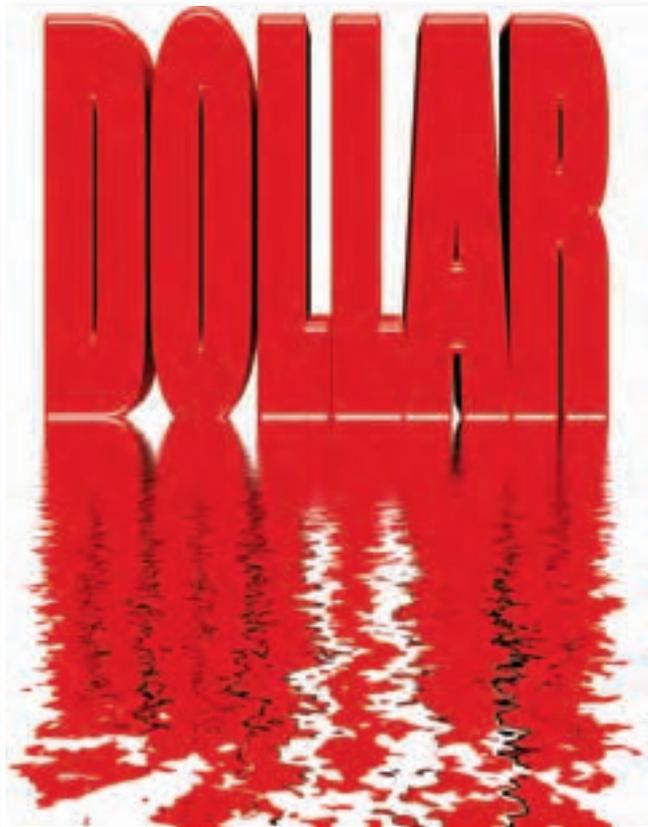


Identifying and Mitigating Sources of School Revenue Erosion

By Michael Prombo, Ares G. Dalianis, and Scott R. Metcalf



Preserving existing revenues is an essential component of the work of school business officials. The broad ranges of activities that can affect school district revenues make identifying potential threats difficult. By understanding the issues that affect school district revenue, school business officials are better able to diminish its erosion—a critical task in today’s unsteady economic environment.

This article addresses some of the areas on which school business officials should keep a keen eye.

Tax Increment Financing (TIF) Districts

Almost every state authorizes the formation of Tax Increment Financing (TIF) districts. The basic premise of a TIF district is that revenue generated from the growth in property values is dedicated exclusively to

financing the infrastructure necessary to encourage economic development in blighted or depressed areas.

For new property growth in the TIF district, property taxes are paid entirely to the municipality rather than being distributed pro rata to all taxing agencies. Because of the impact of TIF districts on school finances, the statutes authorizing the creation of these districts often provide for public input and hearings prior to the creation of and subsequent monitoring of the district.

With regard to TIF districts, school business officials can:

TAKE ADVANTAGE OF EVERY OPPORTUNITY TO BE INVOLVED IN THE FORMATION OF A TIF DISTRICT.

- Review all documents provided to the school district. This will generally include a study prepared by a consultant for the municipality indicating that the TIF district is warranted, feasible, and meets the statutory eligibility criteria. Pay attention to who is authorizing the formation of a TIF. If there are conflicts of interest, point this out to the municipality. If there are shortcomings with the study, make the municipality aware of them. Pay attention to the estimated budget and cash flow of the TIF district and the type of development the TIF district is intended to attract and support.
- If school districts are part of the board or committee approving or authorizing the TIF district, attend all meetings. At the very least, a representative of the school district should attend and speak at any public hearings on the creation of the TIF district.

NEGOTIATE WITH THE MUNICIPALITY TO PROTECT THE SCHOOL DISTRICT’S INTERESTS.

Issues that may be subject to negotiation include:

- Time period and geographic area of the TIF.
- Scope and nature of eligible expenditures.
- Revenue sharing.
- Technology and other resource sharing.
- Requirement that property owners waive any right to property tax appeals.
- Waiver of municipal fees for the school district (e.g., water and sewer).

- Contiguity to school district property.
- Ability to access incremental funds after a successful referendum by the school district.
- Financial assistance to the school district for students residing within the TIF district.
- Funding for job training and vocational education programs for school district students.
- Require the inclusion of claw-back provisions in development agreements so TIF funds are not lost if the development fails.

MONITOR THE ACTIVITIES OF THE TIF.

- Attend annual meetings concerning the TIF district if scheduled. If the municipality is required to hold annual meetings and is not doing so, seek to compel them to hold the meetings.
- Create a report to track the number and value of TIF districts in the school district. This information is valuable for financial planning today and in the future when a TIF district terminates and the school district plans for the additional assessed value or equalized assessment for its own levy.
- Determine if the property within the TIF district will have a special identity for property tax purposes after the TIF district terminates.

Property Tax Litigation

The property tax is one of the least popular taxes in the country. Consequently, taxpayers often litigate through administrative agencies or the courts in an attempt to reduce their tax bills or to obtain tax refunds. These lawsuits can be divided into two broad categories: assessment appeals and tax rate objections. In the former, taxpayers challenge the value of their property for assessment and taxation purposes. In the latter, they challenge the circumstances surrounding the imposition of the tax through the budgeting and levying process of the school district.

With regard to property taxes, school business officials can take action in several arenas.

- Review all notices the school district receives concerning property tax appeals. If the school district can become involved in the litigation, determine the threshold at which intervening becomes cost effective for the district.
 - Identify prominent or high-value properties in the school district and monitor court records and administrative filings to see if the owners of those properties are filing assessment appeals.
 - If the school district becomes involved in the litigation, obtain credible evidence to support the district's contention of the property value. Credible evidence can be an appraisal report by a licensed appraiser, evidence of a recent sale of the property, or information on the assessments of comparable properties near the subject property.
- If a high-value property is undervalued by assessing officials, and the opportunity exists, consider filing litigation asking for the assessment to be increased. While this may be an unpopular move with that property owner, it will demonstrate to the community the school district's commitment to protect and enhance its property tax base and can be used as a tool to obtain the dismissal of other assessment appeals filed on the same property in prior and future years.
 - Educate yourself about the status of the law in your jurisdiction regarding the requirements for levying a property tax and for managing the finances of the school district. Limits on the maintenance of fund balances or the transfer of funds between accounts could lead to litigation.
 - Follow the law and aggressively defend the district against alleged violations. School officials likely will find that those who object to the manner in which a property tax was imposed are willing to withdraw their objections or settle for a greatly reduced amount when presented with a thoughtful defense.

Property Tax Abatements

“Property tax abatement” describes an arrangement whereby the school district agrees to forego property tax revenues on a specific property. Abatements often are conditioned on the development of the property with a specified improvement. School districts considering such an arrangement should proceed with caution. Here are some guidelines:

MEMORIALIZE THE ABATEMENT WITH A WRITTEN AGREEMENT.

When developing the agreement:

- Meet with your local tax extension office to ensure the abatement will be implemented consistent with your expectations.
- Require the completion of the development prior to the commencement of the abatement.
- Guarantee only that the school district will authorize the abatement, not that the abatement will be implemented by other public officials responsible for administering the property tax system.
- Set the value of the abatement as a percentage of the taxes collected rather than as a specific dollar amount to avoid the abatement amount exceeding the collected amount.
- Include claw-back provisions that allow the school district to obtain compensation in the event the development fails.
- Include a provision in the abatement agreement that the benefits of the abatement are not transferrable in the event of a sale or lease of the property.

MONITOR THE ABATEMENT CAREFULLY.

- Ensure that all the proper paperwork is filed with the local taxing officials in a timely fashion.
- Periodically review the property tax bills of the subject property to see if the abatement is actually being provided as anticipated.
- Inspect the property to see if the terms of the abatement agreement are being observed.

Impact/Transition Fees

Impact or transition fees are fees imposed by local governments to offset the increased cost of public services associated with a real estate development. Developers often seek a waiver of these fees to enhance the profitability of the development. One increasing area of concern involves the waiver of these fees for the development of retirement communities.

School business officials can participate in this process in several ways:

Get Involved in the Negotiations. If the negotiations are between the developer and the municipality, and part of the fees will go to the school district, there is every reason to have the school district's interests represented in the negotiations.

If fees are waived, guarantee the developer's promises are kept. In the case of retirement communities, for example, developers often contend that because only senior citizens will be allowed to live on the property, school districts will not experience any increased costs from the development. If the fees are waived, the restriction on the age of the residents should be included in the deed to the property. If not, the developer or subsequent purchasers may sell the property to families with school age children who could attend local schools.

Negotiate for a land swap. Some school districts have negotiated for parking lots or bus facilities. While this may not cover all the increased costs from the development, it is a benefit the school district may not have received otherwise.

Develop a good relationship with the development. The residents of the development will become members of the school district community and will be voters on school district matters, including referenda.

Current Economic Conditions

Two facets of the current economic situation that can have a direct impact on school district budgets are the Consumer Price Index (CPI) and declining home values. Many school districts cannot increase their non-debt service property tax levies by more than the change in the CPI. In October 2008, the CPI core rate, which excludes volatile products such as food and energy, turned negative for the first time in more than 25 years. Meanwhile, home prices across the country have

declined. With the property tax as a primary source of revenue for most school districts across the country, this can lead to higher tax rates and higher rates of tax delinquency.

While there is little school districts can do about these larger economic forces, there are ways to take advantage of the economic circumstances to control expenditures:

- **Lock in reduced costs for school products and energy contracts.** The drop in energy prices beginning in July 2008 was the main reason for the decline in the CPI. These falling energy prices should also result in lower energy costs for school districts.
- **Keep the economy in mind at all times.** The current economic conditions can affect a wide variety of school district operations, including, negotiating labor and employment contracts, shifting enrollment patterns because of families moving, and increasing numbers of students eligible for free and reduced-price meals.
- **Develop a finance strategy.** This is the most important step you can take to accurately predict the revenues that will be available given the current economic conditions. Stay up-to-date by talking to local and state officials and obtaining a variety of economic forecasts from state and local budget officials. For example, talk to your local property assessor and municipal managers to keep abreast of new developments and the trends in assessment.

Remain Vigilant

Given the mounting pressures on school district budgets, taking action on these issues is increasingly important. Even if you have dealt with each of these sources of revenue erosion before, you must remain vigilant. Become involved in the process and use these recommended actions as a starting point to become fully engaged in the process.

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