



DUEY STROEBEL

STATE SENATOR • 20TH DISTRICT

Testimony on Assembly Bill 349

Thank you Chairman Spiros for having a public hearing and good afternoon colleagues of the Assembly Committee on Ways and Means. I urge support of Assembly Bill 349, which would expand taxpayer protections in current law for some municipalities to all municipalities.

Tax Increment Financing, or "TIF", is a useful economic development tool that can achieve great things when used prudently. The TIF statutes, originally created in 1975, have changed and expanded greatly in the past 40 years. While we modify and expand TIF options for local governments, we should also be ensuring that TIF is used carefully to protect and benefit the taxpayers.

In 2013 Act 193, the Legislature granted TIF authority to towns that met several criteria. The "Best Practices" in AB 349 are the very same that are current law for towns. 7 towns spanning different areas of Wisconsin have created or are currently in the process of creating a TID pursuant to these Best Practices without incident. AB 349 applies these very same standards to cities and villages. No more, no less.

AB 349 requires any new TID to choose 1 of the following 3 Best Practices when each new TID is created:

- 1- Require a majority of the value of the improvements must be financed by a private developer. The developer is repaid those costs via the cash grants paid through a development agreement with the municipality from the increment generated.
- 2- All project costs are expected to be paid within 90 percent of the TID's life.
- 3- Expenditures may be made only within the first half of the TID's life, unless approved by unanimous vote of the joint review board.

The first option shifts the risk of borrowing to the developer by keeping the debt out of the hands of the public. Many municipalities have begun moving in this direction in recent years on their own. The large Northwestern Mutual TID in Milwaukee is an example of this arrangement.

The second option builds some cushion into financing and borrowing assumptions. Planning for two to three years of extra time can help keep the district solvent if unexpected complications or market downturns arise. By law, the TID has its full length to pay all its expenses if needed. This option would merely implement more conservative underwriting.



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Finally, the third option requires a unanimous vote of the joint review board to expend funds past the halfway point of the life of a TID. This provides an incentive for collaboration among all local taxing jurisdictions in getting a successful TID back on the tax rolls. When a TID is closed half of the new value is added to the levy limit, to potentially pay for services the new development consumes. The other half of the new value effectively becomes property tax relief for all properties outside of the TID which had been subsidizing the TID development in the preceding years. This option also provides a check against throwing good money after bad in the hopes of turning around a failing TID late in its life.

Current TIF law safeguards are critical to the proper functioning of TIF. These new taxpayer protections are especially important because TIF action is unlike other local government decisions. First, TIF decisions affect multiple jurisdictions over a long period of time. One or two taxing jurisdictions could be entirely opposed to an idea but be outvoted at each step of the process regarding its own levy, in a way thwarting local control. Second, the effects of TIF borrowing and expenditures often take a long time to be seen. Since the typical alderman or village trustee may not be around 12 years later to vote out of office if a local citizen is upset with a TID, the traditional check on local government by voters is more attenuated and negates the normal logic behind local control arguments. Finally, once the money is borrowed and the expenditures are made, there is little that can be done if local government officials want to change course. This last point is why many other aspects of State law protect taxpayers from local government officials with referendum requirements, such as with levy limit overruns and taking on debt for school improvements.

AB 349 accomplishes several important objectives. It treats all local governments equally by standardizing the Best Practice requirement for cities, villages and towns. It provides critical taxpayer protection by requiring some prudent planning before taking on public debt. Finally, AB 349 incentivizes local taxation authority cooperation and the returning of development to the property tax rolls, reducing property tax rates throughout Wisconsin. I strongly urge your support of AB 349. Thank you.



DAVID CRAIG

STATE REPRESENTATIVE
CHAIRMAN, ASSEMBLY COMMITTEE ON FINANCIAL INSTITUTIONS

Testimony on AB 349
October 22, 2015
Committee on Ways and Means

Good afternoon Chairman Spiros and members of the committee. I appreciate your hearing testimony on AB 349, an important reform to our state's TIF law.

As you may know, Tax Increment Financing, or "TIF", is an economic development tool that has developed and changed in dramatic fashion over the last few decades. Last session, the legislature enacted reforms that brought more fiscal accountability to TIFs in certain towns. This legislation provides parity with that legislation for villages and cities.

As a former municipal official, I understand the fluidity of budgetary policies impacting municipal government. While many municipal officials make decisions impacting their budgets in a deliberate, conservative manner; some, unfortunately do not. But even the most deliberative local officials would not have been able to predict the level of negative economic activity that beset our country during the great recession. But whether municipal officials were overly optimistic in projected economic activity or just did not budget responsibly, neither should be an excuse for not adopting best practices in developing a better TIF law.

To that end, our legislation brings forward best practices that a municipality should use to help more effectively plan a TID. Under the bill, one the following 3 best practices would need to be employed when a new TID is created:

1. Require that a majority of the value of the improvements must be financed by a private developer. The developer is repaid those costs via the cash grants paid through a development agreement with the municipality from the increment generated.
2. All project costs are expected to be paid within 90 percent of the TID's life.
3. Expenditures may be made only within the first half of the TID's life, unless approved by unanimous vote of the joint review board.

These reforms are common sense reforms that should not prove too onerous for a municipality to overcome and will undoubtedly lead to more responsible planning going forward and a better economic environment for municipal governments and their taxpayers. I look forward to your support of this important legislation.

Thank you for the opportunity to testify before you today.



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To: Assembly Committee on Ways and Means
From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities
Date: October 22, 2015
Re: **AB 349, Requiring Municipalities to Comply with Additional Procedures before Creating a New TID**

The League of Wisconsin Municipalities opposes AB 349 for the following reasons:

1. **It unnecessarily interferes with local decisions** concerning the use of tax incremental financing. The decision to create a TID and the decision to go forward with a particular project within a TID should be made by local elected officials.
2. **It impedes municipal flexibility** to work with developers. Municipal officials are in the best position to determine if the risk of going forward is outweighed by the promises and guarantees offered by the developer. It is up to municipal officials to thoroughly vet a proposed project and then negotiate with the developer over conditions to protect the community from the risk of default or project failure.
3. **One Size Does not Fit All.** While well intentioned, the League doesn't think that legislating uniform best practices is helpful, and may be harmful. Each TIF project is unique and requires a tailored approach. Inflexible restrictions may create additional obstacles to successful economic development projects. For example, while use of developer funding ("pay as you go" financing) is usually the preferred alternative to up front municipal financing, what is possible for any particular project can only be determined through the give and take of negotiations. Electing the first option offered by the bill could serve to categorically exclude certain subsequent projects where the condition cannot be met, resulting in lost opportunities, forcing creation of a new TID, or cause the municipality to seek special legislation.
4. **Reduces Ability to Adapt to Unforeseen Circumstances.** Due to the long time frames involved in the execution of TID projects and recovery of their costs, it is unwise to self-impose greater constraints on either a TID's maximum life or its expenditure period. Unforeseeable circumstances arise that often impact TID performance. For example, since 2008 the cash flow of TIDs in Wisconsin has been harmed by depreciation in property values, an unanticipated change in valuation methodology instituted by the Department of Revenue in 2010, and the recent substantial reduction in the tax rates of Technical Colleges. None of these events could have been anticipated by the municipal governments that were negotiating TIF projects prior to 2008.

5. **Eliminates Margin for Error and Ability to Adjust Project Plans.** Deliberately shortening the life of a TID at its inception runs contrary to the idea of establishing a margin for error. Also, shortening the expenditure period may preclude the execution of subsequent projects, which may be necessary to achieve the cash flow needed to allow for full recovery of project costs. It may also limit the ability to phase projects to take advantage of development opportunities as they present themselves thereby reducing risk through deferral of certain project costs to a later date versus completing them all up front.
6. **High Risk, High Reward Projects may not Happen.** Speculative projects or projects necessitating considerable TIF dollars to make happen will be precluded. Yet, TIF law is designed to be used by municipalities in such situations where “but for” tax incremental financing the project would not advance.

TIF is the primary tool municipalities have available to spur growth and help create jobs. AB 349 places obstacles in the way of using that tool and reduces the effectiveness of the tool. We urge the committee to not recommend passage of the bill. Thanks for considering our comments.



October 22, 2015

Committee on Ways and Means
Wisconsin State Assembly

RE Testimony in Opposition to AB-349.

Dear Chairman Spiros and Committee Members,

I am appearing before you today to testify in opposition to Assembly Bill 349. As a member of the Joint Legislative Council Study Committee on Tax Incremental Financing I had an opportunity to review with my fellow committee members the full context of the TIF statutes. A number of excellent recommendations were made which we hope will be enacted into law, however I believe this bill, which did not originate with the Study Committee, would be regressive in terms of its impact on economic development in our state.

While they were no doubt well intended Assembly Bill 349, and its counterpart Senate Bill 263, would impose new restrictions on Tax Incremental Districts created by a city or village after October 1, 2015. If enacted, these bills would require that the Project Plan for **new** TIDs include one of the following restrictions:

1. If the Project Plan includes installation of public infrastructure, at least 51% of those costs would need to be financed by a developer. The municipality could repay the developer over time through a cash grant.
2. Project costs would have to be paid within 90% of the TID's life. In other words, for a TID with a 20 year maximum life, all project cost obligations would have to be recovered within 18 years. For a TID with a maximum life of 27 years, all project costs would have to be recovered with 24 years. The Department of Revenue's interpretation of this provision, which already applies to TIDs created by Towns and to TIDs that reset their base value, is that election of this choice actually shortens the life of the TID. Therefore a TID electing this restriction will have either an 18 year or a 24 year life instead of a 23 year or 27 year life.
3. All expenditures would have to be made within the first half of the TIDs life. For a 20 year TID, this would reduce the expenditure period from 15 years to 10 years. For a 27 year TID, the expenditure period would be reduced from 22 years to 13.5 years. The Joint Review Board, by unanimous vote, could permit expenditures to occur after the shortened date.

Ehlers' encourages the communities it works with to follow various best practices when creating a TID. We don't, however, think that legislating the uniform best practices as proposed in this bill is helpful for the following reasons:

- **A "Cookie Cutter Approach" Doesn't work in Economic Development.** In our experience, every project requires a tailored approach and inflexible restrictions may create additional obstacles to successful economic development projects. For example, while we routinely advocate for use of up front developer financing ("pay as you go" financing) as an alternative to up front municipal financing, what is possible for any particular project can only be determined through the give and take of developer negotiations. Electing the first option noted above could serve to categorically exclude





certain subsequent projects where the condition cannot be met, resulting in lost opportunities, forcing creation of a new TID or seeking special legislation.

- **Elimination of Shock Absorber.** Due to the long time frames involved in the execution of TID projects and recovery of their costs, it is also unwise to self-impose greater constraints on either a TID's maximum life or its expenditure period. While we advocate for inclusion of a safety margin when planning a TIF in terms of annual cash flow and use of less than the maximum allowable years for full recovery of project costs, experience has also shown that unforeseeable circumstances arise that often impact TID performance. Since 2008, the cash flow of TIDs in Wisconsin have been harmed by depreciation in property values, an ill-timed change in valuation methodology instituted by the Department of Revenue in 2010 and the recent reduction in the tax rates of Technical Colleges.
- **Reduced Flexibility.** Deliberately shortening the life of the TID at its inception runs contrary to the idea of establishing a margin for error, and shortening the expenditure period may preclude the execution of subsequent projects which may be necessary to achieve the cash flows needed to allow for full recovery of project costs. It may also limit the ability to phase projects to take advantage of development opportunities as they present themselves thereby reducing risk through deferral of certain project costs to a later date versus completing them all up front.
- **Multi-Project TIDs are Reduced or Eliminated.** We also believe that because a community would need to declare which of the three options it would use up front, it really makes it difficult if not impossible to create anything other than a single purpose TID or at least a district for which all of the known development would be occurring up front. There are many successful examples of districts that this would have precluded including Shorewood TID 1, Whitefish Bay, TID 1, Cudahy TID 1, Beloit TID # 10, Wauwatosa TID # 11, Saukville TID # 1, and others. These are districts that developed or are developing in phases.

These bills are being offered as a means to improve "financial accountability" and "fairness" as a simple extension of restrictions that are already in play for TIDs created by Towns and for any TID that resets its base value. We did not view to the addition of these constraints to those bills as good public policy, and to further extend them to all future TIDs compounds the problem. We instead propose that in fairness, these provisions should be eliminated from the Town TID Law and from the Base Reset provisions adopted last year.

Thank you for your consideration.

Very Truly Yours

Michael C. Harrigan, CIPMA
Chairman / Senior Municipal Advisor

CC: League of Wisconsin Municipalities
WEDA
NAIOP
Wisconsin Realtors Association





2015 Assembly Bill 349 Testimony
Assembly Committee on Ways & Means
22 October 2015

John Jacobson, Wisconsin Property Taxpayers

Thank you Chairman Spiros, Vice Chair Macco, and committee members.

Wisconsin Property Taxpayers, Inc. is here today to offer testimony in support of Assembly Bill 349. Our nonpartisan organization, comprised of around 20,000 businesses, supports measures that protect local property taxpayers throughout the state, and that provide safeguards to protecting these vital dollars which keep our state functioning- exactly what this bill does.

The measures proposed in Assembly Bill 349 not only reduce risk to all taxpayers outside of a TID, who often without complaint or resistance, subsidize these projects, but the bill also provides uniformity to current TIF law. AB 349 merely applies the same assurances to taxpayers that were negotiated and created under Act 193 in 2013- requiring that a majority of the value of improvements be financed by a private developer, all costs to be paid within 90% of the district's life, or only allowing expenditures in the first half of the district's life, unless unanimously approved by the joint review board.

Our organization is not here to oppose TIF, nor would we deny that it can play a vital role in the redevelopment and resurgence of an area, creating jobs, both short-term and long, and assisting in the growth of a community. However, with TIF having expanded over the decades, and likely to expand more in the near future, the risk to local taxpayers has also grown. This bill requires more caution and brings more diligence to the process.

WPT appreciates and acknowledges the great strides that this legislature has made on behalf of property taxpayers in the past two sessions, by enacting unprecedented property tax relief. Unfortunately, Wisconsin properties are still taxed higher than almost any other state. A recent CBS report ranked Wisconsin with the 4th highest property tax in the nation. That is a tough pill to swallow for many Wisconsinites, and I know for many of you as well.

We believe Assembly Bill 349 incentivizes TID successes by creating uniformity with current safeguards in Wisconsin law, and protecting those who ultimately pay for these districts.

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Assembly Committee on Ways and Means

Wisconsin State Legislature

Madison, Wisconsin

Re: Assembly Bill 349

Dear Committee Members:

I would like to express my support for Assembly Bill 349 (TIF Best Practices).

The use of TIF has increased greatly in recent years, to the point where many developers ask for, or expect, financial incentives from taxpayers to construct their projects. This creates unhealthy competition between communities, resulting in speculative decisions which can negatively impact taxpayers.

New development within TIDs does not contribute revenues to offset the costs they create. This results in a de facto tax increase, or more likely, a reduction in service levels for existing taxpayers. The fact that this situation can continue for up to 27 years places a significant burden on local governments.

The TIF Best Practices bill contains reasonable and prudent regulations. The first encourages a financial partnership with developers. The next two best practices encourage closing successful TIDs earlier, thus allowing taxpayers to enjoy tax relief and better funded services sooner. TIF can be a useful economic development tool, but it needs to be properly regulated in order to protect the average taxpayer.

I respectfully urge you to support AB 349.

Thank you for your consideration.

Daniel Abendroth

Mayor

City of Mequon



TO: Members, Assembly Committee on Ways and Means
FROM: Brian Doudna, Wisconsin Economic Development Association
DATE: October 22, 2015
RE: **Opposing AB 349 – Additional Restrictions to All TID Project Plans**

The Wisconsin Economic Development Association is a statewide association consisting of over 400 economic development practitioners. WEDA supports state policies that strengthen our economy and create jobs. Since 1975, Tax Incremental Financing (TIF) has been one of Wisconsin's primary and most successful economic development tools. Statewide, TIF districts – also referred to as a Tax Incremental Districts (TIDs) - have revitalized urban corridors and bolstered industrial growth among rural areas throughout Wisconsin.

WEDA is **opposed** to Assembly Bill 349 Bill, which would apply one of following three restrictions on project plans for all TIDs created by a city or village after October 1, 2015:

1. If the project plan includes the installation of public infrastructure and requiring that at least 51% of those costs to be developer financed.
2. All projects costs would have to be repaid within 90% of the TID's overall lifespan.
3. All expenditures would have to be made within the first half of the TID's lifespan.

WEDA is a recognized, as well as respected, advocate for improving Wisconsin's economic development policies and programs. The collective expertise of WEDA's membership, especially within the context of TID, is both unique and unwavering. Therefore and for the reasons outlined below, the provisions contained within AB 349 will hinder Wisconsin's economic development efforts more than they will help.

Every project requires a tailored approach and inflexible restrictions may create additional obstacles to successful economic development projects. Project variables drive the negotiations between the community and developer; thereby, forcing certain TID's to have higher public sector financial participation rates on the front-end versus a pro rata share or "pay as you go" approach. The first restriction noted above will categorically exclude certain projects from advancing; thereby, resulting in lost economic opportunities; forcing the creation of a new TID; and/or seeking special legislation to mitigate any one of these new TID conditions.

Since TID projects and the recovery of their costs rely heavily upon a set of interconnected economic and marketplace factors, it is unwise to self-impose greater constraints on either a TID's maximum life or its expenditure period. While the inclusion of a TID safety margin to account for cash flow shortfalls makes sense, experience has shown that unforeseeable circumstances can and do arise. Moreover, deliberating shortening a TID expenditure period may preclude the execution of subsequent projects that may be necessary to achieve the cash flows needed to allow for full recovery of project costs. Case in point, the cash flow of TIDs throughout Wisconsin since 2008 have been harmed by the following factors: depreciation in property values; an ill-timed Department of Revenue change in its valuation methodology; and the recent reduction in the tax rates of WI's Technical Colleges. Thus, imposing the last two requirements noted above will most certainly exacerbate these conditions.

The requirements contained within AB 349 are not only poor policy for cities and villages, but also for town TIDs, which is where they are currently applied. These requirements were included in the original Town TID bill as a necessary legislative compromise; however, extending this policy to all future TIDs compounds this legislative error to an entirely new level.

During the summer of 2014, WEDA actively participated in the Legislative Council Study Committee Review of TIF which brought together state and local elected officials, private and public practitioners and academics to rigorously review Wisconsin's TIF legislation. While the Study Committee introduced a number of bills to improve TIF, Senate Bill 51/Assembly Bill 132, which passed the Senate this past May, was introduced as a policy that encompassed strong accountability measures and best practices. AB 349 has not received the same rigorous review and furthermore, it goes well beyond what the Study Committee deemed as appropriate or helpful legislation.

For the above mentioned reasons, WEDA respectfully opposes AB 349. Thank you.