kosmont companies

public + private transactions

Kosmont Companies

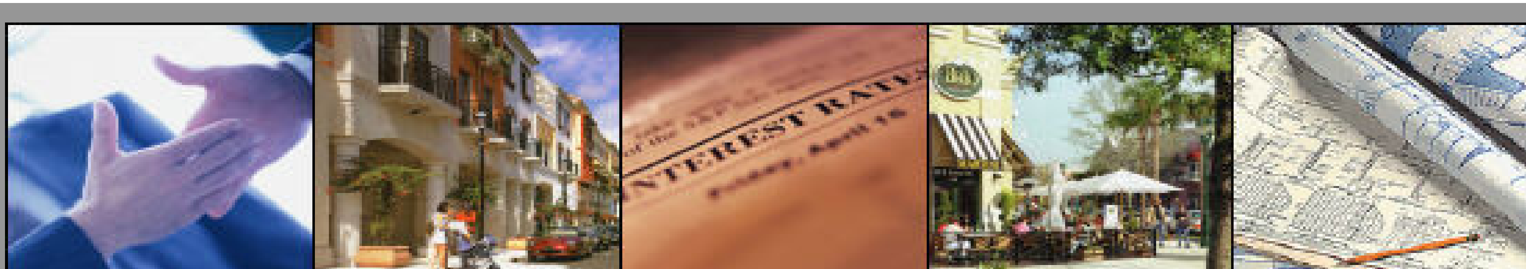
Real Estate and Economic Advisory

Kosmont Realty Corporation

Project Financing & Brokerage

California Golden Fund

Approved EB-5 Regional Center



865 South Figueroa Street. Suite 3500 Los Angeles, California 90017 ph213.417.3300
www.kosmont.com


This presentation is available online
www.kosmont.com
Research and Production by **Matt Goulet, VP, Kosmont Companies**

Los Angeles County Division
League of California Cities

PRESENTS:

Revising Existing E.D. Tools: Tax-Increment Financing & Infrastructure Financing Districts

Presented by:

Larry J. Kosmont, CRE
President & CEO, Kosmont Companies

AGENDA

- The Case for New Economic Development Tools
- Toolbox for Today’s Economic Developer
- Infrastructure Financing Districts (IFD)
- A Call to Action

THE CASE FOR ECONOMIC DEVELOPMENT

- **The Case for New Economic Development Tools**
- Toolbox for Today's Economic Developer
- Infrastructure Financing Districts (IFD)
- A Call to Action

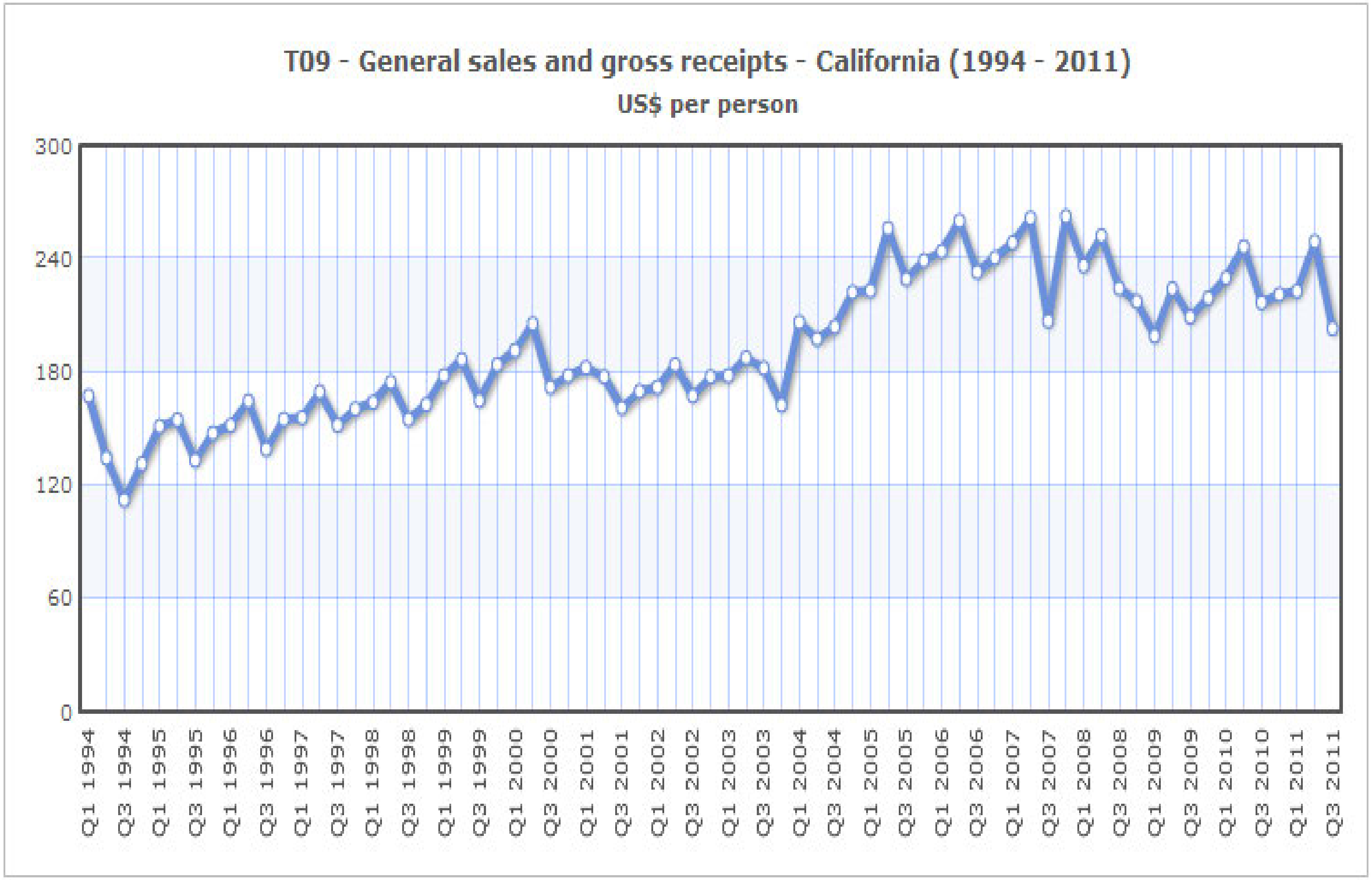
California's Three Main Tax Sources

California has three main sources of revenue: income, sales, and property tax

- **Income tax is CA's *<u>largest</u>* revenue source**
- **Top income earners sway the state budget**
  - For example, Personal Income Tax was 51% of CA's total revenue in 2010
  - Those making over $200K comprise 50% of all income tax
- **Sales Tax is prone to dramatic shifts in customer spending**

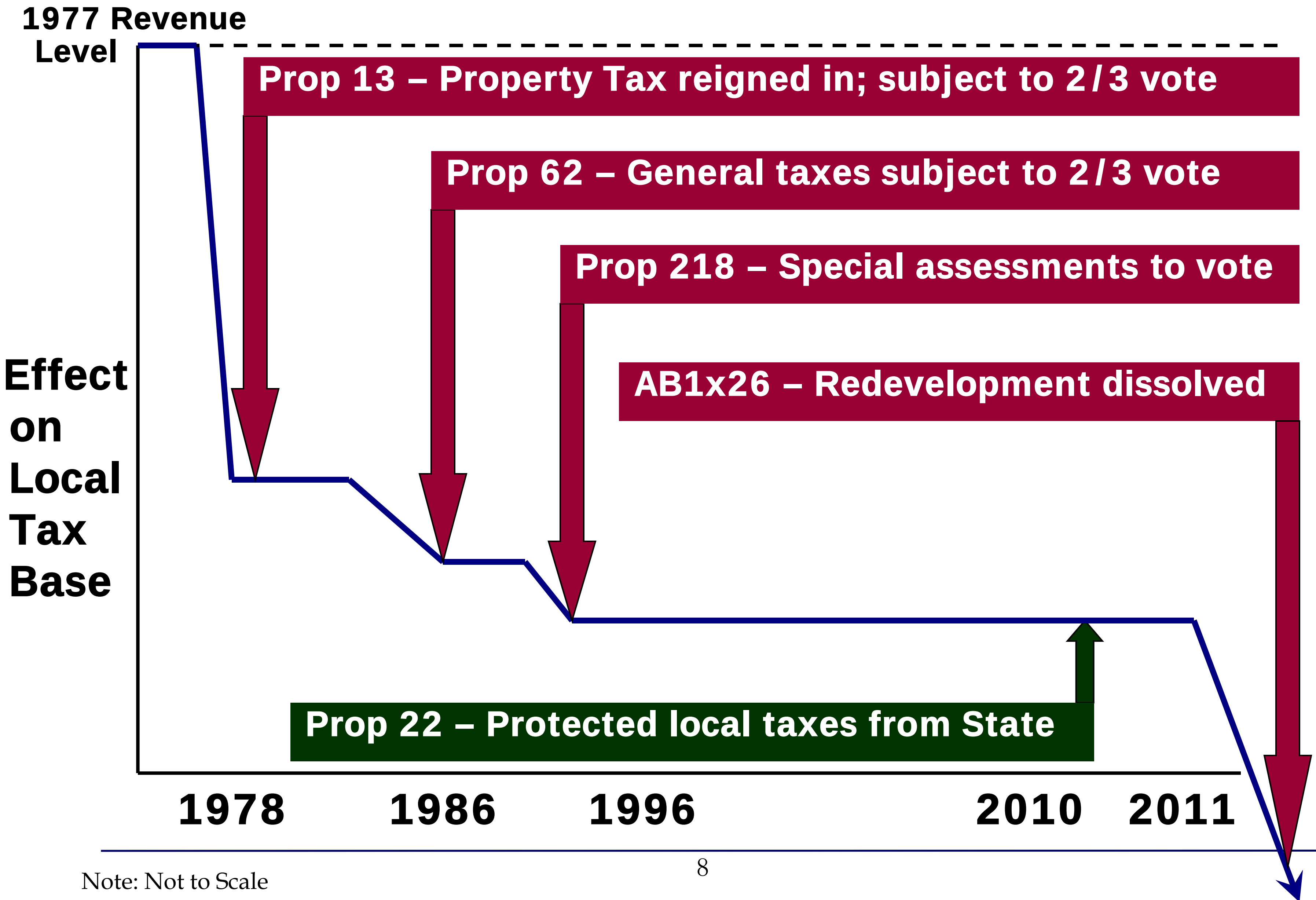
Source: California Legislative Analyst; CA Dept of Finance

Sales Tax per Capita



Source: U.S. Census Bureau; IndexMundi.com

33 Years of "Tax Revolts"



Note: Not to Scale

Cities are in the Real Estate Business

Redevelopment was the most powerful tool for local economic development in California

- It was based upon property tax, the most stable funding source
- It's Tax-Increment Financing (TIF) model allowed local agencies access to a significant and long-term source of funds
  - Tax increment continued to grow for decades beyond a flat base year, capturing significant value over time.
  - The economic multiplier effect of new projects meant that "pass-through" taxing entities also benefitted from redevelopment.

Cities are in the Real Estate Business

Redevelopment was the most powerful tool for local economic development in California

- The TIF mechanism, backed by state law, gave investors confidence in this low-risk, long-term financing vehicle. Thus, cities could borrow against this solid foundation – a promise of future revenue streams.

- Redevelopment gave local governments a *legal public framework for economic development* that allowed them to contract with private entities for real estate projects that would be ultimately owned and operated by private business.

- The Case for New Economic Development Tools
- **Toolbox for Today's Economic Developer**
- Infrastructure Financing Districts (IFD)
- A Call to Action

Economic Development in Post-RDA California

- Redevelopment *was* a bona-fide, state-authorized use of public funds for real estate development (including transfer of real estate assets to private entities).
- In 2012, we have fewer tools available to:
  - Use public funds for economic development
  - Provide a revenue stream that can be borrowed against
  - Perform real estate functions to attract job-rich private development
- Every public agency must meet a public purpose for the use of public funds.

What's Left after Redevelopment?

Newer Tools

- Site-Specific Tax Revenue ("SSTR") Pledges
- EB-5: Immigrant Investor Program

Existing Tools / P3 Structures

- Ground Lease
- Lease-Leaseback
- Tax-Exempt Revenue Bonds
- Project Delivery Methods
- Special Districts – CFD, BIDs
- New Market Tax Credits
- Certificates of Participation (COP)
- Parking Authorities
- Infrastructure Financing Districts (IFDs)

Newer Tools for Economic Development

Site-Specific Tax Revenue (SSTR) pledges

- Enables public agencies to achieve long-term cash flow
- Reduces developers financing cost
- Retain ownership of property/development after lease term is over (if done with ground lease)

EB-5 Immigrant Investor Program

- Federal program that offers citizenship to immigrants whose investments in real estate and/or businesses in US meet minimum level of job creation
- Created in 1990 by the United States Citizenship and Immigration Service (USCIS), an agency of the Department of Homeland Security
- An EB-5 Regional Center is a legal entity, authorized and approved by the USCIS to deploy funds from foreign investors to stateside projects
- Regulatory Investment requirements:
  - minimum investment of $1M or $500,000 for projects located in high unemployment area (Targeted Employment Area / TEA)
  - Creation of 10 permanent jobs in the economy per investment
  - Funds typically invested for five years with low interest rate costs

Existing Tools & P3 Deal Structures

Ground Leases

- Retain ownership of property/development after lease term is over
- Enables public agencies to achieve long-term cash flow
- Reduces developers financing cost

Lease-Leaseback Arrangements (financing public assets)

- California Govt. Code Section 25371
- Investors lend against equity in existing assets to fund new projects
- Ownership of leased property reverts to the local government after lease term is over

Tax-Exempt Revenue Bonds – utility tax & others; mostly for infrastructure & public facilities

Project Delivery Methods: CM At-Risk & Design-Build coupled with public financing

Community Facilities District (Mello-Roos & other Special Districts) Private sector leverages property tax payments for infrastructure & services

- Community Facilities Act of 1982
  - California Gov't Code Section 53311-53317.5
- Business Improvement Districts: Gov't Code Sec. 36600-36671

Existing Tools & P3 Deal Structures

New Market Tax Credits – 39% investor Federal tax credit to provide additional equity funding for eligible urban projects.

Certificates of Participation (COP)

- Used to monetize public real estate
- Municipality leases facilities to non-profit corporation (“Trustee”)
- Trustee then sub-leases facilities to other private organizations by selling Certificates of Participation
- The Trustee apportions monies back to the municipality

Parking Authorities

- Commission-led local government entity
- Manages parking operations and revenue citywide
- Landlord for parking leases and concession agreements.

Infrastructure Financing Districts (IFDs)

- Existing law
- Relatively useless
- If revised property, could deliver broad-based tax-increment financing

INFRASTRUCTURE FINANCING DISTRICTS (IFD)

- The Case for New Economic Development Tools
- Toolbox for Today's Economic Developer
- **Infrastructure Financing Districts (IFD)**
- A Call to Action

Basics of IFD Law

- Enacted in 1990

- Involves a limited use of tax-increment financing to fund:
  - public works
  - Transportation
  - Libraries
  - Parks
  - child care centers

Key Pitfalls of IFDs

- Requires 2/3 vote of the public

- Must be approved by all affected taxing authorities (any included authority has veto power).

- IFDs cannot be used to expand existing facilities, thus inherently excluding most infill applications.

- Not eligible for use in a former Redevelopment Project Area.

There are still areas where economic revitalization and private investment is needed and where new projects produce multiplier effects due to their infill locations.

History of Implementation of IFDs

IFDs have only been used twice in 22 years to any significant degree:

- Carlsbad, CA
    - 1998
    - Public works for hotel and Legoland Theme Park
    - *Only finished IFD project to date*

- San Francisco, CA
    - 2011
    - Public works for Rincon Hill Project
    - *In Process*

Proposals to Amend IFD Law

Public Sector Proposals

- **Prior Legislative proposals** to amend IFDs would still:
  - limit the use of IFD financing to funding publicly-owned infrastructure
  - require the approval of each taxing entity.

- **AB 2144**, a spot bill introduced on February 23, 2012 by Assembly Speaker John A. Perez:
  - revise portions of the IFD law and change the name of infrastructure financing districts to ***"infrastructure and revitalization financing districts".***
  - proposes to expand eligible IFD activities such as allowing districts within or overlapping the territory of redevelopment project areas and former military bases
  - retains limitations on IFDs including the taxing agency opt-in as well as a voter requirement.

Proposals to Amend IFD Law

Private Sector Proposal

Informal technical committee (led by BizFed) includes:

- California Business Federation (BizFed)
- California Business Properties Association
- California Association of Local Economic Development (CALED)
- Kosmont Companies
- McKenna Long & Aldridge, LLP
- Fulbright & Jaworski, LLP
- Latham & Watkins, LLP
- Kane Balmer & Berkman

Proposals to Amend IFD Law

Private Sector Proposal (led by BizFed)

A. Modifications to the Fundamental Purpose / Function of IFDs

1. Authorize tax-increment financing.
2. Implement TIF on a “district” level rather than a “project” level.
3. Expand eligible projects beyond public works.
4. Add new construction or rehabilitation of private facilities based on job generation
5. Allow higher density development within an IFD

Proposals to Amend IFD Law

Private Sector Proposal (led by BizFed)

B. Modifications to Include Public-Private Investment and Job Creation

1. Add affordable housing as a beneficiary of IFD-generated funds (to fulfill specific deficiencies in the marketplace).
2. Include adaptive re-use.
3. Enable public-private partnerships (P3s).
4. Include economic development programs such as (forgivable) loans to business for attraction or expansion.

Proposals to Amend IFD Law

Private Sector Proposal (led by BizFed)

C. Coordinate IFDs with Other Essential Legislation & Regulation

1. Implement a Sustainable Communities Strategy (supporting AB32 and SB375).
2. Allow for remediation for hazardous materials (with use of Polanco Act processes/immunities).
3. Provide for seismic and life-safety improvements to both existing public or private buildings.
4. Set jobs creation thresholds in amended IFD legislation similar to
   a. EB-5 (Federal immigrant investor program), whereby at least 10 jobs are created or preserved

      or

   a. EDA grant program job-creation formula

Proposals to Amend IFD Law

Private Sector Proposal (led by BizFed)

D. Other Technical & Procedural Improvements to Existing Act

1. Eliminate 2/3 voter approval for formation of an IFD.

2. Require a baseline percentage of taxing entities to affirmatively opt-in (for example, 30% of taxing agencies in a district).

3. Exclude school districts from the opt-in provision to insulate school districts and economic development interests.

- The Case for New Economic Development Tools
- Toolbox for Today's Economic Developer
- Infrastructure Financing Districts (IFD)
- **A Call to Action**

A Call to Action for the League

- Infrastructure Financing Districts offer an existing path to restoring tax-increment financing based job creation & private investment.
- The BizFed Coalition is submitting its IFD recommendations to Mike Rossi, Senior Advisor to the Governor for Jobs and Development.
- Business groups and City coalitions are being asked to weigh in.
- A Legislative tax force has been convened by Senator Lois Wolk.
- Business groups and the League should provide input to the legislative task force.
- Ultimately, Governor should collablorate with legislature and resolve changes by modifying AB2144 or pick a suitable alternative.
- California is one of only two states without TIF.

This is an opportunity to bring tax-increment financing back and restart the stalled engines of local economic development.

This presentation is available online

www.kosmont.com

Research and Production by **Matt Goulet, VP, Kosmont Companies**