Economic Development Incentives

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What We Will Cover

- Economic Development Tools Available to Ohio Counties
- Programs That May Be Beneficial to a Particular Project
- Incentive Policies
- Cooperative Arrangements among Counties and Other Public Entities

Economic Development Tools Available to Ohio Counties

- Tax Abatements
  - Enterprise Zones
  - Community Reinvestment Areas
  - Sales Tax Abatements (via Port Authorities)

- Tax Increment Financing

Enterprise Zones

- ORC 5709.61, et seq.
- Two types of County Zones

County Zone Type 1

- Single contiguous boundary <u>and</u> all of the following characteristics:
  – EZ has population of **at least 4,000**; and,
  – **Two (2)** of the following characteristics:
    - Located in "**Appalachian Region**"
    - Average **unemployment rate** at least 125% of Ohio average
    - Prevalence of **vacant or demolished commercial or industrial structures**
    - **Population** of all Census tracts in EZ, according to Census, decreased by at least 10% between 1980 and 2000

County Zone Type 1 – *cont*.

- More than ½ residents have incomes **less than 80% of median incomes** of residents of EZ's municipality
- Contains **old, obsolete, deteriorated or vacant industrial structures** resulting from unfavorable economic conditions
- EZ's **school districts' income-weighted tax capacity** is less than 70% of average of income-weighted tax capacity of all Ohio school districts

County Zone Type 1 – *cont*.

- If EZ could only qualify as Type 1 for containing old, obsolete, etc., industrial buildings, then EZ exemptions can be granted <u>only</u> if such incentive agreements result in the development of industrial buildings on the dilapidated structures' parcel(s)

County Zone Type 2

- Single contiguous boundary and all of the following characteristics:
  - County with **population of 300,000 or less**;
  - EZ has **population of at least 1,000**; and,
  - **Two (2)** of the following characteristics:
    - Located in “**Appalachian** Region”
    - Average unemployment rate at least 125% of Ohio average
    - Prevalence of **vacant or demolished commercial or industrial structures**
    - **Population** of all Census tracts in EZ, according to Census, decreased by at least 10% between 1980 and 2000

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County Zone Type 2 – *cont*.

- More than ½ residents have **incomes less than 80% of median incomes** of residents of EZ’s municipality
- Contains **old, obsolete, deteriorated or vacant industrial structures** resulting from unfavorable economic conditions
- EZ’s **school districts’ income-weighted tax capacity** is less than 70% of average of income-weighted tax capacity of all Ohio school districts

Establishing the Zone

- Board of County Commissioners must pass legislation to create the EZ area
- In the case of a county zone, all affected townships and municipal corporations must consent to the creation of the zone
- Notice must be given to the affected school district, and while comments can be offered, there is no requirement that the school district give its approval before the zone is established

Certification of Zone by Director of Development Services Agency

- After legislation is passed, a petition must be filed with the director of Ohio Development Services Agency ("ODSA") to certify the zone
  - Petition must include a copy of the enabling ordinance, a map / diagram of the zone, and a basis for the determination that the distress criteria are met
- Within 60 days of receiving the petition, the director must act to certify, or deny certification to, the zone
- The director assigns a unique identifier designation for the zone

EZ - Incentive Available

- Tax exemption (abatement) in a county zone may be granted for **up to 60% of the value of new investment** in real and tangible personal property, including inventory, first used in business at the project site as a result of the incentive
- The exemption may be granted **for a period of time up to 15 years** (but not in excess of 10 years without school district approval)

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EZ - Incentive Available – *cont*.

- The exemption may exceed 60%, **up to 100%** of the value of new taxable property, in **three (3) situations:**
  - If the project is in an unincorporated area, the average exemption over the period of exemption **does not exceed 50%**
  - If the project is within in a municipality, the county zone can provide **up to 75% exemption** without school board approval
  - If the affected **school district agrees to the incentive**

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EZ - Incentive Agreement (OR. 5709.631)

- Enterprise and county must enter into written agreement **before** incentive becomes effective
- Many provisions are required by law
- Additional provisions, not inconsistent, may be added
- Minor alterations of required provisions generally okay
- Municipal corporation or township must approve the agreement, in addition to the county

Community Reinvestment Area (CRAs)

- ORC 3735.65 - 3735.70
- Area within a municipal corporation or the unincorporated areas of a county
- Area in which housing facilities or structures of historic significance are located
  - Must be at least two structures
- New housing construction and repair of existing facilities or structures are discouraged
  - Requires objective signs of dis-investment

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Creating a County CRA

- Board of County Commissioners must pass legislation
  - CRA may <u>not</u> include both incorporated and unincorporated area
- Housing officer must be appointed
- Incentive parameters indicated
- Notice must be given to affected school district
- Legislation must be published once a week for two weeks in local newspaper

CRA - Available Incentives

- In the case of a dwelling containing not more than two **residences** for which cost of **remodeling** exceeds $2,500, exempt property taxes **up to 100% for up to 15 years**
- In the case of dwellings containing more than two residences, and for **commercial and industrial properties**, for which cost of **remodeling** exceeds $5,000, **up to 100% for up to 15 years**
- In the case of the **construction** of dwellings containing more than two residences, and **commercial and industrial properties**, **up to 100% for up to 15 years**

CRA - Available Incentives – *cont*.

- The term and benefit level of the incentive must be set forth in the legislation
- Incentive may be limited to specified types and sizes of projects (*i.e.*, residential; construction over $100,000)
- The incentive may apply to any qualifying project completed after the legislation is enacted
- The owner must apply for the incentive after the project is completed

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CRA – Project Application Process

- Upon completion of **residential project**, owner submits an application to the Housing Officer
- If **commercial or industrial**, there must be a written agreement *prior to project's commencement*
  - Note: written agreement not required for residential projects
- There is a $500 application fee
- Housing officer must verify costs of project
- Housing officer certifies eligibility of project, and type and term of incentive, to county auditor
- Commencement of exemption – "but for" test

CRA - Incentive Agreement

- In the case of commercial or industrial property, the owner and the community must enter into an agreement *prior to* the commencement of the project
- The required terms mirror those found in the EZ statute
- Additional terms not inconsistent with required terms may be added
- The agreement must be executed and approved prior to commencement of project
- Copy sent to director of ODSA w/in 15 days

CRA - School District Involvement

- Notice not required in residential projects
- 14 day notice required in commercial / industrial projects if total of the following three (3) items estimated to **equal / exceed 50% of the amount of taxes the project would generate if no exemption were granted**:
  - The taxes assessed on the construction or remodeling that are not exempted (i.e., still collected)
  - The taxes generated by personal property located in the property
  - The amount of any cash payment, or the value of any services, provided to the school district by the owner of the property (i.e., compensation payments made to schools)

Sales Tax Abatements

- Utilizes Port Authority
- Port "owns" the project site through a long-term ground lease
- Port "causes the project to be built"
- As a governmental entity, Port's purchase of building materials is **exempt from sales tax** (state <u>and</u> county)
- Port Authority projects are **exempt from Ohio's prevailing wage requirements**
- Port typically charges a fee to facilitate transaction
  - Can be used to build up ability of Port to facilitate other projects

Sales Tax Abatements

- Many types of Port Authority financings qualify
- Typical structure involves:
  - A: Lease Revenue Bonds issued by Port Authority and purchased by company's lender

OR

  - B: Deed or ground lease conveying project site to Port Authority and lease of project from Port Authority to company
- Significant coordination with company's lender required

Tax Increment Financing ("TIF")

Overview

- **Redirect property taxes** that would otherwise have been paid by a property owner with respect to improvements to <u>real</u> property to pay for "public infrastructure improvements" that <u>directly</u> benefit the property
- Cities, Villages, Counties, and Townships all have TIF authority in Ohio
- TIF goes back +40 years and is used heavily in Ohio

Tax Increment Financing

- **"Public Infrastructure Improvement"** includes (<u>but is not limited to</u>):
  - Public roads and highways, **including continued maintenance**
  - Water and sewer lines, **including continued maintenance**
  - Environmental remediation
  - Land acquisition, including acquisition in aid of industry, commerce, distribution, or research (note CIC tie-in)
  - Demolition, including demolition on private property when determined to be necessary for economic development purposes

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Tax Increment Financing

- **"Public Infrastructure Improvement"** (*cont*.):
  - Stormwater and flood remediation projects, including such projects on private property when determined to be necessary for public health, safety, and welfare
  - Provision of gas, electric, and communications service facilities
  - Enhancement of public waterways through improvements that allow for greater public access

Tax Increment Financing

- "Project" - Development activities undertaken on one or more parcels, including, but not limited to:
  - Construction
  - Expansion
  - Alterations
  - Demolition
  - Remediation
  - Site development
  - Any building or structure that results from those activities

Tax Increment Financing

- Terms of the TIF Exemption
  - Exemption commences with the <u>tax year</u> in which an improvement first appears on the tax list and duplicate of real and public utility property <u>that begins after</u> the effective date of the legislation granting the exemption
  - Exemption runs for **up to 30 years**, but generally cannot exceed **10 years** without the approval of the affected school district

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Tax Increment Financing

- Terms of the TIF Exemption (*cont*.)
  - Exemption may be **up to 100%** of the value of the improvements
    - Generally cannot exceed **75%** without the approval of the affected school district

Tax Increment Financing

- "An exemption that's not an exemption"
  - Property owner makes Service Payments in Lieu of Taxes ("PILOTs")
    - Owner still pays *something*
  - PILOTs are the redirected tax payments
    - They're used to pay costs of public infrastructure improvements or, more typically, debt service on bonds issued by the local community to finance the public infrastructure improvements

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Tax Increment Financing

- “Incentive Districts”:
  - Not more than 300 acres
  - Enclosed by a continuous boundary
  - Having one or more of seven (7) “distress characteristics”
    - As certified by the engineer for the political subdivision, the **public infrastructure serving the district is inadequate** to meet the development needs of the district as evidenced by a written economic development plan or urban renewal plan for the district that has been adopted by the legislative authority of the subdivision

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Tax Increment Financing

- "Incentive Districts" (*cont*.):
  - Legislation creating an Incentive District must :
    - Specify the life of the Incentive District
    - Specify the percentage of the improvements to be exempted
    - Identify the Public Infrastructure Improvements made or to be made that benefit or serve parcels in the Incentive District
    - Identify one or more specific projects being, or to be, undertaken in the Incentive District that place additional demand on the public infrastructure improvements to be financed by the TIF

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Tax Increment Financing

- "Incentive Districts" (*cont.*):
  - Use of PILOTs in Incentive District for "Residential Rehabilitation"
    - May be used to provide for "housing renovations"…
      - Including financing or supporting loans, deferred loans, and grants for housing renovations
    - … so long as the Incentive District also includes commercial or industrial property
  - Certain levies enacted or "replaced" after 1/1/2006 are excluded from Incentive District TIF (DD, seniors, county hospitals, addiction/mental health, libraries, zoos, etc.)

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Tax Increment Financing

- Procedures for Creation of TIF
  - School District approval required for any exemption period **longer than 10 years or more than 75%**
    - Notice for approval not less than 45 business days before passage of TIF legislation
    - 14 day advance notice if school district approval not required

Local Property Tax Exemption (R.C. 5709.52)

- Established in 2017
- Permits counties (and municipalities and townships) to grant six (6) year local property tax exemption for certain unused development sites
- Sites must qualify as “newly developable property” or “redevelopment property”
- Exemption must be awarded pursuant to application process requiring, among other things, demonstration of need for exemption
- County authority applicable only in unincorporated areas
- Is subject to early termination upon conditions set forth in statute
- Must be considered in light of any existing incentives

Revolving Loans (R.C. 307.07)

- Authority includes loans or grants for economic development purpose, including for permanent improvements
- Available only if Commissioners establish “Office of Economic Development”
- Has been utilized, for example to establish infrastructure bank program

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Determining Which Incentives to Offer

- What is <u>appropriate</u> for a particular project?
  - May take into account the location of the project vis-à-vis the county land use plan
- What is <u>needed</u> for the project (as opposed to “what is asked for” or “how much can be awarded”)?
- <u>Direct</u> incentive (EZ or CRA) vs. <u>indirect</u> incentive, *i.e.*, to build infrastructure (TIF)
- Be willing to say “just say no”
- Not just the impact to the county fisc
  - Otherwise only emphasize retail projects

Determining Which Incentives to Offer

- Tools to consider
  - Fiscal and economic analysis
  - “But for” versus “close the gap” analysis
    - Is the incentive really necessary?
    - Identify the key project/site characteristics that are challenging the financial feasibility of the project
      - Whether extraordinary site costs, challenges related to infill development, achievable rents or other factors
    - Does a development located on a Greenfield really need incentives?

Determining Which Incentives to Offer

- Tools to consider (*cont.*)
  - Understand the “true” ranking of incentives in a company’s decision-making process
    - Incentives typically rank #7
    - Primary decision-making factors
      - Workforce
      - Site location (access to key infrastructure)
    - But, consider importance of incentives in addressing socio-economic conditions
      - e.g., if “workforce” or affordable housing is part of project, how do rents drive need to “buy down” project costs through incentives

Incentive Policies

- County-wide Policy
  - Takes into account county land-use priorities
  - Distinguishes between types of projects
  - Recognizes impact to school districts
  - Is sensitive to other subdivisions (municipalities and townships)
  - Addresses economic factors such as environmental conditions or condition of existing structures on the site
  - Recognizes importance of flexibility
    - “Rules are made to be broken”
    - But also, impact of precedent-setting

Incentive Policies

- Development Agreement (specific "policy" for a project)
  - Key elements:
    - Tax abatements
    - TIFs
    - Bond financing
    - Development Plan
    - NOT zoning change
    - Commitments of county administration versus commitments of county (or Board of County Commissioners)
    - Infrastructure needs
      - Who builds?
      - Competitive bidding?
      - Prevailing wage (not a question, a comment)
    - Who owns?
    - Who finances?

Cooperative Arrangements with Other Public Entities

- Township(s)
- Municipality
- School District
- Port Authority
- JEDD
- New Community Authority (“NCA”)
- County Land Bank
- Community Improvement Corporations (CICs)
- State of Ohio

Questions?

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