



Tax Increment Financing

2023 Legislative Revisions

You might be thinking...



...but, hopefully you won't when we're done!

Session Overview

Why the revisions

The road to get here

What changed

Why should you care about new year 6 rule (or not...)

Effective dates

What we got & what we gave up

Managing objectives going forward

Why the Change?

- Biggest driver for cities was pooling
 - ✓ Interpretation of the law
 - ✓ Practitioners vs. OSA
 - Cumulative pooling wasn't challenged until 2013
 - Cumulative vs. annual calculation
- Biggest driver for OSA was parcel removal & early decertification



The Road to Get Here

- Years in the making
 - ✓ Couldn't agree on language
 - ✓ Various years with no tax bills
- Approach
 - ✓ TIF sub workgroup
 - ✓ Smaller workgroup
 - ✓ OSA big workgroup
- Tradeoffs
 - ✓ Tried to eliminate year 6 rule
 - ✓ Had to give to get what was deemed more important



What Changed?

- What is & isn't considered admin
- Pooling is now cumulative....as it always has been & should be
- Year 6 rule
- Technical & administrative
- Small cities



What's Considered Admin?

1. Services by bond counsel, fiscal consultants & economic development consultants

2. Staff time for TIF plan, negotiating/preparing agreements, account for segregated funds, preparing & submitting required reporting, reviewing and monitoring for compliance

3. Publication of annual disclosures & notices

4. Preparation/development of RAP for soils or hazardous substance sub district

5. Usual & customary maintenance & operation of properties purchased with TIF, including necessary reserves & insurance

6. Amounts used to pay bonds, interfund loans, or other financial obligations to the extent those obligations were used to finance 1-5

What's *NOT* Considered Admin?

Added purchase of buildings (already stated land)

Material & services for demolition, soil correction and the construction & installation of public improvements

Amounts paid for property taxes or payments in lieu of taxes

County admin costs



Pooling Clarifications

- Any county costs (admin or for roads) are to be deducted first before calculating percentages for expenditures within & outside the district
- Administrative costs considered expenditures outside the district, but if all pooling is for affordable housing (additional 10%), **they're considered inside the district**
 - ✓ If you pool for anything other than affordable housing, then admin is considered expenditure outside the district for calculations of the additional 10%

Pooling Clarifications, Continued...

To calculate percent spent in or outside the district, you must deduct:

Excess increment

Returned increment after PAYGO notes paid in full

Repayment of TIF from parcels that didn't qualify for inclusion in district

Repayment of increment improperly expended

Year 6 Rule: What is it?

Another way to require districts to decertify early

- If large district with many parcels that aren't all paying towards obligations - OR -
- Where City keeps more for pooling & gives less to developer

Has never applied to housing districts

- Exempt from 5-year rule

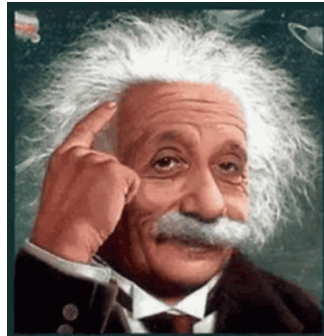
Year 6 Rule: What it Used to Say

Must use anything over pooling percentage to only pay in-district obligations under 5-year rule

Must decertify district when enough collected to pay off the in-district obligations

Year 6 Rule: What Changed

- Now requires removal of parcels not pledged to PAYGO
- Added definition of PAYGO note or contract since tied to when you must remove parcels or decertify early
- Added language allowing anyone receiving special legislation extending 5-year rule, year 6 rule automatically extended to year after new date
- Added math equation



Year 6 Rule: Doing the Math

75% X cumulative revenue = or exceeds amount sufficient to pay:

- Any costs meeting 5-year rule, excluding those under qualifying PAYGO note
- Any accrued interest on costs & obligations meeting 5-year rule
- Any administrative expenses if pooling was only for affordable housing (additional 10%)

Cumulative revenue defined as TIF received through end of calendar year AND includes any final settlement distributions made the following January (net of any excess increment or improperly collected or used increment).

Year 6 Rule: More Revisions

- Two paragraphs define when TIF district must be decertified under new rule:
 - ✓ When math equation is met (same as previous, but added (b))
 - ✓ For districts with outstanding PAYGO, decertification deferred until end of remaining term of last outstanding PAYGO and applicable in-district percentage of cumulative revenues are sufficient to pay obligations under 5-year rule (including refunding bonds)
- Cities must remove parcels that don't have TIF pledged to PAYGO or costs incurred under 5-year rule by end of the year - OR -

Year 6 Rule: More Revisions

- Use applicable in-district percentage of TIF from those parcels to prepay an outstanding PAYGO or other costs incurred under 5-year rule
- Parcels removed must be done by administrative modification & notify county auditor by end of same calendar year

Year 6 Rule: More Revisions

- Only exception to new rules of early decertification or parcel removal is if TIF was pledged prior to August 1, 2023, to a bond issued under “pooling” (*doesn't include PAYGO note or interfund loan issued for pooling purposes*)
- When decertifying parcels or a district under paragraph (a) = 5-year rule expenditures, cities must:
 - ✓ Decertify by **January 25th**, make resolution effective for end of calendar year, then send to County Auditor

Year 6 Rule: More Revisions

- When decertifying parcels or district under paragraph (b) = PAYGO Note, cities must:
 - ✓ Decertify by **December 31st** of year in which last PAYGO is terminated, make resolution effective for end of that calendar year & send to County Auditor
- Election for additional 10% for affordable housing
 - ✓ **Don't have to decertify or remove parcels until 35% collected**
 - ✓ New math equation

Doing the Math: 35% for Affordable Housing

Example 1 – 10% for housing only. **NO** legal pooling

\$7,429,903	Total in district expenditures
\$11,430,620	Divide by 65%
<u>\$4,000,717</u>	Times 35% to get available for affordable hsg
(\$0)	Subtract out admin to date
(\$2,544,984)	Subtract amount spent on affordable housing to date
(\$0)	Subtract out dollars spent on legal pooling
\$1,455,733	Net dollars available for affordable housing

Example 2 – 10% for housing **AND** legal pooling

\$7,282,052	Total in district expenditures
\$11,203,156	Divide by 65%
<u>\$3,921,105</u>	Times 35% to get available for affordable hsg
(\$147,851)	Subtract out admin to date
(\$2,544,984)	Subtract amount spent on affordable housing to date
<u>(\$131,739)</u>	Subtract out dollars spent on legal pooling
\$1,096,531	Net dollars available for affordable housing

Doing the Math: 35% For Affordable Housing

Example 3 – 10% for housing only. NO legal pooling: determining max. eligible admin

\$7,282,052	Total in district expenditures
\$13,240,094	Divide by 55%
<u>\$1,324,094</u>	Times 10% to get maximum admin
\$4,634,033	Times 35% pooling
<u>(\$2,544,984)</u>	Subtract amount spent on affordable housing to date
\$2,089,049	Net dollars available for affordable housing

Year 6 Rule: Why You Should Care (*or not*)

- Why care
 - ✓ Larger redevelopment districts can be impacted
 - ✓ If you are retaining more than 25% for admin/pooling
- Why not care
 - ✓ If you are doing:
 - A housing district
 - An economic development district with a single project
 - Any smaller redevelopment or renovation and renewal district where you have single obligations
 - Giving 90% + of the TIF



Technical & Administrative Revisions

- Removed requirement to have the month the first increment was received
- Added language that TIF can be used to pay administrative expenses, as defined
- Clarified that limitation on admin expenses applies only to TIF revenues properly collected
- Added language that proceeds from sale or lease of property purchased with TIF & TIF used to provide for maintenance & operation of properties purchased with TIF are not subject to 10% limitation on admin

Small Cities

- Reduced distance from 10 miles to 5 miles from a home rule charter or statutory city for designation
 - ✓ Means more cities will qualify



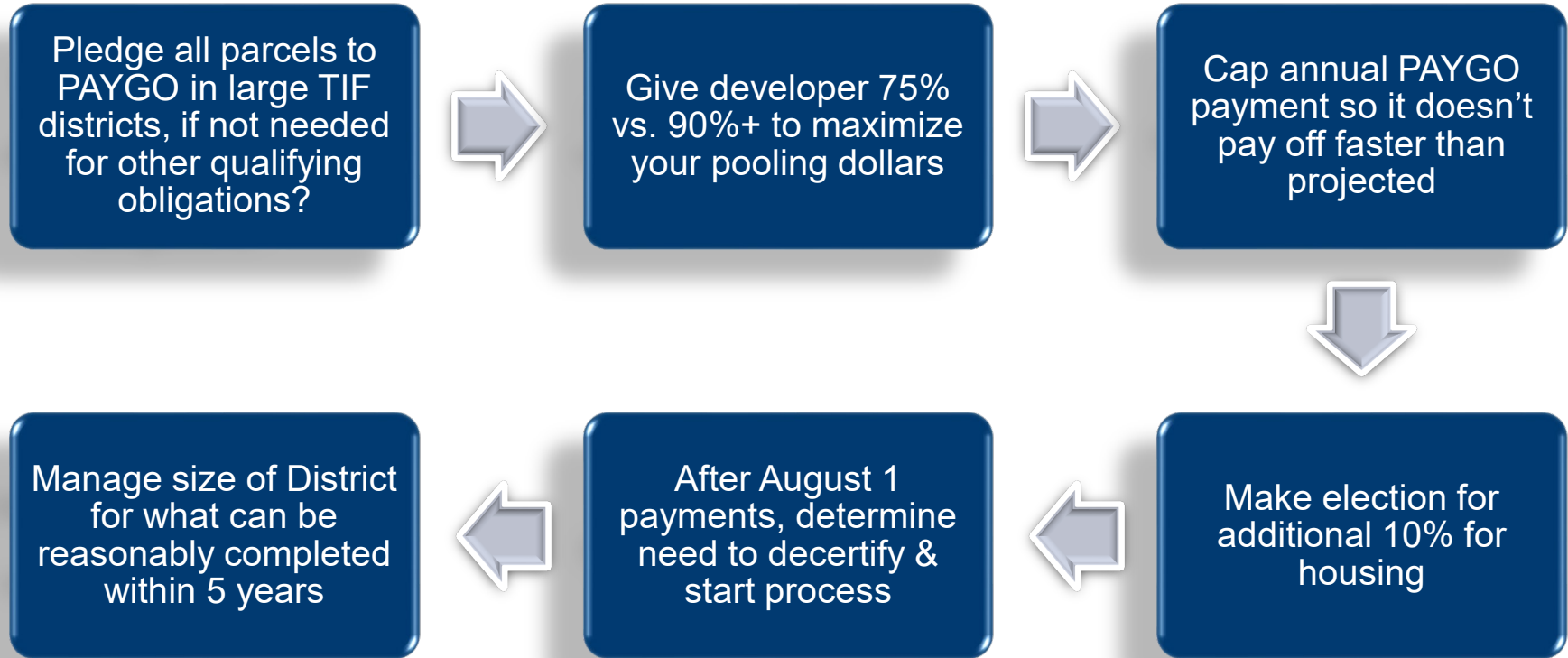
Effective Dates

CATEGORY	CHANGE	EFFECTIVE DATE
Administrative Expenses Limitation of Admin Expenses Limitation on use of TIF (general rule)	Further defined Clarified 10% calculation Added to pay for administrative expenses	All districts, regardless when certification made
Definitions Annual Financial Reporting Collection of Increment Suspension of Distribution of TIF Expenditure of Increment	PAYGO contract or note added Removed requirement for month of 1 st increment Removal of language not needed Removal & simplification of language Clarified statutory cities	Day following enactment
Expenditures Outside the District	Clarified what's included in calculating pooling	All districts with a request for certification after April 30, 1990, except paragraph (f) applies to districts decertifying after December 31, 2023
5-Year Rule	Technical clarification, no substantive change	All districts with a request for certification after April 30, 1990
Use of Revenue for Decertification	Year 6 Rule rewritten	All districts with a request for certification after April 30, 1990
Pooling for Deficits	Clarification	All districts with a request for certification before August 1, 2001, and without regard to whether the request for certification was made prior to August 1, 1979
Small Cities	Radius reduction to 5 miles	All districts with certification made after July 1, 2023

What We Got & What We Gave Up

Category	What We Got	What We Gave Up
What IS & is NOT Considered Admin Costs	<p>Can spend admin on maintenance & operation of buildings purchased with TIF</p> <p>Use of lease revenues for maintenance doesn't count against 10% admin limit</p>	
Pooling	<p>Pooling is now cumulative</p>	
Year 6 Rule	<p>Clear cities can keep TIF district open & collect 100% of TIF for affordable housing until reaching maximum limit allowed, even after in-district obligations paid in full</p> <p>Clear if cities pool for affordable housing that 10% admin limit is outside the 35%</p>	<p>Must accept most complex & hard-to-follow rewrite</p> <p>Must accept parcel removal language</p>
Technical & Administrative		<p>Actual dates to decertify & notify county auditor</p>

Managing Objectives Going Forward



Bottom Line?





Your Presenters



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