County Economic Development Essentials

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- Located in Columbus, Cleveland, Cincinnati, Dayton, Marietta and Barnesville, B & E is one of Ohio’s leading law firms
- Our attorneys serve as trusted advisors for economic development entities, businesses, nonprofits, political subdivisions, government agencies, healthcare facilities, school districts and individuals
- This statewide presence and involvement with many types of clients gives us a good sense of Ohio’s economy and government activity
Information to Share

• Refresher on Economic Development in Ohio
• Tools to Help Counties Attract and Retain Businesses and Help them Grow
• Tools to Help Fund Infrastructure
Refresher on Economic Development in Ohio
What is Economic Development?

“Economic development” has been defined as “the process by which a community creates, retains, and reinvests wealth and improves the quality of life”*  

*David Dodson, MDC, Inc.-North Carolina economic development think tank
Ohio’s Structure of Economic Development

- State Level: ODSA and JobsOhio
- Regional Level: Six JobsOhio Partners
- Local Level: County or City Economic Development Directors, Port Authorities, Community Improvement Corporations, Chambers of Commerce
Role of JobsOhio

• Attraction and retention (larger companies or those in targeted industries)

• Targeted Industries:
  – Advanced Manufacturing
  – Aerospace and Aviation
  – Agribusiness and Food Processing
  – Automotive
  – Biohealth
  – Energy
  – Financial Services
  – Information Technology
  – Polymers and Chemicals
  – Business Functions
JobsOhio Assistance

- Economic Development Grants (fixed assets and infrastructure investments)
- Growth Fund Loans (assists companies with proven business plans)
- Revitalization (formerly Clean Ohio program; site evaluations, loans and grants; need known-end user)
- Workforce Grants
- Coordinates ODSA’s Tax Credit programs and ODOT’s Roadwork Assistance (629) Program
JobsOhio Network
Roles of ODSA

Ohio Development Services Agency:

- Administers tax credits with JobsOhio
- Runs the Third Frontier and related programs like the MEP
- Support for small/minority-owned businesses
- Support for existing businesses
- Support for communities (CDBG, Affordable Housing, CHIP, HEAP)
Local Economic Development: What Does it Take to Succeed?

- A welcoming county that creates a business-friendly environment
- A clearly-defined economic development structure with clear points of contact
- Good Schools, Affordable Housing and Amenities
- Business Attraction, Retention and Expansion Tools
- Ways to Pay for Infrastructure
County Funding for Economic Development

• ORC 307.07 allows counties to appropriate moneys from the general fund or from an economic development tax levy pursuant to ORC 307.64 (and pursuant to 5705.19 (EE) can exceed ten-mill limitation)

• Funds so appropriated may be used to hire a county economic development director, for the creation and operation of an E.D. office, for any economic development purpose of the office, to operate a land bank and to provide for the establishment and operation of a program of economic development (including contracting with a county regional planning association, OSU Extension or a nonprofit such as a CIC, etc. to perform the services)
Business Attraction, Retention and Expansion: Useful Tools
Enterprise Zone Tax Abatements

- **What are they?** Real property tax abatements offered to attract, retain and expand businesses, often manufacturing, under Ohio Revised Code Sections 5707.61-.66

- **How are they Done?** By establishing designated areas of land known as “Enterprise Zones” and then offering businesses exemptions on new taxes generated by eligible investments in real and personal property in the zones

- **Who Can Do it?** Both municipalities and counties have EZ creation powers
Current Use of Program*

- About 416 zones have been formed since program began and about 363 zones are active
- Most were formed by counties
- In 2014, about 60 new enterprise zone exemptions were granted to Ohio businesses
- In 2014, communities collected about $63 MM in new real property taxes related to EZ’s and abated about $53 MM in real property taxes
- As of 2014, over 49,700 full-time jobs have been created in connection with EZ agreements

* Source: ODSA 2015 Annual Report
Program Specifics: Creation of Zones

• For new zones, helpful to first convene stakeholders and obtain buy-in (county commissioners, city council, County Auditor, school superintendent, businesses)

• Zone Requirements:
  • Defined geographic area (single continuous boundary)
  • Minimum population requirements in zone:
    • County population > 300,000 = 4,000 minimum population
    • County population < 300,000 = 1,000 minimum
Creation of Zone

• Local legislation required to create
• Submit petition to ODSA to obtain Certification (form on website) with $750 fee
• Attach copies of legislation, map and written description of boundaries, identification of school boards of education in district and evidence of notice
• Include required information documenting distress, if necessary
Process for Granting Exemptions

- Counties/communities establish local guidelines to determine which type of businesses are eligible and whether projects are eligible under state law
- Business submit proposal to local entity estimating new jobs, payroll and investment
- Legislative authority determines business will create or preserve jobs and improve the local economy
Process for Granting Exemptions

- Local officials negotiate a formal written agreement with business
- Provide at least 14 calendar days’ notice to affected school boards (45 business days if approval needed) (both can be waived in writing)
- Legislation required and agreement formally approved (project can’t start before this)
- File with ODSA, Ohio Department of Taxation and County Auditor within 15 days
Exemption Parameters

- Counties/Unincorporated area: (1) up to 60% and up to 10 years or (2) average of 60% over term
- Exception with school district approval (up to 100% for up to 15 years)
- Can “front load” exemption, exceeding allowable percentages in early years as long as average remains under 60%
EZ Summary

- Real property tax abatement (and TPP if still applicable) for businesses, often manufacturing
- Must first establish Enterprise Zone by legislation and ODSA filing
- Both municipalities and counties have power
- Need investment, new/retained jobs commitment and written agreement with business
- School district approval needed if >10 years or >60% (or 60% average)
Community Reinvestment Areas

• **What are they?** Real property tax abatements offered to incentivize revitalization of existing housing and development of new structures under ORC Sections 3735.65 et seq

• **How are they Done?** By establishing designated Community Reinvestment Areas and then offering businesses/residents tax exemptions on eligible investments in real property in the areas

• **Who Can Do it?** Both municipalities and counties
Process

1. Local government conducts a Housing Survey (need at least 20% of properties in need of rehabilitation)
2. Publish notice of proposed area for two weeks
3. Legislation adopted that defines area, incentive rates and term
4. Obtain ODSA approval of area
5. Local governments then establish application process
6. If exemption is for industrial/commercial, need written agreement
7. If CRA created after 1994, may require school approval
8. Can get creative as to linking the percentages/length of tax abatements to the levels of investment of the project (example: Findlay)
Community Reinvestment Area Exemptions

Types

• Pre July 1, 1994 CRA
  – No written agreements with grantees needed
  – No school revenue sharing required
  – No school district notice or approval needed

• Post July 1, 1994 CRA
  – Written agreements required if commercial
  – Revenue sharing with schools
  – School district notification and approval may be needed
School District Involvement

- Pre-1994 CRA’s, school district participation is not required (even if territory is expanded)
- Post 1994 CRAs Notice (of passage date of legislation to grant exemption)
  - 14 days for non-school district approval
  - 45 days for school district approval
  - Waiver of notice by school district is allowed
Community Reinvestment Areas

When is School District Approval Needed?

• Required if the project involves commercial or industrial property in a CRA and 50% Test not met

• **What is the 50% Test?** Will the sum of the following equal or 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;
  – The taxes generated by personal property located in the property; and
  – The amount of any cash payment, or the value of any services, provided to the school district by the owner of the property.
CRA Summary

- Real property tax abatement for businesses or residential (differentiates it from EZ)
- Must first establish CRA by legislation and ODSA filing
- Both municipalities and counties have power
- Need investment and written agreement if post-1994 CRA and is for business
- School district approval needed if post-1994 CRA and 50% test not met
Idle Property Tax Abatement Program (SB 235)

- Passed during Lame Duck Session
- CCAO and other groups worked to ensure local review was required to prevent unintended consequences
- Applies to “newly developable” or “redevelopment property” (parcels on which commercial development is planned but such activity is not currently being conducted)
- Owners may apply to local jurisdictions for six year abatement on increase in value during the period prior to issuance of certificate of occupancy
Specifics of Program

- If property subject to TIF, owner must apply to jurisdiction that authorized the TIF

- Application:
  - Owner must certify that applicable zoning regulations do not prevent commercial development/redevelopment
  - Must include certification from county treasurer that no liens are outstanding for property taxes or assessments

- Local government must notify school district/JVS of its intent to award
Details re: Abatement

- Lasts Six Years unless Disqualifying Event Occurs:
  - Owner receives Certificate of Occupancy
  - Commercial, agricultural or industrial activities occur on the property
  - Owner transfers title
  - Property is zoned or re-zoned so that construction of a commercial or industrial building is no longer allowed

- If property subdivided:
  - Exemption applies to the subdivided parcels for remainder of original period unless disqualifying event occurs
Idle Property Abatement Summary

- Brand new program
- Can incentivize commercial property owners to develop properties by exempting increases in value during development period
- Owners must apply to townships, municipalities or counties
- Local governments can assess impacts before granting applications
Ways to Pay for Infrastructure
Tax Increment Financing (TIF)

- **What is it**: A financing mechanism that uses property taxes that would have otherwise have been paid by a property owner on new improvements to real property to pay for “public improvements” that directly benefit the property.
- **How**: Property owner makes payments in Lieu of Taxes (PILOTs) that go into a TIF fund.
- **Why use it**: Assists local governments to finance public and infrastructure improvements to encourage development.
- **Who can use it**: Municipalities, counties and townships all have TIF authority.
TIF Payments

Value (in millions) vs. Time in Years

- Base Value
- Increment
- Payments in Lieu of Taxes
- Property Taxes
Most Common Types of Tax Increment Financing

ORC Section 5709.78 (Counties)

Site Specific TIF (aka Parcel TIF):
- Comprised of specific parcels
- Ability to TIF residential property very limited

Wide Area or Incentive District TIF:
- At least 300 contiguous acres exhibiting one or more characteristics of economic distress as listed in ORC
- Public improvements do not need to directly benefit every parcel
Process to Implement TIF

1. Negotiate Development and TIF Agreements with Developer

2. Provide notice to school district (and get approval if needed or negotiate compensation agreement)

3. Legislation creates a real property tax exemption, with exempted taxes as of January 1 of effective year being directed into a TIF fund

4. File Form DTE 24 filed with Ohio Department of Taxation

5. Either developer or public entity can construct public improvements, with repayment out of TIF fund
Tax Increment Financing

- Taxes Eligible for “TIF”
  - 75% for 10 years
    - 14 days notice to school district
    - No school district approval required
  - 100% for 30 years (with school district approval)
    - 45 days notice to school district
    - School district’s response must be delivered at least 14 days prior adoption of the TIF legislation
    - School district must approve, disapprove, or conditionally approve (compensation agreement) proposed exemption
    - Joint vocational school approval is not required; BUT, if school district is to be compensated, JVS must also be compensated
Ways to Pay for TIF Public Improvements

- “Pay as you go TIF”:
  - Useful when infrastructure costs are moderate to low and single developer is involved
  - Lower transaction costs
  - Improvements made as TIF Fund gets money

- Bonded TIF or Developer-Funded TIF:
  - Funds are borrowed against TIF Fund
  - Repaid by TIF funds
  - Nice to make all improvements immediately
  - Higher transaction costs
Payments in Lieu of Taxes

• Taxes that would have been paid by property owner are made instead as PILOTS and are paid in the same manner and at the same time as property taxes.

• Payments are made to County Treasurer and are enforceable in the same manner as are property taxes (ORC 5709.91).

• Payments will be used either to directly pay for infrastructure (“Pay-as-you-go”) or to pay debt service on securities issued to finance such improvements.
Developments Financed by TIF
Concerns with TIF

• Affects other stakeholders dependent on property taxes (libraries, DD, seniors)

• Required to negotiate with school districts

• Perception that improvements favor certain private developments (although SB 257 just established procedure for real property owners outside of a 300-acre “overlay” to opt out of incentive district TIFs)
TIF Summary

- Real property tax program that diverts taxes on new improvements so they can be used to pay for public infrastructure
- Property owner pays same amount of taxes but new taxes go into TIF fund
- Townships, municipalities and counties have power
- Need written agreements and legislation
- School district approval needed if diverted taxes are greater than 75% or for longer than 10 years
What is a JEDD?

- “JEDD” stands for “Joint Economic Development District”
- JEDDs are formed under ORC Sections 715.69-715.72
- JEDDs are special-purpose districts formed to facilitate economic development and create employment opportunities in the JEDD area
- At its most basic level, a JEDD is a separate, distinct political subdivision created by a contract between a municipality and a township so they can cooperate in economic development
- Counties typically aren’t JEDD parties but will provide overview
Why Form a JEDD?

Benefits

• Enable district-wide income tax and the provision of municipal services to unincorporated areas
• JEDDs replace antagonism of annexation with collaborative spirit of cooperative agreement between municipalities and townships
• Agreements usually include anti-annexation agreement
• Typical scenario involves a township with prime development land and a municipality that is willing to offer services
What Territory can be included in JEDDs?

• Territory has to be located within the boundaries of the contracting parties.

• Territory can include areas where commercial and mixed use development is allowed (mixed use allowed in 2016).

• Territory cannot include property owned or leased by a municipal corporation or township unless the municipal corporation or township is either a party to the agreement or has consented to inclusion of the land within the JEDD.
Process to Form a JEDD

1. Township and municipality enter into agreement that includes an economic development plan and a map for the JEDD

2. The parties allow public inspection of the proposed JEDD documents (at public offices, library, etc.)

3. Public hearings regarding proposed JEDD are held by all contracting parties

4. A petition is circulated and signatures of a majority of owners of the property and majority of owners of businesses located within JEDD must be obtained

5. Legislation is adopted by each contracting jurisdiction
Formation (cont’d)

6. Vote of electors in each participating township must approve JEDD unless township trustees’ approval was unanimous, majority of property owners have approved JEDD and area is already zoned.

7. Notify non-consenting property owners

8. As of 2016, businesses that operated in the JEDD area before it was formed, won’t benefit and don’t sign petition can “opt out” of JEDD inclusion by filing request with Common Pleas Court
Governance of JEDDs

Governed by a Board of Directors comprised of:

- One person representing all municipalities that are contracting parties
- One person representing all townships that are contracting parties
- One person representing the owners of businesses located within the district
- One person representing people working in the district
- One person selected by the other members, who is the chairperson
Powers of JEDDs

- Can levy income tax at rate no higher than municipality’s rate (no vote required)
- Can determine zoning and land-use regulations for district
- Can limit annexation within JEDD
- Can limit granting of property tax abatements and other tax incentives within JEDD
- Coordination of development in JEDD area and services to be provided by municipality and township
Example of JEDDs: Circleville and Pickaway Township (Pickaway County)
JEDD Summary

• Effective tool to provide for development of unincorporated areas
• Agreement among municipality and township forms new entity
• Must first establish JEDD area then pass legislation; JEDD Board governs area
• Board can implement income tax and then provide infrastructure
• School district approval is not needed but good to include them in discussions and planning
Downtown Revitalization Districts

• New tool for municipalities to promote redevelopment of designated areas and preservation of historic structures (courthouses!)

• Includes authority for new property tax exemptions and redevelopment charges for flexible, new purposes relating to redevelopment

• Authorizes innovation districts and provides mechanism to fund high-speed internet and related infrastructure

• Am. Sub. HB 233 enacting DRD law effective August 5, 2016
Elements of DRD Program – Territory

Designate a territory no more than 10 acres

- Must have continuous boundary (i.e., contiguous properties only)
- Must include at least one historic building that is being or will be rehabilitated
- “Historic building” has specific definition in state historic tax credit statute (next slide)
- Cannot be residential-only or include areas already exempted from taxation under existing TIF
Certifying “Historic Structures”

• **Initial Criteria:**
  ✓ Is it at least 50 years old?
  ✓ Does it still have historical integrity?
  ✓ Is it significant?

• **Two Ways for Certification:**
  ✓ Have it listed on the National Register of Historic Places (Apply to State Historic Preservation Office) or
  ✓ Have it designated by a Certified Local Government (more than 60 in Ohio; have specific criteria, dedicated to preservation)
Process to Establish DRD

1. Draft Economic Development Plan for Area
2. Notice by first class mail to owners of property within proposed district
3. Public hearing no sooner than 30 days after notice
4. Created by ordinance of municipal corporation no sooner than 30 days after public hearing
5. Ordinance must:
   - Specify term and amount of exemption and area
   - Include economic development plan for DRD, which includes goals, explains collaboration among municipality, businesses and property owners, and plan for using revenue including infrastructure
School District Participation

- No school district approval is needed if term is 10 years or less
  - Must provide notice to school district and JVS 14 days before adopting ordinance (unless school district has waived right to notice)

- Term can last up to 30 years, if obtain school district approval (identical to TIF process):
  - Notify school district and JVS 45 business days before adopting ordinance
  - Receive any approval 14 days before adopting ordinance
Reporting Requirements

Development Services Agency (DSA) requirements:

• Must notify DSA Director within 15 days of adopting ordinance
• Annually by March 31, municipality must provide written report to DSA regarding DRD
Source of DRD Funds

Real Property Tax Exemption:
- Can exempt up to 70% of improvements within DRD from taxation
- Entire amount from exempted improvements must be distributed to Municipal DRD Fund for use per Plan
- Can begin in year specified, when improvement value exceeds specified amount, or when specified improvements are complete
- As with existing TIFs, revenue from certain levies (e.g., MRDD, children’s services) not affected by DRD
Additional Funding

Redevelopment charge may also be collected

• Requires consent of property owner
• Also deposited into Municipal DRD Fund
• Can be fixed dollar amount or amount determined based on formula (e.g., based on valuation or receipts of business)
• Can be passed through to lessees
• Agreement with property owner is covenant running with the land (i.e., transfers to subsequent property owners); must be disclosed in sales contracts
• Unpaid amounts can be certified to county auditor for collection
Use of Revenue

- Broader use of funds allowed (versus TIFs)
- Can offer loans or grants to owners of historic buildings within DRD for rehabilitation or repair; must include plan for tracking award and progress of project
- Up to 20% can be dedicated to contributions to community improvement corporations, special improvement districts, or non-profit that promotes historic redevelopment. CICs or SIDs must use funds to promote the DRD
- Can also use for public infrastructure authorized in ordinance (continued)
Use of Revenue

• To finance public infrastructure improvements within DRD, must provide description of how development will place new demands on infrastructure (must be specified in economic development plan)

• Funds cannot be used for police or fire equipment

• Notes or bonds are not subject to R.C. Chapter 133 (not considered to be General Obligation bonds or BANs/bond anticipation notes; don’t count toward statutory debt limits)
Innovation Districts

May be designated by ordinance of the municipality
• Must be within existing or proposed DRD
• Must have continuous boundary
• Must have high-speed broadband network with ability to download at least 100 gigabits per second

Purpose
• To attract and grow tech businesses and support economic development by incubators and accelerators
• Ordinance must include separate economic development plan for the Innovation District
Innovation Districts

Funding Authority:
• DRD revenue can be used to offer loans or grants to incubators or accelerators within Innovation District with condition that must be used for businesses within Innovation District; must include monitoring and tracking provisions
DRD Summary

- New tool for municipalities that can benefit preservation of historic structures including courthouses
- Useful for areas up to 10 acres needing revitalization that include a historic structure
- Must first designate DRD area, draft economic development plan then pass legislation that designates that up to 70% taxes on improvements will go into DRD fund; Can also collect fees from property assessments with owners’ consent
- Fund can be used for infrastructure, grants & loans
- School district approval needed if term is longer than 10 years
Final Note: Using Tools Successfully

• To be competitive, need to offer economic incentives using an agreed-upon policy
  – Rationalizes and standardizes awards
  – Allows you to target awards
    ◦ Quality, sustainable companies and jobs
    ◦ Diversification of industries or compatible industries (clusters or supply chains)

• Allows you to reach your goals in your strategic plan and appropriately measure them.
Summary

• Ohio’s system of economic development includes JobsOhio and ODSA at the state level, six regional partners and local economic development entities such as community improvement corporations and port authorities

• Enterprise Zone and Community Reinvestment Area abatements are good tools to attract and retain businesses and assist with growth

• TIFs and JEDDs are good tools to fund infrastructure

• Tools can be successfully used pursuant to predetermined economic development policy/plan
Question and Discussion

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