

The Dark Side of Tax Increment Financing

Kenneth Nordtvedt, Bozeman MT 59715 knordtvedt@bresnan.net

Montana House 1979-1984, Director MTDOR 12/1988 - 09/1989, Professor Emeritus M.S.U.

There is a dark side to tax increment financing --- it being the devious way the TIF funds are collected from unenfranchised taxpayers outside of a city and are then used to benefit relatively few property owners within the established TIF districts in the city.

Having served long ago for three sessions on the House Tax Committee, including chairing that Committee for one term, I became well aware of tacky tax bills occasionally introduced with design to benefit various narrow special interests, and some of which actually became law. But TIF takes the cake for such design! I was astonished when I first learned of the strangely alien TIF concept of taxation which had come to be used in the state --- taxation without representation --- TIF permits some demographically specific and limited political entities in the state, such as city governments*, by their own decisions to form TIF districts which take property tax levies made by other independent taxing jurisdictions and redirect those revenues to their TIF districts' usages; this resulting in higher property taxes on other Montanans who neither live in nor own property in the city, and cannot vote for or against the city commissioners who create the TIF district takings.

When TIF districts acquire, by redirection, the property taxes paid by their incremental (additional) property valuations, they take not just city levied taxes, they take all levied property taxes, including those by county government, by school district, and even by the state. These outside taxing jurisdictions which have levied their taxes for other public purposes they are responsible for, are then directed by Montana Code to increase their tax levies on all property owners in their jurisdictions in order to make up for the revenues lost from TIF districts.

“Procedure for Calculating Levies, --- Newly taxable property does **not** include..... an increase in incremental value within a tax increment financing (TIF) district.” MCA 15-10-420 (2vb)

And as you know; tax mills levied = [Revenue to be raised] divided by [total taxable property values]
Reduce the latter and tax mills are increased.

To paraphrase the scheme: All property taxes --- city, county, school, state --- are exempted on TIF districts' incremental properties, and then districts put a monetarily equal fee on those properties. Though collected by county treasurer as a tax, that fee is given to TIF district development boards to spend. The adversely affected taxing jurisdictions like school districts, county government, even city government's general fund, are then quietly directed by law to make themselves whole by raising their levies on properties outside of the TIF districts so as to compensate for revenues lost from the TIF district incremental properties.

With TIF we are not talking about some obscure, hardly used nook and cranny of state tax law. This

stealthy mechanism throughout Montana now directs more than \$30 million dollars a year from one set of taxpayers, most of whom are outside of the TIF districts or city and have no political vote on the matter, and hands the \$30 million dollars a year to the relatively few within the districts for purposes of making various internal improvements on their properties via district board decisions. While \$4.3 million per year of the \$30 million depletes the state's general fund; the great bulk of the adverse TIF impacts hit the more localized property taxpayers living near but outside of our cities' TIF districts.

So the statement "TIF does not increase property taxes" on page 5 of your first presentation by Ms. Cornish is clearly incorrect! \$30 million a year cannot be diverted out of normal property tax pipelines and into TIF districts each year without raising somebodies' taxes!

City tax payers outside of the city TIF districts find even their city property taxes higher because of the diversion of funds to the TIF districts. Those affected city taxpayers, however, do have the ability to vote for or against their elected city commissioners (if they know what is going on?) --- but those of us living outside of the city do not have a vote in the city. In my county of Gallatin, the city of Bozeman's five TIF districts in 2014 took \$1.3 million from the school district's property tax levies, and they took \$0.4 million from the county government's tax levies and \$0.8 million from their own city general fund levies. Total take from local taxing entities was \$2.5 million, and this figure is rising rapidly each year (numbers from MTDOR TIF spreadsheets)**. A major fraction of the school and county taxpayers, like myself, who live outside of Bozeman and can not vote in Bozeman elections, paid a large part of the cost for the TIF districts' \$1.7 million confiscation of school and county tax levies in 2014. The cost of this taking from tens of thousands of Gallatin residents outside of Bozeman is approximately \$50 per year per capita and rising, and it is even more for city taxpayers. Statewide average of TIF costs to Montanans is in the same ballpark.

The dollar size of TIF operations in Montana has grown fairly rapidly even during the last 7 years of recession and sluggish recovery of the economy --- \$19.4 million in 2009 to \$30 million in 2014. The word has gotten out to more and more of our city governments from their community development consultants just how lucrative a deal it is for TIF district property owners within their political jurisdictions. And when city commissioners can lawfully award the relatively few with financial benefits paid for by an external, largely unenfranchised many, the danger of socially destructive political cronyism is enhanced.

Let's look a bit deeper into one of Bozeman's TIF districts, the downtown district. In 2007 they pledged TIF revenues from this district to issue more than \$6 million in bonds to build a parking garage whose location substantially benefited new commercial projects and real estate interests --- such as an up-scale hotel subsequently built close by. Since 2007 principal and interest payments on these garage bonds consumes about \$425 thousand dollars a year, and this continues until 2032. The city and TIF district recently agreed that revenues above that needed for bond payments would be returned to affected school, county, and city jurisdictions, although with no commitments that the refunds would be passed on to property taxpayers by eliminating some of the previous tax rate increases caused by the TIF district takings in the first place. Ironically, the city has then turned around and uses a good amount of its refund monies as annual "financial incentive" payments to the new hotel and in support of other

goodies in the downtown TIF district board's budget of subsidies, instead of using refund for the general fund.

Two of the younger TIF districts created in Bozeman have started as almost empty land subdivisions designed for commercial and business developments. These districts have the greatest potential for future growth in their capture of property taxes on incremental valuations. If these TIF districts achieve what they claim to seek, however, the added responsibilities of the school district for educating additional students, and the added responsibilities of county and city government (streets and roads, police, fire, etc.) caused by the new real estate in these TIF districts will not be supported by additional property tax revenues from the new enterprises' in the TIF district. Other property taxpayers inside and outside of Bozeman but external to the TIF districts will be the ones who shoulder the costs for the inevitable growth in public services. And this cost to others will continue for decades if the districts start bonding to fund immediate major projects.

So I don't believe it is worth your committee's time to debate which TIF district types of expenditures are worthwhile and which are not, or how best to share the spoils of TIF district revenues, or similar questions. The fundamental problem is the scheme of collecting the TIF revenues from Montanans. If Montana does not suspend and repeal TIF law in an orderly manner, and I stress such repeal can be done in an orderly manner, I believe the size of this insidious, albeit legalized, redistribution of monies from the mainly uninformed many and toward the well aware few will continue to grow robustly in the state. I doubt if one in a thousand Montanans understand what is going on with the TIF process, and most of those one in a thousand in the know will likely be city commissioners and their consultants. Therefore I urge such repeal at the earliest, and I specifically urge your interim committee to draft a repeal bill for consideration by the next legislature.

*Apparently county governments also enjoy similar TIF powers under MCA 7-15-4279. I have not explored the degree to which county governments in Montana have exercised their TIF powers. Butte-Silverbow, a substantial user of TIF, is of course consolidated city-county governance.

**There seems to be some differences between the state's Department of Revenue spreadsheet values of TIF district revenues and the revenues given in City of Bozeman's finance/budget book, with the latter showing larger values. This could perhaps be due to the two agencies using different accounting periods for tax assessments versus their collections?

KN thanks MTDOR and the finance offices of City of Bozeman and Bozeman Schools for kindly supplying TIF-related information and data on his requests.