

Assessing TIF Reform

A Good Start, or a Missed Opportunity for Iowa?

In a series of reports over the last year, and indeed since 2003, the Iowa Fiscal Partnership has argued for serious and substantial changes in Iowa's Tax Increment Financing (TIF) law to eliminate a variety of abuses that have become more widespread with each passing year. Little or nothing happened until this session, when the Legislature got at least a start on reforming Iowa's TIF law. What would the TIF bill (HF2460) accomplish, and what would it fail to address, if Governor Branstad signs it into law?

The most significant accomplishment the bill offers is to increase accountability and transparency. There are new requirements for extensive reporting by cities and counties on their use of TIF, new audits of how TIF funds are used, and requirements for public notice and hearings for any new project in a TIF area. These requirements should make it significantly easier for taxpayers to find out how much revenue is being diverted by TIF, from which units of government, and where that revenue is spent. Given the complexity and poor understanding of TIF, such requirements are welcome; they will also provide detailed information — in a central and accessible searchable database — that could inform future reform efforts.

In terms of changing the actual practice of TIF, however, the bill is a disappointment. While the original version passed by the Iowa House contained a number of strong limitations on TIF in line with IFP's recommendations¹, the bill was severely weakened in order to gain passage in the Senate. On Page 2 we list the eight major reforms we recommended, beside any corresponding changes in the final version of the bill.

The bill does little to prevent the continuation and expansion of TIF abuses in Iowa. Taxpayers in one school district may still pay higher taxes to finance development in a neighboring district. Cities may still include the entire city in a TIF. Blighted area TIFs and pre-1993 economic development TIFs still have no sunset date; even a minimal requirement for such TIF areas to begin to release a portion of the increment after 25 years did not survive. Cities are still unrestricted in their use of annual appropriation debt to get around constitutional debt limits. Cities need not demonstrate that a project needs incentives. The new requirements on the use of TIF revenue to finance tax-exempt public buildings may prove to be something of a deterrent, or they may turn out to be little more than another hurdle to jump over, a bump in the road on the way to continuing to get rural taxpayers to finance city facilities that will never add to the school or the county tax base.

Counties can continue to divert school tax revenues from wind farms even if the TIF started after the wind farm was built, and even if the county incurred no expenses because of, and provided no incentives to, the wind farm. Most importantly, the diversion of TIF revenues need not end when the initial project, which may or may not have needed TIF incentives, is paid for; instead the incremental revenues can continue to be diverted, giving the cities a cash cow to finance other projects essentially unrelated to the TIF and the rationale for its initial adoption. In light of such potential and demonstrated TIF abuses it is difficult to see this bill as anything other than a missed opportunity to establish a measure of responsibility and fairness in Iowa's TIF law.

On the bright side, the anti-piracy provision is significantly strengthened, making it difficult for a city to repeat a Von Maur-type use of TIF in the future. The bill also limits the diversion of school taxes; the property tax portion of a district's Instructional Support Levy can no longer be diverted to a TIF fund unless

Table 1. TIF Bill Includes Welcome Reforms, But Neglected Others Shown to Be Necessary

Needed Reform	How it Was Addressed in Final TIF Bill
A “but for” test: TIF proposals should be subjected to a test to demonstrate the likelihood that the project could not proceed “but for” TIF incentives or subsidies.	No provision.
TIF projects must produce an increase in taxable value, not function as a substitute for bond financing of tax-exempt public facilities.	To use TIF revenues to finance a public building, city must conduct an analysis of alternative funding options and show that they are less feasible than use of TIF.
TIF areas should be narrowly confined to the area that will directly benefit from TIF-financed improvements, and there should be some limit on the portion of a city’s tax base that could be included in a TIF area.	No limits on TIF areas.
TIFs should be project-based and time-limited: TIF revenues should be used only to retire original TIF project debt or for rebates, and the TIF diversions should end once that project debt has been retired or rebates end. New projects would thus require a new base year.	No requirement for project-based TIF; however, the city must now amend an urban renewal plan if it wants to undertake a new project not originally planned for a TIF area. Other related but minor reforms: (1) the leftover balance in a TIF account must be returned to the other taxing entities, but only when (and if) the TIF area expires; (2) a city cannot change an economic development TIF to a blighted area TIF to void the sunset date.
No TIF area should be allowed to span school district or county lines.	No provision.
There should be limits on the inclusion of residential and retail property in a TIF area.	No limits.
All TIF debt should count toward the constitutional debt limit, including annual appropriation debt.	Reporting of TIF debt must include annual appropriation debt, but no limits on its use.
Cities should be prohibited from using TIF revenues to lure a business from an existing location in Iowa.	Strong anti-piracy language included; only exceptions are (1) if the business verifies that it is seriously considering moving out of state, or (2) the municipality where the business is currently located assents to the relocation.

the county auditor certifies that this diversion is necessary to retire TIF debt incurred prior to April 24, 2012. Cities cannot divert ISL property taxes for TIF debt incurred after that date. The reporting requirements are extensive and important, and it is possible that they will help lay the groundwork for more substantive reforms in the future. At the same time, there was already more than ample information to take action in the areas described above. Whether this bill turns out to be a good start on reform will depend upon lawmakers and the public really reviewing the information available now and in the future — and acting on it, to make the new steps toward greater transparency meaningful.

One final feature of the bill has received little attention: a new restriction on the use of Local Option Sales Tax (LOST) TIFs. We have argued that such TIFs have the potential to completely undermine the tax sharing feature of Iowa’s LOST TIF law and unfairly nullify the LOST provisions put in place when voters approved the tax. Under HF2460, a city can no longer establish a LOST TIF without the approval of the county board of supervisors. Since county government is the largest beneficiary of the LOST distribution formula that would be partly nullified by the TIF, such approval seems unlikely. This is a welcome reform.

¹ <http://www.iowafiscal.org/2012research/120329-IFP-TIF-Reform-bgd.html>. See also IFP’s TIF Reform page at <http://www.iowafiscal.org/TIF.html>