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Let's Get Real About TIF –
Debunking Myths and Exploring TIF's Importance to Development in Iowa

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September 25, 2025

Overview
Ahlers & Cooney

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Government Law Practice Area
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Presenter

Nathan Overberg

Disclaimer

Please note that this presentation is intended for informational and educational purposes and to provide general statements from federal law, state law, and agency guidance. Federal and state law may differ on particularized areas and this outline does not include all legal considerations. Each situation varies based on the individualized facts and the law is constantly evolving.

Please consult with your attorney for specific legal information, advice, or individualized inquiries.

Additional Disclaimers

- I am not a lobbyist.
- I am not a legislator.
- Any opinions offered today are my opinions, and not the opinions of the firm or any client.

What is My Experience?

Been helping communities with economic development almost exclusively for over a decade

Work with over 200 communities of all sizes across the state – from Bedford to Fayette and Larchwood to Keokuk

Been involved in hundreds of deals

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Why is UR/TIF Important?

City has limited tools to assist developers:

- Tax Abatement
  - Chapter 404 – Revitalization
  - Chapter 427B – Industrial
  - HQJP/BIG Program
- 15A
  - Grants/Loans for Economic Development
- UR/TIF
- That's about it.

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Why Municipalities Need Tools?

Article III, section 31 of the Iowa Constitution creates the constitutional hurdle cities must get over in order to give funds to private entities.

“[N]o public money or property **shall be appropriated for** local, or **private purposes**, unless such appropriation, compensation, or claim, be allowed by two thirds of the members elected to each branch of the general assembly.”

The Iowa Supreme Court has said:

> “The body of section 31 is **emphatically prohibitive**.
> <u>Its prohibition operates as a limitation of power, not only upon the Legislature, but upon every city council in the state</u>.”

Love v. City of Des Moines, 230 N.W. 373, 378 (Iowa 1930).

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Most Direct Statement of Public Purpose

Iowa Code Chapter 15A declares “economic development” a public purpose

- Creation of jobs and income
- Retention of jobs and income that would otherwise be lost

“Public assistance of economic development within a community is beneficial to a potentially broader segment of the community.”

Brady v. City of Dubuque, 495 N.W.2d 701 (Iowa 1993).

What's Missing from 15A?

HOUSING?

In determining whether the funds should be dispensed, the governing body shall consider any or all of the following factors:

a. Businesses that add diversity to or generate new opportunities for the Iowa economy should be favored over those that do not.

b. Development policies in the dispensing of the funds should attract, retain, or expand businesses that produce exports or import substitutes or which generate tourism-related activities.

c. Development policies in the dispensing or use of the funds should be targeted toward businesses that generate public gains and benefits, which gains and benefits are warranted in comparison to the amount of the funds dispensed.

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403 Helps Fill The Gap

Iowa Code chapter 403 recognizes "shortage of housing" and the need for:

- "the provision of public improvements related to housing and residential development"
- "construction of housing for low- and moderate-income families"

"…the powers granted in this chapter constitute the performance of essential public purposes for this state and its municipalities."

Economic Development Under Urban Renewal

1985 amendment added:

- It is further found and declared that there exists in this state the continuing need for programs to alleviate and prevent conditions of unemployment; and that it is accordingly necessary to assist and retain local industries and commercial enterprises to strengthen and revitalize the economy of this state and its municipalities; that accordingly it is necessary to provide means and methods for the encouragement and assistance of industrial and commercial <u>enterprises in locating, purchasing, constructing, reconstructing, modernizing, improving, maintaining, repairing, furnishing, equipping, and expanding in this state and its municipalities;</u> that accordingly it is necessary to authorize local governing bodies to designate areas of a municipality as economic development areas for commercial and industrial enterprises. . .

Where Does Money Come From?

LOSST	Hotel / Motel Tax	Franchise Fees
General Fund	Surplus Utility System Funds	TIF

What Is Unique About TIF

- Self-funding – 90-95% of projects provide rebates from project ONLY
  - Not pulling from other property taxpayers / consumers

- Derived from new investment / new value only

- Flexible
  - Rebates
  - Borrowing/Up Front Payments
  - Land
  - Infrastructure
  - Minimum Assessment Agreements

Debunking Myths About TIF

- Tax Increment is NOT created by RAISING taxes
- Taxes paid on existing value are NOT diverted through the TIF process
- Every taxing entity benefits immediately from increased value even if that value is TIF'ed
- Most communities utilize significantly less than 100% of the available Tax Increment in any particular UR Area
- Developer/Business pays 100% of taxes like any other taxpayer

How Does TIF Work

Base Value – Value of land and any existing improvements before development

- All taxes on Base Value are undisturbed by TIF process

Incremental Value – Value above Base Value after improvements are completed

- If community requests reimbursement from TIF to make rebate payments, SOME of the taxes paid on the Incremental Value are made available to the community for rebate

Closer Look at Levies

- **School**
  - General Fund 10.02
  - ISL 1.25
  - Management 0.60
  - Physical Plant & Equipment 1.67
  - Debt Service 2.45

  Total $16 – $10.62 in TIF/ $5.37 NOT in TIF

- **City**
  - General - $5.90
  - Aviation - $.13
  - Police and Fire Retirement - $.55
  - Employee Benefits - $.32
  - Debt Service - $3

  Total $9.9 - $6.9 in TIF/ $3 NOT in TIF

- **County**
  - General Basic - $3.36
  - General Support - $2.52
  - Debt Service .83

  Total - $6.71 - $5.88 in TIF/ $.83 not in TIF

- **Assessor - $.24**
- **DART** - $.63
- **DMACC** - $.78
- CONSOLIDATED $34.26 - $25.06 in TIF/ $9.20 not in TIF

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TIF Calculations

Assume $1,000,000 in Base Value

- Taxing Entities Still get $34,260 per year in Taxes on Base Value

Assume $10,000,000 in Incremental Value

- Taxing Entities Still get $92,000 per year from protected levies on Incremental Value

Potential TIF to rebate per year – $250,600

- If community only offers 50% rebate, then taxing entities get $125,300 from the jump
- If community only rebates for 5 years, then taxing entities get $250,600 in year 6

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What if Development Doesn't Happen?

100% of $0 is $0

Examples of TIF Use in Iowa

- Rebates to incentivize commercial / industrial expansion and job creation
- Rebates to reduce infrastructure costs for residential development
- Rebates to developers for developing LMI Housing
- Pay debt service on borrowing for infrastructure that opens property for development
- Fund grants for day care centers and other in demand services (legal, dental, doctors in service deserts)

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More Examples of TIF Use

- Pay debt service on borrowing money for property acquisition or completion of infrastructure for certified sites

- Fund legally REQUIRED local match for various state incentives:
  - HQJP / BIG Program
  - Workforce Housing
  - Catalyst / Upper Story Housing Grants

- Acquire or clean up blighted properties like downtown buildings or malls

- Fund façade programs in downtown districts

What Was Discussed Last Legislative Session in SF652?

THE GOOD.

- Adding the provision of workforce housing to the definition of "economic development" in chapter 15A
    - This would clearly authorize the use of public funds by municipalities to advance workforce housing.
    - So, for example, a city could use available public funds to provide grants / loans directly to a developer who is constructing workforce housing.

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What Was Discussed Last Legislative Session in SF652?

THE GOOD.

- Defining "low and moderate income family housing" in the Urban Renewal Law to include workforce housing
  - Would allow a city to use LMI set aside funds on projects that satisfy the per unit input costs contained in section 15.353
  - Would allow a city to avoid the 403.22 restrictions (LMI set aside/TIF for public improvements only/10 or 15 year sunset) applicable to market rate housing for those projects that satisfy the per unit input costs contained in section 15.353.

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Let's Talk LMI

- LMI Family is currently defined as:
  - families, including single person households, earning no more than eighty percent of the higher of the median family income of the county or the statewide nonmetropolitan area as determined by the latest United States department of housing and urban development, section 8 income guidelines

- Housing for LMI Families not currently defined.
  - Sell/Rent to LMI Family?
  - Affordable to LMI Family?

Let’s Talk LMI

FY 2025 Income Limits Documentation System

HUD.gov HUD User Home Data Sets Fair Market Rents Section 8 Income Limits MTSP Income Limits HUD LIHTC Database

FY 2025 Income Limits Summary

FY 2025 Income Limit Area	Median Family Income Click for More Detail	FY 2025 Income Limit Category	Persons in Family							
			1	2	3	4	5	6	7	8
Union County, IA	$86,400	Very Low (50%) Income Limits ($) Click for More Detail	32,200	36,800	41,400	**46,000**	49,700	53,400	57,050	60,750
		Extremely Low Income Limits ($)* Click for More Detail	19,350	22,100	26,650	**32,150**	37,650	43,150	48,650	54,150
		Low (80%) Income Limits ($) Click for More Detail	51,550	58,900	66,250	**73,600**	79,500	85,400	91,300	97,200

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Let’s Talk LMI

- How would defining LMI housing to include workforce housing help?
  - Provide easy to apply standard that is updated regularly to account for inflation
  - Reduce NIMBY objections
  - Expand uses for LMI funding

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What Was Discussed Last Legislative Session in SF652?

THE GOOD (ISH)

For market rate housing projects constructed on land that has been in the city limits for 20 years, the restrictions in 403.22 are loosened so that the LMI set aside amount is maxed out at 20% and you would have 20 years to collect tax increment (instead of 10 or 15).

Why the ISH?

- Final version would only allow this for projects after 7-1-25 but BEFORE 7-1-26

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Let’s Talk About Housing

Existing Limitations

- LMI Set Aside
- 10/15 years to collect Tax Increment
- Infrastructure Only

Housing is a Priority for Communities Across the State

- Removed school levies from abatement for residential projects
- Not currently in 15A
- Makes UR/TIF even more important tool

What Was Discussed Last Legislative Session in SF652?

THE NOT SO GOOD - BUT BETTER THAN PRIOR PROPOSALS

For any “perpetual” TIF Districts (i.e. TIF Districts in blighted UR areas or those economic development UR areas created prior to 1995), the municipality will be limited to collecting 75% of available tax increment starting with the later of: (i) fifteenth year from the effective date of the legislation or (ii) twenty years from the calendar year following the calendar year in which the municipality first certifies debt, and this percentage reduces to 60% after six years of being subject to this limitation.

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Let's Talk About Blight

Original Purpose of UR – That's Why it Was Protected From Sunsets

Blight Remediation Simply Takes Time – Acquire, Demolish, Prepare for Development, Find a Developer, Allow for Development, Incentivize New Development

- Reducing amount collected could hamstring projects in the middle of process
- Hurt those communities who used a more targeted approach

What Was Discussed Last Legislative Session in SF652?

THE BAD - BUT AT LEAST PROSPECTIVE

The school foundation levy would be removed from Tax Increment for new TIF Ordinances effective after 1-1-26

- Removing the $5.40 foundation levy imposed under section 257.3 would mean a reduction in TIF revenues of approximately 20% for City projects and closer to 33% for County projects
- Could your projects cash flow with this type of reduction in TIF rebates?

Sliver of a silver lining – As drafted, this new restriction would not apply to TIF ordinances in effect as of January 1, 2026.

- Some existing multi-phase projects would still be impacted

Let’s Talk About Backfill

Iowa DOR 2023 Report
- $79.2 million was backfilled through the State Foundation Aid Formula.

- Fraction of School Revenues -- @$2.25 Billion
- Incredible bang for the State’s buck
- Allows local government to focus on priorities of that community
- Available to communities of all sizes
- As 20-year limitation on TIF collection kicks in, the backfill amount levels off

What Was Discussed Last Legislative Session in SF652?

THE BAD – BUT FIXABLE?

Removes emergency medical services levy from TIF on all Areas beginning with FY2027

- No runway/reduces TIF revenues for existing obligations
- $.75 max levy

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What Was Discussed Last Legislative Session in SF652?

THE BAD

- Actual value for all property in urban renewal areas shall not exceed 96-1/4% of total city valuation (reduces to 20% by 2047).
- Hits smallest cities the hardest:
  - Does not take into account that one large project (like a meat packing plant or data center) can, on its own, exceed these percentages in some small cities
  - Ties limitation to property in UR Area, instead of property in TIF Ordinance / District. Small communities put large swathes of property in UR Area to help remediate blight, even if only a fraction of City is subject to division of revenue
- ***Does not allow Areas with existing sunsets to run their course***

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Impairment of Contracts

- Article I of the Iowa Constitution provides, "No bill of attainder, ex post facto law, *or law impairing the obligations of contracts, shall ever be passed*." Iowa Const. Art. I § 21
  - Applies to public and private contracts
  - Applies to sale of bonds
  - Avoid impairment if forward looking only
- Can we protect existing obligations and make this prospective?

Property Tax Reform-Removing Rollbacks

Tends to shift tax obligation from commercial / industrial to residential

Many TIF Districts are comprised of primarily or exclusively commercial / industrial property. If the total tax obligation from those properties decreases, so will TIF revenues.

Why This All Matters?

Most development agreements commit only stream of Tax Increment from the project itself and often that stream is collateralized by developer/business.

- Reduction in TIF revenue for existing project will reduce amount of grants received by developer / business and may impact ability of developer / business to pay loans.

Why This All Matters?

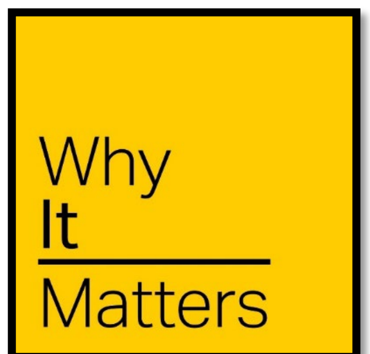
TIF is used to abate debt service on many general obligation loans sold by cities to fund infrastructure for blight remediation and economic development.

- If stream of revenue is reduced, cities will be required by law to increase its debt service levy to pay the debt service.
- Will not result in lower taxes for the general taxpayer; instead, will shift the burden from developer / business to the general taxpayer

Why This All Matters?

Some city debt is secured only by TIF revenues.

- If TIF revenues insufficient, may result in city default
- One city default could impact credit worthiness of cities in Iowa in general



General Take Aways

- UR/TIF is one of few city/county tools to support new development/redevelopment

- TIF is unique funding source in that it is tied to increased value from new development

- All taxing entities benefit immediately from new development even if TIF is used
  - Taxes paid on base value
  - Off limit levies
  - Unused Tax Increment
  - TIF use expires

General Take Aways

There are some ways to improve UR/TIF

Add workforce housing to definition of Economic Development in 15A

Define LMI Housing as including workforce housing

Lessen restrictions on use of TIF for infill housing

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General Take Aways

Any legislation limiting UR/TIF should:

- Protect existing obligations
- Be forward looking
- Be focused on limiting UR/TIF for specific uses that are disfavored versus restricting utility of tool to advance the priorities of the State, like attracting large employers, incentivizing housing, eliminating service deserts, redeveloping downtowns, eliminating blight

Questions?

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