

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1482

H. P. 1216

House of Representatives, April 5, 1977

Referred to Committee on Local and County Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. MacEachern of Lincoln.

Cosponsors: Mr. Carey of Waterville; Mr. Kelleher of Bangor; Mr. Pearson of Old Town.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Authorizing Municipalities to Create Development Districts.

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

30 MRSA c. 239, sub-c. III-B is enacted to read:

SUBCHAPTER III-B

MUNICIPAL DEVELOPMENT DISTRICTS

§ 4861. Findings and declaration of necessity

It is found that there is a need for a new development in areas of municipalities which are already built up, to provide new employment opportunities, to improve and broaden the tax base and to improve the general economy of the State. Therefore, municipalities are authorized to develop a program for improving a district of the municipality: To provide impetus for commercial development; to increase employment; to protect pedestrians from vehicle traffic and inclement weather; to provide the necessary linkage between peripheral parking facilities and places of employment and shopping; to provide off-street parking to serve the shoppers and employees of the district; to eradicate blight and deterioration; to provide open space relief within the district; and to provide other facilities as are outlined in the development program adopted by the governing body of the municipality. It is declared that the actions required to assist the implementation of these development programs are a public purpose and that the execution and financing of such programs are a public purpose.

§ 4862. Definitions

The following terms, wherever used or referred to in this subchapter, shall have the following meanings unless a different meaning is clearly indicated by the context.

1. **Captured assessed value.** "Captured assessed value" means the valuation amount by which the current assessed value of the development district exceeds the original assessed value of the district. If the current assessed value is equal to or less than the original there is no captured assessed value.

2. **Development district.** "Development district" means a specified area within the corporate limits of a municipality which has been designated and separately numbered as provided under section 4863, and which is to be developed by the municipality under a development program.

3. **Development program.** "Development program" means a statement of means and objectives designed to improve the quality of life, the physical facilities and structures, and the quality of pedestrian and vehicular traffic control and transportation within the development district. The statement shall include a financial plan, a complete list of public facilities to be constructed, the uses of private property within the district, plans for the relocation of persons displaced by the development activities, the open space to be created, the proposed regulations and facilities to improve transportation, the environmental controls to be applied, and the proposed operation of the district after the completion of the planned capital improvements.

4. **Financial plan.** "Financial plan" means a statement of the costs and sources of revenue required to accomplish the development program. The statement shall contain cost estimates for the development program, the estimates of captured assessed values, the portion of the captured assessed values to be applied to the development program and resulting tax increments in each year of the program, the amount of bonded indebtedness to be incurred, other sources of anticipated revenues and the duration of the program. The statement shall also contain a statement of the estimated impact of tax increment financing on all taxing jurisdictions in which the district is located.

5. **Governing body of the municipality.** "Governing body of the municipality" shall mean the legislative body of a city or any regular, special or other duly constituted meeting of a town.

6. **Maintenance and operation.** "Maintenance and operation" means all activities necessary to maintain facilities after they have been developed and all activities necessary to operate the facilities, including but not limited to informational and educational programs, and safety and surveillance activities.

7. **Original assessed value.** "Original assessed value" means the assessed value of the district immediately prior to the adoption of the development program.

8. **Parking structure.** "Parking structure" means any building the principal use of which is designed and intended for motor vehicle parking. Open air parking lots shall also be construed as parking structures.

9. Pedestrian skyway system. "Pedestrian skyway system" means any system of providing for pedestrian traffic circulation, mechanical or otherwise, elevated above ground, within and without the public right of way, and through or above private property and buildings.

10. Special lighting systems. "Special lighting systems" means lights or light displays of any type located within or without the public right of way.

11. Tax increment. "Tax increment" means that portion of all real property taxes assessed by any jurisdiction or government entity on property in the development district that is paid on the captured assessed value.

§ 4863. Development districts; development programs and ordinances

1. Districts. The governing body of a municipality may designate development districts within the boundaries of the municipality. Prior to designating a district, the governing body shall consult with the municipal planning agency or department and with the advisory board established under section 4870, and shall also hold at least one public hearing, notice of which shall be published at least 10 days prior to the hearing in a newspaper of general circulation within the municipality. No less than 60% of the total area of the district shall consist of land which has been plotted and developed. The boundaries of a district may be altered only after meeting the requirements for adoption under this subsection.

2. Optional limitations. At the time of designation of the first development district in any municipality, the governing body of that municipality shall by formal action adopt one of the 3 following alternative restrictive options. Once the choice is made the municipality shall use the same option for all succeeding development districts.

A. The total acreage included in any one development district when designated shall not exceed 1% of the total acreage of the municipality, and when added to the total current acreage within development districts for which unrecovered cost of bonds remain shall not exceed 3% of the total acreage of the municipality.

B. The assessed value of taxable real property of any one development district when designated shall not exceed 5% of the assessed value of taxable real property in the municipality as most recently certified by the municipal assessor, and when added to the current assessed value of taxable real property within development districts for which unrecovered cost of bonds remain shall not exceed 10% of the assessed value of taxable real property in the municipality as most recently certified by the municipal assessor.

C. No development district shall exceed 6 acres. At no time shall another development district be designated by the governing body of the municipality until all cost of bonds for the previously designated district has been paid.

3. Program. The governing body of a municipality shall adopt a development program for each development district. The program shall be adopted

at the same time as the district, as part of the district adoption proceedings, or if at a different time, in the same manner as adoption of the district, with the same notice, hearing and consultation requirements of subsection 1. Prior to adoption of a development program, the governing body shall provide a copy of the proposed program to every jurisdiction or governmental entity that has authority to tax or assess charges against the property within the district. The governing body shall fully inform the other jurisdictions located within the development district of the fiscal and economic implications of the proposed development district. The governing body shall inform each jurisdiction of the date, time and place of the adoption hearing. Once approved, the program may be altered or amended only after meeting the requirements for adoption under this subsection.

4. Powers. Within development districts, and consistent with the development program, the municipality may acquire, construct, reconstruct, improve, preserve, alter, extend, operate, maintain or promote development intended to meet the objectives of the development program. Pursuant to the development program, the municipality may acquire property, land or easements through negotiation, or by using eminent domain powers in the manner authorized for community development programs under section 4854. The municipality's governing body may adopt ordinances regulating traffic in and access to pedestrian skyways, public parking structures, and other facilities constructed within the development district. The municipality shall have the authority to install special lighting systems, special street signs and street furniture and special landscaping of streets and public property.

§ 4864. Tax increment financing

1. Captured assessed value. The municipality may retain all or part of the tax increment of a development district for the purpose of financing the development program. The amount of tax increment to be retained shall be determined by designating the amount of capture assessed value to be retained. At the time of adoption of a development program, the governing body shall adopt a statement of the percentage of captured assessed value to be retained in accordance with the development program. Once adopted, the percentage may only be decreased in subsequent years, unless a new development program is adopted, or the present plan is amended or altered under section 4863. The municipal assessor shall certify the amount of the captured assessed value to the municipality, the county and Treasurer of State each year.

2. Original assessed value. Upon or after formation of a development district, the assessor of the municipality in which it is located shall, on request of the governing body, certify the original assessed value of the taxable real property within the boundaries of the development district. Each year thereafter the municipal assessor shall certify the amount by which assessed value has increased or decreased from the original value.

3. Tax increment revenues. If a municipality has elected to retain all or a percentage of the captured retained value under subsection 1, then the following disposition of tax increment revenues attributable to that value shall apply.

A. All tax increment revenues on retained captured assessed values payable to the municipality for public purposes shall be set aside annually and deposited to the credit of the development sinking fund.

B. Notwithstanding Title 36, chapter 103, subchapter II or any other provisions of law granting a governmental entity a right to revenues derived from any tax on real property, all tax increment revenues attributable to the retained captured assessed value shall be paid into the development sinking fund, and a credit for the amount paid into the development sinking fund shall be allowed to offset the amount required to be paid to other governmental entities. The municipal treasurer shall certify to the Treasurer of State or other collector of revenue the amount paid into the development fund that would otherwise be available to another governmental entity at the same time and in the same manner required for certification of availability of the tax revenues to the other governmental entity.

C. The county shall allow annually a credit against the amount of county taxes apportioned and assessed under Title 30, chapter 1, subchapter II, Article 5. The credit shall be equal to the county tax increment revenues on retained captured assessed values, and shall reduce the amount of county tax to the county tax increment revenues on retained captured assessed values and shall reduce the amount of county tax payable by the municipality to the county.

4. Development sinking fund. If a municipality has elected to retain all or a percentage of the captured retained value, it shall establish a development sinking fund. The fund shall be pledged to and charged with the payment of the interest and principal as they shall fall due, and the necessary charges of paying agents for paying interest and principal on any notes, bonds or other evidences of indebtedness that were issued to fund or refund the rehabilitation or development under this subchapter.

5. Limitations.

A. Nothing in this section shall allow or sanction unequal apportionment or assessment of the taxes to be paid on real property in this State, and all real property within the development district shall pay real property taxes apportioned equally with property taxes paid elsewhere in the municipality.

B. The municipality shall expend the tax increments received for any development program only in accordance with the financing plan. These revenues shall not be used to circumvent existing tax laws.

§ 4865. Assessments

1. Development assessments. The municipality may estimate and assess upon lots or property within the development district a development assessment. The assessment shall be made upon lots or property that have been benefited by improvements constructed or created under the development program and shall not exceed a just and equitable proportionate share of the cost of the improvement. Prior to estimating and assessing a development assessment, the municipality shall give notice and hold a hearing as provided under subsection 3. All revenues from assessments under this subsection, shall be paid into the development sinking fund.

2. **Maintenance assessments.** The municipality may estimate and assess upon all lots or property within the development district a maintenance assessment. The assessment shall be assessed equally and uniformly on all lots or property receiving benefits from the development program and the continued operation of the public facilities. The total maintenance assessments shall not exceed the cost of maintenance and operation of the public facilities within the district. Prior to estimating and assessing a maintenance assessment, the municipality shall give notice and hold a hearing as provided under subsection 3.

3. **Notice and hearing.** Prior to estimating and assessing an assessment under subsection 1 or 2, the municipality shall give notice and hold a hearing. Notice of the hearing shall be published at least 10 days prior to the hearing in a newspaper of general circulation within the municipality. The notice shall include:

- A. The date, time and place of hearing;
- B. The boundaries of the development district by legal description;
- C. A statement that all interested persons owning real estate or taxable property located within the district will be given an opportunity to be heard at the hearing and an opportunity to file objections to the amount of the assessment; and
- D. The maximum rate of assessments to be extended in any one year, and may include a maximum number of years the assessments will be levied.

4. **Increase of assessments and extension of time limits.** Assessments may be increased or the period specified may be extended after notice and hearing as required under subsection 3.

5. **Collection.** Assessments assessed under this section shall be collected in the same manner as municipal taxes, and the constable or municipal tax collector shall have all the authority and powers to collect the assessments as is in him vested by law to collect municipal taxes. In the case of the failure of any property owner to pay any assessment or part thereof on or before the dates required, the municipality shall have all the authority and powers to collect the delinquent assessments as is vested in the municipality by law to collect delinquent municipal taxes.

§ 4866. Grants

A municipality may receive grants or gifts for any of the purposes of this subchapter.

§ 4867. Issuance of bonds

The governing body of the municipality may authorize, issue and sell general obligation bonds, which shall mature within 30 years from the date of issue, to finance the acquisition and betterment of real and personal property needed to carry out the development program within the development district, together with all relocation costs. All revenues derived under section 4864 or

under section 4865, subsection 1, received by the municipality shall be pledged for the payment of these bonds and used to reduce or cancel the taxes otherwise required to be expended for that purpose, and the bonds shall not be included when computing the municipality's net debt.

§ 4868. Tax exemption

All publicly owned parking structures and pedestrian skyway systems shall be exempt from taxation by the municipality, county and State, provided that this exemption shall not exempt any lessee or person in possession from taxes or assessments payable under Title 36, section 551.

§ 4869. Administration

The governing body of a municipality may create a department or designate an existing department or office, agency, municipal housing or redevelopment authority, to administer all districts authorized under this subchapter.

§ 4870. Advisory board

The governing body of the municipality shall create an advisory board a majority of whose members must consist of owners or occupants of real property located in or adjacent to the development district which they serve. The advisory board shall advise the governing body and the designated administrative entity on the planning, construction and implementation of the development program and maintenance and operation of the district after the program has been completed.

STATEMENT OF FACT

The purpose of this bill is to authorize municipalities to create development districts. Within these districts, which are already developed to a greater or lesser extent, the municipality may construct and operate further facilities to improve the living and economic conditions of the district. These improvements may include improved pedestrian and parking facilities, improved access to shopping and living areas, greater open space and the provision of other facilities to provide an impetus to commercial development.

To accomplish these goals, the municipality may retain all property taxes derived from the added property values created by the development, to be applied against the development costs, and it may also levy assessments against the property in the district to meet the costs of development, maintenance and operation of public facilities.