

SECOND REGULAR SESSION

SENATE BILL NO. 1131

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WILSON.

Read 1st time February 13, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

5023S.011

AN ACT

To repeal section 99.845, RSMo, and to enact in lieu thereof one new section relating to economic activity taxes for payment of tax increment financing projects.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 99.845, RSMo, is repealed and one new section enacted

2 in lieu thereof, to be known as section 99.845, to read as follows:

99.845. 1. A municipality, either at the time a redevelopment project is
2 approved or, in the event a municipality has undertaken acts establishing a
3 redevelopment plan and redevelopment project and has designated a
4 redevelopment area after the passage and approval of sections 99.800 to 99.865
5 but prior to August 13, 1982, which acts are in conformance with the procedures
6 of sections 99.800 to 99.865, may adopt tax increment allocation financing by
7 passing an ordinance providing that after the total equalized assessed valuation
8 of the taxable real property in a redevelopment project exceeds the certified total
9 initial equalized assessed valuation of the taxable real property in the
10 redevelopment project, the ad valorem taxes, and payments in lieu of taxes, if
11 any, arising from the levies upon taxable real property in such redevelopment
12 project by taxing districts and tax rates determined in the manner provided in
13 subsection 2 of section 99.855 each year after the effective date of the ordinance
14 until redevelopment costs have been paid shall be divided as follows:

15 (1) That portion of taxes, penalties and interest levied upon each taxable
16 lot, block, tract, or parcel of real property which is attributable to the initial
17 equalized assessed value of each such taxable lot, block, tract, or parcel of real
18 property in the area selected for the redevelopment project shall be allocated to
19 and, when collected, shall be paid by the county collector to the respective

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 affected taxing districts in the manner required by law in the absence of the
21 adoption of tax increment allocation financing;

22 (2) (a) Payments in lieu of taxes attributable to the increase in the
23 current equalized assessed valuation of each taxable lot, block, tract, or parcel of
24 real property in the area selected for the redevelopment project and any
25 applicable penalty and interest over and above the initial equalized assessed
26 value of each such unit of property in the area selected for the redevelopment
27 project shall be allocated to and, when collected, shall be paid to the municipal
28 treasurer who shall deposit such payment in lieu of taxes into a special fund
29 called the "Special Allocation Fund" of the municipality for the purpose of paying
30 redevelopment costs and obligations incurred in the payment thereof. Payments
31 in lieu of taxes which are due and owing shall constitute a lien against the real
32 estate of the redevelopment project from which they are derived and shall be
33 collected in the same manner as the real property tax, including the assessment
34 of penalties and interest where applicable. The municipality may, in the
35 ordinance, pledge the funds in the special allocation fund for the payment of such
36 costs and obligations and provide for the collection of payments in lieu of taxes,
37 the lien of which may be foreclosed in the same manner as a special assessment
38 lien as provided in section 88.861, RSMo. No part of the current equalized
39 assessed valuation of each lot, block, tract, or parcel of property in the area
40 selected for the redevelopment project attributable to any increase above the total
41 initial equalized assessed value of such properties shall be used in calculating the
42 general state school aid formula provided for in section 163.031, RSMo, until such
43 time as all redevelopment costs have been paid as provided for in this section and
44 section 99.850;

45 (b) Notwithstanding any provisions of this section to the contrary, for
46 purposes of determining the limitation on indebtedness of local government
47 pursuant to article VI, section 26(b) of the Missouri Constitution, the current
48 equalized assessed value of the property in an area selected for redevelopment
49 attributable to the increase above the total initial equalized assessed valuation
50 shall be included in the value of taxable tangible property as shown on the last
51 completed assessment for state or county purposes;

52 (c) The county assessor shall include the current assessed value of all
53 property within the taxing district in the aggregate valuation of assessed property
54 entered upon the assessor's book and verified pursuant to section 137.245, RSMo,
55 and such value shall be utilized for the purpose of the debt limitation on local

56 government pursuant to article VI, section 26(b) of the Missouri Constitution;

57 (3) For purposes of this section, "levies upon taxable real property in such
58 redevelopment project by taxing districts" shall not include the blind pension fund
59 tax levied under the authority of article III, section 38(b) of the Missouri
60 Constitution, or the merchants' and manufacturers' inventory replacement tax
61 levied under the authority of subsection 2 of section 6 of article X of the Missouri
62 Constitution, except in redevelopment project areas in which tax increment
63 financing has been adopted by ordinance pursuant to a plan approved by vote of
64 the governing body of the municipality taken after August 13, 1982, and before
65 January 1, 1998.

66 2. In addition to the payments in lieu of taxes described in subdivision (2)
67 of subsection 1 of this section, for redevelopment plans and projects adopted or
68 redevelopment projects approved by ordinance after July 12, 1990, and prior to
69 August 31, 1991, fifty percent of the total additional revenue from taxes, penalties
70 and interest imposed by the municipality, or other taxing districts, which are
71 generated by economic activities within the area of the redevelopment project over
72 the amount of such taxes generated by economic activities within the area of the
73 redevelopment project in the calendar year prior to the adoption of the
74 redevelopment project by ordinance, while tax increment financing remains in
75 effect, but excluding taxes imposed on sales or charges for sleeping rooms paid by
76 transient guests of hotels and motels, taxes levied pursuant to section 70.500,
77 RSMo, licenses, fees or special assessments other than payments in lieu of taxes
78 and any penalty and interest thereon, or, effective January 1, 1998, taxes levied
79 pursuant to section 94.660, RSMo, for the purpose of public transportation, shall
80 be allocated to, and paid by the local political subdivision collecting officer to the
81 treasurer or other designated financial officer of the municipality, who shall
82 deposit such funds in a separate segregated account within the special allocation
83 fund. Any provision of an agreement, contract or covenant entered into prior to
84 July 12, 1990, between a municipality and any other political subdivision which
85 provides for an appropriation of other municipal revenues to the special allocation
86 fund shall be and remain enforceable.

87 3. In addition to the payments in lieu of taxes described in subdivision (2)
88 of subsection 1 of this section, for redevelopment plans and projects adopted or
89 redevelopment projects approved by ordinance after August 31, 1991, fifty percent
90 of the total additional revenue from taxes, penalties and interest which are
91 imposed by the municipality or other taxing districts, and which are generated

92 by economic activities within the area of the redevelopment project over the
93 amount of such taxes generated by economic activities within the area of the
94 redevelopment project in the calendar year prior to the adoption of the
95 redevelopment project by ordinance, while tax increment financing remains in
96 effect, but excluding personal property taxes, taxes imposed on sales or charges
97 for sleeping rooms paid by transient guests of hotels and motels, taxes levied
98 pursuant to section 70.500, RSMo, taxes levied for the purpose of public
99 transportation pursuant to section 94.660, RSMo, licenses, fees or special
100 assessments other than payments in lieu of taxes and penalties and interest
101 thereon, or any sales tax imposed by a county with a charter form of government
102 and with more than six hundred thousand but fewer than seven hundred
103 thousand inhabitants, for the purpose of sports stadium improvement, shall be
104 allocated to, and paid by the local political subdivision collecting officer to the
105 treasurer or other designated financial officer of the municipality, who shall
106 deposit such funds in a separate segregated account within the special allocation
107 fund.

108 **4. In addition to the payments in lieu of taxes described in**
109 **subdivision (2) of subsection 1 of this section, for redevelopment plans**
110 **and projects adopted or redevelopment projects approved by ordinance**
111 **after August 31, 2008, fifty percent of the total additional revenue from**
112 **taxes, penalties and interest which are imposed by the municipality or**
113 **other taxing districts, and which are generated by economic activities**
114 **within the area of the redevelopment project over the amount of such**
115 **taxes generated by economic activities within the area of the**
116 **redevelopment project in the calendar year prior to the adoption of the**
117 **redevelopment project by ordinance, while tax increment financing**
118 **remains in effect, but excluding personal property taxes, taxes imposed**
119 **on sales or charges for sleeping rooms paid by transient guests of**
120 **hotels and motels, taxes levied pursuant to section 70.500, RSMo, taxes**
121 **levied for the purpose of public transportation pursuant to section**
122 **94.660, RSMo, licenses, fees or special assessments other than payments**
123 **in lieu of taxes and penalties and interest thereon, taxes levied by any**
124 **home rule city with more than four hundred thousand inhabitants and**
125 **located in more than one county for transportation purposes pursuant**
126 **to section 94.577 and sections 94.600 to 94.655 RSMo, and any sales tax**
127 **imposed by a county with a charter form of government and with more**

128 **than six hundred thousand but fewer than seven hundred thousand**
129 **inhabitants, for the purpose of sports stadium improvement, shall be**
130 **allocated to, and paid by the local political subdivision collecting**
131 **officer to the treasurer or other designated financial officer of the**
132 **municipality, who shall deposit such funds in a separate segregated**
133 **account within the special allocation fund.**

134 **5.** Beginning January 1, 1998, for redevelopment plans and projects
135 adopted or redevelopment projects approved by ordinance and which have
136 complied with subsections 4 to 12 of this section, in addition to the payments in
137 lieu of taxes and economic activity taxes described in subsections 1, 2 and 3 of
138 this section, up to fifty percent of the new state revenues, as defined in subsection
139 8 of this section, estimated for the businesses within the project area and
140 identified by the municipality in the application required by subsection 10 of this
141 section, over and above the amount of such taxes reported by businesses within
142 the project area as identified by the municipality in their application prior to the
143 approval of the redevelopment project by ordinance, while tax increment
144 financing remains in effect, may be available for appropriation by the general
145 assembly as provided in subsection 10 of this section to the department of
146 economic development supplemental tax increment financing fund, from the
147 general revenue fund, for distribution to the treasurer or other designated
148 financial officer of the municipality with approved plans or projects.

149 **[5.] 6.** The treasurer or other designated financial officer of the
150 municipality with approved plans or projects shall deposit such funds in a
151 separate segregated account within the special allocation fund established
152 pursuant to section 99.805.

153 **[6.] 7.** No transfer from the general revenue fund to the Missouri
154 supplemental tax increment financing fund shall be made unless an appropriation
155 is made from the general revenue fund for that purpose. No municipality shall
156 commit any state revenues prior to an appropriation being made for that
157 project. For all redevelopment plans or projects adopted or approved after
158 December 23, 1997, appropriations from the new state revenues shall not be
159 distributed from the Missouri supplemental tax increment financing fund into the
160 special allocation fund unless the municipality's redevelopment plan ensures that
161 one hundred percent of payments in lieu of taxes and fifty percent of economic
162 activity taxes generated by the project shall be used for eligible redevelopment
163 project costs while tax increment financing remains in effect. This account shall

164 be separate from the account into which payments in lieu of taxes are deposited,
165 and separate from the account into which economic activity taxes are deposited.

166 [7.] 8. In order for the redevelopment plan or project to be eligible to
167 receive the revenue described in subsection 4 of this section, the municipality
168 shall comply with the requirements of subsection 10 of this section prior to the
169 time the project or plan is adopted or approved by ordinance. The director of the
170 department of economic development and the commissioner of the office of
171 administration may waive the requirement that the municipality's application be
172 submitted prior to the redevelopment plan's or project's adoption or the
173 redevelopment plan's or project's approval by ordinance.

174 [8.] 9. For purposes of this section, "new state revenues" means:

175 (1) The incremental increase in the general revenue portion of state sales
176 tax revenues received pursuant to section 144.020, RSMo, excluding sales taxes
177 that are constitutionally dedicated, taxes deposited to the school district trust
178 fund in accordance with section 144.701, RSMo, sales and use taxes on motor
179 vehicles, trailers, boats and outboard motors and future sales taxes earmarked
180 by law. In no event shall the incremental increase include any amounts
181 attributable to retail sales unless the municipality or authority has proven to the
182 Missouri development finance board and the department of economic development
183 and such entities have made a finding that the sales tax increment attributable
184 to retail sales is from new sources which did not exist in the state during the
185 baseline year. The incremental increase in the general revenue portion of state
186 sales tax revenues for an existing or relocated facility shall be the amount that
187 current state sales tax revenue exceeds the state sales tax revenue in the base
188 year as stated in the redevelopment plan as provided in subsection 10 of this
189 section; or

190 (2) The state income tax withheld on behalf of new employees by the
191 employer pursuant to section 143.221, RSMo, at the business located within the
192 project as identified by the municipality. The state income tax withholding
193 allowed by this section shall be the municipality's estimate of the amount of state
194 income tax withheld by the employer within the redevelopment area for new
195 employees who fill new jobs directly created by the tax increment financing
196 project.

197 [9.] 10. Subsection 4 of this section shall apply only to blighted areas
198 located in enterprise zones, pursuant to sections 135.200 to 135.256, RSMo,
199 blighted areas located in federal empowerment zones, or to blighted areas located

200 in central business districts or urban core areas of cities which districts or urban
201 core areas at the time of approval of the project by ordinance, provided that the
202 enterprise zones, federal empowerment zones or blighted areas contained one or
203 more buildings at least fifty years old; and

204 (1) Suffered from generally declining population or property taxes over the
205 twenty-year period immediately preceding the area's designation as a project area
206 by ordinance; or

207 (2) Was a historic hotel located in a county of the first classification
208 without a charter form of government with a population according to the most
209 recent federal decennial census in excess of one hundred fifty thousand and
210 containing a portion of a city with a population according to the most recent
211 federal decennial census in excess of three hundred fifty thousand.

212 [10.] 11. The initial appropriation of up to fifty percent of the new state
213 revenues authorized pursuant to subsections 4 and 5 of this section shall not be
214 made to or distributed by the department of economic development to a
215 municipality until all of the following conditions have been satisfied:

216 (1) The director of the department of economic development or his or her
217 designee and the commissioner of the office of administration or his or her
218 designee have approved a tax increment financing application made by the
219 municipality for the appropriation of the new state revenues. The municipality
220 shall include in the application the following items in addition to the items in
221 section 99.810:

222 (a) The tax increment financing district or redevelopment area, including
223 the businesses identified within the redevelopment area;

224 (b) The base year of state sales tax revenues or the base year of state
225 income tax withheld on behalf of existing employees, reported by existing
226 businesses within the project area prior to approval of the redevelopment project;

227 (c) The estimate of the incremental increase in the general revenue
228 portion of state sales tax revenue or the estimate for the state income tax
229 withheld by the employer on behalf of new employees expected to fill new jobs
230 created within the redevelopment area after redevelopment;

231 (d) The official statement of any bond issue pursuant to this subsection
232 after December 23, 1997;

233 (e) An affidavit that is signed by the developer or developers attesting
234 that the provisions of subdivision (1) of section 99.810 have been met and
235 specifying that the redevelopment area would not be reasonably anticipated to be

236 developed without the appropriation of the new state revenues;

237 (f) The cost-benefit analysis required by section 99.810 includes a study

238 of the fiscal impact on the state of Missouri; and

239 (g) The statement of election between the use of the incremental increase

240 of the general revenue portion of the state sales tax revenues or the state income

241 tax withheld by employers on behalf of new employees who fill new jobs created

242 in the redevelopment area;

243 (h) The name, street and mailing address, and phone number of the mayor

244 or chief executive officer of the municipality;

245 (i) The street address of the development site;

246 (j) The three-digit North American Industry Classification System number

247 or numbers characterizing the development project;

248 (k) The estimated development project costs;

249 (l) The anticipated sources of funds to pay such development project costs;

250 (m) Evidence of the commitments to finance such development project

251 costs;

252 (n) The anticipated type and term of the sources of funds to pay such

253 development project costs;

254 (o) The anticipated type and terms of the obligations to be issued;

255 (p) The most recent equalized assessed valuation of the property within

256 the development project area;

257 (q) An estimate as to the equalized assessed valuation after the

258 development project area is developed in accordance with a development plan;

259 (r) The general land uses to apply in the development area;

260 (s) The total number of individuals employed in the development area,

261 broken down by full-time, part-time, and temporary positions;

262 (t) The total number of full-time equivalent positions in the development

263 area;

264 (u) The current gross wages, state income tax withholdings, and federal

265 income tax withholdings for individuals employed in the development area;

266 (v) The total number of individuals employed in this state by the

267 corporate parent of any business benefiting from public expenditures in the

268 development area, and all subsidiaries thereof, as of December thirty-first of the

269 prior fiscal year, broken down by full-time, part-time, and temporary positions;

270 (w) The number of new jobs to be created by any business benefiting from

271 public expenditures in the development area, broken down by full-time, part-time,

272 and temporary positions;

273 (x) The average hourly wage to be paid to all current and new employees
274 at the project site, broken down by full-time, part-time, and temporary positions;

275 (y) For project sites located in a metropolitan statistical area, as defined
276 by the federal Office of Management and Budget, the average hourly wage paid
277 to nonmanagerial employees in this state for the industries involved at the
278 project, as established by the United States Bureau of Labor Statistics;

279 (z) For project sites located outside of metropolitan statistical areas, the
280 average weekly wage paid to nonmanagerial employees in the county for
281 industries involved at the project, as established by the United States
282 Department of Commerce;

283 (aa) A list of other community and economic benefits to result from the
284 project;

285 (bb) A list of all development subsidies that any business benefiting from
286 public expenditures in the development area has previously received for the
287 project, and the name of any other granting body from which such subsidies are
288 sought;

289 (cc) A list of all other public investments made or to be made by this state
290 or units of local government to support infrastructure or other needs generated
291 by the project for which the funding pursuant to this section is being sought;

292 (dd) A statement as to whether the development project may reduce
293 employment at any other site, within or without the state, resulting from
294 automation, merger, acquisition, corporate restructuring, relocation, or other
295 business activity;

296 (ee) A statement as to whether or not the project involves the relocation
297 of work from another address and if so, the number of jobs to be relocated and the
298 address from which they are to be relocated;

299 (ff) A list of competing businesses in the county containing the
300 development area and in each contiguous county;

301 (gg) A market study for the development area;

302 (hh) A certification by the chief officer of the applicant as to the accuracy
303 of the development plan;

304 (2) The methodologies used in the application for determining the base
305 year and determining the estimate of the incremental increase in the general
306 revenue portion of the state sales tax revenues or the state income tax withheld
307 by employers on behalf of new employees who fill new jobs created in the

308 redevelopment area shall be approved by the director of the department of
309 economic development or his or her designee and the commissioner of the office
310 of administration or his or her designee. Upon approval of the application, the
311 director of the department of economic development or his or her designee and
312 the commissioner of the office of administration or his or her designee shall issue
313 a certificate of approval. The department of economic development may request
314 the appropriation following application approval;

315 (3) The appropriation shall be either a portion of the estimate of the
316 incremental increase in the general revenue portion of state sales tax revenues
317 in the redevelopment area or a portion of the estimate of the state income tax
318 withheld by the employer on behalf of new employees who fill new jobs created
319 in the redevelopment area as indicated in the municipality's application,
320 approved by the director of the department of economic development or his or her
321 designee and the commissioner of the office of administration or his or her
322 designee. At no time shall the annual amount of the new state revenues
323 approved for disbursements from the Missouri supplemental tax increment
324 financing fund exceed thirty-two million dollars;

325 (4) Redevelopment plans and projects receiving new state revenues shall
326 have a duration of up to fifteen years, unless prior approval for a longer term is
327 given by the director of the department of economic development or his or her
328 designee and the commissioner of the office of administration or his or her
329 designee; except that, in no case shall the duration exceed twenty-three years.

330 **[11.] 12.** In addition to the areas authorized in subsection 9 of this
331 section, the funding authorized pursuant to subsection 4 of this section shall also
332 be available in a federally approved levee district, where construction of a levee
333 begins after December 23, 1997, and which is contained within a county of the
334 first classification without a charter form of government with a population
335 between fifty thousand and one hundred thousand inhabitants which contains all
336 or part of a city with a population in excess of four hundred thousand or more
337 inhabitants.

338 **[12.] 13.** There is hereby established within the state treasury a special
339 fund to be known as the "Missouri Supplemental Tax Increment Financing Fund",
340 to be administered by the department of economic development. The department
341 shall annually distribute from the Missouri supplemental tax increment financing
342 fund the amount of the new state revenues as appropriated as provided in the
343 provisions of subsections 4 and 5 of this section if and only if the conditions of

344 subsection 10 of this section are met. The fund shall also consist of any gifts,
345 contributions, grants or bequests received from federal, private or other
346 sources. Moneys in the Missouri supplemental tax increment financing fund shall
347 be disbursed per project pursuant to state appropriations.

348 **[13.] 14.** Redevelopment project costs may include, at the prerogative of
349 the state, the portion of salaries and expenses of the department of economic
350 development and the department of revenue reasonably allocable to each
351 redevelopment project approved for disbursements from the Missouri
352 supplemental tax increment financing fund for the ongoing administrative
353 functions associated with such redevelopment project. Such amounts shall be
354 recovered from new state revenues deposited into the Missouri supplemental tax
355 increment financing fund created under this section.

356 **[14.] 15.** For redevelopment plans or projects approved by ordinance that
357 result in net new jobs from the relocation of a national headquarters from another
358 state to the area of the redevelopment project, the economic activity taxes and
359 new state tax revenues shall not be based on a calculation of the incremental
360 increase in taxes as compared to the base year or prior calendar year for such
361 redevelopment project, rather the incremental increase shall be the amount of
362 total taxes generated from the net new jobs brought in by the national
363 headquarters from another state. In no event shall this subsection be construed
364 to allow a redevelopment project to receive an appropriation in excess of up to
365 fifty percent of the new state revenues.

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