

1 SB260
2 217601-4
3 By Senator Smitherman
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 23-FEB-22

1 SB260

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4 ENROLLED, An Act,

5 To amend Sections 11-99-2, 11-99-4, 11-99-5,
6 11-99-6, 11-99-8, 11-99-10, and 11-99-11 Code of Alabama 1975;
7 relating to tax increment districts; to provide further for
8 the projects in a tax increment district and the project costs
9 therefor; to provide further for the determination of the tax
10 increment base for a tax increment district; to provide
11 further for the collection, payment, and use of tax
12 increments; and to make nonsubstantive, technical revisions to
13 update the existing code language to current style.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 11-99-2, 11-99-4, 11-99-5,
16 11-99-6, 11-99-8, 11-99-10, and 11-99-11 Code of Alabama 1975,
17 are amended to read as follows:

18 "§11-99-2.

19 "As used in this chapter, the following terms shall
20 have the following meanings:

21 "(1) BLIGHTED OR ECONOMICALLY DISTRESSED AREA. Any
22 of the following:

23 "a. ~~An~~ Any area in which the structures, buildings,
24 or improvements, by reason of dilapidation, deterioration,
25 age, or obsolescence~~7;~~ inadequate provision for ventilation,

1 light, air, sanitation, or open spaces;; high density of
2 population and overcrowding;; or the existence of conditions
3 ~~which~~ that endanger life or property by fire and other
4 causes;; or any combination of such factors, are conducive to
5 ill health, transmission of disease, infant mortality,
6 juvenile delinquency, or crime~~;~~ and are detrimental to the
7 public health, safety, morals, or welfare~~;~~or.

8 "b. Any area ~~which~~ that by reason of the presence of
9 a substantial number of substandard, slum, deteriorated, or
10 deteriorating structures;; predominance of defective or
11 inadequate street layout;; faulty lot layout in relation to
12 size, adequacy, accessibility, or usefulness;; unsanitary or
13 unsafe conditions;; deterioration of site or other
14 improvements;; diversity of ownership;; tax or special
15 assessment delinquencies exceeding the fair value of the
16 land;; defective or unusual conditions of title;; or the
17 existence of conditions ~~which~~ that endanger life or property
18 by fire and other causes;; or any combination of the
19 foregoing, substantially impairs or arrests the sound economic
20 growth of an area, ~~retards~~ hinders the provision of housing
21 accommodations, or constitutes an economic or social liability
22 and is a detriment to the public health, safety, morals, or
23 welfare in its present condition and use~~;~~or.

24 "c. Any area ~~which~~ that is predominantly open and
25 which because of obsolete platting, diversity of ownership,

1 deterioration of structures or of site improvements, or
2 otherwise, substantially impairs or arrests the sound economic
3 growth of an area,~~or.~~

4 "d. Any area ~~which~~ that the local governing body:
5 (i) Determines is in need of redevelopment, rehabilitation, or
6 revitalization to provide for the economic growth and
7 development of the area, or (ii) certifies is in need of
8 redevelopment or rehabilitation as a result of flood, fire,
9 hurricane, tornado, earthquake, storm, or other catastrophe
10 ~~respecting~~ which the Governor of the state has certified the
11 need for disaster assistance under federal law,~~or.~~

12 "e. Any area containing excessive vacant land on
13 which structures were previously located,~~or;~~ on which are
14 located abandoned or vacant buildings or old buildings,~~or;~~
15 where excessive vacancies exist in existing buildings,~~or;~~
16 which contains substandard structures,~~;~~ or with respect to
17 which there exist delinquencies in payment of real property
18 taxes.

19 "(2) DEFERRED TAX RECIPIENT. Each taxing authority
20 ~~which~~ that receives ad valorem taxes with respect to property
21 located in a proposed tax increment district.

22 "(3) ENHANCED USE LEASE AREA. Any area of a military
23 installation which contains underutilized real or personal
24 property, or both, that is leased by a secretary of a military

1 department to a lessee pursuant to the authority provided in
2 Title 10 U.S.C. § 2667.

3 "(4) LOCAL FINANCE OFFICER. The legally authorized
4 officer or agent responsible for receipt and disbursement of
5 the revenues of a taxing authority.

6 "(5) LOCAL GOVERNING BODY. The governing body of a
7 county or municipality which proposes to create or has created
8 a tax increment district.

9 "(6) MAJOR 21ST CENTURY MANUFACTURING ZONE. Any area
10 aggregating not less than 250 contiguous acres of real
11 property determined by a local governing body to ~~be~~ meet all
12 of the following criteria:

13 "a. Is located, in whole or part, within its
14 boundaries or corporate limits~~7~~.

15 "b. Is suitable for the site of an automotive,
16 automotive-industry related, aviation, aviation-industry
17 related, medical, pharmaceutical, semiconductor, computer,
18 electronics, energy conservation, cyber technology, or
19 biomedical industry manufacturing facility or facilities~~7~~ and.

20 "c. Is an area within which not less than one
21 hundred million dollars (\$100,000,000) of capital expenditure
22 in connection with the establishment, expansion, construction,
23 equipping, development, rehabilitation, or redevelopment of
24 ~~such a~~ the facility or facilities is anticipated to be made
25 based upon representations and information provided by the

1 anticipated user or users of the facility or facilities and
2 ~~such~~ other information as the local governing body shall have
3 available to it and deems appropriate.

4 "(7) MUNICIPALITY. Any incorporated municipality in
5 this state.

6 "(8) PROJECT. Undertakings and activities of a
7 public entity in a tax increment district for any one or more
8 of the following:

9 "a. As determined by the local governing body, the
10 elimination and prevention of the development or spread of
11 blight in, or the redevelopment or revitalization of, a
12 blighted or economically distressed area, including, but not
13 limited to, property acquisition, property clearance,
14 development, preservation, redevelopment, rehabilitation,
15 renovation, or conservation, or a combination or part thereof,
16 in accordance with a project plan.

17 "b. ~~the~~ The utilization of underutilized real or
18 personal property, or both, in an enhanced use lease area, ~~and~~
19 ~~may include~~ including, but not limited to, property
20 acquisition, property clearance, development, redevelopment,
21 rehabilitation, or conservation, or a combination or part
22 thereof, in accordance with a project plan, ~~or.~~

23 "c. ~~the~~ The utilization of underutilized real
24 property in an area determined by a local governing body to be
25 a Major 21st Century Manufacturing Zone, ~~and may include~~

1 including, but not limited to, property acquisition~~;~~ property
2 clearance~~;~~ development, including, without limitation, public
3 infrastructure improvements and any other improvements for the
4 construction and equipping of automotive, automotive-industry
5 related, aviation, aviation-industry related, medical,
6 pharmaceutical, semiconductor, computer, electronics, energy
7 conservation, cyber technology, or biomedical industry
8 manufacturing facilities~~;~~ or the redevelopment,
9 rehabilitation, or conservation~~,~~ or a combination or part
10 thereof~~,~~ in accordance with a project plan.

11 "(9) PROJECT COSTS. Any expenditures made or
12 estimated to be made or monetary obligations incurred or
13 estimated to be incurred by a public entity, which in the case
14 of expenditures for or within a Major 21st Century
15 Manufacturing Zone may be incurred directly by the public
16 entity or by a private entity with funds granted by, or
17 otherwise made available from, a public entity, which are
18 listed in a project plan as costs of public works or
19 improvements or, in the case of improvements within a Major
20 21st Century Manufacturing Zone, public works or improvements
21 or private improvements, within a tax increment district, plus
22 any costs incidental thereto, diminished by any special
23 assessments, received or reasonably expected to be received by
24 the public entity in connection with the implementation of the

1 project plan. Project costs include, but are not limited to,
2 all of the following:

3 "a. Capital costs, including the costs of the
4 acquisition, installation, or construction of public works or
5 improvements, new buildings, facilities or improvements,
6 structures, and fixtures, the preservation and renovation of
7 properties of historic significance and facades of properties,
8 the demolition, alteration, remodeling, repair, or
9 reconstruction of existing buildings, structures, facilities,
10 and fixtures, the improvement, maintenance, repair,
11 renovation, and replacement of property pursuant to a project
12 plan, the acquisition of equipment, the acquisition, clearing,
13 and grading of land, environmental remediation of real
14 property, and the acquisition of interests in land~~7.~~

15 "b. Financing costs, including all interest paid to
16 holders of tax increment obligations during the period of
17 implementation of the project plan, the costs of any form of
18 credit enhancement, printing and trustee costs, and any
19 premium paid in excess of the principal amount thereof because
20 of the redemption of ~~such~~ the obligations prior to maturity~~7.~~

21 "c. Real property assembly costs, meaning any
22 deficit resulting from the sale or lease as lessor by the
23 public entity of real or personal property within a tax
24 increment district for consideration which is less than its
25 cost to the public entity~~7.~~

1 "d. Professional service costs, including those
2 costs incurred for architectural, planning, engineering,
3 fiscal, underwriting, ~~and~~ legal advice and services~~, and~~
4 consulting and management services.

5 "e. Imputed administrative costs, including
6 reasonable charges for the time spent by officers and
7 employees of the public entity in connection with the
8 implementation of a project plan~~, and~~.

9 "f. Relocation costs, including those relocation
10 payments made following condemnation under Chapter 1A of Title
11 18~~, and~~.

12 "g. Organizational costs, including the costs of
13 conducting environmental impact and other studies and the
14 costs of informing the public with respect to the creation of
15 tax increment districts and the implementation of project
16 plans~~, and~~.

17 "h. The amount of any contributions made in
18 connection with the implementation of the project plan that
19 are within limits prescribed by law~~, and~~.

20 "i. Payments made, at the discretion of the local
21 governing body, which are to be necessary or convenient to the
22 creation of tax increment districts or the implementation and
23 management of project plans~~, and~~.

24 "j. For purposes of any tax increment district in
25 which not less than 50 percent, by area, of the real property

1 within the tax increment district is an enhanced use lease
2 area, ~~project costs shall also include~~ all costs described in
3 this subdivision which are expended by a public entity or a
4 developer within three years immediately preceding the date of
5 the creation of ~~such~~ the tax increment district.

6 "(10) PROJECT PLAN. The properly approved plan by
7 the public entity creating a tax increment district for the
8 development, ~~or~~ redevelopment, or revitalization of a tax
9 increment district, including all properly approved amendments
10 thereto.

11 "(11) PUBLIC ENTITY. Any municipality or county in
12 the state.

13 "(12) TAX INCREMENT. That amount obtained by
14 multiplying the total revenue derived from ad valorem taxes
15 levied by all local taxing authorities on all taxable property
16 within a tax increment district in any tax year by a fraction
17 having a numerator equal to that tax year's market value of
18 all taxable property in the district minus the tax increment
19 base and a denominator equal to that tax year's equalized
20 value of all taxable property in the district. In any tax
21 year, a tax increment is positive if the tax increment base is
22 less than the aggregate value of taxable property as equalized
23 by the Department of Revenue; it is negative if the base
24 exceeds ~~such~~ that value.

1 "(13) TAX INCREMENT BASE. The aggregate value, as
2 equalized by the Department of Revenue, of all taxable
3 property located within a tax increment district on the date
4 the district is created, determined as provided in Section
5 11-99-5.

6 "(14) TAX INCREMENT DISTRICT. A contiguous
7 geographic area within the boundaries of a public entity
8 defined and created by resolution of the local governing body.

9 "(15) TAX INCREMENT FUND. A fund into which all tax
10 increments not retained by a taxing authority as provided by
11 Section 11-99-10~~(b)~~(a) are paid, and from which money is
12 disbursed to satisfy claims of holders of tax increment
13 obligations issued for the tax increment district.

14 "(16) TAX INCREMENT OBLIGATIONS. Bonds, warrants,
15 notes, or other evidences of indebtedness issued by a public
16 entity to fund all or any project costs.

17 "(17) TAXABLE PROPERTY. All real and personal
18 property located in a tax increment district which is subject
19 to ad valorem taxation on the date of adoption of the
20 resolution creating the tax increment district.

21 "(18) TAXING AUTHORITY.

22 "a. For tax increment districts in which not less
23 than 50 percent, by area, of the real property within the tax
24 increment district is a blighted or economically distressed
25 area, ~~taxing authority~~ the term means any municipality,

1 county, or other taxing authority which has the power to levy
2 taxes on property within the tax increment districts.

3 "b. For tax increment districts in which not less
4 than 50 percent, by area, of the real property within the tax
5 increment district is an enhanced use lease area, ~~taxing~~
6 ~~authority~~ the term means the state or any municipality,
7 county, or other taxing authority ~~which~~ that has the power to
8 levy taxes on property within the tax increment district.

9 "c. For tax increment districts in which not less
10 than 50 percent, by area, of the real property within the tax
11 increment district is a Major 21st Century Manufacturing Zone,
12 ~~"taxing authority"~~ the term means the state or any
13 municipality, county, or other taxing authority ~~which~~ that has
14 the power to levy taxes on property within the tax increment
15 district.

16 "§11-99-4.

17 "(a) In order to exercise its powers under this
18 chapter, a public entity shall take the following steps:

19 "(1) The local governing body shall hold a public
20 hearing at which all interested parties are afforded a
21 reasonable opportunity to express their views on the concept
22 of tax increment financing, on the proposed creation of a tax
23 increment district and its proposed boundaries, and its
24 benefits to the public entity. Notice of the hearing shall be
25 published in a newspaper of general circulation in either the

1 county or in the city, as the case may be, in which the
2 proposed tax increment district is to be located with ~~such~~
3 notice to be published at least twice in the 15-day period
4 immediately preceding the date of the hearing. Prior to
5 publication, a copy of the notice shall be sent by first class
6 mail to the chief executive officer of each deferred tax
7 recipient.

8 "(2) In addition to the notice required by
9 subdivision (1) ~~of this section~~, and either before or after
10 ~~such~~ the public hearing, the local governing body shall make a
11 written submission to the governing body of each deferred tax
12 recipient. The submission shall include a description of the
13 proposed boundaries of the tax increment district, the
14 tentative plans for the development, or redevelopment, or
15 revitalization of the tax increment district, and an estimate
16 of the general impact of the proposed project plan on property
17 values and tax revenues. Not later than the ~~fifteenth~~ 15th day
18 after the date on which the notice required by subdivision (1)
19 ~~of this section~~ is mailed, each deferred tax recipient shall
20 designate a representative empowered to meet with the local
21 governing body to discuss the project plan and the tax
22 increment financing and shall notify the local governing body
23 of its designation. Failure of any deferred tax recipient to
24 designate a representative within the 15-day period, or to
25 notify the local governing body of its designation, shall not

1 prevent the local governing body from proceeding hereunder. If
2 a deferred tax recipient ~~which~~ who has failed to so designate
3 a representative ~~shall~~ thereafter ~~designate~~ designates a
4 representative and ~~shall notify~~ notifies the local governing
5 body of ~~such~~ the designation, ~~such~~ the representative shall be
6 entitled to notice of any meetings held thereafter pursuant to
7 this section, and shall be entitled to attend ~~such~~ the
8 meetings, but shall have no right to have matters discussed
9 again which have already been discussed. The local governing
10 body shall call a meeting, or meetings, of the representatives
11 of the deferred tax recipients to be held at any time after 20
12 days from the mailing notice referred to in subdivision (1) ~~of~~
13 ~~this section~~. Each representative shall be notified of each
14 meeting at least three days before ~~it~~ the meeting is to be
15 held, but ~~such~~ notice may be waived. At the meetings, the
16 local governing body and the representatives of the deferred
17 tax recipients may discuss the boundaries of the tax increment
18 district, development within ~~such~~ the tax increment district,
19 the exclusion of particular parcels of property from ~~such~~ the
20 district, and tax collection for ~~such~~ the district. On the
21 motion of the local governing body any other matter relevant
22 to the proposed tax increment district may be discussed.

23 "(3) The local governing body shall adopt a
24 resolution, which need not be published, which does all of the
25 following:

1 "a. Describes the boundaries of the tax increment
2 district with sufficient definiteness to identify with
3 ordinary and reasonable certainty the territory included,
4 which shall include only those whole units of property, other
5 than publicly owned property such as streets, easements, and
6 ~~rights-of-ways~~ rights-of-way, assessed for general property
7 tax purposes and, if the public entity is a county, which
8 shall include only those areas ~~which~~ that lie outside the
9 corporate limits of any municipality, unless the governing
10 body of a municipality has consented to the inclusion of land
11 within its corporate limits within a tax increment district
12 formed by a county~~7~~.

13 "b. Creates the tax increment district as of a given
14 date after the date of adoption of the resolution, which date
15 of creation of the tax increment district may be a date
16 subsequent to the date of expiration of the period of duration
17 of an existing tax increment district of the public entity,
18 and fixes the period for its duration, which may be for a
19 period not to exceed 30 years from the date of creation of the
20 tax increment district in the case of a tax increment district
21 in which not less than 50 percent, by area, of the real
22 property within the tax increment district is a blighted or
23 economically distressed area, and which may be for a period
24 not to exceed 35 years from the date of creation of the tax
25 increment district in the case of a ~~tax increment~~ district in

1 which not less than 50 percent, by area, of the real property
 2 within the tax increment district is an enhanced use lease
 3 area or a Major 21st Century Manufacturing Zone, unless an
 4 amendment is made to the project plan under subdivision (7) ~~of~~
 5 ~~this section~~.

6 "c. Assigns a name to the tax increment district for
 7 identification purposes, such as "tax increment district
 8 number one".

9 "d. Contains findings, which shall not be subject to
 10 judicial review except after a showing of fraud, corruption,
 11 or undue influence, that:

12 "1. Not less than 50 percent, by area, of the real
 13 property within the tax increment district is: ~~either (i) a~~
 14 ~~blighted area and is in~~ In need of rehabilitation,
 15 redevelopment, revitalization, or conservation work, or (ii)
 16 an enhanced use lease area, or (iii) a Major 21st Century
 17 Manufacturing Zone; and

18 "2. The aggregate value of equalized taxable
 19 property in the district plus all existing districts created
 20 by the public entity does not exceed 10 percent of the total
 21 value of equalized taxable property within the public entity
 22 or 50 percent if the public entity is a Class 3 municipality.
 23 Provided, however, that equalized taxable property located
 24 within the boundaries of a military reservation, jurisdiction

1 over which has been ceded to the United States pursuant to
2 Section 42-3-1, shall be excluded from aggregated value.

3 "(4) The local governmental body shall prepare and
4 adopt a project plan for each tax increment district. The plan
5 shall include a statement listing the proposed projects,
6 including, without limitation and if applicable, the kind,
7 number, and location of all proposed public works or
8 improvements or, in the case of a Major 21st Century
9 Manufacturing Zone, public works or improvements or private
10 improvements, within the district; a detailed list of
11 estimated project costs; and a description of the methods of
12 financing all estimated project ~~cost~~ costs and the time when
13 related costs or monetary obligations are to be incurred. For
14 purposes of this chapter, any work or improvement for a
15 military installation and located within an enhanced use lease
16 area shall be deemed to be for public uses and purposes. The
17 project plan shall also include: A map showing existing uses
18 and condition of real property in the district; a map or
19 description showing proposed improvements and uses therein;
20 proposed changes of zoning, master map plan, building code,
21 and other ordinances or resolutions affecting the district; a
22 list of estimated nonproject costs; and a proposed plan for
23 the relocation of any families, persons, and businesses to be
24 temporarily or permanently displaced from housing or

1 commercial facilities in the district by implementation of the
2 plan.

3 "(5) The local governing body shall certify before
4 approving the project plan that:

5 ~~"a. The proposed tax increment district on the whole
6 has not been subject to growth and development through
7 investment by private enterprise and it is not reasonable to
8 anticipate that the land in the district will be developed
9 without the adoption of the project plan;~~

10 ~~"b. a.~~ A feasible method exists for the relocation
11 and compensation of any individuals, families, and businesses
12 that will be displaced by the project in decent, safe, and
13 sanitary accommodations within their means and without undue
14 hardship to such individuals, families, and businesses;

15 ~~"c. b.~~ The project plan conforms to the applicable
16 master plan of the local entity, (if there is one); and

17 ~~"d. c.~~ The project plan will afford maximum
18 opportunity, consistent with the sound needs of the public
19 entity as a whole, for the rehabilitation, or redevelopment,
20 or revitalization of the tax increment district by private
21 enterprise.

22 "(6) A copy of the project plan shall be mailed to
23 the governing body of each deferred tax recipient, before
24 approval of the project plan.

1 "(7) The local governing body may at any time adopt
2 an amendment to a project plan by complying with the
3 procedures for the original adoption of a project plan.

4 "(8) The public entity that created the tax
5 increment district, and each deferred tax recipient with
6 respect to the tax increment district, notwithstanding any
7 provision in this chapter to the contrary, by written mutual
8 agreement duly authorized, executed, and delivered thereby,
9 may establish an advisory board for the tax increment district
10 composed of the mayor or the chair of the county commission of
11 the public entity, as appropriate, a member of the governing
12 body of the public entity that represents the largest area in
13 the tax increment district, and other members as the
14 respective governing body, or its designee, of each deferred
15 tax recipient may appoint; provided a majority of the members
16 of an advisory board must be members of the governing body of
17 the public entity.

18 "(b) Judicial review of a decision of a public
19 entity related to a tax increment district shall be as
20 provided by law.

21 "§11-99-5.

22 "~~Upon the creation of a tax increment district~~
23 ~~or adoption of any amendment pursuant to subsection (c) of~~
24 ~~this section, the~~ The tax increment base shall be determined
25 as provided in this section.

1 "(b) Upon application in writing by the local
2 finance officer, the tax assessor, ~~for the officer of the~~
3 county performing the duties of a tax assessor), ~~for each~~
4 county in which any part of the district is located shall
5 determine, according to his or her best judgment from all
6 sources available to him or her, the full aggregate value of
7 the taxable property in the district located in that county as
8 of the date of creation of the tax increment district. The
9 aggregate valuation from all such tax assessors or other such
10 public officials, upon certification to the local finance
11 officer, shall constitute the tax increment base of the
12 district; provided, however, if a public entity creates a
13 district that is to succeed and continue the programs and
14 project plans for redevelopment and revitalization of property
15 in an existing tax increment district upon its expiration, the
16 public entity and each deferred tax recipient with respect to
17 the successor tax increment district, notwithstanding any
18 provision in this chapter to the contrary, by written mutual
19 agreement duly authorized, executed, and delivered thereby,
20 may agree that the aggregate value of all taxable property
21 included in both the expiring district and the successor
22 district shall be the aggregate value of the taxable property
23 as originally determined for the tax increment base of the
24 expiring district as of the date of creation of the expiring
25 district and without redetermination of the value of the

1 taxable property as of the date of creation of the successor
2 district or some other date.

3 "(c) If the public entity ~~creating~~ that created a
4 tax increment district in which not less than 50 percent, by
5 area, of the real property within the tax increment district
6 is a blighted or economically distressed area adopts an
7 amendment to the original project plan for ~~such~~ the tax
8 increment district ~~which~~ that includes additional project
9 costs for which tax increments may be received by ~~such~~ the
10 public entity, the tax increment base for the district shall
11 not be redetermined ~~pursuant to subsection (b) of this section~~
12 ~~as of 90 days following the effective date of the amendment,~~
13 ~~except that if the effective date of the amendment is October~~
14 ~~1 of any year, the redetermination shall be made on that date.~~
15 ~~The tax increment base as redetermined under this subsection~~
16 ~~shall be effective for the purposes of this chapter only if it~~
17 ~~exceeds the original tax increment base determined under~~
18 ~~subsection (b) of this section.~~

19 "(d) If the public entity ~~creating~~ that created a
20 tax increment district in which not less than 50 percent, by
21 area, of the real property within the tax increment district
22 is an enhanced use lease area or a Major 21st Century
23 Manufacturing Zone adopts an amendment to the original project
24 plan for ~~such~~ the tax increment district ~~which~~ that includes
25 additional project costs for which tax increments may be

1 received by ~~such~~ the public entity or an expansion of the tax
2 increment district, the tax increment base for the district
3 shall not be redetermined.

4 "(e) There shall be a rebuttable presumption that
5 any property within a tax increment district, l acquired or
6 leased as lessee by the public entity or any agency or
7 instrumentality thereof within one year immediately preceding
8 the date of the creation of the district, l was so acquired or
9 leased in contemplation of the creation of the district. The
10 presumption may be rebutted by the public entity with proof
11 that the property was so leased or acquired primarily for a
12 purpose other than to reduce the tax increment base. If the
13 presumption is not rebutted, in determining the tax increment
14 base of the district, but for no other purpose, the taxable
15 status of ~~such~~ the property shall be determined as though ~~such~~
16 the lease or acquisition had not occurred.

17 "(f) The local tax assessor or person performing his
18 or her duties shall identify upon the tax records prepared by
19 him or her under Chapter 7 of Title 40 those parcels of
20 property which are within each existing tax increment
21 district, specifying the name of each district. A similar
22 notation shall also appear on the tax records made by the
23 local finance officer.

24 "(g) The Department of Revenue shall annually give
25 notice to the designated finance officer of all taxing

1 authorities levying taxes on property within each district as
2 to both the assessed and equalized value of the property and
3 the assessed and equalized value of the tax increment base.
4 The notice shall state that the taxes collected in excess of
5 the base will be paid to the public entity.

6 "§11-99-6.

7 "(a) Positive tax increments of a tax increment
8 district shall be allocated and paid over to the public entity
9 which created the district for each year commencing on the
10 October 1 following the date when the district is created
11 until the earlier of:

12 "(1) That time, after: (i) The period of duration of
13 the tax increment district, as established pursuant to this
14 chapter, has expired, and (ii) the completion of all projects
15 and public improvements specified in, or purposes of, the
16 project plan or amendments thereto, when the public entity has
17 received aggregate tax increments from the district in an
18 amount equal to the aggregate of all expenditures previously
19 made or monetary obligations previously incurred for project
20 costs for the district; or

21 "(2) Thirty-five years after the last expenditure
22 identified in the project plan is made. No expenditure may be
23 provided for in the project plan to be made more than five
24 years after the district is created, except as may be provided
25 in an amendment to the project plan, and except in Class 3

1 municipalities where ~~such~~ the expenditures may be made not
2 more than 10 years thereafter if so provided and in tax
3 increment districts in which not less than 50 percent, by
4 area, of the real property within the tax increment district
5 is an enhanced use lease area where ~~such~~ the expenditures may
6 be made not more than 15 years thereafter if so provided,
7 unless an amendment is adopted by the local governing body
8 under subdivision (7) of Section 11-99-4.

9 "(b) Notwithstanding any other provision of law,
10 every officer charged by law to collect and pay over or retain
11 local general property taxes in the case of a tax increment
12 district in which not less than 50 percent, by area, of the
13 real property within the tax increment district is a blighted
14 or economically distressed area, or state and local general
15 property taxes in the case of a tax increment district in
16 which not less than 50 percent, by area, of the real property
17 within the tax increment district is an enhanced use lease
18 area or a Major 21st Century Manufacturing Zone, shall first,
19 on the next settlement date provided by law, pay over to the
20 local finance officer out of all such taxes which have been
21 collected, that portion ~~which~~ that represents a tax increment
22 allocable to a tax increment district, identifying the amount
23 for each district.

24 "(c) All tax increments received for a tax increment
25 district ~~shall~~, upon receipt by the local finance officer,

1 shall be deposited into the tax increment fund for that
2 district. The local finance officer may deposit additional
3 ~~moneys~~ monies into the fund pursuant to an appropriation by
4 the local governing body. ~~Moneys~~ Monies shall be paid out of
5 the fund only for direct payment of, or to reimburse the
6 public entity for payments theretofore made by it for
7 principal of or interest on tax increment obligations for that
8 district if ~~such~~ the obligations are general obligations of
9 the public entity, or to satisfy claims of holders of tax
10 increment obligations issued for that district, or for direct
11 payment of, or to reimburse the public entity for payments
12 theretofore made by ~~it~~ the public entity that are used to pay
13 project costs. Subject to any agreement with security holders,
14 ~~moneys~~ monies in the fund may be temporarily invested in the
15 same manner as other surplus funds of the public entity. After
16 the principal of and interest on all tax increment obligations
17 of the district have been paid or provided for, subject to any
18 agreement with security holders, if there ~~remain~~ remains in
19 the fund any ~~moneys~~ monies, they shall be paid over to the
20 chief finance officer of the state, each county, each
21 municipality, each school district, and to the general fund of
22 the public entity in ~~such~~ amounts as are due to each
23 respectively, having due regard for what portion of ~~such~~
24 ~~moneys~~ these monies, if any, represents tax increments not
25 allocated to the public entity and what portion thereof, if

1 any, represents voluntary deposits of the public entity into
2 the fund.

3 "§11-99-8.

4 "(a) Payment of project costs may be made by any of
5 the following methods or any combination thereof:

6 "(1) Payment from the tax increment fund of the tax
7 increment district if the purpose of the payment is one
8 provided for in Section 11-99-6 ~~hereof~~.

9 "(2) Payment out of the general funds of the public
10 entity creating a tax increment district, ~~such the~~ payments
11 being used either directly by the public entity to pay ~~such~~
12 the project costs or used by a third party recipient of such
13 funds to pay ~~such the project~~ costs if within a Major 21st
14 Century Manufacturing Zone.

15 "(3) Payment out of the proceeds of the sale of
16 warrants, bonds, or notes (whether public improvement bonds,
17 warrants, or notes; mortgage bonds, warrants, or notes; or
18 certificates, revenue bonds, warrants, or notes; or
19 otherwise) issued by the public entity creating a tax
20 increment district, ~~such the~~ payments being used either
21 directly by the public entity to pay ~~such the project~~ costs or
22 used by a third party recipient of ~~such the~~ funds to pay ~~such~~
23 the project costs if within a Major 21st Century Manufacturing
24 Zone.

1 "(4) Payment out of the proceeds of the sale of tax
2 increment obligations issued by the public entity creating a
3 tax increment district under this ~~section~~ chapter, ~~such the~~
4 payments being used either directly by the public entity to
5 pay ~~such the project~~ costs or used by a third party recipient
6 of such funds to pay ~~such the project~~ costs if within a Major
7 21st Century Manufacturing Zone, ~~and.~~

8 "(5) Payment as otherwise provided by law.

9 "(b) For the purposes of paying project costs or of
10 refunding obligations issued ~~as otherwise provided by law or~~
11 ~~under this section~~ pursuant to the authority of this chapter or
12 other applicable law , the local governing body may issue tax
13 increment obligations payable out of positive tax increments.
14 ~~Such~~ The tax increment obligations shall not be included in
15 the computation of the constitutional debt limitation of the
16 public entity unless they are also secured by a pledge of the
17 full faith and credit of the public entity.

18 "(c) Tax increment obligations may be authorized by
19 resolution of the local governing body without the necessity
20 of a referendum or any approval by the electorate. The
21 resolution shall state the name of the tax increment district,
22 the amount of obligations authorized, and the interest rate or
23 rates to be borne thereby or the method of computing the same.
24 The resolution may prescribe the terms, form, and content of

1 the obligations and such other matters as the local governing
2 body deems useful.

3 "(d) Tax increment obligations may not be issued in
4 an amount exceeding the aggregate project costs of a project
5 or projects specified in a project plan, as such plan may be
6 amended. The tax increment obligations shall mature not more
7 than 30 years from the date thereof. The tax increment
8 obligations may: (i) ~~contain~~ Contain provisions authorizing
9 the redemption thereof, in whole or in part, at stipulated
10 prices, at the option of the public entity creating the
11 district, on any dates named therein and provide the method of
12 selecting the obligations to be redeemed, (ii) be payable at
13 any time or times and at any place, (iii) be payable to bearer
14 or registered as to principal or principal and interest, (iv)
15 be in any denominations, and (v) be sold at public or private
16 sale.

17 "(e) Tax increment obligations shall be payable only
18 out of a stipulated tax increment fund created pursuant to
19 Section 11-99-6 ~~hereof~~, except as provided in ~~paragraph~~
20 subsection (f) of this section. The ~~local governing body~~
21 public entity creating the district shall irrevocably pledge
22 all or a part of ~~such the~~ the tax increment fund to the payment of
23 the tax increment obligations. The amounts in the tax
24 increment fund may thereafter be used only for the payment of
25 the principal of and interest on the tax increment obligations

1 payable therefrom until ~~they~~ the principal and interest have
2 been fully paid; provided, the amounts, if any, in the tax
3 increment fund in excess of the amount required to pay the
4 principal of and interest on the tax increment obligations
5 becoming due and payable in any fiscal year of the local
6 governing body may be used for the payment of project costs.

7 "(f) To increase the security and marketability of
8 tax increment obligations, the public entity may do any of the
9 following:

10 "(1) ~~Create~~ To the extent permitted by the
11 Constitution of Alabama of 1901, as amended, create a
12 non-forclosable lien for the benefit of the security holders
13 upon any public improvements or public works financed thereby
14 ~~or the revenues therefrom;.~~

15 "(2) Pledge the full faith and credit of the public
16 entity to the payment thereof; ~~and.~~

17 "(3) Make covenants and do any and all acts as may
18 be necessary or convenient or desirable in the judgment of the
19 local governing body in order additionally to secure ~~such~~ the
20 obligations or make the obligations more marketable.

21 "(g) For the purpose of paying project costs, the
22 ~~local governing body~~ public entity creating the tax increment
23 district may also allow payments to be made in full at the
24 time ~~such~~ the project costs accrue, thus allowing a project to
25 be all or partially funded on a pay-as-you-go basis.

1 "§11-99-10.

2 "~~(a) With respect to any taxing authority other than~~
3 ~~the public entity which created the tax increment district,~~
4 ~~the calculation of the equalized valuation of taxable property~~
5 ~~in a tax increment district may not exceed the tax increment~~
6 ~~base of the district until the district is terminated, unless~~
7 ~~agreement has been made for other arrangements under~~
8 ~~subsection (b) of this section.~~

9 "~~(b)~~ (a) ~~In such cases where~~ If it can be shown that
10 losing tax increments would be harmful to any given taxing
11 authority or cause ~~such~~ a taxing authority not to honor a
12 prior binding commitment, by contract executed with the public
13 entity creating a tax increment district prior to the
14 designation of the tax increment district, and if an agreement
15 has been made for such allowances through a process of
16 negotiation at the time of the creation of the tax increment
17 district, a taxing authority may make payments into the tax
18 increment fund, less the sum of:

19 "(1) Any property taxes produced from the tax
20 increments which are required to be paid by the taxing
21 authority to another political subdivision; and

22 "(2) A portion, not to exceed 20 percent or a
23 one-time payment mutually agreed upon at the time of the
24 creation of the tax increment district, of the tax increment

1 produced in the district by the taxes levied on behalf of that
2 taxing authority.

3 "~~(c)~~ (b) All tax increments ~~which~~ that have accrued
4 with respect to school districts under this chapter shall be
5 determined and the amounts shall be paid on February 1 of each
6 year out of the taxes of all school districts ~~which~~ that have
7 territory in a tax increment district.

8 "~~(d)~~ (c) The use of the increased valuations in the
9 tax increment district before the completion of the project in
10 calculating any general state school aid formula is
11 prohibited.

12 "~~(e)~~ (d) A taxing authority ~~is not~~ may, but shall
13 not be required to pay a tax increment into the tax increment
14 fund for a district beyond ~~three~~ five years from the date the
15 district was created unless one or more of the following
16 conditions exist or have been met:

17 "(1) Tax increment obligations have been issued for
18 the district~~;~~.

19 "(2) The public entity that created the tax
20 increment district has acquired an interest in any property
21 within the district pursuant to the project plan~~;~~or.

22 (3) Construction of improvements pursuant to the
23 project plan has commenced in the district.

24 "§11-99-11.

1 "(a) Any reference to the Major 21st Century
 2 Manufacturing Zone Act contained in this chapter shall not be
 3 construed to expand the scope, authority, or powers of a
 4 public entity beyond what is expressly permitted in this
 5 chapter when utilizing a tax increment district.

6 "(b) Nothing herein in this chapter shall be
 7 construed to ~~authorize~~ do any of the following:

8 "(1) Authorize any municipality or county to lend
 9 its credit or to grant public money or things of value in aid
 10 of any individual, association, or corporation in violation of
 11 Section 94 of the Constitution of Alabama of 1901, as amended,
 12 except to the extent otherwise permitted by other provisions
 13 of or amendments to the Constitution.

14 "(2) Expand the scope, authority, or powers of a
 15 public entity to acquire real property beyond what is
 16 otherwise provided by state law or to narrow or restrict the
 17 private property rights of owners of real property within or
 18 near a tax increment district.

19 "(3) To expand the scope, authority, or powers of a
 20 public entity to categorize real property as blighted for
 21 purposes of creating or expanding a tax increment district."

22 Section 2. The provisions of this act are severable.
 23 If any part of this act is declared invalid or
 24 unconstitutional, that declaration shall not affect the part
 25 which remains.

1 Section 3. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB260

Senate 17-MAR-22

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Passed: 05-APR-22

By: Senator Smitherman