

Business Development Districts In Illinois

Why consider the creation of a Business Development District in your municipality?

Creation of a Business Development District (BDD) follows a process not unlike the creation of a Tax Increment Financing (TIF) District in that:

1. The purpose is to enhance the economic and social well being of the municipality
2. The area is specifically defined within the corporate boundaries.
3. There is a specific plan to accomplish development and redevelopment approved by the corporate authorities after a public hearing.
4. The plan is in conformance with the municipal comprehensive plan.
5. The District must be “compact” (i.e.-adjacent parcels all attached by sufficient interface to provide meaningful contiguity) area with specifically identified metes and bounds.
6. The District is in place for up to 23 years.
7. Certain additional powers are granted to the corporate authorities within that district which include:
 - i. Approve all development and redevelopment plans within the district,
 - ii. Exercise the use of eminent domain pursuant to the plan,
 - iii. Acquire, manage, convey or otherwise dispose of real and personal property for the purposes of a development or redevelopment plan,
 - iv. Apply for and receive grants and loans pursuant to the plan,
 - v. Borrow money or issue obligation or revenue bonds,
 - vi. Enter into contracts with any public or private agency,
 - vii. Sell, lease, trade or improve real estate in connection with the plan,
 - viii. To employ such persons as may be necessary in the planning, administration and implementation of the plan,
 - ix. To expend such funds as may be necessary for the planning, execution and implementation of the plan,
 - x. To establish by resolution or ordinance procedures for same
 - xi. To establish a Commission to act as agent for the municipality,
 - xii. To issue debt obligations in one or more series bearing interest at rates determined by the corporate authorities of the municipality to provide for the payment of BDD Project costs.
 - xiii. To impose an extra 1% retailers occupation tax (sales tax) and service occupation tax (sales tax) for the planning, execution and implementation of the plan,
 - xiv. To impose a 1% Hotel Operators’ Occupation Tax (Hotel/motel tax) for same.

These last two items are significant in the consideration of creating the BDD in that, if by imposing the extra Sales Tax or Hotel/Motel Tax a majority of the taxes paid would come from non-residents, then BDD becomes a means to shift some of the tax burden

for governmental services from solely the residents (as does a property tax, utility tax, or water and sewer bill) to more users benefitting from the services but not living in the municipality.

Where does it differ from a TIF District?

A BDD does not affect collection or distribution of property taxes, only taxes of general applicability normally collected by the host municipality, plus those increased Sales Taxes and Hotel/Motel Taxes provided for in the BDD Law. Also, since other taxing bodies' taxes are not affected, there is no Joint Review Board for District approval or oversight.

What are other benefits of a BDD?

The eligibility requirements for its creation are much less stringent than that of a TIF District.

"The corporate authorities of the municipality shall make a formal finding of the following:

- i. The business district is a blighted area that, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire or other causes, or any combination of those factors, retards the provision of housing accommodations or constitutes an economic or social or a menace to the public health, safety, morals, or welfare in its present condition and use; and
- ii. The business district on the whole has not been subject to the growth and development through investment by private enterprises or would not reasonably be anticipated to be developed or redeveloped without the adoption of the business district development or redevelopment plan."

In comparison the TIF District eligibility criteria are much more specific and strict.

Additionally, the BDD can be assessed, planned for and put into place in a relatively short period of time (60 days), is generally much less expensive to develop than a TIF District, and can be created by a simple majority vote of the corporate authority.

Unlike imposing taxes of general applicability, the increased Sales Tax and Hotel/Motel Tax can be levied on just businesses located within the designated BDD, not over the entire municipality. Consequently, businesses that might cause an undue hardship on area residents if required to raise their sales tax, or businesses that might unduly be harmed by imposing such tax increases can be intentionally carved out of any BDD area.

Funds collected from BDD revenues have no "critical" use dates, unlike TIF District funds. In a TIF, if collected revenues are not spent or encumbered within three years of collection, they must be declared "excess revenue" and re-distributed to the other

taxing bodies that would have normally received them absent a TIF. Not so within a BDD. You can save money within that fund like a “rainy day” fund or even a working cash fund for internal borrowing.

Why create a BDD in the municipality if it’s just going to raise taxes which the residents can vote in by referendum?

The residents can only adopt tax increases which affect the entire municipality. You may have a business that is heavily used by non-resident customers. In this manner, the corporate authorities can shift the cost of infrastructure repair, on-going maintenance and economic development activities to be incurred by non-residents also.

Also, BDD funds can be used to target expenditures to the area from which they are collected and help relieve the general fund from spreading site specific costs over the general public.

Probably from the more practical standpoint, a BDD can be created solely upon a simple majority vote of the municipal corporate authority (i.e.-Village Board or City Council).

No vote of the electorate is needed nor can it negate the creation of a BDD like a “back-door referendum” on a GO Bond issue.

Can a BDD include a residential area also?

Yes. There is nothing in the enabling legislation that limits or penalizes the municipality for including residential areas in the District like TIF District legislation does.

Consequently, if the BDD is being put in place to address a “blighted” condition that extends into a residential area, by all means, include that residential area also.

Additionally, the municipal officials may not be aware of all home-based businesses that collect a Retailers Occupation Tax. The State Department of Revenue does know of all legally registered retailers and will notify those home-based businesses to collect the increased sales tax if their home is included in the district. Absent that situation, the BDD has no negative effects on residences being included within its boundaries.

The extra taxes can be imposed in increments of one-fourth (1/4) of one percent up to a full one percent. What if we start with one-half (1/2) of a percent and find that amount was too low for the BDD’s Plan, or conversely, the rate was too high? Can we alter the rate after the initiation date?

Yes. You have two windows each year to either increase, decrease or eliminate the rate collected by the state. That is April 1st and October 1st of each year with a three month lag in the changes being implemented with your retailers.