

6337

2009-2010 Regular Sessions

I N S E N A T E

December 11, 2009

Introduced by Sen. VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the general municipal law, in relation to the municipal redevelopment law authorizing tax increment bonds payable from and secured by real property taxes levied by a school district within a project area

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The first undesignated paragraph of section 970-b of the
2 general municipal law, as added by chapter 916 of the laws of 1984 and
3 such section as renumbered by chapter 686 of the laws of 1986, is
4 amended and a new fourth undesignated paragraph is added to read as
5 follows:
6 It is hereby found and declared that there exists in many communities
7 blighted areas which threaten the economic and social well-being of the
8 people of the state. Blighted areas are characterized by one or more of
9 the conditions set forth in subdivision (a) of section nine hundred
10 [sixty-c] SEVENTY-C of this article.
11 IT IS FURTHER FOUND AND DECLARED THAT SOUND DEVELOPMENT AND REDEVELOP-
12 MENT OF BLIGHTED AREAS INCREASES PUBLIC SCHOOL ENROLLMENT BY PROVIDING
13 AFFORDABLE HOUSING AND EMPLOYMENT OPPORTUNITIES AND THE NEED FOR
14 EXPANDED PUBLIC EDUCATION FACILITIES AND SERVICES.
15 S 2. Subdivisions (b) and (f) of section 970-c of the general municipi-
16 pal law, as added by chapter 916 of the laws of 1984 and such section as
17 renumbered by chapter 686 of the laws of 1986, are amended and a new
18 subdivision (i) is added to read as follows:
19 (b) "Legislative body" means (I) the governing body of a municipality
20 empowered to adopt and amend local laws and ordinances[; provided,
21 however, that in the case of the city of New York, the legislative body
22 shall, for the purposes of this article be the board of estimate], AND
23 (II) THE BOARD OF EDUCATION OF A SCHOOL DISTRICT WHICH CONSENTS TO AN

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 ALLOCATION OF TAXES PRESCRIBED IN SECTION NINE HUNDRED SEVENTY-P OF THIS
2 ARTICLE.

3 (f) "Planning agency" means the planning board or commission of [the]
4 A municipality OR THE PLANNING BOARD OR COMMITTEE OF A SCHOOL DISTRICT.

5 (I) "SCHOOL DISTRICT" MEANS ANY SCHOOL DISTRICT, A CITY SCHOOL
6 DISTRICT OR A SCHOOL DISTRICT IN A CITY, AS THOSE TERMS ARE DEFINED IN
7 SECTION 2.00 OF THE LOCAL FINANCE LAW, WHICH APPROVES THE REDEVELOPMENT
8 PLAN AND CONSENTS TO AN ALLOCATION OF TAXES PRESCRIBED IN SECTION NINE
9 HUNDRED SEVENTY-P OF THIS ARTICLE.

10 S 3. Subdivisions (l) and (n) of section 970-f of the general munici-
11 pal law, as added by chapter 916 of the laws of 1984 and such section as
12 renumbered by chapter 686 of the laws of 1986, are amended and a new
13 subdivision (o) is added to read as follows:

14 (l) shall provide a limitation on the amount of bonds which may be
15 issued pursuant to section nine hundred [sixty-o] SEVENTY-O of this
16 article for the purpose of carrying out or administering the redevelop-
17 ment plan;

18 (n) shall provide a plan for the relocation of families and persons to
19 be temporarily or permanently displaced from housing facilities in the
20 project area, which plan shall include the provision required by section
21 nine hundred [sixty-j] SEVENTY-J that no person or family of low and
22 moderate income shall be displaced unless and until there is suitable
23 housing available and ready for occupancy by such displaced person or
24 family at rents comparable to those paid at the time of their displace-
25 ment[.];

26 (O) MAY PROVIDE FOR THE CONSENT TO AND APPROVAL OF THE PROJECT AREA
27 AND THE REDEVELOPMENT PLAN BY THE BOARD OF EDUCATION OF THE SCHOOL
28 DISTRICT.

29 S 4. Subdivisions (b) and (c) of section 970-h of the general munici-
30 pal law, as added by chapter 916 of the laws of 1984 and such section as
31 renumbered by chapter 686 of the laws of 1986, are amended to read as
32 follows:

33 (b) Notice of the hearing shall be posted in at least four prominent
34 places within the project area for a period of three weeks prior to such
35 hearing and shall be published not less than once a week for three
36 successive weeks prior to the hearing in a newspaper of general circu-
37 lation in the municipality involved. The notice of hearing shall include
38 a legal description of the boundaries of the PROJECT area [or areas]
39 designated in the proposed redevelopment plan [and], a general statement
40 of the scope and objectives of the plan, AND A STATEMENT WHETHER ONE OR
41 MORE SCHOOL DISTRICTS HAVE CONSENTED TO AN ALLOCATION OF TAXES
42 PRESCRIBED IN SECTION NINE HUNDRED SEVENTY-P OF THIS ARTICLE. A copy of
43 the notices shall be mailed to the last known owner of each parcel of
44 land in the area designated in the redevelopment plan. A copy of the
45 notice shall also be mailed to the legislative body of each of the
46 taxing jurisdictions which levies taxes upon any real property in the
47 project area designated in the proposed redevelopment plan.

48 (c) Any and all persons who have any objections to the proposed rede-
49 velopment plan or who deny the existence of blight as defined by subdivi-
50 sion (a) of section nine hundred [sixty-c] SEVENTY-C of this article,
51 in the proposed project area, or the legality or appropriateness of any
52 of the prior proceedings, may appear before the legislative body at such
53 public hearing and show cause why the proposed plan should not be
54 adopted. At any time not later than the hour set for hearing objections
55 to the proposed redevelopment plan, any person may file in writing with

1 the clerk of the legislative body a statement of such person's
2 objections to the proposed plan.

3 S 5. Section 970-m of the general municipal law, as added by chapter
4 916 of the laws of 1984 and as renumbered by chapter 686 of the laws of
5 1986, is amended to read as follows:

6 S 970-m. Amendment of redevelopment plan. If at any time after the
7 adoption of a redevelopment plan for a project area by the legislative
8 body, it becomes necessary or desirable to amend or modify such plan,
9 the legislative body may by resolution amend such plan. Such amendments
10 may include a change in the boundaries of the project area to add land
11 to or, prior to the issuance of indebtedness pursuant to section nine
12 hundred [sixty-o] SEVENTY-O as provided by such redevelopment plan,
13 exclude land from the project area. An amendment or modification of the
14 plan shall be approved pursuant to subdivisions (a) through (g) of
15 section nine hundred [sixty-h] SEVENTY-H of this article. Upon adoption
16 of the amended plan by the legislative body the legislative body shall
17 transmit the amended plan as provided by subdivision (h) of such
18 section.

19 S 6. Paragraphs (iii), (iv) and (v) of subdivision (a) of section
20 970-n of the general municipal law, as added by chapter 916 of the laws
21 of 1984 and such section as renumbered by chapter 686 of the laws of
22 1986, are amended to read as follows:

23 (iii) If two or more municipalities jointly exercise the powers grant-
24 ed under this subdivision and a redevelopment plan as adopted provides
25 for the allocation of real property tax revenues pursuant to section
26 nine hundred [sixty-o] SEVENTY-O of this article the real property taxes
27 of each municipality shall be allocated pursuant to such section.

28 (iv) If two or more municipalities jointly exercise the powers granted
29 under this subdivision and the redevelopment plan as adopted provides
30 for the issuance of indebtedness pursuant to section nine hundred
31 [sixty-o] SEVENTY-O of this article, such indebtedness shall either be
32 issued jointly by the municipalities and the resolution authorizing the
33 issuance of such indebtedness must be approved by the legislative body
34 of each municipality acting separately or shall be issued by resolution
35 of the [the] designated agent on behalf of the municipality it repres-
36 ents and, by resolution of its legislative body, each municipality shall
37 irrevocably pledge the revenues allocated pursuant to section nine
38 hundred [sixty-p] SEVENTY-P of this article to the repayment of such
39 indebtedness and any interest thereon.

40 (v) The joint exercise of powers authorized by this subdivision shall
41 be permitted only for the purpose of redevelopment of an area located
42 wholly within each municipality AND WITHIN ONE OR MORE SCHOOL DISTRICTS.

43 S 7. Paragraphs (ii) and (iii) and subparagraph 1 of paragraph (v) of
44 subdivision (b) of section 970-n of the general municipal law, as added
45 by chapter 916 of the laws of 1984 and such section as renumbered by
46 chapter 686 of the laws of 1986, are amended to read as follows:

47 (ii) A municipal redevelopment authority shall be a corporate govern-
48 mental agency constituting a public benefit corporation. Except as
49 otherwise provided by special act of the legislature, an authority shall
50 consist of not less than five nor more than nine members. Membership
51 shall be apportioned among the municipalities AND SCHOOL DISTRICTS, and
52 the manner of selection of a chairman determined by an [intermunicipal]
53 agreement approved by local law by each such municipality, AND BY RESOL-
54 UTION OF THE BOARD OF EDUCATION OF EACH SCHOOL DISTRICT. Members shall
55 serve at the pleasure of the appointing authority, and each member shall
56 continue to hold office until his successor is appointed and has quali-

1 fied. The [governing] LEGISLATIVE body shall file with the secretary of
2 state a certificate of appointment or reappointment of any member
3 appointed or reappointed by it. Members shall receive no compensation
4 for their services but shall be entitled to reimbursement of the neces-
5 sary expenses, including traveling expenses, incurred in the discharge
6 of their duties. No action shall be taken by an authority except pursu-
7 ant to the favorable vote of a majority of the members then in office.
8 Any one or more of the members of an authority may be an official or an
9 employee of such municipality. In the event that an official or an
10 employee of such municipality shall be appointed as a member of the
11 agency, acceptance or retention of such appointment shall not be deemed
12 a forfeiture of his municipal office or employment, or incompatible
13 therewith or affect his tenure or compensation in any way. The term of
14 office of a member of an authority who is an official or an employee of
15 such municipality when appointed as a member thereof by special act of
16 the legislature creating the authority shall terminate at the expiration
17 of the term of his municipal office. Upon THE creation of an authority,
18 from time to time the [governing] LEGISLATIVE body of a municipality OR
19 A SCHOOL DISTRICT, may, by resolution, appropriate sums of money to
20 defray the expenses of the authority.

21 (iii) Unless otherwise provided by this subdivision or by the special
22 act of the legislature establishing a municipal redevelopment authority
23 or empowering an existing public corporation to carry out the purposes
24 and provisions of this article, such authority or public corporation
25 shall have the powers, duties and responsibilities granted a municipi-
26 pality AND SCHOOL DISTRICT and its legislative body pursuant to sections
27 nine hundred [sixty-d] SEVENTY-D through nine hundred [sixty-m] SEVEN-
28 TY-M of this article, as well as the authority to receive the taxes of
29 each municipality AND SCHOOL DISTRICT allocated and paid pursuant to
30 section nine hundred [sixty-p] SEVENTY-P of this article. Such authority
31 or public corporation shall have the power to designate survey areas and
32 select project areas as provided by sections nine hundred [sixty-d]
33 SEVENTY-D and nine hundred [sixty-e] SEVENTY-E of this article. Such
34 authority or public corporation shall obtain the report and recommenda-
35 tion of the planning agency of each municipality OR SCHOOL DISTRICT on
36 the redevelopment plan and its conformity to the master plan of each
37 municipality AND SCHOOL DISTRICT before presenting the redevelopment
38 plan to the legislative body of each municipality OR SCHOOL DISTRICT.
39 In order for a preliminary plan to be adopted or for a redevelopment
40 plan to be adopted or amended approval must be obtained by resolution of
41 the legislative body of each municipality AND SCHOOL DISTRICT acting
42 separately.

43 (1) An authority or public corporation shall have the powers and
44 duties granted municipalities pursuant to section nine hundred [sixty-o]
45 SEVENTY-O of this article to issue tax increment bonds and tax increment
46 bond anticipation notes. Such bonds and notes shall be bonds and notes
47 of the authority or public corporation and neither the state nor any
48 municipality shall be liable on such bonds and notes and such bonds and
49 notes shall not be a debt of the state or of any municipality.

50 S 8. Subdivisions (a), (b), (g) and (i) of section 970-o of the gener-
51 al municipal law, as added by chapter 916 of the laws of 1984 and such
52 section as renumbered by chapter 686 of the laws of 1986, are amended to
53 read as follows:

54 (a) For the purpose of carrying out or administering a redevelopment
55 plan adopted by the legislative body, a municipality is hereby author-
56 ized, without limiting its authority under other provisions of law, to

1 issue by resolution of its legislative body tax increment bonds or tax
2 increment bond anticipation notes of the municipality which are payable
3 from and secured by real property taxes, in whole or in part, allocated
4 to and paid pursuant to the provisions of section nine hundred [sixty-p]
5 SEVENTY-P of this article. The pledge of such real property taxes allo-
6 cated and paid shall constitute a first lien on the revenues derived
7 therefrom and tax increment bonds or tax increment bond anticipation
8 notes, the repayment of which is secured by such revenues shall not be
9 subordinate to any other indebtedness of the municipality with respect
10 to the pledge of such revenues. The municipality shall have the power to
11 issue renewal notes, to issue bonds to pay notes and whenever it deems
12 refunding expedient, to refund any bonds by the issuance of new bonds,
13 whether the bonds to be refunded have or have not matured, and to issue
14 bonds partly to refund bonds then outstanding and partly for any other
15 purposes.

16 (b) In contracting indebtedness pursuant to subdivision (a) of this
17 section NEITHER a municipality NOR A SCHOOL DISTRICT shall [not] pledge
18 its faith and credit or the faith and credit of the state to the payment
19 of THE principal thereof and the interest thereon. INDEBTEDNESS
20 REFERRED TO IN SECTION SIX OF ARTICLE XVI OF THE STATE CONSTITUTION
21 SHALL NOT APPLY TO A SCHOOL DISTRICT.

22 (g) The amount of any indebtedness contracted under this section shall
23 be excluded in ascertaining the power of the municipality OR A SCHOOL
24 DISTRICT to contract indebtedness within the provisions of the state
25 constitution or the local finance law relating thereto.

26 (i) The municipality may [only] contract indebtedness pursuant to this
27 section for the following objects [and] OR purposes:

28 (i) acquisition of land;

29 (ii) demolition and removal of buildings, structures and improvements
30 and site preparation;

31 (iii) installation, construction or reconstruction of streets, walk-
32 ways, docks, drainage, parking facilities, flood control facilities,
33 water and sewer systems and other public utilities, parks and play-
34 grounds;

35 (iv) other public improvements or services integral to the redevelop-
36 ment plan authorized by or for which a period of probable usefulness has
37 been established by section 11.00 of the local finance law. [Such
38 objects] OBJECTS and purposes REFERRED TO IN THIS SUBDIVISION shall be
39 deemed to have the period of probable usefulness as provided for such
40 objects and purposes by such section.

41 S 9. Paragraph (i) of subdivision (d) of section 970-o of the general
42 municipal law, as added by chapter 916 of the laws of 1984 and such
43 section as renumbered by chapter 686 of the laws of 1986, is amended to
44 read as follows:

45 (i) pledging all or a part of the taxes allocated pursuant to section
46 nine hundred [sixty-p] SEVENTY-P of this article or the proceeds from
47 the sale of property acquired with the proceeds of such notes or bonds
48 to secure the payment of such notes or bonds or of any issue thereof,
49 subject to such agreements with bondholders or noteholders as may exist;

50 S 10. Section 970-p of the general municipal law, as added by chapter
51 916 of the laws of 1984 and as renumbered by chapter 686 of the laws of
52 1986, is amended to read as follows:

53 S 970-p. Allocation of taxes. (a) Any redevelopment plan may contain a
54 provision that real property taxes levied upon taxable real property in
55 the project area each year by or for the benefit of the municipality or
56 municipalities AND SCHOOL DISTRICTS after the effective date of the

1 resolution approving the redevelopment plan, shall be divided as
2 follows:

3 (i) that portion of the real property taxes not in excess of the
4 amount which would be produced by applying the rate upon which the tax
5 is levied each year by or for each municipality AND SCHOOL DISTRICT to
6 the total sum of the assessed value of the taxable real property in the
7 project area as shown upon the assessment roll used in connection with
8 the taxation of such property by such municipality AND SCHOOL DISTRICT,
9 last adopted prior to the effective date of the resolution approving
10 such plan, shall be allocated to and when collected shall be paid into
11 the funds of the respective municipalities AND SCHOOL DISTRICTS as real
12 property taxes collected by or for said municipalities AND SCHOOL
13 DISTRICTS adopting the redevelopment plan;

14 (ii) that portion of the real property taxes levied each year in
15 excess of the portion allocated and paid pursuant to paragraph (i) of
16 this subdivision shall be allocated to and when collected shall be paid
17 into the fund or funds established for such purposes to pay the princi-
18 pal and interest on indebtedness incurred by such municipality OR SCHOOL
19 DISTRICT pursuant to section nine hundred [sixty-o] SEVENTY-0 of this
20 article or, if the redevelopment plan so provides, the amount allocated
21 and paid in excess of interest and principal and necessary reserves may
22 be expended for amounts of money to be paid in lieu of taxes. Unless and
23 until the total assessed valuation of the taxable property in a project
24 area exceeds the total assessed value of the taxable real property in
25 such project area as shown by the last assessment roll referred to in
26 paragraph (i) of this subdivision, all of the real property taxes levied
27 and collected upon the taxable real property in such project area shall
28 be paid into the funds of the respective municipalities AND SCHOOL
29 DISTRICTS. When such indebtedness, if any and interest thereon, have
30 been paid, all moneys thereafter received from real property taxes upon
31 the taxable real property in such project area shall be paid into the
32 funds of the respective municipalities AND SCHOOL DISTRICTS as real
33 property taxes on all other real property are paid;

34 (iii) whenever the total amount of real property taxes allocated
35 pursuant to paragraph (ii) of this subdivision exceeds the amounts allo-
36 cated and paid for interest and principal and necessary reserves, and
37 for amounts to be paid in lieu of taxes, the amount of taxes in excess
38 of such amounts shall be paid into the funds of the respective munici-
39 palities as taxes on all other real property are paid;

40 (iv) the allocation of taxes authorized by this section shall apply to
41 taxable years beginning after the effective date of the resolution
42 approving the redevelopment plan.

43 (b) Whenever real property in any redevelopment project has been rede-
44 veloped and thereafter is leased by the municipality to any person or
45 persons or whenever the agency leases real property in any redevelopment
46 project to any person or persons for redevelopment, the property shall
47 be assessed and taxed in the same manner as privately owned real proper-
48 ty and the lease or contract shall provide that the lessee shall pay
49 real property taxes upon the assessed value of the entire real property
50 and not merely the assessed value of his or her leasehold interest.

51 (c) In any municipality OR SCHOOL DISTRICT subject to the allocation
52 of revenues pursuant to this section the assessed value of taxable real
53 property located in a project area shall be included on the taxable
54 portion of the assessment roll, provided, however, that notwithstanding
55 any provision of law to the contrary, the assessed value determined in
56 accordance with paragraph (ii) of subdivision (a) of this section shall

1 not be included in the taxable value of real property when determining
2 the tax rate for such municipality OR SCHOOL DISTRICT.

3 (d) The rate of tax resulting from the levy of real property taxes
4 shall be applied to the assessed value of any real property subject to
5 the allocation provisions of this section as determined pursuant to
6 subdivision (a) of this section, however, the amount of tax levied as a
7 result of the application of the tax rate to the increase in assessed
8 value determined in accordance with paragraph (ii) of subdivision (a) of
9 this section shall not be paid into the fund of the municipality OR THE
10 SCHOOL DISTRICT as real property taxes but shall be allocated pursuant
11 to that paragraph.

12 (e) The official or officials responsible for the preparation of the
13 assessment roll or rolls specified in subdivision (a) of this section
14 shall provide to the municipality or municipalities AND SCHOOL
15 DISTRICTS, in addition to the assessment roll or rolls, such information
16 as is deemed necessary by the legislative bodies of the municipality or
17 municipalities AND SCHOOL DISTRICTS to effectuate the purpose of this
18 section.

19 (f) The allocation of real property taxes authorized by this section
20 shall be permitted only with respect to municipalities AND SCHOOL
21 DISTRICTS which have adopted a redevelopment plan providing for such
22 allocation pursuant to section nine hundred [sixty-h] SEVENTY-H or
23 section nine hundred [sixty-n] SEVENTY-N of this article and such allo-
24 cation shall not apply to special ad valorem levies and special assess-
25 ments as defined by subdivisions fourteen and fifteen of section one
26 hundred two of the real property tax law.

27 (g) If, after adoption of a redevelopment plan, the official or offi-
28 cials responsible for the preparation of the assessment roll or rolls
29 specified in subdivision (a) of this section undertake to revalue real
30 property for real property tax purposes by altering the standard of
31 assessment utilized to establish the value of real property for assess-
32 ment purposes, the assessment of real property within a project area as
33 provided by paragraph (i) of subdivision (a) of this section shall be
34 adjusted in such manner as if such new standard of assessment had been
35 utilized in the preparation of the assessment roll last adopted prior to
36 adoption of the redevelopment plan.

37 S 11. This act shall take effect immediately.