



# Questions About Tax Increment Financing in North Carolina

Joseph Blocher and Jonathan Q. Morgan

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## Introduction

In November 2004, voters approved an amendment to the state constitution (Amendment One) that creates a new economic development tool. Amendment One authorizes local governments to issue “project development financing” bonds without voter approval to pay for certain public investments needed to attract private development. Although new to North Carolina, this general type of financing mechanism has been widely used in 48 other states for many years. More commonly known as tax increment financing, or “TIF,” this type of bond relies on the incremental tax revenues that result from increases in assessed property values. The bonds are considered to be “self-financing” because, if successful, the public improvements they finance will stimulate new private investment and generate tax revenues that are used to pay off the bond debt.

Those advocating for TIF in North Carolina argued that TIF would bolster the state’s efforts to create jobs and stimulate private investment, by allowing North Carolina to “compete effectively with 48 other states,” and enable local developers to “compete for new jobs” and break through the current “competitive disadvantage.”<sup>1</sup> This framing of TIF as an essential job creation tool helped secure the approval of voters. Yet in the nearly four years since its passage, only three municipalities have received approval to use TIF for a specific development project. Despite its widespread use in other states and its potential appeal as an economic development tool, TIF has not taken hold in North Carolina. What accounts for the slow adoption of TIF among local governments in the state? Why does it appear that cities and counties are being tentative in their use of TIF? There is some evidence that the complicated TIF process and lack of familiarity with it are major barriers that hinder greater use of the tool by local governments.<sup>2</sup>

To help local governments make sense of what is a complex and sophisticated financing mechanism, this bulletin provides straightforward answers to some of the most frequently asked questions about TIF. The bulletin aims to assist public officials in their initial considerations of TIF and when it might be appropriate. For a more in-depth analysis of the mechanics, see *Local Finance Bulletin* No. 36 by Rivenbark, Denning, and Millonzi.<sup>3</sup> Part I of the bulletin answers some common questions about what tax increment financing is and how it can be used. Part II poses and responds to typical questions about the process of initiating and implementing a TIF-funded project. Finally, Part III provides information to help public officials weigh the suitability of TIF for a particular community by examining what we know about its effectiveness and its use to date in North Carolina and other states.

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1. Don Hobart, Member of the Amendment One Steering Committee, Presentation to the N.C. Travel & Tourism Board Meeting (Sept. 14, 2004), *available at* [http://www.nccommerce.com/tourism/board/agenda/9\\_14\\_04AmendmentOnePresentation.pdf](http://www.nccommerce.com/tourism/board/agenda/9_14_04AmendmentOnePresentation.pdf).

2. See APPLYING TAX INCREMENT FINANCING IN THE CHARLOTTE-MECKLENBURG REGION 37–38 *available at* <http://belkcollege.uncc.edu/resources/pdfs/Applying%20TIF%20in%20NC%20072806.pdf> (last visited August 5, 2007). See also D. Shawn Purvis, *Tax Increment Financing in North Carolina: Great Expectations, Limited Use*, MPA Capstone Paper, UNC School of Government (2008), *available at* <http://www.sog.unc.edu/programs/tif>.

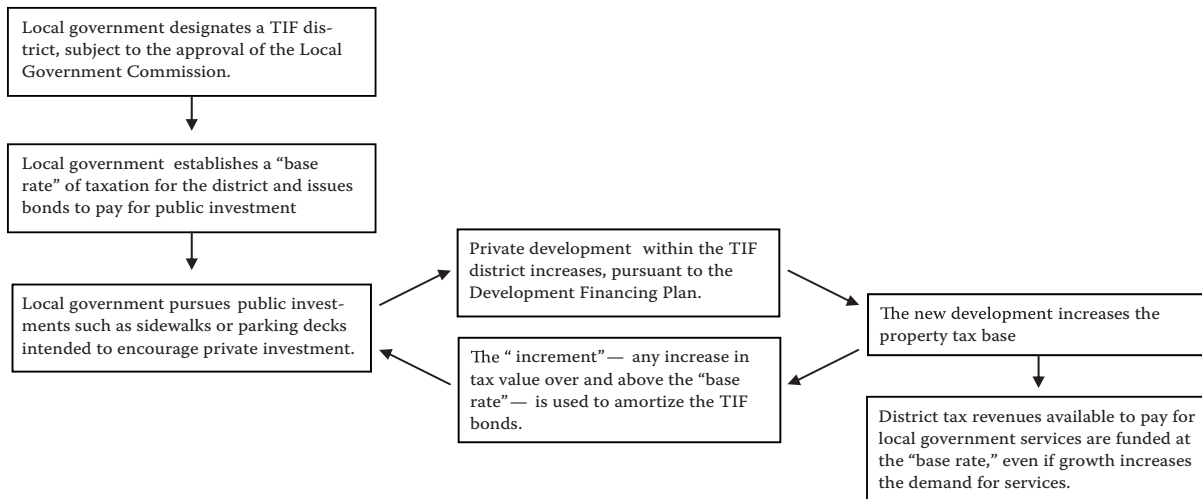
3. William C. Rivenbark, Shea Riggsbee Denning, and Kara A. Millonzi, *2007 Legislation Expands Scope of Project Development Financing in North Carolina*, 36 LOCAL FIN. BULL. 1 (Nov. 2007).

## I. An Overview of Tax Increment Financing (TIF)

### 1. What is TIF?

Tax increment financing is a public finance mechanism by which local governments use bond proceeds to make public improvements that are necessary to spur private investment in a designated area. The new private investment is expected to raise property values within the designated area, which, in turn, increases property tax revenue. The increased tax revenue or “increment” is set aside to amortize the bonds that were used to pay for the public improvements.<sup>4</sup> As illustrated in Figure 1, a TIF project begins when a local government designates a particular area as a TIF district, generally after finding that it needs to be developed or redeveloped.<sup>5</sup> After choosing the TIF area, the relevant government unit creates a development plan,<sup>6</sup> which in North Carolina and a few other states<sup>7</sup> is sent to a statewide commission for final approval.<sup>8</sup> If the plan is approved, the value of all the property in the district is measured in order to establish a “base valuation” on which to levy property taxes during the term of the TIF district, which in North Carolina can be up to 30 years. During that time, the sponsoring local government dedicates the new tax revenue arising from any increases in assessed property values in the district to servicing the bond debt.<sup>9</sup>

**Figure 1. How TIF Works**



4. J. Drew Klacik & Samuel Nunn, *A Primer on Tax Increment Financing*, in TAX INCREMENT FINANCING AND ECONOMIC DEVELOPMENT 15, 15 (Craig J. Johnson & Joyce Y. Man, eds. 2001).

5. Craig L. Johnson and Kenneth A. Kriz, *A Review of State Tax Increment Financing Laws*, in TAX INCREMENT FINANCING AND ECONOMIC DEVELOPMENT 31, (Craig J. Johnson & Joyce Y. Man, eds. 2001).

6. *Id.*

7. *See, e.g.*, Local Development Financing Act, MICH. COMP. LAWS ANN. § 125.2167 (2004) (establishing a “governing body [which] shall approve or reject the plan, or approve it with modification” based on certain listed considerations); *see also* Downtown Development Authority, MICH. COMP. LAWS ANN. § 125.1671 (2004) (establishing a “development area citizens council” for TIF districts with more than 100 residents).

8. N.C. GEN. STAT. §158-7.3(h) (2006) (“[T]he plan and the district do not become effective until the unit’s application to issue project development finance debt instruments has been approved by the Local Government Commission, pursuant to Article 6 of Chapter 159 of the General Statutes.”).

9. Any excess incremental revenues remaining after meeting all obligations and other purposes must be returned to the general fund pursuant to N.C. GEN. STAT. §159-107(f).

Property taxes remain frozen at the base valuation levels on January 1 of the year immediately preceding the creation of the district, even if property values in the district subsequently increase.<sup>10</sup>

The key characteristic of tax increment financing is that the increased tax revenue within the TIF district is used to amortize the bonds that paid for the public portion of the development project. The increase in tax revenue is known as the “increment” and is equal to the difference between the base valuation and post-development tax values. Thus, the incremental tax revenue that would otherwise be available for general expenditures is allocated “to pay off the costs of readying the district for development.”<sup>11</sup> Essentially, the local government borrows against the value of this increment when it issues the bonds, and then it pays off the bonds when the increment comes in. It should be noted that overlapping local governments with taxing authority in the TIF district do not automatically pledge their share of incremental tax revenues to make bond payments; they must formally agree to do so.

## 2. Who can use TIF?

Under North Carolina law, local government units—both counties and municipalities—may designate TIF districts and issue debt instruments to fund improvements within them. Counties may do so by simply creating a district and a plan in accordance with the statute. If a municipality seeks to establish a TIF district, it must send a notice of the plan to the county or counties where the district will be located.<sup>12</sup> The county then has 28 days to disapprove the plan. If it does not, the municipality may proceed.<sup>13</sup> Cities and counties may also work together to create a TIF district.<sup>14</sup>

## 3. What can TIF pay for?

TIF funds “may be used only for projects that enable, facilitate, or benefit private development within the development financing district, the revenue increment of which is pledged as security for the debt instruments.”<sup>15</sup> These investments could include anything from minor infrastructure improvements such as sidewalks and sewers to major land acquisitions through the use of eminent domain. If all goes as planned, the initial public investment will spark growth in property values in the TIF district, due to new development on vacant land, improvements on existing structures, replacement of lower-tax value properties with more taxable enterprises, and so on. TIF funds are generally spent inside the boundaries of the TIF district, but they can also be spent *outside* the district if necessary to encourage development within it.<sup>16</sup> However, TIF funds may *not* be used for certain enumerated projects, including fire and police stations, jails, libraries, golf courses, and landfills.<sup>17</sup> This restriction is in keeping with the purpose of TIF, which is to encourage property appreciation, not provide public services generally. Aside from these exceptions, TIF bond

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10. Klacik & Nunn, *supra* note 4, at 25.

11. DAVID SWENSON & LESLIE EATHINGTON, DO TAX INCREMENT FINANCE DISTRICTS IN IOWA SPUR REGIONAL ECONOMIC AND DEMOGRAPHIC GROWTH? 2, (Dep’t of Econ., Iowa St. Univ, 2002), *available at* [http://www.econ.iastate.edu/research/webpapers/paper\\_4094\\_N0138.pdf](http://www.econ.iastate.edu/research/webpapers/paper_4094_N0138.pdf).

12. N.C. GEN. STAT. § 158-7.3(f).

13. *Id.*

14. N.C. GEN. STAT. § 158-7.3(b); 160A-515.1 (a).

15. N.C. GEN. STAT. § 159-103(a).

16. N.C. GEN. STAT. § 159-103.

17. N.C. GEN. STAT. § 159-103(a).

proceeds may be used for many of the same projects for which local governments can use general obligation bonds. Some of the specific authorized uses of TIF include

- streets, streetscapes, and sidewalks
- arts, civic, cultural, and entertainment facilities
- public transportation and parking facilities
- hospitals and other health care facilities
- sanitary sewer systems
- storm sewers and flood control systems
- water systems
- industrial development
- school and community college facilities
- housing for people of low or moderate income
- historic district preservation projects
- downtown redevelopment projects

#### **4. How does TIF compare to other financing options?**

In order to determine if TIF is appropriate for a particular project, it helps to understand how it compares to other types of financing that a local government might consider. With statutory TIF, a local government borrows money upfront to pay for the public improvements needed for a development project and pledges incremental tax revenues to repay the debt. One obvious alternative way to finance certain public improvements that are needed to attract private investment is to use general obligation bonds. G.O. bonds can be used for most any type of capital improvement in support of economic development including site acquisition, shell buildings, and industrial parks. Since G.O. bonds are backed by a local government's full faith and credit taxing power, they will likely be a less costly form of financing than TIF. A key difference between G.O. bonds and TIF is that G.O. bonds must be approved by voter referendum. TIF is more appropriate when specific private investment is imminent and contingent on a public improvement being made upfront.

Another alternative to TIF is to have the private developer pay all up-front development costs and be paid a cash grant to cover certain costs based on the amount of tax revenue generated by the project. This is similar to the economic development incentives local governments routinely offer to companies pursuant to Section 158.7.1(a) of the North Carolina General Statutes. A more common "synthetic" TIF scenario in North Carolina occurs when a local government does an installment financing or lease-purchase arrangement, with certificates of participation (COPs) if needed, to finance or purchase the public portion of the project. In this case, the debt is secured by the real property or asset being financed and repaid based on projected incremental tax revenues. Unlike installment/COPs financing, TIF does not require a mortgage or lien, which can facilitate property transfers.<sup>18</sup>

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18. Though not required for TIF, a city or county may use a mortgage or property lien as an additional pledge of security.

## II. The TIF Process

### 1. How does a city or county initiate a TIF project?

The first step in using TIF for a development project is to designate a particular area as a development financing district. In some cases, a private developer will take the initiative to contact the local government and request that a TIF district be established. In other instances, the local government might create a district in which it believes public infrastructure improvements are required to support a private development project. Irrespective of who makes the initial inquiry regarding the establishment of a TIF district, the law requires that both public and private investment be demonstrated.

### 2. What areas can be designated as TIF districts?

Counties may establish TIF districts only in areas that are “[b]lighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth” or which are otherwise “[a]ppropriate for rehabilitation and conservation activities” or “[a]ppropriate for the economic development of the community.”<sup>19</sup>

Cities may establish TIF districts in any of the above areas *or* in statutorily-defined “urban redevelopment areas.” The definition for those areas substantially overlaps with that for county TIF districts, and includes: (a) “property that is blighted”; (b) “a nonresidential redevelopment areas; (c) “a rehabilitation, conservation and reconditioning area in present danger of becoming a blighted or nonresidential development areas; or (d) any combination of the above.”<sup>20</sup>

In addition to limiting the areas that can be designated as TIF districts, North Carolina law also limits the total land area that a jurisdiction can assign to TIF districts. The total land area of all TIF districts in a city or county, combined, cannot exceed 5% of the total land mass in the jurisdiction.<sup>21</sup> Within a TIF district itself that is located outside a city’s central business district, no more than 20% of the square footage may be given over to commercial uses other than office space.<sup>22</sup> This limits the amount of the district that can be used for “retail sales, hotels, banking, and financial services offered directly to consumers, and other commercial uses other than office space.”<sup>23</sup> However, there is a “tourism exception” that exempts tourism-related economic development projects in certain areas from the 20% limitation,<sup>24</sup> thus permitting “developments featuring facilities for exhibitions, athletic and cultural events, show and public gatherings, racing facilities, parks and recreation facilities, art galleries, museums, and art centers.”<sup>25</sup>

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19. N.C. GEN. STAT. § 158-7.3(c) (2007).

20. N.C. GEN. STAT. § 160A-503.

21. N.C. CONST. art. V, § 14; Johnson & Kriz, *supra* note 5, at 41 (recounting similar restrictions in nine other states).

22. N.C. GEN. STAT. § 158-7.3(a)(1).

23. *Id.*

24. *Id.*

25. *Id.*

### 3. What are the requirements for adopting a TIF plan?

Local governments must hold an open public hearing on TIF proposals, allowing input from anyone who would like to speak.<sup>26</sup> Notice of the meeting must be sent by first-class mail to every property owner within the district no less than 14 days (and no more than 30 days) prior to the hearing. The notice must identify the time, place, and purpose of the meeting, and indicate that a copy of the TIF plan is available for review at the office of the city or county clerk. Following the hearing, the local government entity may choose to amend its Development Financing Plan before finalizing it. As noted above, a municipality must notify the county (or counties) in which a proposed TIF district is located and allow 28 days for the county to reject the plan.

The plan must be submitted to the Secretary of the North Carolina Department of Environment and Natural Resources for review if it calls for the construction of a new manufacturing facility. Once the plan is finalized, the city or county must submit it to the Local Government Commission (LGC) in the State Treasurer's Office, which retains final approval authority over TIF bond issuance. *Local Finance Bulletin* No. 36, provides a thorough description of the requirements for adopting a development financing plan and notes that the plan is perhaps "[t]he most laborious component of a project development financing venture."<sup>27</sup>

### 4. What must be included in the TIF plan?

A local government seeking to use TIF must prepare a Development Financing Plan that includes

1. A description of the boundaries of the development financing district
2. A description of the proposed development of the district, both public and private
3. The costs of the proposed public activities
4. The sources and amounts of funds to pay for the proposed public activities
5. The base valuation of the development financing district
6. The projected incremental valuation of the development financing district
7. The estimated duration of the development financing district
8. A description of how the proposed development of the district, both public and private, will benefit the residents and business owners of the district in terms of jobs, affordable housing, or services
9. A description of the appropriate ameliorative activities which will be undertaken if the proposed projects have a negative impact on residents or business owners of the district in terms of jobs, affordable housing, services, or displacement
10. A requirement that the initial users of any new manufacturing facilities that will be located in the district and that are included in the plan will comply with certain wage requirements<sup>28</sup>

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26. N.C. GEN. STAT. § 158-7.3(h) (2006) (describing public hearing requirement); N.C. GEN. STAT. § 160A-515.1(g) (2007) (same).

27. Rivenbark, Denning, and Millonzi, *supra* note 3.

28. N.C. GEN. STAT. § 158-7.3(e) (2006) (describing wage requirements); N.C. GEN. STAT. § 160A-515.1(d) (2007) (same).

### III. Evaluating TIF

The bid to get TIF authorized in North Carolina was not without political controversy. North Carolina was one of the last two states to approve TIF, having rejected TIF amendments in 1982 and again in 1993 even as TIF became overwhelmingly popular across the rest of the country. TIF was included again on the statewide ballot in November 2004 under the name Amendment One and was passed with a 51.3% overall majority and the support of voters in 56 of North Carolina's 100 counties.<sup>29</sup>

Those in favor of TIF argued that it was a much-needed tool for creating jobs and stimulating private investment. They rebranded it as a "self-financing bond" program<sup>30</sup> in an attempt to drive home the point that "[i]ncreased tax revenue generated by the project pays for the bond."<sup>31</sup> Opponents of Amendment One countered that "[n]aming a public policy after its best possible outcome gives the impression that that outcome is a given; in fact with this type of scheme, the results are not always good and can be devastating."<sup>32</sup> The critics argued that TIF represents just another means for the government to hand out subsidies to businesses large and influential enough to demand them, and that in the end taxpayers would be stuck with the bill. The reality, they said, is that TIF projects are rarely if ever cost-justified, and they encourage counterproductive competition between communities that feel compelled to outdo one another in their largesse to private business.<sup>33</sup>

TIF proponents won narrowly with voters at the ballot box and the political controversy over its passage has largely subsided. The focus has shifted to determining the usefulness of TIF as an economic development tool. Now that TIF is available in North Carolina, public officials need a better understanding of its advantages and disadvantages, when it is appropriate for a particular project or community, and what its track record has been so far within North Carolina and other states.

#### 1. What are the benefits of using TIF?

When used for appropriate development projects, TIF can be an effective tool for stimulating private investment and job creation. If successful, TIF projects do not result in higher tax rates. The initial public expenditure is paid off using the increased tax revenues that come from property improvements and market value appreciation within the TIF district. This "self-financing"

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29. The North Carolina Tax Increment Finance Website, History of Tax Increment Finance in NC, <http://www.noamendmentone.org/history.htm> (last visited July 12, 2006). The counties approving the measure included the vast majority of the northeastern counties, from Granville eastward and from Wayne northward. Wake, Cumberland, and Johnston county voters rejected the measure, but Durham and Orange county voters approved it, along with most other counties along the strip of I-85 connecting Durham with Mecklenburg counties. The westernmost counties in the state unanimously rejected Amendment One, with no county west of Avery voting in favor, as did most of the counties in the southeast.

30. DEVELOPMENTS (North Carolina Econ. Developers' Ass'n, Aug. 2004).

31. Act of Aug. 7, 2003, ch. 403, 2003 N.C. Sess. Laws 1157 (codified as amended in scattered sections of N.C. CONST. art. V and N.C. GEN. STAT. §§ 105, 158 to 160A (2003)). See also Joyce Y. Man, *Determinants of the Municipal Decision to Adopt Tax Increment Financing*, in in TAX INCREMENT FINANCING AND ECONOMIC DEVELOPMENT 87, 93 (Craig J. Johnson & Joyce Y. Man, eds. 2001) [hereinafter *Determinants*] ("TIF is politically popular because it is claimed to be a self-serving mechanism that finances development projects from increased tax revenues that the projects generate rather than from new taxes or tax increases.")

32. Common Sense Foundation, *Self-Financing Bonds or Self-Serving Giveaways?*, Consider This... [http://www.common-sense.org/?fnoc=/consider\\_this/consider\\_this\\_040317](http://www.common-sense.org/?fnoc=/consider_this/consider_this_040317) (last visited May 13, 2008).

33. Josh Reinert, Comment, *Tax Increment Financing in Missouri: Is it Time for Blight and But-For to Go?*, 45 ST. LOUIS U. L.J. 1019, 1037-38 (2001).



aspect of TIF makes it a potentially attractive way to finance the public infrastructure investments needed to spur private development. Compared to pay-as-you go financing, TIF makes it possible to accelerate large, up-front infrastructure investments that are time-sensitive.

A significant advantage of TIF is that it allows a local government to issue bonds without first seeking voter approval through a ballot referendum. Compared to G.O. bonds, for example, this affords more flexibility in how TIF might be used to respond to the particular needs of a development project in a timely manner.

In North Carolina, the requirements for a financing plan, public input, and county notification help ensure that TIF projects move forward systematically under local control with some level of community consensus. Unlike other economic development incentives that primarily benefit an individual firm, TIF can enable public improvements whose benefits are shared by other taxpayers, such as parking garage, streetscapes, and improved roads.

## 2. What are the potential risks of TIF? How can they be minimized?

Tax increment financing is not a silver bullet solution to development problems. There is no guarantee that the initial public investment will spur sufficient private investment, over time, that creates enough increment to pay back the bonds. Moreover, even if the investment succeeds on paper, it may do so by “capturing” growth that would have occurred even without the investment. Successful TIF districts can place an additional strain on existing public resources like schools and parks,<sup>34</sup> whose funding is frozen at base valuation levels while growth in the district increases demand for their services. Similarly, the rising property values that accompany a successful TIF can be a boon to many, but they may effectively price some residents out of their communities.<sup>35</sup> Existing local businesses may also find themselves hard-pressed to keep up with TIF-subsidized competitors. Small businesses are likely to be particularly hard-hit, as TIF projects often bring in large “big box” retailers, which can drive smaller mom-and-pop stores out of business.

The inherent speculative nature of TIF bonds makes them a potentially risky proposition. If a TIF project fails to generate enough new revenue repay the bond debt, it is conceivable that taxpayers may eventually bear the brunt. The uncertainty of incremental tax revenues could mean that TIF bonds in North Carolina are “unlikely to get [a] favorable nod from ratings agencies.”<sup>36</sup> TIF bonds that are backed only by incremental tax revenues are not typically considered to be investment grade and thus will bear higher interest rates. As a result, local governments in some states pledge sales tax revenues to back the bonds, making them more attractive to investors. North Carolina law prohibits local governments from backing bonds with pledges of their taxing

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34. *Looking into Tax Increment Financing* 8 PRAGmatics (Summer 2002) (suggesting that schools in Chicago “will miss out on \$631.8 million over 23 years”).

35. Leslie Parrish, *Increasing the Accountability and Efficiency of Tax Increment Financing*, 1:7 Corp. for Enterprise Dev. (July 1999) (noting that “existing residents and business owners may be priced out of their own neighborhoods”); Neighborhood Capital Budget Group, TIF Almanac 43 (2003) (identifying “Indirect Displacement” as a result of gentrification as a risk of TIF); *see also* Tom Campbell, *Vote NO on Amendment One*, NC SPIN (Oct. 21, 2004) (“Often, neighboring small business owners find themselves having to pay higher ad valorem taxes when they receive no benefits from the improvements.”); Developing Neighborhood Alternatives Project, *The Right Tool for the Job? An Analysis of Tax Increment Financing* 31 (March 2003) (“Indirect displacement occurs when TIF activities cause housing costs to rise too quickly for some residents.”).

36. Lee Weisbecker, *Higher Risk Public Debt Nearing Debut; Amendment One Bonds Unlikely to Get Favorable Nod from Ratings Agencies*, TRIANGLE BUSINESS JOURNAL (Raleigh/Durham), Nov. 20, 2006.

power.<sup>37</sup> Cities can pledge local option sales tax revenue as additional security for TIF bonds but counties cannot by virtue of their authority to levy the sales tax.<sup>38</sup> Both cities and counties may use most any other non-tax revenue source to shore up the bonds and reduce their credit risk. Adding private credit enhancements such as bond insurance or a bank line of credit provides additional protection to investors against TIF revenue shortfalls. However, by raising taxes after a TIF project has failed in order to protect its credit rating, a local government might actually achieve, by accident, a result similar to what the law prohibits: a pledge of its full faith and credit taxing power.<sup>39</sup>

Part of the allure—and, in skeptics' minds, the threat—of TIF is that it is such an easy tool to employ, since voter approval is not necessary. But like any business subsidy it is vulnerable to overuse and abuse. In Minneapolis, where the city made a \$62 million public outlay for a Target store, the *Minneapolis-St. Paul Business Journal* noted that “TIF has done wonderful things all over the state, and throughout the Twin Cities, by actually rejuvenating run-down districts,” but “[t]here’s just too much leeway for abuse.”<sup>40</sup> In the newspaper’s words, “the real problem was that city leaders didn’t know when to say, ‘Enough.’”<sup>41</sup> A local government can minimize the potential for overuse and abuse by making TIF decisions in accordance with a set of guidelines that specify policy objectives, risk tolerance, analysis methods and evaluation criteria, and required levels of citizen participation and public support.<sup>42</sup> Though not a guarantee of success, such policy guidelines can help public officials determine when TIF is appropriate and provide a general framework for it use.

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37. N.C. CONST. art. V, § 14. (“The county, city, or town may not pledge as security for these instruments of indebtedness any property tax revenues other than the set-aside proceeds authorized in this section, or in any other manner pledge its full faith and credit as security for these instruments of indebtedness unless a vote of the people is held as required by and in compliance with the requirements of Section 4 of this Article .... The General Assembly may authorize a county, city, or town issuing these instruments of indebtedness to pledge, as additional security, revenues available to the issuing unit from sources other than the issuing unit’s exercise of its taxing power.”).

38. Weisbecker, *supra* note 36; N.C. GEN. STAT. § 159-11.

39. P. Michael Juby, *Recent Development: Tax Increment Financing in North Carolina: The Myth of the Countermajoritarian Difficulty*, 83 N.C.L. REV. 1526, 1534 (2005).

40. Editorial, *TIF Needs Limits to Protect Taxpayers*, MINNEAPOLIS ST. PAUL BUSINESS JOURNAL, June 29, 2001, available at <http://twincities.bizjournals.com/twincities/stories/2001/07/02/editorial1.html>.

41. *Id.*

42. Laura Jensen, *Elements of an Effective Tax Increment Financing Policy for North Carolina Local Governments*. MPA Capstone Paper, UNC School of Government (2008), available at <http://www.sog.unc.edu/programs/tif>.

**3. Isn't TIF for big cities? Can smaller, rural communities make use of TIF?**

While TIF projects tend to occur mostly in larger cities, there are several examples of TIF being used in smaller communities across the United States. For example, the Council of Development Finance Agencies (CDFA) notes that the following places are actively using TIF:<sup>43</sup>

City/Town	Population
Dover, NH	28,442
Jacksonville Beach, FL	20,990
Tiverton, RI	15, 215
Mt. Dora, FL	11,564
Emeryville, CA	6,882
Petoskey, MI	6,112

Nearby Cayce, South Carolina (population 12,597) issued \$5 million in TIF bonds in 2002 to pay for a riverfront park.<sup>44</sup> One of the first three approved TIF deals in North Carolina happened in the relatively small town of Woodfin (population 3,317), in conjunction with Buncombe County.

The complexity of TIF projects can be a barrier for smaller communities since they typically have less staff capacity and fewer resources to devote to planning and implementation. Smaller communities may need to rely more on consultants and other external professionals, such as bond counsel, to facilitate certain aspects of a TIF project. Another concern for smaller communities is finding projects of sufficient scale to be appropriate for TIF given the higher transaction costs and interest expenses involved relative to other types of financing.<sup>45</sup>

**4. To what extent have local governments in North Carolina used TIF?**

As of June 2008, only three TIF projects had received formal approval from the LGC. The first involves a \$21.5 million investment in the Carolina Crossroads Music and Entertainment District in Roanoke Rapids (population 16,505).<sup>46</sup> The second is a \$25 million investment in roadways, parking, and other public utilities related to the development of the new town center in Woodfin, near Asheville.<sup>47</sup> The third approved project to date is in the Kannapolis area, where the city of Kannapolis and Cabarrus County have been working together on a \$168 million public finance deal to provide infrastructure for the North Carolina Research Campus being developed by billionaire David Murdock.<sup>48</sup>

43. Council of Development Finance Agencies, *Tax Increment Financing Primer*, available at [www.cdfa.org](http://www.cdfa.org).

44. Josiah Lucas and Brenton Jeffcoat, *NC Project Development Financing*, McGuire Woods, 2007, available at [http://www.mcguirewoods.com/news-resources/publications/financial\\_services/nc\\_project\\_development\\_financing.pdf](http://www.mcguirewoods.com/news-resources/publications/financial_services/nc_project_development_financing.pdf).

45. D. Shawn Purvis, *Tax Increment Financing in North Carolina: Great Expectations, Limited Use*, MPA Capstone Paper, UNC School of Government (2008), available at <http://www.sog.unc.edu/programs/tif>.

46. A full description of the Roanoke Rapids project and links to supporting documents can be viewed at [www.sog.unc.edu/programs/tif](http://www.sog.unc.edu/programs/tif).

47. Clarke Morrison, *Woodfin Town Center Plan Secures \$25M from County*, THE ASHEVILLE (NC) CITIZEN-TIMES, Dec. 3, 2006, at 2C.

48. Sharif Durhams & Adam Bell, *168 Million in Bonds Sought for Biotech Hub*, CHARLOTTE OBSERVER, April 24, 2007.

Other major projects are being considered that might very well set the standard by which TIF projects are handled in the state. One major TIF proposal involves the North Hills development in Raleigh. In July 2006, developer John Kane asked the City of Raleigh for a \$75 million TIF package to support his North Hills development plan.<sup>49</sup> Kane's request left the city council evenly deadlocked 4 to 4, and as of July 2007 the council had not approved the measure. Kane has apparently decided to move ahead with funding from a private backer, while holding out hope that Raleigh will approve TIF funding in the future.<sup>50</sup> Other projects in the city, including the Soleil Center<sup>51</sup> and the "Dix 306" proposal,<sup>52</sup> have expressed interest in TIF funding.

Raleigh is not the only city considering TIF. Proposals have also been floated in Winston Salem,<sup>53</sup> Greensboro,<sup>54</sup> Cary, and Carolina Beach among other areas. As more and more local governments embrace TIF, the issues discussed in this bulletin will become increasingly familiar.

### 5. Why has TIF not been used more frequently in North Carolina?

The availability of lower cost financing methods such as general obligation bonds and installment financing with Certificates of Participation (COPs) might partially explain the slow of adoption of TIF in North Carolina. Some analysts speculate about other reasons why local governments in the state have not used TIF more readily. These reasons emphasize the fine points of North Carolina's particular statute that is thought to be more restrictive than the TIF laws in other states.<sup>55</sup> Being one of the very last states to authorize TIF allowed North Carolina to create enabling legislation that includes various safeguards intended to minimize the problems encountered elsewhere. For example, North Carolina permits TIF only for public improvements, requires cities to consult with counties on TIF projects, and mandates state-level approval by the LGC. While these safeguards protect the public interest and encourage local officials to make sound TIF investment decisions, they also require communities to expend higher levels of effort, resources, and time. As alluded to above, for smaller communities, a well intentioned safeguard can easily become a deterrent for using TIF.

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49. Sarah Lindenfeld Hall, *Public Debt for Private Decks? North Hills Developer Wants City, County to Aid New Phase*, NEWS & OBSERVER (Raleigh, N.C.), July 6, 2006, available at <http://www.newsobserver.com/167/story/457899.html>.

50. Susan London, *North Hills Is on the Move; Plans for Expansion Across Six Forks Fluid, but Various Projects are Moving Forward*, NEWS & OBSERVER (Raleigh, N.C.), July 6, 2007, at N1; Josh Shaffer, *North Hills Eat Begins to Take Shape; Five Houses Are Moved and Donated for Low-Income Housing as the Site is Cleared*, NEWS & OBSERVER (Raleigh, N.C.), May 11, 2007, at N1.

51. Amanda Jones Hoyle, *Commissioners Might Spur Decision by Raleigh on TIF Bonds*, TRIANGLE BUSINESS JOURNAL (Raleigh/Durham), April 2, 2007 (citing statement of Sanjay Mundra, a Soleil Center partner).

52. GREG HUMMEL, *A VISION FOR THE FUTURE OF DIX CAMPUS 6* (Friends of Dorothea Dix Park, Oct. 10, 2006), available at <http://dixpark.org/documents/Friends%20of%20Dix%20Park%20-%20White%20Paper%208.2.pdf> (calling for a "large tax increment financing district (TIF district) that includes at its center Dix Campus and then extends beyond).

53. Matt Harrington, *Tax-Increment Financing a Possibility for \$38M W-S Project*, THE BUSINESS JOURNAL (Greensboro/Winston Salem), Aug. 30, 2006.

54. Matt Harrington, *Gibbs to Leave Downtown Greensboro Inc.*, THE BUSINESS JOURNAL (Greensboro/Winston Salem), April 23, 2007 (quoting Ray Gibbs, outgoing president of Downtown Greensboro Inc.).

55. See for example David Jones, *Amendment One: Zero Deals*, CHARLOTTE BUSINESS JOURNAL, Nov. 4, 2005.

The recent negative publicity garnered by the first approved TIF project in North Carolina—the Roanoke Rapids (Randy Parton) Theater—has not helped the cause of promoting TIF use. It also underscores the importance of having reasonable safeguards in place. The Roanoke Rapids project has raised questions about the scope of the LGC approval process.<sup>56</sup> The project received approval based primarily on an assessment of the city's capacity to repay the bond debt. The LGC did not consider the market feasibility or management capacity of the theater. The early problems with theater operations and lower-than-expected ticket sales created angst about the viability of the project despite the city's pledge of three additional revenue sources.

As a newly available and complex financing tool, TIF requires a level of understanding and knowledge that is lacking among public officials in most communities across the state. A recent study of barriers to TIF usage in North Carolina found that only 55 percent of municipalities were basically familiar with TIF and that educating decision makers and citizens about TIF is a challenge.<sup>57</sup> If the experience with TIF in other states is any indication, then local governments in North Carolina are likely to increase their use of TIF as they learn more about what it is and how it works.

## 6. How effective is TIF at spurring economic development?

Research findings on the effectiveness of TIF are mixed. While some studies have found that TIF contributes to economic growth, many question whether it is cost-justified, and most stress the fact that it is now used for a broader range of development projects than originally intended.

Tax increment financing was conceived as a tool to address urban blight, not as “a financing source for general government expenditures.”<sup>58</sup> Nevertheless, local governments across the country expanded TIF's limited focus throughout the late 1980s and 1990s. As one commentator on the Amendment One proposal noted:

The focus of TIFs has shifted away from blight elimination toward more general economic development usage. Many cities across the country are using TIFs to fund incentives to help bring specific private businesses to specific parcels of land.<sup>59</sup>

This expanded application of TIF for broader economic development purposes was driven in part by tight local and state budgets.<sup>60</sup> As the federal government cut back on urban renewal and

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56. Lee Weisbecker, *Parton Saga Raises Questions about Oversight of TIF Bonds*, TRIANGLE BUSINESS JOURNAL, February 15, 2008.

57. D. Shawn Purvis, *Tax Increment Financing in North Carolina: Great Expectations, Limited Use*, MPA Capstone Paper, UNC School of Government (2008), available at <http://www.sog.unc.edu/programs/tif>.

58. Johnson & Kriz, *supra* note 5, at 37 (internal citation omitted).

59. Michael Lowrey, *Debate About Amendment One Heats Up: Supporters Make Economic-Development Case, Opponents to Hold Press Conference*, CAROLINA JOURNAL ONLINE, Sept. 29, 2004, at <http://www.carolinajournal.com>.

60. J. Drew Klacik, *Tax Increment Financing in Indiana*, in TAX INCREMENT FINANCING AND ECONOMIC DEVELOPMENT 179, 188 (Craig J. Johnson & Joyce Y. Man, eds. 2001) (“The practitioners are trapped between the public's desire for more and better jobs and the public's desire to not pay more taxes. . . . TIF provides a too complex enough (and often misunderstood even by public officials) to provide the public perception that the city is building infrastructure, attracting economic growth, and not raising taxes (whether true or not).”).

redevelopment programs in the 1980s, many municipalities began to use TIF as a locally financed alternative to dried-up federal monies.<sup>61</sup>

As the use of TIF broadened, so too did its mandate, as cities rewrote the definitions of “blight”<sup>62</sup> and “public use”<sup>63</sup> necessary to justify TIF projects. Most states amended their statutes to include “economic development” among the list of appropriate uses of tax increment financing.<sup>64</sup> To take just one example, a frequently-cited study of tax increment financing in Iowa found that changes in state law in 1985 eliminated the requirement of a ‘blight’ finding, paving the way for “economic development” TIFs: “It is fair to assume that nearly all of the TIF districts in existence up to the end of the 1980s were of the original, urban renewal, blight-elimination variety. . . . It is equally reasonable to assume that nearly all of the TIF districts that have been added in the state in the 1990s have been established for economic development purposes.”<sup>65</sup> Iowa’s experience was representative of the nation as a whole: what began as a limited tool for addressing blight had become another mechanism for financing a wider range of development projects.

The Iowa study—which was cited in North Carolina by both opponents and supporters of Amendment One<sup>66</sup>—found that the use of tax increment financing in Iowa yielded “virtually no statistically meaningful economic, fiscal, and social correlates” and thus “that the overall expected benefits do not exceed the public’s costs.”<sup>67</sup> Although the study noted that “[c]ity officials believe that the TIF action was instrumental in job growth in their town and in their region,”<sup>68</sup> in fact “[r]elative to job and population yield, the costs of TIF activities in the state appear to be very high”<sup>69</sup> and “[t]here is indirect statistical evidence that this profligate practice is resulting in a direct transfer of resources from existing tax payers to new firms without yielding region-wide economic and social gains to justify the public’s investment.”<sup>70</sup> An in-depth study of TIF districts in Illinois reached a similar conclusion, finding that inefficient reallocation of government and private

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61. See George Lefcoe, *Finding the Blight That’s Right for California Redevelopment Law*, 52 HASTINGS L.J. 991, 995–96 (2001); Klacik & Nunn, *supra* note 4, at 16; Man, *Determinants*, *supra* note 31, at 97.

62. Johnson & Kriz, *supra* note 5, at 38; see generally Lefcoe, *supra* note 60.

63. Kent D. Redfield, *Trickle Down from the Rising Tide – TIFs and Urban Development Policy in Illinois*, PRAGmatics 3, 4 (Summer 2002).

64. Colin Gordon, *Blighting the Way: Urban Renewal, Economic Development, and the Elusive Definition of Blight*, 31 FORDHAM URB. L. J. 305, 318 (2004); Johnson & Kriz, *supra* note 5, at 37 (“The notion of public interest was thus expanded to include private development of areas before they reached a point of disrepair that required widespread condemnation.”).

65. SWENSON & EATHINGTON, *supra* note 11.

66. DEVELOPMENTS, *supra* note 30, at 3 (Aug. 2004) (citing Iowa study and arguing that “[t]here is little, if any dispute, among those studies that there are significant increases in jobs, private investment, property values and tax revenues within the development districts.”) with Michael Lowrey, *Research Raises Questions About Tifs: Amendment One Supporters Selectively Cite Study, Ignore Conclusions*, CAROLINA JOURNAL ONLINE, Oct. 1, 2004, available at [http://www.carolinajournal.com/exclusives/display\\_exclusive.html?id=1852](http://www.carolinajournal.com/exclusives/display_exclusive.html?id=1852).

67. SWENSON & EATHINGTON, *supra* note 11, at 1; see also Richard F. Dye & David F. Merriman, *The Effects of Tax Increment Financing on Economic Development*, Institute of Government and Public Affairs, University of Illinois, Chicago (1999) (finding that TIF reduces property value growth and encourages blight).

68. SWENSON & EATHINGTON, *supra* note 11, at 11.

69. *Id.* at 10.

70. *Id.* at 11.

resources within TIF districts actually caused *slower* growth in TIF-adopting municipalities.<sup>71</sup> As a recent North Carolina-based study concluded, after reviewing TIF studies across the country, “[i]t remains unclear whether tax increment financing increases property values.”<sup>72</sup>

On the other hand, supporters of tax increment financing point to counter-examples that they say demonstrate that “[s]elf-financing bonds are working for all of our neighbors.”<sup>73</sup> A 1993 survey of 300 municipalities found that 78% of cities using TIF experienced growth in property values.<sup>74</sup> Case studies in Illinois, Wisconsin, and Minnesota also found that TIF projects stimulated some degree of economic development.<sup>75</sup> Whether that development was sufficient to recoup the cost is a more difficult question. Many of the studies that show a positive connection between TIF and local development have been criticized for attributing outcomes to TIF that may have happened on their own without public investment.<sup>76</sup> If a TIF-designated district experiences major growth, there is a tendency to credit that growth to whatever investments the city or county made as part of its development plan. However, it is entirely possible that TIF did nothing but “capture” the natural growth that would have occurred without it.<sup>77</sup>

## Conclusion

Despite its relatively slow adoption to date, tax increment financing in North Carolina is likely to spread just as it has in other states, leaving local government officials with the difficult task of harnessing TIF’s effectiveness while avoiding its potential pitfalls. Though the advisability of any particular TIF project will always turn on the particulars of the plan itself, the questions and answers outlined here may give local governments a head start on planning effectively.

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71. Richard F. Dye & David F. Merriman, *The Effect of Tax Increment Financing on Land Use*, in *THE PROPERTY TAX, LAND USE, AND LAND USE REGULATION* 37, 37–38 (Dick Netzer, ed. 2003).

72. *APPLYING TAX INCREMENT FINANCING IN THE CHARLOTTE-MECKLENBURG REGION*, *supra* note 2.

73. *DEVELOPMENTS*, *supra* note 30, at 4 (citing examples from South Carolina and Georgia).

74. *See generally* F.A. Forgey, *Tax Increment Financing: Equity, Effectiveness, and Efficiency*, in *THE MUNICIPAL YEARBOOK* 25 (Int’l City Management Ass’n, 1993).

75. Joyce Y. Man, *Effects of TIF on Economic Development*, in *TAX INCREMENT FINANCING AND ECONOMIC DEVELOPMENT* 101, 103 (Craig J. Johnson and Joyce Y. Man, eds. 2001) (internal citations omitted).

76. JAN K. BRUECKNER, *TAX INCREMENT FINANCING: A THEORETICAL INQUIRY* 2 (Lincoln Institute of Land Policy Working Paper 1999).

77. Patricia Nolan & Helene Berlin, *NCBG’s Study Shows that TIF is Not Cost-Free*, *PRAGmatics* 5, 6 (Summer 2002).

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