

1 SB96
2 147322-2
3 By Senators Orr, Sanford, Holtzclaw, McGill and Scofield
4 RFD: Finance and Taxation General Fund
5 First Read: 05-FEB-13

1 SB96

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4 ENROLLED, An Act,

5 To provide for the designation by municipalities of
6 large contiguous tracts of underutilized real property as
7 Major 21st Century Manufacturing Zones for certain
8 manufacturing purposes; to provide capital, infrastructure
9 improvements, capital improvements to existing facilities, and
10 construction development of buildings and structures suitable
11 for use as part of or in connection with certain manufacturing
12 activities within the zone and in certain appurtenant areas;
13 to provide a method for the funding of all or a portion of
14 costs through tax increment financing by cities and counties;
15 and to amend Sections 11-99-1, 11-99-2, 11-99-4, 11-99-5,
16 11-99-6, and 11-99-8, Code of Alabama 1975, to authorize the
17 provision of capital, public infrastructure improvements, and
18 capital improvements to existing facilities; and to authorize
19 the provision of buildings and structures.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. This act shall be known and may be cited
22 as the Major 21st Century Manufacturing Zone Act.

23 Section 2. The Legislature makes the following
24 findings:

1 (1) It is in the best interest of the state to
2 ensure the location and expansion of automotive,
3 automotive-industry related, aviation, aviation-industry
4 related, medical, pharmaceutical, semiconductor, computer,
5 electronics, energy conservation, cyber technology, and
6 biomedical industry manufacturing facilities in this state.

7 (2) The presence and expansion of automotive,
8 automotive-industry related, aviation, aviation-industry
9 related, medical, pharmaceutical, semiconductor, computer,
10 electronics, energy conservation, cyber technology, and
11 biomedical industry manufacturing facilities in this state is
12 of substantial benefit to and enhances the public welfare of
13 the state by, among other things, promoting local economic
14 development and the stimulus of local economies, increasing
15 skilled job opportunities, creating additional tax revenues,
16 and enhancing the public's overall quality of life.

17 (3) The growth and enhanced prosperity of
18 municipalities and counties of the state, as well as of the
19 state at large, as a result of the presence and expansion of
20 automotive, automotive-industry related, aviation,
21 aviation-industry related, medical, pharmaceutical,
22 semiconductor, computer, electronics, energy conservation,
23 cyber technology, and biomedical industry manufacturing
24 facilities in this state often requires the infusion of
25 capital, improved, and expanded public infrastructure

1 dedicated to such facilities, and the provision, for the
2 benefit thereof, of capital improvements to existing
3 facilities as well as the provision of buildings and
4 structures suitable for use as part of or in connection with
5 automotive, automotive-industry related, aviation,
6 aviation-industry related, medical, pharmaceutical,
7 semiconductor, computer, electronics, energy conservation,
8 cyber technology, and biomedical industry manufacturing
9 facilities.

10 (4) The provision of such capital, public
11 infrastructure improvements, and capital improvements
12 constitutes an important public purpose vital to the welfare
13 and prosperity of the citizens of this state.

14 Section 3. Sections 11-99-1, 11-99-2, 11-99-4,
15 11-99-5, 11-99-6, and 11-99-8, Code of Alabama 1975, are
16 amended to read as follows:

17 "§11-99-1.

18 "(a) It is hereby found and declared that there
19 exist in municipalities and counties of the state blighted or
20 economically distressed areas which constitute a serious and
21 growing problem, injurious to the public health, safety,
22 morals, and welfare of the residents of the state; that the
23 existence of such areas contributes substantially and
24 increasingly to the spread of disease and crime, constitutes
25 an economic and social liability imposing onerous burdens

1 which decrease the tax base and reduce tax revenues,
2 substantially impairs or arrests sound growth, retards the
3 provision of housing accommodations, aggravates traffic
4 problems, and substantially hampers the elimination of traffic
5 hazards and the improvement of traffic facilities; and that
6 the prevention and elimination of slums and blighted areas and
7 economically distressed areas is a matter of state policy and
8 state concern in order that the state and its municipalities
9 and counties shall not continue to be endangered by areas
10 which are focal centers of disease, promote juvenile
11 delinquency, and consume an excessive proportion of public
12 revenues because of the extra services required for police,
13 fire, accident, hospitalization, and other forms of public
14 protection, services, and facilities.

15 "(b) It is further found and declared that certain
16 blighted and economically distressed areas or portions thereof
17 may require acquisition, clearance, and disposition subject to
18 use restrictions, as provided in this chapter, since the
19 prevailing condition of blight and economic distress may make
20 impracticable the reclamation of the area by conservation or
21 rehabilitation; that other areas or portions thereof may,
22 through the means provided in this chapter, be susceptible of
23 conservation or rehabilitation in such a manner that the
24 conditions and evils enumerated may be eliminated, remedied,
25 or prevented; and that salvageable blighted and economically

1 distressed areas can be conserved and rehabilitated through
2 appropriate public action as herein authorized and the
3 cooperation and voluntary action of the owners and tenants of
4 property in such areas.

5 "(c) It is further found and declared that there
6 exist in municipalities and counties of the state
7 underutilized real and personal property in enhanced use lease
8 areas which, when leased by a secretary of a military
9 department for cash or in-kind consideration, enhances the
10 public benefit and welfare by, among other things, promoting
11 local economic development and the stimulation of the local
12 economy, increasing job opportunities, creating additional tax
13 revenues, and enhancing the public's overall quality of life.

14 "(d) It is further found and declared that there
15 exist in municipalities of the state underutilized large
16 tracts of real property suitable for the location of
17 automotive, automotive-industry related, aviation,
18 aviation-industry related, medical, pharmaceutical,
19 semiconductor, computer, electronics, energy conservation,
20 cyber technology, and biomedical industry manufacturing
21 facilities which, when serving as the site therefor, enhances
22 the public benefit and welfare by, among other things,
23 facilitating the creation of skilled manufacturing jobs,
24 promoting local economic development and the stimulation of

1 the local economy, creating additional tax revenues, and
 2 enhancing the public's overall quality of life.

3 ~~"(d)~~(e) It is further found and declared that the
 4 powers conferred by this chapter are for public and, in the
 5 case of automotive, automotive-industry related, aviation,
 6 aviation-industry related, medical, pharmaceutical,
 7 semiconductor, computer, electronics, energy conservation,
 8 cyber technology, and biomedical industry manufacturing
 9 facilities, private uses and purposes imbued with a public
 10 interest and for which public money may be expended, either
 11 directly or indirectly, in the case of automotive,
 12 automotive-industry related, aviation, aviation-industry
 13 related, medical, pharmaceutical, semiconductor, computer,
 14 electronics, energy conservation, cyber technology, and
 15 biomedical industry manufacturing facilities, and the power of
 16 eminent domain and police power exercised, and the necessity
 17 in the public interest for the provisions herein enacted is
 18 hereby declared as a matter of legislative determination.

19 "§11-99-2.

20 "As used in this chapter:

21 "(1) BLIGHTED OR ECONOMICALLY DISTRESSED AREA:

22 "a. An area in which the structures, buildings, or
 23 improvements, by reason of dilapidation, deterioration, age,
 24 or obsolescence, inadequate provision for ventilation, light,
 25 air, sanitation, or open spaces, high density of population

1 and overcrowding, or the existence of conditions which
2 endanger life or property by fire and other causes, or any
3 combination of such factors, are conducive to ill health,
4 transmission of disease, infant mortality, juvenile
5 delinquency, or crime, and are detrimental to the public
6 health, safety, morals, or welfare, or

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

23 "c. Any area which is predominantly open and which
24 because of obsolete platting, diversity of ownership,
25 deterioration of structures or of site improvements, or

1 otherwise, substantially impairs or arrests the sound economic
2 growth of an area, or

3 "d. Any area which the local governing body
4 certifies is in need of redevelopment or rehabilitation as a
5 result of flood, fire, hurricane, tornado, earthquake, storm,
6 or other catastrophe respecting which the Governor of the
7 state has certified the need for disaster assistance under
8 federal law, or

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

16 "(2) DEFERRED TAX RECIPIENT. Each taxing authority
17 which receives ad valorem taxes with respect to property
18 located in a proposed tax increment district.

19 "(3) ENHANCED USE LEASE AREA. Any area of a military
20 installation which contains underutilized real or personal
21 property, or both, that is leased by a secretary of a military
22 department to a lessee pursuant to the authority provided in
23 Title 10 U.S.C. §2667.

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

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

7 "(6) MAJOR 21ST CENTURY MANUFACTURING ZONE. Any area
8 aggregating not less than 250 contiguous acres of real
9 property determined by a municipality to be a. located, in
10 whole or part, within its boundaries or corporate limits, b.
11 suitable for the site of an automotive, automotive-industry
12 related, aviation, aviation-industry related, medical,
13 pharmaceutical, semiconductor, computer, electronics, energy
14 conservation, cyber technology, or biomedical industry
15 manufacturing facility or facilities, and c. an area within
16 which not less than one hundred million dollars (\$100,000,000)
17 of capital expenditure in connection with the establishment,
18 expansion, construction, equipping, development,
19 rehabilitation, or redevelopment of such a facility or
20 facilities is anticipated to be made based upon
21 representations and information provided by the anticipated
22 user or users of the facility or facilities and such other
23 information as the local governing body shall have available
24 to it and deems appropriate.

1 "~~(6)~~(7) MUNICIPALITY. Any incorporated municipality
2 in this state.

3 "~~(7)~~(8) PROJECT. Undertakings and activities of a
4 public entity in a tax increment district for ~~either (i)~~ a.
5 the elimination and prevention of the development or spread of
6 blight in a blighted or economically distressed area ~~or (ii)~~,
7 b. the utilization of underutilized real or personal property,
8 or both, in an enhanced use lease area, and may include
9 property acquisition, property clearance, development,
10 redevelopment, rehabilitation, or conservation or a
11 combination or part thereof in accordance with a project plan,
12 or c. the utilization of underutilized real property in an
13 area determined by a local governing body to be a Major 21st
14 Century Manufacturing Zone, and may include property
15 acquisition, property clearance, development, including,
16 without limitation, public infrastructure improvements and any
17 other improvements for the construction and equipping of
18 automotive, automotive-industry related, aviation,
19 aviation-industry related, medical, pharmaceutical,
20 semiconductor, computer, electronics, energy conservation,
21 cyber technology, or biomedical industry manufacturing
22 facilities, or the redevelopment, rehabilitation, or
23 conservation or a combination or part thereof in accordance
24 with a project plan.

1 "~~(8)~~(9) PROJECT COSTS. Any expenditures made or
2 estimated to be made or monetary obligations incurred or
3 estimated to be incurred by a public entity, which in the case
4 of expenditures for or within a Major 21st Century
5 Manufacturing Zone may be incurred directly by the public
6 entity or by a private entity with funds granted by, or
7 otherwise made available from, a public entity, which are
8 listed in a project plan as costs of public works or
9 improvements or, in the case of improvements within a Major
10 21st Century Manufacturing Zone, public works or improvements
11 or private improvements, within a tax increment district, plus
12 any costs incidental thereto, diminished by any special
13 assessments, received or reasonably expected to be received by
14 the public entity in connection with the implementation of the
15 project plan. Project costs include, but are not limited to:

16 "a. Capital costs, including the costs of the
17 construction of public works or improvements, new buildings,
18 facilities or improvements, structures, and fixtures, the
19 demolition, alteration, remodeling, repair or reconstruction
20 of existing buildings, structures, facilities, and fixtures,
21 the acquisition of equipment, the acquisition, clearing, and
22 grading of land and the acquisition of interests in land;

23 "b. Financing costs, including all interest paid to
24 holders of tax increment obligations during the period of
25 implementation of the project plan, the costs of any form of

1 credit enhancement, printing and trustee costs, and any
2 premium paid in excess of the principal amount thereof because
3 of the redemption of such obligations prior to maturity;

4 "c. Real property assembly costs, meaning any
5 deficit resulting from the sale or lease as lessor by the
6 public entity of real or personal property within a tax
7 increment district for consideration which is less than its
8 cost to the public entity;

9 "d. Professional service costs, including those
10 costs incurred for architectural, planning, engineering,
11 fiscal, underwriting, and legal advice and services;

12 "e. Imputed administrative costs, including
13 reasonable charges for the time spent by officers and
14 employees of the public entity in connection with the
15 implementation of a project plan;

16 "f. Relocation costs, including those relocation
17 payments made following condemnation under Chapter 1A of Title
18 18;

19 "g. Organizational costs, including the costs of
20 conducting environmental impact and other studies and the
21 costs of informing the public with respect to the creation of
22 tax increment districts and the implementation of project
23 plans;

1 "h. The amount of any contributions made in
2 connection with the implementation of the project plan that
3 are within limits prescribed by law;

4 "i. Payments made, at the discretion of the local
5 governing body, which are to be necessary or convenient to the
6 creation of tax increment districts or the implementation of
7 project plans; and

8 "j. For purposes of any tax increment district in
9 which not less than 50 percent, by area, of the real property
10 within the tax increment district is an enhanced use lease
11 area, project costs shall also include all costs described in
12 this subdivision which are expended by a public entity or a
13 developer within three years immediately preceding the date of
14 the creation of such tax increment district.

15 "~~(9)~~ (10) PROJECT PLAN. The properly approved plan
16 for the development or redevelopment of a tax increment
17 district, including all properly approved amendments thereto.

18 "~~(10)~~ (11) PUBLIC ENTITY. Any municipality or county
19 in the state.

20 "~~(11)~~ (12) TAX INCREMENT. That amount obtained by
21 multiplying the total revenue derived from ad valorem taxes
22 levied by all local taxing authorities on all taxable property
23 within a tax increment district in any tax year by a fraction
24 having a numerator equal to that tax year's market value of
25 all taxable property in the district minus the tax increment

1 base and a denominator equal to that tax year's equalized
2 value of all taxable property in the district. In any tax
3 year, a tax increment is positive if the tax increment base is
4 less than the aggregate value of taxable property as equalized
5 by the Department of Revenue; it is negative if the base
6 exceeds such value.

7 "~~(12)~~ (13) TAX INCREMENT BASE. The aggregate value,
8 as equalized by the Department of Revenue, of all taxable
9 property located within a tax increment district on the date
10 the district is created, determined as provided in Section
11 11-99-5.

12 "~~(13)~~ (14) TAX INCREMENT DISTRICT. A contiguous
13 geographic area within the boundaries of a public entity
14 defined and created by resolution of the local governing body.

15 "~~(14)~~ (15) TAX INCREMENT FUND. A fund into which all
16 tax increments not retained by a taxing authority as provided
17 by Section 11-99-10(b) are paid, and from which money is
18 disbursed to satisfy claims of holders of tax increment
19 obligations issued for the tax increment district.

20 "~~(15)~~ (16) TAX INCREMENT OBLIGATIONS. Bonds,
21 warrants, notes, or other evidences of indebtedness issued by
22 a public entity to fund all or any project costs.

23 "~~(16)~~ (17) TAXABLE PROPERTY. All real and personal
24 property located in a tax increment district which is subject

1 to ad valorem taxation on the date of adoption of the
2 resolution creating the tax increment district.

3 "~~(17)~~(18) TAXING AUTHORITY.

4 "a. For tax increment districts in which not less
5 than 50 percent, by area, of the real property within the tax
6 increment district is a blighted or economically distressed
7 area, taxing authority means any municipality, county, or
8 other taxing authority which has the power to levy taxes on
9 property within the tax increment districts.

10 "b. For tax increment districts in which not less
11 than 50 percent, by area, of the real property within the tax
12 increment district is an enhanced use lease area, taxing
13 authority means the state or any municipality, county, or
14 other taxing authority which has the power to levy taxes on
15 property within the tax increment district.

16 "c. For tax increment districts in which not less
17 than 50 percent, by area, of the real property within the tax
18 increment district is a Major 21st Century Manufacturing Zone,
19 "taxing authority" means the state or any municipality,
20 county, or other taxing authority which has the power to levy
21 taxes on property within the tax increment district.

22 "§11-99-4.

23 "In order to exercise its powers under this chapter,
24 a public entity shall take the following steps:

1 "(1) The local governing body shall hold a public
2 hearing at which all interested parties are afforded a
3 reasonable opportunity to express their views on the concept
4 of tax increment financing, on the proposed creation of a tax
5 increment district and its proposed boundaries, and its
6 benefits to the public entity. Notice of the hearing shall be
7 published in a newspaper of general circulation in either the
8 county or in the city, as the case may be, in which the
9 proposed tax increment district is to be located with such
10 notice to be published at least twice in the 15-day period
11 immediately preceding the date of the hearing. Prior to
12 publication, a copy of the notice shall be sent by first class
13 mail to the chief executive officer of each deferred tax
14 recipient.

15 "(2) In addition to the notice required by
16 subdivision (1) of this section, and either before or after
17 such hearing, the local governing body shall make a written
18 submission to the governing body of each deferred tax
19 recipient. The submission shall include a description of the
20 proposed boundaries of the tax increment district, the
21 tentative plans for the development or redevelopment of the
22 tax increment district, and an estimate of the general impact
23 of the proposed project plan on property values and tax
24 revenues. Not later than the fifteenth day after the date on
25 which the notice required by subdivision (1) of this section

1 is mailed, each deferred tax recipient shall designate a
2 representative empowered to meet with the local governing body
3 to discuss the project plan and the tax increment financing
4 and shall notify the local governing body of its designation.
5 Failure of any deferred tax recipient to designate a
6 representative within the 15-day period, or to notify the
7 local governing body of its designation, shall not prevent the
8 local governing body from proceeding hereunder. If a deferred
9 tax recipient which has failed to so designate a
10 representative shall thereafter designate a representative and
11 shall notify the local governing body of such designation,
12 such representative shall be entitled to notice of any
13 meetings held thereafter pursuant to this section, and shall
14 be entitled to attend such meetings, but shall have no right
15 to have matters discussed again which have already been
16 discussed. The local governing body shall call a meeting, or
17 meetings, of the representatives of the deferred tax
18 recipients to be held at any time after 20 days from the
19 mailing notice referred to in subdivision (1) of this section.
20 Each representative shall be notified of each meeting at least
21 three days before it is to be held, but such notice may be
22 waived. At the meetings the local governing body and the
23 representatives of the deferred tax recipients may discuss the
24 boundaries of the tax increment district, development within
25 such district, the exclusion of particular parcels of property

1 from such district, and tax collection for such district. On
2 the motion of the local governing body any other matter
3 relevant to the proposed tax increment district may be
4 discussed.

5 "(3) The local governing body shall adopt a
6 resolution, which need not be published, which:

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

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

1 in which not less than 50 percent, by area, of the real
2 property within the tax increment district is an enhanced use
3 lease area or a Major 21st Century Manufacturing Zone, unless
4 an amendment is made to the project plan under subdivision (7)
5 of 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 review except after a showing of fraud, corruption, or undue
11 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 need of rehabilitation or conservation
15 work, ~~or~~ (ii) an enhanced use lease area, or (iii)(a) Major
16 21st Century Manufacturing Zone; and

17 "2. The aggregate value of equalized taxable
18 property in the district plus all existing districts created
19 by the public entity does not exceed 10 percent of the total
20 value of equalized taxable property within the public entity
21 or 50 percent if the public entity is a Class 3 municipality.
22 Provided, however, that equalized taxable property located
23 within the boundaries of a military reservation, jurisdiction
24 over which has been ceded to the United States pursuant to
25 Section 42-3-1, shall be excluded from aggregated value.

1 "(4) The local governmental body shall prepare and
2 adopt a project plan for each tax increment district. The plan
3 shall include a statement listing the kind, number, and
4 location of all proposed public works or improvements or, in
5 the case of a Major 21st Century Manufacturing Zone, public
6 works or improvements or private improvements, within the
7 district; a detailed list of estimated project costs; and a
8 description of the methods of financing all estimated project
9 cost and the time when related costs or monetary obligations
10 are to be incurred. For purposes of this chapter, any work or
11 improvement for a military installation and located within an
12 enhanced use lease area shall be deemed to be for public uses
13 and purposes. The project plan shall also include: A map
14 showing existing uses and condition of real property in the
15 district; a map showing proposed improvements and uses
16 therein; proposed changes of zoning, master map plan, building
17 code, and other ordinances or resolutions affecting the
18 district; a list of estimated nonproject costs; and a proposed
19 plan for the relocation of families, persons, and businesses
20 to be temporarily or permanently displaced from housing or
21 commercial facilities in the district by implementation of the
22 plan.

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

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

6 "b. A feasible method exists for the relocation and
7 compensation of individuals, families, and businesses that
8 will be displaced by the project in decent, safe, and sanitary
9 accommodations within their means and without undue hardship
10 to such individuals, families, and businesses;

11 "c. The plan conforms to the applicable master plan
12 of the local entity (if there is one); and

13 "d. The plan will afford maximum opportunity,
14 consistent with the sound needs of the public entity as a
15 whole, for the rehabilitation or redevelopment of the tax
16 increment district by private enterprise.

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

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

23 "§11-99-5.

1 "(a) Upon the creation of a tax increment district
2 or adoption of any amendment pursuant to subsection (c) of
3 this section, the tax increment base shall be determined.

4 "(b) Upon application in writing by the local
5 finance officer, the tax assessor (or the officer of the
6 county performing the duties of a tax assessor) for each
7 county in which any part of the district is located shall
8 determine according to his or her best judgment from all
9 sources available to him or her the full aggregate value of
10 the taxable property in the district located in that county.
11 The aggregate valuation from all such tax assessors or other
12 such public officials, upon certification to the local finance
13 officer, shall constitute the tax increment base of the
14 district.

15 "(c) If the public entity creating a tax increment
16 district in which not less than 50 percent, by area, of the
17 real property within the tax increment district is a blighted
18 or economically distressed area adopts an amendment to the
19 original project plan for such district which includes
20 additional project costs for which tax increments may be
21 received by such public entity, the tax increment base for the
22 district shall be redetermined pursuant to subsection (b) of
23 this section as of 90 days following the effective date of the
24 amendment, except that if the effective date of the amendment
25 is October 1 of any year, the redetermination shall be made on

1 that date. The tax increment base as redetermined under this
2 subsection shall be effective for the purposes of this chapter
3 only if it exceeds the original tax increment base determined
4 under subsection (b) of this section.

5 "(d) If the public entity creating a tax increment
6 district in which not less than 50 percent, by area, of the
7 real property within the tax increment district is an enhanced
8 use lease area or a Major 21st Century Manufacturing Zone
9 adopts an amendment to the original project plan for such
10 district which includes additional project costs for which tax
11 increments may be received by such public entity or an
12 expansion of the tax increment district, the tax increment
13 base for the district shall not be redetermined.

14 "(e) There shall be a rebuttable presumption that
15 any property within a tax increment district acquired or
16 leased as lessee by the public entity or any agency or
17 instrumentality thereof within one year immediately preceding
18 the date of the creation of the district was so acquired or
19 leased in contemplation of the creation of the district. The
20 presumption may be rebutted by the public entity with proof
21 that the property was so leased or acquired primarily for a
22 purpose other than to reduce the tax increment base. If the
23 presumption is not rebutted, in determining the tax increment
24 base of the district, but for no other purpose, the taxable

1 status of such property shall be determined as though such
2 lease or acquisition had not occurred.

3 "(f) The local tax assessor or person performing his
4 or her duties shall identify upon the tax records prepared by
5 him or her under Chapter 7 of Title 40 those parcels of
6 property which are within each existing tax increment
7 district, specifying the name of each district. A similar
8 notation shall also appear on the tax records made by the
9 local finance officer.

10 "(g) The Department of Revenue shall annually give
11 notice to the designated finance officer of all taxing
12 authorities levying taxes on property within each district as
13 to both the assessed and equalized value of the property and
14 the assessed and equalized value of the tax increment base.
15 The notice shall state that the taxes collected in excess of
16 the base will be paid to the public entity.

17 "§11-99-6.

18 "(a) Positive tax increments of a tax increment
19 district shall be allocated and paid over to the public entity
20 which created the district for each year commencing on the
21 October 1 following the date when the district is created
22 until the earlier of:

23 "(1) That time, after the completion of all public
24 improvements specified in the project plan or amendments
25 thereto, when the public entity has received aggregate tax

1 increments from the district in an amount equal to the
2 aggregate of all expenditures previously made or monetary
3 obligations previously incurred for project costs for the
4 district; or

5 "(2) Thirty-five years after the last expenditure
6 identified in the project plan is made. No expenditure may be
7 provided for in the project plan to be made more than five
8 years after the district is created, except in Class 3
9 municipalities where such expenditures may be made not more
10 than 10 years thereafter if so provided and in tax increment
11 districts in which not less than 50 percent, by area, of the
12 real property within the tax increment district is an enhanced
13 use lease area where such expenditures may be made not more
14 than 15 years thereafter if so provided, unless an amendment
15 is adopted by the local governing body under subdivision (7)
16 of Section 11-99-4.

17 "(b) Notwithstanding any other provision of law,
18 every officer charged by law to collect and pay over or retain
19 local general property taxes in the case of a tax increment
20 district in which not less than 50 percent, by area, of the
21 real property within the tax increment district is a blighted
22 or economically distressed area, or state and local general
23 property taxes in the case of a tax increment district in
24 which not less than 50 percent, by area, of the real property
25 within the tax increment district is an enhanced use lease

1 area or a Major 21st Century Manufacturing Zone, shall first,
2 on the next settlement date provided by law, pay over to the
3 local finance officer out of all such taxes which have been
4 collected that portion which represents a tax increment
5 allocable to a tax increment district, identifying the amount
6 for each district.

7 "(c) All tax increments received for a tax increment
8 district shall, upon receipt by the local finance officer, be
9 deposited into the tax increment fund for that district. The
10 local finance officer may deposit additional moneys into the
11 fund pursuant to an appropriation by the local governing body.
12 Moneys shall be paid out of the fund only to reimburse the
13 public entity for payments theretofore made by it for
14 principal of or interest on tax increment obligations for that
15 district if such obligations are general obligations of the
16 public entity, ~~or~~ to satisfy claims of holders of tax
17 increment obligations issued for that district, or to
18 reimburse the public entity for payments theretofore made by
19 it that are used to pay project costs. Subject to any
20 agreement with security holders, moneys in the fund may be
21 temporarily invested in the same manner as other surplus funds
22 of the public entity. After the principal of and interest on
23 all tax increment obligations of the district have been paid
24 or provided for, subject to any agreement with security
25 holders, if there remain in the fund any moneys, they shall be

1 paid over to the chief finance officer of the state, each
2 county, each municipality, each school district, and to the
3 general fund of the public entity in such amounts as are due
4 to each respectively, having due regard for what portion of
5 such moneys, if any, represents tax increments not allocated
6 to the public entity and what portion thereof, if any,
7 represents voluntary deposits of the public entity into the
8 fund.

9 "§11-99-8.

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

12 "(1) Payment from the tax increment fund of the tax
13 increment district if the purpose of the payment is one
14 provided for in Section 11-99-6 hereof;

15 "(2) Payment out of the general funds of the public
16 entity, such payments being used either directly by the public
17 entity to pay such costs or used by a third party recipient of
18 such funds to pay such costs if within a Major 21st Century
19 Manufacturing Zone;

20 "(3) Payment out of the proceeds of the sale of
21 warrants, bonds or notes (whether public improvement bonds or
22 notes, mortgage bonds, notes or certificates, revenue bonds or
23 notes, or otherwise) issued by the public entity, such
24 payments being used either directly by the public entity to
25 pay such costs or used by a third party recipient of such

1 funds to pay such costs if within a Major 21st Century
2 Manufacturing Zone;

3 "(4) Payment out of the proceeds of the sale of tax
4 increment obligations issued by the public entity under this
5 section, such payments being used either directly by the
6 public entity to pay such costs or used by a third party
7 recipient of such funds to pay such costs if within a Major
8 21st Century Manufacturing Zone; and

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

10 "(b) For the purposes of paying project costs or of
11 refunding obligations issued as otherwise provided by law or
12 under this section, the local governing body may issue tax
13 increment obligations payable out of positive tax increments.
14 Such tax increment obligations shall not be included in the
15 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 The tax increment obligations shall mature not more than 30
6 years from the date thereof. The tax increment obligations may
7 (i) contain provisions authorizing the redemption thereof, in
8 whole or in part, at stipulated prices, at the option of the
9 public entity, on any dates named therein and provide the
10 method of selecting the obligations to be redeemed, (ii) be
11 payable at any time or times and at any place, (iii) be
12 payable to bearer or registered as to principal or principal
13 and interest, (iv) be in any denominations, and (v) be sold at
14 public or private sale.

15 "(e) Tax increment obligations shall be payable only
16 out of a stipulated tax increment fund created pursuant to
17 Section 11-99-6 hereof, except as provided in paragraph (f) of
18 this section. The local governing body shall irrevocably
19 pledge all or a part of such tax increment fund to the payment
20 of the tax increment obligations. The tax increment fund may
21 thereafter be used only for the payment of the principal of
22 and interest on the tax increment obligations payable
23 therefrom until they have been fully paid.

24 "(f) To increase the security and marketability of
25 tax increment obligations, the public entity may:

1 "(1) Create a lien for the benefit of the security
2 holders upon any public improvements or public works financed
3 thereby or the revenues therefrom;

4 "(2) Pledge the full faith and credit of the public
5 entity to the payment thereof; and

6 "(3) Make covenants and do any and all acts as may
7 be necessary or convenient or desirable in the judgment of the
8 local governing body in order additionally to secure such
9 obligations or make the obligations more marketable.

10 "(g) For the purpose of paying project costs, the
11 local governing body may also allow payments to be made in
12 full at the time such costs accrue, thus allowing a project to
13 be all or partially funded on a pay-as-you-go basis."

14 Section 4. If a court of competent jurisdiction
15 adjudges invalid or unconstitutional any clause, sentence,
16 paragraph, section, or part of this act, such judgment or
17 decree shall not affect, impair, invalidate, or nullify the
18 remainder of this act, but the effect of the decision shall be
19 confined to the clause, sentence, paragraph, section, or part
20 of this act adjudged to be invalid or unconstitutional.

21 Section 5. Nothing herein shall be construed to
22 authorize any municipality or county to lend its credit or to
23 grant public money or things of value in aid of any
24 individual, association, or corporation in violation of
25 Section 94 of the Constitution of Alabama of 1901, as amended,

1 except to the extent otherwise permitted by other provisions
2 of or amendments to the Constitution.

3 Section 6. All laws or parts of laws which conflict
4 with this act are repealed.

5 Section 7. This act of this act shall become
6 effective immediately following its passage and approval by
7 the Governor, or its otherwise becoming law. Notwithstanding
8 the foregoing, the provisions of this act shall apply to any
9 tax increment district created before the effective date of
10 this act provided that the tax increment district is created
11 on or after April 1, 2013, and not less than 50 percent by
12 area of the real property within such tax increment district
13 is a Major 21st Century Manufacturing Zone.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB96
Senate 12-FEB-13
I hereby certify that the within Act originated in and passed
the Senate.

Patrick Harris
Secretary

House of Representatives
Passed: 28-FEB-13

By: Senator Orr