JEDDs
and Other Economic Development Tools

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Economic Development

Simple definition: activities which promote investment, create jobs, and enhance communities.

Generally includes collaboration between government entities and private entities

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Economic Development

Ohio Constitution Definition: Certain activities which:

- "create or preserve jobs and employment opportunities,"
- "improve the economic welfare of the people of the state,"
- "control air, water, and thermal pollution," or
- "dispose of solid waste"

Article VIII, Section 13

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Economic Development

From a local government point of view, economic development consists of deploying various tools which advance those goals

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Tools Covered

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Joint Economic Development Districts (JEDDs)

Tax Increment Financing (TIF)

New Community Authorities

Port Authorities

Downtown Redevelopment Districts / Innovation Districts

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JEDDs

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Joint Economic Development District

- Contractual agreement among jurisdictions to create a new governmental entity charged with improving an identified district, typically in connection with an economic development initiative
- By statute, a special-purpose district formed to “facilitat[e] economic development to create or preserve jobs and employment opportunities and to improve the economic welfare of the people in the state and in the area of the contracting parties”

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Background: Historical Backdrop

- Historically, development has been challenging in unincorporated areas
  - Lack of municipal services and infrastructure
  - Townships resisting potential loss of identity, clout and revenue accompanying annexation
  - Limited public funds available to support development

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Background: Establishment of JEDD Tool

- Statutory compromise: JEDDs
- Enable district-wide income tax and the provision of municipal services to unincorporated areas
- Replace antagonism of annexation with collaborative spirit of cooperative agreement between municipality and township
- Typical scenario involves a township with prime development land and a municipality that is willing to offer services

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Roadmap: Overview of Process

- Agreement between contracting parties
- Public hearing and petition process
- Election required, but can be avoided
- Governed by Board of Directors
- Flexible powers set defined by contracting parties

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Roadmap: Territory

Territory

- Can be formed by at least one municipality and one township, or more
- Contracting parties generally must be contiguous or one apart
- Territory cannot include residential property or property zoned for residential use (unless mixed-use)
- 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

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Roadmap: Approval Process (1 of 2)

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Formation

- 1. Municipality and township (and other parties, if applicable) prepare a contract for the JEDD that includes an economic development plan and a map for the JEDD
- 2. Allow for public inspection of proposed JEDD documents
- 3. Public hearing regarding proposed JEDD
- 4. Obtain petition signatures of majority of owners of property within JEDD and majority of owners of businesses located within JEDD

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Roadmap: Approval Process (2 of 2)

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Formation (continued)

- 5. Legislation adopted by each contracting party
- 6. Notice to businesses and property owners that did not sign petition (10 days after approval)
- 7. Notify DSA
- 8. Effective 30 days after Township approval

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Roadmap: Election Requirement

Election?

- Generally, the electors of any township that will be a contracting party to the JEDD must approve the creation of the JEDD.
- However, any included townships typically avoid an election by satisfying each of three conditions:
  - Unanimous approval of the township board of trustees
  - Petition signed by a majority of property owners within the JEDD
  - Land to be included in JEDD is zoned appropriately for proposed use
- JEDD subject to referendum (10% requirement, 30 days)

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Roadmap: Contract Provisions (1 of 2)

Governance

- 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
- Election/selection determined by terms of contract

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Roadmap: Contract Provisions (2 of 2)

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Powers

- Coordination of services provided by municipality and township and any planned infrastructure improvements
- 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

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Roadmap: Expansion Process

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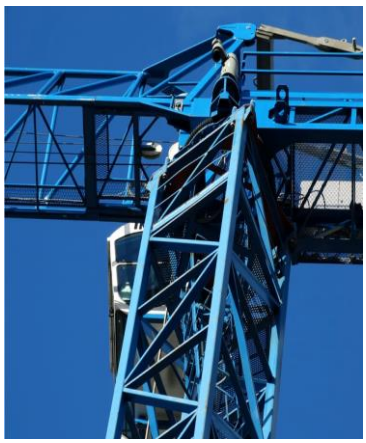
- 60-90 day process
- Term sheet between contracting parties
- Develop amendment, map
- Obtain petition signatures
- Public hearing process
- Legislative approvals
- Notice to property owners



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Hot Topics: Recent Developments

- Failed JEDZs – perceived overreaching by communities (e.g., failed Columbus Zoo JEDZ)
- H.B. 289 – sunset of JEDZs and new restrictions
- Op. Ohio Atty. Gen. No. 2015-002 – uniform taxation
- Statutory opt-out procedure
- What's next?

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Hot Topics: Lessons Learned

✓Communities considering a JEDD should ensure that its purpose will be collaborative economic development

✓JEDDs can fail when they are merely a vehicle to generate income tax revenue

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Recent Examples

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Circleville and Pickaway Township (Pickaway County)

SOFIDEL
ENDLESS CARE, INNOVATIVE LIFE

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Recent Examples

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Circleville-Pickaway Township JEDD

- Designed to support infrastructure needs of major new employer (Sofidel)
- Site did not offer adequate natural gas line service
- JEDD revenue used, in part, to pay debt service on JobsOhio loan benefitting project
- Other allocations of JEDD revenue directed to city, township, and school district, at varying rates during term of JEDD

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Recent Examples

Marysville and Millcreek Township (Union County)

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Recent Examples

- Marysville-Millcreek Township JEDD
  - Designed to support long-term growth
  - Will be established through framework of Cooperative Development Agreement
  - Participation will be required to receive municipal water and sewer
  - 55% of revenue allocated to infrastructure; 15% to City, 15% to Township, 10% to economic development marketing, 5% to costs

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Recent Examples:
Village of Walton Hills and Sagamore Hills Township

Recent Examples

Village of Walton Hills and Sagamore Hills Township

- Local communities identified need for improved infrastructure and services to support Northcoast Behavioral Healthcare, a major local employer that had recently considered leaving Sagamore Hills Township
- JEDD established in July 2015 to generate income for purposes of improving primary road access to hospital site as well as fire and EMS services provided to site

Tax Increment Financing (TIF)

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Tax: based on real property taxation

Increment: applies only to the *increase* in real estate taxes resulting from a development

Financing: allows a developer and local government to pay for needed public infrastructure improvements

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TIF Basics

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Service payments in lieu of taxes

- Owners of property subject to TIF required to pay “service payments in lieu of taxes”
- Paid in the same amount and collected in the same manner as real property taxes
- TIF is therefore a way to focus otherwise dispersed tax money on specific, local improvements

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TIF Basics

Uses of service payments in lieu of taxes

- Service payments are collected into a segregated fund which must be established
- May be used to pay for "public infrastructure improvements" as defined in O.R.C. 5709.40(A)(7).
- Generally include: roads, sewers, environmental remediation, land acquisition, demolition, storm water remediation, gas, electric and communications service facilities

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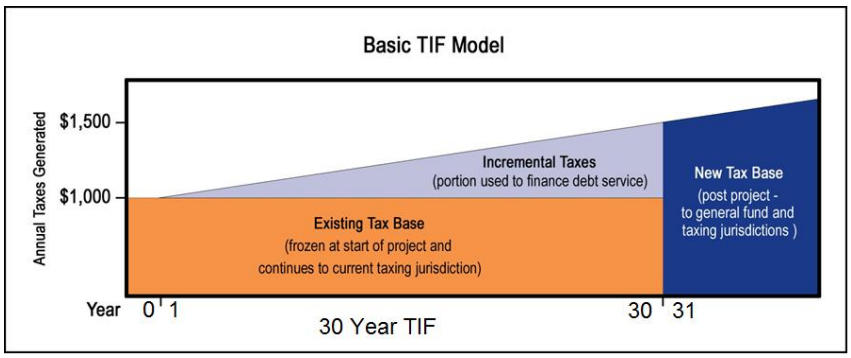
TIF Basics



* "Tax Increment Finance Best Practices Reference Guide" (CDFA and ICSC), page 2.

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TIF Basics

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Governments which may implement:

- Municipal corporations (O.R.C. 5709.40 & .41)
- Townships (O.R.C. 5709.73)
- Counties (O.R.C. 5709.78)

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TIF Basics

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Creation

- Legislative authority passes ordinance or resolution
  - Determines base year as of January 1
  - Identifies TIF boundaries and parcels
  - Notice must be given to school district and other affected political subdivisions
- Form DTE 24
  - Exemption application filed with the Ohio Department of Taxation
  - Contains parameters set forth in the authorizing legislation

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TIF Basics

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Project TIF vs. incentive district TIF

- Project TIF applies to a specific parcel or parcels (*See* O.R.C. 5709.40(B))
- Incentive district TIF applies to all parcels within a geographic district (*See* O.R.C. 5709.40(C))
  - No more than 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
  - **NEW! Must allow real property owners to opt-out unless their property is within an overlay**

Municipal Urban Redevelopment TIF (.41 TIF)

- Unique TIF used in urban redevelopment setting

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TIF Basics

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Percentage of increased value to which TIF may apply

- Up to 75% without the consent of the impacted city, local, or exempted village school district
- Up to 100% with consent
- Note that counties have the right to object to municipal corporation and township incentive district TIFs, and townships have the right to object to county incentive district TIFs, if the exemption is over 75%

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TIF Basics

Term of TIF

- Up to 10 years without the consents of the impacted city, local, or exempted village school district
- Up to 30 years with consent
- Note that counties have the right to object to municipal corporation and township incentive district TIFs, and townships have the right to object to county incentive district TIFs, if the term exceeds 10 years

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TIF Basics

Rights of school districts, townships, and counties

- Along with consent is ability to negotiate compensation
- Maximum compensation for city, local, and exempted village school districts and joint vocational school districts is amount that would have been paid but for TIF ("non-school TIF")
- Maximum compensation for county or township is amount that would have been paid but for TIF (recall, only applies to certain incentive district TIFs)

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TIF Basics

Municipal Income Tax Sharing - Municipality must share income tax with School District if:

- Municipal Income tax in place
- New payroll in excess of $1,000,000
- No make whole provision for School District in place

Six Months to Negotiate Agreement

- 50/50
- Municipality entitled to infrastructure set-off (up to 35% of annual income tax increase)

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Why Use TIF?

Encourage development

Facilitate redevelopment

Finance infrastructure

No additional cost to developer

- But revenue stream is development dependent

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TIF Monetization

General obligations bonds or cash payment by government
- Government takes risk

Revenue bonds and conduit bonds
- Generally requires additional security

Pay-as-you-go TIF
- Developer takes risk

Developer financing
- Developer takes risk / provides security

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Combining TIF With Other Tools

CRA
- TIF could be subordinate to total abatement of CRA for CRA period (O.R.C. 5709.911)

Special assessments
- Special assessments can back up TIF service payments in event development does not occur at desired pace

New Community Authority

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New Community Authorities

("NCAs")

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New Community Authorities

General Characteristics

- A separate governmental body organized to encourage the orderly development of an economically sound new community
- Developer driven
  - All acreage must be owned or controlled, through leases of at least 75 years' duration, options, or contracts to purchase
  - Developer is represented on board
  - Large developments only—minimum 1,000 acres if not wholly within municipality or half is within JEDD

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New Community Authorities

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Formation

- Procedure for creation
  - Developer files petition with "organizational board" (board of county commissioners / legislative authority of municipal corporation)
    - Petition must include, among other things, plan that sets forth development program for district
  - Organizational board must hold hearing and must approve creation if district is conducive to the public health, safety, convenience, and welfare

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New Community Authorities

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Powers

- Board
  - Appointed by developer, county, and local government until certain population levels met
- Revenue
  - Community development charge
    - Runs with land through declaration
    - An assessment providing a special benefit, not a tax
    - Flexible--can be based on millage, residents' income, gross receipts, or business revenues (including lease rentals)
- Issue taxable or tax-exempt bonds or other obligations

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New Community Authorities

- No general power to offer traditional governmental services
- "Community Facilities"
  - Public buildings, centers and plazas, auditoriums, day care centers, recreation halls, educational facilities, recreational facilities
  - Parks and other open space land, lakes and streams, cultural facilities
  - Streets, pathway and bikeway systems, pedestrian underpasses and overpasses, lighting facilities, design amenities
  - Buildings needed in connection with water supply or sewage disposal installations or steam, gas, or electric lines or installation, telecommunications facilities

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Pinnacle Community Authority

Debt service charge allocated on acreage

Multiple housing types (condos, single family, estates)

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Concord/Scioto Community Authority

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10.25 mills

Sewer tap fees

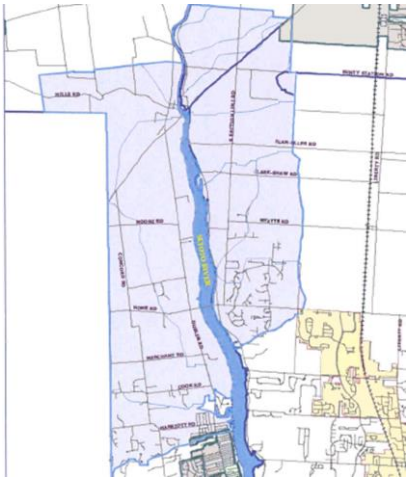
Sewer improvements

Infrastructure

Approx. 15,000 acres

Formed with 1,000 acres

Subsequently expanded



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New Albany Community Authority

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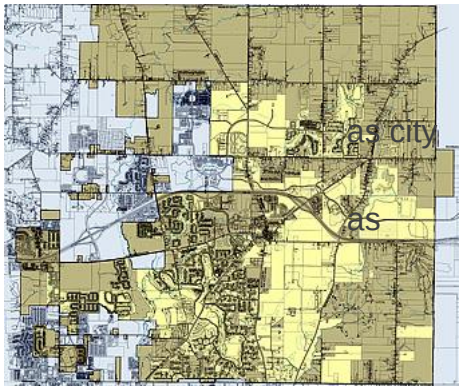
9.75 mill charge

Currently 4.75 mills

Example of NCA policy

Example of NCA school district policy



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Bridge Park New Community Authority

Four charges:

- Assessed
- Debt service
- Retail charge
- Hotel charge

Port Authority Financing Options

County Initiated: Port Authority Financings (Chapter 4582)

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- Port Authority Overview
  - Established by a political subdivision, including a county, and managed by a board appointed by the subdivision
  - Broad powers under Chapter 4582 to promote economic development through financing as well as acquisition of property
  - Can request voter approval of voted property tax levy
  - Can issue debt (voted or unvoted)
  - Can make loans
  - Can issue tax-exempt debt (under certain circumstances)
  - Port projects are generally exempt from prevailing wage; can be exempt from competitive bidding under certain circumstances

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Port Authority Jurisdiction

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A county, a municipal corporation, a township, or any combination may create a port authority by legislative action. R.C. 4582.22

The area of jurisdiction of a port authority includes all the territory of the political subdivision(s) that created the port authority. R.C. 4582.30

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Ohio Port Authorities
(a partial list)

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- Port Authority of Allen County
- Ashtabula City Port Authority
- Ashtabula County Port Authority
- Athens County Port Authority
- Belmont County Port Authority
- Blanchard Valley Port Authority
- Butler County Port Authority
- Port of Greater Cincinnati Development Authority
- Clermont County Port Authority
- Cleveland-Cuyahoga County Port Authority
- Clinton County Port Authority
- Columbiana County Port Authority
- Columbus-Franklin County Finance Authority
- Conneaut Port Authority
- Coshocton Port Authority
- Dayton-Montgomery County Port Authority
- Delaware County Port Authority
- Port Authority of Eastlake Ohio
- Erie County Port Authority
- Fairfield County Port Authority
- Fairport Harbor Port Authority
- Greater Mentor Port Authority
- Greene County Port Authority
- Guernsey County Port Authority
- Heath-Newark-Licking County
- Ironton City Port Authority
- Jefferson County Port Authority
- Lake County Port and Economic Development Authority
- Lancaster Port Authority
- Lawrence County Port Authority
- Lorain Port Authority
- Lorain County Port Authority
- Marion Port Authority
- Marysville-Union County Port Authority
- Mason Port Authority
- Medina County Port Authority
- Northwest Ohio Port Authority
- Port Authority of Springfield, Ohio
- Portage County Port Authority
- Put-In-Bay Township Port Authority
- Regional Port Auth. of Northwest Ohio
- Southeastern Ohio Port Authority
- Southern Ohio Port Authority
- SST Port Authority
- Stark County Port Authority
- Development Finance Authority of Summit County
- Toledo-Lucas County Port Authority
- Economic Development and Finance Alliance of Tuscarawas County
- Van Wert County Port Authority
- Vermilion City Port Authority
- Violet Township Port Authority
- Warren County Port Authority
- West Central Ohio Port Authority
- Western Reserve Port Authority
- Williams County Port Authority
- Wood County Port Authority
- Zanesville-Muskingum County Port Authority

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Port Authorities

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Port Authorities stimulate private sector growth by:
- Financing job-creating projects
- Financing infrastructure projects
- Administering abatement, loan, and grant programs
- Directly undertaking redevelopment projects

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"Authorized Purposes"

The power of any port authority is derived through the broad, flexible, nimble powers authorized by R.C. 4582.21(B), including the following authorized purposes:

- Activities that enhance, foster, aid, provide, or promote:
  - Culture;
  - Economic development;
  - Education;
  - Governmental operations;
  - Housing;
  - Recreation;
  - Research within the jurisdiction of the port authority; and
  - Transportation.
- Activities authorized by Sections 13 and 16 of Article VIII, Ohio Constitution.

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Power to Facilitate Transactions

A port authority may convey real or personal property in furtherance of any authorized purpose. R.C. 4582.31(A)(15) and (16).

A port authority may lease any real or personal property in furtherance of any authorized purpose. R.C. 4582.31(A)(4).

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Power to Facilitate Transactions

Port authorities are generally exempt from competitive bidding requirements for economic development projects. R.C. 4582.31(A)(18)(e). (Budget bill increases threshold to $250,000.)

Port authorities are generally exempt from prevailing wage requirements for economic development projects. R.C. 4115.04(B)(6).

Port authority facilities are generally exempt from sales and use tax.

Caveat: port authorities may not use moneys raised by taxation for economic development projects.

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Project Examples

Manufacturing
(i.e., tax-exempt manufacturing bonds)

Non-Profit (i.e., 501c3 bonds)

Governmental/infrastructure projects
(i.e., infrastructure revenue bonds)

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Financing Alternatives: Revenue Bonds

A port authority may issue revenue bonds for the purpose of providing funds to pay the cost of any port authority facility constructed for an authorized purpose.

Financing Alternatives: Sales Tax Abatements

- Many 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.

Power to Facilitate Transactions

- Port Authority financing routinely incorporates other Ohio economic development tools, including:
  - TIF programs
  - CRA abatements
  - EZ abatements
  - Special improvement districts (SIDs)
  - New community authorities (NCAs)
  - Joint economic development districts and zones (JEDD/JEDZ)
  - Property Assessed Clean Energy (PACE) financing

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Downtown Redevelopment Districts (“DRDs”)

Innovation Districts (“IDs”)

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Downtown Redevelopment Districts

- New tools for municipalities to promote redevelopment of historic downtowns
- Offer (i) opportunities for new property tax exemptions and (2) redevelopment charges that can be applied flexibly for redevelopment purposes
- Additional feature is innovation districts - mechanism to fund high-speed internet and related infrastructure

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DRDs: Background

- Nationally, increasing demand for opportunities to work and live in historic downtown communities, especially in innovation economy and among millennials and baby boomers
- Ohio has many beautiful, historic downtowns, thanks to its explosive growth years during the first half of the 20th century
- Redevelopment of historic properties and neighborhoods is often more expensive than “greenfield development”

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DRDs: Background

- Many communities do not have the resources necessary to kick-start redevelopment efforts
- Downtown needs include:
  - Façade improvements
  - Historic preservation
  - High-speed internet connectivity for business incubators and innovators
  - Streetscaping
  - Amenities to accommodate downtown living
  - Incentives to accelerate business incubation and growth

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Legislation: Am. Sub. H.B. 233

- Authored by Rep. Kirk Schuring, R-Jackson Township after discussions with Heritage Ohio (Michigan's DDA) and Bricker & Eckler (TIFs)
- H.B. 665 in the 130th General Assembly was similar but did not include innovation districts
- Progress:
  - October 27, 2015: Passed the Ohio House
  - April 13, 2016: Passed the Ohio Senate as amended
  - April 20, 2016: House concurred in Senate amendments
  - Signed into law May 6, 2016; Effective August 5, 2016

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Downtown Redevelopment Districts (DRDs) – Territory

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Not 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
- Cannot be residential-only or include areas already exempted from taxation under existing TIF

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Downtown Redevelopment Districts (DRDs) – Establishment

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Notice by first class mail to owners of property within proposed district

- Public hearing no sooner than 30 days after notice
- Created by ordinance of municipal corporation no sooner than 30 days after public hearing
- Ordinance must:
  - Specify term and amount of exemption and area
  - Include economic development plan for DRD, which outlines goals, explains collaboration among municipality, businesses and property owners, and plan for using revenue including infrastructure

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Downtown Redevelopment Districts (DRDs) – Establishment (cont.)

- 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 obtaining 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

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Downtown Redevelopment Districts (DRDs) – Establishment (cont.)

- 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

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Downtown Redevelopment Districts (DRDs) – Service Payments

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- Real Property Tax Exemption:
  - 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

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Downtown Redevelopment Districts (DRDs) – Additional Funding

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- 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

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Downtown Redevelopment Districts (DRDs) – 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)

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Downtown Redevelopment Districts (DRDs) – Use of Revenue (cont.)

- To finance public infrastructure improvements within DRDs, 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 bond anticipation notes; don't count toward statutory debt limits)

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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

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Innovation Districts

- Funding Authority
  - DRD revenue can be used to offer loans or grants to incubators or accelerators within ID with condition that it must be used for businesses within ID; must include monitoring and tracking provisions

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Summary

- Am. Sub. H.B. 233 provides several useful tools that communities can use to boost redevelopment of historic neighborhoods
- Through DRDs and IDs, municipalities can provide loans and grants and can pay for infrastructure improvements necessary to revitalize Ohio's many historic urban areas
- DRDs and IDs also can be used to provide support for business attraction efforts and incubator/accelerator projects

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Questions?

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