

## **Summary of TIF law changes in 2004 2003 Acts 126, 127, 194, 320 & 332**

There were several significant changes to the TIF Law passed by the 2003 Legislature. These changes provide greater flexibility for local governments in using TIF but also increase understanding and accountability. The changes were phased in and are summarized below.

### **City or Village Mixed Use TID's**

- “Mixed-use development” added as another type of TIF development. 50% of the land must be suitable for at least 2 of the following: industrial, commercial or residential. Not more than 35% of the district area can be newly platted residential. (Effective 10/1/04)
- Expenditures can be made for newly platted residential development within mixed-use development districts if one of the following applies: (Effective 7/1/04)
  - a. Density of residential housing is at least 3 units per acre,
  - b. Residential housing located in conservation subdivision, or
  - c. Residential housing is located in a traditional neighborhood development.

### **Maximum Life & Expenditure Periods (Effective 10/1/04)**

- Municipality required to declare which one of the 4 TID type districts they are creating. If not exclusive, declaration based on predominant classification. Declaration must be either:
  - (1) blighted,
  - (2) rehabilitation or conservation,
  - (3) an industrial, or
  - (4) mixed-use district.
- City & Village expenditures expanded up to 5 years prior to termination & termination dated dependant upon type and date of TID.
  - a. All TIDs prior to 10/1/95 – 27 years
  - b. After 10/1/95 - 27 years - least 50% suited for blight or rehab or conservation
  - c. After 10/1/95 to 10/1/04 – 23 years - least 50% suited for industrial sites.
  - d. After 10/1/04 – 20 years - suitable for mixed-used development or industrial use.
- Town TID's - Effective 10/1/04)
  - a. 5 year expenditure period
  - b. 16 years maximum Life

### **Equalized Valuation Test (Effective 10/1/04)**

- Current city or village TID district increments plus value of new or territory amendment base must be less than 12% of municipality. (replaces 5% & 7% limitation)
- If exceeded, DOR denies.
- Town TIDs will need to adhere to the 5% & 7% limitation tests

### **Amendments (Effective 10/1/04)**

- City or Village Territory amendment can be added or subtracted up to four (4) times during TID expenditure life.
- 3 or 4 year extensions allowed for blight or rehab districts created after 9/30/95 & Industrial TID's created after 10/1/04.
- Town Territory amendments can only be once during the first 5 years & no more than 2 year expenditure period.

### **Developer Agreement Requirements (Effective 10/1/04)**

- For city/village TID's if a cash grant is planned, it must be noticed as part of the public hearing; cash grant recipient must have a signed development agreement with the city; and copy of developers agreement to be sent to the JRB or on file with city.
- For Town TID's no cash grants are allowed.

### **Annexation Rules (Effective 10/1/04)**

- Increased requirements for annexed territory for city/village TIDs:
  - a. No less than 3 years since territory was annexed to city or village if not prior to 1/1/04. If less than 3 years, one of the following must occur:
    - (1) Cooperative boundary or other agreement with town from which territory was annexed.
    - (2) City pledges to pay town amount equal to property taxes levied on territory by town at time of annexation for each of next 5 years. City's pledge is enforceable by the town from which territory was annexed.

### **Waiting Period (Effective 10/1/04)**

- For city/village TIDs -14 days waiting time from public hearing to municipal creation/amendment resolution. (vs.30 days)
- For city/village TIDs - JRB must act within 30 days from receipt of resolution (vs. not less than 10 days) (Does not apply to resolutions amending project plans.)
- Town TIDs - 30 days waiting time from public hearing to municipal creation/amendment resolution.
- Town TIDs - JRB must act not less than 10 days nor more than 30 days after receiving the municipal TID resolution

### **TID Closure (Effective 10/1/04)**

- For city/village TIDs - Requires final accounting sent to DOR after TID termination.
- For city/village TIDs - Requires notification to DOR within 60 days (vs. 10 days)
- For Town TIDs - Requires notification to DOR within 10 days.
- For Town TIDs - Requires annual reports to DOR by May 15<sup>th</sup>
- For Town TIDs - Require final accounting sent to DOR after TID termination.

### **Donor/Recipient TIDs (Effective 10/1/04)**

- City/village TIDs - Allocation amendments – added for either 1) blight, rehabilitation or conservation districts; or 2) assist in low-cost housing or environmental contamination project costs.
- For Town TIDs - No allocation amendments allowed.

### **Joint Review Board (all Effective 10/1/04 & for TIDs, except b.)**

- City/Village only permits the use of a standing JRB
- Board member criteria (Effective 7/1/04 for city/village & 10/1/04 for towns)
- For city/villages TID's - JRB notifies local government units w/taxing authority not represented of meetings & agendas
- Both for city/village & town - First JRB meeting held within 14 days after notice of public meeting published added.
- City/Village TIDs - Approval contains positive assertion.
- City/Village TIDs - May request DOR objective facts review.
- Town TID's - does not allow for Standing JRB

### **Determination/Redetermination Fees (Effective 3/6/04 or 10/1/04 for Town TIDs)**

- DOR imposes fee of \$1,000 to determine or redetermine the tax incremental base of a TID.

### **Town TID's**

- Towns can create TID's but only for one of four allowable project types:
  - a) agricultural,
  - b) forestry,
  - c) manufacturing
  - d) tourism.
- NAICS codes detail specifics for each project.
- Taxpayer, taxing jurisdiction that overlies the town or city/village that borders the town may file a written request with DOR for a review of objective facts.
- Town TIDs may overlap.
- City or village that annexes territory from a town TID must pay the portion of eligible costs that are attributable to the annexed territory to the town.

### **ERTID's**

- City/Village that annexed ERTID from a town shall pay the town the portion of eligible costs attributable to the annexed territory.

## **Summary of TIF law changes in 2005 Senate Bill 83/Assembly Bill 147 2005 Wisconsin Act 6**

Wisconsin Act 6 is effective May 17, 2005 and summarized below.

### **City or Village Mixed Use TID's**

- Mixed-use TID's can include more than 25% vacant land.

### **All Amendments**

- All amendments require a resolution which contains findings that the plan is feasible & in conformity with the master plan, if any, of the city.

### **Territory Amendments**

- A city or village may subtract territory from a TID even if they exceed the 12% value limitation.
- Territory amendments that add value are subject to the 12% value limitation limit; DOR will deny if limits are exceeded.
- Territory amendments that add and subtract territory at the same time shall be counted as one amendment, but the fee paid to DOR shall be \$2,000.
- DOR is directed to adjust the TID base for city-owned property territory subtractions if they were included in the base or adjusted base.

### **Newly platted or residential development DOR powers**

- DOR will not certify any municipal TID base if that municipality has a mixed-use development TID in which the newly platted residential has exceeded 35% by area of the real property within the district or if the tax increments are used to subsidize residential development that does not comply with one of the following:
  - A density of at least 3 units per acre or
  - The residential housing is located in a conservation subdivision, or
  - The residential housing is located in a traditional neighborhood development.
- If the DOR determines any of the above conditions apply, the municipality may adopt a territory amendment to ensure that they comply with the above even if that amendment exceeds the maximum number of amendments allowed.

### **Expenditure Periods**

- All City & Village TID's created before 10/1/95 can extend their expenditure period to 5 years prior to termination or for a maximum of 22 years.
- City & Village industrial TID's created after 10/1/95 but before 10/1/04 can extend their expenditure period to 5 years prior to termination or for a maximum of 18 years.

- Existing approved project plans that have complied with the detail lists of 66.1105 (4) (f) are not required to be amended if the only change is the expansion of the expenditure period.

## **Summary of TIF law changes in 2005 Senate Bill 124/Assembly Bill 253 2005 Wisconsin Act 13**

Wisconsin Act 13 is effective June 21, 2005 and summarized below.

### **Town Tax Increment Powers**

- Towns that have cooperative boundary agreements with cities or villages can create TIF districts if all of the following applies:
  - 1) All or part of the town will be annexed.
  - 2) City or village annexing the property approve the creation of the TID.
  - 3) The TID is located solely within the territory to be annexed.