

Quick Takes- New Rules For Projects: the good, the bad, and the needful
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The Georgia General Assembly is back, as of today. In addition to indigent defense-related budgetary matters, what the Governor's Proclamation calling the special session allows our legislators to do this week is limited to dealing with local laws, and with membership on the Georgia Superior Court Clerks' Cooperative Authority.

Before they get started, let's see what those of us concerned with projects have to show for our legislators' efforts during the first quarter (and more) of this year. It's a classic story... the good, the bad- and what still is needed.

First, the good. And there is some. SB 444 amended the Development Authorities Law to remove a hangover from the early days of the job tax credit program. This was when more-developed counties were forming large joint development authorities with a Tier 1 county for the overt purpose of getting their job tax credit level raised to Tier 1 status. The compromise legislative solution, to what was perceived as an abuse, was to limit a county to participating in no more than one joint county development authority. At the same time, the "bump" in the job tax credit level per employee was standardized at \$500, making the one-joint development authority limitation irrelevant. Nevertheless, the irrelevancy remained law until now. Assuming Governor Perdue signs the bill, a county may now belong to more than one joint county development authority. To avoid further wrangling, the bill specifies, in effect, that a business that qualifies for the credit will obtain only one \$500 "bump", no matter how many joint county development authorities its host county belongs to. Still, a good bill. Given the complexity of modern economic development, a number of communities have real business reasons to team with more than one neighboring county, if only on a project-by-project basis.

Another good thing was the modernization of our enterprise zone legislation wrought by HB 984. The Enterprise Zone Employment Act provides: "Revitalization will improve geographic areas within cities and counties which are suffering from disinvestment, underdevelopment, and economic decline The General Assembly recognizes that increased employment opportunities for the citizens of Georgia will assist in the implementation of welfare reform." Now only three out of five criteria (instead of three out of four criteria) have to be met in order for a parent local government to designate an area as an enterprise zone. The five criteria are: pervasive poverty; unemployment; general distress; underdevelopment; or (new) general blight. The property tax abatement schedule available within an enterprise zone was also relaxed by

making its scale optional within the limits specified. HB 984 is on its way to the Governor for signature.

Now, the bad. But fortunately, this time, there was a happy ending. HB 1575 didn't go anywhere in the General Assembly last time. But if it had, we would have lost the ability (at least as to real property) to provide such incentives as grants, in-kind incentives (like free land) and property tax abatement to a prospect. Providing these incentives depends on a bond-financed sale-leaseback structure in which a development authority holds title to the project. However, this bill would have outlawed the use of a \$1 purchase option to get title to real property back to the prospect at the end of the incentive period. This is because the bill would have subjected development authorities to the same disposition of real property rules (i.e., auction/sealed bidding) that apply when a county disposes of public real property. Obviously, if a prospect can't regain title to its own property without bidding for it, the prospect will take its project to a state where it can get both incentives and piece of mind. Thankfully, since this bill didn't pass, this dilemma won't be a concern (until and unless its subject matter gets taken up again in the General Assembly).

Now, a quick look at what is needful. There are a few new tools for projects that are high on my list.

Some of these depend on legislation, such as-

* Reforming our Open Meetings and Open Records laws to provide for prospect confidentiality. Simple wording changes, that do nothing more than slightly expand the scope of confidential treatment that already exists in these laws, can accomplish this goal. In an upcoming *Quick Takes*, I will review the scope of current law, and provide the necessary wording changes.

* Authorizing special assessment bonds as a way to enable "growth to pay for itself." The need for special assessment bonds typically arises when a community has new growth in an area that is not adequately served by existing infrastructure. The new infrastructure will not benefit the existing taxpayers, so they are reluctant to be taxed to pay for it. Another typical need is when a major project is considering a community but needs significant new infrastructure in order to be able to locate there. We need a new general law that will permit real estate developers and project owners to use tax-exempt special assessment bond financing for infrastructure and other public facilities serving real property within the developer's or project owner's own real estate development or project area. Using this financing technique would not involve the burdensome hurdles associated with tax increment financing through tax allocation districts. A forthcoming *Quick Takes* series will explain this technique, which is already used in a number of other states, in more detail. A draft bill will also be available.

Some of these new project tools can be realized just by making better use of private sector resources that are already available. Cooperative public-private initiatives are needed with these programs, among others -

* Making growth capital accessible for expanding businesses and industry. Many times, bonds, or some other form of senior debt finance, are the answer to a company's financial needs. Other times, the real need is for capital that supports the bottom of a company's balance sheet; i.e., equity or mezzanine finance. Some estimates of the amount of capital available for use in this

way reach \$250 billion! These funds aren't for entrepreneurial programs, although they can provide support for entrepreneurial companies after their early stages. Rather, this type of capital is available now for good companies in any community that could grow to multiples of their current size, through skillfully accessing these capital sources. There are a number of ways in which business leaders, economic developers, community banks, and other concerned participants in economic development can assist good companies like these. Upcoming *Quick Takes* articles will explain how growth capital works, and how to access it.

* Many communities don't realize that they qualify for programs that can help investors in their growth companies leverage their returns. Leverage means that capital is either more available, or cheaper, or both for companies in these communities. If a community can offer leverage like this to prospective investors, it has a competitive advantage in attracting new investment to its companies. Some of these programs include New Markets Tax Credits and the Community Reinvestment Act. In forthcoming *Quick Takes* issues, we will be exploring these programs in detail, including how a community can find out if it qualifies.

* Assisting distressed companies to reorganize and stay in business. One consequence of so much wealth of capital being available for investment in growth companies, is that there are more investors than there are investment opportunities. This has motivated many investors to recognize the value in saving a company that is having problems. Plenty of capital is available for this purpose, under a variety of structures. However, the most critical factor is- time! A company that waits too late to access this help, or learns too late that this help is available, might fail when it otherwise could have been saved. Another *Quick Takes* series will explain how to bring this help to bear, while there is still time.

As you can see, there is a lot to look forward to, in "things to come." If you have feedback meanwhile, on these or any other topics, please let me hear from you.

April 30, 2004 interest rates on IDBs (variable rate demand bonds; AMT; 7 day general markets; rates are market extracted and approximations):

Interest Rates:
tax-exempt 1.25%
taxable 1.20%

(yes, another inversion; taxable rates are temporarily lower)

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General note: This issue of *Quick Takes* is a quick-reference guide for economic developers, participants in the real estate and financial industries, company executives and managers, and their advisors. The information in this issue is general in nature. Various points that could be important in a particular case have been condensed or omitted in the interest of readability. Specific professional advice should be obtained before this information is applied to any particular case.

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