

SECOND REGULAR SESSION

SENATE BILL NO. 1008

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR GOODE.

Read 1st time January 7, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

3738S.011

AN ACT

To repeal sections 99.805 and 99.810, RSMo, and to enact in lieu thereof four new sections relating to tax increment financing.

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

Section A. Sections 99.805 and 99.810, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 99.805, 99.810, 99.870, and 99.872, to read as follows:

99.805. As used in sections 99.800 to [99.865] **99.872**, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Blighted area", an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use;

(2) "Collecting officer", the officer of the municipality responsible for receiving and processing payments in lieu of taxes or economic activity taxes from taxpayers or the department of revenue;

(3) "Conservation area", any improved area within the boundaries of a redevelopment area located within the territorial limits of a municipality in which fifty percent or more of the structures in the area have an age of thirty-five years or more. Such an area is not yet a blighted area but is detrimental to the public health, safety, morals, or welfare and may become a blighted area because of any one or more of the following factors: dilapidation; obsolescence; deterioration; illegal use of individual structures; presence of structures below minimum code standards; abandonment; excessive vacancies; overcrowding of structures and

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

community facilities; lack of ventilation, light or sanitary facilities; inadequate utilities; excessive land coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of community planning. A conservation area shall meet at least three of the factors provided in this subdivision for projects approved on or after December 23, 1997;

(4) **"Countywide Public Finance Review Authority", an entity established by any county for the purpose of carrying out activities described in sections 99.800 to 99.865. The countywide public finance review authority shall have no fewer than five and no more than eleven members, to be appointed by the legislative body of that county to represent the broad economic, community, and conservation interests of the area. Individuals who stand to gain or who are related to individuals who stand to gain professionally or financially from the outcome of a local decision about tax increment financing may not be appointed to the countywide public finance review authority. The county governing body shall set the terms of service;**

(5) "Economic activity taxes", the total additional revenue from taxes which are imposed by a municipality and other taxing districts, and which are generated by economic activities within a redevelopment area over the amount of such taxes generated by economic activities within such redevelopment area in the calendar year prior to the adoption of the ordinance designating such a redevelopment area, while tax increment financing remains in effect, but excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees or special assessments, **or sales taxes dedicated by a vote of the people to a specific purpose or project.** For redevelopment projects or redevelopment plans approved after December 23, 1997, if a retail establishment relocates within one year from one facility to another facility within the same county and the governing body of the municipality finds that the relocation is a direct beneficiary of tax increment financing, then for purposes of this definition, the economic activity taxes generated by the retail establishment shall equal the total additional revenues from economic activity taxes which are imposed by a municipality or other taxing district over the amount of economic activity taxes generated by the retail establishment in the calendar year prior to its relocation to the redevelopment area;

~~[(5)]~~ **(6)** "Economic development area", any area or portion of an area located within the territorial limits of a municipality, which does not meet the requirements of subdivisions (1) and (3) of this section, and in which the governing body of the municipality finds that redevelopment will not be solely used for development of commercial businesses which unfairly compete in the local economy and is in the public interest because it will[:

(a)] discourage commerce, industry or manufacturing from moving their operations to another state; [or

(b) Result in increased employment in the municipality; or

(c) Result in preservation or enhancement of the tax base of the municipality;]

[(6)] (7) "Gambling establishment", an excursion gambling boat as defined in section 313.800, RSMo, and any related business facility including any real property improvements which are directly and solely related to such business facility, whose sole purpose is to provide goods or services to an excursion gambling boat and whose majority ownership interest is held by a person licensed to conduct gambling games on an excursion gambling boat or licensed to operate an excursion gambling boat as provided in sections 313.800 to 313.850, RSMo. This subdivision shall be applicable only to a redevelopment area designated by ordinance adopted after December 23, 1997;

[(7)] (8) "Municipality", a city, village, or incorporated town or any county of this state. For redevelopment areas or projects approved on or after December 23, 1997, "municipality" applies only to cities, villages, incorporated towns or counties established for at least one year prior to such date;

[(8)] (9) "Obligations", bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by a municipality to carry out a redevelopment project or to refund outstanding obligations;

[(9)] (10) "Ordinance", an ordinance enacted by the governing body of a city, town, or village or a county or an order of the governing body of a county whose governing body is not authorized to enact ordinances;

[(10)] (11) "Payment in lieu of taxes", those estimated revenues from real property in the area selected for a redevelopment project, which revenues according to the redevelopment project or plan are to be used for a private use, which taxing districts would have received had a municipality not adopted tax increment allocation financing, and which would result from levies made after the time of the adoption of tax increment allocation financing during the time the current equalized value of real property in the area selected for the redevelopment project exceeds the total initial equalized value of real property in such area until the designation is terminated pursuant to subsection 2 of section 99.850;

[(11)] (12) "Redevelopment area", an area designated by a municipality, in respect to which the municipality has made a finding that there exist conditions which cause the area to be classified as a blighted area, a conservation area, an economic development area, an enterprise zone pursuant to sections 135.200 to 135.256, RSMo, or a combination thereof, which area includes only those parcels of real property directly and substantially benefited by the proposed redevelopment project;

[(12)] (13) "Redevelopment plan", the comprehensive program of a municipality for redevelopment intended by the payment of redevelopment costs to reduce or eliminate those conditions, the existence of which qualified the redevelopment area as a blighted area, conservation area, economic development area, or combination thereof, and to thereby enhance the tax bases of the taxing districts which extend into the redevelopment area. Each

redevelopment plan shall conform to the requirements of section 99.810;

~~[(13)]~~ **(14)** "Redevelopment project", any development project within a redevelopment area in furtherance of the objectives of the redevelopment plan; any such redevelopment project shall include a legal description of the area selected for the redevelopment project;

~~[(14)]~~ **(15)** "Redevelopment project costs" include the sum total of all reasonable or necessary costs incurred or estimated to be incurred, and any such costs incidental to a redevelopment plan or redevelopment project, as applicable. Such costs include, but are not limited to, the following:

(a) Costs of studies, surveys, plans, and specifications;

(b) Professional service costs, including, but not limited to, architectural, engineering, legal, marketing, financial, planning or special services. Except the reasonable costs incurred by the commission established in section 99.820 for the administration of sections 99.800 to 99.865, such costs shall be allowed only as an initial expense which, to be recoverable, shall be included in the costs of a redevelopment plan or project;

(c) Property assembly costs, including, but not limited to, acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, and the clearing and grading of land;

(d) Costs of rehabilitation, reconstruction, or repair or remodeling of existing buildings and fixtures;

(e) Initial costs for an economic development area;

(f) Costs of construction of public works or improvements;

(g) Financing costs, including, but not limited to, all necessary and incidental expenses related to the issuance of obligations, and which may include payment of interest on any obligations issued pursuant to sections 99.800 to 99.865 accruing during the estimated period of construction of any redevelopment project for which such obligations are issued and for not more than eighteen months thereafter, and including reasonable reserves related thereto;

(h) All or a portion of a taxing district's capital costs resulting from the redevelopment project necessarily incurred or to be incurred in furtherance of the objectives of the redevelopment plan and project, to the extent the municipality by written agreement accepts and approves such costs;

(i) Relocation costs to the extent that a municipality determines that relocation costs shall be paid or are required to be paid by federal or state law;

(j) Payments in lieu of taxes;

(16) "Retail project", any redevelopment project where more than fifty percent of the total estimated redevelopment project costs are devoted to the construction, reconstruction, or expansion of retail establishments or infrastructure or facilities ancillary to sales at retail;

[(15)] (17) "Special allocation fund", the fund of a municipality or its commission which contains at least two separate segregated accounts for each redevelopment plan, maintained by the treasurer of the municipality or the treasurer of the commission into which payments in lieu of taxes are deposited in one account, and economic activity taxes and other revenues are deposited in the other account;

[(16)] (18) "Taxing districts", any political subdivision of this state having the power to levy taxes;

[(17)] (19) "Taxing districts' capital costs", those costs of taxing districts for capital improvements that are found by the municipal governing bodies to be necessary and to directly result from the redevelopment project; and

[(18)] (20) "Vacant land", any parcel or combination of parcels of real property not used for industrial, commercial, or residential buildings.

99.810. 1. Each redevelopment plan shall set forth in writing a general description of the program to be undertaken to accomplish the objectives and shall include, but need not be limited to, the estimated redevelopment project costs, the anticipated sources of funds to pay the costs, evidence of the commitments to finance the project costs, the anticipated type and term of the sources of funds to pay costs, the anticipated type and terms of the obligations to be issued, the most recent equalized assessed valuation of the property within the redevelopment area which is to be subjected to payments in lieu of taxes and economic activity taxes pursuant to section 99.845, an estimate as to the equalized assessed valuation after redevelopment, and the general land uses to apply in the redevelopment area. No redevelopment plan shall be adopted by a municipality without findings **documented by substantial and competent evidence on the record that a reasonable person would believe** that:

(1) The redevelopment area on the whole is a blighted area, a conservation area, or an economic development area, and has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of tax increment financing. Such a finding shall include, but not be limited to, a detailed description of the factors that qualify the redevelopment area or project pursuant to this subdivision and an affidavit, signed by the developer or developers and submitted with the redevelopment plan, attesting that the provisions of this subdivision have been met;

(2) The redevelopment plan conforms to the comprehensive plan for the development of the municipality as a whole;

(3) The estimated dates, which shall not be more than twenty-three years from the adoption of the ordinance approving a redevelopment project within a redevelopment area, of completion of any redevelopment project and retirement of obligations incurred to finance redevelopment project costs have been stated, provided that no ordinance approving a

redevelopment project shall be adopted later than ten years from the adoption of the ordinance approving the redevelopment plan under which such project is authorized and provided that no property for a redevelopment project shall be acquired by eminent domain later than five years from the adoption of the ordinance approving such redevelopment project;

(4) A plan has been developed for relocation assistance for businesses and residences;

(5) A cost-benefit analysis showing the economic impact of the plan on each taxing district which is at least partially within the boundaries of the redevelopment area. The analysis shall show the impact on the economy if the project is not built, and is built pursuant to the redevelopment plan under consideration. The cost-benefit analysis shall include a fiscal impact study on every affected political subdivision, and sufficient information from the developer for the commission established in section 99.820 to evaluate whether the project as proposed is financially feasible;

(6) A finding that the plan does not include the initial development or redevelopment of any gambling establishment, provided however, that this subdivision shall be applicable only to a redevelopment plan adopted for a redevelopment area designated by ordinance after December 23, 1997;

(7) For redevelopment projects involving more than two hundred fifty thousand dollars in tax increment financing, an economic feasibility analysis including a pro forma financial statement indicating the return on investment that may be expected without public assistance. The financial statement shall detail any assumptions made, a pro forma statement analysis demonstrating the amount of assistance required to bring the return into a range deemed attractive to private investors, which amount shall be equal to the estimated reimbursable project costs.

2. All documentation and findings established pursuant to subsection 1 of this section shall be published and made available at no more than the cost of publication, as a public document no later than thirty days prior to adoption of the plan by the municipality. Any resident of the municipality, or the county if in an unincorporated area, may file a petition in circuit court to enjoin the adoption of any redevelopment plan for which any requirement of subsection 1 or 4 of this section has not been complied with and such injunction may extend until all such requirements have been complied with.

3. Implementation of a plan shall be postponed pending the outcome of the vote on the matter upon the filing with the county clerk of a petition signed by registered voters of the municipality or county in the case of an unincorporated area, totaling at least five percent of the number of total votes cast in such subdivision in the most recent gubernatorial election and requesting that the plan be disapproved. Upon filing of such petition, the county clerk shall place the issue

on the ballot at the next municipal, primary, or general election, whichever occurs first, and no such plan shall become effective unless and until a majority of those voting on the question vote to approve the plan.

4. By the last day of February each year, each commission shall report to the director of economic development the name, address, phone number and primary line of business of any business which relocates to the district. The director of the department of economic development shall compile and report the same to the governor, the speaker of the house and the president pro tempore of the senate on the last day of April each year.

5. For retail projects, no application for tax increment financing shall be approved unless it includes a written finding by the Countywide Public Financing Review Authority certifying that the redevelopment project will serve a regional public benefit because:

(1) The property has not otherwise attracted private investment over a period of time; and

(2) The redevelopment will bring retail opportunities to residents of a geographic area that can be demonstrated to be under-served by retail; and

(3) The redevelopment will result in net new jobs, sales, and property taxes to the metropolitan area; and

(4) The tax increment financing will not unfairly influence competition with other existing retail establishments in the county or adjacent counties.

6. Buildings, streets, public rights-of-way, sidewalks, parking lots and garages, and other infrastructure improvements supported by tax increment financing shall be subject to the accessibility requirements of the Americans with Disabilities Act.

7. In the event a municipality desires to designate a redevelopment project located in whole or in part outside the incorporated boundaries of the municipality and within the boundaries of another municipality, such municipality shall first obtain the permission of the governing body of such other municipality.

99.870. Commencing with the first fiscal year in which any municipality receives any payments in lieu of taxes from a redevelopment project and continuing through the last fiscal year in which the municipality receives such payments, the municipality shall pay to any other taxing entities entitled to receive revenue from levies on real property in such municipality, an amount equal to twenty-five percent of the payments in lieu of taxes received by the municipality. This amount shall be divided among the other affected taxing entities on a basis that is proportional to the collections of revenue from real property in the development area to which each such taxing district is entitled during that tax year. When a tax increment financing project includes residential

uses, absent a recommendation to the contrary from commission members representing the affected school board or boards, real property tax levies attributable to the residential portion of the development shall pass through to the school district or districts.

99.872. 1. Each governing body of any political subdivision for which a redevelopment project has been approved shall file a progress report with the department of economic development for each redevelopment project, no later than thirty days after the anniversary of the date of the approval of the redevelopment project. The report shall include the following information:

- (1) The application tracking number;
- (2) The name, street and mailing addresses, phone number, and collecting officer of the governing body;
- (3) The name, street and mailing addresses, phone number, and chief officer of the recipient corporation;
- (4) A summary of the number of net new jobs created, broken down by full-time, part-time, and temporary positions;
- (5) The comparison of the total employment in the state by the recipient corporation's corporate parent on the date of the application and the date of the report, broken down by full-time, part-time, and temporary positions;
- (6) A statement as to whether the use of the redevelopment project during the previous fiscal year has reduced employment at any other site controlled by the recipient corporation or its corporate parent, within or without the state, as a result of automation, merger, acquisition, corporate restructuring, or other business activity;
- (7) A summary of the other community and economic benefits resulting from the redevelopment project, consistent with those identified in the redevelopment plan; and
- (8) A signed certification by the chief officer of the recipient corporation as to the accuracy of the progress report.

2. The governing body and recipient corporation shall file annual progress reports for the duration of the development project, or five years, whichever period is greater.

3. The department of economic development shall compile and publish all data from the progress reports in both written and electronic form, including the department's world wide web site.

4. The governing body and the department shall have access at all reasonable times to the redevelopment project site and the records of the recipient corporation in order to monitor the redevelopment project and to prepare progress

reports.

5. For retail projects, the annual report shall include a statement from the Countywide Public Financing Review Authority certifying that the redevelopment project continues to provide regional public benefit because it can be demonstrated to have resulted in net new jobs, sales, and property taxes to the metropolitan area as a whole.

6. For the purposes of this section, the following terms shall mean:

(1) "Corporate parent", any person, association, corporation, joint venture, partnership, or other entity, that owns or controls fifty percent or more of a recipient corporation;

(2) "Full-time position", a job in which an individual is employed by a recipient corporation for at least thirty-five hours per week;

(3) "New job", a full-time job created as a result of activity supported by a redevelopment project, not including jobs of recalled workers, replacement jobs, or jobs that formerly existed in the same industry in the county where the redevelopment project is located or in any county bordering it;

(4) "Part-time position", a job in which an individual is employed by a recipient corporation for less than thirty-five hours per week;

(5) "Recipient corporation", any person, association, corporation, joint venture, partnership, or other entity that benefits from a redevelopment project;

(6) "Temporary position", a job in which an individual is hired for a season or for a limited period of time.

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