



The ICE/Spring Break Conference



The ICE/Spring Break Conference will be held on April 22nd and 23rd with pre-conference workshops beginning April 21. The location of the conference is the Lodge of the Four Seasons at Lake Ozark.

This statewide conference is sponsored by the Missouri Emergency Medical Services Association (MEMSA) and the Missouri Ambulance Association (MAA) and maintains its two-fold purpose, namely to reach the educators of paramedics and EMTs and to bring education to the managers of ambulance services.

In recent years a clinical tract was added to the program to include those who provide care to patients – EMTs, paramedics and nurses.

This year's pre-conference workshops on April 21 include the Practical Testing Examiner Workshop (6 CEU's), "Get to the Power of Your Point" (6 CEU's), DT 4 EMS (6 CEU's), Making Medicine Work (6 CEU's) and the American Heart Association Instructor Workshop. Pre-conference runs from 9 am to 4 pm.

Conference sessions begin at 8:30 am on April 22. Session titles and presenters include Those Who Can Teach with Scotty Bolleter, The Human Side of EMS with Doug Randall, Creating Satisfied Customers with Bill Justice, Let the Games Begin with Linda Freymuth, The New National Standards with Greg Margolis and Kim McKenna, The Medical Here and Now with Scotty Bolleter, Are We There Yet (Effects of Sleep Deprivation) with Bob Patterson, MEMSA Database Registration with Greg Miller, More Than Words with Scotty Bolleter, Wet and Wild with Bill Justice, Unit of EMS Update with Greg Natsch, and Do You Really and Need to Buy This with Bob Patterson.

The ICE Society Reception begins that evening promptly at 5:30 pm. Attendees will have the opportunity to enjoy refreshments while mingling with instructors, coordinators and examiners – a great opportunity to network and learn.

Second day sessions on April 23 include Concept Maps and Critical Thinking with Kim McKenna, Airway Maze with Scotty Bolleter and Bill Justice, People Performance Management with Larry Dinges, Good Problem Solvers with Kim McKenna, Training and Coaching Employees with Larry Dinges and In Search of Hunter Caregiver with Scotty Bolleter.

Lodging at the Four Seasons is still available at \$94 per

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night and tickets for Tuesday night's dinner and comedy theater are available for \$40. Membership with MEMSA or MAA provides a \$50 credit toward these expenses.

Vendor booths and sponsorship opportunities are still open.

Ten lucky people will be winners of a free registration fee.

Registrations must be received by the early-bird deadline, April 1, 2008 to be eligible. Registrants must write "MEMSA/MAA Drawing" at the top of the registration form.

Ten entries will be selected from a drawing to be held on April 4th. Winners will be notified no later than April 8th. Each winner will be awarded the conference registration fee (value \$160). Dependent on the method of payment used, either by check or credit card, it will be held until the drawing. Winners, once selected, will have payment returned to them.

Legislative Update

By Jason White



Death Benefit Legislation

Death Benefit for EMS, Fire & Law Enforcement. The State Council of Firefighters is leading the effort, also supported by MEMSA, MAA & SAC. This bill is the same as last year's effort -- \$100,000 death benefit and \$10,000 burial contribution.

SB 1630 by Senator Bruns and SB 966 by Senator Dempsey

Recall Provision for Ambulance District Board Members

Unlike almost every other elected official in the United States there is no provision in law for recalling an ambulance district board member. MEMSA and MAA have endorsed adding such a provision to Missouri's ambulance district law. We do not know of any other elected officials who cannot be recalled by the voters. The bill closely follows the present law allowing for recall of board members of fire protection districts. The proposed legislation is the same as that considered in 2002 (Also endorsed by MAA at that time). The hearing was held this past week on SB 978, but no action has been reported. This bill may possibly be a consent bill.

SB 978 by Senator Grieseheimer -- Hearing occurred on Wednesday, January 30.

Medicaid Increase for EMS

EMS has already testified at two hearings and met with some senior leadership on this issue. Presently the physicians are seeking to get to a payment level from Medi-

Peer Review Legislation

Peer Review Legislation would provide protection for Quality Improvement records from plaintiff attorneys. Almost all health care providers have had this protection for many years. In the past this type of legislation has been vigorously opposed by the Missouri Association of Trial Attorneys. The effort is supported by MEMSA, MAA, MO ACEP, MO Fire Service Alliance, MDHSS & SAC. The hearing will be held on Tuesday, February 19.

SB 915 by Senator Ridgeway and HB 1454 by Representative Roorda

Cell 911 Bill, Expected to be Filed Very Soon

A new bill to enhance 911 calls made on cell phones would allow for a state-wide ballot creating a monthly tax on cell phones so that the 911 system can be adequately funded. As you may recall a state-wide vote has occurred twice and failed both times. We expect that this effort will not include the phone companies getting a cut of the tax money. We expect that a percentage of the money will go to the local 911 agency and a % will go to a new state fund to help pay for the 911 system in rural Missouri where no reasonable tax will generate enough money to capitalize the project. A state-wide ballot would be difficult but not impossible.



Legislative Update

By Jason White

(Continued from page 2)

caid which is 65% of Medicare while ground ambulance services only get 40% and air ambulance services only 26% of Medicare. We have set the goal to get Medicaid payments pushed up to the same level as Medicare. It is expected to take several years to reach that goal.

ported by MEMSA, MAA and SAC. Senator Shields is expected to file a similar bill in the Senate. The hearing will be held on Tuesday, February 19 at noon.

world in crisis. This bill would recognize that the standard of care is different during times of crisis and thus would allow health care professionals to function during a time of major disaster without fear of lawsuits when the world returns to normal.

HB 1790 by Representative Cooper

HB 1609 by Representative Cooper

Legal Protection of Health Care Providers during a Large Scale Disaster

Public Access Defibrillation

Time Critical (Stroke and STEMI) Issues

Legislation has been submitted for the creation of a stroke and STEMI system just as we have a trauma center system. The effort is led by DHSS and is sup-

This effort is being led by DHSS with support from SAC, MAA & MEMSA. One of the lessons learned in New Orleans after Hurricane Katrina is that lawyers will sue medical professionals based on the "standard of care" related to a normal world and not the

AHA is leading this effort, also supported by MEMSA, MAA & SAC. The bill is not yet filed but is expect to change the present law to allow for immunity for users of the AED even if not trained.

Code 3 Emergency Publisher

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Code 3 Emergency is published six times a year by the Missouri Emergency Medical Services Association. Code 3 Emergency takes precautions to provide accurate information and does not accept any liability for errors or omissions inadvertently caused by contributors. The views and opinions in the articles herein are not to be taken as the official expressions of MEMSA or the editor unless so stated. MEMSA welcomes submission of story ideas, articles and photographs for Code 3 Emergency. Photographs should be submitted in jpeg form to memsa@memsa.org. Please email your materials to Steve Sanborn c/o memsa@memsa.org.

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Time Critical Diagnosis Task Force Update

The Missouri Time Critical Diagnosis Task Force held its second meeting on Thursday, January 31, at the governor's office building in Jefferson City to continue its development of a statewide emergency response system for victims of stroke and ST-Segment Elevation Myocardial Infarction (STEMI). The task force will serve from January through June of 2008 to finalize the guiding principles and advise DHSS on a consensus plan to create a functional system.

With Missouri's heart disease and stroke mortality rates consistently higher than the nation's average, the Time Critical Diagnosis Task Force has an important mission of designing and implementing an effective stroke and STEMI emergency care system. The system will ultimately reduce long-term disabilities, speed up recovery times and save lives in Missouri.

During the January 31 meeting, attendees spent the morning session in two smaller work groups, one for STEMI and one for stroke, to diagram the current system's inputs, actions and outputs. The early afternoon session focused on individual diagrams of inputs, actions and outputs for each component



of an ideal system. The late afternoon session divided the task force into hospital and out-of-hospital groups in order to identify common TCD elements of stroke and STEMI diagrams and to identify other elements for an ideal system from the two perspectives.

Studies show that such programs in various states have reduced the patient preventable death rate by 50 percent. Noticing the need to expand the program, states across the country created similar systems where stroke and STEMI patients are transported to hospitals identified as best equipped for their treatment.

After the first Task Force meeting on January 15, Governor Matt Blunt stated, "This collaboration of state, private, and non-profit organizations have joined forces to improve Missourians' health

and wellness. More than 100 participants have collaborated to ensure that those who suffer a stroke or certain type of heart attack get the right care in the right place in the right amount of time."

Recently, legislation was submitted for the creation of a stroke and STEMI system. HB 1790 sponsored by Representative Wayne Cooper is an effort led by DHSS and supported by MEMSA, MAA and SAC. Senator Shields is expected to file a similar bill in the Senate. The proposed bill is written with enabling language that would give DHSS the authority to promulgate rules to expand the current trauma system to include heart and stroke systems. As the bill currently reads, it "changes the laws regarding hospital designation to include a heart attack center and a stroke center if it

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Time Critical Diagnosis Task Force Update

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meets the criteria of the Department of Health and Senior Service.” More information can be found at: www.house.mo.gov/billtracking/bills081/bills/ HB1790.htm

The most recent Time Critical Diagnosis Task Force meeting was held on February 15 (update coming soon) and the next meet will be

held February 28 at 9:30 am at the Governor’s office building, 200 Madison St., Jefferson City, Room 450. All are welcome to attend. An RSVP sent to Beverly.Smith@dhss.mo.gov This e-mail address is being protected from spam bots, you need JavaScript enabled to view it is greatly appreciated so that lunch may be served for all attendees.

The meeting’s focus will be to define gaps, barriers and issues that impact the implementation of an ideal system from the perspective of the patient, EMS, physicians and health care providers, small and large hospitals, rural and urban regions and the payer.

For more information on the Time Critical Diagnosis Task Force, visit: 360365.org.a

MEMSA Welcomes New Administrative Assistant, Marcia Krech



MEMSA welcomes Marcia Krech, administrative assistant, to the MEMSA team. Marcia is a retired high school teacher of 30 plus years who first came to us in September of 2007 through a temporary employment agency. In January, the MEMSA board voted to hire Marcia on a full-time basis.

Marcia brings much needed skills to the table including superior organizational and communication experience, as well as computer program and website building knowledge – a great fit for MEMSA’s statewide and web com-

munications needs.

“While I was ready to retire from teaching,” says Marcia, “I am by no means ready to retire from life. I have a strong desire to make a difference and to use my abilities to help a much needed organization like MEMSA.

“The honorable work and services provided by the EMS community has made for a wonderful experience so far. I feel as though I get to work with and support heroes who could be needed at a moment’s notice by any of us.”

While Marcia is involved on a number of administrative levels, one of her most important tasks is coordinating the registration of EMT and paramedic trainees for practical exams all over the state. This includes both individual and organizational members.

Michigan-born, Marcia obtained her teaching degree from the University of Minnesota. She and

her husband Warren moved to Missouri in 1984. Warren is a morning talk show host heard on Jefferson City’s KWOS 950 AM. The program is a local news/talk format and covers local and statewide politics and a host of other issues.

Marcia has two children, Ben and Sarah, who live in Washington, D.C., and Missouri respectively. Ben is a senior producer for XM Satellite Radio and Sarah, newly married, works for the Lockton Insurance Company in St. Louis.

One of Marcia’s favorite hobbies is gardening. With a goal to become a Master Gardener, Marcia continues to build her very own English Garden year after year at her home.

Please join the MEMSA board in welcoming Marcia to the team – and be sure to contact her for any and all MEMSA-related needs! Marcia can be reached at memsa@memsa.org

Fire District Mourns Loss of Comrade



Louis Berra, a paramedic-firefighter with the West County EMS and Fire Protection District, was found dead the morning of Friday, January 18 in the bedroom of a firehouse at 13790 Manchester Road.

Berra, 48, was an avid runner and normally woke early to go for his morning jog. When his colleagues no-

ticed he wasn't awake, they checked his room and found him collapsed there.

Berra had been with the district for 11 years, and had earlier been with the Frontenac Fire Department for 12 years.

Before joining the West County EMS and Fire Protection District, Louis was previously a member of the Frontenac Volunteer Fire Department for 12 years.

Chief Dave Frazier stated, "Lou was an outstanding public servant, who has excelled at serving area residents. His passing has deeply saddened all of those who work for and with the West County EMS and Fire Protection District."

Louis leaves behind his wife Lori, and his daughters

Victoria Paul and Alexis Lorraine. A visitation for Louis was held on Sunday January 20, at Kriegshaut West Mortuary in Olivette.

A full firefighters honor funeral service and funeral mass was held for Louis on Monday January 21 at St. Monica Catholic Church in Creve Coeur followed by an interment at Resurrection Cemetery. A memorial fund has been established and donations can be made to:

Louis Berra Family Trust
c/o St. Louis Bank
14323 S. Outer Forty Road
Town and Country, MO 63017

Our condolences to the Berra family and the West County EMS and Fire Protection District of Manchester, Missouri.

MEMSA.ORG

By registering at www.memsa.org you are joining a network of EMS professionals across the state of Missouri. After registration you are welcome to submit articles to CODE 3 for consideration, post employment opportunities and start a forum if you wish.

As a registered user, please take a moment to forward our web address to your EMS colleagues anywhere in the state – and ask them to take a moment to register too.

Thank you!



Tax Incremental Financing Districts

By: Frank Foster

What are TIF's?
(Potential diversion of EMS's money to support development)

In 1982 the General Assembly enacted the Real Property Tax Increment Allocation Redevelopment Act (99.800-99.865 RSMo). Unlike tax abatement incentives, the taxes continue on the development project but get captured to pay for various costs of the project.

TAX INCREMENTAL FINANCING DISTRICTS:

WHAT CAN YOU DO TO KEEP THEM OUT OF YOUR BACK POCKET?

By: Frank Foster

A. INTRODUCTION AND BACKGROUND

1. What are TIF's? (Potential diversion of EMS's money to support development)

In 1982 the General Assembly enacted the Real Property Tax Increment Allocation Redevelopment Act (99.800-99.865 RSMo). Unlike tax abatement incentives, the taxes continue on the development project but get captured to pay for various costs of the project.

Originally this legislation captured only Payments in Lieu of Taxes (PILOTS), but later sales taxes Economic Activity Taxes (EATS) were added a 50% rate. Both PILOTS and EATS are supposed to be only on the increases in property valuations or increased economic activity resulting from the actual Project. Although counties can have TIF's, my only experience has been with municipal TIF's.

2. Who serves on TIF's? (Appointees are made by the municipality)

The TIF Commissions are appointed and not elected, a source of concern in some quarters (see J. Goshorn 77:919 -946 Washington University Law Quarterly, "IN A TIF: WHY MISSOURI NEEDS TAX INCREMENT FINANCING REFORM"). Two appointees come from the schools, one from all other political subdivisions, and the remaining six from the Mayor/City Council. Guess who controls the TIF Commission for purposes of its "objective" findings?

3. How long can a TIF last? (Up to 23 years)

Implementing Ordinance

nances have to be adopted within ten years of adoption of the Plan, and the bond pay off period can be as long as 23 years.

B. SOME PROCEDURAL QUESTIONS THAT MIGHT BE A BASIS FOR CHALLENGING A TIF

4. Must the nature of the Project be compatible with the municipality's Comprehensive Plan? (Yes)

The Project must be compatible with the municipalities Redevelopment Plan.

This compatibility with the Comprehensive Plan requirement is in 99.810.1(2) RSMo. The courts will examine this requirement, City of St Charles v. DeVault, 959 S.W.2d 815, 822-23 (Mo. App. E.D. 1997). Also no Ordinance amending a Project can be adopted beyond ten years after the date of adoption of the Comprehensive Plan per 99.810(3) RSMo. If nothing happens on the Project for the ten years, then all funds captured to date are mandated to be refunded to the taxing entities per 99.850.1 RSMo and the "Fund" is to be dissolved per 99.850.2 RSMo.

5. If there are significant

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changes to the TIF Project must the TIF Commission be reconvened? (Yes)

If significant changes are made to the Project, then it is a new Project and all of the procedural requirements for a TIF formation including reconvening the TIF Commission must be accomplished (see *Ste. Genevieve School District v. Board of Aldermen of the City of Ste Genevieve et al.*, 66 S.W.3d 6, at 11-12 (Mo. en banc 2002)). What is a phase in change or minor change to a Project versus a substantial amendment to the Project has logically been a rich source for litigation.

6. Must the Project really be in a blighted, or conservation, or economic development area? (Yes)

Although there is some authority for multiple designations, the courts have generally ruled that it must be ONE of these designations. Also in response to the United States Supreme Court decision in *Kelo v. City of New London*, 545 U.S. 469 (2005), Missouri's legislature added to section 523.261 that blight findings must be supported by "substantial" evidence, which is more than the usual civil procedure

standard of mere preponderance of the evidence. Also the Supreme Court of Missouri has concluded that mere speculations about goals and improvements is not a sufficient basis for finding "blight" for purposes of condemnation proceedings (see *Centene Plaza Redevelopment Corporation v. Mint Properties*, (Mo en banc 2007), case # SC88487). This case was decided under 353.020 RSMo even without having to apply the new section 523.261 statute retroactively. I take these developments in condemnation law also as a basis for potentially challenging TIF Commission and Municipal Council findings of "blight" under 99.805(1) RSMo of the TIF statute.

7. Is it mandatory that the 30 and 10 day published notices to the public and the 45 day advance notice by certified mail to all special taxing districts (schools, water, fire, ambulance etc.) and the Director Department of Economic Development be made? (Yes, the notices are mandatory and not just directory)

These notice requirements appear in 99.830.1, 2, & 3. RSMo. The two published notices to the public can not be greater than thirty

and ten days respectively. The notice to the political subdivisions can not be less than 45 days and must be by certified mail. The notice to Economic Development is important. Prior approval by the Director of Economic Development is required if any of the added economic development taxes (EATS (sales taxes) are to be captured.

C. MORE QUESTIONS ON WHAT LOCAL TAXES ARE AFFECTED BY TIF'S AND HOW SPECIAL CIRCUIT BREAKER PROVISIONS FOR AMBULANCE DISTRICTS AND FIRE PROTECTION DISTRICTS SHOULD WORK

8. Do TIF's hit both sales taxes and property taxes? (Yes, both)

The 1982 TIF legislation originally targeted only increases in property tax revenues resulting from "The TIF Project" and these revenues went under the acronym of PILOTS. Somewhere along the line the Statute got amended to include also up to 50% of the increases in economic activity taxes generated by the project, which go under the acronym of EATS. Thirty seven ambulance districts,

Tax Incremental Financing Districts**By: Frank Foster***(Continued from page 8)*

eight fire protection districts, and many of my 911 center clients have adopted some form of sales tax. Even certain state level sales taxes can now be captured as well by TIF's.

9. Is there any chance of getting the TIF statute declared unconstitutional as unapproved by voter taxes (Hancock Amendment theory) or as not applicable to tax enabling statutes created after the TIF Statute? (No)

There have been attempted court challenges to the TIF legislation. One attempt argued the theory that the TIF assessments were new taxes that were not voter approved as required under Article X s 22 of the Missouri Constitution (the Hancock Amendment) (see County of Jefferson v. Quicktrip Corporation, 912 S.W.2d 487, 491 (Mo banc 1995). Another court challenge was based on the theory that the TIF statute does or could not affect later enacted enabling tax statutes enactments (see State ex rel. Bel-Ridge, 996 S.W.2d 356 at 358 (Mo. App. E.D. 1998)) As these cited cases indicate all of these court challenges to the TIF legislation have been regrettably unsuccessful.

10. Is there not a circuit breaker for Chapter 190 and Chapter 321 entities? (Yes)

A TIF circuit breaker for fire protection districts and ambulance districts only of up to 50 to 100% refund was put into S.B. 1107 for TIF's formed after July 1, 2003. Because S.B. 1107 got caught up in an Article III s 23 multiple subjects violation challenge, the legislature separately reenacted this provision into a new section 99.848 RSMo. The effective date of 99.847 RSMo is July 1, 2003 and 99.848 RSMo which reenacted 99.847.1 RSMo out of an abundance of caution has an effective date of August 28, 2004. Actually 99.847.1 was left untouched by the Cole County Circuit Court decision. For any TIF created after those dates the participation of the districts should be optional with the district boards. For districts funded only or even partially by sales taxes, the 50% of the EATS rule in 99.845.3 RSMo applies for pre 2003 created TIF's (see discussion of the base year for TIF's created before July 01, 2003 but where a district's sales tax has been adopted thereafter).

11. There is a range of degree of circuit breaker stated in 99.847 & 99.848 RSMo; who

sets that range and when? (Yes, and fire and ambulance districts set the range)

Yes, there is a clear circuit breaker range in these statutes. Also, some municipal and TIF specialist attorneys are saying we the Ambulance District or Fire Protection District set the refund rate as to 50 to 100% range and in advance of the TIF bond issue! Although the statute is somewhat ambiguous on who sets the range of participation, for obvious reasons I prefer this interpretation of the statute over alternative interpretations. Furthermore, it makes a great deal of sense administratively to apply the circuit breakers in advance of any TIF assessment. Than to hope that the requisite refund will be made later.

12. Sections 99.847 and 99.848 RSMo apply only to Chapter 190 & 321 entities; would Chapter 190 RSMo 911 Centers also be able to avail themselves of the TIF Circuit breaker?(Yes, any Chapter 190 or Chapter 321 RSMo entity, including 911 Centers)

Sections 99.847-1 RSMo and 99.848 RSMo apply only to Chapter 190 RSMo entities and 321 RSMo entities. There is an axiom of statutory construction known as the expression of the spe-

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cific excludes the general “unius est alterio exclusio” (see 37B Missouri Digest2d “Statutes” Key # 195, and the many cases cited therein). Sales tax funded 911 Centers are clearly Chapter 190 RSMo entities and these two sections 99.847 and 99.848 RSMo did not specifically limit their benefits of TIF relief to ambulance districts or fire protection districts. Therefore, it is my conclusion the sales tax funded 911 centers are entitled to the same relief as the ambulance districts and fire protection districts. (Telephone fee supported 911 centers are also Chapter 190 RSMo entities but have no PILOTS or EATS to assess). Chapter 67 RSMo funded 911 centers are not named in these two circuit breaker statutes. However, there are a few Chapter 321 RSMo funded communication centers, and they also would be eligible. If the General Assembly had wanted to limit these protections to districts, it could have done so.

13. Should sections 99.847.1 RSMo & 99.848 RSMo should be read in paria materiae with section 99.805(h) RSMo), the capital cost re-

covery provision? (No)

Some pro TIF development attorneys have argued the case that 99.847.1 RSMo and 99.848 RSMo should be read in paria materiae with section 99.805(h) RSMo which enables special districts to retrieve those added capital costs directly associated with and/or incurred as a result of an impact of the TIF project itself. Their reason for reading the statutes this way is that they then claim section 99.805(h) RSMo is where the references in 99.847 RSMo and 99.848 RSMo to a 50% to 100% range actually comes from. Therefore this interpretation would mean that the amount of “relief” would either be much smaller or non-existent.

This author can find no basis for reading the two emergency services (and 911 centers) exemption statutes (99.847 & 9.848 RSMo) in paria materiae with the capital cost impact statute. The Plain Meaning Rule axiom of statutory construction provides that absent contrary language in a statute, the courts must follow the plain and ordinary meaning of the words themselves (see *Ports Petroleum Co. Inc. of Ohio v. Nixon*, 37 S.W.3d 237, 240 (Mo. Banc 2001)). There is no cross reference in 99.847 RSMo or in 99.848

RSMo to section 99.805(h) and the words “costs” or “capital costs” do not appear any where in section 99.847 RSMo or in section 99.848 RSMo.

Second, it is useful to apply the axiom of statutory construction known as legislative intent. Unlike the United States Constitution wherein the separation of powers principle is merely implicit, under the Missouri Constitution the separation of powers is explicit (see Art II s. 1 Mo. Const.). Therefore, under Missouri law, the axiom that the judicial branch must give deference to the intent of the legislative branch is more than just an aid to interpreting statutory language, but is also a substantive rule of law and a constitutional mandate. Consequently, when interpreting a statute the courts must give effect to the legislative intent (see *Murray v. Missouri Highway & Transportation Commission*, 37 S.W.3d 228, 233 (Mo. en banc 2001)). Based on communications with lobbyists from ADAM (the Ambulance District Association of Missouri) and MAA (the Missouri Ambulance Association), it is clear that the intent of these two sections (99.847 & 99.848 RSMo) was to carve out an exemption to TIF’s for EMS agency’s in order to in-

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sure that that these agencies were on a sound financial footing.

14. Is the carved out exception for Chapter 190 and 321 RSMo entities violative of any equal protection principles? (No)

Some pro TIF development attorneys have argued that these statutes carve out an "unfair" exception implying that some sort of equal protection principle is involved. No suspect criteria or fundamental rights are involved with these two statutes (99.847 & 99.848 RSMo). So this differentiation for EMS agencies need meet only the rational basis test. It was rational for the General Assembly during the post 911 era (99.847 was passed in the fall of 2002) to conclude that while they were creating new funding mechanisms for EMS agencies they would also immunize EMS agencies from the impact of TIF's. No doubt the General Assembly took notice of the importance of EMS agencies to the public health and safety and also did not want to dilute some of the new funding mechanisms that the General Assembly was creating.

15. For TIF's which are subject to the circuit breaker statute, could a Board nonetheless optionally participate in the TIF? (Yes)

As previously stated, the effective date of 99.847 RSMo is July 1, 2003. Section 99.848 RSMo which reenacted 99.847.1 RSMo out of an abundance of caution, has an effective date of August 28, 2004. For any TIF created after those dates the participation of a District can be optional but in no event in the case of EATS exceed the 50% of the EATS rule in 99.845.3 RSMo. The Board can always entertain entreaties for optional participation. Such optional participation could rationally be defended on the worthiness of the Project. Such a decision could also be based on a desire to politically not to appear obstructing local economic progress. Additionally, there is a sound argument here that 50% of something is better than 100% of nothing if the project were in fact not to go forward as a result of the lack of any EMS entity participation in the TIF Project. As I read the statute, the optional participation could have a tentative sunset time period on it or set lower than the 50% of the EATS statute level, or lower than the 100% of the

PILOTS level. Such partial participations are exactly what some districts have done. Political subdivisions are like administrative agencies, not bound by their administrative precedents. So a case by case analysis does no harm as to future options not to participate.

16. What if we are dealing with a TIF created prior to the effective dates for 99.847 & 99.848 RSMo, but the District has implemented a sales tax subsequent to the establishment of the TIF? What is the base amount or base year for calculating the amount of increase to which the 50% assessment will be assessed against? (Use the year prior to the enactment of the TIF Ordinance)

The circuit breaker of section 99.847 and 99.848 RSMo is not available if the ordinance adopting the Project predates the effective date of both statutes. Therefore any EATS would be subject to a 50% rule per section 99.845.3 RSMo.

However, in such cases how do you calculate the base year amount? Actually, there are two ways to determine the base year amount for calculation of the EATS when no sales tax existed in the year of

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enactment of the TIF. One way is to assume the base amount is zero because no District sales tax existed in the base year. This method of determining the base year would mean that the entire sales tax generated in the Project area would be subject to the 50% assessment.

A preferable way to determine the base year and its sales tax revenue is to calculate the estimated sales tax revenue in the year prior to enactment (once again see 99.845.3 RSMo) and pay only the 50% of the incremental increases resulting from the Project from that year. Since both PILOTS and EATS are to be based on the increases in revenues resulting from the Project, I have concluded that this latter approach is the more accurate interpretation of the statute. Section 99.845.3 RSMo clearly says the TIF is to use the calendar year prior to enactment of the Ordinance as the base year, and it is the additional economic activity from the project and NOT ALL sales revenue generated from the project area that should be subject to the 50% EATS formula in again 99.845.3 RSMo.

Conclusion: (TIF's are

bad, but EMS has options for post 07-01-03 created TIF's)

If you have not guessed it, I am not a big advocate for TIF's. I understand the principle of tax incentives and abatements to stimulate economic activity, and such other mechanisms to stimulate economic activity are available to local government. However, to divert tax funds from their originally intended purpose as approved by the voters appears to fly in the face of the State's motto that the people are the supreme law of the land. The voters voted to tax themselves for a particular purpose when these special districts were formed. Now the TIF District imposes a mandatory diversion from that very purpose for a quasi-public or even quasi-private benefit. Perhaps this TIF concept would be more palatable if the TIF Commissions were elected and not appointed.

However, there are other conceptual problems with TIF's as well. They look awfully like a tax by one governmental entity on another, thereby raising an issue under the Privileges and Immunities clauses of the Constitution. Additionally the funds go to benefit directly or indi-

rectly one set of private entity producers over others, thereby raising issues under the Public Purpose Doctrine (Article X s 3 of the Missouri Constitution) and potential violations of the prohibition of lending of public credit to private entities under Article VI s 23 & 25 of the Missouri Constitution.

However, for TIF's created after July 01, 2003, we in the public sector EMS community are in an enviable situation when compared to other special districts. Because of the special circuit breakers for Chapter 190 RSMo and Chapter 321 RSMo entities in sections 99.847 & 99.848 RSMo, any participation by these entities in TIF's created after July 1, 2003 is Optional. Based on the value that we are from the land of the home of the free and brave, it is always nice to have options in lieu of mandates.



Tree of Life – Traveling Memorial Visits Kansas City



As mentioned in past articles, the memorial honors emergency medical service providers from across the nation who lost their lives in the line of duty. The 350 honorees currently listed on the memorial include 20 Missourians and Kansans (listed below).

The display coincided with a second visit earlier that week by the National EMS Memorial Service Board of Directors, which continues to evaluate the Kansas City metropolitan area as a possible permanent new home for the Tree of Life memorial and the annual National EMS Memorial Service. Kansas City was chosen late last year as one of three finalist cities in a nationwide search.

The memorial is currently traveling across the United States after being displayed at a Department of

Homeland Security Conference in Los Angeles. Its visit to Kansas City was hosted by the Mid-America Regional Council Emergency

Rescue committee (MARCER), a bi-state coalition of EMS agencies. MARCER is spearheading the effort to bring the National EMS Memorial to Kansas City, with support from the Missouri Emergency Medical Service Association (MEMSA), the Kansas Emergency Medical Services Association (KEMSA), and the Missouri Ambulance Association.

Kansas & Missouri National EMS Memorial Service Honorees

- James S. Barnett Jr., Spirit of Kansas City Life Flight, Lone Jack, Mo.
- Brandon Bow, EagleMed, Wichita, Kan.
- Tye P. Brown, Metropolitan Ambulance Service Trust, Kansas City, Mo.
- Marcus E. Carr, Chillicothe

Fire Dept., Chillicothe, Mo.

- Billie Cobb, Gerald Area Ambulance District, Gerald, Mo.
- Jonathan Dye, EagleMed, Wichita, Kan.
- Wilma C. Francis, Caldwell Co. Ambulance District, Kingston, Mo.
- Jennifer Hauptman, EagleMed, Wichita, Kan.
- Juli J. Huttegger, Air Evac Lifeteam, West Plains, Mo.
- Dennis W. Krause, Concordia Fire Protection District, Concordia, Mo.
- Norma C. Lane, Putnam County Ambulance District, Unionville, Mo.
- Katherine Malone, Metropolitan Ambulance Service Trust, Kansas City, Mo.
- David J. Mosher, Chillicothe Fire & Grundy County Ambulance, Chillicothe, Mo.
- Edward C. Neustrom, Johnson County Med-Act, Olathe, Kan.
- Ryan P. Ostendorf, American Medical Response, Topeka, Kan.
- Bryan C. Pottberg, Lee's Summit Fire Department, Lee's Summit, Mo.
- Karen Scherer, Air Evac Lifeteam, West Plains, Mo.