

FIRST REGULAR SESSION

HOUSE BILL NO. 712

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CURLS (Sponsor) AND TALBOY (Co-sponsor).

0929L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 99.845, RSMo, and to enact in lieu thereof one new section relating to 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Section A. Section 99.845, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 99.845, to read as follows: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 approved or, in the event a municipality has undertaken acts establishing a redevelopment plan and redevelopment project and has designated a redevelopment area after the passage and approval of sections 99.800 to 99.865 but prior to August 13, 1982, which acts are in conformance with the procedures of sections 99.800 to 99.865, may adopt tax increment allocation financing by passing an ordinance providing that after the total equalized assessed valuation of the taxable real property in a redevelopment project exceeds the certified total initial equalized assessed valuation of the taxable real property in the redevelopment project, the ad valorem taxes, and payments in lieu of taxes, if any, arising from the levies upon taxable real property in such redevelopment project by taxing districts and tax rates determined in the manner provided in subsection 2 of section 99.855 each year after the effective date of the ordinance until redevelopment costs have been paid shall be divided as follows:

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 respective affected taxing districts in the manner required by law in the absence of the adoption
18 of tax increment allocation financing;

19 (2) (a) Payments in lieu of taxes attributable to the increase in the current equalized
20 assessed valuation of each taxable lot, block, tract, or parcel of real property in the area selected
21 for the redevelopment project and any applicable penalty and interest over and above the initial
22 equalized assessed value of each such unit of property in the area selected for the redevelopment
23 project shall be allocated to and, when collected, shall be paid to the municipal treasurer who
24 shall deposit such payment in lieu of taxes into a special fund called the "Special Allocation
25 Fund" of the municipality for the purpose of paying redevelopment costs and obligations incurred
26 in the payment thereof. Payments in lieu of taxes which are due and owing shall constitute a lien
27 against the real estate of the redevelopment project from which they are derived and shall be
28 collected in the same manner as the real property tax, including the assessment of penalties and
29 interest where applicable. The municipality **after deducting the amount required to be**
30 **deposited into the affordable housing fund under subdivision (4) of this subsection**, may,
31 in the ordinance, pledge the funds in the special allocation fund for the payment of such costs
32 and obligations and provide for the collection of payments in lieu of taxes, the lien of which may
33 be foreclosed in the same manner as a special assessment lien as provided in section 88.861,
34 RSMo. No part of the current equalized assessed valuation of each lot, block, tract, or parcel of
35 property in the area selected for the redevelopment project attributable to any increase above the
36 total initial equalized assessed value of such properties shall be used in calculating the general
37 state school aid formula provided for in section 163.031, RSMo, until such time as all
38 redevelopment costs have been paid as provided for in this section and section 99.850;

39 (b) Notwithstanding any provisions of this section to the contrary, for purposes of
40 determining the limitation on indebtedness of local government pursuant to article VI, section
41 26(b) of the Missouri Constitution, the current equalized assessed value of the property in an area
42 selected for redevelopment attributable to the increase above the total initial equalized assessed
43 valuation shall be included in the value of taxable tangible property as shown on the last
44 completed assessment for state or county purposes;

45 (c) The county assessor shall include the current assessed value of all property within
46 the taxing district in the aggregate valuation of assessed property entered upon the assessor's
47 book and verified pursuant to section 137.245, RSMo, and such value shall be utilized for the
48 purpose of the debt limitation on local government pursuant to article VI, section 26(b) of the
49 Missouri Constitution;

50 (3) For purposes of this section, "levies upon taxable real property in such redevelopment
51 project by taxing districts" shall not include the blind pension fund tax levied under the authority
52 of article III, section 38(b) of the Missouri Constitution, or the merchants' and manufacturers'

53 inventory replacement tax levied under the authority of subsection 2 of section 6 of article X of
54 the Missouri Constitution, except in redevelopment project areas in which tax increment
55 financing has been adopted by ordinance pursuant to a plan approved by vote of the governing
56 body of the municipality taken after August 13, 1982, and before January 1, 1998;

57 **(4) For all redevelopment projects that include housing units, sixteen percent of the**
58 **amount of payments in lieu of taxes deposited into the special allocation fund shall be**
59 **transferred from the special allocation fund and deposited into a special fund called the**
60 **"Affordable Housing Fund", which shall be administered by the commission established**
61 **by the municipality under section 99.820. The commission shall utilize the moneys in the**
62 **affordable housing fund to provide low interest loans and grants within the municipality**
63 **for affordable housing units for a low-income project, as defined in section 135.350, RSMo.**
64 **Prior to receiving loans or grants from the affordable housing fund, an owner or any**
65 **successive owner shall enter into an eighteen-year use agreement with the commission**
66 **limiting the use of such units to affordable housing during the life of the use agreement.**
67 **If the use agreement is violated, the commission may sue to recover the full grant or loan**
68 **amount, plus damages of not more than one thousand dollars per month accruing on the**
69 **first day of each month of violation of the use agreement. The performance of such**
70 **agreement shall be secured by a deed of trust or other lien encumbering the property and**
71 **shall be recorded with the recorder of deeds. As principal and interest on such loans are**
72 **repaid and as any such damages are paid, the amounts shall be deposited in the special**
73 **allocation fund, or if such fund is dissolved, such amounts shall be distributed as surplus**
74 **funds are distributed under the provisions of section 99.850. The provisions of this**
75 **subdivision shall only apply to redevelopment plans and projects adopted or**
76 **redevelopment projects approved by ordinance after December 31, 2009;**

77 **(5) In lieu of complying with the provisions of subdivision (4) of this subsection, the**
78 **proponents of the redevelopment project may elect to set aside eight percent of any new**
79 **housing units created under the redevelopment plan for affordable housing units that have**
80 **restricted rents that do not exceed thirty percent of median income and are occupied by**
81 **persons or families having income of sixty percent or less of the median income. The owner**
82 **or any successive owner of such low-income housing units shall enter into an eighteen-year**
83 **use agreement with the commission limiting the use of such units to affordable housing.**
84 **If the use agreement is violated, the commission may file suit to recover damages at the rate**
85 **of one thousand dollars per month accruing on the first day of each month of violation of**
86 **the use agreement. The performance of such agreement shall be secured by a deed of trust**
87 **or other lien encumbering the parcel and shall be recorded with the recorder of deeds. As**
88 **any such damages are paid, the amounts shall be deposited in the special allocation fund,**

89 **or if such fund is dissolved, such amounts shall be distributed as surplus funds are**
90 **distributed under the provisions of section 99.850. The provisions of this subdivision shall**
91 **only apply to redevelopment plans and projects adopted or redevelopment projects**
92 **approved by ordinance after December 31, 2009.**

93 2. In addition to the payments in lieu of taxes described in subdivision (2) of subsection
94 1 of this section, for redevelopment plans and projects adopted or redevelopment projects
95 approved by ordinance after July 12, 1990, and prior to August 31, 1991, fifty percent of the total
96 additional revenue from taxes, penalties and interest imposed by the municipality, or other taxing
97 districts, which are generated by economic activities within the area of the redevelopment project
98 over the amount of such taxes generated by economic activities within the area of the
99 redevelopment project in the calendar year prior to the adoption of the redevelopment project by
100 ordinance, while tax increment financing remains in effect, but excluding taxes imposed on sales
101 or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant
102 to section 70.500, RSMo, licenses, fees or special assessments other than payments in lieu of
103 taxes and any penalty and interest thereon, or, effective January 1, 1998, taxes levied pursuant
104 to section 94.660, RSMo, for the purpose of public transportation, shall be allocated to, and paid
105 by the local political subdivision collecting officer to the treasurer or other designated financial
106 officer of the municipality, who shall deposit such funds in a separate segregated account within
107 the special allocation fund. Any provision of an agreement, contract or covenant entered into
108 prior to July 12, 1990, between a municipality and any other political subdivision which provides
109 for an appropriation of other municipal revenues to the special allocation fund shall be and
110 remain enforceable.

111 3. In addition to the payments in lieu of taxes described in subdivision (2) of subsection
112 1 of this section, for redevelopment plans and projects adopted or redevelopment projects
113 approved by ordinance after August 31, 1991, fifty percent of the total additional revenue from
114 taxes, penalties and interest which are imposed by the municipality or other taxing districts, and
115 which are generated by economic activities within the area of the redevelopment project over the
116 amount of such taxes generated by economic activities within the area of the redevelopment
117 project in the calendar year prior to the adoption of the redevelopment project by ordinance,
118 while tax increment financing remains in effect, but excluding personal property taxes, taxes
119 imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels,
120 taxes levied pursuant to section 70.500, RSMo, taxes levied for the purpose of public
121 transportation pursuant to section 94.660, RSMo, licenses, fees or special assessments other than
122 payments in lieu of taxes and penalties and interest thereon, or any sales tax imposed by a county
123 with a charter form of government and with more than six hundred thousand but fewer than
124 seven hundred thousand inhabitants, for the purpose of sports stadium improvement, shall be

125 allocated to, and paid by the local political subdivision collecting officer to the treasurer or other
126 designated financial officer of the municipality, who shall deposit such funds in a separate
127 segregated account within the special allocation fund.

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

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

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

155 7. In order for the redevelopment plan or project to be eligible to receive the revenue
156 described in subsection 4 of this section, the municipality shall comply with the requirements of
157 subsection 10 of this section prior to the time the project or plan is adopted or approved by
158 ordinance. The director of the department of economic development and the commissioner of
159 the office of administration may waive the requirement that the municipality's application be

submitted prior to the redevelopment plan's or project's adoption or the redevelopment plan's or project's approval by ordinance.

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

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

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

9. Subsection 4 of this section shall apply only to blighted areas located in enterprise zones, pursuant to sections 135.200 to 135.256, RSMo, blighted areas located in federal empowerment zones, or to blighted areas located in central business districts or urban core areas of cities which districts or urban core areas at the time of approval of the project by ordinance, provided that the enterprise zones, federal empowerment zones or blighted areas contained one or more buildings at least fifty years old; and

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

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

10. The initial appropriation of up to fifty percent of the new state revenues authorized pursuant to subsections 4 and 5 of this section shall not be made to or distributed by the

195 department of economic development to a municipality until all of the following conditions have
196 been satisfied:

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

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

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

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

210 (d) The official statement of any bond issue pursuant to this subsection after December
211 23, 1997;

212 (e) An affidavit that is signed by the developer or developers attesting that the provisions
213 of subdivision (1) of **subsection 1 of** section 99.810 have been met and specifying that the
214 redevelopment area would not be reasonably anticipated to be developed without the
215 appropriation of the new state revenues;

216 (f) The cost-benefit analysis required by section 99.810 includes a study of the fiscal
217 impact on the state of Missouri; and

218 (g) The statement of election between the use of the incremental increase of the general
219 revenue portion of the state sales tax revenues or the state income tax withheld by employers on
220 behalf of new employees who fill new jobs created in the redevelopment area;

221 (h) The name, street and mailing address, and phone number of the mayor or chief
222 executive officer of the municipality;

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

224 (j) The three-digit North American Industry Classification System number or numbers
225 characterizing the development project;

226 (k) The estimated development project costs;

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

228 (m) Evidence of the commitments to finance such development project costs;

229 (n) The anticipated type and term of the sources of funds to pay such development
230 project costs;

- 231 (o) The anticipated type and terms of the obligations to be issued;
- 232 (p) The most recent equalized assessed valuation of the property within the development
233 project area;
- 234 (q) An estimate as to the equalized assessed valuation after the development project area
235 is developed in accordance with a development plan;
- 236 (r) The general land uses to apply in the development area;
- 237 (s) The total number of individuals employed in the development area, broken down by
238 full-time, part-time, and temporary positions;
- 239 (t) The total number of full-time equivalent positions in the development area;
- 240 (u) The current gross wages, state income tax withholdings, and federal income tax
241 withholdings for individuals employed in the development area;
- 242 (v) The total number of individuals employed in this state by the corporate parent of any
243 business benefiting from public expenditures in the development area, and all subsidiaries
244 thereof, as of December thirty-first of the prior fiscal year, broken down by full-time, part-time,
245 and temporary positions;
- 246 (w) The number of new jobs to be created by any business benefiting from public
247 expenditures in the development area, broken down by full-time, part-time, and temporary
248 positions;
- 249 (x) The average hourly wage to be paid to all current and new employees at the project
250 site, broken down by full-time, part-time, and temporary positions;
- 251 (y) For project sites located in a metropolitan statistical area, as defined by the federal
252 Office of Management and Budget, the average hourly wage paid to nonmanagerial employees
253 in this state for the industries involved at the project, as established by the United States Bureau
254 of Labor Statistics;
- 255 (z) For project sites located outside of metropolitan statistical areas, the average weekly
256 wage paid to nonmanagerial employees in the county for industries involved at the project, as
257 established by the United States Department of Commerce;
- 258 (aa) A list of other community and economic benefits to result from the project;
- 259 (bb) A list of all development subsidies that any business benefiting from public
260 expenditures in the development area has previously received for the project, and the name of
261 any other granting body from which such subsidies are sought;
- 262 (cc) A list of all other public investments made or to be made by this state or units of
263 local government to support infrastructure or other needs generated by the project for which the
264 funding pursuant to this section is being sought;

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

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

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

(gg) A market study for the development area;

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

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

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

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

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

301 contained within a county of the first classification without a charter form of government with
302 a population between fifty thousand and one hundred thousand inhabitants which contains all
303 or part of a city with a population in excess of four hundred thousand or more inhabitants.

304 12. There is hereby established within the state treasury a special fund to be known as
305 the "Missouri Supplemental Tax Increment Financing Fund", to be administered by the
306 department of economic development. The department shall annually distribute from the
307 Missouri supplemental tax increment financing fund the amount of the new state revenues as
308 appropriated as provided in the provisions of subsections 4 and 5 of this section if and only if the
309 conditions of subsection 10 of this section are met. The fund shall also consist of any gifts,
310 contributions, grants or bequests received from federal, private or other sources. Moneys in the
311 Missouri supplemental tax increment financing fund shall be disbursed per project pursuant to
312 state appropriations.

313 13. Redevelopment project costs may include, at the prerogative of the state, the portion
314 of salaries and expenses of the department of economic development and the department of
315 revenue reasonably allocable to each redevelopment project approved for disbursements from
316 the Missouri supplemental tax increment financing fund for the ongoing administrative functions
317 associated with such redevelopment project. Such amounts shall be recovered from new state
318 revenues deposited into the Missouri supplemental tax increment financing fund created under
319 this section.

320 14. For redevelopment plans or projects approved by ordinance that result in net new
321 jobs from the relocation of a national headquarters from another state to the area of the
322 redevelopment project, the economic activity taxes and new state tax revenues shall not be based
323 on a calculation of the incremental increase in taxes as compared to the base year or prior
324 calendar year for such redevelopment project, rather the incremental increase shall be the amount
325 of total taxes generated from the net new jobs brought in by the national headquarters from
326 another state. In no event shall this subsection be construed to allow a redevelopment project
327 to receive an appropriation in excess of up to fifty percent of the new state revenues.

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