

DOUGLAS R. HOFFER  
STATE AUDITOR



STATE OF VERMONT  
OFFICE OF THE STATE AUDITOR

TO: Senator Ann Cummings, Chair, Senate Committee on Finance

DATE: April 21, 2021

RE: Amendment to audit timeline for Burlington Waterfront TIF District [§5404a(l)(1)]

As you know, my office has been conducting statutorily required TIF audits for several years. While planning for the next rounds, we were reminded that the statute limits the Burlington Waterfront TIF district to “only a final audit...conducted to cover the period from the effective date of the rules pursuant to subdivision (j)(1) of this section to the end of the retention period.”<sup>1</sup>

Because of subsequent changes in statute, the end of the tax increment retention period for the Burlington Waterfront TIF District may be as far out as 2035. The timing in the statute was agreed upon long before those changes were adopted. To date, SAO has conducted only one audit of the Waterfront TIF District which covered activities through June 30, 2010.

To allow a TIF district to operate for what could be 25 years without an SAO audit is risky, especially for such a large and complex District. The Waterfront TIF District (created 1996) was authorized for \$54.7 million in total financing, and there have been numerous modifications / extensions via the legislative process.<sup>2</sup> Most recently, Act 175 (2020) extended the period that the Waterfront TIF district may incur debt to June 30, 2022 and Act 134 (2016) Sec. 9a extended the period to retain education property tax increment to June 30, 2035.<sup>3</sup>

With all this in mind, we think the practical effect of the current language is imprudent and request that you amend the statute as recommended on the next page.

Respectfully,

A handwritten signature in black ink that reads "DOUG HOFFER".

Doug Hoffer  
State Auditor

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<sup>1</sup> 32 V.S.A. § 5404a (l)(1)

<sup>2</sup> Per Burlington's 2015 Reconciliation and Revision reports submitted to VEPC, allowed financing includes \$17 million for the first 10 years of the TIF district, \$15.7 million for the bike path and additional waterfront improvements, and \$22 million for public infrastructure to support the Burlington Town Center (BTC) private development project.

<sup>3</sup> The extensions apply to debt incurred for the purposes of improvements for, and retention of increment from, the three properties that comprise the BTC Project. Any extension is contingent upon a guaranteed contractual commitment from a private developer for the BTC project.

32 V.S.A. § 5404a (l)(1) is amended to read:

§ 5404a. Tax stabilization agreements; tax increment financing districts

(l) The State Auditor of Accounts shall conduct performance audits of all tax increment financing districts according to a schedule, which will be arrived at in consultation with the Vermont Economic Progress Council. The cost of conducting each audit shall be considered a "related cost" as defined in 24 V.S.A. § 1891(6) and shall be billed back to the municipality. Audits conducted pursuant to this subsection shall include a review of a municipality's adherence to relevant statutes and rules adopted by the Vermont Economic Progress Council pursuant to subsection (j) of this section, an assessment of record keeping related to revenues and expenditures, and a validation of the portion of the tax increment retained by the municipality and used for debt repayment and the portion directed to the Education Fund.

(1) For municipalities with a district created prior to January 1, 2006 and a debt repayment schedule that anticipates retention of education increment beyond fiscal year 2016, an audit shall be conducted when approximately three-quarters of the period for retention of education increment has elapsed, and at the end of that same period, an audit shall be conducted for the final one-quarter period for retention of education increment, except that for the Milton Catamount/Husky district ~~and the Burlington Waterfront district~~ only a final audit shall be conducted to cover the period from the effective date of the rules pursuant to subdivision (j)(1) of this section to the end of the retention period, and that for the Burlington Waterfront district one or more audits shall be conducted no sooner than five years subsequent to the effective date of the rules pursuant to subdivision (j)(1) of this section and a final audit shall be conducted at the end of the retention period.