Gmail Josh Arneson <jarneson@richmondvt.gov>

Invitation: Tuesday, 1/31 @ 11 a.m. - Town Support For Tax Increment Financing

Ted Brady <tbrady@vlct.org> Thu, Jan 26, 2023 at 2:56 PM
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Good afternoon,

VLCT invites you to participate in a virtual meeting on Tuesday, January 31st at 11 a.m. to learn more about Project-Based Tax Increment Financing. You're being invited to this meeting because I believe your community may have an infrastructure project that could benefit from the program, and I hope after attending the meeting you'd consider sending an email to your legislators in support of the program and potentially agree to testify about how this program could help your community.

The link for the meeting can be found at the bottom of this email. In addition, I will be sending a separate outlook invite with the Zoom information embedded in that invite.

To help you better understand what project-based tax increment financing is, I've attached the draft legislative language and a draft letter to legislators on the topic. On Tuesday, we'll be joined by the Executive Director of the Vermont Economic Progress Council, Abbie Sherman, who can answer any questions you may have. I'm hoping you might also be willing to update a google doc with a single sentence about a project in your community that might benefit from the tool. Here's a google doc you can simply drop your sentence into: https://docs.google.com/spreadsheets/d/19hpQmIjXdEq5IL5-IXV130eYdEezmJrP8Uh9LSYDyfk/edit?usp=sharing.

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Topic: Project Based Tax Increment Financing

Time: Jan 31, 2023 11:00 AM Eastern Time (US and Canada)

Join Zoom Meeting

https://us06web.zoom.us/j/88502402392?pwd=eWpMdEx6WUZOSStpaTJTTENCQXhidz09

Meeting ID: 885 0240 2392

Passcode: 319756

One tap mobile

+13092053325,,88502402392# US

+13126266799,,88502402392# US (Chicago)

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Thanks, and I hope you can join us on Tuesday.

Ted

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VLCT.ORG

Find us on

2 attachments

PBTIF 2023 Draft 1.8.docx
31K

Project Based TIF LOS.docx
22K

INSERT DATE

The Honorable INSERT LEGISLATOR NAME
Vermont State House
115 State Street
Montpelier, VT 05633-5301
VIA EMAIL: INSERT EMAIL ADDRESS

Dear INSERT LEGISLATOR TITLE AND NAME:

As the Vermont Legislature considers ways to increase capacity in rural municipalities, please consider giving rural communities access to the same powerful tool Vermont's urban communities have had for decades: tax increment financing.

I am writing in support of project-based tax increment financing, a right-sized tax increment financing program that allows small communities to pledge future municipal and education tax growth to pay off the bonds of a public infrastructure project that catalyzed that growth. This program is significantly different than the existing tax increment financing district program. The existing program allows for multiple infrastructure projects. This program allows just one. The existing program pledges the increased revenue from hundreds of parcels. The project-based program contemplates limiting it to a dozen or so parcels in each community. These big changes mean small towns could rely on the program to help pay for the infrastructure we need to build housing and improve the quality of life in rural Vermont.

We need this tool now. In INSERT TOWN NAME, we are working on a project that could benefit from project-based tax increment financing. Despite the Local Fiscal Recovery Fund money our community received last year and the federal and state competitive funding available, I anticipate our project will require our community to take on significant debt to complete the project. INSERT ONE SENTENCE DESCRIPTION OF THE PROJECT. Project-based tax increment financing would enable the community to take on debt for a portion of the project and repay that debt using a portion of the tax increases resulting from the project.

Unlike larger TIF districts, I believe this program will be within reach of even the smallest communities. They'll be able to access assistance from regional planning commissions and regional development corporations as well as private consultants to help complete the required planning, implementation and compliance for these new tax increment projects. The existing program requires a complex network of consultants, accountants and experts that has led to the program being inaccessible.

In previous years, both the House Commerce Committee and the Senate Economic Development Committee have included a version of the project-based tax increment financing program in their economic development bills. The Vermont Agency of Commerce and Community Development is once again advocating for project-based tax increment financing during this Legislative session. I hope you will help this year by insisting on including project-based tax increment financing in any capacity, housing or economic development bill that comes before the Vermont Legsilature.

Sincerely,

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Project-Based Tax Increment Financing

TAX INCREMENT FINANCING PROJECT DEVELOPMENT;

(a) Definitions. As used in this section:

(1) “Committed” means pledged and appropriated for the purpose of the current and future payment of tax increment financing and related costs as defined in this section.

(2) “Coordinating agency” means any public or private entity from outside the municipality’s departments or offices and not employing the municipality’s staff, which has been designated by a municipality to administer and coordinate a project during creation, public hearing process, approval process, or administration and operation during the life of the project, including overseeing infrastructure development, real property development and redevelopment, assisting with reporting, and ensuring compliance with statute and rule.

(3) “Financing” means debt incurred, including principal, interest, and any fees or charges directly related to that debt, or other instruments or borrowing used by a municipality to pay for improvements and related costs for the approved project, only if authorized by the legal voters of the municipality. Payment for eligible related costs may also include direct payment by the municipality using the tax increment. If interfund loans within the municipality are used as the method of financing, no interest shall be charged.

(4) “Improvements” means the installation, new construction, or reconstruction of infrastructure that will serve a public purpose, including utilities, transportation, public facilities and amenities, land and property acquisition and demolition, brownfield remediation, and site

preparation. For remediation of a brownfield, this shall include the cost of the site preparation needed to stimulate development or redevelopment in the TIF Project Zone as identified in clean-up documentation approved by the Vermont Agency of Natural Resources. “Improvements” also means the funding of debt service interest payments.

(5) “Legislative body” means the mayor and alderboard, the city council, the selectboard, and the president and trustees of an incorporated village, as appropriate.

(6) “Municipality” means a city, town, or incorporated village.

(7) “Original taxable value” means the total valuation as determined in accordance with 32 V.S.A. chapter 129 of all taxable real property located within the TIF project zone as of the creation date, provided that no parcel within the project shall be divided or bisected.

(8) “Project” means a public improvement, as defined in subdivision (4) of this subsection (a). A project must meet one of the following four criteria:

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

(ii) The project will affect the remediation and redevelopment of a Brownfield. As used in this section, “brownfield” means an area in which a hazardous substance, pollutant, or contaminant is or may be present, and that situation is likely to complicate the expansion, development, redevelopment, or reuse of the property.

(iii) The development will include at least one entirely new business or business operation or expansion of an existing business within the project, and this business will provide new, quality, full-time jobs that meet or exceed the prevailing wage for the region as reported by the Department of Labor.

(iv) The development will enhance transportation by creating improved traffic patterns and flow or creating or improving public transportation systems.

(9) “Related costs” means expenses incurred and paid by the municipality, exclusive of the actual cost of constructing and financing improvements, that are directly related to the creation and implementation of the project, including reimbursement of sums previously advanced by the municipality for those purposes and use of a coordinating agency. Related costs may not include direct municipal expenses such as departmental or personnel costs.

(10) “TIF project zone” means an area where approved development or redevelopment is occurring.

(b) The Vermont Economic Progress Council is authorized to approve tax increment financing projects, provided, however, that there shall not be more than one project per municipality.

(c) General authority. Under the pilot program established in subsection (b) of this section, a municipality, upon approval of its legislative body, may apply to the Vermont Economic Progress Council pursuant to the process set forth in subsection (e) of this section to use tax increment financing for a project.

(d) Eligibility.

(1) A municipality is only authorized to apply for a project under this section if:

(A) the municipality needs to make infrastructure improvements to incentivize community development; and

(B) the municipality must demonstrate:

(i) the proposed infrastructure improvements and the projected development or redevelopment are compatible with confirmed municipal and regional development plans and the project has clear local and regional significance for employment, housing, brownfield remediation, or transportation improvements;

(ii) leveraging of sources of revenue from local, State, or federal programs and that additional funding is needed to complete the project;

(iii) an ability to manage the project with requisite experience and a plan for fiscal viability.

(2) A municipality with an approved tax increment financing district is not authorized to apply for a project under this section.

(e) Approval process. The Vermont Economic Progress Council shall do all of the following to approve an application submitted pursuant to subsection (c) of this section:

(1)(A) Review each application to determine that the infrastructure improvements proposed to serve the project and the proposed development in the project would not have occurred as proposed in the application, or would have occurred in a significantly different and less desirable manner than as proposed in the application, but for the proposed utilization of the incremental tax revenues.

(B) The review shall take into account:

(i) the amount of additional time, if any, needed to complete the proposed development for the project and the amount of additional cost that might be incurred if the project were to proceed without education property tax increment financing;

(ii) how the proposed project components and size would differ, if at all, including, if applicable to the project, the number of units of affordable housing, as defined in 24 V.S.A. § 4303, without education property tax increment;

(iii) the lack of new construction in the municipality, indicated by a stagnant or declining grand list value as determined by the Department of Taxes, considering both the total full listed value and the equalized education grand list value; and

(iv)(I) the amount of additional tax revenue expected to be generated as a result of the proposed project;

(II) the percentage of that revenue that shall be paid to the Education Fund;

(III) the percentage that shall be paid to the municipality; and

(IV) the percentage of the revenue paid to the municipality that shall be used to pay financing incurred for development of the project and related costs.

(2) Process requirements. Determine that each application meets all of the following requirements:

(A) The municipality held public hearings and established a project.

(B) The municipality has developed a tax increment financing project plan, including a project description; a development financing plan; a pro forma projection of expected costs; a projection of revenues; a statement and demonstration that the project would not proceed without the allocation of a tax increment; evidence that the municipality is actively seeking or has obtained other sources of funding and investment; and a development schedule that includes a list, a cost estimate, and a schedule for public improvements and projected private development to occur as a result of the improvements. The creation of the project shall occur at 12:01 a.m. on April 1 of the calendar year the municipal legislative body votes to approve the tax increment financing project plan.

(C) the municipality has approved or pledged the utilization of incremental municipal tax revenues for the purposes of the project in the proportion set for in subsection (i)(2) of this section.

(3) The Vermont Economic Progress Council shall determine there is a relationship between the improvement and the expected development and redevelopment for the project and expected outcomes in the TIF Project Zone.

(f) Incurring indebtedness.

(1) A municipality approved under the process set forth in subsection (e) of this section may incur indebtedness against revenues to provide funding to pay for improvements and related costs for the project development.

(2) Notwithstanding any provision of any municipal charter, the municipality shall only require one authorizing vote to incur debt through one instance of borrowing to finance or otherwise pay for the tax increment financing project improvements and related costs; provided, however, that a municipality may present one or more subsequent authorization votes in the event a vote fails. The municipality shall be authorized to incur indebtedness only after the legal voters of the municipality, by a majority vote of all voters present and voting on the question at a special or annual municipal meeting duly warned for the purpose, authorize the legislative body to pledge the credit of the municipality, borrow, or otherwise secure the debt for the specific purposes so warned.

(3) Any indebtedness shall be incurred within five years from the date of approval by the Vermont Economic Progress Council.

(g) Original taxable value. As of the date the project is approved by the legislative body of the municipality, the lister or assessor for the municipality shall certify the original taxable value and shall certify to the legislative body in each year thereafter during the life of the project the amount by which the total valuation as determined in accordance with 32 V.S.A. chapter 129 of all taxable real property located within the project has increased or decreased relative to the original taxable value.

(h) Tax increments.

(1) In each year following the approval of the project, the lister or assessor shall include not more than the original taxable value of the real property in the assessed valuation upon which the treasurer computes the rates of all taxes levied by the municipality and every other taxing district in which the project is situated, but the treasurer shall extend all rates so determined against the entire assessed valuation of real property for that year. In each year, the municipality shall hold apart, rather than remit to the taxing districts, that proportion of all taxes paid that year on the real property within the project that the excess valuation bears to the total assessed valuation. The amount held apart each year is the “tax increment” for that year. Not more than the percentages established pursuant to subsection (i) of this section of the municipal and State education tax increments received with respect to the project and committed for the payment for financing for improvements and related costs shall be segregated by the municipality in a special tax increment financing project account and in its official books and records until all capital indebtedness of the project has been fully paid. The final payment shall be reported to the treasurer, who shall thereafter include the entire assessed valuation of the project in the assessed valuations upon which municipal and other tax rates are computed and extended and thereafter no taxes from the project shall be deposited in the project’s tax increment financing account.

(2) In each year, a municipality shall remit not less than the aggregate original taxable value to the Education Fund.

(3) Notwithstanding any charter provision or other provision, all property taxes assessed within a project shall be subject to the provision of subdivision (1) of this subsection. Special assessments levied under 24 V.S.A. chapters 76A or 87 or under a municipal charter shall not be considered property taxes for the purpose of this section if the proceeds are used exclusively for operating expenses related to properties within the project and not for improvements within the district, as defined in subdivision (a)(3) of this section.

(4) Amounts held apart under subdivision (1) of this subsection shall only be used for financing and related costs as defined in subsection (a) of this section.

(i) Use of tax increment.

(1) Education property tax increment. For only debt incurred within the period permitted under subdivision (e)(3) of this section after approval of the project, up to 80 percent of the education tax increment may be retained to service the debt and related costs, beginning with the first year in which debt is incurred for the project. Upon incurring the first debt, a municipality shall notify the Department of Taxes and the Vermont Economic Progress Council of the beginning of the retention period of the education tax increment.

(2) Use of the municipal property tax increment. For only debt incurred within the period permitted under subdivision (e)(3) of this section after approval of the project, not less than 100 percent of the municipal tax increment shall be retained to service the debt and related costs, beginning the first year in which debt is incurred for the project.

(3) Retention of tax increment shall continue until all debt is retired.

(j) Distribution. Of the municipal and education tax increments received in any tax year that exceed the amounts committed for the payment of the financing for improvements and related costs for the project, equal portions of each increment may be retained for the following purposes: prepayment of principal and interest on the financing, placed in a special account required by subdivision (g)(1) of this section and used for future financing payments, or used for defeasance of the financing. Any remaining portion of the excess municipal tax increment shall be distributed to the city, town, or village budget, in the proportion that each budget bears to the combined total of the budgets, unless otherwise negotiated by the city, town, or village, and any remaining portion of the excess education tax increment shall be distributed to the Education Fund.

(k) Information reporting. Every municipality with an approved project pursuant to this section shall:

(1) Develop a system, segregated for the project, to identify, collect, and maintain all data and information necessary to fulfill the reporting requirements of this section, including performance measures.

(2) Provide, as required by events, notification to the Vermont Economic Progress Council and the Department of Taxes regarding any tax increment financing development project debt obligations, public votes, or votes by the municipal legislative body immediately following such obligation or vote on a form prescribed by the Council, including copies of public notices, agendas, minutes, vote tally, and a copy of the information provided to the public in accordance with 24 V.S.A. § 1894(i).

(3) Annually:

(A) Ensure that the tax increment financing project account required by subdivision (h)(1) is subject to the annual audit prescribed in subsection (m) of this section. Procedures must include verification of the original taxable value and annual and total municipal and education tax increments generated, expenditures for debt and related costs, and current balance.

(B) On or before October 15 of each year, on a form prescribed by the Council, submit an annual report to the Vermont Economic Progress Council and the Department of Taxes, including the information required by subdivision (2) of this section if not already submitted during the year, all information required by subdivision (A) of this subdivision (3), and the information required by 32 V.S.A. § 5404a(i), including performance measures and any other information required by the Council or the Department of Taxes.

(l) Annual report. The Vermont Economic Progress Council and the Department of Taxes shall submit an annual report to the Senate Committees on Economic Development, Housing and General Affairs and on Finance and the House Committees on Commerce and Economic Development and on Ways and Means on or before ~~April~~ January 1 each year. The report shall include the date of approval, a description of the project, the original taxable value of the property subject to the project development, the scope and value of projected and actual improvements and developments in the TIF Project Zone, projected and actual incremental revenue amounts, and division of the increment revenue between project debt, the Education Fund, the special account required by subdivision (h)(1) and the municipal General Fund, projected and actual financing, and a set of performance measures developed by the Vermont Economic Progress Council, which may include outcomes related to the criteria for which the municipality applied and the amount of infrastructure work performed by Vermont firms.

(m) Audit; financial reports. Annually, until the year following the end of the period for retention of education tax increment, a municipality with an approved project under this section shallon or before April 1, ensure that the project is subject to the annual audit prescribed in 24 V.S.A. § 1681 or 1690 and submit a copy to the Vermont Economic Progress Council. In the event that the audit is only subject to the audit under 24 V.S.A. § 1681, the Vermont Economic Progress Council shall ensure a process is in place to subject the project to an independent audit. Procedures for the audit must include verification of the original taxable value and annual and total municipal and education tax increments generated, expenditures for debt and related costs, and current balance.

(n) Authority to issue decisions.

(1) The Secretary of Commerce and Community Development, after reasonable notice to a municipality and an opportunity for a hearing, is authorized to issue decisions to a municipality on questions and inquiries concerning the administration of projects, statutes, rules, noncompliance with this section, and any instances of noncompliance identified in audit reports conducted pursuant to subsection (m) of this section.

(2) The Vermont Economic Progress Council shall prepare recommendations for the Secretary prior to the issuance of a decision. As appropriate, the Council may prepare such recommendations in consultation with the Commissioner of Taxes, the Attorney General, and the

State Treasurer. In preparing recommendations, the Council shall provide a municipality with a reasonable opportunity to submit written information in support of its position. The Secretary shall review the recommendations of the Council and issue a final written decision on each matter within 60 days of the receipt of the recommendations. The Secretary may permit an appeal to be taken by any party to a Superior Court for determination of questions of law in the same manner as the Supreme Court may by rule provide for appeals before final judgment from a Superior Court before issuing a final decision.

(o) The Vermont Economic Progress Council is authorized to adopt policies that are consistent with the 2015 TIF Rule, as may be modified by subsequent rule, to implement this section.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2023.