

SB166 INTRODUCED



1 RBD1YN-1

2 By Senator Givhan

3 RFD: Fiscal Responsibility and Economic Development

4 First Read: 04-Apr-23

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SYNOPSIS:

Existing law provides for the creation of self-help business improvement districts in Class 1 and Class 2 municipalities in areas that have been adversely affected by urban development. The purpose of these districts is to promote economic development in Class 1 municipalities, and to promote either economic development or tourism in Class 2 municipalities. Self-help business improvement districts are administered by a nonprofit management corporation under the oversight of the municipality, and provide supplemental business services within the district that are funded by assessments levied against certain property owners or businesses.

This bill would allow Class 3 municipalities to create self-help business improvement districts to promote either economic development or increase tourism.

A BILL
TO BE ENTITLED
AN ACT

Relating to municipalities; to add a new Article 3,



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29 commencing with Section 11-54B-80 to Title 11, Chapter 54B,
30 Code of Alabama 1975, to provide that Class 3 municipalities
31 may establish self-help business improvement districts.

32 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

33 Section 1. A new Article 3, commencing with Section
34 11-54B-80, is added to Title 11, Chapter 54B of the Code of
35 Alabama 1975 to read as follows:

36 Article 3

37 §11-54B-80

38 (a) The Legislature makes the following findings:

39 (1) Patterns of urban development have had substantial
40 adverse impacts upon downtown and community business districts
41 vital to the economy of the State of Alabama.

42 (2) The public interest would be advanced by
43 authorizing the creation of self-help business improvement
44 districts and district management corporations to assist any
45 Class 3 municipality in promoting economic growth in business
46 districts.

47 (3) The public interest would also be advanced by
48 authorizing the creation of self-help business improvement
49 districts to assist any Class 3 municipality to increase
50 tourism with the support of businesses of a particular class.

51 (4) A district management corporation representing real
52 property owners, or in certain cases, owners of a particular
53 class of business, within self-help business improvement
54 districts can assist any Class 3 municipality in promoting
55 economic growth and employment or tourism by funding
56 supplemental business services through the levy of assessments



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57 on real property owners or owners of a particular class of
58 business.

59 (5) Any Class 3 municipality should be authorized to
60 create self-help business improvement districts and designate
61 a district management corporation to execute self-help
62 programs to improve the local business or tourism climate.

63 (b) The Legislature further finds that it is the public
64 policy of the State of Alabama to permit any Class 3
65 municipality to protect the public welfare and the interests
66 of the public in the safe effective movement of persons, to
67 encourage healthy economic development and tourism, to promote
68 jobs, and to preserve and enhance the function and appearance
69 of business districts located within any Class 3 municipality
70 through the adoption of ordinances as authorized by this
71 article.

72 §11-54B-81

73 As used in this article, the following words and
74 phrases have the following meanings:

75 (1) AREA. In the case of a self-help business
76 improvement district formed to promote economic growth, the
77 geographical area or areas comprising the parcels of real
78 property designated to be located within the district,
79 regardless of whether the individual parcels are subject to
80 the special assessment.

81 (2) DISTRICT MANAGEMENT CORPORATION. An entity created
82 by incorporation under the Alabama Nonprofit Corporation Act,
83 Chapter 3 of Title 10A, and designated by ordinance by the
84 municipality to administer and provide services to a self-help



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85 business improvement district.

86 (3) DISTRICT MEMBER. In the case of a self-help
87 business improvement district established to promote economic
88 growth, an owner of real property who is to benefit from and
89 pay the special assessment to fund supplemental services or,
90 in the case of a self-help business improvement district
91 established to increase tourism, an owner or operator of a
92 business in a particular class who is to benefit from and pay
93 the special assessment to fund supplemental services.

94 (4) MUNICIPALITY. Any Class 3 municipality as defined
95 in Section 11-40-12.

96 (5) OWNER OF REAL PROPERTY. In the case of a self-help
97 business improvement district to promote economic growth, an
98 owner of any parcel of real property who is to benefit from
99 and pay the special assessment under the self-help business
100 improvement plan.

101 (6) SELF-HELP BUSINESS IMPROVEMENT DISTRICT or
102 DISTRICT. An area within the municipality designated by
103 ordinance in which a special assessment may be levied on the
104 owners of real property located within the area to provide
105 supplemental services in order to promote the economic growth
106 of the district or, alternatively, an area or areas designated
107 by ordinance in which a special assessment may be levied on
108 businesses of a particular class located within the area or
109 areas to provide supplemental services in order to increase
110 tourism in the municipality.

111 §11-54B-82

112 A municipality, by ordinance, may provide for the



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113 creation and maintenance of one or more self-help business
114 improvement districts pursuant to this article. This article
115 is intended as the exclusive procedure by which a Class 3
116 municipality may create and maintain a self-help business
117 improvement district.

118 §11-54B-83

119 A public hearing on the adoption of an ordinance
120 creating a self-help business improvement district may be
121 called only if the governing body of a municipality finds all
122 of the following:

123 (1) That a request for the creation of a self-help
124 business improvement district which satisfies the requirements
125 of Section 11-54B-84 has been filed with the clerk of the
126 municipality.

127 (2) That the area described in the self-help business
128 improvement plan would benefit from being designated as a
129 self-help business improvement district.

130 (3) That the self-help business improvement district
131 plan includes a designated district management corporation to
132 provide administrative and other services to benefit
133 businesses, properties, employees, residents, and consumers in
134 the self-help business improvement district.

135 (4) That the self-help business improvement district
136 plan includes a special assessment that will be levied by the
137 municipality on the district members to finance the
138 supplemental services described in the plan, and that the
139 assessment is expected to produce revenue that is consistent
140 with the annual budget adopted and approved as provided in



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141 this article.

142 (5) That the copies of the articles of incorporation
143 and bylaws of the district management corporation satisfy the
144 requirements of Section 11-54B-89.

145 (6) That it is in the best interest of the municipality
146 and the public to designate the area described in the plan as
147 a self-help business improvement district.

148 (7) That the existing level of publicly funded services
149 provided by the municipality in the geographical area of the
150 proposed district has been documented in writing and certified
151 by the mayor of the municipality.

152 §11-54B-84

153 A request for the creation of a self-help business
154 improvement district shall contain all of the following:

155 (1) In the case of a district formed to promote
156 economic growth within the municipality, the signatures of the
157 owners of real property comprising at least 50 percent of the
158 total fair market value of all real property located within
159 the proposed district or, in the case of a district formed to
160 increase tourism, the signatures of the owners or operators of
161 the businesses in a particular class who would pay at least 50
162 percent of the total amount of the self-help improvement
163 district special assessment to be levied, in accordance with
164 the following requirements:

165 a. There shall be no requirement that the real property
166 or the businesses in a particular class located within the
167 area of a district be contiguous, as long as there is an
168 accurate description of the proposed district, whether by lot



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169 and block numbers, by street addresses, or by metes and
170 bounds.

171 b. The county property tax records of the assessor or
172 revenue commissioner shall determine ownership of real
173 property and the fair market value for a district proposed to
174 promote economic development.

175 c. When record title to real property is vested in a
176 public corporation or authority under a bond financing plan
177 provided for by law, the beneficial user of the real property
178 in which title may ultimately be vested by purchase shall be
179 deemed to be the owner of the real property for a district
180 proposed to promote economic development.

181 d. In the case of a district formed to increase
182 tourism, the municipality's records shall determine the
183 ownership of the businesses in a particular class.

184 (2) Copies of the self-help business improvement
185 district plan, which shall include all of the following:

186 a. A description of the supplemental services to be
187 provided to the district members with an explanation of how
188 the services promote economic development or increase tourism.

189 b. A budget outlining the annual cost of the
190 supplemental services described in paragraph a.

191 c. A description of the method that will be used to
192 determine the amount of the special assessment to be levied on
193 the district members to finance the supplemental services
194 described in paragraph a., including all of the following:

195 1. A description of how the methodology equitably
196 apportions the burden of the special assessment among the



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197 district members.

198 2. In the case of a district to promote economic
199 growth, a list, by lot and block numbers or by street
200 addresses, of all real properties whose owners will benefit
201 from and pay the special assessment, including all of the
202 following:

203 (i) Any different classes of real property to be levied
204 at different rates based on the fair market value or land use
205 as reflected in the county tax records of the assessor or
206 revenue commissioner, or based on another methodology.

207 (ii) Any exemptions from, or reductions to, the special
208 assessment based on the benefit to the district member.

209 d. The number of years, not to exceed five years, that
210 the special assessment described in paragraph c. shall be
211 levied.

212 e. Copies of the articles of incorporation and bylaws
213 of the district management corporation designated by the plan
214 to provide the administrative and other services to the
215 district.

216 §11-54B-85

217 (a) (1) At least 20 days prior to the date set for a
218 public hearing on the proposed self-help business improvement
219 district plan, notice of the date, time, and place of the
220 hearing, with a description of the area proposed to be
221 included in the district, the proposed ordinance, and the
222 self-help business improvement district plan shall be mailed
223 to all prospective district members.

224 (2) In the case of a proposed district to promote



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225 economic growth, the notice shall be mailed to all known
226 owners of real property at the address listed in the county
227 property tax records of the assessor or the revenue
228 commissioner.

229 (3) In the case of a proposed district to increase
230 tourism, the notices shall be mailed to the owners of the
231 businesses in the particular class that is to comprise the
232 district.

233 (b) A copy of the notice shall be posted in at least
234 three places located within the area proposed to be included
235 in the district and on the municipality's website.

236 (c) An owner of real property or a business owner in
237 the particular class may not contest the validity of a
238 self-help business improvement district established by
239 ordinance on the grounds that he or she did not receive a copy
240 of the notice.

241 §11-54B-86

242 (a) The governing body of the municipality, upon review
243 of the self-help business improvement district plan and after
244 public hearing, by ordinance, may designate, establish, and
245 maintain the area described in the plan as a self-help
246 business improvement district.

247 (b) The ordinance shall include all of the following:

248 (1) A statement that the district shall take effect 30
249 days after the date of adoption of the ordinance.

250 (2) A statement that the district management
251 corporation provided for in the plan shall provide
252 administrative and other services to the district.



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253 (3) A statement that the municipality and the district
254 management corporation are authorized to enter a contract
255 setting out the services to be respectively provided by the
256 district and the municipality, and providing that the
257 municipality shall continue the same level of services in the
258 district as provided before its creation.

259 (4) In the case of a district formed to promote
260 economic development, a list of all real properties by street
261 addresses which shall benefit from and pay the special
262 assessment, accompanied with a map of the district area or, in
263 the case of a district formed to increase tourism, a list of
264 all businesses in a particular class by street address which
265 shall benefit from and pay the special assessment.

266 (5) A summary of the proposed supplemental services to
267 promote economic growth or increase tourism, which shall be
268 funded by a levy of a special assessment on the district
269 members.

270 (6) An adequate description of the method used to
271 determine the special assessment, including different
272 assessment rates if applicable, and how the burden of the
273 special assessment is equitably apportioned among district
274 members.

275 §11-54B-87

276 (a) The special assessment to be levied in order to
277 fund supplemental services in the self-help business
278 improvement district shall be collected by the district
279 management corporation or the municipal revenue department.

280 (b) The ordinance adopted by the governing body of the



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281 municipality establishing the district shall include, in
282 addition to the requirements of 11-54B-86, a notice that
283 contains both of the following:

284 (1) A statement that the amount of any delinquent
285 special assessment levied on a district member, together with
286 any accrued interest and penalties, shall be a lien on the
287 real property or business in a particular class with priority
288 over all other liens, whether created before or after the date
289 of the special assessment, except a lien for any of the
290 following:

291 a. State, county, or municipal taxes.

292 b. A prior special assessment.

293 c. A prior recorded mortgage, deed of trust, or similar
294 security instrument.

295 (2) A statement that except for foreclosures for state,
296 county, or municipal taxes, a prior special assessment, or a
297 prior recorded mortgage, deed of trust, or similar security
298 instrument, the lien for the special assessment shall not be
299 defeated or postponed by any private or judicial sale, or by
300 any mortgage, deed of trust, or similar security instrument
301 recorded after the date of final adoption by the municipality
302 of the self-help business improvement district ordinance.

303 (c) Any defect in the proceeding of the governing body
304 of the municipality or of the board of directors of the
305 district management corporation shall not exempt any owner of
306 real property or business in the particular class from the
307 lien or from payment thereof.

308 §11-54B-88



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309 (a) The board of directors of the district management
310 corporation may adopt a resolution recommending to the
311 governing body of the municipality a modification of the
312 district plan at a regular board meeting by one of the
313 following methods:

314 (1) By agreement of the board of directors.

315 (2) Upon written request made to the board of directors
316 by, in the case of a district formed to promote economic
317 growth, the signatures of owners of real property consistent
318 with the signatures required under Section 11-54B-84(1) or, in
319 the case of a district formed to increase tourism, the
320 signatures of owners of businesses in a particular class
321 required under Section 11-54B-84(1).

322 (b) The resolution of the board of directors of the
323 district management corporation pursuant to subsection (a)
324 shall include a request to the governing body of the
325 municipality to approve the proposed modification to the
326 district plan and shall be transmitted to the governing body
327 for consideration at a public hearing.

328 (c) (1) At least 20 days prior to the date set for a
329 public hearing on the proposed modification of the self-help
330 business improvement district ordinance, notice of the date,
331 time, and place of the hearing shall be mailed to all district
332 members.

333 (2) A copy of the notice shall be posted in at least
334 three public places located within the district and on the
335 websites of the municipality and the district.

336 (3) At the hearing, the municipality may approve the



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337 proposed modification to the district plan by adopting an
338 ordinance reflecting the modification if the governing body
339 finds that it is consistent with Section 11-54B-83.

340 (4) A district member may not contest the validity of
341 the modification of the district plan established by ordinance
342 on the grounds that he or she did not receive a copy of the
343 hearing notice.

344 (d) (1) The governing body of the municipality may
345 modify the ordinance approving the district in the case of a
346 district formed to promote economic growth, to either enlarge
347 or reduce the area of the district following submission of a
348 resolution by the board of directors requesting the
349 enlargement or reduction of the district.

350 (2)a. Where a request for expansion is sought under
351 this subsection, the request shall contain the signatures of
352 the owners of real property located in the area to be added to
353 the district consistent with the signatures required under
354 Section 11-54B-84(1).

355 b. The county property tax records of the assessor or
356 the revenue commissioner shall determine ownership of the
357 property and the fair market value.

358 c. When record title to real property is vested in a
359 public corporation or authority under a bond financing plan
360 provided for by law, the beneficial user of the real property
361 in which title may ultimately be vested by purchase shall be
362 deemed to be the owner of the real property.

363 (3) A resolution by the board of directors requesting
364 expansion or reduction of the district area shall include an



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365 accurate description of the area that is the subject of the
366 expansion or reduction, whether by metes and bounds, by lot
367 and block numbers, or by street addresses, with the district
368 plan as modified, and accompanied with a map of the resulting
369 district if the expansion or reduction is approved.

370 (4)a. At least 20 days prior to the date set for a
371 public hearing on the proposed expansion or reduction, notice
372 of the date, time, and place of the hearing, together with a
373 description of the area which is the subject of the expansion
374 or reduction, shall be mailed to all owners of real property
375 located within the area who are the subject of the reduction
376 or all prospective owners of real property in the area who are
377 the subject of the expansion at the address listed in the
378 county property tax assessment records.

379 b. A copy of the notice shall be posted in at least
380 three public places located within the area that is the
381 subject of the reduction or expansion and on the websites of
382 the municipality and the district.

383 c. An owner of real property may not contest the
384 validity of the reduction or expansion of the district on the
385 grounds that he or she did not received a copy of the notice.

386 (5) The municipality, upon review of the request for
387 the expansion or reduction of the self-help business
388 improvement district and after public hearing, by ordinance,
389 may expand or reduce the self-help business improvement
390 district as modified which shall include all of the following:

391 a. An effective date that is 30 days after the date of
392 adoption of the ordinance by the municipality.



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393 b. Provide that the modification in the district area
394 is consistent with 11-54B-83.

395 c. Provide that the contract between the municipality
396 and the district management corporation setting out the
397 services to be respectively provided by the district and the
398 municipality shall be amended to provide that the same level
399 of services provided by the municipality shall continue as
400 before the expansion or reduction of the area comprising the
401 self-help business improvement district.

402 §11-54B-89

403 (a) District management corporations provided for in
404 this article shall be incorporated under the Alabama Nonprofit
405 Corporation Act, Chapter 3 of Title 10A, and shall exercise
406 their powers in a manner consistent with that law.

407 (b) To qualify for designation by ordinance to manage a
408 self-help business improvement district, the articles of
409 incorporation of a proposed district management corporation
410 shall provide all of the following:

411 (1) A board of directors, numbering no fewer than three
412 and no more than 13, shall manage the property, business, and
413 affairs of the corporation.

414 (2) The names and addresses of the initial members of
415 the board of directors.

416 (3) The initial members of the board shall be divided
417 into three groups that are as equal in number as is possible,
418 with those groups serving initial terms of one, two, and three
419 years respectively, and all directors thereafter elected
420 serving for a term of three years, provided that the district



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421 is renewed pursuant to Section 11-54B-97.

422 (4) The members of the board of directors elected after
423 the expiration of the initial terms set forth in subdivision
424 (3) shall be elected by a majority vote of the district
425 members after notice by first class mail.

426 (5) A majority of the board of directors shall be
427 district members.

428 (6) Bylaws shall be adopted providing for officers of
429 the corporation consistent with Chapter 3 of Title 10A,
430 including their qualifications, appointment, and terms.

431 (7) No funds received by the corporation from
432 assessments on the district members shall be expended except
433 in accordance with the budget adopted or amended under the
434 provisions of this article.

435 (8) Vacancies on the board of directors resulting from
436 death, resignation, or removal shall be filled by the
437 remaining members of the board of directors for the unexpired
438 portion of the term.

439 (9) At least once a year after creation of the
440 district, the corporation shall hold a general membership and
441 public meeting appropriately advertised in at least three
442 public places within the district area and on the district's
443 website.

444 (10) The corporation shall receive written suggestions
445 from businesses in the district at any time.

446 (11) Municipal representatives designated by the mayor
447 and by the governing body of the municipality shall be
448 authorized to attend and participate in regular and called



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449 meetings of the board of directors, but shall not vote on any
450 matters considered by directors.

451 (12) No amendment to the articles of incorporation or
452 any bylaws shall be effective unless approved by the board of
453 directors.

454 (13) A director shall receive no compensation for his
455 or her service as a director, but shall be entitled to receive
456 reimbursement for expenses actually incurred in the
457 performance of his or her duties as approved by the board.

458 (14) Upon dissolution, or upon any withdrawal of the
459 designation as the district management corporation, all
460 interests in and title to funds held by or for the
461 corporation, and all property of the corporation shall be
462 transferred and assigned to a successor district management
463 corporation, or if no successor district management
464 corporation exists, to the general fund of the municipality
465 for use in funding the programs as the board of directors of
466 the district management corporation shall direct and
467 designate.

468 (c) The district management corporation may do all
469 things necessary to implement its purposes, including, but not
470 limited to, the following:

471 (1) Adopt bylaws for the regulation of its affairs and
472 the conduct of its business and prescribe rules, regulations,
473 and policies in connection with the performance of its
474 functions and duties.

475 (2) Employ individuals as may be required and fix and
476 pay their compensation from funds available to the



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477 corporation.

478 (3) Apply for, accept, administer, and comply with the
479 requirements respecting an appropriation of funds or a gift,
480 grant, or donation of property or money.

481 (4) Enter into contracts as may be necessary or
482 convenient to the exercise of the powers and functions of the
483 corporation, including contracts with any individual, firm,
484 corporation, governmental agency, or other entity.

485 (5) Administer and manage corporate funds and accounts
486 and pay corporate obligations.

487 (6) Borrow money from private lenders or from
488 governmental entities.

489 (7) Enforce the conditions of any loan, grant, sale, or
490 lease made by the corporation.

491 (8) Provide security, sanitation, and other services to
492 the district supplemental to those provided by the
493 municipality.

494 (9) Advertise the district and businesses included
495 within the district.

496 (10) Recruit new businesses to fill vacancies in the
497 district.

498 (11) Organize and promote special events in the
499 district.

500 (12) Provide special parking arrangements or manage
501 ongoing parking programs for the district.

502 (13) Participate in other governmental programs that
503 are qualified and included in its approval plan.

504 (14) Undertake other activities or initiatives within



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505 the district as the board of directors of the district
506 management corporation deem appropriate.

507 (d) The nonprofit corporation designated as a district
508 management corporation under this article shall be exempt from
509 the state corporate income tax, corporate franchise tax, and
510 permit fee, and from state, county, and municipal sales, use,
511 license, gross receipts, and ad valorem taxes.

512 §11-54B-90

513 (a) The officers of the district management corporation
514 shall submit a detailed annual budget for approval by its
515 board of directors, including proposed expenditures and
516 proposed sources of funding, which may include voluntary
517 donations. The budget shall explain how it contributes to the
518 goals for the self-help business improvement district.

519 (b) The budget shall be introduced, approved, amended,
520 and adopted by resolution passed by not less than a majority
521 of the full membership of the board of directors by the
522 procedure as follows:

523 (1) Introduction and preliminary approval of the
524 budget.

525 (2) Public advertising of the budget.

526 (3) Public hearings relating to the budget.

527 (4) Amendments to the budget and public hearings
528 relating to those amendments.

529 (5) Adoption of the budget.

530 (c) No budget shall be adopted until a public hearing
531 has been held and all persons having an interest therein have
532 been given an opportunity to present objections.



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533 (d) The board of directors may amend the budget during
534 or after the public hearing.

535 (e) No amendment to the budget by the board of
536 directors shall be effective until district members and all
537 persons having an interest therein have been granted a public
538 hearing, if the amendment does any of the following:

539 (1) Adds a new item in an amount in excess of 20
540 percent of the total expenditures as stated in the approved
541 budget.

542 (2) Increases or decreases any item within the budget
543 by more than 20 percent of the amount stated in the approved
544 budget for the item.

545 (3) Increases the amount needed to be raised by special
546 assessment by more than 20 percent of the total special
547 assessment revenues stated in the approved budget.

548 §11-54B-91

549 The municipality and its governing body shall retain
550 its police powers and other rights and powers relating to any
551 streets or parts thereof located within the area of a
552 self-help business improvement district.

553 §11-54B-92

554 No self-help business improvement district or district
555 management corporation shall have the power of eminent domain.

556 §11-54B-93

557 No structure, fixture, movable personal property, or
558 activity located in the area of the self-help business
559 improvement district and authorized by the district management
560 corporation, by reason of its location or use, shall be deemed



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561 a nuisance or an unlawful obstruction or condition,
562 notwithstanding any law regulating the use of public streets
563 and highways, and neither the municipality, the corporation,
564 nor any user acting under the corporation's authority shall be
565 liable for any injury to person or property, unless the
566 structure, fixture, moveable personal property, or activity is
567 negligently constructed, maintained, or operated.

568 §11-54B-94

569 A municipality, by ordinance, may authorize the
570 district management corporation to contract construction and
571 maintenance work to be done on any street or on other
572 municipal property included in the self-help business
573 improvement district, provided that the plans and
574 specifications of any construction work to be contracted shall
575 be approved by the municipal engineer prior to initiation of
576 any actions for the awarding of a contract under this article.

577 §11-54B-95

578 This article shall not prohibit a municipality from
579 including a self-help business improvement district within the
580 bounds of any area, district, or zone, including any
581 enterprise zone established pursuant to law which has as one
582 of its purposes the encouragement of the construction of
583 improvements or the rehabilitation of properties located
584 within those boundaries, or the inducement of private
585 enterprises to locate within those boundaries, whether by tax
586 credits, exemptions, or abatements, or by special public
587 financing arrangements.

588 §11-54B-96



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589 (a) Within 90 days after the close of each fiscal year,
590 the district management corporation shall make an annual
591 report of its activities for the preceding fiscal year to the
592 governing body of the municipality.

593 (1) Each annual report shall include, at a minimum, all
594 of the following:

595 a. A financial statement for the preceding year,
596 including a balance sheet, statement of income and loss, and
597 such other information as is reasonably necessary to reflect
598 the corporation's actual performance, certified by the
599 treasurer of the corporation.

600 b. The budget for the current fiscal year.

601 c. In the case of a district whose purpose is to
602 increase tourism, a list of the businesses in the designated
603 class that are currently operating within the district.

604 (2) A copy of each annual report shall be sent to the
605 mayor, the members of the governing body of the municipality,
606 and to all district members.

607 (b) (1) The district management corporation shall have
608 its books, accounts, and financial transactions annually
609 audited by a certified public accountant.

610 (2) The audit shall be performed within 90 days of the
611 close of each fiscal year.

612 (3) Certified copies of the audit report shall be filed
613 within 120 days after the close of the fiscal year with the
614 governing body of the municipality, the mayor, and the finance
615 director or other financial control officer of the
616 municipality.



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617 §11-54B-97

618 (a) (1) The board of directors of the district
619 management corporation shall set a hearing when one of the
620 following occurs:

621 a. Within 60 days after the adoption and approval of
622 the fifth annual budget for the district, to determine
623 continuation, modification, or termination of the district.

624 b. Whenever a petition is presented to the board of
625 directors requesting termination of the district signed by
626 district members who paid more than 50 percent of the special
627 assessment in the last fiscal year for which the assessment
628 was collected.

629 (2) At least 20 days before the hearing, notice of the
630 date, time, and place of the hearing shall be posted in at
631 least three public places within the district, on the websites
632 of the municipality and the district, and mailed to each
633 district member.

634 (3) At or immediately after the hearing, the board of
635 directors shall adopt a resolution requesting the governing
636 body of the municipality to adopt an ordinance providing for
637 one of the following:

638 a. Continuation of the district as described in the
639 self-help business improvement plan for an additional five
640 years if the hearing was held pursuant to paragraph (a) (1) a.

641 b. Continuation of the district with modification for
642 an additional five years if the hearing was held pursuant to
643 paragraph (a) (1) a., as reflected by modifying the self-help
644 business improvement district plan consistent with Section



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645 11-54B-88, including enlargement or reduction of the district.

646 c. Termination of the district if one of the following
647 occurs:

648 1. At a hearing held pursuant to paragraph (a)(1)a., it
649 is demonstrated that district members who paid more than 50
650 percent of the special assessment in the last fiscal year for
651 which the special assessment was collected object to the
652 continuation of the district.

653 2. At a hearing in response to a petition received
654 pursuant to paragraph (a)(1)b., at which no signatures are
655 withdrawn reducing support for termination of the district to
656 fewer than 50 percent of the district members who paid the
657 special assessment in the last fiscal year for which the
658 assessment was collected.

659 (b) The governing body of the municipality shall adopt
660 an ordinance ratifying the board of directors' resolution
661 pursuant to subdivision (a)(4), to take effect at the end of
662 the current fiscal year, to continue, modify, or terminate the
663 district.

664 (c) In the event of termination of the district, any
665 remaining revenues, after all outstanding debts are paid,
666 derived from the collection of the special assessment or
667 derived from the sale of district assets acquired with the
668 revenues shall be spent as near as possible in accordance with
669 the district plan or shall be refunded to district members who
670 paid the special assessment by applying the same method that
671 was used to calculate the assessment in the last fiscal year
672 for which the special assessment was collected.



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673 Section 2. This act shall become effective on the
674 first day of the third month following its passage and
675 approval by the Governor, or its otherwise becoming law.