



Burlington Waterfront TIF District H.933 Sec. 63a

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Issue

In our 2023 audit we expressed concern that Act 134 (2016) did not address the following:

- Municipal and education tax increment retention percentage.
- Date to use for base value (aka original taxable value or OTV).

Why the concern?

Since 2009, all the extensions and changes related to the Waterfront TIF District tax increment have been in session law. Some of these reference previous session law and amend the previous law. Others do not. It is challenging to track this through session law.

- Act 45 (2011) specified the formula to be used to implement a payment to the Education Fund which would approximate 25% of new education tax increment and *stated that the payment would occur until 2025.*
- Act 134 (2016) extended the period to retain municipal and education tax increment for the three parcels until 6/30/2035 but did not amend Act 45 to specify that the payment to the Education Fund would continue through 2035.

Education Tax Increment Retention Percentage

75% retention for Education Tax Increment is sensible based on the following:

- From 1996 to 2025 Burlington's education tax increment retention percentage varied:
 - 1996 to 2010: 100% for all properties
 - 2011 to 2025: 75% for all properties but two which remained at 100%.
- All TIF Districts created after 7/1/2006 could retain up to 75% of education tax increment and were required to retain an equivalent percent of municipal tax increment.
- The Waterfront TIF District is complicated to administer. Our audit uncovered errors in the tax increment calculation when two percentages were used. A single percentage is preferable.

Related Concern

Contradiction/confusion between subsections (b) and (c) of Sec. 63a of H.933

- On its own, subsection (b) is clear that 75% of education tax increment may be retained by the City until June 30, 2035.
- Subsection (c) states that the section does not modify tax increment retention percentages. This is not the case, as the formula that was in place through June 30, 2035, was a two-part calculation which used two different retention percentages for education tax increment (100% for a portion and 75% for the remainder).
- Recommend consulting with Legislative Council. The fix may be to remove subsection (c).

Date to Use to Determine Base Value (OTV)

Two choices:

- 1996/1997: the creation date of the Waterfront TIF District/expansion of the District to Church Street.
- 2016: Act 134 (2016) extended the tax increment retention period for three parcels to 2035.

Using the original taxable value from the time the TIF District was established in 1996/1997 is sensible. It provides the best chance at making the TIF District financially viable.

- To avoid interpretation risk, SAO suggests that this be specified in Sec. 63a.