

1 HB455
2 149570-2
3 By Representatives Davis, Ball, Hammon, McMillan, Merrill,
4 Jones, Boothe, Shiver, Baker, Jackson, Faust, Mask, Williams
5 (P) and McClendon
6 RFD: County and Municipal Government
7 First Read: 20-MAR-13

1 ENGROSSED

2
3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

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

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

26 Section 2. The Legislature makes the following
27 findings:

1 (1) It is in the best interest of the state to
2 ensure the location and expansion of automotive,
3 automotive-industry related, aviation, aviation-industry
4 related, medical, pharmaceutical, semiconductor, computer,
5 agricultural products/food production, steel and metal,
6 forestry products, chemicals, distribution, logistic,
7 corporate operations, electronics, energy conservation, cyber
8 technology, and biomedical industry manufacturing facilities
9 in this state.

10 (2) The presence and expansion of automotive,
11 automotive-industry related, aviation, aviation-industry
12 related, medical, pharmaceutical, semiconductor, computer,
13 agricultural products/food production, steel and metal,
14 forestry products, chemicals, distribution, logistic,
15 corporate operations, electronics, energy conservation, cyber
16 technology, and biomedical industry manufacturing facilities
17 in this state is of substantial benefit to and enhances the
18 public welfare of the state by, among other things, promoting
19 local economic development and the stimulus of local
20 economies, increasing skilled job opportunities, creating
21 additional tax revenues, and enhancing the public's overall
22 quality of life.

23 (3) The growth and enhanced prosperity of
24 municipalities and counties of the state, as well as of the
25 state at large, as a result of the presence and expansion of
26 automotive, automotive-industry related, aviation,
27 aviation-industry related, medical, pharmaceutical,

1 semiconductor, computer, agricultural products/food
2 production, steel and metal, forestry products, chemicals,
3 distribution, logistic, corporate operations, electronics,
4 energy conservation, cyber technology, and biomedical industry
5 manufacturing facilities in this state often requires the
6 infusion of capital, improved, and expanded public
7 infrastructure dedicated to such facilities, and the
8 provision, for the benefit thereof, of capital improvements to
9 existing facilities as well as the provision of buildings and
10 structures suitable for use as part of or in connection with
11 automotive, automotive-industry related, aviation,
12 aviation-industry related, medical, pharmaceutical,
13 semiconductor, computer, agricultural products/food
14 production, steel and metal, forestry products, chemicals,
15 distribution, logistic, corporate operations, electronics,
16 energy conservation, cyber technology, and biomedical industry
17 manufacturing facilities.

18 (4) The provision of such capital, public
19 infrastructure improvements, and capital improvements
20 constitutes an important public purpose vital to the welfare
21 and prosperity of the citizens of this state.

22 Section 3. Sections 11-99-1, 11-99-2, 11-99-4,
23 11-99-5, 11-99-6, and 11-99-8, Code of Alabama 1975, are
24 amended to read as follows:

25 "§11-99-1.

26 "(a) It is hereby found and declared that there
27 exist in municipalities and counties of the state blighted or

1 economically distressed areas which constitute a serious and
2 growing problem, injurious to the public health, safety,
3 morals, and welfare of the residents of the state; that the
4 existence of such areas contributes substantially and
5 increasingly to the spread of disease and crime, constitutes
6 an economic and social liability imposing onerous burdens
7 which decrease the tax base and reduce tax revenues,
8 substantially impairs or arrests sound growth, retards the
9 provision of housing accommodations, aggravates traffic
10 problems, and substantially hampers the elimination of traffic
11 hazards and the improvement of traffic facilities; and that
12 the prevention and elimination of slums and blighted areas and
13 economically distressed areas is a matter of state policy and
14 state concern in order that the state and its municipalities
15 and counties shall not continue to be endangered by areas
16 which are focal centers of disease, promote juvenile
17 delinquency, and consume an excessive proportion of public
18 revenues because of the extra services required for police,
19 fire, accident, hospitalization, and other forms of public
20 protection, services, and facilities.

21 "(b) It is further found and declared that certain
22 blighted and economically distressed areas or portions thereof
23 may require acquisition, clearance, and disposition subject to
24 use restrictions, as provided in this chapter, since the
25 prevailing condition of blight and economic distress may make
26 impracticable the reclamation of the area by conservation or
27 rehabilitation; that other areas or portions thereof may,

1 through the means provided in this chapter, be susceptible of
2 conservation or rehabilitation in such a manner that the
3 conditions and evils enumerated may be eliminated, remedied,
4 or prevented; and that salvageable blighted and economically
5 distressed areas can be conserved and rehabilitated through
6 appropriate public action as herein authorized and the
7 cooperation and voluntary action of the owners and tenants of
8 property in such areas.

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

18 "(d) It is further found and declared that there
19 exist in municipalities or counties of the state underutilized
20 large tracts of real property suitable for the location of
21 automotive, automotive-industry related, aviation,
22 aviation-industry related, medical, pharmaceutical,
23 semiconductor, computer, agricultural products/food
24 production, steel and metal, forestry products, chemicals,
25 distribution, logistic, corporate operations, electronics,
26 energy conservation, cyber technology, and biomedical industry
27 manufacturing facilities which, when serving as the site

1 therefor, enhances the public benefit and welfare by, among
2 other things, facilitating the creation of skilled
3 manufacturing jobs, promoting local economic development and
4 the stimulation of the local economy, creating additional tax
5 revenues, and enhancing the public's overall quality of life.

6 ~~"(d)~~(e) It is further found and declared that the
7 powers conferred by this chapter are for public and, in the
8 case of automotive, automotive-industry related, aviation,
9 aviation-industry related, medical, pharmaceutical,
10 semiconductor, computer, agricultural products/food
11 production, steel and metal, forestry products, chemicals,
12 distribution, logistic, corporate operations, electronics,
13 energy conservation, cyber technology, and biomedical industry
14 manufacturing facilities, private uses and purposes imbued
15 with a public interest and for which public money may be
16 expended, either directly or indirectly, in the case of
17 automotive, automotive-industry related, aviation,
18 aviation-industry related, medical, pharmaceutical,
19 semiconductor, computer, agricultural products/food
20 production, steel and metal, forestry products, chemicals,
21 distribution, logistic, corporate operations, electronics,
22 energy conservation, cyber technology, and biomedical industry
23 manufacturing facilities, and the power of eminent domain and
24 police power exercised, and the necessity in the public
25 interest for the provisions herein enacted is hereby declared
26 as a matter of legislative determination.

27 "§11-99-2.

1 "As used in this chapter:

2 "(1) BLIGHTED OR ECONOMICALLY DISTRESSED AREA:

3 "a. An area in which the structures, buildings, or
4 improvements, by reason of dilapidation, deterioration, age,
5 or obsolescence, inadequate provision for ventilation, light,
6 air, sanitation, or open spaces, high density of population
7 and overcrowding, or the existence of conditions which
8 endanger life or property by fire and other causes, or any
9 combination of such factors, are conducive to ill health,
10 transmission of disease, infant mortality, juvenile
11 delinquency, or crime, and are detrimental to the public
12 health, safety, morals, or welfare, or

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

1 to the public health, safety, morals, or welfare in its
2 present condition and use, or

3 "c. Any area which is predominantly open and which
4 because of obsolete platting, diversity of ownership,
5 deterioration of structures or of site improvements, or
6 otherwise, substantially impairs or arrests the sound economic
7 growth of an area, or

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

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

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

24 "(3) ENHANCED USE LEASE AREA. Any area of a military
25 installation which contains underutilized real or personal
26 property, or both, that is leased by a secretary of a military

1 department to a lessee pursuant to the authority provided in
2 Title 10 U.S.C. §2667.

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

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

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

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

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

25 "~~(8)~~(9) PROJECT COSTS. Any expenditures made or
26 estimated to be made or monetary obligations incurred or
27 estimated to be incurred by a public entity, which in the case

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

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

20 "b. Financing costs, including all interest paid to
21 holders of tax increment obligations during the period of
22 implementation of the project plan, the costs of any form of
23 credit enhancement, printing and trustee costs, and any
24 premium paid in excess of the principal amount thereof because
25 of the redemption of such obligations prior to maturity;

26 "c. Real property assembly costs, meaning any
27 deficit resulting from the sale or lease as lessor by the

1 public entity of real or personal property within a tax
2 increment district for consideration which is less than its
3 cost to the public entity;

4 "d. Professional service costs, including those
5 costs incurred for architectural, planning, engineering,
6 fiscal, underwriting, and legal advice and services;

7 "e. Imputed administrative costs, including
8 reasonable charges for the time spent by officers and
9 employees of the public entity in connection with the
10 implementation of a project plan;

11 "f. Relocation costs, including those relocation
12 payments made following condemnation under Chapter 1A of Title
13 18;

14 "g. Organizational costs, including the costs of
15 conducting environmental impact and other studies and the
16 costs of informing the public with respect to the creation of
17 tax increment districts and the implementation of project
18 plans;

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

22 "i. Payments made, at the discretion of the local
23 governing body, which are to be necessary or convenient to the
24 creation of tax increment districts or the implementation of
25 project plans; and

26 "j. For purposes of any tax increment district in
27 which not less than 50 percent, by area, of the real property

1 within the tax increment district is an enhanced use lease
2 area, project costs shall also include all costs described in
3 this subdivision which are expended by a public entity or a
4 developer within three years immediately preceding the date of
5 the creation of such tax increment district.

6 "~~(9)~~ (10) PROJECT PLAN. The properly approved plan
7 for the development or redevelopment of a tax increment
8 district, including all properly approved amendments thereto.

9 "~~(10)~~ (11) PUBLIC ENTITY. Any municipality or county
10 in the state.

11 "~~(11)~~ (12) TAX INCREMENT. That amount obtained by
12 multiplying the total revenue derived from ad valorem taxes
13 levied by all local taxing authorities on all taxable property
14 within a tax increment district in any tax year by a fraction
15 having a numerator equal to that tax year's market value of
16 all taxable property in the district minus the tax increment
17 base and a denominator equal to that tax year's equalized
18 value of all taxable property in the district. In any tax
19 year, a tax increment is positive if the tax increment base is
20 less than the aggregate value of taxable property as equalized
21 by the Department of Revenue; it is negative if the base
22 exceeds such value.

23 "~~(12)~~ (13) TAX INCREMENT BASE. The aggregate value,
24 as equalized by the Department of Revenue, of all taxable
25 property located within a tax increment district on the date
26 the district is created, determined as provided in Section
27 11-99-5.

1 "~~(13)~~(14) TAX INCREMENT DISTRICT. A contiguous
2 geographic area within the boundaries of a public entity
3 defined and created by resolution of the local governing body.

4 "~~(14)~~(15) TAX INCREMENT FUND. A fund into which all
5 tax increments not retained by a taxing authority as provided
6 by Section 11-99-10(b) are paid, and from which money is
7 disbursed to satisfy claims of holders of tax increment
8 obligations issued for the tax increment district.

9 "~~(15)~~(16) TAX INCREMENT OBLIGATIONS. Bonds,
10 warrants, notes, or other evidences of indebtedness issued by
11 a public entity to fund all or any project costs.

12 "~~(16)~~(17) TAXABLE PROPERTY. All real and personal
13 property located in a tax increment district which is subject
14 to ad valorem taxation on the date of adoption of the
15 resolution creating the tax increment district.

16 "~~(17)~~(18) TAXING AUTHORITY.

17 "a. For tax increment districts in which not less
18 than 50 percent, by area, of the real property within the tax
19 increment district is a blighted or economically distressed
20 area, taxing authority means any municipality, county, or
21 other taxing authority which has the power to levy taxes on
22 property within the tax increment districts.

23 "b. For tax increment districts in which not less
24 than 50 percent, by area, of the real property within the tax
25 increment district is an enhanced use lease area, taxing
26 authority means the state or any municipality, county, or

1 other taxing authority which has the power to levy taxes on
2 property within the tax increment district.

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

9 "§11-99-4.

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

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

26 "(2) In addition to the notice required by
27 subdivision (1) of this section, and either before or after

1 such hearing, the local governing body shall make a written
2 submission to the governing body of each deferred tax
3 recipient. The submission shall include a description of the
4 proposed boundaries of the tax increment district, the
5 tentative plans for the development or redevelopment of the
6 tax increment district, and an estimate of the general impact
7 of the proposed project plan on property values and tax
8 revenues. Not later than the fifteenth day after the date on
9 which the notice required by subdivision (1) of this section
10 is mailed, each deferred tax recipient shall designate a
11 representative empowered to meet with the local governing body
12 to discuss the project plan and the tax increment financing
13 and shall notify the local governing body of its designation.
14 Failure of any deferred tax recipient to designate a
15 representative within the 15-day period, or to notify the
16 local governing body of its designation, shall not prevent the
17 local governing body from proceeding hereunder. If a deferred
18 tax recipient which has failed to so designate a
19 representative shall thereafter designate a representative and
20 shall notify the local governing body of such designation,
21 such representative shall be entitled to notice of any
22 meetings held thereafter pursuant to this section, and shall
23 be entitled to attend such meetings, but shall have no right
24 to have matters discussed again which have already been
25 discussed. The local governing body shall call a meeting, or
26 meetings, of the representatives of the deferred tax
27 recipients to be held at any time after 20 days from the

1 mailing notice referred to in subdivision (1) of this section.
2 Each representative shall be notified of each meeting at least
3 three days before it is to be held, but such notice may be
4 waived. At the meetings the local governing body and the
5 representatives of the deferred tax recipients may discuss the
6 boundaries of the tax increment district, development within
7 such district, the exclusion of particular parcels of property
8 from such district, and tax collection for such district. On
9 the motion of the local governing body any other matter
10 relevant to the proposed tax increment district may be
11 discussed.

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

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

25 "b. Creates the tax increment district as of a given
26 date after the date of adoption of the resolution, and fixes
27 the period for its duration, which may be for a period not to

1 exceed 30 years in the case of a tax increment district in
2 which not less than 50 percent, by area, of the real property
3 within the tax increment district is a blighted or
4 economically distressed area, and which may be for a period
5 not to exceed 35 years in the case of a tax increment district
6 in which not less than 50 percent, by area, of the real
7 property within the tax increment district is an enhanced use
8 lease area or a Major 21st Century Manufacturing Zone, unless
9 an amendment is made to the project plan under subdivision (7)
10 of this section;

11 "c. Assigns a name to the tax increment district for
12 identification purposes, such as "tax increment district
13 number one";

14 "d. Contains findings, which shall not be subject to
15 review except after a showing of fraud, corruption, or undue
16 influence, that:

17 "1. Not less than 50 percent, by area, of the real
18 property within the tax increment district is either (i) a
19 blighted area and is in need of rehabilitation or conservation
20 work, ~~or~~ (ii) an enhanced use lease area, or (iii)(a) Major
21 21st Century Manufacturing Zone; and

22 "2. The aggregate value of equalized taxable
23 property in the district plus all existing districts created
24 by the public entity does not exceed 10 percent of the total
25 value of equalized taxable property within the public entity
26 or 50 percent if the public entity is a Class 3 municipality.
27 Provided, however, that equalized taxable property located

1 within the boundaries of a military reservation, jurisdiction
2 over which has been ceded to the United States pursuant to
3 Section 42-3-1, shall be excluded from aggregated value.

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

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

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

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

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

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

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

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

23 "§11-99-5.

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

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

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

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

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

23 "(f) The local tax assessor or person performing his
24 or her duties shall identify upon the tax records prepared by
25 him or her under Chapter 7 of Title 40 those parcels of
26 property which are within each existing tax increment
27 district, specifying the name of each district. A similar

1 notation shall also appear on the tax records made by the
2 local finance officer.

3 "(g) The Department of Revenue shall annually give
4 notice to the designated finance officer of all taxing
5 authorities levying taxes on property within each district as
6 to both the assessed and equalized value of the property and
7 the assessed and equalized value of the tax increment base.
8 The notice shall state that the taxes collected in excess of
9 the base will be paid to the public entity.

10 "§11-99-6.

11 "(a) Positive tax increments of a tax increment
12 district shall be allocated and paid over to the public entity
13 which created the district for each year commencing on the
14 October 1 following the date when the district is created
15 until the earlier of:

16 "(1) That time, after the completion of all public
17 improvements specified in the project plan or amendments
18 thereto, when the public entity has received aggregate tax
19 increments from the district in an amount equal to the
20 aggregate of all expenditures previously made or monetary
21 obligations previously incurred for project costs for the
22 district; or

23 "(2) Thirty-five years after the last expenditure
24 identified in the project plan is made. No expenditure may be
25 provided for in the project plan to be made more than five
26 years after the district is created, except in Class 3
27 municipalities where such expenditures may be made not more

1 than 10 years thereafter if so provided and in tax increment
2 districts in which not less than 50 percent, by area, of the
3 real property within the tax increment district is an enhanced
4 use lease area where such expenditures may be made not more
5 than 15 years thereafter if so provided, unless an amendment
6 is adopted by the local governing body under subdivision (7)
7 of Section 11-99-4.

8 "(b) Notwithstanding any other provision of law,
9 every officer charged by law to collect and pay over or retain
10 local general property taxes in the case of a tax increment
11 district in which not less than 50 percent, by area, of the
12 real property within the tax increment district is a blighted
13 or economically distressed area, or state and local general
14 property taxes in the case of a tax increment district in
15 which not less than 50 percent, by area, of the real property
16 within the tax increment district is an enhanced use lease
17 area or a Major 21st Century Manufacturing Zone, shall first,
18 on the next settlement date provided by law, pay over to the
19 local finance officer out of all such taxes which have been
20 collected that portion which represents a tax increment
21 allocable to a tax increment district, identifying the amount
22 for each district.

23 "(c) All tax increments received for a tax increment
24 district shall, upon receipt by the local finance officer, be
25 deposited into the tax increment fund for that district. The
26 local finance officer may deposit additional moneys into the
27 fund pursuant to an appropriation by the local governing body.

1 Moneys shall be paid out of the fund only to reimburse the
2 public entity for payments theretofore made by it for
3 principal of or interest on tax increment obligations for that
4 district if such obligations are general obligations of the
5 public entity, ~~or~~ to satisfy claims of holders of tax
6 increment obligations issued for that district, or to
7 reimburse the public entity for payments theretofore made by
8 it that are used to pay project costs. Subject to any
9 agreement with security holders, moneys in the fund may be
10 temporarily invested in the same manner as other surplus funds
11 of the public entity. After the principal of and interest on
12 all tax increment obligations of the district have been paid
13 or provided for, subject to any agreement with security
14 holders, if there remain in the fund any moneys, they shall be
15 paid over to the chief finance officer of the state, each
16 county, each municipality, each school district, and to the
17 general fund of the public entity in such amounts as are due
18 to each respectively, having due regard for what portion of
19 such moneys, if any, represents tax increments not allocated
20 to the public entity and what portion thereof, if any,
21 represents voluntary deposits of the public entity into the
22 fund.

23 "§11-99-8.

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

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

4 "(2) Payment out of the general funds of the public
5 entity, such payments being used either directly by the public
6 entity to pay such costs or used by a third party recipient of
7 such funds to pay such costs if within a Major 21st Century
8 Manufacturing Zone;

9 "(3) Payment out of the proceeds of the sale of
10 warrants, bonds or notes (whether public improvement bonds or
11 notes, mortgage bonds, notes or certificates, revenue bonds or
12 notes, or otherwise) issued by the public entity, such
13 payments being used either directly by the public entity to
14 pay such costs or used by a third party recipient of such
15 funds to pay such costs if within a Major 21st Century
16 Manufacturing Zone;

17 "(4) Payment out of the proceeds of the sale of tax
18 increment obligations issued by the public entity under this
19 section, such payments being used either directly by the
20 public entity to pay such costs or used by a third party
21 recipient of such funds to pay such costs if within a Major
22 21st Century Manufacturing Zone; and

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

24 "(b) For the purposes of paying project costs or of
25 refunding obligations issued as otherwise provided by law or
26 under this section, the local governing body may issue tax
27 increment obligations payable out of positive tax increments.

1 Such tax increment obligations shall not be included in the
2 computation of the constitutional debt limitation of the
3 public entity unless they are also secured by a pledge of the
4 full faith and credit of the public entity.

5 "(c) Tax increment obligations may be authorized by
6 resolution of the local governing body without the necessity
7 of a referendum or any approval by the electorate. The
8 resolution shall state the name of the tax increment district,
9 the amount of obligations authorized, and the interest rate or
10 rates to be borne thereby or the method of computing the same.
11 The resolution may prescribe the terms, form, and content of
12 the obligations and such other matters as the local governing
13 body deems useful.

14 "(d) Tax increment obligations may not be issued in
15 an amount exceeding the aggregate project costs of a project.
16 The tax increment obligations shall mature not more than 30
17 years from the date thereof. The tax increment obligations may
18 (i) contain provisions authorizing the redemption thereof, in
19 whole or in part, at stipulated prices, at the option of the
20 public entity, on any dates named therein and provide the
21 method of selecting the obligations to be redeemed, (ii) be
22 payable at any time or times and at any place, (iii) be
23 payable to bearer or registered as to principal or principal
24 and interest, (iv) be in any denominations, and (v) be sold at
25 public or private sale.

26 "(e) Tax increment obligations shall be payable only
27 out of a stipulated tax increment fund created pursuant to

1 Section 11-99-6 hereof, except as provided in paragraph (f) of
2 this section. The local governing body shall irrevocably
3 pledge all or a part of such tax increment fund to the payment
4 of the tax increment obligations. The tax increment fund may
5 thereafter be used only for the payment of the principal of
6 and interest on the tax increment obligations payable
7 therefrom until they have been fully paid.

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

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

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

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

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

23 Section 4. If a court of competent jurisdiction
24 adjudges invalid or unconstitutional any clause, sentence,
25 paragraph, section, or part of this act, such judgment or
26 decree shall not affect, impair, invalidate, or nullify the
27 remainder of this act, but the effect of the decision shall be

1 confined to the clause, sentence, paragraph, section, or part
2 of this act adjudged to be invalid or unconstitutional.

3 Section 5. Nothing herein shall be construed to
4 authorize any municipality or county to lend its credit or to
5 grant public money or things of value in aid of any
6 individual, association, or corporation in violation of
7 Section 94 of the Constitution of Alabama of 1901, as amended,
8 except to the extent otherwise permitted by other provisions
9 of or amendments to the Constitution.

10 Section 6. All laws or parts of laws which conflict
11 with this act are repealed.

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

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on County and Mu-
nicipal Government..... 20-MAR-13

Read for the second time and placed
on the calendar 1 amendment 04-APR-13

Read for the third time and passed
as amended..... 24-APR-13

Yeas 100, Nays 0, Abstains 0

Jeff Woodard
Clerk