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August 18, 2010

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State Comptroller report highlights flaws in NJ's municipal tax abatement program

Report finds school districts lose out when abatements are awarded; program oversight severely lacking

New Jersey's municipal tax abatement program is pulling critical funding away from school districts and leaving taxpayers to pick up the costs, according to a report released today by the Office of the State Comptroller (OSC).

The report found that abatement practices go largely unmonitored by the state and that municipal governments have little incentive to comprehensively assess whether an abatement is necessary to attract development, whether the type of development is needed in the first place or whether the abatement ultimately achieves its desired economic development goals.

Specifically, the report noted municipalities often receive more funds by granting tax abatements because they arrange for payments in lieu of taxes. School districts, however, receive no share of those payments and therefore lose out on the municipality's new wealth. In some cases, the result is schools' increased reliance on state aid.

New Jersey's abatement laws empower municipalities to exempt developers from paying property taxes in order to encourage development that otherwise might not have taken place. Each year, local governments in New Jersey forego hundreds of millions of dollars in potential revenue through reductions or exemptions from such taxes.

“Tax abatements are a tool that can be used and have been used to create jobs and revitalize communities that are struggling economically,” State Comptroller Matthew Boxer said. “However, when abatements are awarded for a project already set to occur, or a project that isn’t needed, the result is an unnecessary giveaway of the public’s money.”

The OSC report notes that municipalities have little incentive to turn away developers seeking the tax breaks because the abatements can lead to automatic profits for those towns. Under long-term abatement arrangements, property tax collections on development – which normally are split among several government entities – are eliminated and replaced by payments in lieu of taxes, known as “PILOT” payments. Of the negotiated PILOT, 95 percent is kept by the municipality, only 5 percent goes to the county government and school districts do not receive any share.

Despite the impact on their funding, school districts and counties are afforded no role in abatement decisions and, according to OSC interviews with local officials, are often unaware when abatements are being considered or are granted.

The financial impact can be dramatic, particularly on schools. The Hoboken school district, for example, will not receive at least \$3.5 million in revenue this year due to municipal tax abatements. While Hoboken and other school districts experienced substantial reductions in state aid this year, the \$3.5 million figure is actually more than double Hoboken’s state aid reduction.

“When the entity in charge of deciding who receives a tax break knows it will profit from its decision regardless of its merits, that’s a recipe for poor decision-making,” Boxer said. “Abatements should be granted only when the public at large will come out the winner.”

Boxer noted that municipal incentives for granting abatements may continue to increase since funds collected from PILOTs are not subject to property tax caps.

OSC’s report identified the 20 New Jersey municipalities that have used development-related abatements to a significant extent. Inquiries at those locations revealed, on a fairly consistent basis, a number of troubling practices that jeopardize the benefits of such abatements.

Among the examples cited is Gloucester Township which, in a span of six months from 2007 to early 2008, granted three separate short-term abatements to three Wawa stores that were expanding into Super Wawa’s. The three establishments were each within two to four miles of the other and located within a five-mile radius that included a total of 22 Wawa locations. The report questioned the prudence of an abatement program that hands out tax breaks to spur business development in such circumstances.

The report also found the state does not monitor the granting of individual tax abatements. While some abatement documents are required by law to be sent to the state, those documents are received only sporadically and are not being reviewed, analyzed or catalogued because of staffing limitations.

The report notes that some municipalities are making substantial efforts to strengthen abatement review. For example, the City of Millville requires annual certifications from abatement recipients that address agreement terms, such as a list of jobs created. Millville's recent abatement agreements also include provisions that make clear that if a developer fails to fulfill the terms of the agreement, it can be rescinded.

The OSC report also found that:

- Abatements artificially depress the ratable property base in a municipality, leaving neighboring municipalities to shoulder county tax burdens or grant their own abatements, triggering a "race to abate."
- Standards for designating "redevelopment areas" eligible for abatements are loosely applied and rarely reviewed. In some cases, local officials reported that areas designated for redevelopment actually have not been in need of redevelopment for a decade or more.
- Developers seeking abatements may, without repercussion, overpromise benefits that do not materialize.
- Information concerning abatement agreements is not published in a transparent manner or centralized location for the public to review and analyze.

The report makes 12 recommendations for improving New Jersey's abatement program, including giving school districts, counties and the public greater roles in the abatement process; structuring PILOT arrangements to encompass the interests of counties and school districts; ensuring that a comprehensive and detailed cost-benefit analysis occurs before awarding an abatement; and conducting periodic reviews and reclassifications of "areas in need of redevelopment." The report also details best practices for granting tax abatements from other states.

The OSC study was undertaken to examine broad issues underlying tax abatement implementation in New Jersey and to inform taxpayers about this complex development tool. Boxer said he hoped the report would jumpstart a public dialogue on this important topic.