

# Development Authorities are tools important to the growth of the local economy, BUT

- Their interests are defined by the jurisdiction that appoints them
- Their Tax Abatement powers reduce revenues of taxing authorities (local governments and school boards) beyond their appointing jurisdiction
- Tax Abatement is not among the 17 powers enumerated in the State enabling statute (O.C.G.A. § 36-62-4), but instead derived from their status as “subdivisions of the state”

# Tax Abatement is a derived power, and is unlimited.

- As “subdivisions of the state”, property titled in a DA’s name is exempt from property taxes, just as are conventional public facilities and schools.
- A legal transaction and contract places private properties in the DA’s name, but assigns their income to a private business; the property is ultimately returned to the private business without significant cost.
- Because of this trick, there are no standards or rules governing tax abatement.

# Development Authorities may financially exploit this loophole in various ways

- They may derive transaction fees for abating taxes that fund their staff and activities (costing governments far more in lost taxes than DAs receive in fees).
- They may provide tax abatement to projects that would be developed anyway, due to local market conditions (apartments, retail), which then compete unfairly with existing tax-paying properties of the same kind.
- They may require “PILOT\* Payments” in the contract, diverting part of the abatement back to the DA, or sponsoring local government. Their revenue can EXCEED the taxes they would otherwise earn without abatement.

**\*PAYMENTS IN LIEU OF TAXES**

# Tax Allocation Districts are a similar tool, but come with detailed safeguards

- Access to “Redevelopment Powers” that permit use of TADs within a jurisdiction must be approved by local referendum.
- The need for each TAD must be documented per state law.
- A detailed plan for the improvement of each site must be approved by the enacting jurisdiction.
- The TAD levy must be approved by all affected taxing jurisdictions.
- A “redevelopment agency” must approve expenditures.
- Pre-TAD tax revenues are preserved for the taxing jurisdiction.

# Counties with Redevelopment Powers

<b>Bibb County (pre-consolidation)</b>	<b>1986</b>	<b>Troup County</b>	<b>2010</b>
<b>Fulton County</b>	<b>1986</b>	<b>Bulloch County</b>	<b>2011</b>
<b>Houston County</b>	<b>1986</b>	<b>Columbus/Muscogee County</b>	<b>2013</b>
<b>Clayton County</b>	<b>1989</b>	<b>Barrow County</b>	<b>2014</b>
<b>Cobb County</b>	<b>2002</b>	<b>Rockdale County</b>	<b>2016</b>
<b>DeKalb County</b>	<b>2002</b>	<b>Bartow County</b>	<b>2018</b>
<b>Athens-Clarke County</b>	<b>2006</b>	<b>Columbia County</b>	<b>2018</b>
<b>Augusta-Richmond County</b>	<b>2006</b>	<b>Putnam County</b>	<b>2018</b>
<b>Upson County</b>	<b>2007</b>	<b>Douglas County</b>	<b>Upcoming</b>
<b>Gwinnett County</b>	<b>2008</b>	<b>Henry County</b>	<b>Upcoming</b>
<b>Dawson County</b>	<b>2009</b>		

# Cities with Redevelopment Powers (72)

- Acworth
- Albany
- Alpharetta
- Atlanta
- Avondale Estates
- Bethlehem
- Braselton
- Brunswick
- Buford
- Byron
- Canton
- Cartersville
- Centerville
- Clarkson
- Cohutta
- College Park
- Conyers
- Dacula
- Dalton
- Decatur
- Doraville
- Douglas
- Douglasville
- Duluth
- Dunwoody
- East Point
- Fairburn
- Fairburn
- Fayetteville
- Flowery Branch
- Forest Park
- Fort Valley
- Gainesville
- Griffin
- Hapeville
- Harlem
- Hogansville
- Holly Springs
- Kennesaw
- Kingsland
- Lawrenceville
- Lilburn
- Loganville
- Macon
- Marietta
- Norcross
- Oakwood
- Peachtree Corners
- Perry
- Pine Lake
- Porterdale
- Richmond Hill
- Riverdale
- Rome
- Roswell
- Savannah
- Smyrna
- South Fulton
- St Marys
- Statesboro
- Statham
- Stone Mountain
- Sugar Hill
- Suwanee
- Tunnel Hill
- Union City
- Varnell
- Villa Rica
- Warner Robins
- West Point
- Winder
- Woodstock

# Brookhaven

## Emory/Atlanta Hawks Training and Sports Medicine Facility

- Hawks moved existing jobs from State Farm Arena to a new joint Emory/Hawks Complex in Brookhaven.
- Brookhaven Development Authority Initiated a Tax Abatement of \$11 million over 15 years.
- \$6.5 million is retained by the Hawks as an incentive.
- \$4.5 million is transferred by PILOT to Brookhaven Development Authority.
- If normally taxable, Brookhaven would have earned \$720,000 in taxes over the 15 years (Brookhaven's levy is 6.5% of the total property tax bill).

# Doraville “Friday’s Plaza”

- 300-Unit market rate apartment complex with a \$65m price tag located on a high visibility “greyfield” site with no defects.
- Tax Abatement worth \$19 million over up to 20 years. All County and School taxes are abated.
- Doraville currently collects \$27,772/year in property taxes
- During abatement, Doraville DA will collect \$65,000 on closing and \$160,000/year (escalating upwards) in “administrative fees”.



# Warner Robbins/Houston County - Apartments

- \$18 million apartment complex in Warner Robbins
- Located in an existing Tax Allocation District, which provides a structured mechanism for incentive, adopted by all taxing authorities.
- All County and School System taxes abated for a term of 20 years.
- No notice to County or Schools; County leadership discovered it in the legal notices.
- County was able to turn it back, but only through influence, not with regulatory constraints.

# Possible Legislative Solutions

- A. Expand the PILOT Restriction Act.
- B. Amend statute to regulate the tax abatement process through notification or consent requirements.
- C. Require local IGAs that regulate tax abatement of the shared tax base as part of the Service Delivery Strategy agreement.
- D. For those with Redevelopment Powers, amend the statute that regulates TADs to likewise regulate Tax Abatement.
- E. Expand rights of affected local governments to participate in Bond Validation proceedings

## **A. Expand the PILOT Restriction Act.**

Amend the PILOT Restriction Act to require consent from all taxing authorities (county, city & school) for all PILOT projects. Current law requires consent only for PILOT used to service debt.

- Pro: Prevent PILOT abuse.
- Con: Would have statewide applicability; could be thought of as a deterrent for economic deals, diluting the PILOT economic development tool; would schools ever give consent?

## **B. Amend statute to regulate the tax abatement process through notification or consent requirements.**

Require prior consent of (or at least notification to) affected local governments and require a “Tax Abatement Policy”.

- Pro: Moderate approach to addressing the issue. Increases transparency.
- Con: Does not require the Development Authority to stick to their “tax abatement policy”. Consent of all could be challenging and just a notification requirement might not be enough.

## **C. Require local IGAs that regulate tax abatement of the shared tax base to be a part of the Service Delivery Strategy agreement.**

- Pro: Tax abatement policy would be required to be negotiated and discussed periodically (maximum of every ten years).
- Con: Schools not included in SDS discussion; ACCG and GMA are at a standstill in SDS negotiations.

## **D. For those with Redevelopment Powers, amend the statute that regulates TADs to likewise regulate Tax Abatement.**

Counties (19) and Cities (72) have passed referendums granting them redevelopment powers. Redevelopment Powers allow the use of Tax Allocation Districts (TAD). TADs have strict guidelines and safeguards in place. Statute could be amended to treat PILOTs like TADs where specific guidelines on PILOT usage would be authorized.

- Pro: Changes to the law would only apply to those jurisdictions who have Redevelopment Powers. Narrows the scope of potential legislation to just those jurisdictions who have experience with sophisticated economic development tools.
- Con: Could legislation be drafted to avoid any constitutional authority issues. Could potentially require a local act and a referendum

## E. Bond Validation

Current law only allows citizens located in the jurisdiction proposing the abatement to contest the validity of the bond that implements the abatement. Idea would be to allow other taxing entities to challenge validity of the bond. Sponsor of the bond could be required to present evidence that it meets a standard of public benefit imbedded in the Development Authority Act. Opposing taxing entity could present evidence that project does not serve the common good. Opponents/challengers could request a trial by jury.

- Pro: Incentive is there to reach a “better” deal to avoid having to defend the components of the deal in front of a jury. Without opposition from other taxing entities, validation would be pro forma.
- Con: Jury trial process could involve delays that impact viability of projects.

# Other Ideas:

1. No PILOT for residential projects.
2. Limit the magnitude of abatement.