TAX INCREMENT FINANCING: STATUTORY HISTORY

REBECCA WASSERMAN

OVERVIEW OF TAX INCREMENT FINANCING (TIF)

- Economic development financing tool using municipal bonding and property taxes.
- Allows a municipality to borrow funds to invest in new infrastructure (e.g., parking garages, sidewalks, septic systems) that will stimulate private investment in the area that would not otherwise have occurred.
- The combination of public and private investment is expected to increase property values and generate property tax revenues.

DEFINITIONS OF TIF TERMS

- Taxable value: The assessed value of property that is subject to State, municipal, or other taxes.

- Original Taxable Value: The total base taxable value of all the property in the district as of the creation date of the district (24 VSA 1891(5)).

- Increment: The difference between a property's current value and its original taxable value.

- Tax Increment (incremental revenue): The difference between the property taxes due on the current taxable value and the property taxes due on the original taxable value (24 VSA 1896).

DEFINITIONS OF TIF TERMS

- Financing: Debt incurred or borrowing used by a municipality to pay for improvements in a TIF district (24 VSA 1891(7)).

- Related costs: Expenses incurred and paid by the municipality, exclusive of actual construction and financing improvements, that are directly related to the creation and implementation of the TIF district (24 VSA 1891(6)).

- Retention period: The period of time a municipality is entitled to capture a portion of the total tax increment to finance infrastructure improvements and related costs (24 VSA 1894).

HOW TIF WORKS (For Most Districts)

- For a 20-year "retention" period, the municipality may repay the borrowed funds used for the new infrastructure by splitting future property tax revenue by:
  - Keeping the property tax revenue that existed prior to development ("original taxable value")
  - Using the portion of property taxes from the increased property values to repay financing and related costs for the new infrastructure ("increment")

- For most TIF districts, Vermont statute authorizes a municipality to retain:
  - up to 70% of the education property tax increment to repay debt (the remaining 30% goes to the Education Fund); and
  - not less than 85 % of municipal property tax increment to repay debt.

- The municipality and State receive the full amount of property tax revenue at the end of the retention period.

TIF STATUTORY LANDSCAPE: Pre-2006

- TIF authorized in statute in 1985

- Prior to 1998, TIF districts in VT were municipal constructs
  - All incremental tax revenues were municipal property taxes
  - No state involvement, other than establishing ability for towns to create

- Act 60 of 1997 established a statewide property tax
  - Allows TIF districts to capture two types of tax increment:
    - Statewide Education Property Tax
    - Municipal Property Tax

Pre-2006 TIF Districts: Legislative History

- TIF districts created under the TIF enabling legislation (Act 87, 1985):
  - Burlington (Waterfront) TIF district authorized in 1996 (City voted to expand in 1997)
  - Newport TIF district authorized in March 1997
- Changes in education financing to statewide property tax (Act 60, 1997)
  - Grandfathers Burlington (waterfront) and Newport TIF districts to allow for use of the new State education property tax increment
- VEPC authorized to approve additional TIFs as part of the Economic Advancement Tax Incentive Program (job creation) (Act 71, 1998):
  - Milton (North/South) TIF district approved under this authority
- Winooski TIF district created through special legislation (Act 159, 2000)

Post-2006 Vermont TIF Landscape

- In 2006, the Legislature set out the VEPC approval process and framework for new TIF districts.
  - Establishes a percentage split for incremental statewide property tax revenues of 75% TIF district, 25% state
  - Establishes location criteria (need 2 of 3):
    - (1) High density, compact area, or located in an industrial area, (2) within an approved downtown center/designated downtown/designated village center/new town center/neighborhood development area, or (3) is an economically distressed area
  - Establishes specific project criteria for a TIF district to be established (need 3 of 5):
    - (1) Needs substantial public investment, (2) includes affordable housing, (3) affects the remediation of a brownfields, (3) includes new business or business expansion, or (4) enhances transportation
- TIF districts could not retain more than 20 years of statewide tax property tax revenue from first debt.

TIF Districts and Authorities

TIF districts created prior to VEPC approval process:

- Burlington (Waterfront)
- Newport (retired)
- Milton (North/South) (retired)
- Winooski

TIF districts subject to VEPC approval process:

- Barre City
- Bennington (Approved 2017)
- Burlington (Downtown)
- Colchester (Inactive; dissolved)
- Hartford
- Killington (Approved 2022)
- Milton (Town Core)
- Montpelier (Inactive; Dissolved)
- South Burlington City Center
- St. Albans

TIF DISTRICT CAPS

- Act 184, 2006: Caps districts at 10, with no more than 1 per town for a five-year period, ending June 30, 2011.
- Act 190, 2008: Caps districts at 6, with no more than 1 per town for a five-year period ending June 30, 2013.
- Act 80, 2013:
  - Prohibits any additional districts other than Burlington (Downtown), Burlington (Waterfront), Milton (North/South), Newport, Winooski, Colchester, Hartford, St. Albans, Barre, and Milton (Town Core); and
  - Allows for a South Burlington TIF if approval granted by December 31, 2013.
- Act 69, 2017: Caps districts at 6 more for the entire State and no more than 2 per county (currently 8 active, 2 approved, and 4 up for grabs).
- Note: Emergency Board has discretion to increase 6-district cap if Legislature is not in session (32 VSA 5404a(f)(2))

LEGISLATIVE HISTORY: TAX INCREMENT

- Act 134, 2016: Extends period for Burlington to retain increment (municipal and education).

- Act 69, 2017: Requires municipalities to dedicate at least 85% of their municipal increment, and sets up a 70% TIF district/30% state split of education property tax increment revenues.

LEGISLATIVE HISTORY: DEBT INCURRENCE

- Act 190, 2008: Amends when debt can be incurred and retroactively approved type of debt used for Burlington.
- Act 54, 2009: Reopened Burlington (Waterfront) for debt purposes, and changed requirements for Milton (Town Core) to incur debt.
- Act 80, 2013: Burlington (Waterfront) permitted to incur debt for an additional five years, beginning January 1, 2015.
- Act 134, 2016: Extends the time period that certain parcels in the Burlington (Waterfront) district can incur debt.
- Act 175, 2020: Amends the extension for Burlington (Waterfront) district by removing the requirement to submit a construction contract with a completion guarantee to VEPC.
- Act 111, 2020: Extends period for Hartford to incur debt by three years
- Act 73, 2021: Extends the period for all active TIF districts to incur indebtedness by one year.

STATUTORY CONSIDERATIONS FOR LEGISLATURE

- Each year, the General Assembly shall consider the amount of new long-term net debt that prudently may be authorized for TIF districts in the next fiscal year and determine whether to expand the number of TIF districts or similar economic development tools (24 VSA 1892)

- Each year, the Emergency Board, JFO, and the Secretary of Administration has to provide a consensus estimate of the impact of TIF districts on the Education Fund for the prior fiscal year. The Emergency Board is required to adopt an official estimate of the impact at its January meeting (32 VSA 305b).