board Review Period (SB 50)*

The maximum review period the JRB has to approve a municipality's TID resolution is extended from 30 days to 45 days after receiving the resolution.

*Calculation of Levy Limit Exception (SB 50)*

Clarifies that the municipality's equalized value for the preceding year, as used in the calculation of the levy limit exception for the year that a TID terminates, excludes the value of any TID value increments.

*Industry-Specific Town Tax Incremental Districts (SB 51)*

Removes from statutes the entire process relating to DOR's review and determination as to whether the money expended, or debt incurred, by an industry-specific town TID complied with current law.

*Allowing Certain Towns to Participate in Multi-Jurisdictional TIDs (AB45)*

Any town that is authorized to create a TID within the town may participate in a Multi-Jurisdictional TID.

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