

Agency of Commerce and Community Development

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TO: Representative Janet Ancel

CC: Representative Michael Marcotte
Senator Ann Cummings
Senator Michael Sirotkin

FROM: Abbie Sherman, Executive Director, Vermont Economic Progress Council

DATE: February 22, 2022

RE: S.33 –TIF District Clarification Edits

Madame Chair,

This memo is in regard to S.33, an act relating to project-based tax increment financing districts, that was referred to the Committee on House Ways and Means on April 28, 2021. The version of the bill that remains in your Committee provides for greater clarity in the TIF District program. The changes reflected in the bill will provide for greater ease in administering the program.

As the House Ways and Means Committee considers further action on this bill, I wanted to bring to light language that may *add* ambiguities to Titles 24 and 32 regarding the administration of Tax Increment Financing Districts.

Section 1 of the bill updates the list of TIF Districts in Title 24 to reflect the approved TIF Districts and removes districts that have either retired or dissolved. Section 2 of the bill updates the number of TIF Districts remaining that the Vermont Economic Progress Council (VEPC) may approve. Section 2 also reduces the number of Districts from six to four to account for the two that VEPC has approved since 2017. Within Section 2, (2)(D) provides that VEPC “*shall not approve more than one district in Bennington County and one district in Washington County,*” the two counties for the two new TIF Districts. These sections in S.33 were meant to update statute to reflect the current list of TIF Districts and the number of TIF districts remaining for VEPC to approve.

What I want to draw attention to is two sections that are not referenced in S.33 currently. Specifically, 32 VSA 5404a(f)(3)(A) and (B). They read as follows:

(3)(A) A municipality shall immediately notify the Council if it resolves not to incur debt for an approved district within five years of approval or a five-year extension period as required in 24 V.S.A. § 1894.

(B) Upon receiving notification pursuant to subdivision (A) of this subdivision (3), the Council shall terminate the district and may approve a new district, subject to the provisions of this section and 24 V.S.A. chapter 53, subchapter 5.

When (A) and (B) above are applied to the revised language in Sections 1 and 2 of S.33, it causes some issues that I believe were unforeseen. As an example, if one of the two new TIF Districts (Bennington or Montpelier) dissolve without ever incurring TIF debt, Sections 1 and 2 of S.33 as currently written would be interpreted to mean that VEPC would be unable to fill that vacated spot. Additionally, the edits would mean that Bennington and Washington counties could potentially be limited to only one TIF District if either the Bennington or Montpelier districts dissolve.

Understanding that the observation above could have been the intent of the Committee when these changes were made, I would like to request some time to discuss the changes and the potential impacts it could have on the overall program. If the intent of the Committee was not as such, I would recommend that Sections 1 and 2 be removed from S.33, to prevent any unintended consequences.

I would be happy to discuss my concerns with the full Ways and Means Committee, or separately, as you contemplate the bill further.

