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# COUNTY ADVISORY BULLETIN

CAB

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September 2016

## DOWNTOWN REDEVELOPMENT AND INNOVATION DISTRICTS

**APPLICABLE LEGISLATION:** HB 233 (131st General Assembly)

**REVISED CODE SECTIONS EFFECTED:**

**Amends sections:** 133.04, 133.06, 149.311, 709.024, 709.19, 3317.021, 4582.56, 5501.311, 5709.12, 5709.121, 5709.82, 5709.83, 5709.831, 5709.832, 5709.85, 5709.91, 5709.911, 5709.913, and 5715.27

**Enacts sections:** 1710.14, 1724.12, 5709.45, 5709.46, and 5709.47

**LEAD SPONSOR:** Representative Schuring

**EFFECTIVE DATE:** August 5, 2016

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Redevelopment in core areas of many Ohio cities and villages often pose challenges due to fiscal constraints. This legislation is designed to provide additional tools to meet those challenges by establishing Downtown Redevelopment Districts (DRDs) and Innovation Districts. The DRDs operate similarly to tax increment financing districts (TIFs) except that the collected service payments can be used for a wider array of uses, including grants and loans to owners of historic buildings for rehabilitation.

Once a DRD has been created, the bill allows for an Innovation District to be established within the DRD. The idea behind Innovation Districts is to attract and support technology oriented businesses by offering creative grant and loan programs to tech startups.

## **POTENTIAL TOOL FOR COURT HOUSE RESTORATION AND RENOVATION**

Since county courthouses are the heart of many historic downtown areas, there are opportunities for courthouse projects to fit within the intent of the legislation. DRDs must include at least one historic building that is being rehabilitated, or that will be rehabilitated after the district is created. A county courthouse qualifies as a "historic building" when certain conditions explained herein are met.

Furthermore, qualification as a "historic building" allows access to [federal and state tax credits available](#) that can be incorporated into the financing package that when joined with the DRD financing will make the courthouse restoration or rehabilitation viable. The State Historic Preservation Office will assist the county by reviewing the applications to qualify the courthouse for the tax credit programs and ensure that the scope of the proposed renovations complies with the Secretary of the Interior's Standards for Rehabilitation.

## **DOWNTOWN REDEVELOPMENT DISTRICT (DRD) PROGRAM PROVISIONS**

Under the bill (ORC Secs. 5709.45, 5709.46 and 5709.47), municipalities are authorized to create "downtown redevelopment districts" (DRDs) and "innovation districts" for the purposes of promoting the rehabilitation of historic buildings, creating jobs, encouraging economic development in commercial and mixed-use areas and supporting grants and loans to technology-oriented and other businesses. The rules and procedures associated with DRDs are similar to those that apply to tax increment financing (TIF) districts. Under the act, a municipal corporation is authorized to exempt a percentage of the increased value of parcels located within the DRD from property taxation and require the owners of the parcels to make service payments in lieu of taxes. The revenue derived from the service payments must be used for the economic development purposes prescribed by the act.

### **District Creation**

DRDs are created by ordinance of the legislative authority of a municipality. The ordinance must describe the area included in the district, which can't exceed 10 acres, the number of years the district will exist and an economic development plan for the district. The municipal corporation must hold a public hearing on the proposed ordinance at least 30 days before voting to adopt the ordinance and must give notice by first class mail to each owner of real property located within the proposed district at least 30 days before the hearing.

### **District territory**

The area included in a DRD must be enclosed by a continuous boundary and consist of no more than ten acres. The DRD may not spend funds on the rehab of housing or permit a DRD used exclusively for residential purposes. DRDs cannot be used in areas where a current or past TIF existed. The DRD must include at least one historic building that is in the process of being rehabilitated, or that will be rehabilitated after designation of the district.

### **Economic development plan requirements**

The economic development plan for a DRD must include a statement describing the purposes and goals of the district, an explanation of how the municipal corporation will collaborate with businesses and owners of property within the district, and a plan for using the revenue generated from the property owners' payments in lieu of taxes. If the municipal corporation

intends to use those payments to finance public infrastructure improvements, the plan must identify specific projects that will be funded and describe how they will accommodate additional demands on the existing infrastructure within the district.

### **District revenue sources/uses**

#### *Property tax exemption on increased valuation*

The legislative authority of the municipal corporation that adopts a DRD ordinance may exempt up to 70% of improvements to parcels located within the DRD district. The property tax exemptions are generally prohibited from lasting longer than ten years. However, they may last up to 30 years if the municipal corporation creating the DRD either obtains the approval of each school district affected by the exemptions or reimburses each such school district for any foregone property tax revenue. The process for obtaining school district approval is identical to the process applicable under the TIF law. Counties are entitled to 50% of the taxes from their general fund inside millage that would have been collected on the increased value of property which is deposited into the county general fund but may negotiate against this entitlement.

Service payments, equal to the amount of real property taxes that would have been charged on the value exempted from taxation, are collected and distributed at the same time and in the same manner as real property taxes. The service payments are deposited into a "municipal downtown redevelopment district fund" managed by the municipality that created the DRD.

NOTE: As with TIFs, revenue from certain special-purpose levies may not be diverted and the levy funded agency continues to receive the revenue in the form of a service payment. The special levies that qualify for this treatment are the same levies prescribed under TIF law (ORC Sec. 5709.45 (H)).

#### *Redevelopment charges*

The municipality may enter into agreements with the property owners within the DRD to impose a "redevelopment charge" on the property. This redevelopment charge is in addition to service payments collected in lieu of taxes and is a covenant running with the land subjecting future purchasers to its terms. A redevelopment charge may be a fixed dollar amount or a variable amount determined on the basis of the assessed valuation of the property or all or part of the profits, gross receipts or other revenues of a business operating on the property. The charge may also be itemized as part of the lease rate to tenants. In addition to the amount and its calculation, the redevelopment charge agreement must specify how the charge will be collected, the termination date of the charge (no later than the expiration or termination of the DRD), and the purposes for which the charge may be used which may include any or all of the purposes designated in the DRD ordinance.

The redevelopment charge agreement may specify the manner in which unpaid redevelopment charges are collected. If no method is specified under the terms of the agreement, the municipal corporation may certify the unpaid charge to the county auditor for entry on the tax list. The charge is then a lien on the property and is collected in the same manner as real property taxes.

#### *Use of revenue*

As with TIFs, DRD funds, which are all deposited into the "municipal downtown redevelopment district fund", may be used to finance public infrastructure improvements to the extent

authorized in the ordinance creating the district. This includes public roads and highways; water and sewer lines; environmental remediation; land acquisition; demolition; stormwater and flood remediation projects; provision of gas, electric, and communications service facilities; and enhancement of public waterways through improvements that allow for greater public access.

One of the unique purposes for DRD revenue is to finance grants and loans to owners of historic buildings and other property located within the district. An owner must use the grant or loan to rehabilitate a historic building or they may receive a loan to make repairs and improvements to a nonhistoric building. If a loan or grant is awarded, the municipality must develop a plan for tracking the building owner's use of the funds and the progress of the project.

DRD funds may also be used to make contributions to special improvement districts (SIDs), community improvement corporations (CICs) or to a nonprofit corporation organized for the purpose of redeveloping historic buildings and districts. A SID or CIC receiving the funds must use them to promote the district to potential business patrons, to recruit businesses to relocate to or expand in the district and to attract and promote events and activities that generate or enhance public welfare within the district. These entities must periodically report on expenditures of past contributions and plans for utilization of future contributions. One restrictive caveat on the use of DRD funds to SIDs, CICs and nonprofit corporations is that the amount allocated to them may not exceed the property tax revenue that would have been generated by 20% of the assessed value of the exempted improvements within the DRD.

### **Reporting requirements**

The municipality must notify the Development Services Agency (DSA) within 15 days after adopting an ordinance that creates a DRD. By March 31 of each year thereafter, the municipality must submit a progress report to DSA that includes, among other items, a summary of the receipts from service payments in lieu of taxes; the expenditures from the municipal downtown redevelopment district fund along with a description of the projects and services financed with those expenditures; and a quantitative summary of changes in employment and private investment in the district.

Unlike under TIF law, there is no requirement that the municipal corporation creating a DRD report to the county in which the district is located.

### **INNOVATION DISTRICTS**

If an existing or proposed DRD includes, within its boundaries, an area equipped with a high-speed broadband network capable of download speeds of at least 100 gigabits per second, the municipality may designate an "innovation district" within the DRD. The purpose of an innovation district is to attract and facilitate growth of technology-oriented businesses and to support the economic development efforts of business incubators and accelerators. The life of an innovation district and the percentage of the tax exemption for parcels within it would be identical to those of the DRD. A DRD ordinance that designates an innovation district must describe the boundaries of the innovation district, identify the permanent parcel numbers of each parcel included in the innovation district and stipulate a separate economic development plan for the innovation district.

If a DRD includes an innovation district, the funds may be used to finance grants and loans to technology-oriented businesses and to incubators and accelerators that provide services and capital to such businesses within the innovation district. The grants and loans must be awarded

on the condition that the recipient use the funds to start or develop one or more technology-oriented business within the innovation district. A plan must be developed for tracking the recipient's use of the funds and the progress of the technology-oriented businesses.

**NOTE: CERTIFYING A COURT HOUSE AS A “HISTORIC BUILDING”**

Certification as a historic structure that leads to funding through a DRD, as well as state and federal historic preservation tax credits, is achieved generally in one of two ways. The most common way for a property to be certified as “historic” is to be listed in the National Register of Historic Places. Property owners must work with the [State Historic Preservation Office](#) of the Ohio History Connection and, by extension, the National Park Service to seek National Register listing. The other method of certification is for a [Certified Local Government](#) to designate a property as “historic” or give it local landmark status which would qualify the structure to be eligible for historic preservation incentives.

All properties considering gaining historic status need to start with three fundamental questions:

1. Is the property at least 50 years old?
2. Does it still have historical integrity (important aspects of its original appearance and character)?
3. Is it significant in local, state or national history?

The historic certification process will next look to where the structure is, if the owner is the applicant and how the structure would be described. A critical step in the process is to relay the role the structure has played in the history of the region, state or nation.

A property can be listed on the National Register of Historic Places for one of the following reasons or criteria:

- The property is associated with events that have made a significant contribution to the broad patterns of our history.
- The property is associated with the life of a person or people important in our past at the local, state or national level.
- The property has the distinctive characteristics of a type, period or method of construction; represents the work of a master; possesses high artistic values; or represents a significant and distinguishable entity whose components may lack individual distinction (e.g. a historic district).
- The property has a distinctive history and is in its original condition.

In conclusion, a DRD may offer an opportunity to use the concept of tax increment financing, which is traditionally utilized to make infrastructure improvements, to support private sector economic development activity, to provide a critical component of the funding necessary to accomplish the public purpose of restoring and preserving your county court house.

Questions or comments should be directed to [John Leutz](#), CCAO Legislative Counsel, who was primarily responsible for the preparation of this County Advisory Bulletin (CAB).