THE ROLE OF SCHOOL DISTRICTS IN ECONOMIC DEVELOPMENT PROGRAMS

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SCHOOL DISTRICT ROLE

• Notice
• Approval
• Income Tax Sharing
• Negotiate Other Compensation
### SCHOOL DISTRICT NOTICE

- Generally, if the proposed tax increment financing (TIF) exemption or tax abatement will be a percentage or term of years which requires advance School Board approval, then notice to affected school districts must be given at least 45 business days before the legislative authority takes formal action.

- If school board approval is not required, notice must be made at least 14 calendar days before the legislative authority takes formal action. That notice includes notice to JVSDs.

- No advance notice is required for tax abatements in "grandfathered" Community Reinvestment Areas (CRA) or residential abatements.

- School Boards may waive the right to receive notice or waive its approval rights for a specific project, or for all projects meeting certain requirements.

- A recent amendment to the notice requirements provides that for certain TIF programs, a JVSD is entitled to the same 45-day notice as a school district even though JVSD approval is not required.

### SCHOOL BOARD APPROVAL

- For most TIF programs and for the Enterprise Zone tax abatement program, school board approval is required if the exemption period exceeds 10 years or the percentage of the property value exempted exceeds 75% (60% for the Enterprise Zone program in unincorporated areas).

- For the CRA tax abatement program, school board approval is required for commercial and industrial projects (except in grandfathered CRAs), unless the sum of payments estimated to be received by the school district for each year of exempion equals or exceeds 50% of the amount of taxes that would have been payable on the property had it not been exempt from taxation.

  - The calculation of the amounts to be received by the school district includes amounts to be paid by the Company and any income tax sharing.

- Two TIF programs frequently used by municipal corporations provide that school board approval is not required if the TIF ordinance provides that payments in lieu of taxes be paid to the school district and (recently added) any JVSD equal to the full amount of taxes those school districts would have been received without the tax exemption.
INCOME TAX SHARING

• If the payroll from “new employees” of an abated project or a TIF project equals or exceeds $1,000,000 in any year in a municipal corporation levying income tax, the municipal corporation and School Board must attempt to negotiate a compensation agreement.
  ➢ New Employees include construction workers.
  ➢ New Employees does not include employees that move to the site that had been working for the same employer in the City within the past 2 years.
• If the attempt to negotiate is unsuccessful (within 6 months following approval of abatement), each year the public body must pay the school 50% of municipal income tax derived from “new employees,” less certain costs of public improvements paid that year that benefit the private project - reducing sharing to no lower than 32.5%.
• Income tax sharing applies in grandfathered CRA’s.
• There is no requirement to share income tax for the two municipal corporation TIF programs described above where school board approval is not required if the school district is made fully whole.

INCOME TAX SHARING

• There are many unanswered questions in income tax sharing requirements:
  ➢ What if the payroll is estimated to exceed $1,000,000 but in fact does not?
  ➢ What if the payroll was not expected to be $1,000,000, but in fact is?
  ➢ What if the payroll exceeds $1,000,000 in some years and not others?
  ➢ How does a city practically count who is or is not a new employee in future years, particularly for expansion projects and for construction workers?
COMPENSATION AGREEMENTS

- As a result of the unresolved issues surrounding income tax sharing, it is helpful to enter into an agreement with the municipal corporation to at least address those issues.

- Many school districts enter into compensation agreements as a condition to approving TIF or tax abatement proposals, which often involve the following:
  - Payments by the developers to the school district during the term of the tax exemption.
  - Income tax sharing.
  - For a TIF project, a percentage of the payments in lieu of taxes received.
  - A lump sum payment on the date TIF bonds are issued for a project.
  - Other services to be provided by the local government or the developer.

Compensation Agreements

- Compensation to JVSD. For certain TIF programs, if a compensation agreement is entered into with the school district and there is an overlapping JVSD, it is now entitled to compensation “at the same rate and under the same terms.”
  - What does this mean if the school district is being paid by a lump sum payment?
  - How do you compensate the JVSD “at the same rate and under the same terms” if the school district compensation agreement provides compensation by services to be provided by the city?
**SCHOOL FORMULA**

- **No Report to State.** Beginning with revenue received in 2014, school districts are no longer required to report annually to the State the income tax payments or other compensation received under certain tax abatement and TIF programs.

- **No Reduction in State Payments.** Compensation payments received by school districts are not re-calculated to appear as an increase in assessed valuation for purposes of the school foundation formula.

**OTHER RECENT ACTIVITY**

- **Executive Session for economic development programs.**
  - Is limited to considering confidential information related to such things as marketing plans and strategies and related to negotiations with political subdivisions.

- **GASB Rule 77 (August 2015).**
  - Requires governments, including cities, counties and school districts, to newly disclose in audited financial statements the annual cost of tax abatement and to include other information about the agreements entered into in the financial statement notes.
# EXAMPLES

- CRA tax abatement for an office building.
  - Company payment to school district.
  - Income tax sharing if exceed $1,000,000 payroll.
  - Other agreements.

- TIF for a retail shopping center.
  - Lump sum payment if bond financing.
  - Share % of Pilots each year.