

Publications

Client Alert: Transportation Financing District Introduced in Ohio

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Ohio Governor John Kasich signed in June Am. Sub. House Bill 49, which allowed for the creation of transportation financing districts, a new economic development incentive.

Ohio counties participating in a regional transportation improvement project (RTIP) may now create a transportation financing district, which can be used by participating counties to fund improvement projects that benefit parcels within the district. A transportation financing district acts similarly to tax increment financing (TIF) in that service payments in lieu of taxes generated from improvements made within the district are utilized to finance specified projects. "Improvements" to parcels within a district can be declared to be a public purpose and exempt from taxation. The property owners located within a district make service payments in lieu of tax in the same amount and in the same manner as the real property taxes that would have been charged and payable against the improvements if they were not exempt from taxation pursuant to the district. The term of the district may not exceed the term of the RTIP's cooperative agreement. Interestingly, the term "improvements" is not defined in the bill. Thus, it is not clear whether the term has the TIF meaning (i.e., the increase in assessed value) or a more common meaning.

Subdivisions or taxing units may negotiate compensation agreements with the board of the transportation financing district. The compensation agreements would establish a minimum revenue stream allocated to the subdivision or taxing unit in exchange for the subdivision or taxing unit's consent to be a part of the district. The service payment revenues generated from improvements made within the district are distributed to the subdivision and taxing units according to their respective compensation agreements. The remaining service payment revenues are placed within a special fund to be used for specified improvement projects.

For certain new levies and increases in existing levies adopted on or after January 1, 2006, the levy recipients are entitled to receive service payments in lieu of taxes in an amount equal to what the taxes otherwise would be from the new levy or an increase in the existing

levy. The specific tax levy carveouts are enumerated in the legislation and are similar to those pertaining to TIF incentive districts and Downtown Redevelopment Districts (DRD).

The transportation financing district may encompass territory in more than one county, although areas used exclusively for residential purposes may not be included in a district. The legislation allows counties to designate noncontiguous parcels located outside the boundaries of the district to be included in the district. However, a district cannot include parcels that are, or have been, included in a TIF or a DRD.

Potentially significant logistical hurdles exist in the process to create a district. The boards of county commissioners of the participating counties must notify and obtain the approval of (i) each subdivision or taxing unit that levies a property tax within the proposed district, and (ii) every property owner whose property is included in the proposed district.

Vorys encourages you to contact your Vorys attorney or advisor with questions about this program. Please feel free to contact the following Vorys attorneys: Scott J. Ziance, 614.464.8287, sjziance@vorys.com; or Christopher J. Knezevic, 614.464.5627, cjknezevic@vorys.com.