TAX INCREMENT FINANCING IN THE ST. LOUIS REGION

As discussed in the introduction to this report, the Better Together Economic Development Study is focused on examining the impact that St. Louis City, St. Louis County, and county municipalities have on our regional economy. A significant aspect of that impact is shown in how the City, County, and 90 municipalities utilize economic development tools and incentives. We have provided numerous source materials on our website that provide an explanation and look at many of the commonly employed tools including tax abatements and taxing districts[1]. However, one particular incentive that was prominent in academic and professional research – and that was repeatedly voiced as a concern of members of the Economic Development Committee and members of the St. Louis community at large – is the use of tax increment financing (TIF) in the St. Louis region.

Simply put, both the research and individual insights and experiences that were provided during Better Together's outreach for this report indicate that current use of tax increment financing is failing to spur regional growth. This is not to say that there are not positive examples of TIF utilization in all parts of the region. There are, and they will be discussed. However, the current structure for approval and oversight, as well as the fragmentation of the St. Louis region, have created an economic environment where resources are being expended on intraregional competition rather than regional growth and international competition.

Interest in the effectiveness of TIF is not new to the St. Louis region. In 2011, the East-West Gateway Council of Governments issued a report assessing the effectiveness and impact of development incentives in the St. Louis region. Analysis of TIFs in the region comprised a large portion of the overall report, which can also be found in our source materials. While we will not recount the findings of the report regarding TIF in their entirety, we would be remiss to not include findings that led us to want study this topic further, which include:

- In the past 20 years, over $2 billion of public tax dollars have been diverted to developers as subsidies for private developments through tax increment financing across the entire St. Louis region.[2] (Retail development can be found in about 80% of Missouri's TIFs.)[3]
- An examination of sales tax revenues and the use of TIF demonstrate that declining shares of sales tax revenue in one municipality often coincides with the use of incentives and growth of tax revenue share in neighboring municipalities.[4]
- Local governments have increasingly turned to using economic development incentives, particularly TIF and special taxing districts, as a mechanism to fund services. They are tools that local governments can use to control an additional revenue stream without a

---

[1] www.bettertogether.com

[2] East-West Gateway Council of Gov't, *An Assessment of the Effectiveness and Fiscal Impacts of the Use of Local Development Incentives in the St. Louis Region: Final Report* 35 (2011) – this figure includes the entire St. Louis Metropolitan region.

[3] George Lefcoe, Competing for the Next Hundred Million Americans: The Uses and Abuses of Tax Increment Financing, 43 Urban Lawyer 427, 452 (2011).

[4] East-West Gateway Council of Gov't 35-36 (2011)

popular vote and while avoiding legislative caps on major revenue sources. This is not a sustainable means of financing government.[5]

- Development incentives have primarily acted to redistribute spending and taxes.[6]
- Household income is lower and increasing more slowly than in most of our peer regions.[7]

Given the sizable amount of public tax dollars being diverted to private developers and the lack of resulting regional economic growth, the question becomes why the use of tax increment financing remains so widespread. The answer lies both in Missouri statute and in the structure of regional governance.

TAX INCREMENT FINANCING IN MISSOURI

Missouri's tax increment financing law can be found in the the Real Property Tax Allocation Redevelopment Act.[8] In Missouri, tax increment financing can be utilized to capture incremental tax revenues resulting from redevelopment and apply those revenues to pay redevelopment project costs. As in 48 other states with TIF legislation, Missouri allows for the capture of 100% of local property tax. In addition, Missouri allows for the capture of 50% of local incremental economic activity, including sales tax, generated within a redevelopment area.[9] The provision allowing for the capture of sales tax revenue is much rarer, as only 14 other states allow for it in their statutes.[10] As we will discuss in greater depth, it also lends to the common but seemingly ineffective use of TIF in the St. Louis region.

Once a municipality or the County would like to create a TIF, certain steps must be undertaken. Specifically:

1. ***Creation of a TIF Commission*** **–** The municipality must create a TIF commission as provided in the TIF Act.[11] In all cities and counties, the governing body creates the TIF Commission. St. Louis County and cities in St. Louis County have 12-member TIF Commissions composed of 6 members appointed by the governing body, 3 members appointed by St. Louis County, 2 members appointed by the school boards of the affected school districts and, and 1 member appointed by the other taxing districts who levy ad valorem taxes. All other counties and the City of St. Louis have 9-member TIF commissions composed of 6 members appointed by the governing body, 2 members by the school boards of the affected school districts, and 1 member appointed by the other taxing districts who levy ad valorem taxes.[12]
2. ***Redevelopment Plan*** **–** A redevelopment plan, including a description of the redevelopment area and the redevelopment projects therein, must be prepared,[13]

---

[5] East-West Gateway Council of Gov't 36 (2011)
[6] East-West Gateway Council of Gov't 37 (2011)
[7] East-West Gateway Council of Gov't 37 (2011)
[8] Mo. Rev. Stat. §§ , 99.800-99.865 (2010)
[9] Gilmore & Bell, P.C., Summary of Economic Development Tools (2012), available at: http://www.gilmorebell.com/ED_Memo_6_22_12.pdf
[10] Lincoln Institute for Land Policy, State Tax Increment Finance Programs (2010), available at: www.lincolninst.edu/subcenters/...tax/upload/.../TIF_Table_2010.xls
[11] Gilmore & Bell, P.C. 3 (2012)
[12] Missouri Economic Development Financing Association, available at http://www.medfa.com/faq_q14.htm
[13] Gilmore & Bell, P.C. 3 (2012)

3. ***Public Hearing*** **–** The TIF commission must hold a public hearing and make a recommendation to the municipality pertaining to the redevelopment plan, the redevelopment projects and the designation of the redevelopment area, and
4. ***Adoption by Municipality*** **–** The municipality must adopt an ordinance approving the redevelopment plan, the redevelopment projects and the designation of the redevelopment area as discussed below. If a TIF commission makes a recommendation in opposition to a proposed redevelopment plan, redevelopment project, or designation of a redevelopment area, or amendments thereto, the governing body of the municipality may only approve such plan, project, designation or amendment upon a two-thirds majority vote. Once the ordinance is adopted, tax increment financing may be implemented for one or more redevelopment projects within a redevelopment area.[14]

PRISONER'S DILEMMA: THE USE OF TIFs IN THE ST. LOUIS REGION

It is important to note that while the widespread use of tax increment financing in the St. Louis region is seemingly problematic, there are examples of successful TIFs, including Cortex and Pagedale. These projects have provided valuable benefits to our region through additional jobs and much-needed services.

However, there does appear to be a systemic issue with the use of TIFs throughout the St. Louis region. It is our contention that this issue arises from a perfect storm of Missouri law and regional fragmentation.

Under Missouri law, the process for approval of TIFs is seemingly thorough. However, upon closer examination, it is clear that the true power lies with the developer and the municipality seeking to establish the TIF in the first place.

In Missouri, a municipality is given the power to overrule a TIF commission's recommendation against the establishment of a TIF. All that is required to do so is a 2/3 vote of approval from the governing body, rather than a simple majority.[15] Thus, the TIF commission and public hearings are relegated merely to an advisory role. The ability of a municipality seeking a TIF to bypass a TIF commission's recommendation is troubling when taking into account the practical application of what is required. There are 584 members of 92 governing bodies in St. Louis (St. Louis City, St. Louis County, and 90 municipalities in St. Louis County). On average, a governing body is composed of 6 members, which means that on average a governing body need only garner at most one additional vote on average to override a 9- or 12-person panel charged with watching over interests larger than those of a single county or municipality.

Furthermore, Missouri's "but for" test offers little additional protection. In Missouri, a "but for" test must be met prior to a TIF's approval. Under this test, a governing body must find that the redevelopment area has not been subject to growth and development through private investment and is not reasonably anticipated to be developed "but for" the adoption of tax increment financing.[16] In order to fulfill this requirement, such a determination must be submitted via an

[14] Gilmore & Bell, P.C. 3 (2012)
[15] Gilmore & Bell, P.C. 3 (2012)
[16] Gilmore & Bell, P.C. 7 (2012)

affidavit by the proposed developer along with the redevelopment plan.[17] This test has by many accounts, including those of business and civic leaders, devolved into a relatively easily met requirement that the developer simply show that the developer would not undertake the development without the TIF, rather than show that the redevelopment area would not reasonably be anticipated to be developed by anyone without the adoption of a TIF. This is an important trend, especially since freezing the property tax revenue during the TIF can negatively impact the encompassing school district. A non-TIF project could lead to increased revenues for the district. However, freezing the property tax for the length of a TIF prevents the district from benefitting from increased revenue that would have been available if a non-TIF project had developed in the same period. However, as it stands now, school districts' opinions can be overridden by the municipality.

It is important to note that Missouri is unique in its governing of TIFs. It is one of only two states that allows for revenues beyond property taxes to be captured under a TIF, while only requiring municipal approval for creation of a TIF.[18] On average, most states require in excess of two agencies or bodies to approve a TIF before it can be established.[19] Missouri has created an economic development tool that is readily available and allows for municipalities to chase sales tax revenue. When the lack of regional or state oversight is coupled with the fragmentation of the St. Louis region, a perfect storm is created for widespread use of an economic tool that provides benefits to an individual municipality at the expense of neighboring municipalities and the region. One need look no further than a 2010 TIF approved by the Bridgeton City Council that provided $7.2 million in tax-increment financing for the creation of a Walmart on St. Charles Rock Road.[20] In fact, this TIF was granted so that Walmart could relocate an older store already located on St. Charles Rock Road and only two miles away. The older Walmart was located in both Bridgeton (93%) and St. Ann (7%).[21] However, when Walmart announced it was seeking to move to another site with expanded space, Bridgeton stepped forward to retain the store and the sales tax revenue. Municipal leadership warned that Walmart would simply close the smaller store and relocate to another city if Bridgeton refused to offer a TIF, and the store would take $1 million in annual sales tax revenue with it.[22] The initial site of the original Walmart remains undeveloped today.

This story highlights a few key issues with the St. Louis region's structure for approving and using TIF. First, large corporations and big-box stores have a strategic advantage. With 92 entities in the St. Louis region chasing sales tax revenue in order to maintain service levels, national franchises can leverage the fragmented nature of our region against individual municipalities.

[17] Gilmore & Bell, P.C. 7 (2012)
[18] Lincoln Institute for Land Policy, State Tax Increment Finance Programs (2010), available at: www.lincolninst.edu/subcenters/...tax/upload/.../TIF_Table_2010.xls
[19] Lincoln Institute for Land Policy, State Tax Increment Finance Programs (2010)
[20] Gillerman, Margaret "Walmart Store Gets Bridgeton's Approval." *St. Louis Post Dispatch* 8 July 2010, available at: http://www.stltoday.com/news/local/metro/walmart-store-gets-bridgeton-s-approval/article_8d158273-5237-5e5d-b0d8-fc23c94dc3ff.html
[21] Gillerman
[22] Gillerman

GOOD TIF, BAD TIF

The identification of positive versus negative uses of tax increment financing is not a subjective judgment. Data, analysis, and experience provide an objective measure for analysis of TIFs. Local success stories of tax increment financing include Cortex and Pagedale. Cortex is expected to create 2,400 jobs, predominantly in the technology sector.[23] These jobs will help St. Louis City and County attract and retain well-paid professionals in the region. Pagedale also highlights the potential benefit of TIFs. Beyond Housing utilized the Pagedale TIF to bring a bank to an area that has the third-highest rate of unbanked African-American households in the nation.[24] Within the same development, Beyond Housing brought a Save-a-Lot store to fill the need for fresh groceries in the community.[25]

It is not the contention of this report that all TIFs are bad, or even that all retail TIFs are unbeneficial. However, the widespread use of tax increment financing for retail development and the benefit of individual municipalities is not the recipe for regional economic growth.

In 2011, the East-West Gateway staff and local university researchers tracked a ten-year period in the St. Louis Metropolitan Statistical Area and found that during that period, 598 small retail stores, each employing less than 10 persons, were eliminated.[26] During the same period, retail employment actually increased by 2,700 jobs, according to the Bureau of Labor Statistics.[27] This indicated an elimination of smaller stores by larger corporations.[28] This trend has several impacts. First, simple mathematics leads to the realization that there will be less room in the market for entrepreneurs and local shops. Second, it increases the likelihood that profits will leave the St. Louis region.[29] Neither is a result that suggests a positive return on the public financing that some retail TIF projects enjoy.

Finally, the large-scale use of TIFs for retail development has been found to only shift these lower-paying jobs and redistribute the tax revenues available.[30] Furthermore, it is estimated that each job that is reported as created or retained in TIF districts comes at a cost of over $12,000.[31] These are not trade-offs that are leading to economic growth in the St. Louis region. One need look no further than the combined population loss of 45,615 for St. Louis City and County from

[23] Dwyer, Joe "Cortex Plans $186 Million in New Biotech Development." St. Louis Business Journal 22 October 2012, available at: http://www.bizjournals.com/stlouis/blog/BizNext/2012/10/cortex-plans-186-million-in-new.html?page=all

[24] O'Neil, Bridjes "Pagedale Unveils Firsts-Ever Bank." The St. Louis American 29 November 2012, available at: http://www.stlamerican.com/business/local_business/article_bd12e64e-39a6-11e2-ba57-001a4bcf887a.html

[25] "Beyond Housing Breaks Ground for Pagedale Senior Housing Development" St. Louis Equity Fund 31 October 2011, available at http://www.slefi.com/beyond-housing-breaks-ground-for-pagedale-senior-housing-development/

[26] East-West Gateway Council of Gov't 28 (2011)

[27] East-West Gateway Council of Gov't 28 (2011)

[28] East-West Gateway Council of Gov't 29 (2011)

[29] East-West Gateway Council of Gov't 30 (2011)

[30] East-West Gateway Council of Gov't iv (2011)

[31] East-West Gateway Council of Gov't, *The Use of Development Incentives in the St. Louis Region: Update* 5 (2012).

2000-2012,[32] or the 7.7% regional unemployment rate of St. Louis that ranks us 285th in the country and is a full percentage point higher than both the U.S. and Missouri rates of 6.7%[33].

POSSIBLE SCENARIOS FOR MOVING FORWARD

On average, 39% of a municipality's operating budget is funded by sales tax revenue. Furthermore, evidence suggests that the use of TIF and other incentives provides a positive economic impact for the municipality utilizing the incentive while negatively impacting neighboring municipalities.[34] With that in mind, it is difficult to fault individual municipalities or their mayors for utilizing TIFs and other means to garner as large of a portion of the sales tax revenue as possible. Individually, there is very little that a municipality can do to alter the "prisoner's dilemma" that has been created in St. Louis in pursuit of sales tax revenue.[35] Municipal leaders are faced with the unattractive choices of placing a tax initiative on the ballot or reducing services if they choose not to participate in the pursuit of sales tax revenue. Therefore, a solution must be implemented at a regional or state level so that the playing field is leveled and the competitive advantage of being the wealthiest market for hundreds of miles is restored to the St. Louis region, rather than placed in the hands of Walmart and other big-box developers.

1. Require additional approval for the implementation of a TIF

Of the 49 states with TIF legislation, 6 require approval solely by a municipality for the creation of a TIF.[36] Of those 6, only Missouri and Colorado allow for revenues beyond those of property tax to be eligible TIF revenues.[37] Such an atmosphere creates an environment that is ripe for intraregional competition, especially when coupled with a high level of fragmentation. A possible solution would be to require additional approval for TIF creation. Such a practice is commonplace in other states. On average, the creation of a TIF requires the approval of at least 2 agencies in most states. Typically approval comes from 2 or more of the following: a city, county, school board, the state, a community development agency board, or a TIF commission.[38] St. Louis, as a region, would benefit from the implementation of additional oversight and increased scrutiny of the regional benefit for implementing TIFs.

2. Eliminate the availability of sales tax revenues for TIFs

Missouri is one of only 15 states that includes sales tax as an eligible tax revenue for tax increment financing.[39] Eliminating this option would reduce the pursuit of the sales tax and bring Missouri in line with the majority of other states.

---

[32] United States Census Bureaau, available at http://www.census.gov/

[33] Bureau of Labor Statistics, available at http://www.bls.gov/bls/unemployment.htm

[34] East-West Gateway Council of Gov't 35 (2011)

[35] A prisoner's dilemma is a paradox in decision analysis in which two individuals acting in their own best interest pursue a course of action that does not result in the ideal outcome. The typical prisoner's dilemma is set up in such a way that both parties choose to protect themselves at the expense of the other participant. As a result of following a purely logical thought process to help oneself, both participants find themselves in a worse state than if they had cooperated with each other in the decision-making process.

[36] Lincoln Institute for Land Policy, State Tax Increment Finance Programs (2010)

[37] Lincoln Institute for Land Policy, State Tax Increment Finance Programs (2010)

[38] Lincoln Institute for Land Policy, State Tax Increment Finance Programs (2010)

[39] Lincoln Institute for Land Policy, State Tax Increment Finance Programs (2010)