



What is an IDB and what can they do?
(in Tennessee)


Industrial Development Boards:

What is an IDB and what can they do in Tennessee?



Daryl Phillips, CEcD
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History Moment

WWFFD:

What would our founding fathers do?

In 1791, New Jersey offered tax incentives to Alexander Hamilton to influence the location of a manufacturing facility.

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History Moment

Mississippi BAWI

Balance Agriculture With Industry

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- Began in late 1930s, big gains after WWII

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- Local governments issued bonds to build factories (to be leased back)
- PILOTS offered tax breaks to companies
- Leveled the playing field, encouraged locations from North
- Became a success story other states in the South wanted to duplicate**

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History Moment

In the 1950s, the Tennessee General Assembly gave us

INDUSTRIAL DEVELOPMENT CORPORATIONS

Tennessee Code Annotated

§7-53-101 et. seq.

(Title 7, Chapter 53, Sections 101 to 316)

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Why?

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Why?


To legally lure private corporations with tax abatements without violating the Tennessee Constitution...

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Why?

The Tennessee Constitution requires "all property real, personal or mixed shall be subject to taxation..."



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Why?

To legally lure private corporations with tax abatements without violating the Tennessee Constitution, which requires "all property real, personal or mixed shall be subject to taxation..."

So, cities and counties in Tennessee cannot grant tax abatements to non-exempt entities

(persons, corporations, etc.)

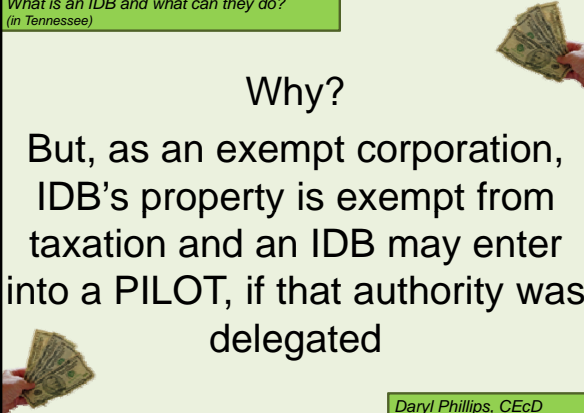


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Why?

But, as an exempt corporation, IDB's property is exempt from taxation and an IDB may enter into a PILOT, if that authority was delegated




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Really?

IDBs have worked successfully for the public good for decades and the Industrial Development Corporation Act has been adjudicated that it does not violate the Tennessee Constitution's requirement that all property be subject to taxation.



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Intent


It is the intent of the general assembly by the passage of this chapter to authorize the incorporation in the several municipalities in this state of public corporations to finance, acquire, own, lease, or dispose of properties, to the end that such corporations may be able to maintain and increase employment opportunities, increase the production of agricultural commodities, and increase the quantity of housing available in affected municipalities by promoting industry, trade, commerce, tourism and recreation, agriculture and housing construction by inducing manufacturing, industrial, governmental, educational, financial, service, commercial, recreational and agricultural enterprises to locate in or remain in this state and further the use and production of its agricultural products and natural resources, and to vest such corporations with all powers that may be necessary to enable them to accomplish such purposes. It is further the intent of the general assembly to promote the control and elimination of all types of pollution that may result from the existence, development or expansion of commerce and industry within the state and that are essential to the economic growth of the state and to the full employment and prosperity of its citizens, but are accompanied by the increased use of processes and facilities and the increased production and discharge of noise, and gaseous, liquid and solid waste that threaten and endanger the health, welfare and safety of the citizens of the state by polluting the air, land and waters of the state. Therefore, the general assembly finds and determines that in order to reduce, control and prevent such environmental pollution, it is imperative that action be taken at various levels of government to require acquisition and installation of devices, equipment and facilities for the collection, reduction, treatment, and disposal of such wastes and pollutants, and that such actions heretofore or hereafter taken be effectively coordinated; that the cost of such acquisition and installation, if required to be assumed and paid by private enterprises without public assistance, would be unduly burdensome and would discourage or prevent their location in the state and would jeopardize their continued operation in the state; and that the assistance provided in this chapter, especially with respect to financing, is therefore in the public interest and serves a public purpose of the state in promoting the health, welfare and safety of the citizens of the state, not only physically by reducing, controlling and preventing environmental pollution but also economically by the securing and retaining of private enterprises and the resulting maintenance of a higher level of employment and economic activity and stability; and to vest such corporations with all powers that may be necessary to accomplish such purposes. It is not intended by this chapter that any such corporation shall itself be authorized to operate any such manufacturing, industrial, governmental, educational, commercial or agricultural enterprise, hotel, motel or apartment building or pollution control facility.

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IDB Board Membership

(In my opinion) The TN GA's intent was to have civic-minded citizens from the private-sector with business knowledge who would look out for long-term public benefit.



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IDB Board Membership

- Not less than 7 members (no maximum)
- Duly qualified electors
- Taxpayers in the municipality (county or city)
- Not an officer or employee of the municipality
- Elected by the governing body for term of 6 years

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IDB Board Membership

- The terms of 1/3 of the membership expire each 2 years (to maintain knowledge base)
- Members shall be chosen from the membership of chamber of commerce (or similar group), “unless in the judgment of the governing body, there are no members of such organizations who are both suitable and available...”
- Must serve without compensation, except actual expenses from service may be reimbursed

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What do IDBs do? They do Projects!



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What are Projects?

- Manufacturing, assembling, warehouse and distribution
- Pollution control, coal gasification and energy production
- Canal, port, parking, railroad, intermodal facilities
- Commercial enterprises
- Office buildings
- Low or moderate income, elderly or disabled multifamily housing
- Planetariums or museums
- Certain healthcare and educational facilities
- Certain recreational facilities, theme or amusement parks
- Hotels and motels (in some circumstances)
- Farming, ranching, agricultural transportation and storage

IDBs can own or finance Projects.





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IDB Board Powers

- Acquire Projects (by purchase, gift, exchange, lease or other methods)
- Improve, maintain, equip and furnish Projects
- Lease Projects, collect rent and apply proceeds to pay the debts of the industrial development corporation
- Sell Projects





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IDB Board Powers

(there's more)

- Enter into loan agreements related to Projects
- Sell, exchange, convey or donate any part or all of its properties
- Issue bonds or otherwise borrow money
- Pledge revenues and receipts from Projects




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IDB Board Powers

(there's more)

- Employ and pay compensation to employees, contractors and agents to do its work
- Conduct all powers expressly given under the IDB's corporate charter




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Special Limiting Provisions

- IDBs cannot operate Projects
- IDBS cannot pledge the general taxing power of the municipality to finance Projects without a certificate of public purpose and necessity AND approval in a referendum by 75% of those voting
- All IDB meetings must comply with open meetings and open record laws




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Tools IDBs Can Use

- Land Banking
- Industrial Revenue Bonds
- Payment In Lieu of Tax Agreements (PILOT) (if given authority)
On real property and/or personal property (equipment)
- Tax Increment Financing (TIF) (if given authority)
- Obtain grant funding for infrastructure and site improvements
- If SB2206/HB2344 currently in TN GA becomes law, IDBs eligible for FastTrack Economic Development Grants or loans
"for retrofitting, relocating equipment, purchasing equipment, building repairs and improvements, temporary office space or other temporary equipment related to relocation or expansion."



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In Conclusion:

IDBs can be an instrumental part
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development strategy
implementation.

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