S T A T E O F N E W Y O R K

2446

2011-2012 Regular Sessions

I N S E N A T E

January 21, 2011

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

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:

Section 1. The first undesignated paragraph of section 970-b of the general municipal law, as added by chapter 916 of the laws of 1984 and such section as renumbered by chapter 686 of the laws of 1986, is amended and a new fourth undesignated paragraph is added to read as follows:

It is hereby found and declared that there exists in many communities blighted areas which threaten the economic and social well-being of the people of the state. Blighted areas are characterized by one or more of the conditions set forth in subdivision (a) of section nine hundred [sixty-c] SEVENTY-C of this article.

IT IS FURTHER FOUND AND DECLARED THAT SOUND DEVELOPMENT AND REDEVELOPMENT OF BLIGHTED AREAS INCREASES PUBLIC SCHOOL ENROLLMENT BY PROVIDING AFFORDABLE HOUSING AND EMPLOYMENT OPPORTUNITIES AND THE NEED FOR EXPANDED PUBLIC EDUCATION FACILITIES AND SERVICES.

S 2. Subdivisions (b) and (f) of section 970-c of the general municipal law, as added by chapter 916 of the laws of 1984 and such section as renumbered by chapter 686 of the laws of 1986, are amended and a new subdivision (i) is added to read as follows:

(b) "Legislative body" means (I) the governing body of a municipality empowered to adopt and amend local laws and ordinances[; provided, however, that in the case of the city of New York, the legislative body shall, for the purposes of this article be the board of estimate], AND (II) THE BOARD OF EDUCATION OF A SCHOOL DISTRICT OF WHICH CONSENTS TO AN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

fied. The [governing] LEGISLATIVE body shall file with the secretary of state a certificate of appointment or reappointment of any member appointed or reappointed by it. Members shall receive no compensation for their services but shall be entitled to reimbursement of the necessary expenses, including traveling expenses, incurred in the discharge of their duties. No action shall be taken by an authority except pursuant to the favorable vote of a majority of the members then in office. Any one or more of the members of an authority may be an official or an employee of such municipality. In the event that an official or an employee of such municipality shall be appointed as a member of the agency, acceptance or retention of such appointment shall not be deemed a forfeiture of his OR HER municipal office or employment, or incompatible therewith or affect his OR HER tenure or compensation in any way. The term of office of a member of an authority who is an official or an employee of such municipality when appointed as a member thereof by special act of the legislature creating the authority shall terminate at the expiration of the term of his OR HER municipal office. Upon THE creation of an authority, from time to time the [governing] LEGISLATIVE body of a municipality OR A SCHOOL DISTRICT, may, by resolution, appropriate sums of money to defray the expenses of the authority.

(iii) Unless otherwise provided by this subdivision or by the special act of the legislature establishing a municipal redevelopment authority or empowering an existing public corporation to carry out the purposes and provisions of this article, such authority or public corporation shall have the powers, duties and responsibilities granted a municipality AND SCHOOL DISTRICT and its legislative body pursuant to sections nine hundred [sixty-d] SEVENTY-D through nine hundred [sixty-m] SEVENTY-M of this article, as well as the authority to receive the taxes of each municipality AND SCHOOL DISTRICT allocated and paid pursuant to section nine hundred [sixty-p] SEVENTY-P of this article. Such authority or public corporation shall have the power to designate survey areas and select project areas as provided by sections nine hundred [sixty-d] SEVENTY-D and nine hundred [sixty-e] SEVENTY-E of this article. Such authority or public corporation shall obtain the report and recommendation of the planning agency of each municipality OR SCHOOL DISTRICT on the redevelopment plan and its conformity to the master plan of each municipality AND SCHOOL DISTRICT before presenting the redevelopment plan to the legislative body of each municipality OR SCHOOL DISTRICT. In order for a preliminary plan to be adopted or for a redevelopment plan to be adopted or amended approval must be obtained by resolution of the legislative body of each municipality AND SCHOOL DISTRICT acting separately.

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

S 8. Subdivisions (a), (b), (g) and (i) of section 970-o of the general municipal law, as added by chapter 916 of the laws of 1984 and such section as renumbered by chapter 686 of the laws of 1986, are amended and a new subdivision (j) is added to read as follows:

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

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

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

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

(i) The municipality may [only] contract indebtedness pursuant to this section for the following objects [and] OR purposes, EACH OF WHICH SHALL BE A PUBLIC USE AND A PUBLIC PURPOSE:

(i) acquisition AND ASSEMBLAGE of land INCLUDING ENVIRONMENTAL REMEDIATION AND BROWNFIELD REDEVELOPMENT AUTHORIZED IN THE ENVIRONMENTAL CONSERVATION LAW;

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

(iii) installation, construction or reconstruction of streets, walkways, docks, drainage, parking facilities, flood control facilities, water and sewer systems and other [public] utilities, parks and playgrounds;

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

(J) IN ADDITION TO THE ALLOCATION OF TAXES AUTHORIZED IN SECTION NINE HUNDRED SEVENTY-P OF THIS ARTICLE, INDEBTEDNESS AUTHORIZED PURSUANT TO THIS SECTION MAY BE SECURED BY A MUNICIPALITY AS FOLLOWS:

(I) PURSUANT TO SECTION ONE HUNDRED NINETEEN-O OF THIS CHAPTER, A MUNICIPALITY MAY BY RESOLUTION OF ITS GOVERNING BOARD, PLEDGE A PORTION OF THE SALES TAX RECEIVED IN ANY FISCAL YEAR PURSUANT TO SECTION TWELVE HUNDRED SIXTY-ONE OF THE TAX LAW FROM BUSINESSES OPERATING IN THE PROJECT AREA AND BENEFITTING FROM THE REDEVELOPMENT PLAN TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SUCH INDEBTEDNESS;

(II) A MUNICIPALITY MAY ESTABLISH AN ASSESSMENT AREA, PURSUANT TO THE PROCEDURES IN SECTION 22-2200 OF THE VILLAGE LAW TO ACCESS PARCELS IN THE PROJECT AREA AS BENEFITED PROPERTIES IN THE AMOUNTS AND IN THE YEARS

EQUAL TO THE ALLOCATION OF TAXES PROJECTED TO BE COLLECTED AS DETERMINED UNDER SECTION NINE HUNDRED SEVENTY-P OF THIS ARTICLE.

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

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

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

S 970-p. Allocation of taxes. (a) Any redevelopment plan may contain a provision that real property taxes levied upon taxable real property in the project area each year by or for the benefit of the municipality or municipalities AND SCHOOL DISTRICTS after the effective date of the resolution approving the redevelopment plan, shall be divided as follows:

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

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

(iii) whenever the total amount of real property taxes allocated pursuant to paragraph (ii) of this subdivision exceeds the amounts allocated and paid for interest and principal and necessary reserves, and for amounts to be paid in lieu of taxes, the amount of taxes in excess

of such amounts shall be paid into the funds of the respective municipalities as taxes on all other real property are paid;

(iv) the allocation of taxes authorized by this section (1) shall apply to taxable years beginning after the effective date of the resolution approving the redevelopment plan, AND

(2) SHALL BE ESTIMATED BY THE APPROPRIATE REAL PROPERTY ASSESSMENT OFFICER PRIOR TO THE ISSUANCE OF SUCH INDEBTEDNESS FOR EACH YEAR THE INDEBTEDNESS TO BE INCURRED BY SUCH MUNICIPALITY PURSUANT TO SECTION NINE HUNDRED SEVENTY-O OF THIS ARTICLE IS SCHEDULED TO BE OUTSTANDING IN AN AMOUNT SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON SUCH INDEBTEDNESS IN EACH YEAR REAL PROPERTY TAXES OF THE MUNICIPALITY OR THE SCHOOL DISTRICT LEVIED UPON TAXABLE PROPERTY IN THE PROJECT AREA IS DIVIDED PURSUANT TO THIS SECTION. DURING THE PERIOD SUCH INDEBTEDNESS IS OUTSTANDING, THE APPROPRIATE REAL PROPERTY ASSESSMENT OFFICER SHALL ENDEAVOR IN GOOD FAITH TO DETERMINE ASSESSED VALUES ON PARCELS IN THE PROJECT AREA TO ACHIEVE SUCH ESTIMATE IN EACH SUCH YEAR. UPON REQUEST BY A MUNICIPALITY OR SCHOOL DISTRICT, THE OFFICE OF REAL PROPERTY SERVICES SHALL PROVIDE GUIDANCE ON METHODOLOGIES FOR ASSESSMENTS AND/OR REVIEW SUCH ESTIMATES.

(b) [Whenever real property in any redevelopment project has been redeveloped and thereafter is leased by the municipality to any person or persons or whenever the agency leases real property in any redevelopment project to any person or persons for redevelopment, the property shall be assessed and taxed in the same manner as privately owned real property and the lease or contract shall provide that the lessee shall pay real property taxes upon the assessed value of the entire real property and not merely the assessed value of his or her leasehold interest.

(c)] In any municipality OR SCHOOL DISTRICT subject to the allocation of revenues pursuant to this section the assessed value of taxable real property located in a project area shall be included on the taxable portion of the assessment roll, provided, however, that notwithstanding any provision of law to the contrary, the assessed value determined in accordance with paragraph (ii) of subdivision (a) of this section shall not be included in the taxable value of real property when determining the tax rate for such municipality OR SCHOOL DISTRICT.

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

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

[(f)] (E) The allocation of real property taxes authorized by this section shall be permitted only with respect to municipalities AND SCHOOL DISTRICTS which have adopted a redevelopment plan providing for such allocation pursuant to section nine hundred [sixty-h] SEVENTY-H or section nine hundred [sixty-n] SEVENTY-N of this article and such allo-

cation shall not apply to special ad valorem levies and special assessments as defined by subdivisions fourteen and fifteen of section one hundred two of the real property tax law, EXCEPT AS PROVIDED IN PARAGRAPH (III) OF SUBDIVISION (J) OF SECTION NINE HUNDRED SEVENTY-O OF THIS ARTICLE.

[(g)] (F) If, after adoption of a redevelopment plan, the official or officials responsible for the preparation of the assessment roll or rolls specified in subdivision (a) of this section undertake to revalue real property for real property tax purposes by altering the standard of assessment utilized to establish the value of real property for assessment purposes, the assessment of real property within a project area as provided by paragraph (i) of subdivision (a) of this section shall be adjusted in such manner as if such new standard of assessment had been utilized in the preparation of the assessment roll last adopted prior to adoption of the redevelopment plan.

(G) WITH RESPECT TO A SCHOOL DISTRICT WHICH CONSENTS TO AN ALLOCATION OF TAXES PRESCRIBED IN THIS SECTION, THE OBJECT OR PURPOSE OF WHICH SUCH INDEBTEDNESS MAY BE INCURRED BY A MUNICIPALITY SHALL BE A SCHOOL BUILDING. HOWEVER, THERE SHALL BE NO APPORTIONMENT OF PUBLIC MONEYS UNDER SECTION THREE THOUSAND SIX HUNDRED ONE OF THE EDUCATION LAW WITH RESPECT TO SUCH ALLOCATION OF TAXES LEVIED BY A SCHOOL DISTRICT.

(H) IN ESTABLISHING A UNIFORM TAX EXEMPTION POLICY PURSUANT TO SECTION EIGHT HUNDRED SEVENTY-FOUR OF THIS CHAPTER, AN AGENCY SHALL NOT TAKE INTO ACCOUNT THE PORTION OF REAL PROPERTY TAXES MEASURED UNDER PARAGRAPH (II) OF SUBDIVISION (A) OF THIS SECTION IN COMPUTING A PAYMENT IN LIEU OF TAXES AGREEMENT.

S 11. This act shall take effect immediately and shall apply to any indebtedness incurred by a municipality pursuant to section 970-o of the general municipal law on or after July 30, 1986.