

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

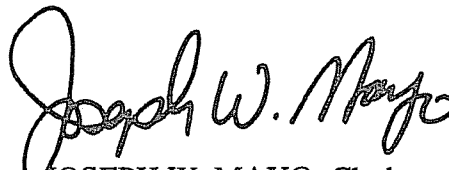
No. 956

H.P. 704

House of Representatives, March 18, 1993

An Act to Clarify the Laws Related to State Tax Increment Financing.

Reference to the Committee on Taxation suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative KERR of Old Orchard Beach.
Cosponsored by Representatives: ADAMS of Portland, BAILEY of Township 27, DiPIETRO of South Portland, FARNSWORTH of Hallowell, HOGLUND of Portland, KUTASI of Bridgton, MARTIN of Eagle Lake, MURPHY of Berwick, NADEAU of Saco, RAND of Portland, SIMONEAU of Thomaston, TARDY of Palmyra, VIGUE of Winslow, YOUNG of Limestone, Senators: CAREY of Kennebec, CONLEY of Cumberland, SUMMERS of Cumberland.

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

2
4 **Sec. 1. 30-A MRSA §5254-A, sub-§2, ¶A**, as enacted by PL 1991, c. 856, §5, is amended to read:

6 A. On or before April 15th of each year, designated
8 businesses located within a state tax increment financing
10 district shall report the amount of sales tax paid in
12 connection with operations within the district, the number
14 of employees, the state income taxes withheld for the
16 immediately preceding calendar year and any further
18 information the State Tax Assessor may reasonably require.

20 On or before June 30th of each year, the State Tax Assessor
22 shall determine, based on ~~a comparison of the current reports and the base period reports contained in the application to the Commissioner of Economic and Community Development for approval of a state tax increment financing district~~ the formula set forth in subsection 2-B, the net
24 annual gain in sales tax paid in connection with operations
26 within the district and the state income taxes withheld.
28 The net annual gain is referred to as the state tax
30 increment.

32 **Sec. 2. 30-A MRSA §5254-A, sub-§2-A**, as enacted by PL 1991, c. 856, §5, is repealed.

34 **Sec. 3. 30-A MRSA §5254-A, sub-§2-B** is enacted to read:

36 2-B. Formula for calculation of state tax increment. In calculating the state tax increment pursuant to subsection 2, the State Tax Assessor shall utilize the following formula, in the order of priority indicated.

38 A. First, the State Tax Assessor shall determine the amount of sales tax paid in connection with operations within a state tax increment financing district and the amount of income taxes withheld with respect to employment within the district based on the reports of designated businesses provided pursuant to subsection 2, paragraph A.

40 B. Second, a subtotal of the state tax increment is calculated by subtracting the average annual amount of the sales tax paid and income tax withholding during the base period, as reported in the base-period reports contained in the municipality's application to the Commissioner of Economic and Community Development, pursuant to subsection 1-A, from the annual amount of sales tax paid and income tax withheld.

2 C. Third, the subtotal of the state tax increment is
4 adjusted by deducting from that subtotal any increase
6 resulting from inflation through the following procedure.
8 The State Tax Assessor shall determine the rate of growth in
10 sales tax revenues and individual income tax withholding
12 attributable to all designated businesses within the state
14 tax increment financing district for each calendar year,
16 expressed as a percentage of the previous year's revenue
18 totals. The State Tax Assessor shall also determine the
20 rate of growth in sales tax revenues and individual income
22 tax withholding within the State for each calendar year,
24 expressed as a percentage of the previous year's revenue.
26 Only those revenues resulting from growth within the
28 district that exceed the rate of growth in the State as a
30 whole may be included in the final state tax increment. The
32 amount of sales tax revenues and income tax withholding
34 resulting from growth within the district at a rate up to
36 but not exceeding the rate of growth in the State as a whole
38 is deducted from the subtotal determined under paragraph B.

40 D. Fourth, the State Tax Assessor shall take into
42 consideration tax revenues attributable to businesses
44 affiliated with each designated business on the following
46 basis. If a designated business or any affiliate of a
48 designated business owns or operates one or more other
50 business locations within the State and the business
conducted at the other location or locations is
substantially the same as the business conducted at the
designated business, then the subtotal of the state tax
increment is adjusted downward by deducting from the
subtotal resulting from the adjustment made pursuant to
paragraph C the amount of all sales tax revenues and income
tax withholding actually resulting from a transfer or
relocation of operations from those existing locations to
the designated business. For purposes of this subsection, 2
businesses are affiliated if one owns 50% or more of the
stock or controlling interest in the other or if 50% or more
of the stock or controlling interest in each business is
directly or indirectly owned by a common owner or owners.

42 The state tax increment is an amount derived through application
44 of the 4-step formula set out in paragraphs A to D. A
46 municipality may receive up to 25% of the state tax increment on
48 an annual basis based upon the capture percentage approved by the
50 Commissioner of Economic and Community Development in connection
with approval of the application for the state tax increment
financing district.

50 Sec. 4. 30-A MRS §5254-A, sub-§4, ¶G, as enacted by PL 1991,
c. 856, §5, is amended to read:

2 G. State tax increment revenues received by a municipality
pursuant to subsection 2 may not be used by the municipality
4 to ever offset up to 1/2 of existing tax increment
financing obligations arising under section 5254.

6
8 **Sec. 5. 30-A MRSA §5254-A, sub-§4-A, ¶B,** as enacted by PL
1991, c. 856, §5, is repealed and the following enacted in its
place:

10 B. The Commissioner of Economic and Community Development
12 shall, at the time of approval of an application for a state
14 tax increment financing district, make a determination of
16 the percentage of retail sales at retail business operations
18 within the district that represents a shift of sales that
20 will likely occur from other locations within the State.
22 That determination must be made based on evidence provided
24 by the municipality in connection with its application for
26 approval of the district. In making the annual calculation
28 of the state tax increment attributable to retail business
30 operations within the district pursuant to the provisions of
32 subsection 2-B, the State Tax Assessor shall utilize the
34 4-step procedure set forth in subsection 2-B, except that
36 the income tax withholding is excluded from the state tax
38 increment and the annual amount of sales tax revenue,
determined under the first step of the procedure, is reduced
by the percentage of retail sales determined by the
commissioner, in connection with the application for
approval of the district, to result from a shifting of sales
from other locations within the State to retail business
operations within the district.

STATEMENT OF FACT

36 This bill establishes a 4-step formula to calculate the
38 state tax increment.