

1 S.204

2 Introduced by Senators Miller, Carris and Ashe

3 Referred to Committee on

4 Date:

5 Subject: Municipal and county government; indebtedness; tax increment  
6 financing

7 Statement of purpose: This bill proposes to amend certain tax increment  
8 financing provisions.

9 An act relating to tax increment financing

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

11 Sec. 1. 24 V.S.A. § 1789(a) is amended to read:

12 (a) A municipality, including a fire district, either singly or as a participant  
13 in an interlocal contract entered into under sections 4901 and 4902 of this title,  
14 may acquire real estate, personal property, fixtures, technology and intellectual  
15 property by means of leases, lease-purchase agreements, installment sales  
16 agreements, and similar agreements wherein payment and performance on the  
17 part of the municipality is conditioned expressly upon the annual approval by  
18 the municipality of an appropriation sufficient to pay when next due rents,  
19 charges, and other payments accruing under such leases and agreements.

1 Sec. 2. 24 V.S.A. § 1891(7) is amended to read:

2 (7) "Financing" means the ~~following types of debt incurred or used by a~~  
3 ~~municipality to pay for improvements in a tax increment financing district~~  
4 incurring of debt to pay for tax increment financing district improvements by  
5 any means permitted under this chapter, including:

6 \* \* \*

7 (F) Conventional bank loans.

8 (G) Certificates of participation.

9 (H) Lease-purchase.

10 (I) Revenue-anticipation notes.

11 (J) Interfund loans within a municipality.

12 Sec. 3. 24 V.S.A. § 1894 is amended to read:

13 § 1894. POWER AND LIFE OF DISTRICT

14 (a) Incurring indebtedness.

15 (1) A municipality may incur indebtedness against revenues of the tax  
16 increment financing district at any time during a period of up to 20 years  
17 following the creation of the district, if approved as required under subsection  
18 5404a(h) of Title 32. The creation of the district shall occur at 12:01 a.m. on  
19 April 1 ~~of~~ following the year so voted by the legislative body of the  
20 municipality. Any indebtedness incurred during this 20-year period may be

1 retired over any period authorized by the legislative body of the municipality  
2 under section 1898 of this title.

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

5 (A) the municipality obtains reapproval from the Vermont economic  
6 progress council under subsection 5404a(h) of Title 32; or

7 (B) one of the following circumstances occurs:

8 (i) permit appeals have not been resolved;

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

11 (iii) growth and infrastructure investment in multiple projects is  
12 phased;

13 (iv) substantial public investment resources cannot be assembled  
14 in five years; or

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

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

19 (b) Use of the education property tax increment. For any debt incurred  
20 ~~within the first five years~~ after the creation of the district, or ~~within the first~~  
21 ~~five years~~ after reapproval by the Vermont economic progress council, but for

1 no other debt, the education tax increment may be retained for up to 20 years  
2 beginning with the initial date of the creation of the district or on the date of  
3 the first debt incurred ~~within the first five years,~~ at the discretion of the  
4 municipality. If the municipality incurs tax increment financing debt more  
5 than five years after the creation of the district, the assessed valuation of all  
6 taxable real property within the district, as certified under section 1895 of this  
7 title, shall be recertified as of the date the first debt is incurred, and the  
8 municipality shall submit an amendment to its tax increment financing plan,  
9 including the recertified assessed valuation, and obtain reapproval by the  
10 council, as required under subsection (c) of this section.

11 \* \* \*

12 Sec. 4. 24 V.S.A. § 1897(a) is amended to read:

13 (a) The legislative body may pledge and appropriate in equal proportion  
14 any part or all of the state and municipal tax increments received from  
15 properties contained within the tax increment financing district for the  
16 financing for improvements and for related costs in the same proportion by  
17 which the infrastructure or related costs directly serve the district at the time of  
18 approval of the project financing by the council, and in the case of  
19 infrastructure essential to the development of the district that does not  
20 reasonably lend itself to a proportionality formula, the council shall apply a  
21 rough proportionality and rational nexus test; provided, that if any tax

1 increment utilization is approved pursuant to 32 V.S.A. § 5404a(f), no more  
2 than 75 percent of the state property tax increment and no less than an equal  
3 percent of the municipal tax increment may be used to service this debt. Bonds  
4 shall only be issued if the legal voters of the municipality, by a majority vote  
5 of all voters present and voting on the question at a special or annual municipal  
6 meeting duly warned for the purpose, give authority to the legislative body to  
7 pledge the credit of the municipality for these purposes. ~~Notwithstanding any~~  
8 ~~provision of any municipal charter, the~~ The legal voters of a municipality, by a  
9 ~~single vote,~~ shall authorize the legislative body to pledge the credit of the  
10 municipality up to a specified maximum dollar amount for ~~all~~ each debt  
11 ~~obligations~~ obligation to be financed with state property tax increment  
12 pursuant to approval by the Vermont economic progress council and subject to  
13 the provisions of this section and 32 V.S.A. § 5404a, including the project  
14 description, a development financing plan, a pro forma projection of expected  
15 costs, and a development schedule that includes a list, a cost estimate, and a  
16 schedule for public improvements and projected private development to occur  
17 as a result of the improvements.

18 Sec. 5. 24 V.S.A. § 1902 is added to read:

19 § 1902. TAX INCREMENT FINANCING DISTRICTS; CAP

20 Notwithstanding any other provision of law, the Vermont economic  
21 progress council may not approve the use of education tax increment financing

1 for more than ten tax increment financing districts and no more than one newly  
2 created tax increment financing district in any municipality within the period  
3 of ten state fiscal years beginning July 1, 2009. Thereafter, no tax increment  
4 financing districts may be approved without further authorization by the  
5 general assembly.

6 Sec. 6. EFFECTIVE DATES

7 (a) Sec. 1 of this act and this section shall take effect upon passage.

8 (b) Secs. 2, 3, and 4 of this act shall be retroactive to July 1, 2008.

9 (c) Sec. 5 of this act shall be retroactive to July 1, 2009.

10 Sec. 7. REPEAL

11 Sec. 2i of No. 184 of the Acts of the 2005 Adj. Sess. (2006), as amended by  
12 Sec. 67 of No. 190 of the 2007 Adj. Sess. (2008), is repealed.