SEYFARTH SHAW LLP
ATTORNEYS

DEVELOPMENT AUTHORITIES AND FINANCING ECONOMIC DEVELOPMENT

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GLOSSARY

- DA = development authority
- DDA = downtown development authority
- JDA = joint development authority
- Statutory = created under the Development Authorities Law or the Downtown Development Authorities Law
- DAL = the Development Authorities Law
- Constitutional = created by an LCA
- LCA = local constitutional amendment
- Local Government = city or county
- Authority includes a DA, a DDA and a JDA.

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MODULE 1

WHY WE HAVE DEVELOPMENT AUTHORITIES

WHERE THEY CAME FROM

HOW THEY ARE GOVERNED

WHERE THEY CAN ACT

WHERE THEIR FUNDING COMES FROM

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WHY WE HAVE DEVELOPMENT AUTHORITIES

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"TO PROTECT AND TO SERVE"

PROTECT LOCAL GOVERNMENT

- The city or county is not liable for the authority's debts or contracts.
- Members of authorities are appointed, not elected. They buffer the elected officials from temporary political pressure.

ADD POWERS

- The Georgia Constitution authorizes economic development powers for authorities that local governments don't have.
- Some other powers (like redevelopment) are shared. If the local government works through the authority instead, it is protected by the authority.

BECOME EXPERTS

- Authority board members are concerned only with the "governmental mission" of their authority, not the burdens of a local government.
- By specializing in economic development, authority board members are better able to solve problems and realize economic development.

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PROTECT

No bonds or other obligations of and no indebtedness incurred by any authority shall constitute an indebtedness or obligation of the State of Georgia or of any county, municipal corporation, or political subdivision thereof, nor shall any act of any authority in any manner constitute or result in the creation of an indebtedness of this state or of any such county, municipal corporation, or political subdivision.

O.C.G.A. Sec. 36-62-10

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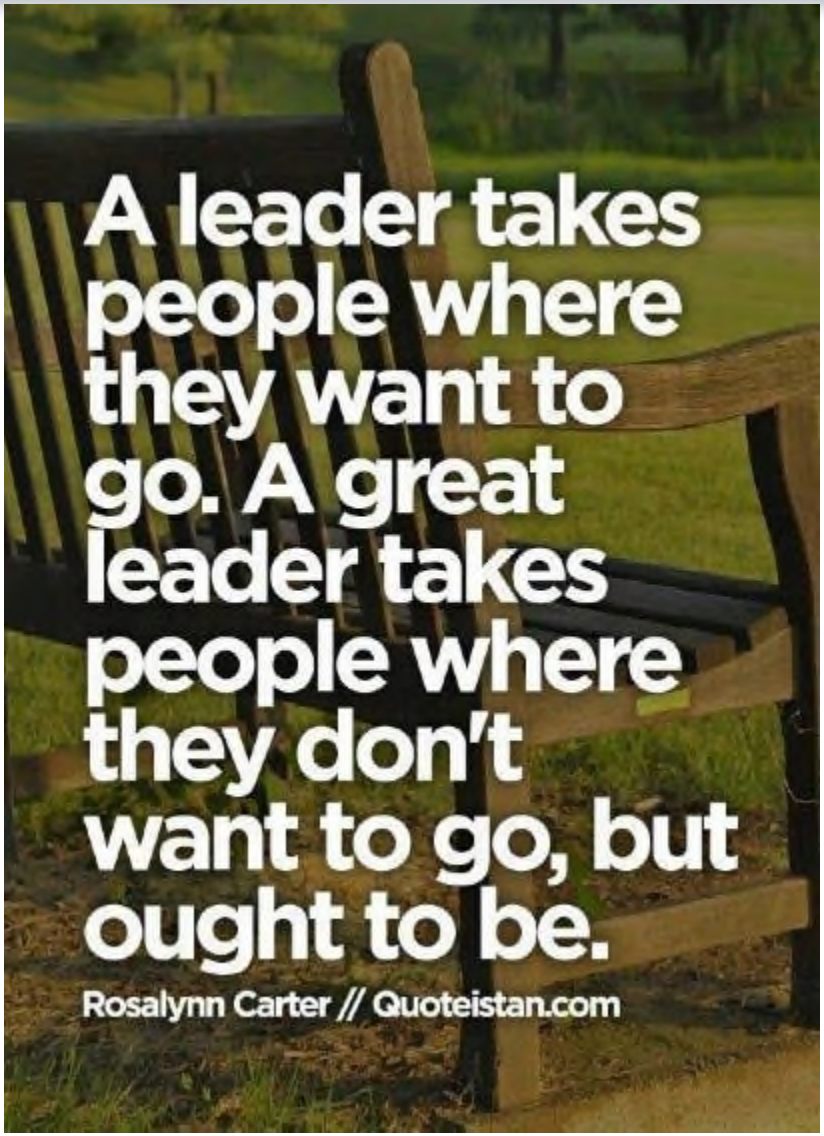
BECOME EXPERTS

- THE DEVELOPMENT AUTHORITY BOARD IS LIKE A "SUBJECT MATTER EXPERT"
- THE SUBJECT IS ECONOMIC DEVELOPMENT.



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ADD POWERS-

starting with 1968 Constitutional amendment

CREATION OF DEVELOPMENT AUTHORITIES AUTHORIZED.

Proposed Amendment to the Constitution.

No. 202 (House Resolution No. 399-912).

A Resolution.

Proposing an amendment to the Constitution so as to provide that the General Assembly may create Development Authorities or authorize any county or municipal corporation or combinations thereof to create Development Authorities and authorize such Authorities to issue revenue obligations for the purpose of developing industry, trade and employment opportunities; to provide for the submission of this amendment for ratification or rejection; and for other purposes.

Be it resolved by the General Assembly of Georgia:

Section 1. Article VII of Section VII of the Constitution is hereby amended by inserting between Paragraphs V and VI, a new Paragraph to be numbered Paragraph V-A and to read as follows:

"**Paragraph V-A. Revenue Obligations Authorized.** The development of trade, commerce, industry and employment opportunities is hereby declared to be a public purpose vital to the welfare of the people of this State. The General Assembly may create Development Authorities to promote and further such purposes or may authorize the creation of such Authority by any county or municipal corporation or combinations thereof under such uniform terms and conditions as it may deem necessary. The General Assembly may exempt from taxation Development Authority obligations, properties, activities or income and may authorize the issuance of Revenue Obligations by such Authorities which shall not constitute an indebtedness of the State within the meaning of Section VII of this Article.

The General Assembly may provide for the validation of any Revenue Obligations authorized, and that such validation shall thereafter be incontestable and conclusive."

Section 2. When the above proposed amendment to the Constitution shall have been agreed to by two-thirds of the members elected to each of the two branches of the General Assembly, and the same has been entered on their journals with the "Ayes" and "Nays" taken thereon, such proposed amendment shall be published and submitted as provided in Article XIII, Section I, Paragraph I of the Constitution of Georgia of 1945, as amended.

The ballot submitting the above proposed amendment shall have written or printed thereon the following:

"YES ( ) Shall the Constitution be amended so as to provide that the General Assembly may create Development Authorities or authorize any county or municipal corporation or

NO ( ) combinations thereof to create Development Authorities and authorize such authorities to issue revenue obligations for the purpose of developing industry, trade and employment opportunities."

All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes". All persons desiring to vote against ratifying the proposed amendment shall vote "No".

IF GEORGIA DID NOT HAVE DEVELOPMENT AUTHORITIES….

You requested my opinion whether the Georgia Constitution permits “the use of public funds for incentives to directly benefit private corporations to spur economic development"....As you surmised, the prohibition against governmental gratuities has been interpreted to preclude direct grant payments to private entities in order to induce economic development. Unofficial Opinion No. U98-15, Georgia Attorney General.

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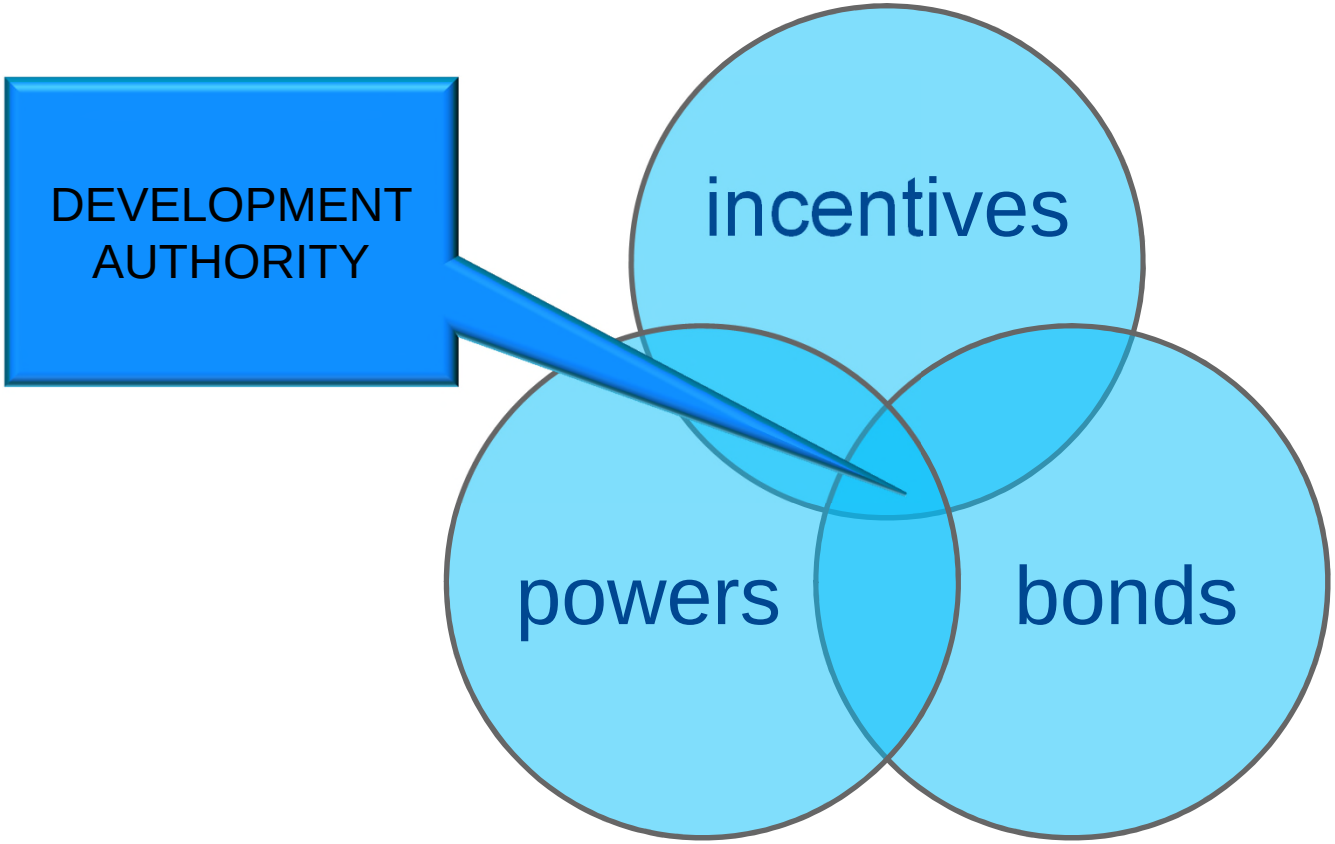
GEORGIA IS DEVELOPMENT AUTHORITY-CENTRIC



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WHERE DEVELOPMENT AUTHORITIES CAME FROM

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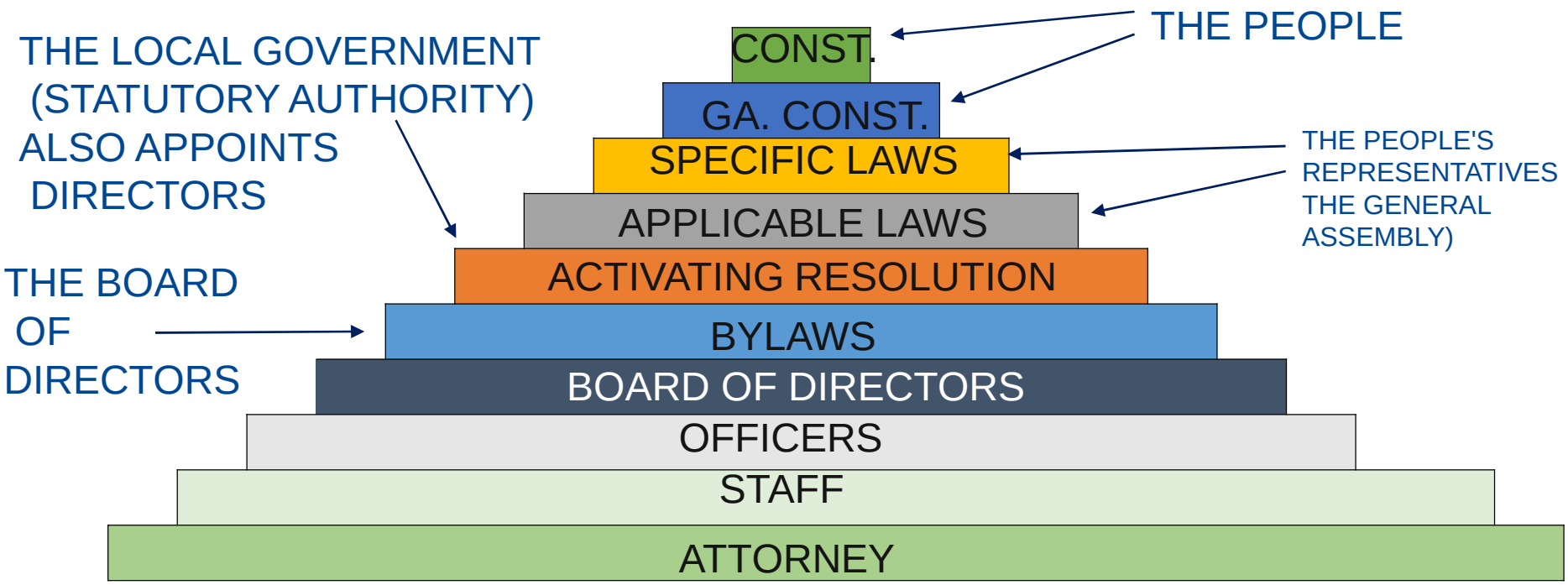
GETTING FROM THERE TO HERE

IN ORDER TO USE AN AUTHORITY	• **Action by legislature or local government needed** • **Bylaws adopted** • **Resolutions passed**
HIERARCHY	• **The law determines whether or not these actions are appropriate or even legal according to a hierarchy.**
SOURCE	• **The ultimate source of the hierarchy is the citizens of Georgia.** • **But the hierarchy has several levels.**

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.



THE HIERARCHY OF A DEVELOPMENT AUTHORITY

MOST "IN CHARGE" AT THE TOP

LEAST "IN CHARGE" AT THE BOTTOM

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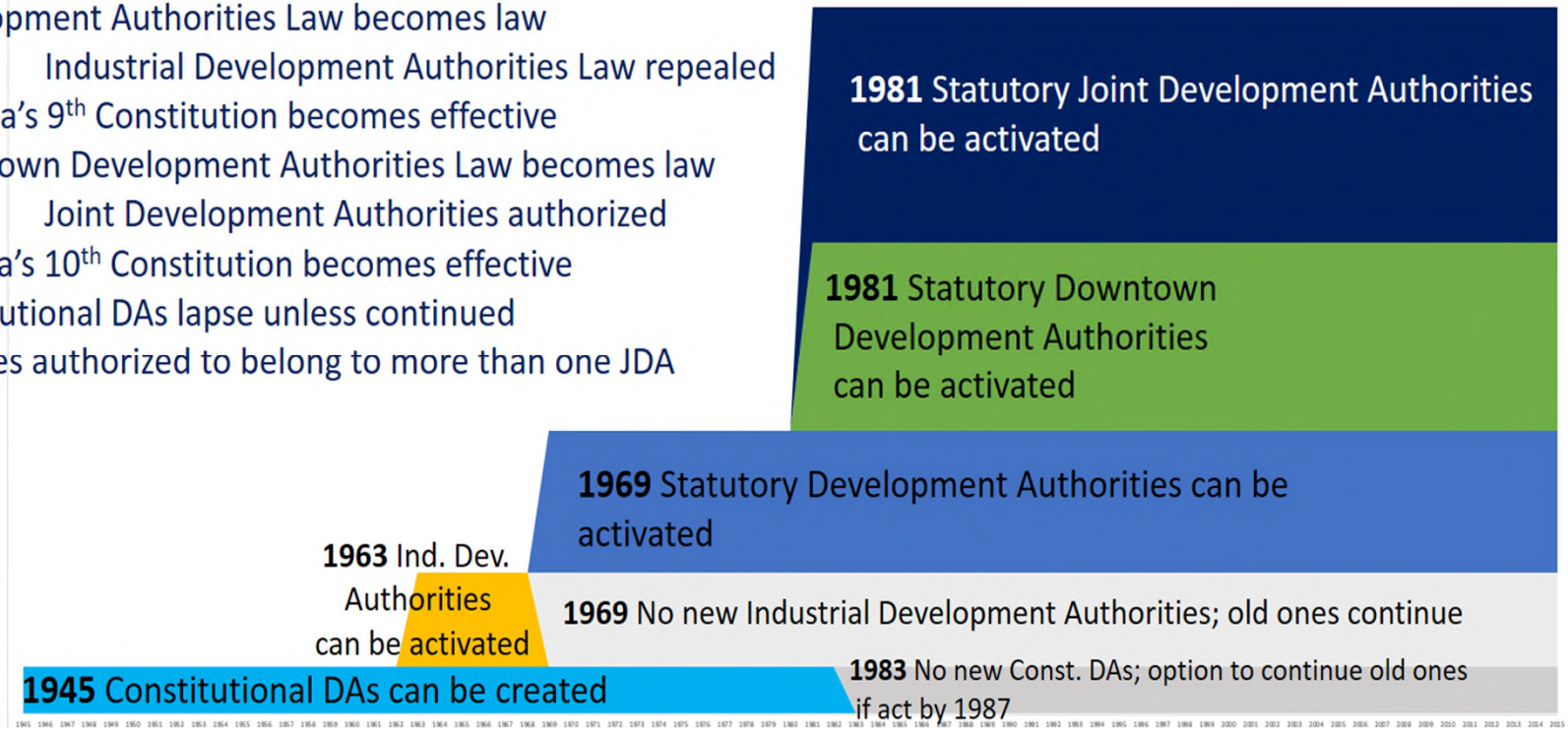
THE DEVELOPMENT OF DEVELOPMENT AUTHORITIES IN GEORGIA

TIMELINE

1945 Georgia's 8th Constitution becomes effective
1963 Industrial Development Authorities Law becomes law
1968 Georgia Constitution amended to authorize development authorities
1969 Development Authorities Law becomes law
Industrial Development Authorities Law repealed
1976 Georgia's 9th Constitution becomes effective
1981 Downtown Development Authorities Law becomes law
Joint Development Authorities authorized
1983 Georgia's 10th Constitution becomes effective
1987 Constitutional DAs lapse unless continued
2004 Counties authorized to belong to more than one JDA



THE GOVERNANCE OF DEVELOPMENT AUTHORITIES

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THE LEVELS OF AUTHORITY

BOARD

- Statutory DA: 7-9 members; set by local government (can include 1 local government member); term (after first appointments) 4 years; majority of whole board to pass resolution
- Statutory DDA: 7 members (can include 1 local government member); term (after first appointments) 4 years
- Statutory JDA: all set by concurrent activating resolutions of local governments
- Constitutional authority- all set by LCA

BYLAWS

- Adopted by board
- Best practice: include only matters not dictated by governing law, such as officer terms, calling special meetings, meeting schedule
- Directors must comply with procedures in bylaws such as notice required before amending bylaws

OFFICERS

- Statutory DA, JDA and DDA: Chair and Vice Chair (both members), Secretary and Treasurer or Secretary-Treasurer (membership optional)
- Constitutional authority- all per LCA

Source (recommended): “Latin Phrases”

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WHERE DEVELOPMENT AUTHORITIES CAN ACT

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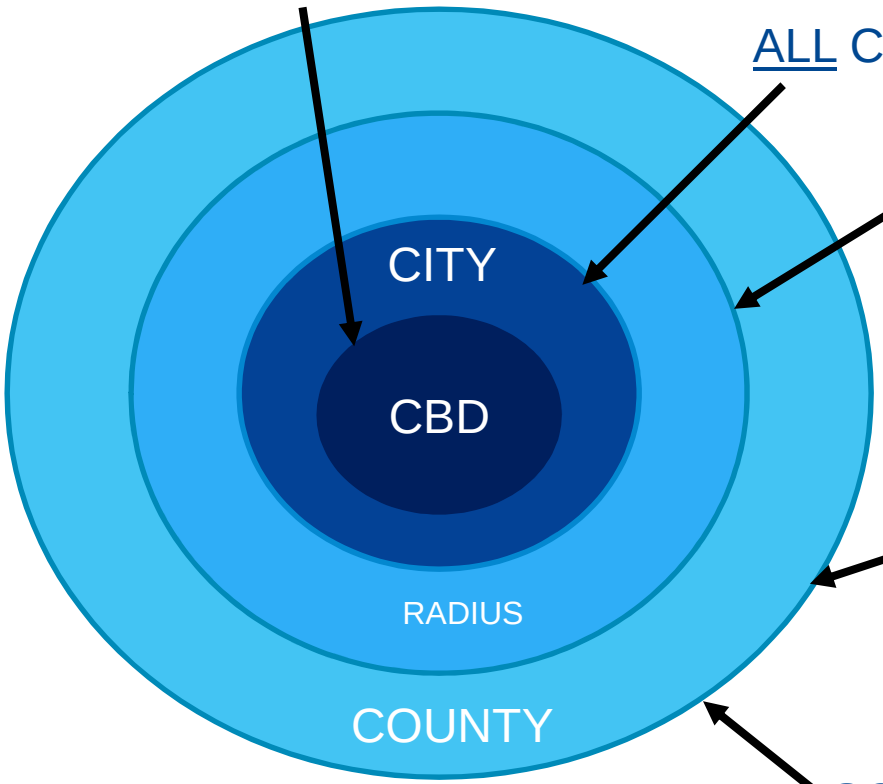
THE LIMITS OF JURISDICTION

jurisdiction begins at center and extends to where arrow points



ALL DDAs

ALL CITY DEVELOPMENT AUTHORITIES

SOME CONSTITUTIONAL CITY DEVELOPMENT AUTHORITIES AND DDAs

ALL COUNTY DEVELOPMENT AUTHORITIES

SOME CONSTITUTIONAL CITY DEVELOPMENT AUTHORITIES

Statutory DDAs have citywide jurisdiction for certain PACE-type projects. JDAs- see next slide

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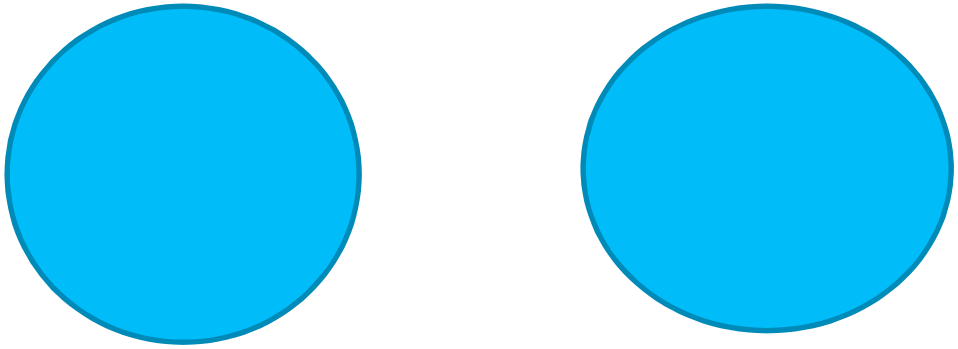
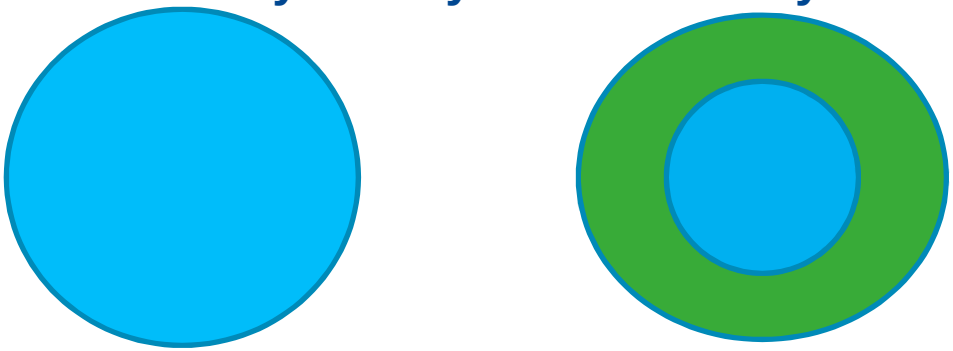
JOINT DEVELOPMENT AUTHORITIES

Joint development authority for East County and West County



JDA has jurisdiction over all blue areas (both counties and all cities)
Note- sometimes jurisdiction is limited in concurrent activating resolutions

Joint development authority for city in East County and for West County



JDA has jurisdiction over all blue areas (West County and all cities in West County, plus city in East County)

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WHERE DEVELOPMENT AUTHORITY FUNDING COMES FROM

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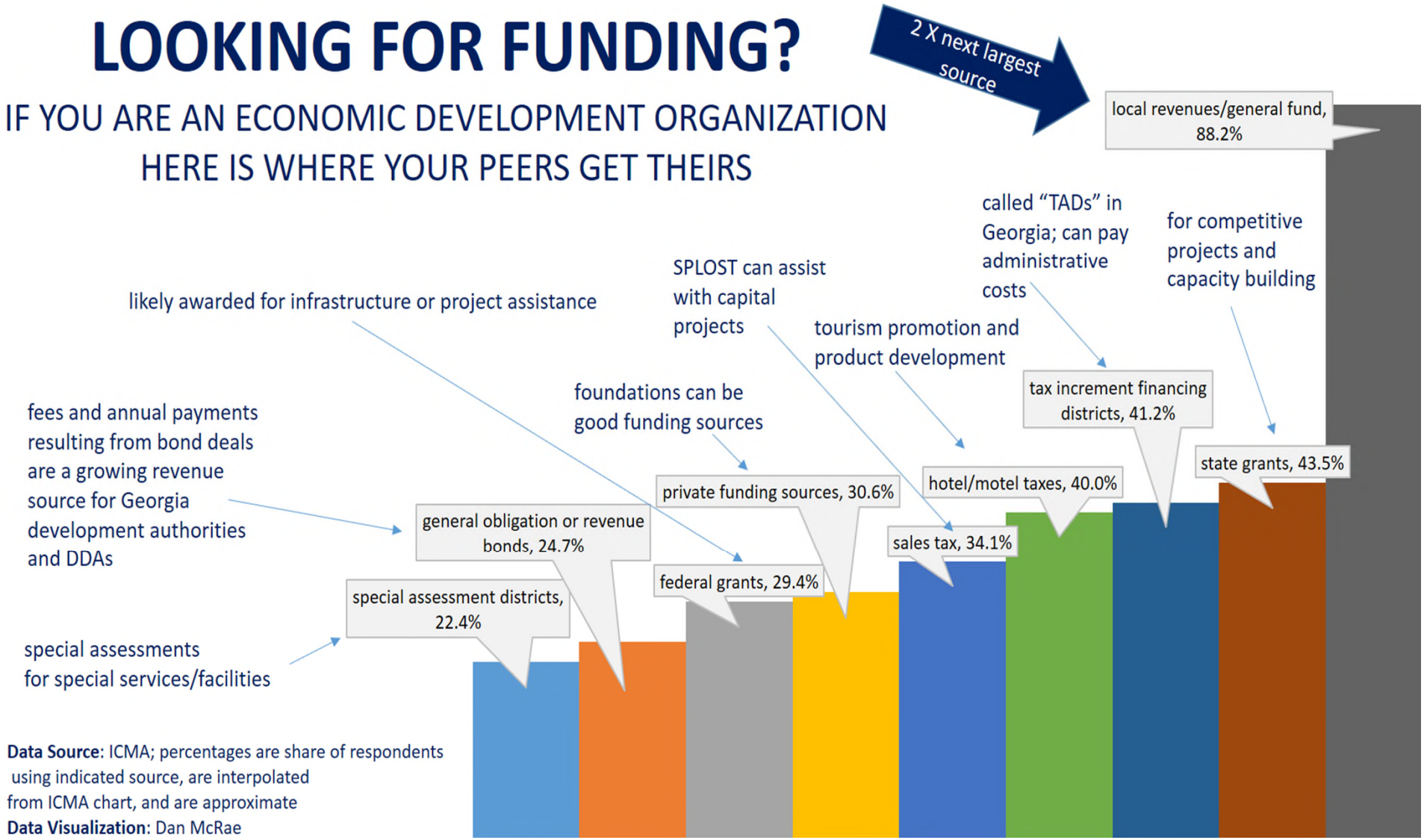
FUNDING FOR ECONOMIC DEVELOPMENT ORGANIZATIONS

ACROSS THE NATION