

FIRST REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 401

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS SCHMITT AND RICHARD.

Read 1st time February 4, 2015, and ordered printed.

Read 2nd time February 24, 2015, and referred to the Committee on Jobs, Economic Development and Local Government.

Reported from the Committee April 2, 2015, with recommendation that the bill do pass.

Taken up for Perfection April 14, 2015. Bill declared Perfected and Ordered Printed.

ADRIANE D. CROUSE, Secretary.

1391S.01P

AN ACT

To repeal section 99.845, RSMo, and to enact in lieu thereof one new section relating to tax increment financing.

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Section A. Section 99.845, RSMo, is repealed and one new section enacted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

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

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
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. Beginning
31 August 28, 2014, if the voters in a taxing district vote to approve an increase in
32 such taxing district's levy rate for ad valorem tax on real property, any additional
33 revenues generated within an existing redevelopment project area that are
34 directly attributable to the newly voter-approved incremental increase in such
35 taxing district's levy rate shall not be considered payments in lieu of taxes subject
36 to deposit into a special allocation fund without the consent of such taxing
37 district. Revenues will be considered directly attributable to the newly
38 voter-approved incremental increase to the extent that they are generated from
39 the difference between the taxing district's actual levy rate currently imposed and
40 the maximum voter-approved levy rate at the time that the redevelopment project
41 was adopted. Payments in lieu of taxes which are due and owing shall constitute
42 a lien against the real estate of the redevelopment project from which they are
43 derived and shall be collected in the same manner as the real property tax,
44 including the assessment of penalties and interest where applicable. The
45 municipality may, in the ordinance, pledge the funds in the special allocation
46 fund for the payment of such costs and obligations and provide for the collection
47 of payments in lieu of taxes, the lien of which may be foreclosed in the same
48 manner as a special assessment lien as provided in section 88.861. No part of the
49 current equalized assessed valuation of each lot, block, tract, or parcel of property
50 in the area selected for the redevelopment project attributable to any increase
51 above the total initial equalized assessed value of such properties shall be used
52 in calculating the general state school aid formula provided for in section 163.031

53 until such time as all redevelopment costs have been paid as provided for in this
54 section and section 99.850.

55 (b) Notwithstanding any provisions of this section to the contrary, for
56 purposes of determining the limitation on indebtedness of local government
57 pursuant to Article VI, Section 26(b) of the Missouri Constitution, the current
58 equalized assessed value of the property in an area selected for redevelopment
59 attributable to the increase above the total initial equalized assessed valuation
60 shall be included in the value of taxable tangible property as shown on the last
61 completed assessment for state or county purposes.

62 (c) The county assessor shall include the current assessed value of all
63 property within the taxing district in the aggregate valuation of assessed property
64 entered upon the assessor's book and verified pursuant to section 137.245, and
65 such value shall be utilized for the purpose of the debt limitation on local
66 government pursuant to Article VI, Section 26(b) of the Missouri Constitution;

67 (3) For purposes of this section, "levies upon taxable real property in such
68 redevelopment project by taxing districts" shall not include the blind pension fund
69 tax levied under the authority of Article III, Section 38(b) of the Missouri
70 Constitution, or the merchants' and manufacturers' inventory replacement tax
71 levied under the authority of subsection 2 of Section 6 of Article X of the Missouri
72 Constitution, except in redevelopment project areas in which tax increment
73 financing has been adopted by ordinance pursuant to a plan approved by vote of
74 the governing body of the municipality taken after August 13, 1982, and before
75 January 1, 1998.

76 2. In addition to the payments in lieu of taxes described in subdivision (2)
77 of subsection 1 of this section, for redevelopment plans and projects adopted or
78 redevelopment projects approved by ordinance after July 12, 1990, and prior to
79 August 31, 1991, fifty percent of the total additional revenue from taxes, penalties
80 and interest imposed by the municipality, or other taxing districts, which are
81 generated by economic activities within the area of the redevelopment project over
82 the amount of such taxes generated by economic activities within the area of the
83 redevelopment project in the calendar year prior to the adoption of the
84 redevelopment project by ordinance, while tax increment financing remains in
85 effect, but excluding taxes imposed on sales or charges for sleeping rooms paid by
86 transient guests of hotels and motels, taxes levied pursuant to section 70.500,
87 licenses, fees or special assessments other than payments in lieu of taxes and any
88 penalty and interest thereon, or, effective January 1, 1998, taxes levied pursuant

89 to section 94.660, for the purpose of public transportation, shall be allocated to,
90 and paid by the local political subdivision collecting officer to the treasurer or
91 other designated financial officer of the municipality, who shall deposit such
92 funds in a separate segregated account within the special allocation fund. Any
93 provision of an agreement, contract or covenant entered into prior to July 12,
94 1990, between a municipality and any other political subdivision which provides
95 for an appropriation of other municipal revenues to the special allocation fund
96 shall be and remain enforceable.

97 3. In addition to the payments in lieu of taxes described in subdivision (2)
98 of subsection 1 of this section, for redevelopment plans and projects adopted or
99 redevelopment projects approved by ordinance after August 31, 1991, fifty percent
100 of the total additional revenue from taxes, penalties and interest which are
101 imposed by the municipality or other taxing districts, and which are generated
102 by economic activities within the area of the redevelopment project over the
103 amount of such taxes generated by economic activities within the area of the
104 redevelopment project in the calendar year prior to the adoption of the
105 redevelopment project by ordinance, while tax increment financing remains in
106 effect, but excluding personal property taxes, taxes imposed on sales or charges
107 for sleeping rooms paid by transient guests of hotels and motels, taxes levied
108 pursuant to section 70.500, taxes levied for the purpose of public transportation
109 pursuant to section 94.660, taxes imposed on sales pursuant to subsection 2 of
110 section 67.1712 for the purpose of operating and maintaining a metropolitan park
111 and recreation district, licenses, fees or special assessments other than payments
112 in lieu of taxes and penalties and interest thereon, any sales tax imposed by a
113 county with a charter form of government and with more than six hundred
114 thousand but fewer than seven hundred thousand inhabitants, for the purpose of
115 sports stadium improvement or levied by such county under section 238.410 for
116 the purpose of the county transit authority operating transportation facilities, or
117 for redevelopment plans and projects adopted or redevelopment projects approved
118 by ordinance after August 28, 2013, taxes imposed on sales under and pursuant
119 to section 67.700 or 650.399 for the purpose of emergency communication systems,
120 shall be allocated to, and paid by the local political subdivision collecting officer
121 to the treasurer or other designated financial officer of the municipality, who
122 shall deposit such funds in a separate segregated account within the special
123 allocation fund. Beginning August 28, 2014, if the voters in a taxing district vote
124 to approve an increase in such taxing district's sales tax or use tax, other than

125 the renewal of an expiring sales or use tax, any additional revenues generated
126 within an existing redevelopment project area that are directly attributable to the
127 newly voter-approved incremental increase in such taxing district's levy rate shall
128 not be considered economic activity taxes subject to deposit into a special
129 allocation fund without the consent of such taxing district.

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

145 5. The treasurer or other designated financial officer of the municipality
146 with approved plans or projects shall deposit such funds in a separate segregated
147 account within the special allocation fund established pursuant to section 99.805.

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

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

169 8. For purposes of this section, "new state revenues" means:

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

184 (2) The state income tax withheld on behalf of new employees by the
185 employer pursuant to section 143.221 at the business located within the project
186 as identified by the municipality. The state income tax withholding allowed by
187 this section shall be the municipality's estimate of the amount of state income tax
188 withheld by the employer within the redevelopment area for new employees who
189 fill new jobs directly created by the tax increment financing project.

190 9. Subsection 4 of this section shall apply only to:

191 (1) Blighted areas located in enterprise zones, pursuant to sections
192 135.200 to 135.256, blighted areas located in federal empowerment zones, or to
193 blighted areas located in central business districts or urban core areas of cities
194 which districts or urban core areas at the time of approval of the project by
195 ordinance, provided that the enterprise zones, federal empowerment zones or
196 blighted areas contained one or more buildings at least fifty years old; and

197 [(1)] (a) Suffered from generally declining population or property taxes
198 over the twenty-year period immediately preceding the area's designation as a
199 project area by ordinance; or

200 [(2)] (b) Was a historic hotel located in a county of the first classification
201 without a charter form of government with a population according to the most
202 recent federal decennial census in excess of one hundred fifty thousand and
203 containing a portion of a city with a population according to the most recent
204 federal decennial census in excess of three hundred fifty thousand; or

205 **(2) Former automobile manufacturing plants located in any**
206 **county with a charter form of government and with more than nine**
207 **hundred fifty thousand inhabitants. For purposes of this section,**
208 **"former automobile manufacturing plant" means a redevelopment area**
209 **containing a minimum of one hundred acres, and such redevelopment**
210 **area was historically used primarily for the manufacture of**
211 **automobiles but ceased such manufacturing after the calendar year**
212 **2007.**

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

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

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

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

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

- 233 (d) The official statement of any bond issue pursuant to this subsection
234 after December 23, 1997;
- 235 (e) An affidavit that is signed by the developer or developers attesting
236 that the provisions of subdivision (1) of subsection 1 of section 99.810 have been
237 met and specifying that the redevelopment area would not be reasonably
238 anticipated to be developed without the appropriation of the new state revenues;
- 239 (f) The cost-benefit analysis required by section 99.810 includes a study
240 of the fiscal impact on the state of Missouri; [and]
- 241 (g) The statement of election between the use of the incremental increase
242 of the general revenue portion of the state sales tax revenues or the state income
243 tax withheld by employers on behalf of new employees who fill new jobs created
244 in the redevelopment area;
- 245 (h) The name, street and mailing address, and phone number of the mayor
246 or chief executive officer of the municipality;
- 247 (i) The street address of the development site;
- 248 (j) The three-digit North American Industry Classification System number
249 or numbers characterizing the development project;
- 250 (k) The estimated development project costs;
- 251 (l) The anticipated sources of funds to pay such development project costs;
- 252 (m) Evidence of the commitments to finance such development project
253 costs;
- 254 (n) The anticipated type and term of the sources of funds to pay such
255 development project costs;
- 256 (o) The anticipated type and terms of the obligations to be issued;
- 257 (p) The most recent equalized assessed valuation of the property within
258 the development project area;
- 259 (q) An estimate as to the equalized assessed valuation after the
260 development project area is developed in accordance with a development plan;
- 261 (r) The general land uses to apply in the development area;
- 262 (s) The total number of individuals employed in the development area,
263 broken down by full-time, part-time, and temporary positions;
- 264 (t) The total number of full-time equivalent positions in the development
265 area;
- 266 (u) The current gross wages, state income tax withholdings, and federal
267 income tax withholdings for individuals employed in the development area;
- 268 (v) The total number of individuals employed in this state by the

269 corporate parent of any business benefitting from public expenditures in the
270 development area, and all subsidiaries thereof, as of December thirty-first of the
271 prior fiscal year, broken down by full-time, part-time, and temporary positions;

272 (w) The number of new jobs to be created by any business benefitting from
273 public expenditures in the development area, broken down by full-time, part-time,
274 and temporary positions;

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

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

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

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

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

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

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

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

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

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

304 (hh) A certification by the chief officer of the applicant as to the accuracy

305 of the development plan;

306 (2) The methodologies used in the application for determining the base
307 year and determining the estimate of the incremental increase in the general
308 revenue portion of the state sales tax revenues or the state income tax withheld
309 by employers on behalf of new employees who fill new jobs created in the
310 redevelopment area shall be approved by the director of the department of
311 economic development or his or her designee and the commissioner of the office
312 of administration or his or her designee. Upon approval of the application, the
313 director of the department of economic development or his or her designee and
314 the commissioner of the office of administration or his or her designee shall issue
315 a certificate of approval. The department of economic development may request
316 the appropriation following application approval;

317 (3) The appropriation shall be either a portion of the estimate of the
318 incremental increase in the general revenue portion of state sales tax revenues
319 in the redevelopment area or a portion of the estimate of the state income tax
320 withheld by the employer on behalf of new employees who fill new jobs created
321 in the redevelopment area as indicated in the municipality's application,
322 approved by the director of the department of economic development or his or her
323 designee and the commissioner of the office of administration or his or her
324 designee. At no time shall the annual amount of the new state revenues
325 approved for disbursements from the Missouri supplemental tax increment
326 financing fund exceed thirty-two million dollars; **provided, however, that such**
327 **thirty-two million dollar cap shall not apply to any former automobile**
328 **manufacturing plant. At no time shall the annual amount of the new**
329 **state revenues for disbursements from the Missouri supplemental tax**
330 **increment financing fund for any former automobile manufacturing**
331 **plant exceed four million dollars;**

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

337 11. In addition to the areas authorized in subsection 9 of this section, the
338 funding authorized pursuant to subsection 4 of this section shall also be available
339 in a federally approved levee district, where construction of a levee begins after
340 December 23, 1997, and which is contained within a county of the first

341 classification without a charter form of government with a population between
342 fifty thousand and one hundred thousand inhabitants which contains all or part
343 of a city with a population in excess of four hundred thousand or more
344 inhabitants.

345 12. There is hereby established within the state treasury a special fund
346 to be known as the "Missouri Supplemental Tax Increment Financing Fund", to
347 be administered by the department of economic development. The department
348 shall annually distribute from the Missouri supplemental tax increment financing
349 fund the amount of the new state revenues as appropriated as provided in the
350 provisions of [subsections 4 and 5] **subsection 4** of this section if and only if the
351 conditions of subsection 10 of this section are met. The fund shall also consist of
352 any gifts, contributions, grants or bequests received from federal, private or other
353 sources. Moneys in the Missouri supplemental tax increment financing fund shall
354 be disbursed per project pursuant to state appropriations.

355 13. Redevelopment project costs may include, at the prerogative of the
356 state, the portion of salaries and expenses of the department of economic
357 development and the department of revenue reasonably allocable to each
358 redevelopment project approved for disbursements from the Missouri
359 supplemental tax increment financing fund for the ongoing administrative
360 functions associated with such redevelopment project. Such amounts shall be
361 recovered from new state revenues deposited into the Missouri supplemental tax
362 increment financing fund created under this section.

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

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