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# Tax Increment Financing Fundamentals

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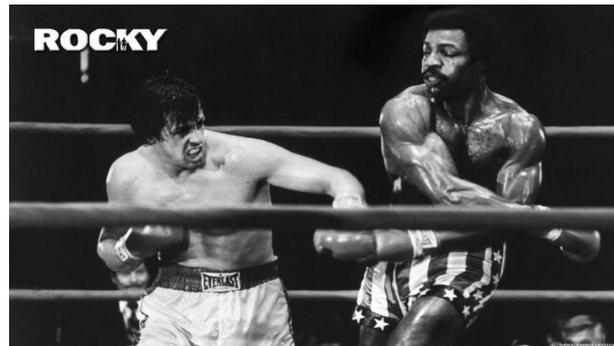
# Agenda

- History of Tax Increment Financing in Wisconsin
  - Background
  - Statistics
  - Major Changes including Annual Reporting Requirements
- Using Tax Increment Financing
  - Best Practices
  - Managing Tax Increment Districts
  - Mitigating Risk
  - Planning for TID Closure



# Your Primary Development Tool Since 1976

- Important Things From 1976



- **Wis. Stats. 66.46 (now renumbered 66.1105) enacted in the 1975/1976 legislative session to enable “TIF”**



# What is Tax Increment Financing?

- Economic development tool used in Wisconsin and many other states
- Allows cities to capture incremental **property tax revenue** from **growth** in defined area and use that revenue to **benefit** that area
- Key acronyms:
  - TIF = Tax Increment Financing (the tool)
  - TID = Tax Increment District (where the tool is used - boundary)



# TIF in Wisconsin

- Since 1976 has been THE most powerful economic development tool available to local government
- Intent:
  - Promote economic development and redevelopment
  - Address lack of other incentives and financial resources
  - Promote cooperation between public and private sectors
  - Counteract economic downturn (mid 70's recession)
  - Share the cost of Economic Development with all taxing entities

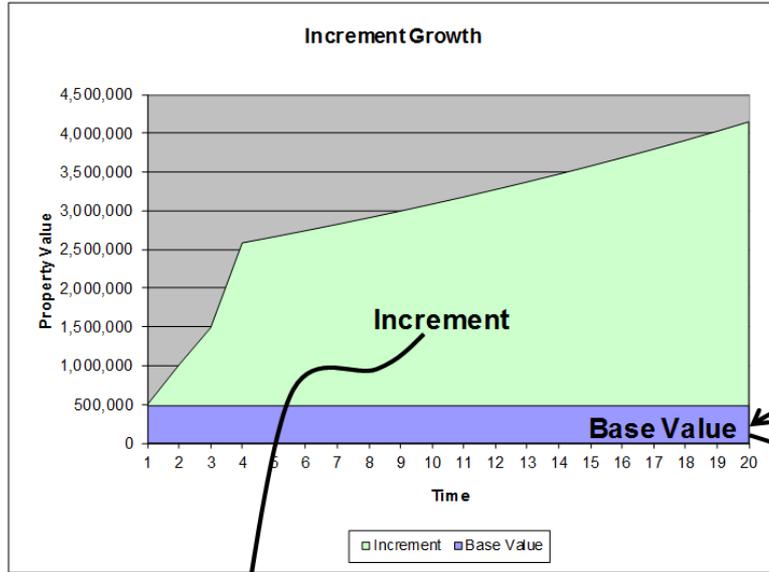


# TID Utilization

- 2,122 districts have been created since 1976.
- 869 districts have been dissolved.
- 1,261 active TIDs currently in existence.
- 425 communities in Wisconsin have used TIF (out of 593 Cities and Villages)



# How Does TIF Work?



	Mill Rate
TID	20.00
<b>Total</b>	<b>20.00</b>

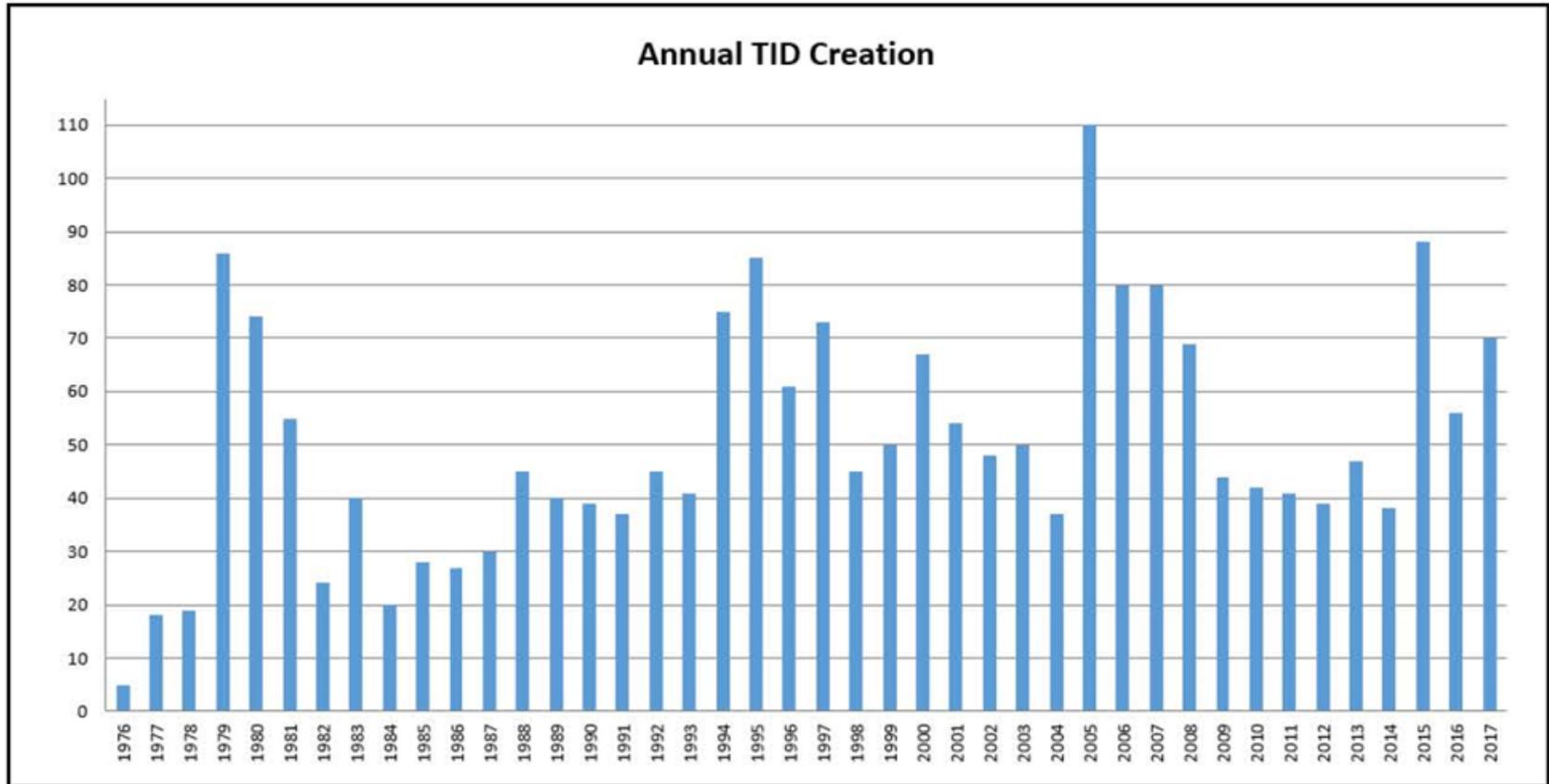
The TID receives taxes on the increment value at the combined rate of all taxing entities

	Mill Rate
Local	6.50
County	4.00
School	7.50
VTAE	2.00
<b>Total</b>	<b>20.00</b>

All taxing jurisdictions continue to receive their share of the tax levy on the base value of the TID



# Annual TID Creation



# Major Changes over the Years

- 1995 –
  - Changed the life of an Industrial District from 27 to 23 years
- 2004
  - Changed expenditure period from 7 years to 5 years prior to statutory life
  - Ability to create Mixed Use District with 20 year life
  - Ability to create Town TIF (Very limited and more restrictive)
  - Shortened the life of Industrial District from 23 to 20 years
  - Changed the Value of property within TID areas from 5% of EV and 7% of Assessed to 12% of EV
  - Changed the rule on Donor and Recipient Districts
  - Established Audit requirements
    - 30% of expenditure
    - End of Expenditure period
    - Termination of District



# Major Changes over the Years

- 2010
  - Distressed/Severely Distressed TID Classification
    - Expanded the life of Distressed District
    - Modified the ability to share increment between TIDs to benefit Districts declared distressed.
- 2011
  - Cooperative Town TID (Act 32 effective 7/1/11)
    - Allow Cooperative Town TID to be closed and taken over by City/Village
  - Distressed/Severely Distressed TID Classification (Act 41 effective 8/18/11)
    - Removed the seven year in existence requirement
    - Extended the use of classification until September 30, 2015
  - Multijurisdictional TID (Act 77 (effective 10/1/12)
    - Allows 2 or more municipalities to jointly create a TID



# Major Changes over the Years

- 2013
  - TIDs with a Decrement (Act 183 effective 4/4/14)
    - Ability to re-set base value
    - 2 years of increment value at least 10% below original base value
    - JRB and DOR approval
  - Expansion of Town ability to create TID (Act 193 effective 4/6/14)
    - Similar authority as Cities and Villages
    - 41 communities eligible
      - 3,500 population
      - \$500 million or more in value
      - Within Sewer Service Area (provide sewer to TID)
  - Increment Sharing with ER TIDs



# TID Law Changes 2016

- Joint Legislative Council's Study Committee on Review of TID offered a number of legislative changes, not all of which were made into law:
  - Some technical corrections to various sections
  - Relief from "Adverse Impacts"
  - Changes to vacant and municipally-owned land tests
  - Annual reporting requirements
  - Towns allowed to participate in multi-jurisdictional TIDs (limited applicability)



# TID Law Changes 2016

- Technical Corrections (Act 256)
  - Removes requirement that industrially-zoned property in a mixed use TID remain zoned industrial during TID's entire life (still applies to industrial TIDs)
  - Public hearing notice requirement now Class 1 (vs. Class 2)
  - "Equalizes" number of revenue periods for certain TIDs
  - Extension of JRB review period to 45 days (from 30) after governing body TID approval
  - Utilization of TID out (vs. TID in) as denominator for levy limit exemption upon TID closure
- Adverse Impact (Act 254)
  - Allows for extension to TID max life if negative impact on TID revenues in relation to 2013 Act 145 (Technical College tax rate)
  - DOR must not review fiscal impacts of legislation with respect to TIDs



# TID Law Changes 2016 (Act 255)

- Eliminates restriction on including more than 25% “vacant land” applicable to creation and territory amendment of blighted-area of conservation/rehab TIDs
  - Previous law limited vacant land to no more than 25% of total area by acreage
- Eliminates provision related to assigning market value to municipally-owned property not being used for municipal purpose
  - Previous law required market value be assigned to Town/City/Village-owned property not used for a public purpose, which became part of base value, even though property had no taxable value



# Bills Not Enacted from TID Legislative Study Committee

- Four bills not enacted
  - Increase in TID EV limit from 12% to 15% (Neither chamber brought to a floor vote)
  - Allowing all types of TIDs to be recipients of shared increment (died in Assembly)
    - Current law specifies that recipients must be blighted area, in need of rehab or conservation, or distressed
  - Base value redetermination (died in Assembly)
    - “Old” base reset provision still on the books
  - Extension of October 1, 2015 sunset on distressed TID provisions (died in Assembly)



# TID Law Changes 2016 (Act 257)

- Annual Reporting Requirement
  - Previous requirement to provide annual report to overlying taxing jurisdictions by May 1 and have audit conducted at various intervals
  - Requires all jurisdictions with TIDs to submit annual report to each overlying taxing jurisdiction on or before July 1, beginning 2017
  - Requires standing JRB's for all TIDs - - *no longer disband*
  - Requires physical meeting of JRB on or around July 1 to review TID reports
  - DOR to prescribe the format of the annual report, containing required information (and then some)
    - DOR will post online listing of all reports, as well denote all jurisdictions that have not provided report by required deadline
  - DOR fee of \$100 per day annual report is past due



# TID Law Changes 2017- 2018

- Summary:
  - Environmental TIDs (E-TIDs) to be created under Wis. Stat. § 66.1105 (Act 70) – 1<sup>st</sup> one being created in the City of Brillion
  - Elimination of personal property tax – potential detrimental impact on TID cash flows





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# Best Practices/Managing TIDs



# The “But For” Test

- Key underpinning of the TIF program is referred to as the “but for” test
- “But for” the use of TIF, the proposed development would not occur:
  - As proposed
  - Within the same/similar time period
  - With the same level of
    - Property value
    - Jobs
    - Amenities



# Developer Proforma Review

- Key Components of Decision
  - What is the “gap” in financing the project?
    - Determined after review of detailed sources and uses and operating pro forma
  - What are the politics of the project?
    - Importance of a Look Back provision
  - What is the current development environment?
- Don't be afraid to ask to see what the developer has given their lender



# Maximum Life

- A district may remain open until the earliest of the following:
  - The district's maximum life is reached, which varies by type of district and when created
  - When total tax increments (revenues) collected are sufficient to pay all of the district's project obligations (expenses)
  - When the City/Village/Town passes a resolution to close the district, but no later than the anniversary date in the year of max life
- At closure:
  - Remaining funds (surplus) distributed proportionately to taxing jurisdictions (***shared benefit***); OR,
  - Any unreimbursed project costs become general liability of the municipality (***this risk not shared***)



# Maximum Life (without “Distressing”)

	TID Creation Date		
Type of District	Prior to Oct. 1, 1995	Oct. 1, 1995 - Sept. 30, 2004	Oct. 1, 2004 or Later
Blight Elimination	27 Years	27 Years (+4)*	27 Years (+3)*
Conservation or Rehabilitation	27 Years	27 Years (+4)*	27 Years (+3)*
Industrial	27 Years	23 Years	20 Years (+3)*
Mixed Use	NA	NA	20 Years (+3)*
Town	NA	NA	Exp. Period + 11 Years (16 Years Max.)
		Oct. 14, 1997 to Sept. 30, 2006	Oct. 1, 2006 or Later
Environmental Remediation	NA	23 Years	23 Years

\*District eligible to receive an extension to maximum life



# Basic TIF Rules – Maximum Life Extensions

- Four year extension
  - Available for blighted area and in need of rehabilitation or conservation TIDs created on or after October 1, 1995 but before October 1, 2004
- Three year extension
  - Available for all TIDs created on or after October 1, 2004
  - Available for any TID eligible to collect increment as part of the 2014 levy (Wisconsin Act 254 – Tech College Adverse Impact 2013 Act 145)
- Project Plan amendment not required, but JRB must approve if an independent audit demonstrates requirement for additional years to recover project costs



# Basic TIF Rules – Maximum Life Extensions

- One year extension for improvement of housing stock
  - Any TID that has recovered its project costs may be kept open one additional year even if it has reached its maximum life
  - Requires adoption of a resolution by governing body specifying how it will use the funds to improve housing stock
    - 75% of the funds must be used for housing that costs a household no more than 30 percent of the household's gross monthly income
    - Costs can be incurred anywhere in community
  - Resolution must be sent to DOR, but no other approvals required



# Managing TIF

- Negative Impacts in recent years
  - 2008 – 2009 Downturn in economy
  - 2010 Change in States method of equalizing Increment Values
  - 2013 Change in funding formula to Technical Colleges
    - Reduced property tax levies for technical college districts throughout the state by approximately \$406 M.
    - Starting in 2014 the equalized tax rate for technical college districts was reduced for the 2015 budget and tax collection year by approximately \$.89 per thousand.
    - Negatively impacted cash flows of all tax increment districts in the state.
- Review Cashflow annually
  - Allows municipality to plan ahead and make adjustments, if necessary



# Approaches for Underperforming TIDs

- ***No easy solutions***
- Variety of tools available, ***each with a cost***:
  - Fund balance utilization (subsidy from another fund)
  - Tax levy & user fee (utility) support
  - Debt restructuring
  - Maximum life extensions
  - Increment sharing (“Donation”)
  - Territory amendment
  - Enforcing security provisions in developer agreements



# Enforce Security Provisions of Developer Agreements

- Development agreements should (*whenever possible*) contain provisions to protect community if TID increments are not generated
  - Letters of credit
  - Value guarantees/shortfall payments
  - Special assessments
- Ability to collect may be a factor





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# TID Closure



# When does a TID close/terminate? (1 of 3 occurs)

1. Municipality receives aggregate tax increments in an amount equal to the aggregate of all project costs under the project plan and any amendments to the project plan.
  2. TID reaches its maximum life. Maximum life varies and is determined by the TID type and resolution date.
  3. Municipality chooses to dissolve the district early.
- Municipality Governing Body must then approve termination resolution



# Documents provided to DOR upon closure

- Written notice within 60 days of the termination resolution - complete Form PE-223 (final accounting and termination agreement) and send a copy along with the resolution to:
  - DOR
  - County Property Lister
  - Municipal Assessor
  - Overlying taxing jurisdictions
- On or before the agreed upon submission date, the municipality must e-file the PE-110 (TID Final Accounting Report) and e-mail DOR the TID Final Accounting Excel spreadsheet or Final Audit Report/Financial Statements.



# Planning for TID Closure

- Two to Three years in advance of TID closure
- Reasons for planning:
  - Capital improvement plan that may include infrastructure, equipment, and new facilities.
  - Administrative and other costs paid by TID that will need to be absorbed by municipality upon closure.
  - Levy limit adjustment (one time) as a result of TID closure.
  - Get governing body and community support for delayed initiatives.



# Summary and Conclusion

- Despite all the changes since 1976 TIF is STILL the most important tool available to help stimulate growth.
- TIF requires active management.
- Plan ahead to position yourself to take advantage of opportunities.
- Planning for a TID closure goes well beyond the statutory requirements.
  - Levy Limit Opportunities
  - Coordinate Operational & Capital Needs
- Always More to Come.



# Summary and Conclusion

- This Tool will be Severely Limited if it is Misused (examples).
  - Failure to meet the “but for” test.
    - Giving developers more than they need to get the deal done.
  - Expenditure of dollars on projects not benefitting the district or not needed to stimulate development.
    - Milking the district for other capital needs of the community.
  - Exceeding the scope or costs of projects in project plans without seeking amendments.



# Summary and Conclusions

- Local Officials need to be good Stewards.
  - Consider establishing guidelines for program use.
  - Properly account for revenues and expenses of the district.
  - Require proof of need for the money.
  - Don't spend money on ongoing expenses.
  - Keep Council / Board / Plan Commission / CDA and JRB informed of status of districts annually.
  - Close districts as soon as possible.





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