JIM STEINEKE ASST. MAJORITY LEADER

STATE REPRESENTATIVE • 5th ASSEMBLY DISTRICT

(608) 266-2418
Toll-Free: (888) 534-0005
Rep.Steineke@legis.wi.gov

P.O. Box 8953
Madison, WI 53708-8953

Wednesday, January 29 I 1:00 PM I 225 Northwest

Rep. Jim Steineke Testimony on Assembly Bill 598/Assembly Committee on Urban and Local Affairs

---

Relating to: changing the method for charging interest that may be charged on special assessments and changing the interest rate paid on claims for certain unlawfully assessed property taxes and creating an exception for local levy limits. (FE)

Good morning Chairman Brooks and members of the Committee.

Special assessment b-bonds are used to finance local economic development projects. However, they are rarely used because current law requires each installment payment to reduce the principal owed by an equal amount. As a result, special assessment installment payments are generally higher in the early years of a project and lower at the later years. Because the early years of an economic development project generally produce the lowest cash flow due to higher start up and marketing costs, higher payments at the beginning of a project are not financially feasible for most projects.

This legislation will encourage greater use of B Bonds to promote economic development by changing the way special assessment payments can be made. Specifically, the legislation allows local communities more flexibility to use either "tailored" principal payments for special assessments or equal total payments (principal and interest) to pay off the special assessment. This will allow the payments to be structured more like a home loan.

Additionally, this bill changes the interest rate an individual may claim on unlawfully assessed tax from .8% per month to the average annual discount rate determined by the last auction of 6-month U.S. treasury bills that is held before the claim for recovery is filed or the auction for recovery is commenced. This rate of interest is the same as the maximum amount of interest that an aggrieved person may collect on the recovery of an excessive assessment of property taxes imposed by a taxation district. This bill also creates an exception for a municipality to levy to make up any revenue shortfall for the debt service on a special assessment B bond issued to fund a public improvement.

January 29, 2014

Wisconsin Assembly Committee on Urban and Local Affairs
Wisconsin State Legislature

RE: **<u>TESTIMONY IN SUPPORT OF 2013 ASSEMBLY BILL 598</u>**

Chairman Brooks and Committee Members,

I am Mike Harrigan, Chairman of Ehlers & Associates Inc. We are an independent Public Finance Advisory firm that serves over 300 local units of government in the State of Wisconsin. We also provide services to local governments in Minnesota and Illinois.

I am here today to testify in support of Assembly Bill 598.

Summary

The positive impacts of this Bill are summarized as follows:

1.) It will allow the structuring of principal payments on special assessments to assure that they are more affordable to property owners.

2.) It will make the Special Assessment B Bond program as set forth in Section 66.0713 (4) more useable for financing of infrastructure for new commercial or residential development.

   a. In a new development subdivision or project, currently there can be a mismatch between when income is available from project sales or occupancy and when special assessments are due because of the level principal requirement. This results in a significantly lower usage rate.

   b. Currently there is no exception to the levy limit law for local governments if they would have a shortfall of revenues from special assessments to pay bond holders. This bill would create an exception for this purpose the same way as is already provided for other revenue bonds and thus avoid having to use operating levy to cover shortfalls should they occur.

Background

Wisconsin Statutes currently allow local municipalities to levy special assessments, payable in annual installments, to defray the cost of public improvements. However, the Statutes require that if installment payments are allowed by the governing body, the <u>principal</u> amount of each installment of the assessment must be equal. Communities are also allowed to charge interest on

the unpaid principal balance of the assessment. The effect of this is to create a total annual payment which is **highest** in the first year and **lowest** in the last year. Payments annually decline. Most homeowners on the other hand prefer total payments of principal and interest that are level. (Similar to a mortgage payment.) This can have the effect of making public improvement projects more difficult to implement due to the higher initial impact to residents.

An additional effect of this requirement relates to its impact on the issuance of "Special Assessment B Bonds". These are bonds that can be issued by the municipality to finance the public improvements for which special assessments are levied, however the principal payment of the bonds must be consistent with the principal payment of the assessments as the assessments are the underlying security. Special Assessment B Bonds are often used to help encourage new development within the community. A developer may be willing to create a new residential subdivision if the community assists by financing the infrastructure with Special Assessment B Bonds. Under this scenario, there is a special assessment levied against each lot in the new subdivision. As lots are sold, the assessment is usually paid in full from the proceeds of the sale. The developer, as owner of all unsold lots, pays the special assessments until the lots are sold. Because assessments must be collected with level principal payments, this puts the highest payments in the early years of the project. In the case of a new subdivision, this is the most risky period and many times may not allow adequate time for marketing and sales to develop, thereby putting more financial pressure on the proforma. In communities that are really trying to stimulate new economic development, this may eliminate opportunities that might otherwise be available.

The solution is to modify the Statutes to allow municipalities to use "tailored" principal payment structures for special assessments to make them more affordable and to match the projected cash flow of sales or occupancy in the case of a new development.

In addition to the above suggested change, there is now an additional impediment to the use of Special Assessment B Bonds which did not exist prior to the adoption of the "Levy Limit" law. Special assessment Bonds typically include a provision for a reserve fund which is used to make payments if the assessments are delayed for any reason. The draw down of the reserve fund is intended to be replaced by an appropriation from the Municipality as needed, however such an appropriation would now be subject to a levy limitation. We would recommend that such an appropriation be exempted from the levy limits in the same way that the law exempts such appropriation levies for utility revenue bonds.

These technical modification would not improve the ability of the local governing body to recover it's costs and it would make the costs more manageable for residents as well as for those attempting to create new development, especially in communities with more marginal markets.

Michael C. Harrigan, CIPFA
Chairman / Sr. Financial Advisor

LEAGUE OF WISCONSIN MUNICIPALITIES

122 W. Washington Avenue
Suite 300
Madison, Wisconsin 53703-2715

608/267-2380
800/991-5502
Fax: 608/267-0645

E-mail: league@lwm-info.org
www.lwm-info.org

To: Assembly Committee on Urban and Local Affairs

From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities

Date: January 29, 2014

Re: AB 598, Reducing Interest Municipalities Must Pay on Property Tax Refunds; Giving Municipalities Flexibility in Structuring Special Assessment Installments

The League of Wisconsin Municipalities strongly supports AB 598, which makes the following three changes to special assessment and property tax law:

1. Reduces the interest rate municipalities must pay on property tax refunds from 9% to a rate that better reflects the market. The new rate is the average annual discount rate determined by the last auction of 6-month U.S. treasury bills. This is the same interest rate that applies to refunds of excessive property tax payments caused by an over assessment of the property's value. This change benefits other property tax payers in the community who must pay the high interest that currently applies to property tax refunds.

2. Allows local governing bodies the flexibility to structure special assessment installment payments in way that makes the most sense for the community. For example, a community could under this bill structure the installment payments so that they are similar to mortgage payments, with each installment equaling the same amount. That option doesn't exist under current law.

3. Exempts from levy limits the amount that a municipality levies to make up any revenue shortfall for the debt service on a special assessment B bond. This is a very narrow exception that will likely go unused by almost all communities, but it gives bond counsel, bond underwriters, and bond purchasers peace of mind. Under current law, the levy limit does not apply to the amount that a municipality levies to make up any revenue shortfall for the debt service on a revenue bond. This bill treats special assessment B bonds the same as revenue bonds under levy limits. These changes to the special assessment law will make the use of special assessment B bonds to pay for public infrastructure improvements a more viable option for communities.

We urge the committee to recommend approval of AB 598. Thanks for considering our comments.

Wisconsin REALTORS® Association

To: All Legislators

From: Tom Larson, Vice President of Legal and Public Affairs

Date: January 28, 2014

RE: AB 598 – Special Assessment B Bond Payments

The Wisconsin REALTORS® Association supports AB 598, legislation giving local units of government more flexibility to structure the principal and interest ratios of installment payments for special assessment B bonds, which will encourage more economic development opportunities by making special assessment payments more uniform and affordable in the early years of a development project.

Background

"Special Assessment B bonds" are bonds often used to help encourage new economic development within a community. Generally, they are issued by the municipality to finance the public improvements serving new lots in a business park and then paid back by levying special assessments against these new lots. Under this scenario, a special assessment is levied against each lot in the new business park and, as the lots are sold, the assessment is usually paid in full from the proceeds of the sale. The developer, as owner of all unsold lots, pays the special assessments until the lots are sold.

Under current law, B bonds are rarely used because each payment related to the special assessment must contain an equal amount of principal. Because bonds (like other loans) generally require more interest to be paid in the early years, this results in higher special assessment payments in the early years of the project. In the case of a new business park, this is the most critical period and many times may not allow adequate time for marketing and sales to develop, thereby putting more financial pressure on the proforma. In communities that are really trying to stimulate new economic development, this may eliminate opportunities that might otherwise be available

AB 598

AB 598 will provide local units of government another tool to finance economic development by changing the way the principal portion of special assessment payments can be made. Specifically, the legislation:

- **Allows local communities more flexibility to structure payments for special assessments**. This would allows payments to be structured in a manner similar to the way home mortgage payments are structured. For home mortgage payments, the mortgage payment amount is generally equal during the loan period with the mortgage payments consisting of greater interest and lower principal at the beginning of the loan term and lower interest and higher principal at the end of the loan term.

- **Provides local communities with the discretion to establish interest rates on B bonds.** This is important so the interest rates on both the B bonds and special assessments can be coordinated to ensure the special assessment payments will be adequate to cover the B bond payments. This is essential to the security and marketability of the bonds.

- **Allows local communities to add up to 2% to the local rate to cover annual administrative costs of the program.**

We encourage you to support AB 598. If you have questions, please contact us at (608) 241-2047.