

1 H.387
2 Introduced by Representatives Kupersmith of South Burlington, Head of South
3 Burlington, Munger of South Burlington, Pugh of South
4 Burlington, Bissonnette of Winooski, Condon of Colchester,
5 Donovan of Burlington, Poirier of Barre City, Spengler of
6 Colchester and Wright of Burlington

7 Referred to Committee on

8 Date:

9 Subject: Property tax; tax increment financing districts; various amendments

10 Statement of purpose: This bill proposes to amend certain tax increment
11 financing provisions.

12 An act relating to tax increment financing

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 24 V.S.A. § 1891 is amended to read:

15 § 1891. DEFINITIONS

16 When used in this subchapter:

17 * * *

18 (4) "Improvements" means the installation, new construction, or
19 reconstruction of streets, utilities, and other infrastructure needed for
20 transportation, telecommunications, wastewater treatment, and water supply,

1 parks, playgrounds, land acquisition, parking facilities, brownfield
2 remediation, and other public improvements necessary for carrying out the
3 objectives of this chapter. Improvements also means the acquisition of
4 infrastructure products such as water capacity from a system already in
5 existence.

6 (5) "Original taxable property" means all taxable real property located
7 within the district on the day the district was created under this subchapter.

8 (6) "Related costs" means expenses, exclusive of the actual cost of
9 constructing and financing improvements that are directly related to creation of
10 the tax increment financing district and reimbursement of sums previously
11 advanced by the municipality for those purposes, and attaining the purposes
12 and goals for which the tax increment financing district was created, including
13 costs related to administering the district, as approved by the Vermont
14 economic progress council.

15 (7) "Financing" means ~~the following types of~~ debt incurred or used by a
16 municipality to pay for improvements in a tax increment financing district:

17 (A) Bonds.

18 (B) Housing and Urban Development Section 108 financing
19 instruments.

20 (C) Interfund loans within a municipality.

21 (D) State of Vermont revolving loan funds.

1 (E) United States Department of Agriculture loans.

2 (F) Conventional bank loans.

3 (G) Certificates of participation.

4 (H) Lease-purchase.

5 (I) Revenue-anticipation notes.

6 (J) Interfund loans within a municipality.

7 Sec. 2. 24 V.S.A. § 1894 is amended to read:

8 § 1894. POWER AND LIFE OF DISTRICT

9 (a) Incurring indebtedness.

10 (1) A municipality may incur indebtedness against revenues of the tax
11 increment financing district at any time during a period of up to 20 years
12 following the creation of the district, if approved as required under 32 V.S.A.
13 § 5404a(h). The creation of the district shall occur at 12:01 a.m. on April 1 of
14 following the year so voted by the legislative body of the municipality. Any
15 indebtedness incurred during this 20-year period may be retired over any
16 period authorized by the legislative body of the municipality under section
17 1898 of this title.

18 (2) If no indebtedness is incurred within the first ~~five~~ ten years after
19 creation of the district, no indebtedness may be incurred unless either:

20 (A) the municipality obtains reapproval from the Vermont economic
21 progress council under 32 V.S.A. § 5404a(h); or

1 (B) one of the following circumstances occurs:

2 (i) permit appeals have not been resolved;

3 (ii) district projects require predevelopment work such as
4 brownfield cleanup and acquisition or demolition of blighted structures;

5 (iii) growth and infrastructure investment in multiple projects is
6 phased;

7 (iv) substantial public investment resources cannot be assembled
8 in five years; or

9 (v) public-private partnerships to accomplish real property
10 development have not been finalized.

11 (3) The district shall continue until the date and hour the indebtedness is
12 retired.

13 (b) Use of the education property tax increment. For any debt incurred
14 ~~within the first five years~~ after creation of the district, or ~~within the first five~~
15 ~~years~~ after reapproval by the Vermont economic progress council, but for no
16 other debt, the education tax increment may be retained for up to 20 years
17 beginning with the initial date of the creation of the district or on the date of
18 the first debt incurred ~~within the first five years~~, at the discretion of the
19 municipality. If the municipality incurs tax increment financing debt more
20 than five years after the creation of the district, the assessed valuation of all
21 taxable real property within the district, as certified under section 1895 of this

1 title, shall be recertified as of the date the first debt is incurred, and the
2 municipality shall submit an amendment to its tax increment financing plan,
3 including the recertified assessed valuation, and obtain reapproval by the
4 council, as required under subsection (c) of this section.

5 (c) Prior to requesting municipal approval to secure financing, the
6 municipality shall provide the council with all information related to the
7 proposed financing necessary for approval and to assure its consistency with
8 the plan approved pursuant to 32 V.S.A. § 5404a(h). The council shall also
9 assure the viability and reasonableness of any proposed financing other than
10 bonding and least-cost financing.

11 Sec. 3. 24 V.S.A. § 1897(a) is amended to read:

12 (a) The legislative body may pledge and appropriate in equal proportion
13 any part or all of the state and municipal tax increments received from
14 properties contained within the tax increment financing district for the
15 financing for improvements and for related costs in the same proportion by
16 which the infrastructure or related costs directly serve the district at the time of
17 approval of the project financing by the council, and in the case of
18 infrastructure essential to the development of the district that does not
19 reasonably lend itself to a proportionality formula, the council shall apply a
20 rough proportionality and rational nexus test; provided, that if any tax
21 increment utilization is approved pursuant to 32 V.S.A. § 5404a(f), no more

1 than 75 percent of the state property tax increment and no less than an equal
2 percent of the municipal tax increment may be used to service this debt. Bonds
3 shall only be issued if the legal voters of the municipality, by a majority vote
4 of all voters present and voting on the question at a special or annual municipal
5 meeting duly warned for the purpose, give authority to the legislative body to
6 pledge the credit of the municipality for these purposes. ~~Notwithstanding any~~
7 ~~provision of any municipal charter, Municipalities whose municipal charters~~
8 establish a mechanism for authorizing debt shall utilize that mechanism for tax
9 increment financing. In municipalities without charters that include
10 mechanisms for authorizing debt, the legal voters of a municipality, by a single
11 ~~vote,~~ shall authorize the legislative body to pledge the credit of the
12 municipality up to a specified maximum dollar amount for all debt obligations
13 to be financed with state property tax increment pursuant to approval by the
14 Vermont economic progress council and subject to the provisions of this
15 section and 32 V.S.A. § 5404a. Authorization for debt may be granted all in
16 one vote or in separate votes for each debt obligation. Information to be made
17 available to voters shall include the project description, a development
18 financing plan, a pro forma projection of expected costs, and a development
19 schedule that includes a list, a cost estimate, and a schedule for public
20 improvements, and projected private development to occur as a result of the
21 improvements.

1 Sec. 4. 24 V.S.A. § 1902 is added to read:

2 § 1902. TAX INCREMENT FINANCING DISCTRICTS; CAP

3 Notwithstanding any other provision of law, the Vermont economic
4 progress council may not approve the use of education tax increment financing
5 for more than ten tax increment financing districts and more than one newly
6 created tax increment financing district in any municipality within the period
7 of ten state fiscal years beginning July 1, 2009. Thereafter, no tax increment
8 financing districts may be approved without further authorization by the
9 general assembly.

10 Sec. 5. REPEAL

11 (a) 24 V.S.A. § 1896(b) (tax increments) is repealed.

12 (b) Sec. 2i of No. 184 of the Acts of the 2005 Adj. Sess. (2006) (tax
13 increment financing districts; cap), as amended by Sec. 67 of No. 190 of
14 the Acts of the 2007 Adj. Sess. (2008), is repealed.

15 Sec. 6. EFFECTIVE DATES

16 (a) Sec. 5 and this section shall take effect on July 1, 2011.

17 (b) Secs. 1, 2, and 3 of this act shall be retroactive to July 1, 2008.

18 (b) Sec. 4 of this act shall be retroactive to July 1, 2009.