

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred Senate Bill No. 191
3 entitled “An act relating to tax increment financing districts” respectfully
4 reports that it has considered the same and recommends that the bill be
5 amended by striking out all after the enacting clause and inserting in lieu
6 thereof the following:

7 Sec. 1. TAX INCREMENT FINANCING; RESOLUTION ON THE USE OF
8 DEBT PROCEEDS TO PAY FOR DEBT SERVICE

9 In 2019, the State Auditor of Accounts performed and reported on required
10 reviews and audits of tax increment financing districts. One of the issues
11 raised in the reporting was whether it is permissible for a tax increment
12 financing district to use debt proceeds to meet debt service obligations. The
13 General Assembly seeks to address this issue and clarify tax increment
14 financing laws for the future. Accordingly, the General Assembly shall not
15 assess penalties on any tax increment financing district that used debt proceeds
16 to pay for debt service during the period from January 1, 2006 to June 30, 2020
17 and considers this a final resolution of the issue.

18 Sec. 2. 24 V.S.A. § 1891 is amended to read:

19 § 1891. DEFINITIONS

20 When used in this subchapter:

21 * * *

1 (4) “Improvements” means the installation, new construction, or
2 reconstruction of infrastructure that will serve a public purpose and fulfill the
3 purpose of tax increment financing districts as stated in section 1893 of this
4 subchapter, including utilities, transportation, public facilities and amenities,
5 land and property acquisition and demolition, and site preparation.

6 “Improvements” also means the funding of a debt service reserve fund for a
7 period of up to five years from the date a district is created.

8 * * *

9 (7) “Financing” means debt incurred, including principal, interest, and
10 any fees or charges directly related to that debt, or other instruments or
11 borrowing used by a municipality to pay for improvements in a tax increment
12 financing district, only if authorized by the legal voters of the municipality in
13 accordance with section 1894 of this subchapter. Payment for the cost of
14 district improvements and related costs may also include direct payment by the
15 municipality using the district increment. However, such payment is also
16 subject to a vote by the legal voters of the municipality in accordance with
17 section 1894 of this subchapter and, if not included in the tax increment
18 financing plan approved under subsection 1894(d) of this subchapter, is also
19 considered a substantial change and subject to the review process provided by
20 subdivision 1901(2)(B) of this subchapter. If interfund loans within the
21 municipality are used as the method of financing, no interest shall be charged.

1 Bond anticipation notes may be used as a method of financing and may qualify
2 as a district’s first incurrence of debt. A municipality that uses a bond
3 anticipation note during the final year that a district may incur debt pursuant to
4 section 1894 of this title shall incur all remaining debt not more than one year
5 after issuing the bond anticipation note.

6 Sec. 3. 24 V.S.A. § 1895 is amended to read:

7 § 1895. ORIGINAL TAXABLE VALUE

8 (a) Certification. As of the date the district is created, the lister or assessor
9 for the municipality shall certify the original taxable value and shall certify to
10 the legislative body in each year thereafter during the life of the district the
11 amount by which the total valuation as determined in accordance with
12 32 V.S.A. chapter 129 of all taxable real property located within the tax
13 increment financing district has increased or decreased relative to the original
14 taxable value.

15 (b) Boundary of the district. Any parcel within a district shall be located
16 wholly within the boundaries of a district. No adjustments to the boundary of a
17 district are permitted after the approval of a tax increment financing district
18 plan as described in section 1894 of this title.

19 Sec. 4. 32 V.S.A. § 5404a is amended to read:

20 § 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT
21 FINANCING DISTRICTS

1 (a) A tax agreement or exemption shall affect the education property tax
2 grand list of the municipality in which the property subject to the agreement is
3 located if the agreement or exemption is:

4 * * *

5 (b)(1) An agreement affecting the education property tax grand list defined
6 under subsection (a) of this section shall reduce the municipality's education
7 property tax liability under this chapter for the duration of the agreement or
8 exemption without extension or renewal, and for a maximum of 10 years. A
9 municipality's property tax liability under this chapter shall be reduced by any
10 difference between the amount of the education property taxes collected on the
11 subject property and the amount of education property taxes that would have
12 been collected on such property if its fair market value were taxed at the
13 equalized nonhomestead rate for the tax year.

14 (2) Notwithstanding any other provision of law, if a municipality has
15 entered into an agreement that reduces the municipality's education property
16 tax liability under this chapter and the municipality establishes a tax increment
17 financing district under 24 V.S.A. chapter 53, subchapter 5, the municipality's
18 education tax increment shall be calculated based on the assessed value of the
19 properties in the municipality's grand list and not on the stabilized value.

20 * * *

1 (f) A municipality that establishes a tax increment financing district under
2 24 V.S.A. chapter 53, subchapter 5 shall collect all property taxes on properties
3 contained within the district and apply not more than 70 percent of the State
4 education property tax increment, and not less than 85 percent of the municipal
5 property tax increment, to repayment of financing of the improvements and
6 related costs for up to 20 years pursuant to 24 V.S.A. § 1894, if approved by
7 the Vermont Economic Progress Council pursuant to this section, subject to the
8 following:

9 * * *

10 (4) In any year that the assessed valuation of real property in a district
11 decreases in comparison to the original taxable value of the real property in a
12 district, a municipality shall pay that deficit amount to the Education Fund.

13 * * *

14 Sec. 5. 32 V.S.A. § 5404a is amended to read:

15 § 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT

16 FINANCING DISTRICTS

17 * * *

18 (h) To approve utilization of incremental revenues pursuant to subsection
19 (f) of this section, the Vermont Economic Progress Council shall do all the
20 following:

21 * * *

1 (4) Project criteria. Determine that the proposed development within a
2 tax increment financing district will accomplish at least three of the following
3 five criteria:

4 (A) The development within the tax increment financing district
5 clearly requires substantial public investment over and above the normal
6 municipal operating or bonded debt expenditures.

7 (B) The development includes new or rehabilitated affordable
8 housing, as defined in 24 V.S.A. § 4303.

9 (C) The project will affect the remediation and redevelopment of a
10 brownfield located within the district. In the case of a brownfield, the Vermont
11 Economic Progress Council is authorized to adopt rules pursuant to subsection
12 (j) of this section to clarify what is a reasonable improvement, as defined in 24
13 V.S.A. § 1891, to remediate and stimulate the development or redevelopment
14 in the district. As used in this section, “brownfield” means an area in which a
15 hazardous substance, pollutant, or contaminant is or may be present, and that
16 situation is likely to complicate the expansion, development, redevelopment, or
17 reuse of the property.

18 * * *

19 Sec. 6. EFFECTIVE DATE

20 This act shall take effect on July 1, 2020, except that Sec. 3 shall take effect
21 on July 1, 2021.

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(Committee vote: _____)

Senator _____

FOR THE COMMITTEE