WEST virginia legislature

**FISCAL NOTE**

2021 regular session

Introduced

House Bill 2984

By Delegates Statler, Hansen, Phillips, Rohrbach, Riley, Williams, Lovejoy, Hamrick and Zatezalo

[Introduced March 08, 2021; Referred to the Committee on Finance]

A BILL to amend and reenact §7-11B-3, §7-11B-7, §7-11B-8, §7-11B-9, §7-11B-10, §7-11B-16, §7-11B-17, §7-11B-18 and §7-11B-22 of the Code of West Virginia, 1931, as amended; to amend and reenact §7-22-15 and §7-22-16 of said code; and to amend and reenact §11-6-13, §11-6-19, §11-6-21 and §11-6-22 of said code, all relating to property tax increment financing districts and real property of public service businesses situated within such districts; modifying definitions of base assessed value, current assessed value, and payment in lieu of taxes; defining public service business; authorizing payment in lieu of tax agreements for property located within property tax increment financing districts; authorizing a county commission or municipality to extend the length of existence of certain districts; extending the length of existence of certain districts from 30 to 40 years; removing the requirement that a copy of the proposed project plan for tax increment financing be provided to other levying bodies with the power to levy taxes prior to any public hearing to consider the project; clarifying base assessed value and termination date when two or more tax increment financing districts have been combined; modifying language related to the discharge of any tax increment financing obligations outstanding on the termination date of a property tax district; eliminating certain limitations on the terms of property tax increment financing obligations issued to refund existing obligations; requiring Auditor to apportion and certify the value of real property owned by a public service business within a development or redevelopment district; and requiring sheriff to properly allocate taxes and levies apportioned by the Auditor.

Be it enacted by the Legislature of West Virginia:

Article 11B. West Virginia tax increment financing act.

§7-11B-3. Definitions.

(a) General. — When used in this article, words and phrases defined in this section have the meanings ascribed to them in this section unless a different meaning is clearly required either by the context in which the word or phrase is used or by specific definition in this article.

(b) Words and phrases defined. —

“Agency” includes a municipality, a county or municipal development agency established pursuant to authority granted in §7-12-1 of this code, a port authority, an airport authority or any other entity created by this state or an agency or instrumentality of this state that engages in economic development activity or the Division of Highways.

“Base assessed value” means the taxable assessed value of all real and tangible personal property, excluding personal motor vehicles, having a tax situs within a development or redevelopment district as shown upon the land books and personal property books of the assessor on July 1 of the calendar year preceding the effective date of the order or ordinance creating and establishing the development or redevelopment district and any real property, including improvements and fixtures thereon, owned by a public service business having a tax situs within a development or redevelopment district as shown upon the books kept by the Auditor pursuant to §11-6-16 of this code on December 31 of the calendar year preceding the effective date of the order or ordinance creating and establishing such district: *Provided*, That for any development or redevelopment district approved after the effective date of the amendments to this section enacted during the regular session of the Legislature in 2014, personal trailers, personal boats, personal campers, personal motor homes, personal ATVs and personal motorcycles having a tax situs within a development or redevelopment district are excluded from the base assessed value.

“Blighted area” means an area within the boundaries of a development or redevelopment district located within the territorial limits of a municipality or county in which the structures, buildings or improvements, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for access, ventilation, light, air, sanitation, open spaces, high density of population and overcrowding or the existence of conditions which endanger life or property, are detrimental to the public health, safety, morals or welfare. “Blighted area” includes any area which, by reason of the presence of a substantial number of substandard, slum, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, defective or unusual conditions of title or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare in its present condition and use, or any area which is predominantly open and which because of lack of accessibility, obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community.

“Commissioner of Highways” means the Commissioner of the Division of Highways.

“Conservation area” means any improved area within the boundaries of a development or redevelopment district located within the territorial limits of a municipality or county in which fifty percent or more of the structures in the area have an age of thirty-five years or more. A conservation 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 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.

“County commission” means the governing body of a county of this state and, for purposes of this article only, includes the governing body of a Class I, Class II or Class III municipality in this state.

“Current assessed value” means the annual taxable assessed value of all real and tangible personal property, excluding personal motor vehicles, having a tax situs within a development or redevelopment district as shown upon the land book and personal property records of the assessor and any real property, including improvements and fixtures thereon, owned by a public service business having a tax situs within a development or redevelopment district as shown upon the books kept by the Auditor pursuant to §11-6-16 of this code: *Provided*, That for any development or redevelopment district approved after the effective date of the amendments to this section enacted during the regular session of the Legislature in 2014, personal trailers, personal boats, personal campers, personal motor homes, personal ATVs and personal motorcycles having a tax situs within a development or redevelopment district are excluded from the current assessed value.

“Development office” means the West Virginia Development Office created in §5B-2-1 of this code.

“Development project” or “redevelopment project” means a project undertaken in a development or redevelopment district for eliminating or preventing the development or spread of slums or deteriorated, deteriorating or blighted areas, for discouraging the loss of commerce, industry or employment, for increasing employment or for any combination thereof in accordance with a tax increment financing plan. A development or redevelopment project may include one or more of the following:

(A) The acquisition of land and improvements, if any, within the development or redevelopment district and clearance of the land so acquired; or

(B) The development, redevelopment, revitalization or conservation of the project area whenever necessary to provide land for needed public facilities, public housing or industrial or commercial development or revitalization, to eliminate unhealthful, unsanitary or unsafe conditions, to lessen density, mitigate or eliminate traffic congestion, reduce traffic hazards, eliminate obsolete or other uses detrimental to public welfare or otherwise remove or prevent the spread of blight or deterioration;

(C) The financial or other assistance in the relocation of persons and organizations displaced as a result of carrying out the development or redevelopment project and other improvements necessary for carrying out the project plan, together with those site improvements that are necessary for the preparation of any sites and making any land or improvements acquired in the project area available, by sale or lease, for public housing or for development, redevelopment or rehabilitation by private enterprise for commercial or industrial uses in accordance with the plan;

(D) The construction of capital improvements within a development or redevelopment district designed to increase or enhance the development of commerce, industry or housing within the development project area; or

(E) Any other projects the county commission or the agency deems appropriate to carry out the purposes of this article.

“Development or redevelopment district” means an area proposed by one or more agencies as a development or redevelopment district which may include one or more counties, one or more municipalities or any combination thereof, that has been approved by the county commission of each county in which the project area is located if the project is located outside the corporate limits of a municipality, or by the governing body of a municipality if the project area is located within a municipality, or by both the county commission and the governing body of the municipality when the development or redevelopment district is located both within and without a municipality.

“Division of Highways” means the state Department of Transportation, Division of Highways.

“Economic development area” means any area or portion of an area within the boundaries of a development or redevelopment district located within the territorial limits of a municipality or county that is neither a blighted area nor a conservation area and for which the county commission finds that development or redevelopment will not be solely used for development of commercial businesses that will unfairly compete in the local economy and that development or redevelopment is in the public interest because it will:

(A) Discourage commerce, industry or manufacturing from moving their operations to another state;

(B) Result in increased employment in the municipality or county, whichever is applicable; or

(C) Result in preservation or enhancement of the tax base of the county or municipality.

“Governing body of a municipality” means the city council of a Class I, Class II or Class III municipality in this state.

“Incremental value”, for any development or redevelopment district, means the difference between the base assessed value and the current assessed value. The incremental value will be positive if the current value exceeds the base value and the incremental value will be negative if the current value is less than the base assessed value.

“Includes” and “including”, when used in a definition contained in this article, shall not exclude other things otherwise within the meaning of the term being defined.

“Intergovernmental agreement” means any written agreement that may be entered into by and between two or more county commissions, or between two or more municipalities, or between a county commission and a municipality, in the singular and the plural, or between two or more government entities and the Commissioner of Highways: *Provided*, That any intergovernmental agreement shall not be subject to provisions governing intergovernmental agreements set forth in other provisions of this code, including, but not limited to, §8-23-1 *et seq.* of this code, but shall be subject to the provisions of this article.

“Local levying body” means the county board of education and the county commission and includes the governing body of a municipality when the development or redevelopment district is located, in whole or in part, within the boundaries of the municipality.

“Obligations” or “tax increment financing obligations” means bonds, loans, debentures, notes, special certificates or other evidences of indebtedness issued by a county commission or municipality pursuant to this article to carry out a development or redevelopment project or to refund outstanding obligations under this article.

“Order” means an order of the county commission adopted in conformity with the provisions of this article and as provided in this chapter.

“Ordinance” means a law adopted by the governing body of a municipality in conformity with the provisions of this article and as provided in §8-1-1 *et seq*. of this code.

“Payment in lieu of taxes” means ~~those estimated revenues from real property and tangible personal property having a tax situs in the area selected for a development or redevelopment project which revenues, according to the development or redevelopment project or plan, are to be used for a private use, which levying bodies would have received had a county or municipality not adopted one or more tax increment financing plans and which would result from levies made after the date of adoption of a tax increment financing plan during the time the current assessed value of all taxable real and tangible personal property in the area selected for the development or redevelopment project exceeds the total base assessed value of all taxable real and tangible personal property in the development or redevelopment district until the designation is terminated as provided in this article~~ a payment with respect to real and personal property located in a development or redevelopment district which is owned in title by this state, a political subdivision of this state or an agency or instrumentality thereof and made by the lessee of such property pursuant to a written payment in lieu of taxes agreement, whether in effect as of, or subsequent to, the date of creation of the development or redevelopment district. The real and personal property subject to the payment in lieu of taxes agreement is deemed public property and shall be exempt from ad valorem property taxation by this state, a political subdivision of this state, an agency or instrumentality thereof or other levying body, so long as it is owned in title by this state, a political subdivision of this state or an agency or instrumentality thereof, and the exemption from ad valorem property taxation is applicable to this leasehold or similar interest held by persons other than this state, a political subdivision of this state or an agency or instrumentality thereof if acquired or constructed with the written agreement of the county school board, county commission and any municipal authority within whose jurisdiction the real and personal property is physically situated.

“Person” means any natural person, and any corporation, association, partnership, limited partnership, limited liability company or other entity, regardless of its form, structure or nature, other than a government agency or instrumentality.

“Private project” means any project that is subject to ad valorem property taxation in this state or to a payment in lieu of tax agreement that is undertaken by a project developer in accordance with a tax increment financing plan in a development or redevelopment district.

“Project” means any capital improvement, facility or both, as specifically set forth and defined in the project plan, requiring an investment of capital including, but not limited to, extensions, additions or improvements to existing facilities, including water or wastewater facilities, and the remediation of contaminated property as provided for in §22-22-1 et seq. of this code, but does not include performance of any governmental service by a county or municipal government.

“Project area” means an area within the boundaries of a development or redevelopment district in which a development or redevelopment project is undertaken as specifically set forth and defined in the project plan.

“Project costs” means expenditures made in preparation of the development or redevelopment project plan and made, or estimated to be made, or monetary obligations incurred, or estimated to be incurred, by the county commission which are listed in the project plan as capital improvements within a development or redevelopment district, plus any costs incidental thereto. “Project costs” include, but are not limited to:

(A) Capital costs, including, but not limited to, the actual costs of the construction of public works or improvements, capital improvements and facilities, new buildings, structures and fixtures, the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures, environmental remediation, parking and landscaping, the acquisition of equipment and site clearing, grading and preparation;

(B) Financing costs, including, but not limited to, an interest paid to holders of evidences of indebtedness issued to pay for project costs, all costs of issuance and any redemption premiums, credit enhancement or other related costs;

(C) Real property assembly costs, meaning any deficit incurred resulting from the sale or lease as lessor by the county commission of real or personal property having a tax situs within a development or redevelopment district for consideration that is less than its cost to the county commission;

(D) Professional service costs including, but not limited to, those costs incurred for architectural planning, engineering and legal advice and services;

(E) Imputed administrative costs including, but not limited to, reasonable charges for time spent by county employees or municipal employees in connection with the implementation of a project plan;

(F) Relocation costs including, but not limited to, those relocation payments made following condemnation and job training and retraining;

(G) Organizational costs including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public with respect to the creation of a development or redevelopment district and the implementation of project plans;

(H) Payments made, in the discretion of the county commission or the governing body of a municipality, which are found to be necessary or convenient to creation of development or redevelopment districts or the implementation of project plans; and

(I) That portion of costs related to the construction of environmental protection devices, storm or sanitary sewer lines, water lines, amenities or streets or the rebuilding or expansion of streets, or the construction, alteration, rebuilding or expansion of which is necessitated by the project plan for a development or redevelopment district, whether or not the construction, alteration, rebuilding or expansion is within the area or on land contiguous thereto.

“Project developer” means any person who engages in the development of projects in the state.

“Project plan” means the plan for a development or redevelopment project that is adopted by a county commission or governing body of a municipality in conformity with the requirements of this article and this chapter or §8-1-1 *et seq*. of this code.

“Public service business” means entities which own property assessed by the board of public works pursuant to §11-6-1 *et seq.* of this code.

“Real property” means all lands, including improvements and fixtures on them and property of any nature appurtenant to them or used in connection with them and every estate, interest and right, legal or equitable, in them, including terms of years and liens by way of judgment, mortgage or otherwise, and indebtedness secured by the liens.

“Redevelopment area” means an area designated by a county commission or the governing body of a municipality in respect to which the commission or governing body 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 or a combination thereof, which area includes only those parcels of real property directly and substantially benefitted by the proposed redevelopment project located within the development or redevelopment district or land contiguous thereto.

“Redevelopment plan” means the comprehensive program under this article of a county or 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 levying bodies which extend into the redevelopment area. Each redevelopment plan shall conform to the requirements of this article.

“Tax increment” means the amount of regular levy property taxes attributable to the amount by which the current assessed value of real and tangible personal property having a tax situs in a development or redevelopment district exceeds the base assessed value of the property.

“Tax increment financing fund” means a separate fund for a development or redevelopment district established by the county commission or governing body of the municipality into which all tax increment revenues and other pledged revenues are deposited and from which projected project costs, debt service and other expenditures authorized by this article are paid.

“This code” means the Code of West Virginia, 1931, as amended by the Legislature.

“Total ad valorem property tax regular levy rate” means the aggregate levy rate of all levying bodies on all taxable property having a tax situs within a development or redevelopment district in a tax year but does not include excess levies, levies for general obligation bonded indebtedness or any other levies that are not regular levies.

§7-11B-7. Creation of a development or redevelopment area or district.

(a) County commissions and the governing bodies of Class I, Class II or Class III municipalities, upon their own initiative or upon application of an agency or a developer, may propose creation of a development or redevelopment district and designate the boundaries of the district: *Provided,* That a district may not include noncontiguous land.

(b) The county commission or municipality proposing creation of a development or redevelopment district shall then hold a public hearing at which interested parties are afforded a reasonable opportunity to express their views on the proposed creation of a development or redevelopment district and its proposed boundaries.

(1) Notice of the hearing shall be published as a Class II legal advertisement in accordance with §59-3-2 of this code.

(2) The notice shall include the time, place and purpose of the public hearing, describe in sufficient detail the tax increment financing plan, the proposed boundaries of the development or redevelopment district and, when a development or redevelopment project plan is being proposed, the proposed tax increment financing obligations to be issued to finance the development or redevelopment project costs.

(3) Prior to the first day of publication, a copy of the notice shall be sent by first-class mail to the director of the Development Office and to the chief executive officer of all other local levying bodies having the power to levy taxes on real and tangible personal property located within the proposed development or redevelopment district.

(4) All parties who appear at the hearing shall be afforded an opportunity to express their views on the proposal to create the development or redevelopment district and, if applicable, the development or redevelopment project plan and proposed tax increment financing obligations.

(c) After the public hearing, the county commission, or the governing body of the municipality, shall finalize the boundaries of the development or redevelopment district, the development or redevelopment project plan, or both, and submit the same to the director of the Development Office for his or her review and approval. The director, within sixty days after receipt of the application, shall approve the application as submitted, reject the application or return the application to the county commission or governing body of the municipality for further development or review in accordance with instructions of the director of the Development Office. A development or redevelopment district or development or redevelopment project plan may not be adopted by the county commission or the governing body of a municipality until after it has been approved by the executive director of the Development Office.

(d) Upon approval of the application by the Development Office, the county commission may enter an order and the governing body of the municipality proposing the district or development or redevelopment project plan may adopt an ordinance, that:

(1) Describes the boundaries of a development or redevelopment district sufficiently to identify with ordinary and reasonable certainty the territory included in the district, which boundaries shall create a contiguous district;

(2) Creates the development or redevelopment district as of a date provided in the order or ordinance;

(3) Assigns a name to the development or redevelopment district for identification purposes.

(A) The name may include a geographic or other designation, shall identify the county or municipality authorizing the district and shall be assigned a number, beginning with the number one.

(B) Each subsequently created district in the county or municipality shall be assigned the next consecutive number;

(4) Contains findings that the real property within the development or redevelopment district will be benefitted by eliminating or preventing the development or spread of slums or blighted, deteriorated or deteriorating areas, discouraging the loss of commerce, industry or employment, increasing employment or any combination thereof;

(5) Approves the development or redevelopment project plan, if applicable;

(6) Establishes a tax increment financing fund as a separate fund into which all tax increment revenues and other revenues designated by the county commission, or governing body of the municipality, for the benefit of the development or redevelopment district shall be deposited, and from which all project costs shall be paid, which may be assigned to and held by a trustee for the benefit of bondholders if tax increment financing obligations are issued by the county commission or the governing body of the municipality; and

(7) Provides that ad valorem property taxes on real and tangible personal property having a tax situs in the development or redevelopment district shall be assessed, collected and allocated in the following manner, commencing upon the date of adoption of such order or ordinance and continuing for so long as any tax increment financing obligations are payable from the tax increment financing fund, hereinafter authorized, are outstanding and unpaid:

(A) For each tax year, the county assessor shall record in the land and personal property books both the base assessed value and the current assessed value of the real and tangible personal property having a tax situs in the development or redevelopment district;

(B) Ad valorem taxes collected from regular levies upon real and tangible personal property having a tax situs in the district that are attributable to the lower of the base assessed value or the current assessed value of real and tangible personal property located in the development project area shall be allocated to the levying bodies in the same manner as applicable to the tax year in which the development or redevelopment project plan is adopted by order of the county commission or by ordinance adopted by the governing body of the municipality;

(C) The tax increment with respect to real and tangible personal property in the development or redevelopment district shall be allocated and paid into the tax increment financing fund and shall be used to pay the principal of and interest on tax increment financing obligations issued to finance the costs of the development or redevelopment projects in the development or redevelopment district. Any levying body having a development or redevelopment district within its taxing jurisdiction shall not receive any portion of the annual tax increment except as otherwise provided in this article; and

(D) In no event shall the tax increment include any taxes collected from excess levies, levies for general obligation bonded indebtedness or any levies other than the regular levies provided for in §11-8-1 *et seq.* of this code.

(e) Proceeds from tax increment financing obligations issued under this article may only be used to pay for costs of development and redevelopment projects to foster economic development in the development or redevelopment district or land contiguous thereto.

(f) Notwithstanding subsection (d) of this section, a county commission may not enter an order approving a development or redevelopment project plan unless the county commission expressly finds and states in the order that the development or redevelopment project is not reasonably expected to occur without the use of tax increment financing.

(g) Notwithstanding subsection (d) of this section, the governing body of a municipality may not adopt an ordinance approving a development or redevelopment project plan unless the governing body expressly finds and states in the ordinance that the development or redevelopment project is not reasonably expected to occur without the use of tax increment financing.

(h) No county commission shall establish a development or redevelopment district any portion of which is within the boundaries of a Class I, II, III or IV municipality without the formal consent of the governing body of such municipality.

(i) A tax increment financing plan that has been approved by a county commission or the governing body of a municipality may be amended by following the procedures set forth in this article for adoption of a new development or redevelopment project plan.

(j) The county commission may modify the boundaries of the development or redevelopment district, from time to time, by entry of an order modifying the order creating the development or redevelopment district.

(k) The governing body of a municipality may modify the boundaries of the development or redevelopment district, from time to time, or extend the length of existence of the development or redevelopment district as set forth in §7-11B-10 of this code, by amending the ordinance ~~establishing the boundaries of the district~~ creating the development or redevelopment district.

(l) Before a county commission or the governing body of a municipality may amend such an order or ordinance, the county commission or municipality shall give the public notice, hold a public hearing and obtain the approval of the director of the Development Office, following the procedures for establishing a new development or redevelopment district. In the event any tax increment financing obligations are outstanding with respect to the development or redevelopment district, any change in the boundaries shall not reduce the amount of tax increment available to secure the outstanding tax increment financing obligations.

§7-11B-8. Project plan — approval.

(a) The county commission or municipality creating the district shall cause the preparation of a project plan for each development or redevelopment district and the project plan shall be adopted by order of the county commission, or ordinance adopted by the governing body of the municipality, after it is approved by the executive director of the Development Office. This process shall conform to the procedures set forth in this section.

(b) Each project plan shall include:

(1) A statement listing the kind, number and location of all proposed public works or other improvements within the district and on land outside but contiguous to the district;

(2) A cost-benefit analysis showing the economic impact of the plan on each levying body that is at least partially within the boundaries of the development or redevelopment district. This analysis shall show the impact on the economy if the project is not built and is built pursuant to the development or redevelopment plan under consideration. The cost-benefit analysis shall include a fiscal impact study on every affected levying body and sufficient information from the developer for the agency, if any proposing the plan, the county commission be asked to approve the project and the Development Office to evaluate whether the project as proposed is financially feasible;

(3) An economic feasibility study;

(4) A detailed list of estimated project costs;

(5) A description of the methods of financing all estimated project costs, including the issuance of tax increment obligations and the time when the costs or monetary obligations related thereto are to be incurred;

(6) A certification by the county assessor of the base assessed value of real and tangible personal property having a tax situs in a development or redevelopment district: *Provided*, That if such certification is made during the months of January or February of each year, the county assessor may certify an estimated base assessed value of real and tangible personal property having a tax situs in a development or redevelopment district: *Provided*, *however,* That prior to issuance of tax increment obligations, the county assessor shall certify a final base assessed value for the estimated base assessed value permitted by this section;

(7) The type and amount of any other revenues that are expected to be deposited to the tax increment financing fund of the development or redevelopment district;

(8) A map showing existing uses and conditions of real property in the development or redevelopment district;

(9) A map of proposed improvements and uses in the district;

(10) Proposed changes of zoning ordinances, if any;

(11) Appropriate cross-references to any master plan, map, building codes and municipal ordinances or county commission orders affected by the project plan;

(12) A list of estimated nonproject costs;

(13) A statement of the proposed method for the relocation of any persons, businesses or organizations to be displaced;

(14) A certificate from the executive director of the workers’ compensation commission, the commissioner of the Bureau of Employment Programs and the State Tax Commissioner that the project developer is in good standing with the workers’ compensation commission, the Bureau of Employment Programs and the state Tax Division; and

(15) A certificate from the sheriff of the county or counties in which the development or redevelopment district is located that the project developer is not delinquent on payment of any real and personal property taxes in such county.

(c) If the project plan is to include tax increment financing, the tax increment financing portion of the plan shall set forth:

(1) The amount of indebtedness to be incurred pursuant to this article;

(2) An estimate of the tax increment to be generated as a result of the project;

(3) The method for calculating the tax increment, which shall be in conformance with the provisions of this article, together with any provision for adjustment of the method of calculation;

(4) Any other revenues, such as payment in lieu of tax revenues, to be used to secure the tax increment financing; and

(5) Any other provisions as may be deemed necessary in order to carry out any tax increment financing to be used for the development or redevelopment project.

(d) If less than all of the tax increment is to be used to fund a development or redevelopment project or to pay project costs or retire tax increment financing, the project plan shall set forth the portion of the tax increment to be deposited in the tax increment financing fund of the development or redevelopment district and provide for the distribution of the remaining portion of the tax increment to the levying bodies in whose jurisdiction the district lies.

(e) The county commission or governing body of the municipality that established the tax increment financing fund shall hold a public hearing at which interested parties shall be afforded a reasonable opportunity to express their views on the proposed project plan being considered by the county commission or the governing body of the municipality.

(1) Notice of the hearing shall be published as a Class II legal advertisement in accordance with section two, article three, chapter fifty-nine of this code.

(2) ~~At least 30 days prior to this publication~~ Prior to publication, a copy of the notice ~~and a copy of the proposed project plan~~ shall be sent by first-class mail to the chief executive officer of all other levying bodies having the power to levy taxes on property located within the proposed development or redevelopment district.

(f) Approval by the county commission or the governing body of a municipality of an initial development or redevelopment project plan must be within one year after the date of the county assessor’s certification required by subdivision (6), subsection (b) of this section: *Provided*, That additional development or redevelopment project plans may be approved by the county commission or the governing body of a municipality in subsequent years, so long as the development or redevelopment district continues to exist. The approval shall be by order of the county commission or ordinance of the municipality, which shall contain a finding that the plan is economically feasible.

**§7-11B-9. Project plan amendment.**

(a) The county commission may by order, or the governing body of a municipality by ordinance, adopt an amendment to a project plan.

(b) Adoption of an amendment to a project plan shall be preceded by a public hearing held by the county commission, or governing body of the municipality, at which interested parties shall be afforded a reasonable opportunity to express their views on the amendment.

(1) Notice of the hearing shall be published as a Class II legal advertisement in accordance with §59-3-2 of this code.

(2) Prior to publication, a copy of the notice shall be sent by first-class mail to the chief executive officer of all other local levying bodies having the power to levy taxes on property within the development or redevelopment district.

(3) Copies of the proposed plan amendments shall be made available to the public at the county clerks office or municipal clerks office at least 15 days prior to the hearing.

(c) One or more existing development or redevelopment districts may be combined pursuant to lawfully adopted amendments to the original plans for each district: *Provided,* That the county commission, or governing body of the municipality, finds that the combination of the districts will not impair the security for any tax increment financing obligations previously issued pursuant to this article.

(1) The base assessed value of the real and tangible personal property located in the combined development or redevelopment district following such combination shall be the same base assessed value as existed for such real and tangible personal property in each of the separate development or redevelopment districts prior to such combination.

(2) The termination date for the combined development or redevelopment district which results from the combination of two or more previously created districts shall be the termination date as provided pursuant to §7-11B-10 of this code of the development or redevelopment district which had the latest termination date prior to the combination of such districts.

**§7-11B-10. Termination of development or redevelopment district.**

(a) No development or redevelopment district may be in existence for a period longer than thirty years and no tax increment financing obligations may have a final maturity date later than the termination date of the area or district: *Provided*, That for any existing development or redevelopment district for which tax increment financing obligations have been issued by a county commission, or the governing body of a municipality, prior to December 31, 2020, that existing development or redevelopment district may be in existence until December 31, 2050.

(b) The county commission or governing body of the municipality creating the development or redevelopment district may set a shorter period for the existence of the district. In this event, no tax increment financing obligations may have a final maturity date later than the termination date of the district. The county commission or the governing body of the municipality which created the development or redevelopment district may not take action to terminate a district prior to the time otherwise provided in its official action creating the district if the county commission or the governing body of the municipality has tax increment revenue obligations which remain outstanding and unpaid.

(c) Upon termination of the district, no further ad valorem tax revenues shall be distributed to the tax increment financing fund of the district.

(d) Upon termination of the district, other than early termination by the county commission or the governing body of the municipality creating the district prior to the date scheduled for its termination by this Act or the official action taken by the county commission or the governing body of the municipality creating the district, any tax increment financing obligations which remain outstanding and unpaid following their maturity date, together with any interest, premium or other charges associated therewith shall be deemed to be discharged and satisfied, and no longer due and payable following such termination date.

~~(d)~~(e) The county commission shall adopt, upon the expiration of the time periods set forth in this section, an order terminating the development or redevelopment district created by the county commission. *~~Provided,~~* ~~That no district shall be terminated so long as bonds with respect to the district remain outstanding~~

~~(e)~~ (f) The governing body of the ~~county commission~~ municipality shall repeal, upon the expiration of the time periods set forth in this section, the ordinance establishing the development or redevelopment district. *~~Provided,~~* ~~That no district shall be terminated so long as bonds with respect to the district remain outstanding.~~

§7-11B-16. Valuation of real property.

(a) Upon and after the effective date of the creation of a development or redevelopment district, the county assessor of the county in which the district is located shall transmit to the county clerk a certified statement of the base assessed value, total ad valorem regular levy rate, total general obligation bond debt service ad valorem rate and total excess levy rate applicable for the development or redevelopment district.

(1) The assessor shall undertake, upon request of the county commission, or the governing body of the municipality, creating the development or redevelopment district, an investigation, examination and inspection of the taxable real and tangible personal property having a tax situs in the district and shall reaffirm or revalue the base value for assessment of the property in accordance with the findings of the investigation, examination and inspection.

(2) The county assessor shall determine, according to his or her best judgment from all sources available to him or her, the full aggregate assessed value of the taxable property in the district, which aggregate assessed valuation, upon certification thereof by the assessor to the clerk, constitutes the base value of the development or redevelopment district.

(b) The county assessor shall give notice annually to the designated finance officer of each levying body having the power to levy taxes on property within each district of the current value and the incremental value of the property in the development or redevelopment district.

(c) The assessor shall also determine the tax increment by applying the applicable ad valorem regular levy rates to the incremental value.

(d) The notice shall also explain that the entire amount of the tax increment allocable to property within the development or redevelopment district will be paid to the tax increment financing fund of the development or redevelopment district until it is terminated.

(e) The assessor shall identify upon the landbooks those parcels of property that are within each existing development or redevelopment district, specifying on landbooks the name of each district.

(f) Upon and after the effective date of the creation of a development or redevelopment district, the Auditor shall apportion to the county commission or the governing body of the municipality which created such development or redevelopment district the value of real property, including improvements and fixtures thereon, owned by a public service business within such development or redevelopment district and shall certify to such county commission or municipal governing body the values so apportioned.

§7-11B-17. Division of ad valorem real property tax revenue.

(a) For so long as the development or redevelopment district exists, the county sheriff shall divide the ad valorem tax revenue collected, with respect to taxable property in the district, as follows:

(1) The assessor shall determine for each tax year:

(A) The amount of ad valorem property tax revenue that should be generated by multiplying the assessed value of the property for the then current tax year by the aggregate of applicable levy rates for the tax year;

(B) The amount of ad valorem tax revenue that should be generated by multiplying the base assessed value of the property by the applicable regular ad valorem levy rates for the tax year;

(C) The amount of ad valorem tax revenue that should be generated by multiplying the assessed value of the property for the current tax year by the applicable levy rates for general obligation bond debt service for the tax year;

(D) The amount of ad valorem property tax revenue that should be generated by multiplying the assessed value of the property for the current tax year by the applicable excess levy rates for the tax year; and

(E) The amount of ad valorem property tax revenue that should be generated by multiplying the incremental value by the applicable regular levy rates for the tax year.

(2) The sheriff shall determine from the calculations set forth in subdivision (1) of this subsection the percentage share of total ad valorem revenue for each levying body according to paragraphs (B) through (D), inclusive, of said subdivision by dividing each of such amounts by the total ad valorem revenue figure determined by the calculation in paragraph (A) of said subdivision; and

(3) On each date on which ad valorem tax revenue is to be distributed to the levying bodies, such revenue shall be distributed by:

(A) Applying the percentage share determined according to paragraph (B), subdivision (1) of this subsection to the revenues received and distributing such share to the levying bodies entitled to such distribution pursuant to current law;

(B) Applying the percentage share determined according to paragraph (C), subdivision (1) of this subsection to the revenues received and distributing such share to the levying bodies entitled to such distribution by reason of having general obligation bonds outstanding;

(C) Applying the percentage share determined according to paragraph (D), subdivision (1) of this subsection to the revenues received and distributing such share to the levying bodies entitled to such distribution by reason of having excess levies in effect for the tax year; and

(D) Applying the percentage share determined according to paragraph (E), subdivision (1) of this subsection to the revenues received and distributing such share to the tax increment financing fund of the development or redevelopment district.

(b) In each year for which there is a positive tax increment, the county sheriff shall remit to the tax increment financing fund of the development or redevelopment district that portion of the ad valorem property taxes collected that consists of the tax increment.

(c) Any additional moneys appropriated to the development or redevelopment district pursuant to an appropriation by the county commission that created the district and any additional moneys dedicated to the fund from other sources shall be deposited to the tax increment financing fund for the development or redevelopment district by the sheriff.

(d) Any funds deposited into the tax increment financing fund of the development or redevelopment district may be used to pay project costs, principal and interest on bonds and the cost of any other improvements in the development or redevelopment district deemed proper by the county commission.

(e) Unless otherwise directed pursuant to any agreement with the holders of tax increment financing obligations, moneys in the tax increment financing fund may be temporarily invested in the same manner as other funds of the county commission, or the municipality, that established the fund.

(f) If less than all of the tax increment is to be used for project costs or pledged to secure tax increment financing as provided in the plan for the development or redevelopment district, the sheriff shall account for that fact in distributing the ad valorem property tax revenues.

(g) If taxes and levies due to a county, a school district or a municipal corporation pursuant to §11-6-1 *et seq.* of this code are apportioned by the Auditor to a development or redevelopment district, the sheriff shall allocate such taxes and levies as provided in this section.

§7-11B-18. Payments in lieu of taxes and other revenues.

~~(a) The county commission or municipality that created the development or redevelopment district shall deposit in the tax increment financing fund of the development or redevelopment district all payments in lieu of taxes received pursuant to any agreement entered into on or subsequent to the date of creation of a development or redevelopment district on tax exempt property located within the development or redevelopment district.~~

~~(b) The lessee of property that is exempt from property taxes because it is owned by this state, a political subdivision of this state or an agency or instrumentality thereof, which is the lessee of any facilities financed, in whole or in part, with tax increment financing obligations, shall execute a payment in lieu of tax agreement that shall remain in effect until the tax increment financing obligations are paid, during which period of time the lessee agrees to pay to the county sheriff an amount equal to the amount of ad valorem property taxes that would have been levied against the assessed value of the property were it owned by the lessee rather than a tax exempt entity. The portion of the payment in lieu of taxes attributable to the incremental value shall be deposited in the tax increment financing fund. The remaining portion of the in lieu payment shall be distributed among the levying bodies as follows~~

(a) Where the real or personal property that is exempt from property taxes because it is owned by this state, a political subdivision of this state or an agency or instrumentality thereof, which seeks to execute a payment in lieu of tax agreement that results in payments in lieu of taxes with respect to the leasehold estate that are less than the amount of ad valorem property taxes that would have been levied were the property not exempt from property taxes or were the property not subject to a payment in lieu of tax agreement, the owner of the property and the lessee of the property must first obtain the formal consent of the county commission or municipality that created the development or redevelopment district. Any portion of a payment in lieu of taxes which is attributable in the payment in lieu of tax agreement to the incremental value shall be deposited in the tax increment financing fund. The remaining portion of the in lieu of payment, if any, shall be distributed among the levying bodies as follows:

(1) The portion of the in lieu tax payment attributable in the payment in lieu of tax agreement to the base value of the property shall be distributed to the levying bodies in the same manner as taxes attributable to the base value of other property in the district are distributed; and

(2) The portions of the in lieu tax payment attributable in the payment in lieu of tax agreement to levies for bonded indebtedness and excess levies shall be distributed in the same manner as those levies on other property in the district are distributed.

~~(c)~~ (b) Other revenues to be derived from the development or redevelopment district may also be deposited in the tax increment financing fund at the direction of the county commission.

§7-11B-22. Tax increment financing obligations -- terms, conditions.

(a) Tax increment financing obligations may not be issued in an amount exceeding the estimated aggregate project costs, including all costs of issuance of the tax increment financing obligations.

(b) Tax increment financing obligations shall not be included in the computation of the Constitutional debt limitation of the county commission or municipality issuing the tax increment financing obligations.

(c) Tax increment financing obligations shall mature over a period not exceeding 30 years from ~~the date of entry of the county commissions order, or the effective date of the municipal ordinance, creating the development or redevelopment district and approving the development or redevelopment plan~~ their issue date, or a period terminating with the date of termination of the development or redevelopment district, whichever period terminates earlier.

(d) Tax increment financing obligations may contain a provision authorizing their redemption, in whole or in part, at stipulated prices, at the option of the county commission or municipality issuing the obligations, and, if so, the obligations shall provide the method of selecting the tax increment financing obligations to be redeemed.

(e) The principal and interest on tax increment financing obligations may be payable at any place set forth in the resolution, trust indenture or other document governing the obligations.

(f) Bonds or notes shall be issued in registered form.

(g) Bonds or notes may be issued in any denomination.

(h) Each tax increment financing obligation issued under this article is declared to be a negotiable instrument.

(i) The tax increment financing obligations may be sold at public or private sale.

(j) Insofar as they are consistent with subsections (a), (b) and (c) of this section, the procedures for issuance, form, contents, execution, negotiation and registration of county and municipal industrial or commercial revenue bonds set forth in §13-2C-1 *et seq*. of this code are incorporated by reference herein.

(k) The bonds may be refunded or refinanced and refunding bonds may be issued in any principal amount: *Provided,* That the last maturity of the refunding bonds shall not be later than the ~~last maturity of the bonds being refunded~~ termination date of the district as set forth in §7-11B-10 of this code.

Article 22. County economic opportunity development districts.

§7-22-15. Abolishment and dissolution of district; notice; hearing.

(a) *General*. -- (1) Except upon the express written consent of the Executive Director of the Development Office and of all the holders or obligees of any indebtedness or other instruments the proceeds of which were applied to any development expenditures or any indebtedness the payment of which is secured by revenues payable into the fund provided under section eight of this article or by any public property, a district may only be abolished by the county commission when there is no outstanding indebtedness, the proceeds of which were applied to any development expenditures or the payment of which is secured by revenues payable into the fund provided under section eight of this article, or by any public property, and following a public hearing upon the proposed abolishment.

(2) *~~Thirty~~ Forty-year limitations. --*

(A) *~~Thirty~~ Forty-year limitation on new districts. --* Notwithstanding subdivision (1) of this subsection, and notwithstanding any other provision of this code to the contrary, any district for which the date of initial enactment was after December 31, ~~2013~~ 2020, shall cease to exist and shall be abolished by operation of law, at 11:59 P.M., United States eastern time zone, on December 31 of the ~~thirtieth~~ fortieth calendar year subsequent to the initial year of enactment. Special district excise tax may not be levied, imposed or collected in or from the district so abolished or from or on any business located therein or any transaction occurring therein after the cessation and abolishment of the district.

(B) *~~Thirty~~ Forty-year limitation on preexisting districts ~~receiving authorization for boundary changes or other changes after December 31, 2013~~*. -- Notwithstanding subdivision (1) of this subsection, notwithstanding any other provision of this code to the contrary and notwithstanding a date of initial enactment for a district that is prior to December 31, ~~2013~~ 2020, ~~if legislative authorization is enacted after December 31, 2013, to expand or amend the previously authorized boundary, size or acreage of the district, or make any other amendment or change relating to the district,~~ such district shall cease to exist and shall be abolished by operation of law, at 11:59 P.M., United States eastern time zone, on December 31 of the ~~thirtieth~~ fortieth calendar year subsequent to the initial year of enactment. Special district excise tax may not be levied, imposed or collected in or from the district so abolished or from or on any business located therein or any transaction occurring therein after the cessation and abolishment of the district.

(C) *Definitions. --* For purposes of this subdivision:

(i) The term date of initial enactment means the date of passage of legislation whereby legislative authorization was first enacted for the county commission to levy special district excise taxes for a district, and prior to enactment of any legislative authorization to expand or amend the authorized boundary, size or acreage of the district, or make any other amendment or change relating to the district as originally authorized.

(ii) The term initial year of enactment means the calendar year during which the date of initial enactment occurred.

(D) This section shall not be interpreted to abrogate or hinder the authority of the Tax Commissioner to collect, receive, process or administer any special district excise tax accrued, due or payable for any tax period prior to the cessation and abolishment of the district, or to audit and issue assessments of tax, interest, additions to tax and penalties for the collection, remittance and enforcement thereof.

(E) Upon cessation and abolishment of a district under this section or any provision of this code, or any cessation or abolishment of a district for any reason, the consumers sales and service tax and use tax and municipal consumers sales and service tax and use tax, if applicable, shall be imposed, collected, levied and remitted, as provided by law for sales and uses in the previously authorized district.

(b) *Notice of public hearing*. -- Notice of the public hearing required by subsection (a) of this section shall be provided by first-class mail to all owners of real property within the district and shall be published as a Class I-0 legal advertisement in compliance with §59-3-1 *et seq*. of this code at least 20 days prior to the public hearing.

(c) *Transfer of district assets and funds*. -- Upon the abolishment of any economic opportunity development district, any funds or other assets, contractual rights or obligations, claims against holders of indebtedness or other financial benefits, liabilities or obligations existing after full payment has been made on all existing contracts, bonds, notes or other obligations of the district are transferred to and assumed by the county commission. Any funds or other assets transferred shall be used for the benefit of the area included in the district being abolished.

(d) *Reinstatement of district*. -- Following abolishment of a district pursuant to this section, its reinstatement requires compliance with all requirements and procedures set forth in this article for the initial development, approval, establishment and creation of an economic opportunity development district.

§7-22-16. Bonds issued to finance economic opportunity development district projects.

(a) *General*. - The county commission that established the economic opportunity development district may issue bonds or notes for the purpose of financing development expenditures, as described in §7-22-5 of this code, with respect to one or more projects within the economic opportunity development district.

(b) *Limited obligations*. - All bonds and notes issued by a county commission under the authority of this article are limited obligations of the county.

(c) *Term of obligations*. - No county commission may issue notes, bonds or other instruments for funding district projects or improvements that exceed a repayment schedule of ~~thirty~~ 40 years.

(d) *Debt service*. - The principal and interest on the bonds shall be payable out of the funds on deposit in the subaccount established for the economic opportunity development district pursuant to §7-22-8 of this code, including, without limitation, any funds derived from the special district excise tax imposed by §7-22-12 of this code or other revenues derived from the economic opportunity development district to the extent pledged for the purpose by the county commission in the resolution authorizing the bonds.

(e) *Surplus funds*. - To the extent that the average daily amount on deposit in the subaccount established for a district pursuant to section eight of this article exceeds, for more than six consecutive calendar months, the sum of: (1) One hundred thousand dollars; plus (2) the amount required to be kept on deposit pursuant to the documents authorizing, securing or otherwise relating to the bonds or notes issued under this section, then the excess shall be used by the district either to redeem the bonds or notes previously issued or remitted to the General Fund of this state.

(f) *Debt not general obligation of county*. - Neither the notes or bonds and any interest coupons issued under the authority of this article shall ever constitute an indebtedness of the county commission issuing the notes or bonds within the meaning of any Constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the county commission issuing the notes or bonds.

(g) *Debt not a charge general credit or taxing powers of county*. - Neither the bonds or notes, nor interest thereon, is a charge against the general credit or taxing powers of the county commission and that fact shall be plainly stated on the face of each bond or note.

(h) *Issuance of bonds or notes*. --

(1) Bonds or notes allowed under this section may be executed, issued and delivered at any time and from time to time, may be in a form and denomination, may be of a tenor, must be negotiable but may be registered as to the principal thereof or as to the principal and interest thereof, may be payable in any amounts and at any time or times, may be payable at any place or places, may bear interest at any rate or rates payable at any place or places and evidenced in any manner and may contain any provisions therein not inconsistent herewith, all as provided in the order or orders of the county commission whereunder the bonds or notes are authorized to be issued or in any trust indenture executed and delivered in connection with the issuance of such bonds or notes.

(2) The bonds may be sold by the county commission at public or private sale at, above or below par as the county commission authorizes.

(3) Bonds and notes issued pursuant to this article shall be signed by the president of the county commission, or other chief officer thereof, and attested by the county clerk and be under the seal of the county.

(4) Any coupons attached to the bonds shall bear the facsimile signature of the president of the commission or other chief officer thereof. In case any of the officials whose signatures appear on the bonds, notes or coupons cease to be officers before the delivery of the bonds or notes, their signatures shall, nevertheless, be valid and sufficient for all purposes to the same extent as if they had remained in office until the delivery.

(i) *Additional bonds or notes*. - If the proceeds of the bonds or notes, by error of calculation or otherwise, are less than the cost of the economic opportunity development district project, or if additional real or personal property is to be added to the district project or if it is determined that financing is needed for additional development or redevelopment expenditures, additional bonds or notes may, in like manner, be issued to provide the amount of the deficiency or to defray the cost of acquiring or financing any additional real or personal property or development or redevelopment expenditures and, unless otherwise provided for in the trust agreement, mortgage or deed of trust, are considered to be of the same issue and shall be entitled to payment from the same fund, without preference or priority, and shall be of equal priority as to any security.

Chapter 11. Taxation.

Article 6. assessment of public service businesses.

**§11-6-13. Apportionment of value among counties, districts and municipalities.**

In case the list and valuation of the property filed with the Tax Commissioner be satisfactory to the board of public works, or upon assessment of the property of such owner or operator being made by the board of public works the Auditor shall immediately apportion to each county, in which any part of such property is situated, the value of the property therein of every such owner or operator as valued or assessed hereunder and the relative value of such operating property within each county compared to the value of the total operating property within the state, to be determined upon such factors as the Auditor shall deem proper; and further shall apportion such values among the several districts, being school districts, and a proportional valuation to each municipality therein, in which any part of such property is situated, according to the value thereof, as near as may be, and forthwith shall certify to the county commission of such county the values so apportioned. The clerk of the county commission shall forthwith certify such values to the school district and to the several municipalities, respectively, in such county. If such property includes real property, including improvements and fixtures thereon, situated within a development or redevelopment district created by a county commission or municipality pursuant to §7-11B-1 *et seq.* of this code, the Auditor shall apportion to the county commission or municipality which created such development or redevelopment district the value of such real property, including improvements and fixtures thereon, and shall certify the same to the county commission, the school district and to each municipality in which such development or redevelopment district is located.

Inasmuch as there was litigation challenging the long term apportionment method consistently used by the State Auditor under the provisions of this section by which distribution was made of the ad valorem tax values of the operable properties and assets of public service businesses attributable to more than one county, and with the Legislature subsequently approving, codifying and ordering the continuance of such method of apportionment; and inasmuch as the Legislature having changed such apportionment method and having vested the authority to accomplish such and to issue assessments under this article through actions of the State Tax Commissioner rather than assessment by the board of public works and apportionment by the State Auditor, pursuant to chapter one hundred fifty-nine, acts of the Legislature, 1985 regular session,; and in light of the Legislature being unaware of the dramatic shifting of valuations among counties as a result of application or use of such new apportionment method and thus desiring to return to the former method of apportionment and that the same be performed by the State Auditor, as formerly and that final assessment activity, as such, and hearings in respect thereof be performed by the board of public works, as formerly; therefore, the Legislature finds and determines that apportionment and distribution of ad valorem tax valuations hereunder should and are to be performed by the State Auditor promptly and for current periods and on the basis of the above-mentioned long-term apportionment method used consistently by the State Auditor and with the valuations as determined by the application of such apportionment method to be certified forthwith to the county commissions. Specifically, as to the true and actual values of the property of public service businesses reported on their tax returns required to be filed by May 1, 1985 and as thereafter determined by tentative assessment and final assessment by the Tax Commissioner or by court decision for tax fiscal year 1986, the State Auditor shall, by March 1, 1986, or as soon as may be practicable, apportion and distribute such values, as required, to the respective levying bodies and on the basis of his or her using the long-term, consistent apportionment method of his or her office as long engaged in the applied under the provisions of this section and article.

§11-6-19. Accounting by sheriff for district and municipal taxes from public service corporations.

When the district and independent school district taxes and levies are collected by the sheriff, he or she shall account for and pay the same as treasurer of such district. When such taxes and levies due to a municipal corporation are collected by the sheriff he or she shall pay the same to the proper collecting officer, or treasurer, of such municipal corporation, or otherwise, as the council or other proper authority thereof may direct. If taxes and levies due to a county, a school district or a municipality under this article are allocated to the county commission or municipality which created a development or redevelopment district pursuant to §7-11B-1 *et seq.* of this code, the sheriff shall allocate such taxes and levies as provided in §7-11B-17 of this code.

§11-6-21. Accounting for levies against public service corporations.

When such taxes and levies are paid into the treasury, as herein provided, the Auditor shall account to the sheriff of each of the counties, to which any sum so paid in for county levies belongs, for the amount due such county, and may arrange the same with such sheriff in any settlement for state taxes in such a way as may be most convenient; and the sheriff shall account to the county court of his or her county for the amount so received by him or her, in the same manner as for other county levies. The amount so paid for each district and independent school district shall be added to the distributable share of the school fund payable to such district, and shall be paid upon the requisition of the county superintendent of free schools in like manner as other school moneys are paid. The Auditor shall account to the sheriff the amount of such taxes and levies due for real property, including improvements and fixtures thereon, situated within a development or redevelopment district created by a county commission or municipality pursuant to §7-11B-1 *et seq*. of this code, and the sheriff shall account the same to the county commission, the school district and each municipality in which such development or district is located.

§11-6-22. Certification by Auditor of amount chargeable to sheriff from levies against public service corporations; payment of amount due municipality.

The Auditor shall certify to the county court and the county superintendent of schools of every such county, on or before February 1 in each year, the respective amounts with which the sheriff thereof is chargeable on account of the various levies upon the property of such owner or operator. The amount so paid in for each municipal corporation shall, as soon as received by the Auditor, be paid over to the sheriff, or the treasurer of such municipal corporation, or to such other officer of the municipality as the council may designate, and the Auditor shall report such payment to the council. But the failure of the clerk of any county court, or the secretary of any Board of Education, or the proper officer of any municipal corporation, to certify the levies to the Auditor within the time herein prescribed shall not invalidate or prevent the assessment required by this article, but the Auditor shall make the assessment and proceed to collect or certify the same to the sheriff as soon as practicable after he or she shall have obtained the information necessary to make such assessment. If such property includes real property, including improvements and fixtures thereon, situated within a development or redevelopment district created by a county commission or municipality pursuant to §7-11B-1 *et seq*. of this code, the Auditor shall certify to the county commission, the county superintendent of schools and each municipality in which such development or redevelopment district is located, on or before February 1 in each year, the respective amounts with which the sheriff thereof is chargeable on account of the various levies upon the real property. If such property includes real property, including improvements and fixtures thereon, of such owner or operator situated within such development or redevelopment district the amount so paid in shall, as soon as received by the Auditor, be paid over to the sheriff, and the sheriff shall allocate such taxes and levies as provided in §7-11B-17 of this code.

NOTE: The purpose of this bill is to amend the code as it relates to property tax increment financing districts and real property of public service businesses situated within such districts. The bill amends the definitions of base assessed value, current assessed value, and payment in lieu of taxes, and adds a definition for public service business. It also authorizes payment in lieu of tax agreements for property located within property tax increment financing districts. The bill authorizes a county commission or municipality to extend the length of existence of certain districts and extends the length of existence of certain districts from 30 to 40 years. It removes the requirement that a copy of the proposed project plan for tax increment financing be provided to other levying bodies with the power to levy taxes prior to any public hearing to consider the project. It clarifies the base assessed value and termination date when two or more tax increment financing districts have been combined and modifies language related to the discharge of any tax increment financing obligations outstanding on the termination date of a property tax district. It also eliminates certain limitations on the terms of property tax increment financing obligations issued to refund existing obligations. The bill requires the Auditor to apportion and certify the value of real property owned by a public service business within a development or redevelopment district to the county commission and municipality that created such district, and requires a sheriff to properly allocate taxes and levies apportioned by the Auditor.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.