

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1392

S.P. 511

In Senate, April 2, 2009

**An Act To Promote Economic Development and Reduce Reliance on
Automobiles through Transit-oriented Tax Increment Financing
Districts**

Reference to the Committee on Taxation suggested and ordered printed.

Handwritten signature of Joy J. O'Brien in cursive.

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BLISS of Cumberland.
Cosponsored by Representative EBERLE of South Portland and
Senators: DAMON of Hancock, PERRY of Penobscot, RECTOR of Knox, Representatives:
CHASE of Wells, CROCKETT of Augusta, DILL of Cape Elizabeth, FLAHERTY of
Scarborough, FLEMINGS of Bar Harbor.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 30-A MRSA §5221, sub-§1, ¶A-1** is enacted to read:

3 A-1. Expand opportunities for transit and alternative modes of transportation;

4 **Sec. 2. 30-A MRSA §5221, sub-§2, ¶A**, as amended by PL 2007, c. 413, §1, is
5 further amended to read:

6 A. To provide impetus for industrial, commercial, transit-oriented or arts district
7 development, or any combination;

8 **Sec. 3. 30-A MRSA §5222, sub-§1-B** is enacted to read:

9 1-B. Alternative mode of transportation. "Alternative mode of transportation"
10 means a type of transportation other than private automobiles, such as transit, bicycling or
11 walking.

12 **Sec. 4. 30-A MRSA §5222, sub-§1-C** is enacted to read:

13 1-C. Capital improvement program. "Capital improvement program" means a
14 timetable or schedule of all future capital improvements to be carried out during a
15 specific period, together with cost estimates and the anticipated sources of financing for
16 each project.

17 **Sec. 5. 30-A MRSA §5222, sub-§10-A** is enacted to read:

18 10-A. Floor area ratio. "Floor area ratio" means the gross floor area of all buildings
19 or structures on a lot divided by the total lot area.

20 **Sec. 6. 30-A MRSA §5222, sub-§12-A** is enacted to read:

21 12-A. Mixed-use zoning district. "Mixed-use zoning district" means a zoning
22 district that allows by right or special exception nonresidential uses as well as residential
23 uses.

24 **Sec. 7. 30-A MRSA §5222, sub-§12-B** is enacted to read:

25 12-B. Net residential acre. "Net residential acre" means an acre of land in a lot
26 after subtracting all features or areas that a development ordinance requires to be
27 excluded from the calculations, including streams, wetlands, steep slopes and other
28 unbuildable areas.

29 **Sec. 8. 30-A MRSA §5222, sub-§12-C** is enacted to read:

30 12-C. Nonresidential use. "Nonresidential use" means a type of land use other than
31 residential. "Nonresidential use" includes without limitation office, retail, commercial,
32 entertainment, light manufacturing and industrial uses.

33 **Sec. 9. 30-A MRSA §5222, sub-§14-A** is enacted to read:

1 **14-A. Residential use.** "Residential use" means a type of land use consisting of
2 residential dwelling units of all types, including, without limitation, single-family,
3 multifamily, attached, detached or condominium dwelling units.

4 **Sec. 10. 30-A MRSA §5222, sub-§19** is enacted to read:

5 **19. Transit.** "Transit" means transportation systems in which people travel by
6 means other than their own vehicles, including, but not limited to, bus systems, street
7 cars, light rail and other rail systems.

8 **Sec. 11. 30-A MRSA §5222, sub-§20** is enacted to read:

9 **20. Transit facility.** "Transit facility" means a place providing access to transit
10 services, including, but not limited to, bus stops, bus stations, interchanges on a highway
11 used by one or more transit providers, ferry landings, train stations, shuttle terminals and
12 bus rapid transit stops.

13 **Sec. 12. 30-A MRSA §5222, sub-§21** is enacted to read:

14 **21. Transit-oriented development.** "Transit-oriented development" means a type
15 of development that links land use with transit facilities to support and be supported by a
16 transit system. It combines housing with complementary public uses such as jobs, retail
17 or services establishments that are located in transit-served nodes or corridors. Transit-
18 oriented development is intended through location and design to rely on transit as one of
19 the means of meeting the transportation needs of residents, customers, and occupants as
20 demonstrated through such factors as transit facility proximity, mixed uses, off-street
21 parking space ratio less than industry standards, architectural accommodation for transit
22 and marketing that highlights transit.

23 **Sec. 13. 30-A MRSA §5222, sub-§22** is enacted to read:

24 **22. Transit-oriented development area.** "Transit-oriented development area"
25 means an area of any shape such that no part of the perimeter is more than 1/4 mile from
26 an existing or planned transit facility.

27 **Sec. 14. 30-A MRSA §5222, sub-§23** is enacted to read:

28 **23. Transit-oriented development corridor.** "Transit-oriented development
29 corridor" means a strip of land of any length and up to 500 feet on either side of a
30 roadway serving as a principal transit route.

31 **Sec. 15. 30-A MRSA §5222, sub-§24** is enacted to read:

32 **24. Transit-oriented development district.** "Transit-oriented development district"
33 means a tax increment financing district consisting of a transit-oriented development area
34 or a transit-oriented development corridor.

35 **Sec. 16. 30-A MRSA §5223, sub-§3**, as amended by PL 2007, c. 693, §3 and
36 affected by §37, is further amended to read:

1 **3. Conditions for approval.** Designation of a development district is subject to the
2 following conditions.

3 A. At least 25%, by area, of the real property within a development district must
4 meet at least one of the following criteria:

- 5 (1) Must be a blighted area;
6 (2) Must be in need of rehabilitation, redevelopment or conservation work; or
7 (3) Must be suitable for commercial or arts district uses.

8 B. The total area of a single development district may not exceed 2% of the total
9 acreage of the municipality. The total area of all development districts may not
10 exceed 5% of the total acreage of the municipality.

11 C. The original assessed value of a proposed tax increment financing district plus the
12 original assessed value of all existing tax increment financing districts within the
13 municipality may not exceed 5% of the total value of taxable property within the
14 municipality as of April 1st preceding the date of the commissioner's approval of the
15 designation of the proposed tax increment financing district.

16 Excluded from the calculation in this paragraph is any district excluded from the
17 calculation under former section 5253, subsection 1, paragraph C and any district
18 designated on or after the effective date of this chapter that meets the following
19 criteria:

- 20 (1) The development program contains project costs, authorized by section 5225,
21 subsection 1, paragraph A, that exceed \$10,000,000;
22 (2) The geographic area consists entirely of contiguous property owned by a
23 single taxpayer;
24 (3) The assessed value exceeds 10% of the total value of taxable property within
25 the municipality; and
26 (4) The development program does not contain project costs authorized by
27 section 5225, subsection 1, paragraph C.

28 For the purpose of this paragraph, "contiguous property" includes a parcel or parcels
29 of land divided by a road, power line or right-of-way.

30 D. The aggregate value of municipal general obligation indebtedness financed by the
31 proceeds from tax increment financing districts within any county may not exceed
32 \$50,000,000 adjusted by a factor equal to the percentage change in the United States
33 Bureau of Labor Statistics Consumer Price Index, United States City Average from
34 January 1, 1996 to the date of calculation.

- 35 (1) The commissioner may adopt rules necessary to allocate or apportion the
36 designation of captured assessed value of property within proposed tax increment
37 financing districts to permit compliance with the condition in this paragraph.
38 Rules adopted pursuant to this paragraph are routine technical rules as defined in
39 Title 5, chapter 375, subchapter 2-A.

1 (2) The acquisition, construction and installment of all real and personal property
2 improvements, buildings, structures, fixtures and equipment included within the
3 development program and financed through municipal bonded indebtedness must
4 be completed within 5 years of the commissioner's approval of the designation of
5 the tax increment financing district.

6 E. A transit-oriented development district is subject to the following conditions
7 unless a condition is waived pursuant to a determination by the Commissioner of
8 Transportation that a proposed transit-oriented development district substantially
9 meets the policy objectives of rules adopted pursuant to the Sensible Transportation
10 Policy Act:

11 (1) The district:

12 (a) Must be served by an existing transit service of any type;

13 (b) Will be served by a new public transit service that has a funding
14 commitment; or

15 (c) Will be served by a new private transit service for which there is, in the
16 department's determination, a viable business plan;

17 (2) The land use regulation requirements in the district allow for a mix of uses,
18 including those associated with where people live, work, shop and obtain
19 services. This requirement may be achieved through a single mixed-use zoning
20 district or through multiple zones that together include the required land uses. If
21 accomplished through multiple zones, the zones can be interspersed throughout
22 the district, or, in the case of transit-oriented development corridors, by section.
23 A majority of residential properties in the district must be no farther than 1/4 mile
24 from compatible nonresidential uses or zones;

25 (3) The land use regulation requirements in the district allow a minimum of 5
26 dwelling units per net residential acre for residential uses and, except in rural
27 areas and residential neighborhoods, a minimum of 0.4 floor area ratio, or its
28 equivalent, for nonresidential uses. This condition may also be met by
29 demonstrating that the existing development pattern meets these standards or that
30 there are provisions in the municipality's comprehensive plan for achieving them;
31 and

32 (4) Accommodations for safe bicycle and pedestrian transportation have been
33 provided, or have been included in the municipality's capital improvement
34 program, according to standards or guidelines established by the Commissioner
35 of Transportation pursuant to the Sensible Transportation Policy Act.

36 (5) The temporary or permanent discontinuation of a transit service upon which
37 a transit-oriented development district was created does not invalidate the transit-
38 oriented development district; however, the municipality must make a good faith
39 effort to restore the service.

40 (6) A transit-oriented development district may overlap another type of tax
41 increment financing district, or be created within another tax increment financing
42 district, and does not negate nor is it negated by the other district.

1 The conditions in paragraphs A to D do not apply to approved downtown tax increment
2 financing districts, tax increment financing districts included within Pine Tree
3 Development Zones designated and approved under subchapter 3 ~~or~~, tax increment
4 financing districts that consist solely of one or more community wind power generation
5 facilities owned by a community wind power generator that has been certified by the
6 Public Utilities Commission pursuant to Title 35-A, section 3403, subsection 3 or transit-
7 oriented development districts.

8 **Sec. 17. 30-A MRSA §5224, sub-§2, ¶C**, as amended by PL 2007, c. 413, §4, is
9 further amended to read:

10 C. A description of commercial facilities, arts districts, transit expansion,
11 improvements or projects to be financed in whole or in part by the development
12 program;

13 **Sec. 18. 30-A MRSA §5225, sub-§1, ¶C**, as amended by PL 2007, c. 413, §6, is
14 further amended to read:

15 C. Costs related to economic development, environmental improvements or
16 employment training within the municipality, including, but not limited to:

17 (1) Costs of funding economic development programs or events developed by
18 the municipality or funding the marketing of the municipality as a business or
19 arts location;

20 (2) Costs of funding environmental improvement projects developed by the
21 municipality for commercial or arts district use or related to such activities;

22 (3) Funding to establish permanent economic development revolving loan funds
23 or investment funds;

24 (4) Costs of services to provide skills development and training for residents of
25 the municipality. These costs may not exceed 20% of the total project costs and
26 must be designated as training funds in the development program; and

27 (5) Quality child care costs, including finance costs and construction, staffing,
28 training, certification and accreditation costs related to child care; ~~and~~

29 **Sec. 19. 30-A MRSA §5225, sub-§1, ¶D**, as enacted by PL 2001, c. 669, §1, is
30 amended to read:

31 D. Costs of constructing or improving facilities or buildings used by State
32 Government that are located in approved downtown tax increment financing
33 districts; and

34 **Sec. 20. 30-A MRSA §5225, sub-§1, ¶E** is enacted to read:

35 E. Costs related to transit-oriented development districts, including but not limited
36 to:

37 (1) Costs, both within and outside of the transit-oriented development district, of
38 adding to the municipality's existing transit system or creating a new transit
39 service, including but not limited to salaries, fuel and maintenance;

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(2) Costs of funding capital investments, including but not limited to: transit vehicles, such as buses, ferries, vans, rail conveyances and related equipment; bus shelters and other transit-related structures; benches, signs and other transit-related infrastructure; bicycle lane construction and other bicycle-related improvements; and such pedestrian improvements as crosswalks, crosswalk signals and warning systems and crosswalk curb treatments. Costs of vehicles are included whether wholly or partially operating within the transit-oriented development district. Costs relative to fixed improvements are included only if those improvements are located within the transit-oriented development district; and

(3) Other costs as described in paragraphs A and B but only as applied to transit-oriented development and public infrastructure related to transit and alternative modes of transportation.

SUMMARY

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This bill establishes authority for creation of transit-oriented development districts under the tax increment financing laws to provide an impetus for transit-oriented development, provide new or additional transit services and provide facilities for transit and alternative modes of transportation for the purposes of promoting sustainable economic development, energy efficiency, transportation cost reduction, open space preservation and greenhouse gas reduction.