

Economic Development Tools for Local Governments

Ohio Government Finance Officers Association

Adam Seeley

Attorney

Bricker Graydon

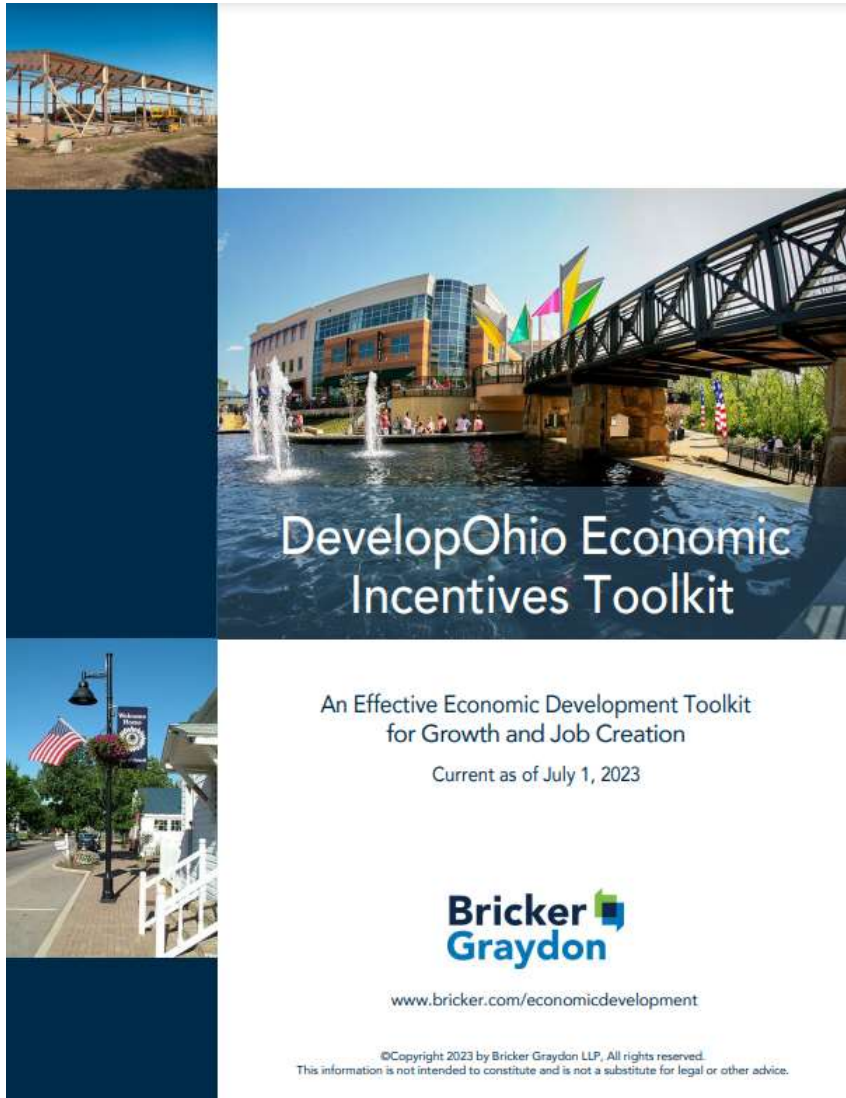
Tyler Compton

Attorney

Bricker Graydon



Free resource: *DevelopOhio* Toolkit




- Updated Summer 2023
- *DevelopOhio* blog's free resource:
 - Economic Incentives Toolkit
 - State & local public finance tools
- Since 2011
- User-friendly by design
 - Desk reference guide for “greenhorns” to experienced economic developers

https://bricker.com/documents/develop-ohio-toolkit_July_2023.pdf

Two Sides of the House



Argus Services (in a nutshell)

- Development of CEDAs and strategic plans
- Analysis of economic development tools to determine community impacts and **ROI (modeling of programs)**
- *Auditing established TIFs and other tools to determine proper administration* 
- Bond administration
- Site selection services
- Incentive negotiation (private sector)
- Specialized project management

Our Discussion Topics Today

- **Economic Development Tools (emphasis on counties)**
 - Tax Increment Financing (TIF)
 - Community Reinvestment Areas (CRA)
 - Enterprise Zones (EZ)
 - Port Authorities
 - PACE Financing (PACE)
 - New Community Authorities (NCA)
- **Economic Development Compliance and Troubleshooting**
 - Tax Incentive Review Council

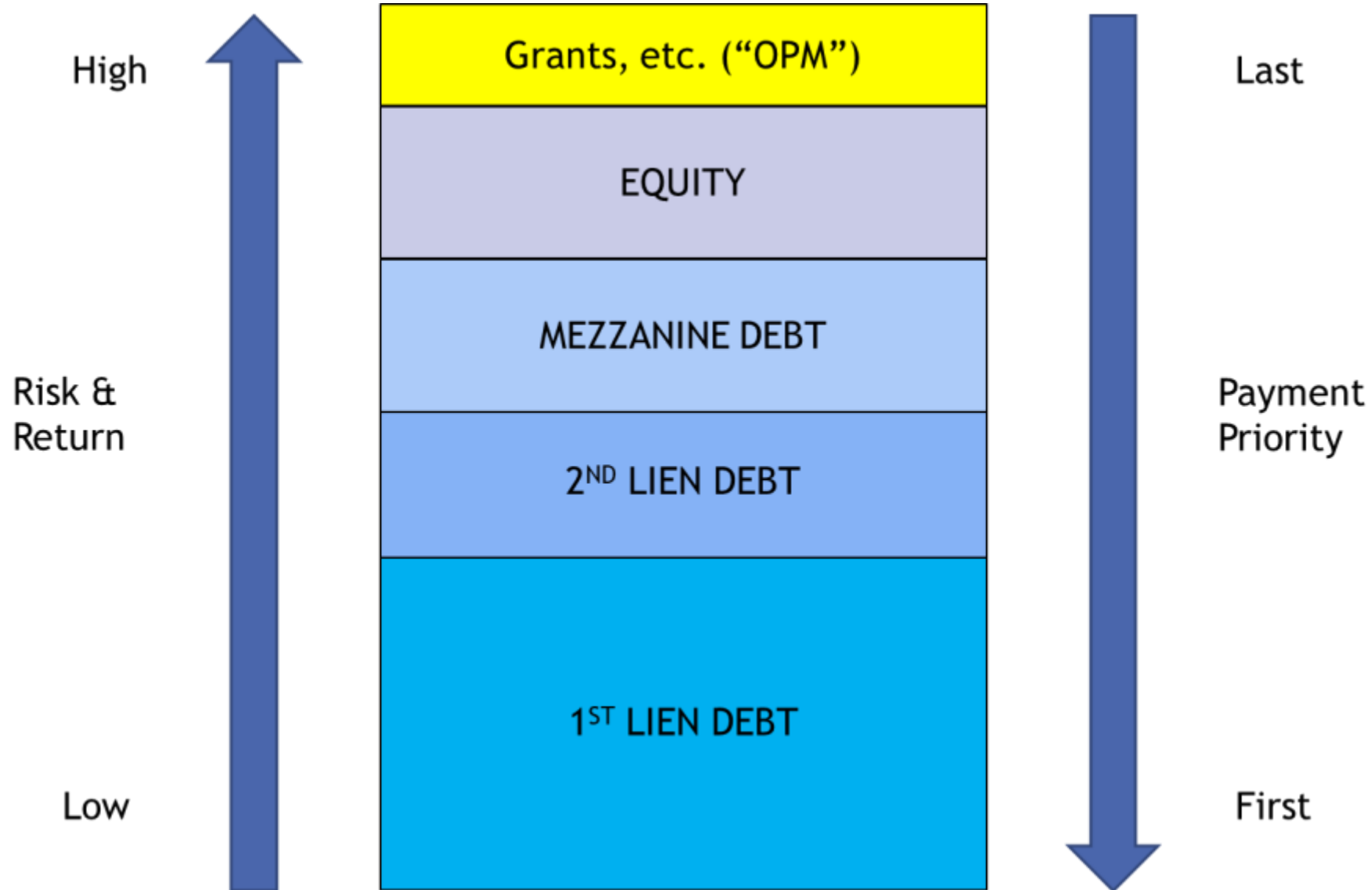
Economic Development

- *How Do Communities Encourage Growth?*
- Leveraging tax liability via credits/abatements regarding:
 - Income tax (municipal, State)
 - Property tax (local government) ***[MOST COMMON]***
 - Sales tax (port authorities)



- What forms of public investment are available to get economic development deals to “pencil out?”
- What is a **project’s *capital stack***?
 - Sources & Uses of Funds table
 - Other Peoples’ Money (OPM)
 - Which tools are employed by my community?
 - How do public sector incentives factor?
- **Deploying TIF & other public financing tools for infrastructure financing**

Capital Stack



Economic Development Tools

Combining With Other Tools

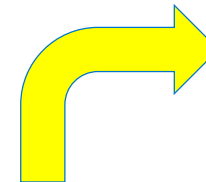
I. ABATING Tax

- ❖ *Community Reinvestment Area (CRA)*
- ❖ *Port Authorities*



II. DIVERTING Tax

- ❖ *Tax Increment Financing (TIF)*



III. ADDING Tax

- ❖ *New Community Authorities (NCAs)*
- ❖ *Special Improvement Districts*



Community Reinvestment Areas (CRA)

Abating Taxes



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Community Reinvestment Areas

- Abates taxes
- Required characteristics of area:
 - Housing facilities or structures of historical significance
 - New construction and repair of existing facilities or structures has been lacking or discouraged
 - Objective signs of dis-investment
- Council/Board creates area after conducting housing survey

Community Reinvestment Areas

Local Control

- Legislation establishing area may set incentive parameters:
 - Eligible property types (residential, commercial/industrial)
 - Eligible investment thresholds
 - Period of exemption (maximum 15 years)
 - Percentage of exemption (maximum 100% of increase in taxes)
 - Compensation to overlapping subdivisions

Community Reinvestment Areas



Granting Exemptions

All residential:

- Construction/remodeling occurs
- Application to housing officer
- Verification
- Housing officer grants
- Forward to county auditor

• Commercial:

- Pre-94 – same as residential
- Post-94:
 - Negotiate agreement *prior* to beginning of construction
 - May require school district consent
 - Certify agreement to ODOD

Community Reinvestment Areas

Senate Bill 33 updates—Effective April 3, 2023

- SB 33 made significant program changes for Municipalities in key areas:
 - CRA creation/amendments
 - CRA Agreements
 - CRA Reporting
 - Income tax revenue sharing

Community Reinvestment Areas

Senate Bill 33 updates—Area creation and amendments new ORC 3735.66

- Petition process to State has been eliminated
 - Instead, must send copy of Resolution, and map in sufficient detail to denote specific boundaries of the area to director of development;
 - Must send via *certified mail*
 - Must send “upon adoption” (immediately upon effective date of legislation) this is a shorter timeframe (previously “within 60 days”)
- Still must wait for state to “assign...a unique designation” to grant exemptions—should streamline the process. Petitions could take months to resolve previously even though ODoD was tasked with determination within 30 days.
- No longer need to supplement information on zoning changes within the areas

Community Reinvestment Areas

Senate Bill 33 updates—CRA Reporting--new ORC 3735.672

- No longer required to give notice to Schools of yearly report (sometimes school reps are part of TIRC anyways)
- Streamlined annual March 31 reporting requirements:
 - Total number of CRA Areas
 - Total number of active agreements
 - Total number of new/amended agreements during calendar year
 - Total number of agreements where company is in noncompliance on job numbers
 - Changes to area map or zoning within area
 - Copy of agreements executed or amended during reporting year (no longer must send agreements to ODoD within 15 days of legislative approval)
- ODoD will create database of maps of all CRA areas and copies of all resolutions authorizing CRA areas

Community Reinvestment Areas

Senate Bill 33 updates—CRA Agreements--new ORC 3735.671

- Streamlined set of “required” terms
 - Description of property
 - Percentage and term of real property exemption
 - Require payment of taxes not exempted
 - Certification of no delinquent taxes
 - Provide TIRC with any information reasonably required
 - Agreement not transferrable or assignable without local approval
 - ***Statement of circumstances of revocation of exemption and recovery of received benefits (noncompliance vs. “material failure to fulfill obligations”)***
 - ***But Wait! SB 94 just passed in June 2024 making this an OPTIONAL provision (Still awaiting Governor signature)***
 - Estimate of employment opportunities created and retained
- Can agree to terms not included in new required list
 - Can still charge application/program fees as appropriate (e.g. budget for TIRC/housing officer/housing council)
 - Require local participation (vocational school, local Chamber of commerce participation, etc.)
- ODoD will come out with model Agreement—date TBD—JCARR process—but you don’t have to use it.
- School Board approvals not required unless abatement exceeds 75% (still must comply with standard notice provisions)

Community Reinvestment Areas



Senate Bill 33 updates—Municipal Income Tax Revenue Sharing-new ORC 5709.82

- For CRA Program only—threshold for automatic compensation of municipal income tax revenue sharing to school districts under ORC 5709.82 is increased from payroll of \$1 million, to \$2 million in 2023 and further increased by an inflation scaler each year after.
- For 2023, because 3 months of \$1 million and 9 months of \$2 million, we may see updated guidance from ODoD on the nominal threshold amount.
- This is effective for *all* CRA agreements, even those executed prior to April 3, 2024.
- If you have an agreement with Schools that ties revenue sharing to \$1m threshold, the agreement controls—the change reflects statutory compensation without agreement
- TIF and Enterprise zone exemptions are still set at the \$1 million threshold.

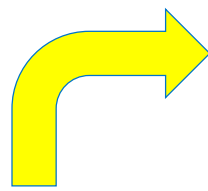
Community Reinvestment Areas

SB 166 Update (March 2022)

- SB 166 (effective March 23, 2022) updated joint vocational school district compensation requirements for CRA
- Previously, ORC 5709.82 only required compensation to a JVS “at the same rate and under the same terms” as compensation provided to the local schools in connection with TIF and EZ exemptions
- SB 166 now requires compensation for CRA as well (applies to voluntary and required compensation from local government and to compensation from property owner)
- Also applies to payments made under ORC 3735.671 to avoid school consent

Port Authorities

Tax Incentives and Financing Support



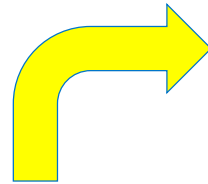
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Port Authority Options

- Powerful financing mechanism for development projects
- Flexible structures; can include public and private portions of project
- County/Township/City debt issuance may be avoided
- Sales tax exemption for commercial projects
- Prevailing wage and competitive bidding EXEMPTIONS

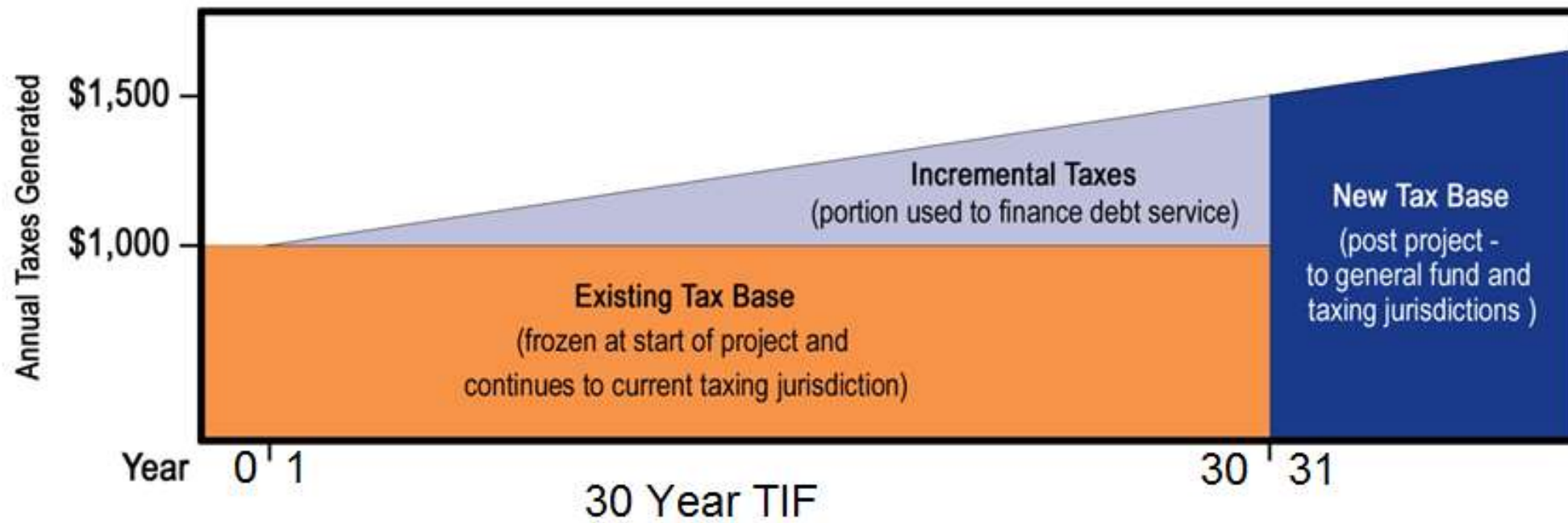
Tax Increment Financing (TIF)

Redirection of Taxes



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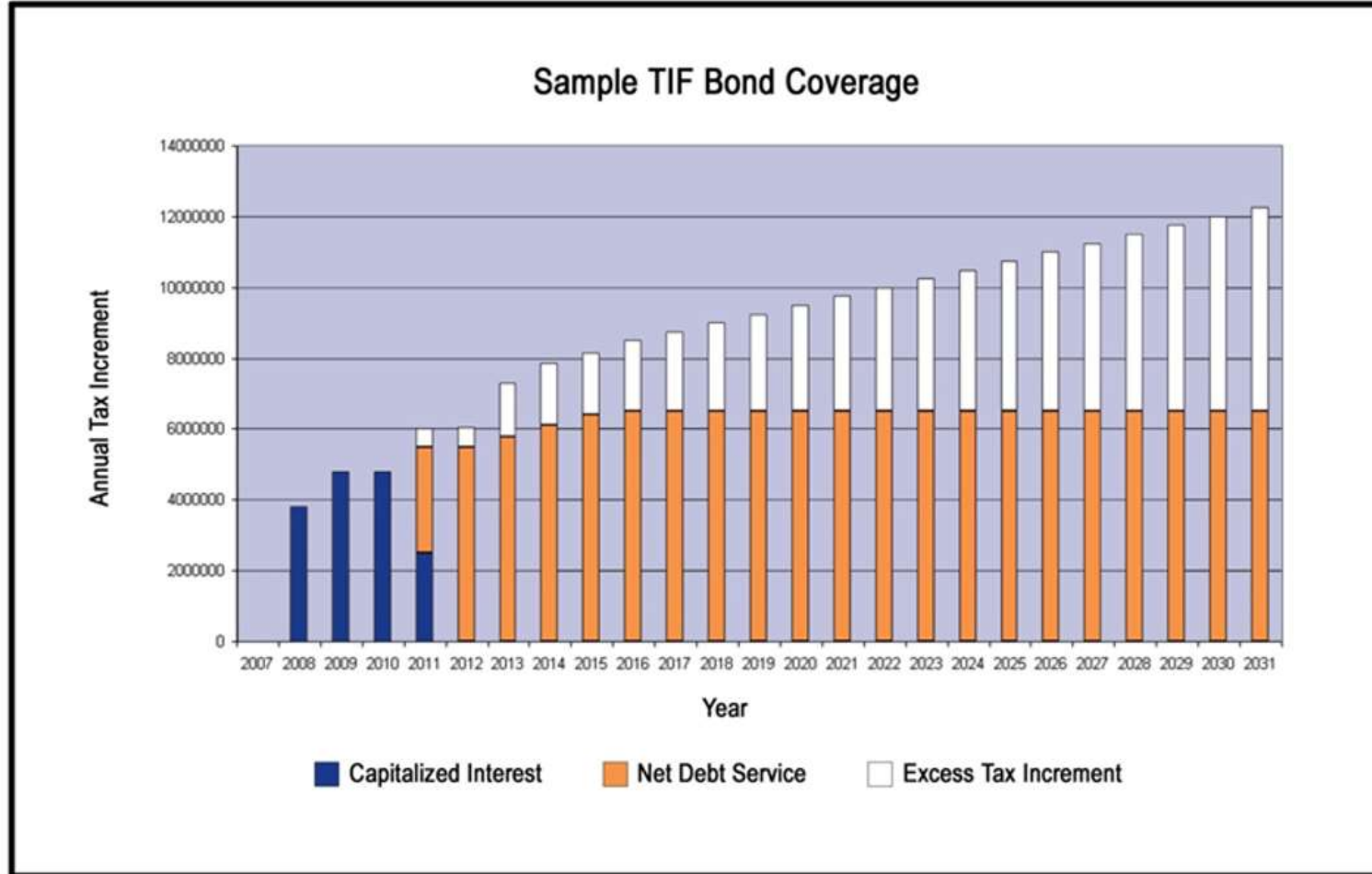
Basic TIF Model



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

- Bond Financing
 - Challenges based on speculative revenue stream
 - Could be tax-exempt
- Pay-As-You-Go Financing
 - Developer responsible for financing and providing necessary security to lender
 - Harder to do tax-exempt financing

Leveraging TIF



* "Tax Increment Finance Best Practices Reference Guide" (CDFA and ICSC), page 29.

Benefits of TIF

- Not a new tax – redirection of tax paid in normal course
- Can be utilized with tax-exempt bonds
- Can be coupled with direct tax incentives
- Generally strong collection enforceability – lien status

Challenges with TIF

- Dependent on development – hard to leverage
 - Can be addressed by combining with assessment tools
- Controversial when TIF “takes” money away from other local government entities

Tax Increment Financing (TIF)

- Redirect new tax property tax revenue in connection with a new development (or redevelopment) away from normal recipients and toward payment of costs of improvements that benefit that development
 - Infrastructure Improvements
 - Direct Development Costs

Redirect Taxes – Increment

- Increase in real estate taxes resulting from development over and above the value prior to the date that the development occurred.
- Existing taxes continue to go to taxing districts (i.e., schools, county, city, continue to receive predevelopment tax revenues).
- Property owner does NOT receive a tax break--Service Payments in Lieu of Taxes (PILOTs). But could be used in conjunction with a tax abatement

- Project TIF (Commercial)
 - County: R.C. 5709.78(A)
 - Comprised of individual parcels
 - Public improvements must “directly benefit” parcels exempted
 - No residential development (only available to municipalities)
- Incentive District TIF (Residential)
 - County: R.C. § 5709.78(B)
 - Up to 300 contiguous acres exhibiting one or more characteristics of economic distress
 - Public improvements do not need to directly benefit every parcel, but must “benefit or serve” the district created

New Community Authority

Self-assessed Charges +

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- **General Characteristics**

- Newly popular economic development tool designed to create user-paid revenue streams for public infrastructure projects
- 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
 - Until March 22, 2019—large developments only—minimum 1,000 acres unless wholly within a municipality or at least half of territory is within JEDD
 - After March 22, 2019—no minimum acreage required regardless of location

New Community Authorities

- Powers
 - Board
 - Appointed by developer and organizational board 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, business revenues (including lease rentals), other bases
- Issue taxable or tax-exempt bonds or other obligations

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

NCA Concept - Enhancement



Property Assessed Clean Energy (PACE)

Self-assessed Charges +

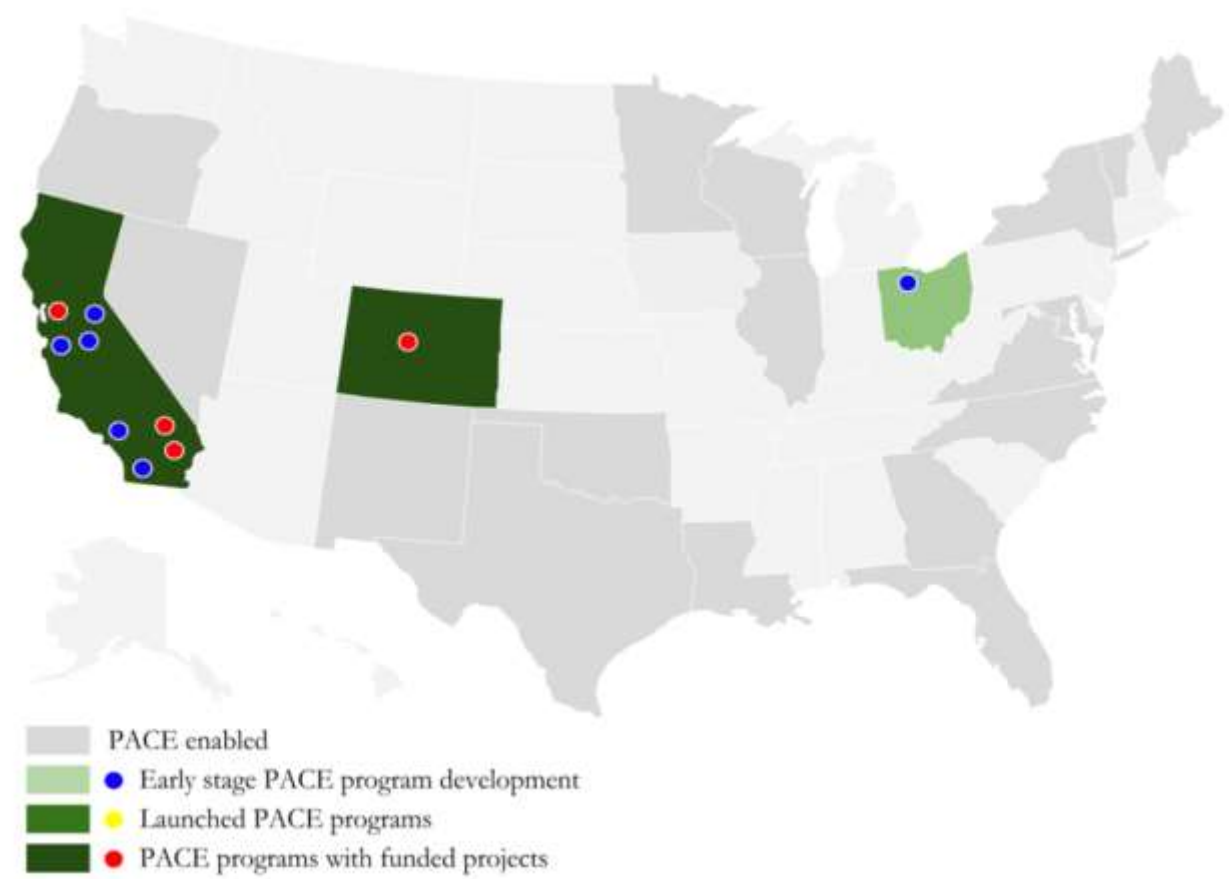


PACE Fundamentals

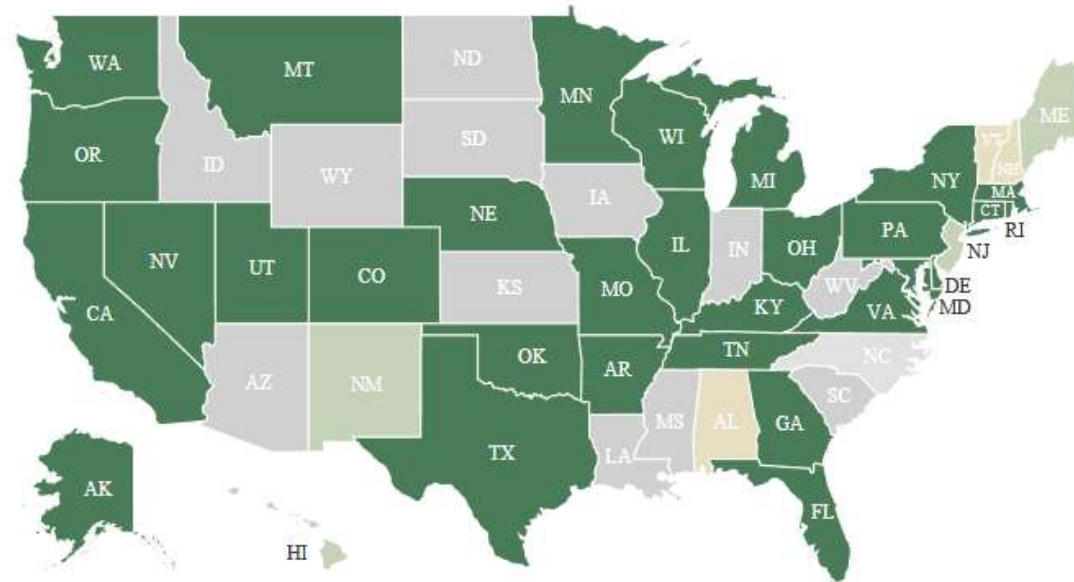
- An Acronym Says A lot!
Property, meaning that the financing mechanism improves real property and is secured with an interest in real property
Assessed, meaning that the financing mechanism is paid for with special assessments
Clean
Energy, meaning energy efficiency and alternative energy improvements are eligible for financing



PACE in 2010



PACE in 2023



Map key



Active program(s)

Program in development

PACE-enabled

<https://www.pacenation.org/pace-programs/>

State Authorized Legislation



R.C. 1710.02(A)

- Over 32 states have enacted legislation creating PACE Programs
- States have several PACE laws for various reasons:
 - PACE is covered in more than one law
 - PACE laws have been passed over time to implement various aspects of PACE financing
 - PACE laws have been amended
- A special improvement district may be created within the boundaries of any one municipal corporation, any one township, or any combination of municipal corporations and townships within a single county, or counties that adjoin one another * * *
- territory in a special improvement district may be noncontiguous if at least one special energy improvement project or shoreline improvement project is designated for each parcel of real property included within the special improvement district.

Local Process – Project Identification

- Property owner submits petition to local government identifying the project, the assessments, and other aspects of the project

Local Process – Legislation (ORC 727)

- Local government adopts several pieces of legislation (can be all at once):
 - Resolution of Necessity
 - Ordinance to Proceed
 - Ordinance Levying Assessments

Local Process – Closing and Afterward

- Local government enters into two agreements for each transaction.
- Local government agrees to transfer any assessments actually received to the PACE lender.

Energy Special Improvement Districts

- ESIDs are available for all property types (i.e., residential, commercial, industrial, non-profit and government property)
- Property Owner Petition
- City/Twp Approval to Form or Join ESID
 - 5 member ESID Board for New ESID
 - 2 City/Twp representatives on ESID Board if City/Twp Joins ESID
- City/Twp Approval for Each Project

“Energy Efficiency Improvement” is given a special statutory definition:

- “...energy efficiency technologies, products, and activities that (1) reduce or support the reduction of energy consumption, (2) allow for the reduction in demand, or (3) support the production of clean, renewable energy and that are or will be permanently fixed to real property.”

“Reduction In Demand” means:

- “...a change in customer behavior or a change in customer-owned or operated assets that reduces or has the capability to reduce the demand for electricity as a result of price signals or other incentives.”

Eligible Improvements

- Energy efficiency improvements (ORC 1710.01(K)):
 - HVAC
 - Lighting
 - Roofs, windows, insulation
- Alternative energy improvements
 - Solar PV and solar thermal
 - Geothermal
 - Customer-generated (e.g., biomass, micro-wind)



Special Assessments for Private Energy Improvements

- PACE assessments use existing or modified special assessment laws.
- PACE assessments fund private improvements.
- States adopted PACE laws or relied on State constitutional provisions stating that private energy conservation is a “public good.”
- PACE is 100% voluntary.
- Due process concerns are modified or reduced.

Special Assessments Generally – Public Use

- Special assessments:
 - governmental charges
 - not taxes
 - imposed on real property near an improvement
 - used to pay the costs of improvement
 - imposed in recognition of the “special benefit” received
 - collected like real property taxes
- Special assessments are traditionally imposed for “public use” improvements.
- Examples:
 - Roads
 - Sidewalks
 - Lighting improvements
- The “public use” element is fundamental to the use of governmental power to lien property.
- The “public use” element requires extensive due process, including notices and hearings.

Special Assessments (cont.)

- improvement of any street, alley, dock, wharf, pier, public road, place, boulevard, parkway, or park entrance or constructing sidewalks, piers, wharves, docks, retaining walls, sewers, sewage disposal works and treatment plants, sewage pumping stations, water treatment plants, water pumping stations, reservoirs, and water storage tanks or standpipes, drains, storm-water retention basins, watercourses, water mains, or laying of water pipe, or the lighting, sprinkling, sweeping, or cleaning thereof, or removing snow therefrom, the cost of shade trees thereupon; the cost of a voluntary action to remove hazardous substances by a special improvement district; the cost of constructing, maintaining, repairing, cleaning, and enclosing ditches; the cost of operating, maintaining, and replacing heating and cooling facilities for enclosed pedestrian canopies and malls; the cost of acquiring and improving facilities for off-street parking; the cost of operating and maintaining off-street parking facilities; and the cost of changing the channel of, or narrowing, widening, dredging, deepening, or improving, any stream or watercourse, and for constructing any levees or boulevards along any stream or watercourse, together with any retaining wall, riprap protection, bulkhead, culverts, approaches, flood gates, waterways, or drains incidental to any stream or watercourse, or any other improvement of any river or lake front

Special Assessments – Auditor Fees

- ORC 727.36
 - In placing any assessment on the tax list, the county auditor shall add to each assessment such per cent as he deems necessary to defray the expense of collecting it.
- Average Fee collected 1.63%

Special Assessments (County Auditor)

- Special Assessments:
 - Special: in addition to other real property taxes and charges, and for a very specific purpose
 - Assessment: levied against real property for payment with real property taxes
 - Note: unlike other economic development tools, special assessments are very old
 - Can support tax-exempt obligations

Special Assessments (County Auditor)

- ORC 319.61
- Ordinance to Proceed
 - In order to preserve the highest priority lien for the special assessments, the ordinance to proceed must be certified to the County Auditor within 15 days of its passage (O.R.C. 319.61)
- Ordinance to Levy Assessment
 - In order to preserve the highest priority lien status, the ordinance of assessment must be certified to the County Auditor within 20 days of its passage (O.R.C. 319.61).

Tax Incentive Review Councils (TIRCs)

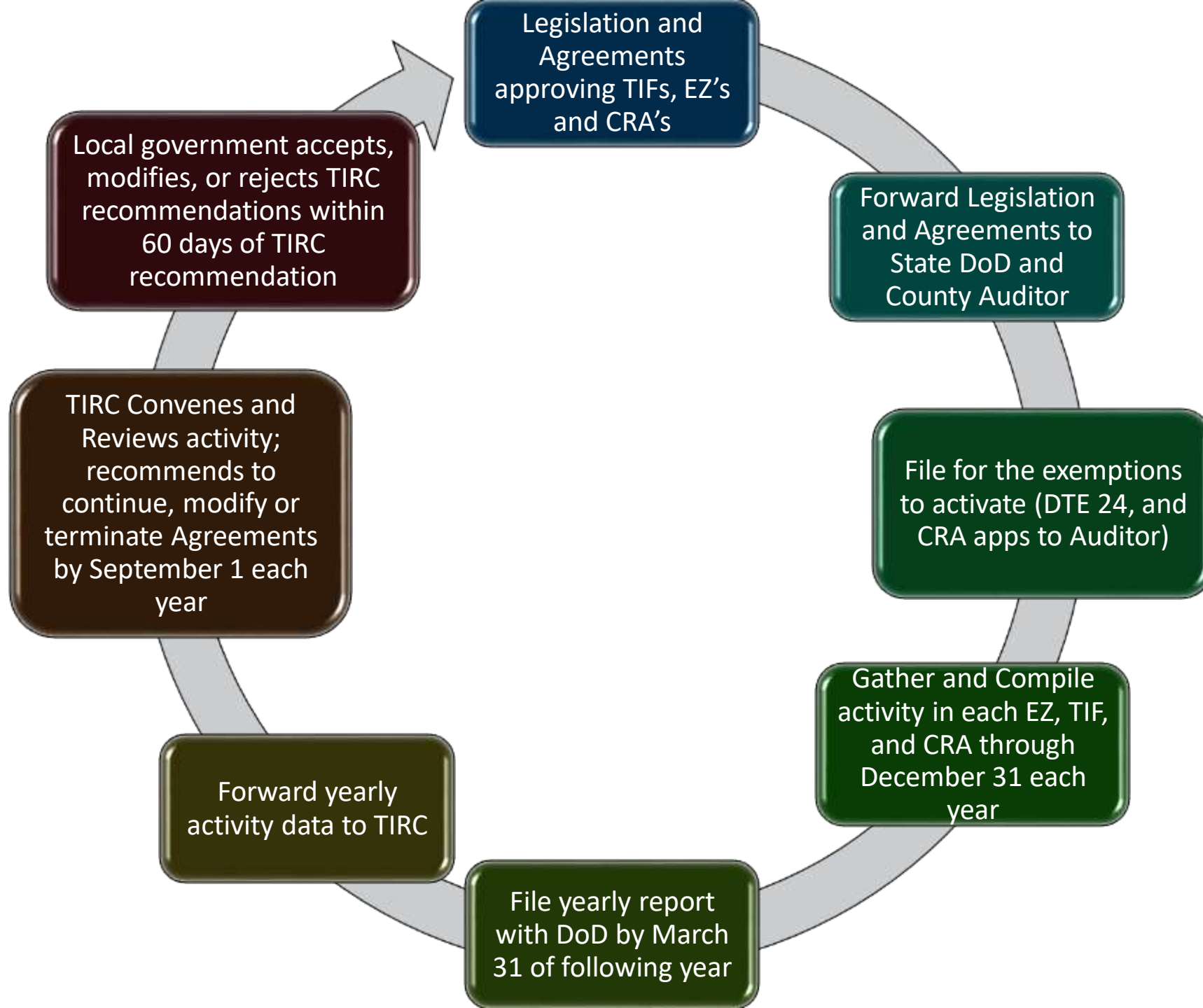
Keeping the Programs Honest



Incentive Compliance Activity

Accountability, Transparency & Tax Incentive Review Councils (“TIRCs”)

- Work of economic development **continues after the deal closes**
 - **Post-deal compliance** every bit as important as project announcement & ground-breaking
 - Incentives are memorialized by **contract**
 - Executed prior to project commencement!
 - Taxpayer funds!
- **Annual cycle of Activity and Reporting**



Legislation and Agreements approving TIFs, EZ's and CRA's

- **County**

- TIF – R.C. 5709.78
- CRA – R.C. 3735.671
- EZ – R.C. 5709.63

- **Township**

- TIF – R.C. 5709.73
- CRA (new authority in 2023 for “Limited Home Rule Townships”) R.C. 3735.66

- **Municipal Corporation**

- TIF – R.C. 5709.40
- CRA – R.C. 3735.671
- EZ (if a Principal City of MSA) – R.C. 5709.62

Forward Legislation and Agreements to State DoD and County Auditor

-
- **Enterprise Zone**
 - Send copy of Agreement to Department of Development and taxation within 15 days of the effective date of the Agreement (R.C. 5709.63(H))
 - **Community Reinvestment Area**
 - Send copy of any agreement approved, executed or amended by March 31 of following year (R.C. 3735.672)
 - **Tax Increment Financing**
 - Send copy of Legislation to department of development within 15 days of passing legislation (R.C. 5709.40, 5709.73, 5709.78)
 - Send status report by March 31 of following year (R.C. 5709.40, 5709.73, 5709.78)
 - **Each Program should forward courtesy copies to County Auditor (not required but best practice)**

File for the exemptions

DTE 24; County Auditor

- **DTE 24**
 - Enterprise Zone and TIF
 - Applications can be filed any year **before** the exemption would be eligible, however, if the property owner is filing, taxes for the year generally need to be paid in full
- **County Auditor**
 - CRA
 - Based on application by Housing Officer to County Auditor to activate the abatement for a specific tax year

Gather and Compile Annual Activity

The Companies Receiving the Benefits Do the Heavy Lift

- Enterprise Zone:
 - - Company Report
 - https://dam.assets.ohio.gov/image/upload/development.ohio.gov/business/stateincentives/01262024_2023_Blank_EZ_Company_Report.pdf
- CRA:
 - Company Report
 - <https://dam.assets.ohio.gov/image/upload/development.ohio.gov/business/stateincentives/2022-Blank-CRA-Company-Report.pdf>

File Yearly Report by March 31

Local Governments Report Aggregate Data from Individual Company Reports

- Enterprise Zone:
 - Gov Report
 - https://dam.assets.ohio.gov/image/upload/development.ohio.gov/business/stateincentives/01262024_2023_Blank_EZ_Zone_Report.pdf

- CRA:
 - Gov Report
 - [https://dam.assets.ohio.gov/image/upload/development.ohio.gov/business/stateincentives/01312024_2023_CRA_Area_Annual_Report.p
df](https://dam.assets.ohio.gov/image/upload/development.ohio.gov/business/stateincentives/01312024_2023_CRA_Area_Annual_Report.pdf)

- TIF:
 - Gov Report
 - https://dam.assets.ohio.gov/image/upload/development.ohio.gov/business/stateincentives/01242024_Blank_2023_TIF_Report.pdf

File Yearly Report by March 31

What's the Why?

- Failure to Submit CRA and EZ Reports carries penalties
- Currently, there is a low enforcement regime in state government (good for business, good for governments) but it takes one voting cycle, or one major project failure for the text of the law to be enforced
- - Barred from entering into additional agreements until reports filed
- - **\$500 per month withheld from next settlement of real property taxes or next LGF payment (per report) (\$1000 per month for missed EZ Report)**

Forward Data to TIRC

- Once reports have been filed for companies and areas by March 31, Ready to prepare to convene TIRC.
- TIRC can request additional information needed to review Non-discriminatory Hiring Practices
- TIRC can also request “any information reasonably necessary for the Council to make the determinations” under R.C. 5709.85(C) (Continue, Modify, Cancel)

TIRC Convenes

TIRCs – General Comments (*cont.*)

- **Review all agreements granting exemptions** from real & personal property taxes
- **Determine whether property owner has complied with Agreement**
 - May take into consideration any fluctuations in business cycle
- On basis of such determinations, TIRC submits to legislative authority written recommendations:
 - Continue, cancel, or modify each agreement
- TIRC meets annually & presents recommendations regarding each agreement **no later than September 1st**
 - Practice tip: hold TIRC meeting during **summer months**

TIRC Convenes

TIRCs – Member composition

- Counties & non-Principal MSA cities:
 - County Commissioners: 3 members
 - Each municipality w/ active EZ agreement: 2 members (appointed by chief executive w/ concurrence of legislative authority)
 - Each township w/ active EZ agreement: 2 members (appointed by township trustees)
 - County auditor (or designee)
 - Each board of education to which EZ applies: 1 member (appointed by school board)
 - Each joint vocational school district to which EZ applies: 1 member (appointed by board)
 - ≥ 2 members as residents of municipalities / townships

TIRC Convenes

TIRCs – Member composition

- Townships with active TIFs:
 - Board of Trustees
 - County auditor (or designee)
 - Each board of education to which EZ applies: 1 member (appointed by school board)
 - Each joint vocational school district to which EZ applies: 1 member (appointed by board)

TIRC Convenes

Run of Show

- **1. Call to Order**
- **2. Roll Call**
- **3. Approval of Minutes:**
- **4. Recommendations on Current Tax Exemption Agreements**
- **5. Report on Tax Increment Financing (TIF) Projects**
- **6. Other Business**
- **7. Adjourn**

TIRC Convenes

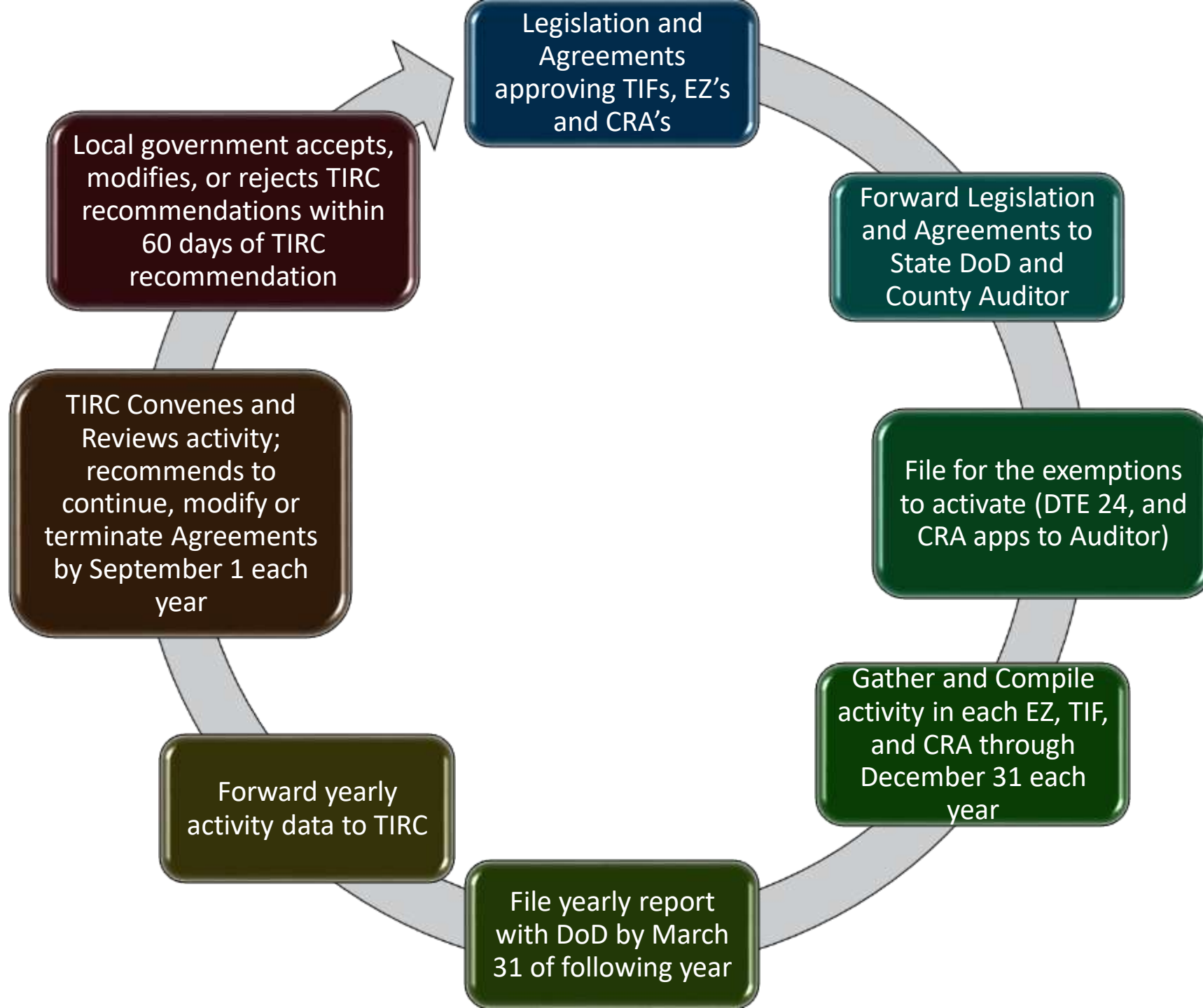
Recommendation On Current Tax Exemption Agreements

- **Brief Report by Local Government member about status of project, key metrics in 2023 Reports/Data**
- **Company Reps can give any updates if they are present**
- **Chair calls for motion to recommend [continuation/modification/cancellation]**
- **Motion Seconded**
- **Discussion on Motion**
- **Vote on Motion**

Local Government Convenes

Local Government Receives Minutes and Recommendations from the TIRC

- TIRC sends Recommendations and Minutes of TIRC Meeting to Legislative Authority of each Political Subdivision with projects reviewed by September 1
- Local Government acts within 60 days of receipt of TIRC Recommendations



Q & A



Questions?

Adam Seeley
Attorney

aseeley@brickergraydon.com

Tyler Compton
Attorney

tcompton@brickergraydon.com

