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Effects of the Great Recession on Tax Increment Financing in the United States, Georgia and Atlanta

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Introduction

In November 2004, Georgia State University's Andrew Young School of Policy Studies authored a "Policy Guide to the Evaluation and Use of Tax Allocation Districts" under contract with Research Atlanta, Inc.[1] The use of such districts by Georgia cities and counties and the innovative practice of tax increment financing (TIF) were enabled by the Georgia State Constitution of 1983 and the state's Redevelopment Powers Act of 1985.[2] The report noted the sudden surge in the popularity of this important economic development tool over the then preceding five years, while pointing out the absence of any systematic assessment of, or set of policies to guide, its use. The study went on to describe how tax allocation districts (TADs) work, the potential benefits and disadvantages of TIF, and what policies local governments should consider in more equitably distributing those benefits and risks among different stakeholder groups. This current report is intended as an update of the 2004 publication in light of experience and policy changes over time, as well as the impact of the Great Recession.

TIF is a program whereby a local government designates a specific geographic area for development or redevelopment and then funds a portion of development costs with future incremental tax revenues generated within the TIF area. The tax revenues involved typically are incremental property taxes resulting from the increased property values created by the development but may also include local sales or excise tax revenues that increase due to new economic activity generated within the district. Tax increments may be used to finance land acquisition, site preparation and cleanup, infrastructure improvements and other project-related expenses that benefit private businesses that agree to locate their operations within the TAD. Often, the financing arrangement involves the issuance of tax increment, or tax allocation, bonds that provide upfront money to pay for such improvements, with debt service on the bonds paid from the incremental tax revenues generated.

The self-financing aspect of TIF has added to its popularity in Georgia and in many other states. This aspect differentiates it from other economic development tools, such as tax abatements, tax credits and direct subsidies. TIF remains the most-used incentive program among those currently available to local governments throughout the nation.[3] Local governments began using TIF in the early 1950s, initially in conjunction with the federal government's Urban Renewal Program, and adoption of the technique spread quickly in the late 1970s and early 1980s. By the late 1990s, TIF had been authorized in all 50 states and the District of Columbia – although Arizona repealed its TIF legislation in 1999, and California,

[1] "Georgia's Redevelopment Powers Law: A Policy Guide to the Evaluation and Use of Tax Allocation Districts." Carolyn Bourdeaux and John Matthews (Research Atlanta, 2004).

[2] O.C.G.A. §36-44-1 *et seq*. The Redevelopment Powers Law was reenacted by the Georgia General Assembly in 2009 in response to the Supreme Court of Georgia ruling in *Woodham v. City of* Atlanta, which struck down the use of school tax increments for redevelopment purposes.

[3] "The TIFF over TIF: A Review of the Literature Examining the Effectiveness of Tax Increment Financing." Robert T. Greenbaum and Jim Landers (National Tax Journal, 2014).

which was the first state to embrace TIF, ended its use in 2012 as a result of local governments' increased "cannibalization" of public schools' property tax revenues.[4]

California's policy reversal, together with the economic turmoil caused by the financial crisis of 2007-2008 and the consequent real estate-related recession of 2008-2009, has triggered a re-examination of TIF use in other states and localities. This report analyzes the effects of those events on TIF throughout the country, in Georgia, and in the city of Atlanta.

THE GREAT RECESSION

The financial crisis that began in December 2007, and the 18-month recession that followed, was based in the growth and subsequent collapse of America's residential real estate market. Both the crisis and the recession that followed it (often called the Great Recession) were caused by a real estate bubble – a rapid and unsustainable increase in housing prices. The real estate bubble was fueled, in turn, by a credit bubble, which resulted from the widespread loosening of credit standards for mortgages,[5] as well as other consumer loans, and the consequent buying spree of bundled mortgage-backed securities and the even more complex, and opaque, collateralized debt obligations.[6]

The crisis was triggered by well-intended policies that encouraged home ownership by providing easier access to mortgage loans for borrowers. This initially noble effort was complicated, however, by the complex interplay of overvalued subprime mortgages, the belief that housing prices would continue to escalate, questionable trading practices on behalf of both buyers and sellers of bundled loans,[7] compensation structures that prioritized short-term deal flow over long-term value creation, and the lack of adequate capital holdings of banks, investment banks and insurance companies to back the financial commitments they were making.[8] The burgeoning catastrophe the crisis created quickly extended to commercial real estate, caused a worldwide liquidity crunch, a global recession that extended into 2012, and a European sovereign debt crisis whose effects are still being felt today.

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[4] "Redevelopment in California: The Demise of TIF-Funded Redevelopment in California and Its Aftermath." George Lefcoe and Charles W. Swenson (National Tax Journal, 2014).

[5] In December 2007, the New York Times reported, "The Fed's survey of bank lenders showed a steep plunge in standards that began in 2004 and continued until the housing boom fizzled." Edmund Andrews (New York Times, December 18, 2007).

[6] A collateralized debt obligation is a type of structured asset-backed security that promises to pay investors based on the cash flow from a pool of bonds, mortgages or other income-producing assets it owns. CDOs are often "sliced" into "tranches" which allocate interest and principal based on seniority. If there is a default in the underlying assets and cash available from the CDO is insufficient to pay all of its investors, those in the lowest, most "junior" tranches suffer losses first. The last to lose payment from default are the safest, most senior tranches. Consequently, interest payments (and interest rates) vary by tranche with the safest/most senior tranches paying the lowest rates and the lowest tranches paying the highest rates to compensate for higher default risk.

[7] Bundled loans in this context refers to a mix of subprime home mortgage loans and regular mortgages structured as multi-layered mortgage-backed securities, the income from which are distributed to investors who have purchased portions of such securities.

[8] "Declaration of the G-20 Summit on Financial Markets and the World Economy." November 15, 2008. g20.org/wp-content/uploads/2014/12/Washington_Declaration_0.pdf.

The years leading up to the crisis were characterized by an exorbitant rise in asset prices and an associated boom in economic demand.[9] Housing and other real estate values nearly tripled from 1999 to 2007.[10] Further, the U.S. shadow banking system (i.e., non-depository financial institutions such as investment banks) had grown to rival the traditional depository banking system, yet was not subject to the same regulatory oversight, making it vulnerable to bank runs.[11] U.S. mortgage-backed securities, which had risks that were hard to assess, were marketed around the world, as they offered higher yields than U.S. government bonds but were considered just as safe. Yet, many of these securities were backed by subprime[12] mortgages, which collapsed in value when American homeowners began to default on their home loan payments in large numbers starting in 2007.[13]

The role of investment banks, and the complex derivative products[14] they created, in causing the financial crisis cannot be overstated. The 30-year period of financial deregulation that began during the Reagan administration and culminated during the Clinton administration in the 1999 repeal of the Glass-Steagall Act, which had restricted affiliations between commercial banks and securities firms, resulted in the rapid expansion of the financial sector. Privately-held investment banks started going public[15], bringing vast sums of stockholder capital, and mergers among such financial institutions led to the formation and rise of such gigantic combined commercial and investment banks as Goldman Sachs, J.P. Morgan, Citigroup, Bank of America, Merrill-Lynch, Morgan Stanley, Lehman Brothers, Bear Stearns and others.[16]

With the advent of internet stock trading and the development of new concepts in derivatives trading, the investment banking sector flourished, but often at the price of transparency and basic regulatory controls. Financial conglomerates, investment banks, and insurance firms were linked together in the trading of mortgage derivatives and other complex instruments in a system sometimes called the "Securitization Food Chain,"[17] which consists of five positions:

- Home buyers;
- Lenders;

[9] "Oil prices: George Soros warns that speculators could trigger stock market crash." Graeme Wearden (The Guardian, June 3, 2008).

[10] "S&P/Case-Shiller Home Price Index."

[11] "Greenspan Concedes Error on Regulation." Edmund Andrews (New York Times, October, 10, 2014).

[12] Subprime refers to the credit quality of particular borrowers who have weak credit histories and thus a greater risk of loan default than "prime" borrowers.

[13] "Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States." (Government Printing Office, January 25, 2011). Defaults grew as low adjustable rate mortgages converted to higher fixed rate loans and recession-related job losses accelerated.

[14] Derivative products are financial instruments (e.g., futures contracts or options) which are derived from other forms of financial assets.

[15] Going public means making all or a portion of a company subject to ownership by unrelated institutional and individual investors, typically through the issuance and sale of stock in the company, and is often employed by companies seeking to raise additional capital for their businesses.

[16] "Some Hope for the Future After a Failed National Policy on Thrifts." Arthur Liebold in *The Savings and Loan Crisis: Lessons from a Regulatory Failure* by James R. Barth, Susanne Trimbath and Glenn Yago (Milken Institute, July 20, 2004).

[17] *Collateralized Debt Obligations: Structures and Analysis*. Douglas J. Lucas, Laurie S. Goodman and Frank J Fabozzi (Amazon.com, May 5, 2006).

- Investment banks;
- Investors; and
- Insurance companies.

In this sequence, the home buyer granted to the lender a mortgage, which the lender then passed on to an investment bank who earned interest on it. The investment bank bundled such mortgages and similar debt instruments together into collateralized debt obligations (CDOs) consisting of a mix of home loans, car loans, student loans, credit card loans and other consumer borrowings. The credit rating agencies, such as Moody's and Standard & Poor's, accorded these CDOs high, investment grade ratings while being paid large fees by the investment banks for their rating services. The CDOs were sold to other investors by the banks, again based on the premise that they would earn interest. Insurance giants, such as AIG, then sold a type of CDO known as a credit default swap to investors and earned premiums in return. The credit default swaps were presented as a kind of insurance for the investors: if the rating of the CDO went down, then the insurer was to pay the investors for any loss in value. The insurance companies earned premiums from investors, as well as from the derivatives sold to speculators, transferring a large portion of the risk to their own balance sheets.

As the investments appeared to be risk-free to investors, because the risks were borne by the insurance companies in exchange for premium income, the demand for CDOs grew. Investment banks sought more mortgages to form more CDOs to continue the food chain. And, in this climate, lenders started signing even riskier loans at their end of the food chain.

BURSTING THE BUBBLE

By December 30, 2008, the Case-Shiller home price index reported the largest price drop in its history.[18] Increased foreclosure rates among U.S. homeowners led to a crisis in August 2008 for the sub-prime, CDO, mortgage, credit, hedge fund, and foreign bank markets. As early as October 2007, the bursting credit bubble became the most significant risk to the economies of the United States and the western world. With loan losses mounting and the fall of Lehman Brothers on September 15, 2008, a major panic broke out in the inter-bank loan market. There was the equivalent of a bank run on the shadow banking system, resulting in many large and well established investment and commercial banks in the United States and Europe suffering huge losses and even facing bankruptcy, resulting in massive government bailouts.[19] AIG alone, one of the principal bundlers of credit default swaps, had to seek a line of credit from the Federal Reserve Bank in the amount of $182.3 billion to remain solvent.[20]

The global recession that followed resulted in a sharp drop in international trade, surging unemployment and slumping commodity prices. Several economists predicted that recovery might not appear until 2011 and that the recession would be the worst since the Great Depression of the 1930s.

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[18] "S&P/Case-Shiller Home Price Index," December 30, 2008.

[19] "Does He Pass the Test?" Paul Krugman (NY Times Book Review, July 10, 2014).

[20] "Investment in AIG." (U.S. Department of Treasury, December 2012).

The Market for Tax Increment Financings Nationally — 2000 thru Mid-2015

Like the financial crisis of 2007 and the Great Recession that followed, the economic development opportunities created by TIF are inextricably linked to trends in real estate values. As real estate values increased during the period preceding the Great Recession, so did the use of TIF as a development tool. As real estate values decreased starting in 2008, so did TIF activity related to new development projects.

Because TIF involves a delay between the payment of redevelopment costs and the projected benefits received, TIF naturally lends itself to the use of debt financing. Securitizing[21] future tax revenues to pay current costs has, as a result, become a frequently used means of financing redevelopment projects in TIF districts, with such securitizations usually accomplished through the sale of bonds in the U.S. municipal market. The frequency, amount and structures of such securitizations can therefore reveal important trends in the use of TIF and the effects of rising and falling real estate values on the efficacy of this financing tool.

TIF SECURITIZATIONS — 2000 THROUGH MID-2015

One indication of these trends was the amount of TIF debt financings transacted over the periods before and after the onset of the Great Recession, as indicated by statistics from the Securities Data Corporation (SDC).[22] These statistics include lists of, and information about, all publicly-offered TIF debt financings and refinancings (or "refundings") transacted between January 1, 2000, and June 18, 2015 — the most recent date information was available at the time of this writing. The data also show important trends in the uses of TIF securitizations, the structure and pricing of such transactions and their evolving and devolving credit quality.

General TIF Market Trends

From 2000 through mid-year 2015, 2,547 individual municipal TIF bond issues were sold to investors by U.S. cities, counties and special districts, with a par value totaling $39.2 billion. As shown in Figure 1, the most active years in the study period were 2003 (in terms of the number of TIF bond issues) and 2006 (in terms of the aggregate par amount of bonds issued). The least active years were those from 2012 to the end of the study period, with a total of only 353 issues representing approximately $5.94 billion in par value. Two-thirds of the dollar volume and 64 percent of the number of transactions issued during the study period occurred during the eight-year period prior to the Great Recession (2000-07). The remaining one-third of total dollar volume, and of transactions issued, occurred in the last seven-and-one-half years.

It should be noted that most of the downturn in total TIF bond issuance from 2012 onward resulted from California's exit from the new money TIF market at the beginning of that year. Prior to that time,

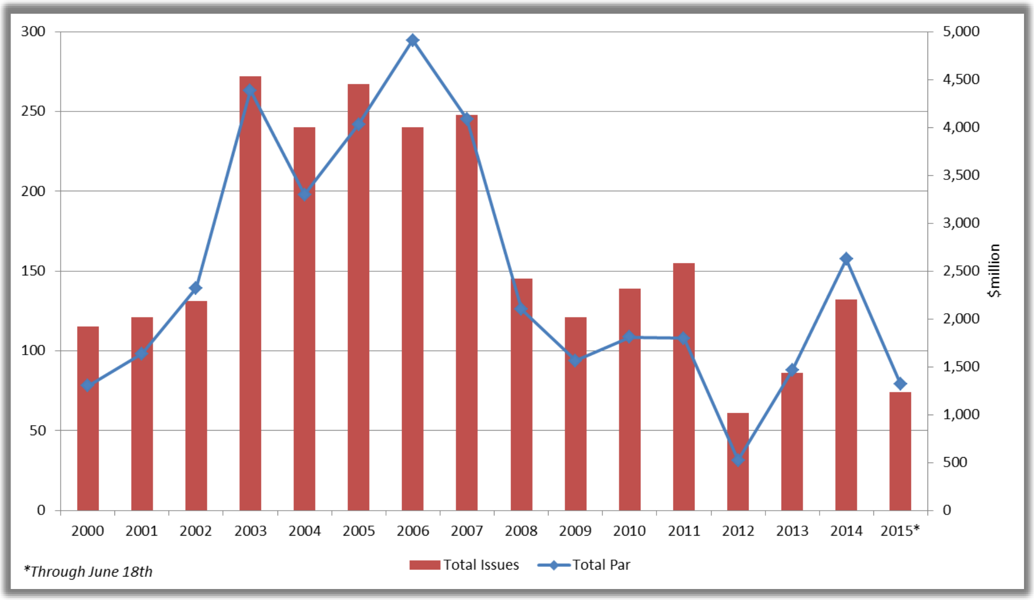
[21] Securitization is a means of transferring risk through the issuance of securities to provide additional funding sources to markets and/or projects.

[22] These data are available at *thomsonreuters.com/sdc-platinum*.

California had been by far the most active issuer of TIF bonds in the nation. (The state actually returned to the number one spot in 2013 with 25 transactions totaling $692 million; however, all of these 25 issues were refundings of prior TIF bond deals, which the law banning new money issues continued to allow.) As shown in Figure 2, over the nearly 15.5-year period under study, California agencies were responsible for 1,221 TIF bond issues, representing over $27.1 billion in par value, or over 69 percent of all TIF issuance activity in the municipal markets.[23]

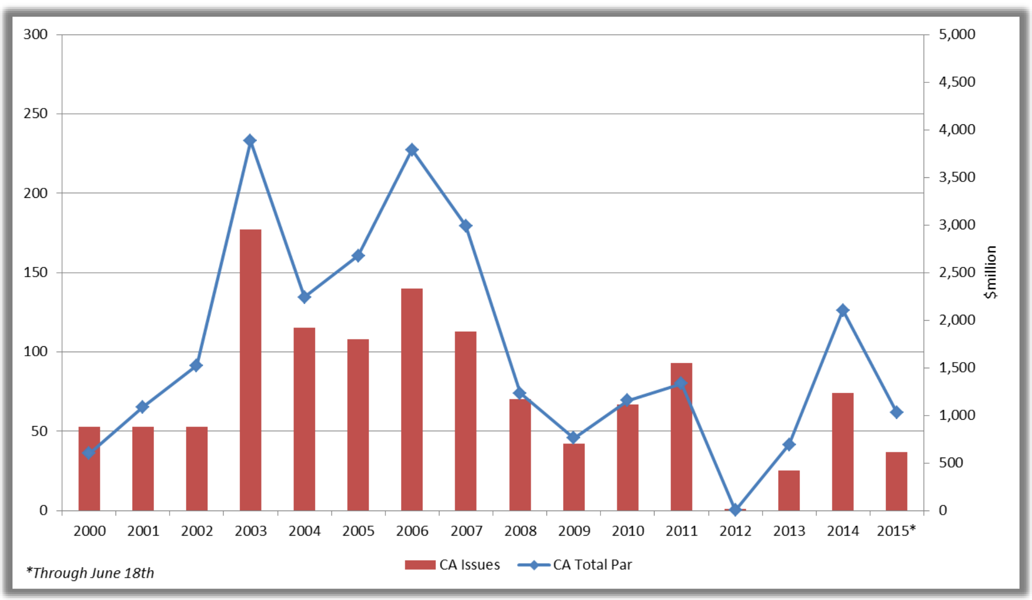
[23] A total of 66 California agencies each delivered at least $100 million of TIF bonds in the municipal market, with the San Jose Redevelopment Agency leading the way with almost $2.53 billion in 25 separate issues.

Figure 1. Total TIF Bond Issuance Volume and Number of Issues, 2000 through Mid-2015



Source: Securities Data Corporation, *thomsonreuters.com/sdc-platinum*

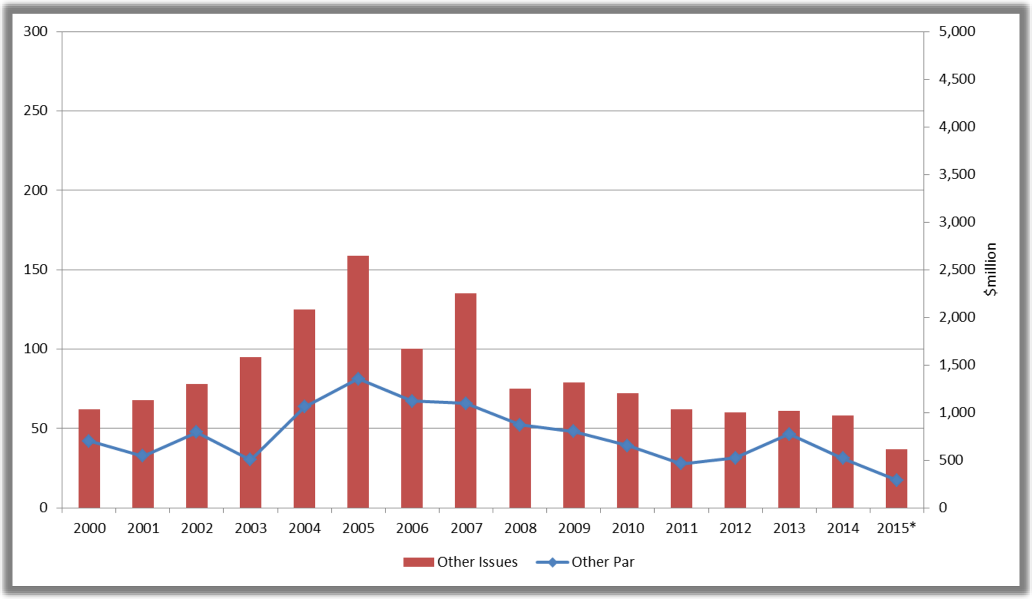
Figure 2. California TIF Bond Issuance Volume and Number of Issues, 2000 through Mid-2015



Source: Securities Data Corporation, *thomsonreuters.com/sdc-platinum*

However, the data show a similar impact of the Great Recession on TIF bond issuance, even when California transactions are removed from the analysis. As shown in Figure 3, the largest and smallest volumes of non-California TIF issuance were in 2005 and 2011, respectively, with a sharp decline in issuance going from 2007 to 2008, a steady decline thereafter and a sharp uptick in the par amount of transactions in 2013 – again due primarily to the level of refunding bond issuance rather than bonds issued for new redevelopment projects.

Figure 3. Non-California TIF Bond Issuance Volume and Number of Issues, 2000 through Mid-2015

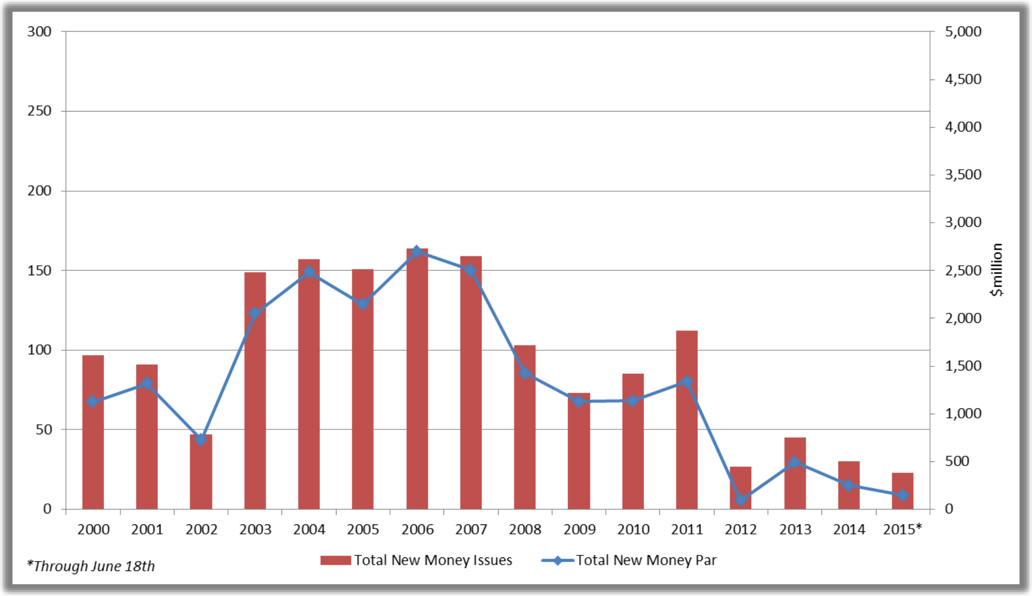


Source: Securities Data Corporation, *thomsonreuters.com/sdc-platinum*

Refunding versus New Money Issues

Refunding bond transactions are motivated by the desire for interest savings; thus, their prevalence among TIF issues at any given time marks the availability of lower interest rates, not necessarily economic development opportunities. To gauge the effects of the Great Recession on TIF issuance properly, they should therefore be excluded from the analysis. When excluded, the decline in TIF bond issuance becomes even more pronounced: total TIF bond issuance from 2008 through mid-2015 fell 49 percent from the prior eight-year period, while new money TIF issuance dropped 60 percent. Overall, as shown in Figure 4, new money TIF issuance tracked economic activity more closely than did total issuance, dipping, for example, in 2002 due to the effects of the "dot-com" bust, and somewhat less so in 2005 due to that year's economic slowdown, with such issuance rebounding the following year in each case. Conversely, as interest rates declined in response to each of those two slowdowns, refunding activity, and thus total TIF issuance, surged.

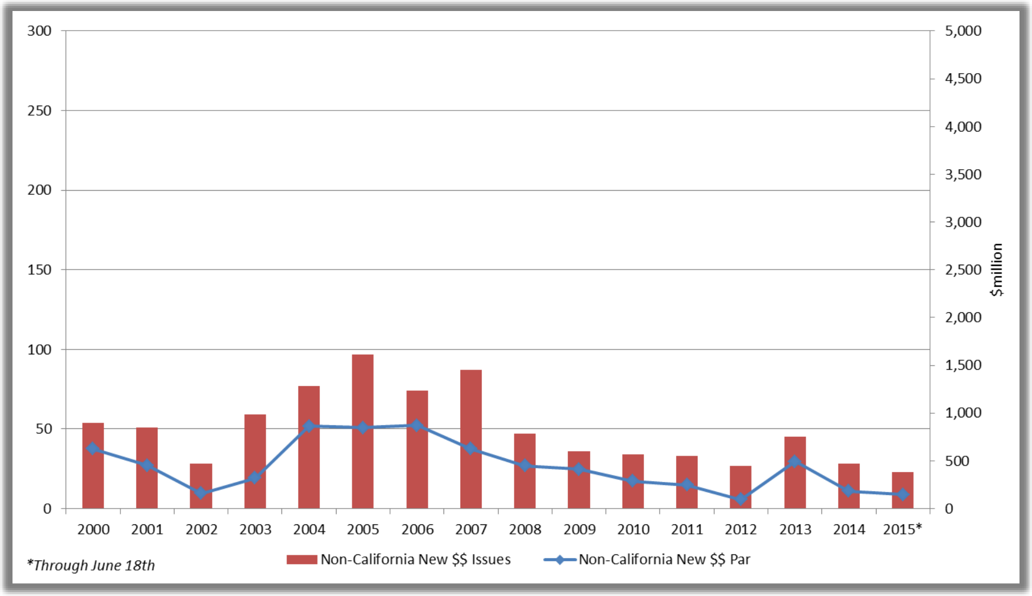
Figure 4. Total New Money TIF Bond Issuance Volume and Number of Issues, 2000 through Mid-2015



Source: Securities Data Corporation, *thomsonreuters.com/sdc-platinum*

Once again, however, the 60 percent drop in new money TIF issuance over the last half of the study period was heavily influenced, like total TIF issuance over that period, by California's activity – or, in this case, the absence of such activity after 2011. As shown in Figure 5 below, new money issuance by non-California jurisdictions dropped 51 percent from 2008 through mid-2015 versus the prior eight-year period.

Figure 5. Non-California New Money TIF Bond Issuance Volume and Number of Issues, 2000 through Mid-2015



Source: Securities Data Corporation, *thomsonreuters.com/sdc-platinum*

Largest Non-California TIF Practitioners

Issuers from California clearly dominated the TIF market over the study period. Of the 10 largest TIF bond issuers since 2000, eight were in California. The top five TIF issuing states other than California were Colorado, Minnesota, Missouri, Illinois and Texas.[24] Colorado agencies led the field in terms of dollar volume issued (at $1.5 billion) but were the least frequent issuers in this second-tier grouping of states, with only 41 transactions over the study period. Minnesota municipalities were by far the most frequent non-California issuers with 399 transactions totaling $1.4 billion in par value. Yet, the dollar volume of all these transactions combined was dwarfed by TIF activity in California (see Table 1).

[24] New York State's version of TIF, payment-in-Lieu-of-Taxes (or PILOT) financing, was used on four high profile projects in New York City valued at $5.3 million. These issuances combined would have placed New York as the second largest TIF-like issuer in the country over the study period. *Development District Bond Financings: The Good and the Bad*, Nathan S. Betnun (*Municipal Finance Journal*, Spring 2012).

Table 1. Top Five TIF Bond Issuers — Non-California States, 2000 through Mid-2015

STATE	TOTAL $ VOLUME	TOTAL NUMBER	AVERAGE SIZE
Colorado	$1,496,420,000	40	$37,410,500
Minnesota	1,327,462,000	375	3,539,899
Missouri	1,316,276,000	113	11,648,460
Illinois	1,228,143,395	113	10,868,526
Texas	1,088,104,073	81	13,433,384
Subtotal	**$6,456,405,468**	**722**	**$8,942,390**
California	**$27,110,721,028**	**1,221**	**$22,203,703**

Source: Securities Data Corporation, *thomsonreuters.com/sdc-platinum*

Apart from California localities, Denver's Urban Renewal Authority was the largest single TIF issuer over the study period by volume ($800 million), followed by Atlanta with $578 million (over 98 percent of all TIF bonds issued in Georgia over the period) and Chicago with $526 million (over 41 percent of all TIF issues in Illinois). Minneapolis and Kansas City rounded out the top five non-California issuers during the study period with $367 million and $182 million, respectively. Again, the volume of all such non-California issuers was exceeded by that of California's single leading TIF practitioner (see Table 2).

Table 2. Top Five TIF Bond Issuers — Non-California Local Governments, 2000 through Mid-2015

STATE	TOTAL $ VOLUME	TOTAL NUMBER	AVERAGE SIZE
Denver	$800,005,000	11	$72,727,727
Atlanta	577,940,000	12	48,161,667
Chicago	525,981,716	26	20,230,066
Minneapolis	367,575,000	28	13,127,679
Kansas City	181,780,000	13	13,983,077
Subtotal	**$2,453,281,716**	**90**	**$27,258,686**
San Jose, CA	**$2,532,110,000**	**25**	**$101,284,400**

Source: Securities Data Corporation, *thomsonreuters.com/sdc-platinum*

EFFECTS OF THE GREAT RECESSION ON THE STRUCTURE OF TIF SECURITIES

By decreasing real estate values, the Great Recession had a direct and adverse effect on economic development projects and the issuance of tax increment bonds that were designed to support them. It also had the effect of increasing risk aversion among TIF bond buyers. Dominated by high-yield mutual bond funds buying on behalf of other investors, portfolio managers were inundated in the early stages of the financial crisis by redemptions[25] from shareholders, creating liquidity crises at many such funds. Those experiences in the early days, weeks and months of the financial crisis, as well as the panic selling their

[25] Redemptions are calls from investors seeking to sell securities and/or liquidate a position in certain securities.

shareholders engaged in, left an indelible impression on high-yield "dirt bond"[26] portfolio managers. Out-of-the-ground TIF deals (i.e., bond transactions that took place as or before the construction of a project had gotten started, based solely on the conclusions of feasibility studies) that once were routine were largely snubbed.

As a result, several changes were made in the structure and marketing of tax increment bonds in an effort to attract investors back into the TIF market. Those relatively few jurisdictions with the legal ability to do so responded by double or even triple-barreling[27] the security for their TIF bonds with full faith and credit pledges, incremental sales tax pledges and special assessments.[28] The use of financial advisors, as intermediaries capable of providing more objective information to investors about TIF bond security arrangements, increased over the study period. The assignment of underlying credit ratings on TIF bonds became more common in response to concerns by now more conservative investors about the collapse of the bond insurance industry[29] and the unavailability of bank letters of credit for such financings. Both the overall volume of TIF issuance and average bond sizes decreased after 2007 (particularly when refunding transactions are excluded from the analysis). Final bond maturities, another structural measure related to risk, also began a gradual decline after peaking in 2006. Average interest rates on TIF bonds increased in the first four years of the Great Recession (2008-11) notwithstanding aggressive actions by the Federal Reserve Bank to reduce interest rates in general – another sign of risk aversion on the part of TIF bond buyers and the consequent demand for higher returns.[30]

The Great Recession's Effects on TIF in Georgia

There is no central repository of information on TADs in Georgia that is easily accessible to citizens of the state.[31] However, based on legislative records of local enabling acts, lists maintained by other professionals having an interest in the subject, and the author's own research, there have been 91 local acts of the Georgia General Assembly that have authorized an equal number of cities and counties in the state to create TADs since the Redevelopment Powers Law was enacted in 1985. Of these jurisdictions, 63 succeeded in obtaining voter approval to exercise redevelopment powers (and thus create TADs) as required by the Act. Of these 63 jurisdictions, 46 have adopted one or more redevelopment plans, which are necessary precursors to the creation of a TAD. Of those 46 jurisdictions, 39 currently have TADs in existence.[32] A total of 73 TADs have been created by those 39 jurisdictions, including eight within the past two years (2014-15). Five of those jurisdictions "recertified" nine existing TADs either by changing the

[26] "Dirt bonds" is a slang term used to describe securities whose underlying cash flows come from real-estate-based investments.

[27] Double and triple-barreling is the practice of pledging additional security over and above the primary source of repayment of an investment.

[28] Betnun (2012).

[29] Only two of nine active bond insurance firms survived the financial crisis with investment grade ratings.

[30] "Tax Increment Debt Finance and the Great Recession," Martin J. Juby and Tima Moldogaziev (National Tax Journal, 2014).

[31] The Georgia Department of Revenue has a supposedly complete file of TADs in the state, but it must be viewed in person.

[32] An additional three jurisdictions are believed to be considering, or are in the process of creating, a TAD.

TAD's boundaries or by abolishing the TAD and recreating it so as to reset base valuations to reflect recession-related losses. Five jurisdictions (Atlanta, Acworth, Clayton County, East Point and Savannah[33]) have issued bonds (the last being for Atlanta's Perry-Bolton TAD in 2014), secured in whole or in part by incremental taxes, to finance redevelopment projects (see Table 3).

[33] Savannah actually issued $20 million in full faith and credit bonds, with a plan to retire them from project-related tax increments. Unfortunately, developers of the project that animated the TAD, Savannah River Landings, LLC, declared bankruptcy in 2010, requiring the city's general fund to support since then virtually all of the debt service on those bonds, whose proceeds had already been spent on project-related infrastructure.

Table 3. Georgia Jurisdictions Fully Empowered to Create TADs

JURISDICTION	YEAR ENABLED	TADS CREATED?	TADS STILL ACTIVE	JURISDICTION	YEAR ENABLED	TADS CREATED?	TADS STILL ACTIVE
Acworth	2002	Yes	1	Hapeville	1990	Yes	1
Albany	2007	Yes	1	Hogansville	2010	No	
Alpharetta	2006	Yes		Holly Springs*	2004	Yes	1
Athens-Clark County	2006	No		Kennesaw	2002	Yes	
Atlanta	1986	Yes	10	Kingsland	2011	Yes	1
Augusta-Richmond County	2006	Yes	3	LaGrange	2010	Yes	2
Avondale Estates	2003	Yes	1	Lawrenceville	2008	Yes	2
Braselton	2007	Yes	1	Lilburn*	2007	Yes	1
Buford	2007	considering		Macon-Bibb County	1986	Yes	3
Bulloch County	2012	Yes		Marietta	2002	Yes	2
Clarkston	2008	No		Norcross*	2007	Yes	1
Clayton County	1989	Yes	6	Oakwood	2007	Yes	1
Cobb County	2002	No		Peachtree Corners	2013	No	
College Park	1990	Yes	1	Perry	1987	No	
Columbus	2013	Yes	1	Pine Lake	2007	No	
Conyers	2007	Yes		Riverdale	2007	Yes	
Dalton	2014	Yes	2	Rome	2005	Yes	2
Decatur	2010	Yes	1	Roswell	2010	No	
DeKalb County	2002	Yes	5	Savannah	2006	Yes	1
Doraville	2015	Yes	1	Smyrna	2002	Yes	1
Douglas County	2009	No		Statesboro	2014	Yes	1
Duluth*	2007	Yes	1	St. Marys	2007	Yes	1
Dunwoody	2011	No		Stone Mountain	2007	Yes	1
East Point	2001	Yes	2	Sugar Hill	2007	considering	
Fayetteville	2011	Yes	1	Suwanee	2007	Yes	1
Flowery Branch	2007	Yes	1	Troup County	2010	Yes	
Forest Park	2007	Yes		Union City	2006	Yes	1
Fort Valley	1987	No		Upson County	2007	No	
Fulton County	1986	No		Warner Robbins	1986	No	
Gainesville	2005	Yes	2	West Point	2009	No	
Griffin	2008	Yes	2	Woodstock	2005	Yes	1
Gwinnett County*	2009	Yes	5	**Total**	**63**	**46**	**73**

* TADs were recertified subsequent to its initial creation.

Jurisdictions that received state legislative approval to create TADs, but either did not create them, reversed an earlier decision to do so, or have yet to show any significant results, faltered for at least one of the following four primary reasons:

1) Failure to receive the approval of a majority of the jurisdiction's eligible voters to exercise such powers, as is required by law;
2) Failure to consummate the necessary agreement(s) with developers to build a project, often due the developer's inability to obtain private financing for the project;
3) Failure to generate positive tax increments within the district; or
4) Failure to receive approval from local school districts, or other overlapping governments, to include their taxes in calculating tax increments.

The second and third of these reasons were most directly affected by the Great Recession, although it can be argued that concerns about an eroding tax base and recession-related cutbacks in state school subventions[34] may also have had an effect on both school district participation and voter approval. In fact, many school districts in the state have been resistant to the idea of diverting incremental school taxes to fund economic development projects, even before the financial crisis occurred. Many believed that economic development was not an appropriate or legal use of school tax dollars, a position that was upheld by Georgia's Supreme Court in its February 2008 ruling in Woodham v. City of Atlanta.[35]

In response to the Woodham ruling, the Georgia General Assembly passed an amendment to the state constitution to allow financial participation in redevelopment projects by school districts. The amendment was approved by a majority of the state's voters in November 2008, and the Redevelopment Powers Law was re-enacted by the General Assembly in 2009. Even then, however, many school districts in the state remained opposed to participating in TADs and either exercised their statutory right to refuse such participation (or threatened to do so) or exacted substantial payments-in-lieu-of-taxes from sponsoring governments, often scuttling the attempts of many cities and counties from moving forward with TIF.

EFFECTS OF THE GREAT RECESSION ON TAD-ENABLED JURISDICTIONS IN GEORGIA

Why nearly 40 percent of the 63 Georgia jurisdictions who gained legislative approval to exercise redevelopment powers failed to do so varies somewhat from place to place. But surely the effects of the Great Recession on property valuations, employment growth and governmental budgets must be counted among the principal reasons. As shown in Table 4 below, only nine of the 46 jurisdictions that actually created TADs were able to recover the property valuations lost during the seven years following the Great Recession's beginning — and, even then, by only a small margin.

[34] Subventions are grants of money, especially from one government (e.g., a state) to another (e.g., a school district).

[35] *Woodham v. City of Atlanta et al*. 657 S.E.2d 528 (Ga. 2008).

Although data on TAD valuations for jurisdictions outside Fulton County are not generally available, total property assessment data for each of these jurisdictions are accessible on the Georgia Department of Revenue's website. Based on that information, the effects of the Great Recession on taxable property values in those 46 cities and counties can be measured. Table 4 shows the average annual rate of change in the total assessed value of taxable property (tax digest) of each of these cities and counties upon which redevelopment powers had been fully conferred. Data are shown for both the six-year period prior to the Great Recession and for the seven years following the recession's onslaught. Every one of the TAD-enabled jurisdictions saw growth in its pre-recession tax digests, at an average annual rate of 9.1 percent overall. All but nine, however, peaked in calendar year 2008 or 2009 and declined thereafter through 2014 (the most recent year for which assessment data are available), at an average annual rate of 2.5 percent.[36] The largest average drop in values, of 3.8 percent occurred in 2011 and 2012.

[36] Assessment information for tax/calendar year 2015 has not yet been posted on the Georgia Department of Revenue website.

Table 4. Total Assessed Value — Average Annual Percentage Change

JURISDICTION	2002-2008	2008-2009	2008-2010	2008-2011	2008-2012	2008-2013	2008-2014
Acworth	11.6%	0.9%	-2.7%	-3.8%	-4.6%	-4.1%	-3.3%
Albany	3.0%	0.9%	-2.9%	-2.2%	-1.3%	-1.1%	-1.4%
Alpharetta	10.4%	0.4%	-2.0%	-2.0%	-1.7%	-1.6%	-3.2%
Atlanta	7.7%	-7.4%	-2.4%	-2.7%	-2.9%	-4.2%	-3.0%
Augusta-Richmond County	**4.2%**	**-1.5%**	**-0.2%**	**-0.1%**	**0.6%**	**0.6%**	**0.6%**
Avondale Estates	4.7%	1.1%	-0.2%	0.0%	-4.0%	-2.0%	-1.1%
Braselton	**37.3%**	**5.0%**	**-0.1%**	**-3.1%**	**-2.7%**	**-2.9%**	**2.6%**
Bulloch County	8.1%	2.0%	0.2%	-0.4%	-0.9%	-0.6%	-0.1%
Clayton County	4.9%	-2.4%	-7.9%	-8.3%	-8.6%	-7.2%	-6.0%
College Park	7.4%	1.0%	-5.3%	5.6%	1.5%	2.7%	-0.6%
Columbus	**4.4%**	**2.1%**	**0.9%**	**1.0%**	**1.7%**	**1.4%**	**1.7%**
Conyers	7.2%	-5.0%	-1.5%	-2.7%	-2.3%	-4.6%	-4.7%
Dalton	5.9%	-1.9%	-5.3%	-4.0%	-2.7%	-2.3%	-2.2%
Decatur	**7.5%**	**3.3%**	**1.4%**	**0.4%**	**0.7%**	**0.7%**	**1.1%**
DeKalb County	5.1%	-2.8%	-3.0%	-6.2%	-6.9%	-5.5%	-3.6%
Doraville	7.3%	-11.1%	-7.1%	-6.1%	-8.8%	-3.4%	-3.6%
Duluth	7.5%	-0.2%	-3.3%	-5.4%	-4.5%	-3.8%	-2.1%
East Point	8.9%	1.3%	-7.0%	-8.6%	-8.5%	-7.8%	-9.4%
Fayetteville	8.7%	-0.9%	-5.0%	-5.3%	-6.8%	-5.7%	-4.8%
Flowery Branch	33.4%	9.1%	3.8%	-0.3%	-1.5%	-1.2%	-0.4%
Forest Park	9.8%	-21.3%	-17.2%	-12.6%	-11.0%	-9.5%	-9.1%
Gainesville	6.8%	-0.1%	-1.6%	-3.1%	-2.8%	-2.5%	-0.1%
Griffin	1.2%	-2.6%	-6.7%	-5.3%	-2.8%	-2.2%	-3.1%
Gwinnett County	7.1%	-1.2%	-4.5%	-5.3%	-4.9%	-4.2%	-2.2%
Hapeville	0.6%	-6.3%	-3.1%	-7.0%	-5.4%	-4.9%	-4.2%
Holly Springs	21.7%	-0.2%	-3.0%	-3.7%	-5.2%	-3.2%	-0.4%
Kennesaw	6.8%	-0.5%	-4.1%	-4.6%	-4.3%	-3.7%	-3.2%
Kingsland	15.5%	6.1%	3.0%	1.1%	-1.6%	-2.5%	-2.6%
LaGrange	**2.4%**	**3.2%**	**1.5%**	**-2.5%**	**0.2%**	**0.5%**	**0.8%**
Lawrenceville	7.0%	-2.9%	-5.5%	-6.8%	-6.8%	-5.8%	-4.6%
Lilburn	4.9%	-1.9%	-4.0%	-5.2%	-4.1%	-3.6%	-3.0%
Macon-Bibb County	0.1%	12.3%	4.7%	2.8%	0.5%	0.0%	-0.5%
Marietta	4.7%	-0.9%	-4.2%	-4.7%	-3.8%	-3.3%	-3.2%
Norcross	**7.3%**	**-0.1%**	**-4.4%**	**-6.7%**	**-2.5%**	**-1.9%**	**0.0%**
Oakwood	**11.2%**	**8.5%**	**4.2%**	**1.2%**	**-0.9%**	**-0.5%**	**1.0%**
Riverdale	4.5%	-5.1%	-8.4%	-7.6%	-7.8%	-6.9%	-6.1%
Rome	4.9%	0.9%	-1.5%	-1.5%	-1.2%	-0.9%	-0.9%
Savannah	10.7%	-1.5%	-4.6%	-5.7%	-3.9%	-2.8%	-2.6%
Smyrna	7.6%	-0.3%	-4.4%	-4.6%	-4.3%	-3.7%	-3.2%
Statesboro	**7.7%**	**1.8%**	**-0.4%**	**-0.6%**	**-1.0%**	**-0.5%**	**0.9%**
St. Mary's	13.6%	2.9%	-2.6%	-3.1%	-4.1%	-5.2%	-4.9%
Stone Mountain	3.9%	-10.8%	-7.3%	-15.5%	-12.4%	-12.6%	-9.0%
Suwanee	12.9%	13.6%	0.2%	-2.5%	-1.8%	-1.6%	-1.1%
Troup County	4.4%	1.7%	-0.4%	-1.8%	-0.2%	-0.1%	-0.3%
Union City	16.4%	1.4%	-5.5%	-2.6%	-2.9%	-3.8%	-3.8%
Woodstock	**11.8%**	**1.0%**	**-3.1%**	**-5.7%**	**-5.9%**	**-3.2%**	**0.2%**
Average % Change	**9.1%**	**-0.2%**	**-3.0%**	**-3.8%**	**-3.8%**	**-3.2%**	**-2.5%**

The time lag between the beginning of the Great Recession and the most significant declines in assessed values among TAD-enabled jurisdictions is explained in large part by the nature of property assessment practices, which tend, even the best of times, to show up only after an economic cycle is well underway. Additionally, in Georgia's case, state legislative actions effectively mandating lower assessments did not take effect until 2010. In 2009, the Georgia General Assembly passed House Bill 233, which placed a three-year moratorium on increasing (though not decreasing) property assessments. The accompanying Senate Bill 55 required local tax assessors to consider foreclosure sales, bank sales, distressed sales and the decreased value of property subject to conservation easements in determining the taxable value of real property. In virtually every taxing jurisdiction in the state, assessed values went down, in many cases, significantly. It is reasonable to infer that similar declines in taxable values took place in TADs created after the onset of the recession. It is hardly surprising, therefore, that TIF, which depends on incremental increases in taxable values to generate revenues for redevelopment projects, became a less useful, and a far less used, economic development tool in Georgia during the post-recessionary period.

It should be noted, however, that TADs created prior to the Great Recession experienced sizeable increases in assessed valuations as a result of redevelopment activities therein, at least as evidenced ty TADs created in Fulton County (Georgia's largest county). As shown in Table 5 below, Fulton's 14 TADs grew by a weighted average rate of 205 percent over their lives. Virtually all of those increased valuations, however, occurred in the seven TADs created prior to 2006, where valuations grew by a weighted average rate of 259 percent. By contrast, the seven TADs created in or after 2006 grew by a weighted average rate of only 13 percent. Clearly, the use of tax increment financing by Fulton County jurisdictions prior to the Great Recession was met with significant success.

Table 5. Growth in Assessed Value of Fulton County TADs

TAD	YEAR CREATED	BASE AV	2015 AV	% GROWTH
Westside (Atlanta)	1998	$270,693,404	$701,136,350	159%
Atlantic Station (Atlanta)	1999	7,173,240	537,895,460	7399%
East Point #1	2001	4,720,280	692,585,660	14573%
Perry-Bolton	2002	66,022,880	152,620,430	131%
Princeton Lakes	2002	826,760	114,321,850	13728%
Eastside	2003	299,727,240	692,585,660	131%
BeltLine	2005	542,867,760	1,387,082,330	156%
East Point #2	2006	50,109,760	55,933,860	12%
Campbellton Road	2006	115,744,000	127,543,320	10%
Hollowell/MLK	2006	37,285,040	57,399,230	54%
Metropolitan Pkwy.	2006	42,190,240	50,585,900	20%
Stadium	2006	26,839,560	34,966,010	30%
Union City	2007	52,964,800	42,920,140	-19%
Hapeville	2008	7,809,720	6,069,800	-22%
Total		**$1,524,974,684**	**$4,653,646,000**	**205%**

The Recession's Effects on TIF in Atlanta

With 10 tax allocation districts, the city of Atlanta has been the most active TIF practitioner and the most prolific issuer of TIF bonds in Georgia and, as pointed out earlier, the second most active issuer in the entire country among non-California jurisdictions. Atlanta and Georgia's first TAD was Techwood, created in 1992 (later expanded and recertified in 1998 into what was renamed the Westside TAD), followed in order by the Atlantic Steel TAD (more popularly known as the Atlantic Station TAD) in 1999, the Perry-Bolton TAD and Princeton Lakes TAD in 2002, the Eastside TAD in 2003, the BeltLine TAD in 2005, and the Campbellton Road TAD, Hollowell/M.L. King TAD, Metropolitan Parkway TAD and the Stadium Neighborhoods TAD (the so-called Commercial Corridor TADs) all created in 2006 (see Table 6). All but two city TADs were set to terminate after 25 years.

Table 6. City of Atlanta TADs

	SIZE (SQ. MILES)	CREATION DATE	TERMINATION DATE	BASE VALUE (IN MILLIONS)	2015 ASSESSED VALUE (IN MILLIONS)	GROWTH %	% OF CITYWIDE ASSESSED VALUE
Westside	2.2	1998	2024	$271	$701	159%	3.3%
Atlantic Station	0.3	1999	2024	$7	$538	7399%	2.5%
Perry-Bolton	3.8	2002	2027[1]	$66	$153	131%	0.7%
Princeton Lakes	0.8	2002	2032[2]	$1	$114	13728%	0.5%
Eastside	2.0	2003	2028	$300	$693	131%	3.2%
BeltLine	10.1	2005	2030	$543	$1,387	156%	6.5%
Campbellton Road	3.6	2006	2031	$116	$128	10%	0.6%
Hollowell/M.L. King	1.8	2006	2031	$37	$57	54%	0.3%
Metropolitan Parkway	1.6	2006	2031	$42	$51	20%	0.2%
Stadium Neighborhoods	0.6	2006	2031	$27	$35	30%	0.2%
Total	**26.8**			**$1,410**	**$3,856**	**174%**	**18.0%**

[1] Due to a 12-year delay in the issuance of TAD bonds for Perry-Bolton, the TAD's life was extended by the city in 2014 to 2041.

[2] Or until all redevelopment expenses have been paid, if earlier.

With the exception of the four Commercial Corridor TADs, Atlanta's TIF program can be considered to have been quite successful overall. The assessed value has more than doubled in all of the city's other six TADs and have increased nearly 75-fold and 138-fold in Atlantic Station and Princeton Lakes, respectively. However, Atlanta's success was mitigated by the effects of the Great Recession, just like that of other TIF districts in the United States and Georgia. As shown in Table 7 below, incremental tax collections in city TADs generally peaked in FY 2010 and 2011 (based on assessed valuations set at the beginning of 2009 and 2010, respectively), before declining virtually across the board.

As Table 8 more clearly shows, TIF collections in each of the city's 10 TADs had slipped into negative growth territory by FY 2012 and, in all but two cases, remained in negative territory until beginning to recover in FY 2015.

Table 7. Tax Increment Collections — City of Atlanta TADs

	FISCAL YEAR ENDED JUNE 30									
	2007[1]	2008	2009	2010	2011	2012	2013	2014	2015	TOTAL
Atlantic Station	$10,776,347	$14,191,942	$16,427,204	$20,375,324	$19,357,582	$15,349,476	$14,566,523	$14,133,425	$16,215,088	$141,392,911
Westside	7,973,422	12,087,366	15,939,096	17,297,078	18,869,936	15,067,012	13,512,881	12,479,722	13,113,086	126,339,599
Perry-Bolton	2,369,594	3,441,930	1,746,768[2]	4,036,659	4,053,145	2,785,277	2,548,312	2,534,599	2,561,013	26,077,299
Princeton Lakes	506,105	1,328,005	1,772,433	2,057,519	2,036,068	1,806,441	1,706,632	1,847,036	2,031,189	15,091,428
Eastside	3,770,968	7,342,112	9,992,106	10,550,204	16,420,123	10,537,112	10,646,019	9,838,785	11,680,420	90,777,849
BeltLine	–	10,016,750	6,431,438[3]	15,078,987	27,792,240	19,482,301	17,770,358	18,590,207	21,858,428	137,020,712
Campbellton Rd.	–	83,982	224,918	334,936	1,541,076	525,203	325,031	154,282	65,180	3,254,608
Hollowell/ MLK	–	111,287	320,971	430,467	669,357	529,884	341,398	343,431	352,255	3,099,050
Metropolitan Parkway	–	71,864	202,032	287,285	607,361	366,667	168,815	143,700	206,898	2,054,622
Stadium Neighborhood	–	27,744	79,475	95,176	182,890	15,509	932	1,271	1,494	404,491
Total	**$25,396,436**	**$48,704,990**	**$53,138,450**	**$70,545,645**	**$91,531,789**	**$66,466,894**	**$61,588,914**	**$60,068,472**	**$68,087,067**	**$545,528,657**

[1] Changed from calendar to fiscal year.

[2] Reflects $2.1 million reimbursement to Atlanta Public Schools for school tax increments collected in 2008-09.

[3] Reflects $9.2 million reimbursement to Atlanta Public Schools for school tax increments collected in 2008-09.

Table 8. Annual Percentage Change in Tax Increment Collections — City of Atlanta TADs

	FISCAL YEAR ENDED JUNE 30									
	2007[1]	2008	2009	2010	2011	2012	2013	2014	2015	TOTAL
Atlantic Station	–	32%	16%	24%	-5%	-21%	-5%	-3%	15%	50%
Westside	–	52%	32%	9%	9%	-20%	-10%	-8%	5%	64%
Perry-Bolton	–	45%	-49%[2]	131%	0%	-31%	-9%	-1%	1%	8%
Princeton Lakes	–	162%	33%	16%	-1%	-11%	-6%	8%	10%	301%
Eastside	–	95%	36%	6%	56%	-36%	1%	-8%	19%	210%
BeltLine	–	–	-36%[3]	134%	84%	-30%	-9%	5%	18%	118%
Campbellton Rd.	–	–	168%	49%	360%	-66%	-38%	-53%	-58%	-22%
Hollowell/MLK	–	–	188%	34%	55%	-21%	-36%	1%	3%	217%
Metropolitan Parkway	–	–	181%	42%	111%	-40%	-54%	-15%	44%	188%
Stadium Neighborhood	–	–	186%	20%	92%	-92%	-94%	36%	18%	-95%

[1] Changed from calendar to fiscal year.

[2] Reflects $2.1 million reimbursement to Atlanta Public Schools for school tax increments collected in 2008-09.

[3] Reflects $9.2 million reimbursement to Atlanta Public Schools for school tax increments collected in 2008-09.

Two anomalies occurred in 2009 collection levels for the Perry-Bolton and BeltLine TADs that were related to the ruling in *Woodham v. City of Atlanta.* Although Woodham, which struck down the use of school taxes to support redevelopment projects, was handed down in February 2008, both the Georgia constitution and the Redevelopment Powers Law were amended to re-authorize their use by April 2009. At that time, the pledge of city school tax increments to TAD bonds not already judicially validated and issued by Atlanta, as well as any conditions to any future such pledge, had not yet been determined. By the time of the city's issuance of long-term TAD bonds for the BeltLine project in December 2009, however, an agreement with Atlanta Public Schools (APS) had been reached. That agreement specified that school tax increments would be pledged to the BeltLine bonds, as well as any future issue of Perry-Bolton TAD bonds, if, among other conditions, Atlanta agreed to reimburse the school system any incremental school taxes generated within these two TADs prior to the reenactment of the Redevelopment Powers Law in 2009. As a result, approximately $9.2 million and $2.1 million attributable to increments credited to the BeltLine and Perry-Bolton TADs were paid over by the city to the school district.[37]

ATLANTIC STATION, BELTLINE, EASTSIDE AND THE COMMERCIAL CORRIDOR TADS

Although generally successful, Atlanta's TIF program has not been problem-free. Declines in TIF collections have had significant effects on the Atlantic Station and BeltLine TADs, even though total collections in both TADs have grown overall. In Atlantic Station's case, the problem has been an excessive amount of debt issuance in relation to actual increment collections. In the BeltLine's case, it has been the agreements Atlanta entered into with its public school system and Fulton County regarding the distribution of "excess" TIF revenues. Disagreements between the city and the school district over those agreements have affected, albeit indirectly, the use of tax increments in the Eastside TAD, as well. Finally, the four Commercial Corridor TADs created in 2006 have seen very little redevelopment, although they continue to provide coverage for administrative expenses incurred by the city's redevelopment agent, Invest Atlanta.

Atlantic Station

In 2001, the Atlanta issued $75.5 million of tax allocation bonds for phase one infrastructure development for the Atlantic Station project, the redevelopment of a 138-acre brownfield site in midtown Atlanta, occupied by the then abandoned Atlantic Steel manufacturing plant, into a high density live-work-play community. Due to the project's highly successful launch, the city agreed to issue another $166.5 million in subordinate lien TIF bonds in 2006 to support the cost of constructing phase two infrastructure. While both bond issues were sold based on incremental taxes from prospective development (i.e., improvements not already in place), the latter issue was sold a year-and-a-half before

[37] Similar reimbursements attributable to school tax increments collected in the Westside, Atlantic Station, Princeton Lakes and Eastside TADs during this time period were not made because TAD bonds already had been issued for those TADs, and the security for those bonds (including school tax increments) had been judicially validated. Under Georgia law, judicially-validated bond security arrangements are not subject to legal challenge on any basis.

the financial crisis and the beginning of the Great Recession. Payment of these junior lien bonds were to be supported by tax revenues projected to result from new condominium units, retail establishments and class A office buildings. And while most of those developments were completed, their absorption by homeowners, shoppers and office workers ground to a halt in late 2007 and 2008.

As available space went unused, developer-owners converted condo units into lower-valued apartments and successfully appealed initial valuations by county tax assessors on other projects. As projected tax increments fell increasingly short of projections, payment of subordinate bond principal (which fortunately was to be handled by optional rather than mandatory redemption) was deferred, even while interest was being covered. As the years have passed, however, and tax increment collections continued to fall (having turned around only in 2015).

Aggravating the situation, the city has made only one principal payment on the subordinate lien bonds since fiscal year 2010 (and only three payments overall), even while the Atlantic Station TAD fund balance was growing ($27.7 million at June 30, 2015). The city's failure to pay down bond principal as originally planned in favor of investing TAD fund balances in money market funds yielding less than the interest rate[38] payable on such bonds for a redevelopment project that is substantially complete seems odd. With $151.4 million in principal still outstanding, rising interest costs, and fewer than nine years remaining before the bonds are due, a default in the payment of these junior lien obligations could occur without substantial and sustained growth in Atlantic Station tax increments and the application of those taxes to bond payments between now and December 1, 2024.[39]

BeltLine

As the city of Atlanta has progressed in its TAD program over time, negotiations regarding the use of school tax increments — by far the largest single source of TIF revenues — have become increasingly complex. By the time the BeltLine TAD was created in 2005, those negotiations for the first time involved tax rebates, or payments-in-lieu-of-taxes ("PILOTs"), to APS. Such payments would come from TIF collections in excess of the annual debt service on bonds necessary to purchase right-of-way and begin development of the circumferential trail system that marked the BeltLine's first phase of development. (Fulton County, Atlanta's other TAD funding partner, insisted upon similar, albeit much smaller, PILOTs to help build out its countywide public library system.) Thus, based on development projections made just two years before the Great Recession, Atlanta agreed to a schedule of fixed annual PILOTs to each jurisdiction. As amended in 2009, the city would pay the school board a total of $162.4 million in PILOTs

[38] The interest rate on the subordinate lien bonds is pegged at the Prime Rate.

[39] If the city defaults in the payment of Atlantic Station's subordinate lien bonds, Georgia law provides that the TAD must remain in place and incremental tax collections (from the city, Fulton County and Atlanta Public Schools) must continue to be applied until all redevelopment expenses, which include principal and interest on bonded indebtedness, are paid.

over years eight through 25 of the BeltLine TAD's existence and $27 million to Fulton County for library improvements over years six through 25.[40]

The city's PILOT obligations to both entities were based on a third-party consultant's projections of ever-increasing tax increment collections ranging from $22.4 million in year six to $320.4 million in year 25. Thus far, total TIF collections from the TAD in years six through 10 have ranged from a high of $27.8 million in 2011 to a low of $17.8 million in 2013, with 2015 collections at $21.9 million. As Table 9 shows, unless the TAD's tax collections improve considerably, and quickly, or unless the city can successfully negotiate a lower schedule of PILOT payments, particularly to the school system, additional leverage to fulfill the BeltLine's promise simply will not be available from TAD bond proceeds. Such negotiations have been underway for more than two years, and while there have been recent indications of a breakthrough in those talks, no details have been made public.

[40] As of January 1, 2016, the city is currently in year 12 of these two agreements. It is current on its payments to Fulton County but is $12 million in arrears to APS (after taking into account a December 2015 payment of $9 million from the city's general fund).

Table 9. BeltLine TAD Cashflows

YEAR	FULTON PILOT	APS PILOT	TOTAL PILOTS	OUTSTANDING DEBT SERVICE	TOTAL REQUIREMENT	TAD REVENUES	EXCESS	CUMULATIVE EXCESS
2011	$1,350,000	$–	**$1,350,000**	$6,579,419	$7,929,419	$27,792,240	**$19,862,821**	$19,862,821
2012	1,350,000	–	**1,350,000**	7,361,194	8,711,194	19,482,301	**10,771,107**	30,633,928
2013	1,350,000	1,950,000	**3,300,000**	7,386,519	10,686,519	17,770,358	**7,083,839**	37,717,768
2014	1,350,000	6,750,000	**8,100,000**	7,468,438	15,568,438	18,590,207	**3,021,769**	40,739,537
2015	1,350,000	6,750,000	**8,100,000**	7,495,881	15,595,881	21,858,428	**6,262,547**	47,002,084
2016	1,350,000	7,500,000	**8,850,000**	7,524,750	16,374,750			
2017	1,350,000	7,500,000	**8,850,000**	7,539,519	16,389,519			
2018	1,350,000	8,326,977	**9,676,977**	7,559,475	17,236,452			
2019	1,350,000	8,326,977	**9,676,977**	7,573,588	17,250,565			
2020	1,350,000	8,326,977	**9,676,977**	7,685,522	17,362,499			
2021	1,350,000	8,326,977	**9,676,977**	7,683,359	17,360,336			
2022	1,350,000	8,326,977	**9,676,977**	7,685,219	17,362,196			
2023	1,350,000	8,326,977	**9,676,977**	7,684,428	17,361,405			
2024	1,350,000	8,326,977	**9,676,977**	7,684,322	17,361,299			
2025	1,350,000	8,326,977	**9,676,977**	7,683,038	17,360,015			
2026	1,350,000	9,365,152	**10,715,152**	7,683,538	18,398,690			
2027	1,350,000	9,428,377	**10,778,377**	7,683,597	18,461,974			
2028	1,350,000	15,056,142	**16,406,142**	7,685,794	24,091,936			
2029	1,350,000	15,516,311	**16,866,311**	7,682,716	24,549,027			
2030	1,350,000	16,004,504	**17,354,504**	7,571,041	24,925,545			
Total	$27,000,000	$162,436,302	**$189,436,302**	$150,901,353	$340,337,655			

Eastside

Stalled talks between Atlanta and its public school system on the BeltLine TAD have also indirectly affected activity in the Eastside TAD. As of June 30, 2015, a total of $68.8 million was available, in either unrestricted cash or supplemental reserve funds that could have been freed up as early as FY 2009, to address redevelopment needs in the district. This money has not been deployed in Eastside because both jurisdictions cannot resolve the amount of BeltLine-related PILOTs owed by the city to its school system.

The original covenants related to the city's Series 2005 TAD bonds for Eastside limited the use of tax increments to the payment of outstanding debt, meaning they could not be used for pay-as-you-go projects. At the same time, APS would have to approve any additional bonds for Eastside that might be issued after the TAD's first five years of existence (i.e., after 2010) if such bonds are to be secured by school tax increments. The only exception to this latter requirement is for refunding bonds issued primarily for debt service savings. As balances in the Eastside TIF fund above those necessary to pay Series 2005 debt service continued to grow and as interest rates fell during the Great Recession, the city and Invest Atlanta began to consider a refunding of the outstanding bonds and a concomitant change in bond covenants to allow for cash-funded projects. As negotiations over BeltLine-related PILOT payments heated up, however, the likelihood that the school district would agree with the city's premise that debt service savings were the "primary reason" for the refunding (as opposed to the expected covenant changes) began to diminish. Because APS would be required to consent to the refunding, the transaction has been delayed, presumably until the BeltLine PILOT dispute is resolved.

Meanwhile, projects such as the redevelopment of Underground Atlanta, the extension of downtown's trolley car system and many other potentially important downtown undertakings have not gained access to TIF funding — while TIF reserves are currently sitting in money market accounts doing very little good for the city.

Commercial Corridor TADs

Created by Atlanta in 2006, the four Commercial Corridor TADs are the smallest of Atlanta's 10 TIF districts, have generated the least amount of incremental taxes (1.5 percent of total tax increments for all city TADs since their date of creation), and have seen the least amount of redevelopment activity. Incremental taxes and other revenues attributable to the four TADs have shrunk from just over $3 million in FY 2011 to just over $625,000 in FY 2015 (see Table 10). Yet, notwithstanding a combined balance of $6.23 million as of June 30, 2015, the only non-administrative redevelopment expenditures that have been made by the city in any of the four TADs over the past eight years was (i) $257,800 for a security grant to the Atlanta Police Department for security cameras in the Campbellton Road TAD, and (ii) approximately $51,000 in support of the Georgia Film and Television Center in the Metropolitan Parkway TAD. (A total of $648,000 in TAD funding had been approved to support the construction and equipping of a trade school operated by Corinthian Colleges, Inc. in the Campbellton Road TAD, whose total cost was estimated at $4.95 million, but Corinthian Colleges filed for bankruptcy in the summer of 2015; and an additional $1.1 million has been approved for the Georgia Film and Television Center in the Metropolitan Parkway TAD.) Every other expense incurred in the four TADs has been for legal and consulting fees, service charges and, in by far the largest amounts, direct and indirect administrative cost recovery fees to Invest Atlanta totaling $1.89 million, or 71.7 percent of total expenditures through June 30, 2015 for these four TADs.

As shown in tables 10 and 11, this administrative expense to total expense ratio compares to the same ratios for Atlanta's other six TADs as follows:

Table 10. Corridor TADs — Campbellton Road, Hollowell/M.L. King, Metropolitan Parkway & Stadium Neighborhood

	FISCAL YEARS ENDED JUNE 30								
	2008	2009	2010	2011	2012	2013	2014	2015	TOTAL
Total Revenues	$296,439	$828,163	$1,153,583	$3,009,665	$1,450,957	$845,183	$648,622	$625,827	$8,858,439
Total Expenses	(35,482)	(22,247)	(634,971)	(457,276)	(410,185)	(445,517)	(230,903)	(393,092)	(2,629,675)
Balance	$260,957	$805,915	$518,612	$2,552,389	$1,040,772	$399,665	$417,719	$232,735	$6,228,764
Admin. Expenses*	$35,482	$22,247	$634,971	$457,276	$410,185	$425,665	$211,850	$122,772	$2,320,449

* Includes Investment Atlanta's direct and indirect costs of managing the TADs, as well as legal, consulting and audit, fees, feasibility studies and other service charges.

Table 11. Invest Atlanta Expense/Total Expense by TAD

TAD	TOTAL EXPENSES	IA FEES	IA/TOTAL
Atlantic Station	$461,598,466	$393,307	0.09%
Westside	181,163,363	3,601,777	1.99%
Perry-Bolton	40,423,405	571,191	1.41%
Princeton Lakes	31,370,091	-	0.00%
Eastside	75,536,291	1,043,243	1.38%
BeltLine	261,672,146	1,370,017*	0.52%
Campbellton	953,557	533,566	55.96%
Hollowell/MLK	648,593	572,151	88.21%
Metropolitan	661,167	514,929	77.88%
Stadium	366,358	265,162	72.38%
Total	**$1,054,393,437**	**$6,979,535**	**0.66%**

* An additional $61.66 million have been paid to Atlanta BeltLine Inc. for its role in managing and implementing TAD projects.

At the time these TADs were created the city was approaching the state-mandated cap on TAD creation.[41] Key city councilmembers wanted to ensure that some of the more challenged and underserved areas of the city where redevelopment could occur received TAD designations before growth in the city's existing TADs eliminated the opportunity. Based on a consultant's city-wide study,[42] areas that appeared to have the highest potential for redevelopment were identified. Creation of the Stadium TAD was driven primarily by the opportunity to redevelop the area around Turner Field, well prior to the Atlanta Braves decision to move to Cobb County. The Campbellton Road TAD included the Fort McPherson redevelopment project and the possible redevelopment of Greenbriar Mall. The Hollowell/MLK TAD included a large parcel associated with a former public housing site that was slated for redevelopment into a mixed income residential neighborhood. And the Metropolitan Parkway TAD targeted the Lakewood Amphitheater site and adjacent parcels for redevelopment.

The goal of all the Commercial Corridor TADs was to invigorate then largely downscale commercial corridors and strengthen nearby residential neighborhoods. That subsequent redevelopment plans and the Great Recession put a halt to most of these plans does not vitiate the initial goals and objectives the city originally planned to achieve. The greater amount of staff time required to assist these more challenged areas — as compared to many of the more "market-ready" areas of the city — to stabilize, set goals and engage the development community largely explains the disproportionate amount of incremental TAD-generated revenues that have been spent on administrative expenses, according to former Invest Atlanta staff.

ESTIMATED FY 2016 TAD REVENUES

According to assessment data obtained from the Fulton County Tax Commissioner's Office, tax increment revenues generated in Atlanta's 10 TADs are expected to be up significantly in the current tax year (or the city's fiscal year ending June 30, 2016), based on preliminary 2015 assessments and current tax rates and collection levels. Those preliminary TAD assessments show increases of nearly 30 percent, or $21.5 million overall, with the BeltLine (+42.6 percent), Westside (+27.8 percent), Eastside (+ 27.4 percent) and Atlantic Station (+26.9 percent) TADs leading the way. Only one TAD, Metropolitan Parkway, registered negative assessed value growth from 2014 to 2015.

[41] The Redevelopment Powers Law limits the amount of TADs that can be created by a political subdivision to 10 percent of total assessed property value in the jurisdiction at the time of such creation.

[42] "Revitalization Incentives for Underdeveloped Areas," Bay Area Economics/Urban Collage Inc. (December 2005).

Table 12. Incremental Assessed Values and Tax Increment Revenues

	INCREMENTAL VALUES TAX YEAR 2014	INCREMENTAL VALUES TAX YEAR 2015	% CHANGE	FY2015 REVENUES	EST. FY2016 REVENUES	ADDITIONAL REVENUES
Westside	$336,835,346	$430,442,946	27.8%	$13,113,086	$16,757,254	$3,644,168
Atlantic Station	418,191,330	530,722,220	26.9%	16,215,088	20,578,398	4,363,310
Perry-Bolton	74,866,150	86,597,550	15.7%	2,561,013	2,962,319	401,306
Princeton Lakes	108,388,220	113,495,090	4.7%	2,031,189	2,126,891	95,702
Eastside	308,467,830	392,858,420	27.4%	11,680,420	14,875,948	3,195,528
BeltLine	592,067,260	844,214,570	42.6%	21,858,428	31,167,411	9,308,983
Campbellton	3,405,630	11,799,320	246.5%	65,180	225,828	160,647
Hollowell/MLK	17,434,950	20,114,190	15.4%	352,255	406,386	54,131
Metropolitan	11,290,290	8,395,660	-25.6%	206,898	153,853	(53,045)
Stadium	-	8,126,450	NA	1,494	337,491	335,998
Total	**$1,870,947,006**	**$2,446,766,416**	**30.8%**	**$68,085,052**	**$89,591,780**	**$21,506,728**

Time will tell whether valuation increases such as these will be sustained beyond the current fiscal year, but the Great Recession's effect on tax increment collections in Atlanta clearly appears to have ebbed.

Considerations in Atlanta's Management of TADs

Because the city of Atlanta has instituted Georgia's most active and comprehensive TIF program in Georgia, as well as one of the most active in the country, it is instructive to review some of the concerns that have been raised about the city's TADs. In the most thorough review of the management of the Atlanta TADs, in May 2012, the City Auditor Leslie Ward, reviewed certain key aspects of the city's TIF experience and reported the following findings:[43]

- Neither the city nor its redevelopment agent, Invest Atlanta, has systematically tracked progress toward meeting redevelopment plan goals.
- Planned redevelopment projects in Atlantic Station, Eastside, Westside, and Princeton Lakes have been substantially completed, and the city has collected more tax increments than needed to pay annual debt service on related TAD bonds; yet early retirement of TAD bonds does not seem to be a priority.
- Trends in assessed values citywide and in tax allocation districts illustrate that public investment has spurred substantial growth in property value within the districts but also shows that districts have captured inflationary growth, thus reducing the city's fiscal capacity to provide services within the districts and citywide.
- Few if any projects have begun in the Commercial Corridor TADs.

[43] "Performance Audit: Tax Allocation Districts," Leslie Ward, City Auditor (City of Atlanta, May 2012).

- Redevelopment plans for eight of the city's 10 tax allocation districts listed high poverty and unemployment among the reasons for establishing the district; yet socioeconomic conditions in tracts containing tax allocation districts still lag the city as a whole in measures of poverty, unemployment and vacancy rates.
- While Invest Atlanta has processes in place to control developer costs, it does not subject its own operating costs and those of its affiliate, Atlanta BeltLine, Inc., to the same scrutiny and oversight.

ATLANTA'S RESPONSE TO AUDIT FINDINGS

City management agreed to all of the auditor's recommendations and commissioned a study of these issues,[44] as well as the completion status of each of the city's 10 TADs,[45] by an outside consultant in 2012 and 2013, respectively. However, it is unclear (or at least there is no public record) of any actions taken by the city or Invest Atlanta on any of the auditor's or consultant's recommendations, except for continuing the practice of annual financial audits of each city TAD. As of the writing of this report, the city's TADs are largely stalled on a number of fronts.

Other than the long-delayed issuance of Perry-Bolton TAD bonds in 2014, there does not appear to have been any TAD-related activity on the part of city management or Invest Atlanta during the current mayoral administration. Negotiations between the city and APS over the status of the Atlanta's PILOT obligations related to the BeltLine TAD, after having been stalemated for three years, appear finally to be producing positive results, although as of this writing the details of those negotiations have not yet emerged. Until they do, funding for the BeltLine and Eastside TADs will likely remain stalled.

As of June 30, 2015, nearly $28 million in unrestricted cash sits in the Atlantic Station TAD fund and nearly $5.7 million in the Princeton Lakes TAD fund, even though both projects are substantially complete. $54.4 million sits in the Westside TAD fund and nearly $69 million in the Eastside TAD fund, yet no additional projects have been approved by the city for either TAD.

Over $159 million in unrestricted funds is sitting in money market accounts, currently earning less than 0.20 percent interest, and additional tax increment collections expected this year could be used to support additional projects or pay down related and much higher rate TAD debt. By so doing, Atlanta's management could hasten the day when these TADs could be extinguished and free up additional TAD capacity for other parts of the city.

Prospects for Future TADs in Georgia and Atlanta

The U.S. and Georgia economies have begun to rebound from the Great Recession, though development and redevelopment activity throughout the country has lagged well behind levels seen before the

[44] "Atlanta Tax Allocation Districts: Strategic Review," HR&A Consultants (Invest Atlanta, June 6, 2012).

[45] "Tax Allocation District Completion Assessment," HR&A Consultants (Invest Atlanta, April 5, 2013).

downturn. The use of TIF among Georgia localities has only just begun to return to pre-recession levels, in part because tax revenues and the availability of private capital have begun to rebound. With the exception of three jurisdictions (Augusta, Griffin, and Clayton County[46]), not a single new TAD had been created in Georgia between 2007 and 2012, even though 20 jurisdictions had received approval to exercise redevelopment powers during that period. Since 2012, however, eight new TADs have been established in seven Georgia localities.[47]

Only two series of tax allocation bonds have been issued in the state since the beginning of the Great Recession.[48] The first permanent bond financing for the BeltLine TAD, in the amount of $78,120,000, was brought to market in December 2009 at a tax-exempt yield of 7.45 percent on bonds due in 22 years. At the time, actual tax increments in the TAD covered annual debt service by over 110 percent and general market rates for high-grade tax-exempt bonds due in 22 years stood at or less than 4 percent. Pricing of the BeltLine bonds was clearly reflective of the still strong risk aversion among TIF investors, notwithstanding moves by the Federal Reserve to lower interest rates in general. (Unfortunately, the city did not have the luxury of waiting for a better opportunity to enter the bond market with its BeltLine bonds; it faced a deadline for refinancing an interim loan with local banks, allowing it to close on the purchase of the BeltLine's northwest rail corridor and thus avoid the risk of losing $22 million in earnest money.) The first bond financing for the Perry-Bolton TAD, in the amount of $21,000,000, closed in February 2014 (12 years after the TAD's creation) and was met with a much more positive response from investors, gaining a 5.00 percent yield on 27-year[49] bonds, when actual tax increments in the TAD covered annual debt service by 130 percent and high grade bond yields were still at or less than 4.00 percent.

A comparison of the pricing levels achieved on these two Atlanta TAD bond issues in relation to rates on high-grade bonds gives a good indication of how much the TIF market had improved since the beginning of the financial crisis. However, further improvement will be necessary before real estate values in general increase enough to support additional tax increment financing and the economic development activity it is meant to support. Development is occurring, but it has been financed primarily by private capital. Nationally, and in Georgia, equity capital and bank loans were the first sources of development funding to dry up at the onset of the financial crisis, one to two years ahead of the decline in real estate values that drove incremental tax collections down. (As one high-yield portfolio manager put it, "The lack of private financing was the first blow to TIF as a financing tool, while declining tax collections dealt the knockout punch.") It is therefore not surprising that private capital would be the first funding source to return to the market, while TIF awaits additional incremental taxes.

[46] Clayton County has created four TADs since 2007, all of them pay-as-you-go districts, only two of which have generated positive amounts of tax allocation increments as of the end of fiscal year 2014. *Clayton County, Georgia, Comprehensive Annual Financial Report, FY 2014.*

[47] Cities of Columbus, Decatur, Dalton, Doraville, Kingsland, Statesboro and St. Mary's.

[48] Savannah's issuance of bonds in 2009 were actually full faith and credit obligations of the city, although the expectation at the time was that tax increments from the TAD in which the bond proceeds were invested would be the primary source of bond payment. That has yet to be the case.

[49] See note 1 on Table 7.

With real estate values still recovering, governmental incentives, where they have been employed at all, have largely taken the form of: tax abatement deals (first cousins to TIF), which have become a part of nearly every economic development financing in recent years; income tax credits, particularly the very popular New Market Tax Credit program administered by the U.S. Treasury Department; and direct subsidies in the form of joint venture financings of public-private projects, with the public portion, at least in Georgia, often involving direct cash contributions from development authority financings backed in whole or in part by the sponsoring city or county governments.[50]

Signs that interest among TIF bond buyers is picking up also are evident. Although refundings of outstanding TIF bonds (i.e., those for projects already producing positive debt service coverage ratios) still dominate the market, conversations with major high-yield portfolio managers (e.g., CapRe, Nuveen and Invesco, etc.) indicate that additional risk will be considered for the right projects and the right returns on investment.

Still, it is difficult to believe that TIF's future is as promising as it seemed prior to the Great Recession. With California out of the market, both the volume and frequency of its use will, and already has, dropped significantly, with new money TIF issuance declining by two-thirds. The primary reason behind California's exit from the TIF market — concern about local governments' ability to cull school districts' property taxes and the fact that other financing alternatives are available — may portend lesser reliance on and more conservative uses of TIF in other states as well.

PAY-AS-YOU-GO TIF

Among those financing alternatives is pay-as-you-go TIF, as opposed to the issuance of tax allocation bonds. Other than Atlanta's recent plans to fund pay-go projects in the Westside TAD and its four Commercial Corridor TADs, perhaps the best example of its use in Georgia has been in Augusta, one of only two major Georgia jurisdictions to get actively into the TIF business in the post-recessionary period. In 2009, the consolidated government of Augusta and Richmond County created one large TAD that encompassed most of downtown Augusta and a portion of the county that extends north and east of the downtown along I-20 to include "Riverwatch" — the site of a 115-acre regional mixed-use retail and entertainment project to be located along the Augusta Canal.[51]

Due to the effects on Augusta's economy of the Great Recession, the development of Riverwatch had to proceed incrementally, with a Costco Wholesale Warehouse and a Cabela's Outfitters store as the first major vertical developments. In each case, Augusta entered into a development agreement with the project developer whereby the city, joined by the county and the Richmond County School District, agreed to reimburse the developer for its infrastructure and other land development costs from the

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[50] Pursuant to O.C.G.A. §48-5-220(20), counties may pledge ad valorem taxes at a rate of up to one mill to support debt service on development authority revenue bonds whose proceeds are used to foster economic development within the county. Georgia municipalities are empowered to pledge up to three mills to support development authority bonds issued for such a purpose.

[51] Augusta later split its mega-TAD into three separate districts, one of them comprised of the Riverwatch project alone.

incremental ad valorem taxes each store generated. Augusta also offered 65 percent of the local option sales tax (or LOST) revenues collected by each store, subject only to the stores' timely reporting of sales taxes actually collected and remitted to the Georgia Department of Revenue. Similar incentives were offered to the developer for additional development at Riverwatch, funded by the incremental property and sales taxes generated by such additional development. This pay for performance model appears to be working well in Augusta and may be replicated in other Georgia cities (including Atlanta) in an effort to avoid the default risk inherent in TAD bonds. Although Augusta retained the right to issue bonds secured by incremental taxes and use the proceeds to fulfill its reimbursement obligations to the developer of Riverwatch, it presently has no plans to do so.

Unlike TAD bond financings, which require incremental taxes in amounts sufficient to cover bond debt service by some minimum margin, pay-as-you-go TADs are able to deliver closer to 100 percent of the incremental taxes generated by a project to support their development cost. For Augusta and other Georgia localities with already established TADs, as well as any such localities enabled to do TIF in the future, pay-as-you-go TAD funding may become more prevalent among TIF-enabled jurisdictions in the state.

Comparison with PILOT Deals

The structure of Augusta's development agreement and the use of TIF to confer tax benefits upon a project developer are not dissimilar in their effects to the more traditional PILOT (or "Phantom Bond") structure, which has been used for nearly 25 years throughout Georgia as a means of attracting businesses to localities. As ratified in 1981 by the Supreme Court of Georgia,52 the structure involves acquisition of a real estate asset by a local development authority from a private developer through the issuance of revenue bonds (which usually are purchased and held by the developer) and a lease-back agreement to the developer in consideration of a fixed schedule of PILOTs and the obligation to pay all other costs of ownership.

Ownership of the asset by the development authority results in an exemption from ad valorem taxation by city, county, school and other taxing districts; this allows the PILOT to be negotiated at a lease rate well below the ad valorem tax that otherwise would be owed on the project. By custom, the lease typically is for a 10-year term at a lease rate initially equal to 50 percent of the property tax liability, which then increases in 5 percent annual increments over the remaining term of the lease. By the end of the lease term, the payor has fully amortized the bonds as well as the PILOT obligation and receives clear title to the asset. Georgia law does not impose any specific terms on PILOT deals, and some development authorities are more generous than others depending upon a project's economic impact. (However, a bond-lease transaction may violate Georgia's constitutional requirement of uniform taxation if other taxpayers in the same jurisdiction who leased similar property financed by bonds did not, or do not,

[52] *DeKalb County Board of Assessors v. W.C. Harris & Co.,* 248 Ga. 277, 282 S.E.2d 880 (1981).

obtain similar terms.[53]) Bond-lease or PILOT financings have become increasingly popular over the past 25 years,[54] even though they do not always confer as much financial assistance as TADs do. They are, however, easier to implement, particularly for single asset developments, and require no state-level legislative action, local voter approval, the consent of overlapping jurisdictions, or the preparation and adoption of redevelopment plans.

Lessons Learned

In their first full decade of active engagement with TIF, and after an economic downturn that lasted almost eight years, Georgia localities have, or should have, learned several lessons that could improve the financing and implementation of redevelopment projects going forward. In the 2005, "A Policy Guide to the Evaluation and Use of Tax Allocation Districts," faculty at GSU's Andrew Young School of Policy Studies outlined ways of capitalizing on the benefits of TADs while hedging against their risks. Additionally, the 2012 Audit of the city of Atlanta's TAD raised some important issues that the city of Atlanta, as well as other Georgia jurisdictions, would do well to consider. The recommendations from these studies include:

1) Use TADs as part of an overall planning and economic development policy with clearly defined economic development goals.

   Allocate incremental tax dollars to TAD projects within the intended scope of the redevelopment plan, and reallocate such dollars to projects not originally contemplated by the plan by formal amendment to the plan, including (i) establishment of the "but-for" test related to a project or projects within the expanded scope, (ii) the proposed specific uses of funds, (iii) the anticipated benefits to be produced by the private sector entity receiving assistance, and (iv) meaningful sanctions, such as a claw back provisions, for failure to meet goals.

2) Conduct full and careful feasibility, fiscal impact and cost-benefit analyses of proposed TAD projects and estimate TAD revenues conservatively, particularly if they are to be used to back debt.

3) Perform annual budgets, performance audits and evaluations, as well as financial audits, to determine private sector progress toward achieving redevelopment plan goals and to show how public funds are being used to support those redevelopment plans.

4) Target TADs for projects where private sector investment is unlikely without public sector involvement, focusing in particular on the redevelopment of brownfields, areas with significant levels of urban blight and the reuse of old industrial or decommissioned military facilities.

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[53] "Georgia Ad Valorem Tax Incentives through Bond-Lease Transactions in Georgia," James P. Monacell, Esq., Smith Gambrell & Russell, LLP, June 6, 2007.

[54] Bond-lease financings have become so popular in the state that the largest taxpayer in the city of Atlanta is the Fulton County Development Authority with total real estate holdings, all acquired as a result of bond-lease financings, that had an estimated market value of $2.3 billion in 2014 — approximately 225 percent larger than the combined holdings of the city's second largest taxpayer, the Georgia Power Company, in that year.

5) Minimize direct public sector subsidies in favor of strategies that share risk with the private sector; reevaluate TADs that fail to attract meaningful redevelopment activity; work with strong private sector partners; and avoid governmentally-initiated speculative projects.
6) Be conservative in the use of TAD-backed debt; use pay-as-you-go funding when and where feasible.
7) Review surplus tax increments on an annual basis once a redevelopment plan is substantially completed and establish criteria for using that surplus increment to pay down debt; return excess increment to participating jurisdictions; or reallocate it to a debt service reserve or a specific development project.

OTHER LESSONS

In addition, the Great Recession highlighted at least three important preconditions to the successful implementation of tax increment financing in Georgia's cities and counties:

The need for one or more catalytic projects to justify financial participation by local governments;

Buy-in by local school districts, typically the chief contributors of incremental property taxes in any jurisdiction; and

If TIF-backed debt is needed due to the scale and timing of a redevelopment project, better protections must be provided to TAD bond purchasers.

TIF — No Field of Dreams

Many of Georgia's TIF-enabled cities and counties have embraced TIF as one of many tools that can be used to entice development to their jurisdictions. And, indeed, tax increment financing can be a powerful incentive for private sector-led redevelopment projects. But TIF alone will not in and of itself create private sector enthusiasm; an "if we build it, they will come" approach rarely pays dividends to localities that do not otherwise have assets in place that will inspire private investment. It was the Atlantic Station development team's vision of what could be done with the an abandoned steel mill and surrounding brownfield in midtown Atlanta, and the private sector investors who supported that vision, that created the impetus for the kind of public-private partnership necessary to support the use of TIF. It was interest from Costco and Cabela's and the demand for their goods and services in the Augusta market, and the development team who supported that interest, that created the opportunity for what has occurred in the city's Riverwatch TAD. It was the brainchild of a single Georgia Tech graduate student that conceived the stitching together of dozens of Atlanta neighborhoods abutting Atlanta's old railroad loop and the diligence of an individual investor who optioned the northeast portion of that loop that brought about the BeltLine. It was the lack of convenient retail outlets and the opportunity for profit by providing them that turned a former dump into a thriving power center in Acworth, that built one of the metro Atlanta area's largest mixed-use development in the adjacent Camp Creek and Princeton Lakes TADs, and that is building mixed-income housing, supportive retail and recreational improvements on the sites of former public housing projects in the Perry-Bolton TAD.

While there are a few examples of public money taking the lead in supporting important redevelopment projects, such as Atlanta's new Center of Civil and Human Rights in Atlanta's Westside TAD, the preponderance of successful public-private ventures are created and led by private profit-seeking enterprises. Having TIF in a jurisdiction's tool kit can be helpful in supporting the cost of major private development projects, but it cannot create or sustain them. One need only look at Macon and Augusta's continuing efforts to attract private redevelopment projects in their deteriorating downtown areas, Savannah's efforts through extensive investments in public infrastructure projects to support the failed Savannah River Landing development, Woodstock's initial effort to create a more attractive, lively and user-friendly downtown, Atlanta's four Commercial Corridor TADs and dozens of other such public sector-led efforts to see the validity of this fact. It is when private investment is coupled with public infrastructure support that TIF is most effective, and, even then, a severe economic downtown can upend even the best of well-laid plans, as was seen throughout the country during the Great Recession.

School District Involvement

In Georgia and elsewhere, school districts depend on two principal funding sources: state educational subventions and local property taxes. Because Georgia school districts are thus limited as to local tax sources, they rely much more heavily on property taxes than cities and counties sharing the same jurisdiction, and they levy such taxes at significantly higher rates — typically twice as high, or higher, than overlapping local governments. As a result, incremental school taxes are the most important potential sources of funds for TIF programs.

Yet, the receivers of those school taxes are typically the least involved and the least "schooled" in the benefits and risks of urban redevelopment projects. Many do not regard redevelopment as a legitimate use of their tax dollars, despite statewide referenda making such activities legal. School districts also stand to lose the most by aggressive and inappropriate use of TADs because the TAD financing captures and redirects revenues that could be used to support growth in student enrollment (which may in turn be caused by TAD-financed developments). Resistance to participation in such projects, at least in states like Georgia where such participation is optional, is thus almost ingrained among many local school administrators, and many a city or county's redevelopment visions have been stymied by school district intransigence. Most Georgia jurisdictions that have undertaken TIF have had to deal with some resistance, and more of them have failed than succeeded. The exercise of redevelopment powers have been weakened, if not eviscerated, by the lack of school district participation in many counties that had embraced TIF as a redevelopment tool, among them Cobb County, Cherokee County, Fulton County, DeKalb County, Bibb County and others.

Strategies that have had some success in convincing school districts to participate in TIF programs have included: (i) reimbursement requirements covering any losses incurred by a school district under state educational funding formulas that take into account local tax revenue collections (e.g., Eastside, Westside, BeltLine, Perry-Bolton and Princeton Lakes TADs), (ii) capping the amount of tax increments that can be leveraged in TAD bond transactions (e.g., Acworth's Lakeside TAD, Eastside and Princeton Lakes TADs), (iii) requiring reimbursement of school tax increments in excess of annual debt service on such bonds (e.g., Lakeside and Camp Creek TADs), and (iv) allocations from TAD bond proceeds or annual tax increments for specific school or school-related capital projects (e.g., Eastside, Westside, BeltLine and Savannah's East Downtown TADs). Though less frequently encountered, similar arrangements with overlapping county governments have had to be negotiated by municipal sponsors of TIF programs (e.g., Lakeside and BeltLine TADs).

However, the most effective argument for local governments participating in TIF-funded redevelopment projects is the net gain incurred from the investments they make. Like any investment, there are risks involved in TIF, but in Georgia's experience thus far, those risks have been more than offset by the financial returns obtained from that participation. In Atlanta's case alone, TIF has contributed nearly $2.5 billion to the tax digest of the city — and the city's school system — over the last two decades, a 10 percent gain.

TAD Bond Credit Enhancements

Given the effects of the Great Recession on TIF bond buyers, additional attention will need to be paid to the creditworthiness of TAD bond issues. First and foremost, sponsoring governments must avoid overleveraging existing, as well as expected, tax increments by using more conservative projections of the tax revenues produced by any given redevelopment project, avoiding the inclusion of inflationary factors in forecasting such revenues, and using relatively high ratios of expected revenues to debt service. For "out-of-the-ground" projects, prudent and rigorous feasibility studies are needed, showing a range of project scales, development timetables and asset valuations for tax purposes (based on actual conversations with local assessors about their actual valuation methodologies).

Attention also should be paid to the availability and feasibility of additional sources of payment for redevelopment expenses. Incremental local option sales taxes can comprise a significant portion of the incremental taxes generated by a redevelopment project and thus have significant effects on covering redevelopment project expenses and/or TAD bond debt service. Unfortunately, the Georgia Department of Revenue has not yet devised an accessible system for determining sales tax collections by location within individual taxing jurisdictions, either for individual or multi-location retailers. However, most local business license taxes are based on individual store sales, which are reported annually by store location. While such data include sales of non-taxable merchandise, algorithms could be developed, and have been developed (see Clayton County's Ellenwood TAD), that would allow conservative estimates of taxes collected on such sales. Such revenues created by new development within a TAD go into the general funds of all such taxing jurisdictions and thus may legally be used to pay, or serve as a back-up source of payment for, redevelopment expenses.

Community Improvement Districts (CID) and other forms of self-taxing special districts could be overlaid on tax allocation districts, and the additional taxes collected in the CID (typically set at 5 mills) could be used as security, or back-up security, for TAD bonds or as additional funding sources for pay-as-you-go redevelopment projects. Similarly, the creation of a coterminous Urban Redevelopment Area, as authorized by Georgia's original redevelopment statute, the Urban Redevelopment Law of 1955 (O.C.G.A.

§36-61-1 *et seq.*), could allow sponsoring jurisdictions to significantly enhance the creditworthiness of their TAD financings. Pursuant to a separate but complimentary state constitutional provision, a sponsoring government could enter into a long-term intergovernmental contract with its urban redevelopment agency (URA), which can be created under the law without specific state legislative approval, and pledge as much as the jurisdictions' full faith and credit to secure URA revenue bonds for redevelopment projects within the TAD. Incremental taxes alone could be used to pay debt service on such bonds, or they could be supplemented by payments made by the sponsoring jurisdiction under the intergovernmental contract. The full faith and credit pledge alone would enhance the creditworthiness of the bonds significantly; how much would depend on the creditworthiness of the sponsoring government.

As the national, Georgia and Atlanta economies continue to rebound from the Great Recession, TIF undoubtedly will regain some of the popularity it enjoyed through most of the last decade. Its continued viability as a redevelopment tool, however, will depend on the foresight and wisdom of the leaders of TIF-eligible jurisdictions, the participation and cooperation of overlapping governments, continued interest in the financing technique among high-yield and other bond investors, and the availability of private capital seeking profitable enterprises. Economic cycles will ebb and flow, but the redevelopment of the America's and Georgia's urban areas will continue.

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Dick Layton currently serves as a Director of Public Financial Management, Inc., a nationwide provider of municipal advisory services to state and local governments and other not-for-profit organizations. Prior to joining PFM, Dick served as Managing Director in the public finance departments of Wells Fargo Bank, A.G. Edwards & Sons, Interstate-Johnson Lane and Trust Company Bank (now SunTrust Bank) for 30 years. Prior to his career in municipal banking, Dick served as Commissioner of Budget and Planning for the city of Atlanta during Mayor Maynard Jackson's first two terms and as Executive Director of Research Atlanta, Inc. prior to joining the City. He obtained a bachelor's degree with honors from Texas Christian University and a master's degree in Urban Studies from Trinity University.

Over his 30-year municipal banking and advisory career, Dick managed the underwriting and issuance of over $15 billion in municipal securities, including tax allocation bonds for the city of Atlanta (three issues for the Atlantic Station TAD, one for the Eastside TAD, one for the Westside TAD and the first financing for the BeltLine TAD), the city of Acworth, city of East Point, and Clayton County in Georgia and underwrote or advised on several other TIF financings throughout the Southeast.

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