



Allegheny County Council

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Legislation Text

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MOTION OF THE COUNCIL OF ALLEGHENY COUNTY

Amending Article IV, Rule D of the Rules of Council for Allegheny County Council, entitled “Tax Increment Financing (TIF) and establishing a new Rule E within Article IV, entitled “Local Economic Revitalization Tax Assistance (LERTA)” in order to provide clear guidance for the factors to be considered by the Council prior to approving TIF and/or LERTA proposals.

Whereas, municipal participation in Tax Increment Financing (TIF) tax abatement programs is governed principally by the Tax Increment Financing Act, 53 P.S. §6930.1, *et. seq.*; and

Whereas, the first sentence of the full section of the TIF Act, 53 P.S. §6930.2(a), clearly establishes that “[t]he General Assembly finds and declares as follows...there exist in urban communities in this Commonwealth areas which have become blighted” due to six specifically delineated factors: (1) unsafe, unsanitary, inadequate or overcrowded living conditions, (2) inadequate planning or excessive land coverage by the buildings thereon, (3) the lack of proper light and air and open space, (4) the defective design and arrangement of structures, (5) faulty street or lot layout, and (5) economically or socially undesirable land uses; and

Whereas, the statement of purpose contained within 53 P.S. §6930.2(b) clearly establishes that “[i]t is found and declared that, in order to maintain the public health, safety, morals and welfare of the people of this Commonwealth, and to increase their commerce, welfare and prosperity, and in order to further remedy the conditions found to exist in this Commonwealth as declared in the Urban Redevelopment Law, it is essential to provide new development opportunities to prevent, arrest and alleviate blighted, decayed and substandard areas in municipalities, to increase the tax base and to improve the general economy of this Commonwealth.”; and

Whereas, municipal participation in Local Economic Revitalization Tax Assistance (LERTA) tax abatement programs is governed by the Local Economic Revitalization Tax Assistance Act, 72 P.S. §4722, *et. seq.*; and

Whereas, the LERTA Act specifically requires that tax abatements in deteriorated areas under the terms of the Act should take into account criteria relating to blighted and impoverished areas, together with other criteria such as unsafe, unsanitary or overcrowded buildings and/or a disproportionate number of tax delinquent properties; and

Whereas, although the clear intent underlying both the TIF Act and the LERTA Act is to provide incentives to entities wishing to undertake development programs in “blighted,” “deteriorated,” or “impoverished” areas, the Council has been repeatedly advised by representatives of the County’s Department of Economic Development that the entire County has been designated as potentially eligible for TIF and LERTA tax abatement arrangements; and

Whereas, as a result of these broad designations, the Council has in recent years been presented with

bills authorizing the development of TIF and LERTA tax abatements in traditionally affluent areas of the County such as Sewickley (Bill No. 7509-13); and

Whereas, the Pittsburgh Post Gazette published an article by Richard Florida (Stop the corporate extortion, September 21, 2014), in which he argued that Virtually all of the published research on the subject shows that most economic development incentives are a senseless waste of taxpayer money....My own analysis found no connection between incentive dollars spent per capita and such measures of economic success as wages, incomes, human capital levels or unemployment.”; and

Whereas, according to internal data, Allegheny County foregoes over \$4.9 million in property tax revenues per year as a result of 27 active Tax Increment Financing abatement programs; and

Whereas, in addition to foregoing significant property tax revenue annually, the award of TIF and LERTA abatements to certain entities provides those entities with a competitive advantage over other, similarly situated entities, and thus operates to confer a selective benefit that has the potential to significantly improve the ability of the entities receiving abatements to compete within their respective markets, a concept which runs directly contrary to any notion of a free marketplace; and

Whereas, these factors, combined with an extremely expansive allowance of TIF and LERTA abatements throughout the County, function to render the TIF and LERTA programs susceptible to overuse, particularly in light of Professor Florida’s conclusions; and

Whereas, it is accordingly the judgment of Council that the Rules of Council regarding TIFs be amended to contain additional guidance for the evaluation of TIF and LERTA abatements prior to their approval.

NOW THEREFORE, IT IS MOVED, BY THE COUNCIL OF ALLEGHENY COUNTY,

That this Council hereby amends the Rules of Council as follows:

D. Tax Increment Financing (TIF) and Local Economic Revitalization Tax Assistance (LERTA)

1. When considering legislation authorizing participation in programs pursuant to the terms of the Tax Increment Financing Act or the Local Economic Revitalization Tax Assistance Act, Council will utilize these programs:
 - a) Principally to facilitate the creation of high quality employment opportunities, avoiding to the greatest practicable extent providing a competitive advantage for any specific entity or subsidized competition for existing businesses (such as retailers or office space lessors) ;
 - b) For uses that are consistent with applicable comprehensive plans and the appropriate municipal land use ordinances, as they apply to the proposed project site; and taking into account environmental impact, the desired redevelopment of brownfields, and the fabric and general needs of the community to ensure that investments are made in the appropriate locations, that sustainable design is encouraged, and that green space and other community assets are strengthened and protected;

- c) Where its use ~~adds~~ will demonstrably add verifiable aggregate value to the regional economy in the form of income, significant employment opportunities in well paid jobs and add substantially to the tax base;
 - d) In areas so designated by applicable comprehensive plans, and which take advantage of existing public infrastructure investment;
 - e) ~~Principally in~~ areas suffering demonstrable economic distress, such as deteriorated urban areas and brownfields;
 - f) When there is ~~a good faith effort on the part of the~~ certification from any potential developer(s) for guaranteeing, to the greatest extent practicable, participation in the project by existing Southwestern Pennsylvania residents, including individuals and small businesses;
 - g) Where the project in question does not have substantial adverse environmental effects; and
 - h) Only to assist with the financing of public improvements, public infrastructure, and such other appropriate uses as are detailed in the Tax Increment Financing Act, 53 P.S. § 6930.5.
2. Participation in the tax increment financing will only be to the extent necessary to make a project viable and at a maximum participation rate of 60% ~~unless:~~
- a) ~~A sliding scale for participation will be used depending on the proportion of retail uses within the project, as measured by square footage, with projects with little or no retail eligible for the County's maximum participation; and~~
 - b) ~~Projects that create significant economic impact in depressed communities can have a maximum participation rate of 75%.~~
3. The Allegheny County Department of Economic Development shall request County Council to approve a Resolution of Intent to Participate in the preparation of a TIF Plan. Pursuant to the TIF Act, the resolution assigns the Department the responsibility to work as part of a TIF Committee composed of representatives from each of the taxing bodies to prepare the proposed TIF Plan. Where feasible, the TIF Committee shall also include the Council Member in whose district the proposed project is located.
4. Prior to determining whether to approve a TIF District and/or participate in another municipality's TIF District, and/or participate in any LERTA abatement, the Department of Economic Development shall request County Council to approve a Resolution to Participate. Such action shall be discussed at two regular meetings of Council's Economic Development Committee and two regular meetings of the full Council before action is taken. The request shall include, at a minimum the following information:
- a) A completed, standard and uniform Allegheny County Department of Economic

Development Tax Increment Financing application form, and/or equivalent LERTA application;

- b) A detailed breakdown of the proposed uses of the proceeds from the tax increment financing agreement;
 - c) A preliminary site plan for the proposed development;
 - d) A report paid for by the developer, but commissioned by the Department, identifying the economic impacts of the project on the County, including projected and estimated direct and indirect revenues and costs; the conditions constituting blight; and a discussion of all other applicable policy considerations including public investments that will likely be induced by the approved TIF or LERTA (road, water, sewer, public transportation, etc.);
 - e) Substantiation of compliance with provisions of applicable municipal and county comprehensive plans; and
 - f) A written recommendation from the Department Director on whether the County should approve a TIF District and/or participate in another municipality's TIF District and/or participate in any LERTA program.
5. Every TIF and/or LERTA agreement shall include a plan or formula that would be applied if the owner sells the development during the term of the TIF or LERTA. The plan or formula would result in a sharing of the revenues with Allegheny County, not to exceed the cost of the TIF or LERTA to the County.
6. The Department and County Council shall have the prerogative to amend the percentage of the TIF or LERTA when presented or grant an abatement instead, depending upon the merits of the project.

PRIMARY SPONSOR: COUNCIL MEMBER HEIDELBAUGH