

SENATE AMENDMENTS

2nd Printing

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H.B. No. 2853

A BILL TO BE ENTITLED

1 AN ACT

2 relating to tax increment financing.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Section 311.002(1), Tax Code, is amended to read
5 as follows:

6 (1) "Project costs" means the expenditures made or
7 estimated to be made and monetary obligations incurred or estimated
8 to be incurred by the municipality or county designating
9 ~~[establishing]~~ a reinvestment zone that are listed in the project
10 plan as costs of public works, ~~[or]~~ public improvements, programs,
11 or other projects benefiting ~~[in]~~ the zone, plus other costs
12 incidental to those expenditures and obligations. "Project costs"
13 include:

14 (A) capital costs, including the actual costs of
15 the acquisition and construction of public works, public
16 improvements, new buildings, structures, and fixtures; the actual
17 costs of the acquisition, demolition, alteration, remodeling,
18 repair, or reconstruction of existing buildings, structures, and
19 fixtures; the actual costs of the remediation of conditions that
20 contaminate public or private land or buildings; the actual costs
21 of the preservation of the facade of a public or private building;
22 the actual costs of the demolition of public or private buildings;
23 and the actual costs of the acquisition of land and equipment and
24 the clearing and grading of land;

1 (B) financing costs, including all interest paid
2 to holders of evidences of indebtedness or other obligations issued
3 to pay for project costs and any premium paid over the principal
4 amount of the obligations because of the redemption of the
5 obligations before maturity;

6 (C) real property assembly costs;

7 (D) professional service costs, including those
8 incurred for architectural, planning, engineering, and legal
9 advice and services;

10 (E) imputed administrative costs, including
11 reasonable charges for the time spent by employees of the
12 municipality or county in connection with the implementation of a
13 project plan;

14 (F) relocation costs;

15 (G) organizational costs, including the costs of
16 conducting environmental impact studies or other studies, the cost
17 of publicizing the creation of the zone, and the cost of
18 implementing the project plan for the zone;

19 (H) interest before and during construction and
20 for one year after completion of construction, whether or not
21 capitalized;

22 (I) the cost of operating the reinvestment zone
23 and project facilities;

24 (J) the amount of any contributions made by the
25 municipality or county from general revenue for the implementation
26 of the project plan; ~~and~~

27 (K) the costs of a program described by Section

1 311.010(h);

2 (L) the costs of school buildings, other
3 educational buildings, other educational facilities, or other
4 buildings owned by or on behalf of a school district, community
5 college district, or other political subdivision of this state; and

6 (M) payments made at the discretion of the
7 governing body of the municipality or county that the governing
8 body finds necessary or convenient to the creation of the zone or to
9 the implementation of the project plans for the zone.

10 SECTION 2. Section 311.003(b), Tax Code, is amended to read
11 as follows:

12 (b) Before adopting an ordinance or order designating
13 ~~[providing for]~~ a reinvestment zone, the governing body of the
14 municipality or county must prepare a preliminary reinvestment zone
15 financing plan. ~~[As soon as the plan is completed, a copy of the~~
16 ~~plan must be sent to the governing body of each taxing unit that~~
17 ~~levies taxes on real property in the proposed zone.]~~

18 SECTION 3. Section 311.005(a), Tax Code, is amended to read
19 as follows:

20 (a) To be designated as a reinvestment zone, an area must:

21 (1) substantially arrest or impair the sound growth of
22 the municipality or county designating ~~[creating]~~ the zone, retard
23 the provision of housing accommodations, or constitute an economic
24 or social liability and be a menace to the public health, safety,
25 morals, or welfare in its present condition and use because of the
26 presence of:

27 (A) a substantial number of substandard, slum,

1 deteriorated, or deteriorating structures;

2 (B) the predominance of defective or inadequate
3 sidewalk or street layout;

4 (C) faulty lot layout in relation to size,
5 adequacy, accessibility, or usefulness;

6 (D) unsanitary or unsafe conditions;

7 (E) the deterioration of site or other
8 improvements;

9 (F) tax or special assessment delinquency
10 exceeding the fair value of the land;

11 (G) defective or unusual conditions of title;

12 (H) conditions that endanger life or property by
13 fire or other cause; or

14 (I) structures, other than single-family
15 residential structures, less than 10 percent of the square footage
16 of which has been used for commercial, industrial, or residential
17 purposes during the preceding 12 years, if the municipality has a
18 population of 100,000 or more;

19 (2) be predominantly open, undeveloped, or
20 underdeveloped and, because of obsolete platting, deterioration of
21 structures or site improvements, or other factors, substantially
22 impair or arrest the sound growth of the municipality or county;

23 (3) be in a federally assisted new community located
24 in the municipality or county or in an area immediately adjacent to
25 a federally assisted new community; or

26 (4) be an area described in a petition requesting that
27 the area be designated as a reinvestment zone, if the petition is

1 submitted to the governing body of the municipality or county by the
2 owners of property constituting at least 50 percent of the
3 appraised value of the property in the area according to the most
4 recent certified appraisal roll for the county in which the area is
5 located.

6 SECTION 4. Sections 311.006(a) and (b), Tax Code, are
7 amended to read as follows:

8 (a) A municipality may not designate [~~create~~] a
9 reinvestment zone if:

10 (1) more than 30 [~~10~~] percent of the property in the
11 proposed zone, excluding property that is publicly owned, is used
12 for residential purposes; or

13 (2) the total appraised value of taxable real property
14 in the proposed zone and in existing reinvestment zones exceeds:

15 (A) 25 [~~20~~] percent of the total appraised value
16 of taxable real property in the municipality and in the industrial
17 districts created by the municipality, if the municipality has a
18 population of 100,000 or more [~~is the county seat of a county:~~

19 [~~(i) that is adjacent to a county with a~~
20 ~~population of 3.3 million or more, and~~

21 [~~(ii) in which a planned community is~~
22 ~~located that has 20,000 or more acres of land, that was originally~~
23 ~~established under the Urban Growth and New Community Development~~
24 ~~Act of 1970 (42 U.S.C. Section 4501 et seq.), and that is subject to~~
25 ~~restrictive covenants containing ad valorem or annual variable~~
26 ~~budget-based assessments on real property]; or~~

27 (B) 50 [~~15~~] percent of the total appraised value

1 of taxable real property in the municipality and in the industrial
2 districts created by the municipality, if [~~Paragraph (A) does not~~
3 ~~apply to~~] the municipality has a population of less than 100,000.

4 (b) A municipality may not change the boundaries of an
5 existing reinvestment zone to include property in excess of the
6 restrictions on composition of a zone described by Subsection (a)
7 [~~more than 10 percent of which, excluding property dedicated to~~
8 ~~public use, is used for residential purposes or to include more than~~
9 ~~15 percent of the total appraised value of taxable real property in~~
10 ~~the municipality and in the industrial districts created by the~~
11 ~~municipality~~].

12 SECTION 5. The heading to Section 311.007, Tax Code, is
13 amended to read as follows:

14 Sec. 311.007. CHANGING BOUNDARIES OR TERM OF EXISTING ZONE.

15 SECTION 6. Section 311.007, Tax Code, is amended by adding
16 Subsection (c) to read as follows:

17 (c) The governing body of the municipality or county that
18 designated a reinvestment zone by ordinance or resolution or by
19 order or resolution, respectively, may extend the term of all or a
20 portion of the zone after notice and hearing in the manner provided
21 for the designation of the zone. A taxing unit other than the
22 municipality or county that designated the zone is not required to
23 participate in the zone or portion of the zone for the extended term
24 unless the taxing unit enters into a written agreement to do so.

25 SECTION 7. Section 311.008(b), Tax Code, is amended to read
26 as follows:

27 (b) A municipality or county may exercise any power

1 necessary and convenient to carry out this chapter, including the
2 power to:

3 (1) cause project plans to be prepared, approve and
4 implement the plans, and otherwise achieve the purposes of the
5 plan;

6 (2) acquire real property by purchase, condemnation,
7 or other means [~~to implement project plans~~] and sell real [~~that~~]
8 property, on the terms and conditions and in the manner it considers
9 advisable, to implement project plans;

10 (3) enter into agreements, including agreements with
11 bondholders, determined by the governing body of the municipality
12 or county to be necessary or convenient to implement project plans
13 and achieve their purposes, which agreements may include
14 conditions, restrictions, or covenants that run with the land or
15 that by other means regulate or restrict the use of land; and

16 (4) consistent with the project plan for the zone:

17 (A) acquire blighted, deteriorated,
18 deteriorating, undeveloped, or inappropriately developed real
19 property or other property in a blighted area or in a federally
20 assisted new community in the zone for the preservation or
21 restoration of historic sites, beautification or conservation, the
22 provision of public works or public facilities, or other public
23 purposes;

24 (B) acquire, construct, reconstruct, or install
25 public works, facilities, or sites or other public improvements,
26 including utilities, streets, street lights, water and sewer
27 facilities, pedestrian malls and walkways, parks, flood and

1 drainage facilities, or parking facilities, but not including
2 educational facilities; or

3 (C) in a reinvestment zone created on or before
4 September 1, 1999, acquire, construct, or reconstruct educational
5 facilities in the municipality.

6 SECTION 8. Sections 311.009(a), (b), and (e), Tax Code, are
7 amended to read as follows:

8 (a) Except as provided by Subsection (b), the board of
9 directors of a reinvestment zone consists of at least five and not
10 more than 15 members, unless more than 15 members are required to
11 satisfy the requirements of this subsection. Each taxing unit other
12 than the municipality or county that designated [~~created~~] the zone
13 that levies taxes on real property in the zone may appoint one
14 member of the board if the taxing unit has approved the payment of
15 all or part of the tax increment produced by the unit into the tax
16 increment fund for the zone. A unit may waive its right to appoint a
17 director. The governing body of the municipality or county that
18 designated [~~created~~] the zone may appoint not more than 10
19 directors to the board; except that if there are fewer than five
20 directors appointed by taxing units other than the municipality or
21 county, the governing body of the municipality or county may
22 appoint more than 10 members as long as the total membership of the
23 board does not exceed 15.

24 (b) If the zone was designated under Section 311.005(a)(4),
25 the governing body of the municipality or county that designated
26 the zone may provide that the board of directors of the zone
27 consists of nine members appointed as provided by this subsection,

1 unless more than nine members are required to comply with this
2 subsection. Each taxing unit [~~school district, county, or~~
3 ~~municipality~~], other than the municipality or county that
4 designated [~~created~~] the zone, that levies taxes on real property
5 in the zone may appoint one member of the board if the taxing unit
6 [~~school district, county, or municipality~~] has approved the payment
7 of all or part of the tax increment produced by the unit into the tax
8 increment fund for the zone. The member of the state senate in whose
9 district the zone is located is a member of the board, and the
10 member of the state house of representatives in whose district the
11 zone is located is a member of the board, except that either may
12 designate another individual to serve in the member's place at the
13 pleasure of the member. If the zone is located in more than one
14 senate or house district, this subsection applies only to the
15 senator or representative in whose district a larger portion of the
16 zone is located than any other senate or house district, as
17 applicable. If fewer than seven taxing units, other than the
18 municipality or county that designated the zone, are eligible to
19 appoint members of the board of directors of the zone, the
20 municipality or county may appoint a number of members of the board
21 such that the board comprises nine members. If at least seven taxing
22 units, other than the municipality or county that designated the
23 zone, are eligible to appoint members of the board of directors of
24 the zone, the municipality or county may appoint one member. [~~The~~
25 ~~remaining members of the board are appointed by the governing body~~
26 ~~of the municipality or county that created the zone.~~]

27 (e) To be eligible for appointment to the board by the

1 governing body of the municipality or county that designated
2 ~~[created]~~ the zone, an individual must be at least 18 years of age
3 and:

4 (1) if the board is covered by Subsection (a):

5 (A) be a resident of the county in which the zone
6 is located or a county adjacent to that county ~~[qualified voter of~~
7 ~~the municipality or county, as applicable]~~; or

8 (B) ~~[be at least 18 years of age and]~~ own real
9 property in the zone, whether or not the individual resides in the
10 ~~[municipality or]~~ county in which the zone is located or a county
11 adjacent to that county; or

12 (2) if the board is covered by Subsection (b), + [~~+~~

13 ~~[(A) be at least 18 years of age, and~~

14 ~~[(B)]~~ own real property in the zone or be an
15 employee or agent of a person that owns real property in the zone.

16 SECTION 9. Section 311.0091, Tax Code, is amended by
17 amending Subsection (f) and adding Subsection (i) to read as
18 follows:

19 (f) Except as provided by Subsection (i), to ~~[To]~~ be
20 eligible for appointment to the board, an individual must:

21 (1) be a qualified voter of the municipality; or

22 (2) be at least 18 years of age and own real property
23 in the zone or be an employee or agent of a person that owns real
24 property in the zone.

25 (i) The eligibility criteria for appointment to the board
26 specified by Subsection (f) do not apply to an individual appointed
27 by a conservation and reclamation district:

1 (1) created under Section 59, Article XVI, Texas
2 Constitution; and

3 (2) the jurisdiction of which covers four counties.

4 SECTION 10. Sections 311.010(g) and (h), Tax Code, are
5 amended to read as follows:

6 (g) Chapter 252, Local Government Code, does not apply to a
7 dedication, pledge, or other use of revenue in the tax increment
8 fund for a reinvestment zone [~~by the board of directors of the zone~~
9 ~~in carrying out its powers]~~ under Subsection (b).

10 (h) Subject to the approval of the governing body of the
11 municipality or county that designated [~~created~~] the zone, the
12 board of directors of a reinvestment zone, as necessary or
13 convenient to implement the project plan and reinvestment zone
14 financing plan and achieve their purposes, may establish and
15 provide for the administration of one or more programs for the
16 public purposes of developing and diversifying the economy of the
17 zone, eliminating unemployment and underemployment in the zone, and
18 developing or expanding transportation, business, and commercial
19 activity in the zone, including programs to make grants and loans
20 [~~from the tax increment fund of the zone in an aggregate amount not~~
21 ~~to exceed the amount of the tax increment produced by the~~
22 ~~municipality and paid into the tax increment fund for the zone]~~ for
23 activities that benefit the zone and stimulate business and
24 commercial activity in the zone. For purposes of this subsection,
25 on approval of the municipality or county, the board of directors of
26 the zone has all the powers of a municipality under Chapter 380,
27 Local Government Code. The approval required by this subsection may

1 be granted in an ordinance, in the case of a zone designated by a
2 municipality, or in an order, in the case of a zone designated by a
3 county, approving a project plan or reinvestment zone financing
4 plan or approving an amendment to a project plan or reinvestment
5 zone financing plan.

6 SECTION 11. Section 311.011, Tax Code, is amended by
7 amending Subsections (a), (b), (c), (d), and (g) and adding
8 Subsection (h) to read as follows:

9 (a) The board of directors of a reinvestment zone shall
10 prepare and adopt a project plan and a reinvestment zone financing
11 plan for the zone and submit the plans to the governing body of the
12 municipality or county that designated ~~created~~ the zone. ~~[The~~
13 ~~plans must be as consistent as possible with the preliminary plans~~
14 ~~developed for the zone before the creation of the board.]~~

15 (b) The project plan must include:

16 (1) a description of ~~[map showing]~~ existing uses and
17 conditions of real property in the zone and ~~[a map showing]~~ proposed
18 ~~[improvements to and proposed]~~ uses of that property;

19 (2) proposed changes of zoning ordinances, ~~[the master~~
20 ~~plan of the municipality,]~~ building codes, other municipal
21 ordinances, and subdivision rules and regulations, if any, of the
22 county, if applicable; and

23 (3) ~~[a list of estimated nonproject costs, and~~

24 ~~[-4-]~~ a statement of a method of relocating persons to
25 be displaced, if any, as a result of implementing the plan.

26 (c) The reinvestment zone financing plan must include:

27 (1) a detailed list describing the estimated project

1 costs of the zone, including administrative expenses;

2 (2) a statement listing the proposed kind, number, and
3 location of all [~~proposed~~] public works or public improvements to
4 be financed by [~~in~~] the zone;

5 (3) a finding that the plan is economically feasible
6 [~~an economic feasibility study~~];

7 (4) the estimated amount of bonded indebtedness to be
8 incurred;

9 (5) the estimated time when related costs or monetary
10 obligations are to be incurred;

11 (6) a description of the methods of financing all
12 estimated project costs and the expected sources of revenue to
13 finance or pay project costs, including the percentage of tax
14 increment to be derived from the property taxes of each taxing unit
15 anticipated to contribute tax increment to the zone that levies
16 taxes on real property in the zone;

17 (7) the current total appraised value of taxable real
18 property in the zone;

19 (8) the estimated captured appraised value of the zone
20 during each year of its existence; and

21 (9) the duration of the zone.

22 (d) The governing body of the municipality or county that
23 designated [~~created~~] the zone must approve a project plan or
24 reinvestment zone financing plan after its adoption by the board.
25 The approval must be by ordinance, in the case of a municipality, or
26 by order, in the case of a county, that finds that the plan is
27 feasible [~~and conforms to the master plan, if any, of the~~

1 ~~municipality or to subdivision rules and regulations, if any, of~~
2 ~~the county].~~

3 (g) A ~~[An amendment to the project plan or the reinvestment~~
4 ~~zone financing plan for a zone does not apply to a]~~ school district
5 that participates in a a [the] zone is not required to increase the
6 percentage or amount of the tax increment to be contributed by the
7 school district because of an amendment to the project plan or
8 reinvestment zone financing plan for the zone unless the governing
9 body of the school district by official action approves the
10 amendment ~~[, if the amendment:~~

11 ~~(1) has the effect of directly or indirectly~~
12 ~~increasing the percentage or amount of the tax increment to be~~
13 ~~contributed by the school district; or~~

14 ~~(2) requires or authorizes the municipality or county~~
15 ~~creating the zone to issue additional tax increment bonds or~~
16 ~~notes].~~

17 (h) Unless specifically provided otherwise in the plan, all
18 amounts contained in the project plan or reinvestment zone
19 financing plan, including amounts of expenditures relating to
20 project costs and amounts relating to participation by taxing
21 units, are considered estimates and do not act as a limitation on
22 the described items. This subsection may not be construed to
23 increase the amount of any reduction under Section 403.302(d)(4),
24 Government Code, in the total taxable value of the property in a
25 school district that participates in the zone as computed under
26 Section 403.302(d) of that code.

27 SECTION 12. Sections 311.012(b) and (c), Tax Code, are

1 amended to read as follows:

2 (b) The captured appraised value of real property taxable by
3 a taxing unit for a year is the total taxable [~~appraised~~] value of
4 all real property taxable by the unit and located in a reinvestment
5 zone for that year less the tax increment base of the unit.

6 (c) The tax increment base of a taxing unit is the total
7 taxable [~~appraised~~] value of all real property taxable by the unit
8 and located in a reinvestment zone for the year in which the zone
9 was designated under this chapter. If the boundaries of a zone are
10 enlarged, the tax increment base is increased by the taxable value
11 of the real property added to the zone for the year in which the
12 property was added. If the boundaries of a zone are reduced, the tax
13 increment base is reduced by the taxable value of the real property
14 removed from the zone for the year in which the property was
15 originally included in the zone's boundaries. If the municipality
16 that designates a zone does not levy an ad valorem tax in the year in
17 which the zone is designated, the tax increment base is determined
18 by the appraisal district in which the zone is located using
19 assumptions regarding exemptions and other relevant information
20 provided to the appraisal district by the municipality.

21 SECTION 13. Sections 311.013(f) and (l), Tax Code, are
22 amended to read as follows:

23 (f) A taxing unit is not required to pay into the tax
24 increment fund any of its tax increment produced from property
25 located in a reinvestment zone designated under Section 311.005(a)
26 or in an area added to a reinvestment zone under Section 311.007
27 unless the taxing unit enters into an agreement to do so with the

1 governing body of the municipality or county that designated
2 [~~created~~] the zone. A taxing unit may enter into an agreement under
3 this subsection at any time before or after the zone is designated
4 [~~created~~] or enlarged. The agreement may include conditions for
5 payment of that tax increment into the fund and must specify the
6 portion of the tax increment to be paid into the fund and the years
7 for which that tax increment is to be paid into the fund. In
8 addition to any other terms to which the parties may agree, the
9 agreement may specify the projects to which a participating taxing
10 unit's tax increment will be dedicated and that the taxing unit's
11 participation may be computed with respect to a base year later than
12 the original base year of the zone. The agreement and the conditions
13 in the agreement are binding on the taxing unit, the municipality or
14 county, and the board of directors of the zone.

15 (1) The governing body of a municipality or county that
16 designates an area as a reinvestment zone may determine, in the
17 designating ordinance or order adopted under Section 311.003 or in
18 the ordinance or order adopted under Section 311.011 approving the
19 reinvestment zone financing plan for the zone, the portion of the
20 tax increment produced by the municipality or county that the
21 municipality or county is required to pay into the tax increment
22 fund for the zone. If a municipality or county does not determine
23 the portion of the tax increment produced by the municipality or
24 county that the municipality or county is required to pay into the
25 tax increment fund for a reinvestment zone, the municipality or
26 county is required to pay into the fund for the zone the entire tax
27 increment produced by the municipality or county, except as

1 provided by Subsection (b)(1).

2 SECTION 14. Section 311.014(b), Tax Code, is amended to
3 read as follows:

4 (b) Money may be disbursed from the fund only to satisfy
5 claims of holders of tax increment bonds or notes issued for the
6 zone, to pay project costs for the zone, to make payments pursuant
7 to an agreement made under Section 311.010(b) or a program under
8 Section 311.010(h) dedicating revenue from the tax increment fund,
9 or to repay other obligations incurred for the zone.

10 SECTION 15. Sections 311.015(a) and (1), Tax Code, are
11 amended to read as follows:

12 (a) A municipality designating [~~creating~~] a reinvestment
13 zone may issue tax increment bonds or notes, the proceeds of which
14 may be used to make payments pursuant to agreements made under
15 Section 311.010(b), to make payments pursuant to programs under
16 Section 311.010(h), to pay project costs for the reinvestment zone
17 on behalf of which the bonds or notes were issued, or to satisfy
18 claims of holders of the bonds or notes. The municipality may issue
19 refunding bonds or notes for the payment or retirement of tax
20 increment bonds or notes previously issued by it.

21 (1) A tax increment bond or note must mature on or before the
22 date by which the final payments of tax increment into the tax
23 increment fund are due [~~within 20 years of the date of issue~~].

24 SECTION 16. Section 311.016(a), Tax Code, is amended to
25 read as follows:

26 (a) On or before the 150th [~~90th~~] day following the end of
27 the fiscal year of the municipality or county, the governing body of

1 a municipality or county shall submit to the chief executive
2 officer of each taxing unit that levies property taxes on real
3 property in a reinvestment zone created by the municipality or
4 county a report on the status of the zone. The report must include:

5 (1) the amount and source of revenue in the tax
6 increment fund established for the zone;

7 (2) the amount and purpose of expenditures from the
8 fund;

9 (3) the amount of principal and interest due on
10 outstanding bonded indebtedness;

11 (4) the tax increment base and current captured
12 appraised value retained by the zone; and

13 (5) the captured appraised value shared by the
14 municipality or county and other taxing units, the total amount of
15 tax increments received, and any additional information necessary
16 to demonstrate compliance with the tax increment financing plan
17 adopted by the governing body of the municipality or county.

18 SECTION 17. Section 311.016(b), Tax Code, as amended by
19 Chapters 977 (H.B. 1820) and 1094 (H.B. 2120), Acts of the 79th
20 Legislature, Regular Session, 2005, is reenacted to read as
21 follows:

22 (b) The municipality or county shall send a copy of a report
23 made under this section to:

24 (1) the attorney general; and

25 (2) the comptroller.

26 SECTION 18. Section 311.017(a), Tax Code, is amended to
27 read as follows:

1 (a) A reinvestment zone terminates on the earlier of:

2 (1) the termination date designated in the ordinance
3 or order, as applicable, designating [~~creating~~] the zone or an
4 earlier or later termination date designated by an ordinance or
5 order adopted under Section 311.007(c) [~~subsequent to the ordinance~~
6 ~~or order creating the zone~~]; or

7 (2) the date on which all project costs, tax increment
8 bonds and interest on those bonds, and other obligations have been
9 paid in full.

10 SECTION 19. Chapter 311, Tax Code, is amended by adding
11 Section 311.021 to read as follows:

12 Sec. 311.021. ACT OR PROCEEDING PRESUMED VALID. (a) A
13 governmental act or proceeding of a municipality or county, the
14 board of directors of a reinvestment zone, or an entity acting under
15 Section 311.010(f) relating to the designation, operation, or
16 administration of a reinvestment zone or the implementation of a
17 project plan or reinvestment zone financing plan under this chapter
18 is conclusively presumed, as of the date it occurred, valid and to
19 have occurred in accordance with all applicable statutes and rules
20 if:

21 (1) the second anniversary of the effective date of
22 the act or proceeding has expired; and

23 (2) a lawsuit to annul or invalidate the act or
24 proceeding has not been filed on or before the later of that second
25 anniversary or August 1, 2011.

26 (b) This section does not apply to:

27 (1) an act or proceeding that was void at the time it

1 occurred;

2 (2) an act or proceeding that, under a statute of this
3 state or the United States, was a misdemeanor or felony at the time
4 the act or proceeding occurred;

5 (3) a rule that, at the time it was passed, was
6 preempted by a statute of this state or the United States, including
7 Section 1.06 or 109.57, Alcoholic Beverage Code; or

8 (4) a matter that on the effective date of the Act
9 enacting this section:

10 (A) is involved in litigation if the litigation
11 ultimately results in the matter being held invalid by a final
12 judgment of a court; or

13 (B) has been held invalid by a final judgment of a
14 court.

15 SECTION 20. Section 403.302(d), Government Code, as amended
16 by Chapters 1186 (H.B. 3676) and 1328 (H.B. 3646), Acts of the 81st
17 Legislature, Regular Session, 2009, is reenacted and amended to
18 read as follows:

19 (d) For the purposes of this section, "taxable value" means
20 the market value of all taxable property less:

21 (1) the total dollar amount of any residence homestead
22 exemptions lawfully granted under Section 11.13(b) or (c), Tax
23 Code, in the year that is the subject of the study for each school
24 district;

25 (2) one-half of the total dollar amount of any
26 residence homestead exemptions granted under Section 11.13(n), Tax
27 Code, in the year that is the subject of the study for each school

1 district;

2 (3) the total dollar amount of any exemptions granted
3 before May 31, 1993, within a reinvestment zone under agreements
4 authorized by Chapter 312, Tax Code;

5 (4) subject to Subsection (e), the total dollar amount
6 of any captured appraised value of property that:

7 (A) is within a reinvestment zone created on or
8 before May 31, 1999, or is proposed to be included within the
9 boundaries of a reinvestment zone as the boundaries of the zone and
10 the proposed portion of tax increment paid into the tax increment
11 fund by a school district are described in a written notification
12 provided by the municipality or the board of directors of the zone
13 to the governing bodies of the other taxing units in the manner
14 provided by former Section 311.003(e), Tax Code, before May 31,
15 1999, and within the boundaries of the zone as those boundaries
16 existed on September 1, 1999, including subsequent improvements to
17 the property regardless of when made;

18 (B) generates taxes paid into a tax increment
19 fund created under Chapter 311, Tax Code, under a reinvestment zone
20 financing plan approved under Section 311.011(d), Tax Code, on or
21 before September 1, 1999; and

22 (C) is eligible for tax increment financing under
23 Chapter 311, Tax Code;

24 (5) the total dollar amount of any captured appraised
25 value of property that:

26 (A) is within a reinvestment zone:

27 (i) created on or before December 31, 2008,

1 by a municipality with a population of less than 18,000; and

2 (ii) the project plan for which includes
3 the alteration, remodeling, repair, or reconstruction of a
4 structure that is included on the National Register of Historic
5 Places and requires that a portion of the tax increment of the zone
6 be used for the improvement or construction of related facilities
7 or for affordable housing;

8 (B) generates school district taxes that are paid
9 into a tax increment fund created under Chapter 311, Tax Code; and

10 (C) is eligible for tax increment financing under
11 Chapter 311, Tax Code;

12 (6) the total dollar amount of any exemptions granted
13 under Section 11.251 or 11.253, Tax Code;

14 (7) the difference between the comptroller's estimate
15 of the market value and the productivity value of land that
16 qualifies for appraisal on the basis of its productive capacity,
17 except that the productivity value estimated by the comptroller may
18 not exceed the fair market value of the land;

19 (8) the portion of the appraised value of residence
20 homesteads of individuals who receive a tax limitation under
21 Section 11.26, Tax Code, on which school district taxes are not
22 imposed in the year that is the subject of the study, calculated as
23 if the residence homesteads were appraised at the full value
24 required by law;

25 (9) a portion of the market value of property not
26 otherwise fully taxable by the district at market value because of:

27 (A) action required by statute or the

1 constitution of this state that, if the tax rate adopted by the
2 district is applied to it, produces an amount equal to the
3 difference between the tax that the district would have imposed on
4 the property if the property were fully taxable at market value and
5 the tax that the district is actually authorized to impose on the
6 property, if this subsection does not otherwise require that
7 portion to be deducted; or

8 (B) action taken by the district under Subchapter
9 B or C, Chapter 313, Tax Code, before the expiration of the
10 subchapter;

11 (10) the market value of all tangible personal
12 property, other than manufactured homes, owned by a family or
13 individual and not held or used for the production of income;

14 (11) the appraised value of property the collection of
15 delinquent taxes on which is deferred under Section 33.06, Tax
16 Code;

17 (12) the portion of the appraised value of property
18 the collection of delinquent taxes on which is deferred under
19 Section 33.065, Tax Code; and

20 (13) the amount by which the market value of a
21 residence homestead to which Section 23.23, Tax Code, applies
22 exceeds the appraised value of that property as calculated under
23 that section.

24 SECTION 21. Section 403.302(m), Government Code, as added
25 by Chapter 1186 (H.B. 3676), Acts of the 81st Legislature, Regular
26 Session, 2009, is amended to conform to Section 80, Chapter 1328
27 (H.B. 3646), Acts of the 81st Legislature, Regular Session, 2009,

1 to read as follows:

2 (m) Subsection (d)(9) [~~(d)(10)~~] does not apply to property
3 that was the subject of an application under Subchapter B or C,
4 Chapter 313, Tax Code, made after May 1, 2009, that the comptroller
5 recommended should be disapproved.

6 SECTION 22. Sections 311.003(e), (f), and (g), 311.006(c),
7 and 311.013(d) and (e), Tax Code, are repealed.

8 SECTION 23. (a) The legislature validates and confirms all
9 governmental acts and proceedings of a municipality or county, the
10 board of directors of a reinvestment zone, or an entity acting under
11 Section 311.010(f), Tax Code, that were taken before the effective
12 date of this Act and relate to or are associated with the
13 designation, operation, or administration of a reinvestment zone or
14 the implementation of a project plan or reinvestment zone financing
15 plan under Chapter 311, Tax Code, including the extension of the
16 term of a reinvestment zone, as of the dates on which they occurred.
17 The acts and proceedings may not be held invalid because they were
18 not in accordance with Chapter 311, Tax Code, or other law.

19 (b) Subsection (a) of this section does not apply to any
20 matter that on the 30th day after the effective date of this Act:

21 (1) is involved in litigation if the litigation
22 ultimately results in the matter being held invalid by a final
23 judgment of a court; or

24 (2) has been held invalid by a final judgment of a
25 court.

26 SECTION 24. (a) Section 311.002(1), Tax Code, as amended by
27 this Act, applies to all costs described by that subdivision

1 regardless of when they were incurred.

2 (b) Section 311.012(c), Tax Code, as amended by this Act,
3 applies only to the determination of the tax increment base of a
4 taxing unit for a tax year beginning on or after the effective date
5 of this Act, except that if the tax increment base of a taxing unit
6 for a tax year beginning before the effective date was determined in
7 the manner provided by Section 311.012(c), Tax Code, as amended by
8 this Act, the determination is validated as if the amendment were in
9 accordance with Section 311.012(c), Tax Code, as that section
10 existed immediately before the effective date of this Act.

11 SECTION 25. To the extent of any conflict, this Act prevails
12 over another Act of the 82nd Legislature, Regular Session, 2011,
13 relating to nonsubstantive additions to and corrections in enacted
14 codes.

15 SECTION 26. This Act takes effect immediately if it
16 receives a vote of two-thirds of all the members elected to each
17 house, as provided by Section 39, Article III, Texas Constitution.
18 If this Act does not receive the vote necessary for immediate
19 effect, this Act takes effect September 1, 2011.

ADOPTED

MAY 25 2011

FLOOR AMENDMENT NO. 1

Atty Gen
Secretary of the Senate

BY:

Jackson

Amend H.B. No. 2853 (senate committee printing) as follows:

- (1) In SECTION 1 of the bill, in amended Section 311.002(1), Tax Code (page 1, lines 58 and 59), strike Paragraph (K).
- (2) In SECTION 1 of the bill, in amended Section 311.002(1), Tax Code (page 1, line 60), strike "(L)" and substitute "(K)".
- (3) In SECTION 1 of the bill, in amended Section 311.002(1), Tax Code (page 1, line 64), strike "(M)" and substitute "(L)".
- (4) In SECTION 3 of the bill, in amended Section 311.005(a), Tax Code (page 2, lines 40 and 41), strike "open, undeveloped, or underdeveloped" and substitute "open or undeveloped".
- (5) In SECTION 10 of the bill, in amended Section 311.010(h), Tax Code (page 5, lines 23-25), strike "~~[from the tax increment fund of the zone in an aggregate amount not to exceed the amount of the tax increment produced by the municipality and paid into the tax increment fund for the zone]~~" and substitute "from the tax increment fund of the zone in an aggregate amount not to exceed the amount of the tax increment produced by the municipality and paid into the tax increment fund for the zone".
- (6) In SECTION 11 of the bill, in amended Section 311.011, Tax Code (page 5, lines 45-55), strike Subsection (b) and substitute the following:
 - (b) The project plan must include:
 - (1) a description and map showing existing uses and conditions of real property in the zone and ~~[a map showing]~~ proposed ~~[improvements to and proposed]~~ uses of that property;
 - (2) proposed changes of zoning ordinances, the master plan of the municipality, building codes, other municipal

ordinances, and subdivision rules and regulations, if any, of the county, if applicable;

(3) a list of estimated nonproject costs; and

(4) a statement of a method of relocating persons to be displaced, if any, as a result of implementing the plan.

(7) In SECTION 11 of the bill, in amended Section 311.011(c)(3), Tax Code (page 5, line 63), strike "~~[an economic feasibility study]~~;" and substitute "and an economic feasibility study;".

(8) In SECTION 11 of the bill, in added Section 311.011(h), Tax Code (page 6, line 37), between "items" and the period, insert ", but the amounts contained in the project plan or reinvestment zone financing plan may not vary materially from the estimates".

(9) Strike SECTION 14 of the bill, amending Section 311.014(b), Tax Code (page 7, lines 29-36).

(10) In SECTION 15 of the bill, in amended Section 311.015(a), Tax Code (page 7, lines 42 and 43), strike "311.010(b), to make payments pursuant to programs under Section 311.010(h)" and substitute "311.010(b)".

(11) In SECTION 19 of the bill, in proposed Section 311.021(a)(1), Tax Code (page 8, line 33), strike "second" and substitute "third".

(12) Renumber the SECTIONS of the bill accordingly.

ADOPTED

FLOOR AMENDMENT NO. 2

MAY 25 2011

Atay Spaw
Secretary of the Senate

BY:

Jackson

1 Amend H.B. No. 2853 (senate committee printing) by striking
2 SECTION 17 of the bill (page 8, lines 3-10) and substituting the
3 following:

4 SECTION 17. Section 311.016(b), Tax Code, as amended by
5 Chapters 977 (H.B. 1820) and 1094 (H.B. 2120), Acts of the 79th
6 Legislature, Regular Session, 2005, is reenacted and amended to
7 read as follows:

8 (b) The municipality or county shall send a copy of a
9 report made under this section to[+

10 [~~1~~] the attorney general; and

11 [~~2~~] the comptroller.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 26, 2011

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB2853 by Davis, John (Relating to tax increment financing.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

The bill would amend several sections of Chapter 311 of the Tax Code, regarding tax increment reinvestment zones.

Section 1 of the bill would amend Section 311.002(1) to add the actual costs of remediation, preservation, or demolition of public or private buildings and the school facilities costs to the definition of "project costs."

Section 2 would amend Section 311.003(b) to delete the requirement that, upon completion, the city or county must send a copy of the preliminary reinvestment zone financing plan to the governing body of each taxing unit that levies taxes on real property in the zone.

Section 3 would amend Section 311.005(a) to add undeveloped land to the kinds of land that may be designated a reinvestment zone.

Section 4 would amend the Code to disallow the designation of a reinvestment zone by a city if the percentage of residential property in the proposed reinvestment zone is above 30 percent, rather than 10 percent. For a city with a population of 100,000 or more, a zone designation would be disallowed if the total appraised value of taxable real property in the city and in the industrial districts created by the city exceeds 25 percent. For a city with a population of less than 100,000, a zone designation would be disallowed if the total appraised value of taxable real property in the city and in the industrial districts created by the city exceeds 50 percent, rather than 15 percent. Cities would not be permitted to change the boundaries of an existing reinvestment zone to include property in excess of the restrictions described above.

Section 5 would make a conforming change to Section 311.007.

Section 6 would amend Section 311.007 to permit a city or county to extend, after public notice and hearing, the term of all or a portion of a zone that the city or county previously designated. A taxing unit other than the city or county that designated the zone would not be required to participate in the zone or portion of the zone for the extended term unless the taxing unit enters into a written agreement to do so.

Section 7 would amend Section 311.008(b) to make clarifying revisions.

Sections 8 and 9 would amend Chapter 311 to revise the appointment and eligibility requirements for reinvestment zone board members.

Section 10 would amend Section 311.010 authorizing approval to be granted in an ordinance, in the case of a zone designated by a municipality, or in an order, in the case of a zone designated by a county, approving a project plan or reinvestment zone financing plan or approving an amendment to a project plan or reinvestment zone financing plan.

Section 11 would amend Section 311.011 to clarify that a school district is not required to increase the percentage or amount of the tax increment it will contribute because of an amendment to the project plan or reinvestment zone financing plan. The bill also would specify that all amounts contained in the project plan or reinvestment zone financing plan, are considered estimates and do not act as a limitation on those amounts. The bill would specify that new Subsection 311.011(h) proposed by the bill may not be construed to increase the amount of any reduction under Section 403.302(d)(4) of the Government Code in the total taxable value of the property in a school district that participates in a tax increment reinvestment zone. The bill would make other changes to the project and financing plan requirements.

Section 12 would amend Section 311.012 to change the definition of the captured appraised value of real property in a taxing unit to the total taxable value (rather than appraised value) of all real property taxable by the unit and located in a reinvestment zone for that year less the tax increment base of the unit. Similarly, the bill would change the definition of a taxing unit's tax increment base to the total taxable value (rather than appraised value) of all real property taxable by the unit and located in a reinvestment zone. If the boundaries of a zone are enlarged, the tax increment base would be increased by the current taxable value of the real property added to the zone, and if the boundaries of a zone are reduced, the tax increment base would be reduced by the taxable value of the real property removed from the zone for the year in which the property was originally included in the zone's boundaries.

Section 13 would amend Section 311.013 to allow the parties in a tax increment financing agreement to specify the projects to which a participating taxing unit's tax increment will be dedicated and that the taxing unit's participation may be computed with respect to a base year later than the original base year of the zone.

Section 15 would amend Section 311.015 to clarify the disbursement of funds from a tax increment fund and payments from the proceeds of tax increment bonds or notes. Tax increment bonds or notes would be required to mature on or before the date by which the final payments of tax increment into the tax increment fund are due rather than within 20 years of the date of issue.

Section 16 would amend Section 311.016(a) to require submission of the reinvestment zone status report to the taxing units on or before the 150th day (rather than the 90th day) following the end of the fiscal year.

Sections 17 and 18 would make certain clarifying and conforming changes to Chapter 311.

Section 19 would require a presumption of validity for governmental acts or proceedings of cities, counties, boards of directors or other entities related to the designation, operation or administration of a reinvestment zone or the implementation of a project plan or reinvestment zone financing plan. These acts or proceedings would, as of the date of occurrence, be conclusively presumed valid and in accordance with all applicable statutes and rules with certain listed exceptions.

Sections 20 and 21 would make conforming and clarifying amendments to Section 403.302 of the Government Code.

Section 22 would repeal Sections 311.003(e), (f), and (g) regarding city or county notification to other taxing units of intent to establish a reinvestment zone, information requests, meetings, and required presentations related to the proposed zone. This section would repeal 311.006(c), which provides that a city may not create a reinvestment zone or change the boundaries of a zone if the proposed zone would contain more than 15 percent of the total appraised value of real property taxable by a county or school district. This section also would repeal 311.013(d) and (e) regarding provisions that taxing units are not required to pay into the tax increment funds of reinvestment zones created before August 29, 1983 under certain conditions.

Section 23 would provide that the Legislature validates and confirms all governmental acts and proceedings of a city or county, the board of directors of a reinvestment zone, or an entity acting under Section 311.010(f), that were taken before the effective date of the bill and relate to or are associated

with the designation, operation, or administration of a reinvestment zone or the implementation of a project plan or reinvestment zone financing plan as of the dates on which they occurred and that the acts and proceedings may not be held invalid because they were not in accordance with the law. The bill would provide certain exceptions to this legislative validation.

Section 24 would require that Section 311.002(1) as amended by the bill apply to all costs regardless of when they were incurred and that Section 311.012(c) as amended by the bill apply only to the determination of the tax increment base of a taxing unit for a tax year beginning on or after the effective date of the bill except that if the tax increment base of a taxing unit for a tax year beginning before the effective date was determined in the manner provided by Section 311.012(c) as amended by the bill the determination is validated as if the amendment were in accordance with Section 311.012(c) as that section existed immediately before the effective date of the bill.

Section 25 would require that to the extent of any conflict, the bill would prevail over another act of the 82nd Legislature related to nonsubstantive additions to and corrections in enacted codes. To the extent that provisions of the bill result in the inclusion of more property in tax increment financing agreements the provisions would create a cost to local taxing units. There would be no cost to the state because any value losses attributable to school district payments into tax increment funds under this bill would not be deducted in the Comptroller's property value study for the purpose of school funding. Because information necessary to estimate the amount of new property included in tax increment financing agreements is not available, the fiscal impact cannot be estimated. The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2011.

Local Government Impact

To the extent that provisions of the bill result in the inclusion of more property in tax increment financing agreements the provisions would create a cost to local taxing units.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, AG, SD, SJS

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 10, 2011

TO: Honorable Mike Jackson, Chair, Senate Committee on Economic Development

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB2853 by Davis, John (Relating to tax increment financing.), As Engrossed

No fiscal implication to the State is anticipated.

The bill would amend several sections of Chapter 311 of the Tax Code, regarding tax increment reinvestment zones.

Section 1 of the bill would amend Section 311.002(1) to add the actual costs of remediation, preservation, or demolition of public or private buildings; the cost of economic development programs under Section 311.010(h); and the school facilities costs to the definition of "project costs."

Section 2 would amend Section 311.003(b) to delete the requirement that, upon completion, the city or county must send a copy of the preliminary reinvestment zone financing plan to the governing body of each taxing unit that levies taxes on real property in the zone.

Section 3 would amend Section 311.005(a) to add undeveloped and underdeveloped land to the kinds of land that may be designated a reinvestment zone.

Section 4 would amend the Code to disallow the designation of a reinvestment zone by a city if the percentage of residential property in the proposed reinvestment zone is above 30 percent, rather than 10 percent. For a city with a population of 100,000 or more, a zone designation would be disallowed if the total appraised value of taxable real property in the city and in the industrial districts created by the city exceeds 25 percent. For a city with a population of less than 100,000, a zone designation would be disallowed if the total appraised value of taxable real property in the city and in the industrial districts created by the city exceeds 50 percent, rather than 15 percent. Cities would not be permitted to change the boundaries of an existing reinvestment zone to include property in excess of the restrictions described above.

Section 5 would make a conforming change to Section 311.007.

Section 6 would amend Section 311.007 to permit a city or county to extend, after public notice and hearing, the term of all or a portion of a zone that the city or county previously designated. A taxing unit other than the city or county that designated the zone would not be required to participate in the zone or portion of the zone for the extended term unless the taxing unit enters into a written agreement to do so.

Section 7 would amend Section 311.008(b) to make clarifying revisions.

Sections 8 and 9 would amend Chapter 311 to revise the appointment and eligibility requirements for reinvestment zone board members.

Section 10 would amend Section 311.010 to strike the existing limit on the amount of grants and loans made by a reinvestment zone. The existing limit is the amount of tax increment produced by the city and paid into the tax increment fund.

Section 11 would amend Section 311.011 to clarify that a school district is not required to increase the percentage or amount of the tax increment it will contribute because of an amendment to the project plan or reinvestment zone financing plan. The bill also would specify that all amounts contained in the project plan or reinvestment zone financing plan, are considered estimates and do not act as a limitation on those amounts. The bill would specify that new Subsection 311.011(h) proposed by the bill may not be construed to increase the amount of any reduction under Section 403.302(d)(4) of the Government Code in the total taxable value of the property in a school district that participates in a tax increment reinvestment zone. The bill would make other changes to the project and financing plan requirements.

Section 12 would amend Section 311.012 to change the definition of the captured appraised value of real property in a taxing unit to the total taxable value (rather than appraised value) of all real property taxable by the unit and located in a reinvestment zone for that year less the tax increment base of the unit. Similarly, the bill would change the definition of a taxing unit's tax increment base to the total taxable value (rather than appraised value) of all real property taxable by the unit and located in a reinvestment zone. If the boundaries of a zone are enlarged, the tax increment base would be increased by the current taxable value of the real property added to the zone, and if the boundaries of a zone are reduced, the tax increment base would be reduced by the taxable value of the real property removed from the zone for the year in which the property was originally included in the zone's boundaries.

Section 13 would amend Section 311.013 to allow the parties in a tax increment financing agreement to specify the projects to which a participating taxing unit's tax increment will be dedicated and that the taxing unit's participation may be computed with respect to a base year later than the original base year of the zone.

Sections 14 and 15 would amend Sections 311.014 and 311.015 to clarify the disbursement of funds from a tax increment fund and payments from the proceeds of tax increment bonds or notes. Tax increment bonds or notes would be required to mature on or before the date by which the final payments of tax increment into the tax increment fund are due rather than within 20 years of the date of issue.

Section 16 would amend Section 311.016(a) to require submission of the reinvestment zone status report to the taxing units on or before the 150th day (rather than the 90th day) following the end of the fiscal year.

Sections 17 and 18 would make certain clarifying and conforming changes to Chapter 311.

Section 19 would require a presumption of validity for governmental acts or proceedings of cities, counties, boards of directors or other entities related to the designation, operation or administration of a reinvestment zone or the implementation of a project plan or reinvestment zone financing plan. These acts or proceedings would, as of the date of occurrence, be conclusively presumed valid and in accordance with all applicable statutes and rules with certain listed exceptions.

Sections 20 and 21 would make conforming and clarifying amendments to Section 403.302 of the Government Code.

Section 22 would repeal Sections 311.003(e), (f), and (g) regarding city or county notification to other taxing units of intent to establish a reinvestment zone, information requests, meetings, and required presentations related to the proposed zone. This section would repeal 311.006(c), which provides that a city may not create a reinvestment zone or change the boundaries of a zone if the proposed zone would contain more than 15 percent of the total appraised value of real property taxable by a county or school district. This section also would repeal 311.013(d) and (e) regarding provisions that taxing units are not required to pay into the tax increment funds of reinvestment zones created before August 29, 1983 under certain conditions.

Section 23 would provide that the Legislature validates and confirms all governmental acts and proceedings of a city or county, the board of directors of a reinvestment zone, or an entity acting under Section 311.010(f), that were taken before the effective date of the bill and relate to or are associated

with the designation, operation, or administration of a reinvestment zone or the implementation of a project plan or reinvestment zone financing plan as of the dates on which they occurred and that the acts and proceedings may not be held invalid because they were not in accordance with the law. The bill would provide certain exceptions to this legislative validation.

Section 24 would require that Section 311.002(1) as amended by the bill apply to all costs regardless of when they were incurred and that Section 311.012(c) as amended by the bill apply only to the determination of the tax increment base of a taxing unit for a tax year beginning on or after the effective date of the bill except that if the tax increment base of a taxing unit for a tax year beginning before the effective date was determined in the manner provided by Section 311.012(c) as amended by the bill the determination is validated as if the amendment were in accordance with Section 311.012(c) as that section existed immediately before the effective date of the bill.

Section 25 would require that to the extent of any conflict, the bill would prevail over another act of the 82nd Legislature related to nonsubstantive additions to and corrections in enacted codes.

To the extent that provisions of the bill result in the inclusion of more property in tax increment financing agreements the provisions would create a cost to local taxing units. There would be no cost to the state because any value losses attributable to school district payments into tax increment funds under this bill would not be deducted in the Comptroller's property value study for the purpose of school funding. Because information necessary to estimate the amount of new property included in tax increment financing agreements is not available, the fiscal impact cannot be estimated.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2011.

Local Government Impact

To the extent that provisions of the bill result in the inclusion of more property in tax increment financing agreements the provisions would create a cost to local taxing units.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, AG, SD, SJS

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 26, 2011

TO: Honorable John Davis, Chair, House Committee on Economic & Small Business
Development

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB2853 by Davis, John (Relating to tax increment financing.), **Committee Report 1st
House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend several sections of Chapter 311 of the Tax Code, regarding tax increment reinvestment zones.

Section 1 of the bill would amend Section 311.002(1) to add the actual costs of remediation, preservation, or demolition of public or private buildings; the cost of economic development programs under Section 311.010(h); and the school facilities costs to the definition of "project costs."

Section 2 would amend Section 311.003(b) to delete the requirement that, upon completion, the city or county must send a copy of the preliminary reinvestment zone financing plan to the governing body of each taxing unit that levies taxes on real property in the zone.

Section 3 would amend Section 311.005(a) to add undeveloped and underdeveloped land to the kinds of land that may be designated a reinvestment zone.

Section 4 would amend the Code to disallow the designation of a reinvestment zone by a city if the percentage of residential property in the proposed reinvestment zone is above 30 percent, rather than 10 percent. For a city with a population of 100,000 or more, a zone designation would be disallowed if the total appraised value of taxable real property in the city and in the industrial districts created by the city exceeds 25 percent. For a city with a population of less than 100,000, a zone designation would be disallowed if the total appraised value of taxable real property in the city and in the industrial districts created by the city exceeds 50 percent, rather than 15 percent. Cities would not be permitted to change the boundaries of an existing reinvestment zone to include property in excess of the restrictions described above.

Section 5 would make a conforming change to Section 311.007.

Section 6 would amend Section 311.007 to permit a city or county to extend, after public notice and hearing, the term of all or a portion of a zone that the city or county previously designated. A taxing unit other than the city or county that designated the zone would not be required to participate in the zone or portion of the zone for the extended term unless the taxing unit enters into a written agreement to do so.

Section 7 would amend Section 311.008(b) to make clarifying revisions.

Sections 8 and 9 would amend Chapter 311 to revise the appointment and eligibility requirements for reinvestment zone board members.

Section 10 would amend Section 311.010 to strike the existing limit on the amount of grants and loans made by a reinvestment zone. The existing limit is the amount of tax increment produced by the city

and paid into the tax increment fund.

Section 11 would amend Section 311.011 to clarify that a school district is not required to increase the percentage or amount of the tax increment it will contribute because of an amendment to the project plan or reinvestment zone financing plan. The bill also would specify that all amounts contained in the project plan or reinvestment zone financing plan, are considered estimates and do not act as a limitation on those amounts. The bill would specify that new Subsection 311.011(h) proposed by the bill may not be construed to increase the amount of any reduction under Section 403.302(d)(4) of the Government Code in the total taxable value of the property in a school district that participates in a tax increment reinvestment zone. The bill would make other changes to the project and financing plan requirements.

Section 12 would amend Section 311.012 to change the definition of the captured appraised value of real property in a taxing unit to the total taxable value (rather than appraised value) of all real property taxable by the unit and located in a reinvestment zone for that year less the tax increment base of the unit. Similarly, the bill would change the definition of a taxing unit's tax increment base to the total taxable value (rather than appraised value) of all real property taxable by the unit and located in a reinvestment zone. If the boundaries of a zone are enlarged, the tax increment base would be increased by the current taxable value of the real property added to the zone, and if the boundaries of a zone are reduced, the tax increment base would be reduced by the taxable value of the real property removed from the zone for the year in which the property was originally included in the zone's boundaries.

Section 13 would amend Section 311.013 to allow the parties in a tax increment financing agreement to specify the projects to which a participating taxing unit's tax increment will be dedicated and that the taxing unit's participation may be computed with respect to a base year later than the original base year of the zone.

Sections 14 and 15 would amend Sections 311.014 and 311.015 to clarify the disbursement of funds from a tax increment fund and payments from the proceeds of tax increment bonds or notes. Tax increment bonds or notes would be required to mature on or before the date by which the final payments of tax increment into the tax increment fund are due rather than within 20 years of the date of issue.

Section 16 would amend Section 311.016(a) to require submission of the reinvestment zone status report to the taxing units on or before the 150th day (rather than the 90th day) following the end of the fiscal year.

Sections 17 and 18 would make certain clarifying and conforming changes to Chapter 311.

Section 19 would require a presumption of validity for governmental acts or proceedings of cities, counties, boards of directors or other entities related to the designation, operation or administration of a reinvestment zone or the implementation of a project plan or reinvestment zone financing plan. These acts or proceedings would, as of the date of occurrence, be conclusively presumed valid and in accordance with all applicable statutes and rules with certain listed exceptions.

Sections 20 and 21 would make conforming and clarifying amendments to Section 403.302 of the Government Code.

Section 22 would repeal Sections 311.003(e), (f), and (g) regarding city or county notification to other taxing units of intent to establish a reinvestment zone, information requests, meetings, and required presentations related to the proposed zone. This section would repeal 311.006(c), which provides that a city may not create a reinvestment zone or change the boundaries of a zone if the proposed zone would contain more than 15 percent of the total appraised value of real property taxable by a county or school district. This section also would repeal 311.013(d) and (e) regarding provisions that taxing units are not required to pay into the tax increment funds of reinvestment zones created before August 29, 1983 under certain conditions.

Section 23 would provide that the Legislature validates and confirms all governmental acts and

proceedings of a city or county, the board of directors of a reinvestment zone, or an entity acting under Section 311.010(f), that were taken before the effective date of the bill and relate to or are associated with the designation, operation, or administration of a reinvestment zone or the implementation of a project plan or reinvestment zone financing plan as of the dates on which they occurred and that the acts and proceedings may not be held invalid because they were not in accordance with the law. The bill would provide certain exceptions to this legislative validation.

Section 24 would require that Section 311.002(1) as amended by the bill apply to all costs regardless of when they were incurred and that Section 311.012(c) as amended by the bill apply only to the determination of the tax increment base of a taxing unit for a tax year beginning on or after the effective date of the bill except that if the tax increment base of a taxing unit for a tax year beginning before the effective date was determined in the manner provided by Section 311.012(c) as amended by the bill the determination is validated as if the amendment were in accordance with Section 311.012(c) as that section existed immediately before the effective date of the bill.

Section 25 would require that to the extent of any conflict, the bill would prevail over another act of the 82nd Legislature related to nonsubstantive additions to and corrections in enacted codes.

To the extent that provisions of the bill result in the inclusion of more property in tax increment financing agreements the provisions would create a cost to local taxing units. There would be no cost to the state because any value losses attributable to school district payments into tax increment funds under this bill would not be deducted in the Comptroller's property value study for the purpose of school funding. Because information necessary to estimate the amount of new property included in tax increment financing agreements is not available, the fiscal impact cannot be estimated.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2011.

Local Government Impact

To the extent that provisions of the bill result in the inclusion of more property in tax increment financing agreements the provisions would create a cost to local taxing units.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, AG, SD, SJS

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

Revision 1

April 20, 2011

TO: Honorable John Davis, Chair, House Committee on Economic & Small Business Development

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB2853 by Davis, John (Relating to tax increment financing.), **As Introduced**

To the extent that provisions of the bill result in the inclusion of more property in tax increment financing agreements, the provisions would create a cost to the State.

The bill would amend several sections of Chapter 311 of the Tax Code, regarding tax increment reinvestment zones.

Section 1 of the bill would amend Section 311.002(1) to add the actual costs of remediation, preservation, or demolition of public or private buildings; the cost of economic development programs under Section 311.010(h); and the school facilities costs to the definition of "project costs."

Section 2 would amend Section 311.003(b) to delete the requirement that, upon completion, the city or county must send a copy of the preliminary reinvestment zone financing plan to the governing body of each taxing unit that levies taxes on real property in the zone.

Section 3 would amend Section 311.005(a) to add undeveloped and underdeveloped land to the kinds of land that may be designated a reinvestment zone.

Section 4 would amend the Code to disallow the designation of a reinvestment zone by a city if the percentage of residential property in the proposed reinvestment zone is above 30 percent, rather than 10 percent. For a city with a population of 100,000 or more, a zone designation would be disallowed if the total appraised value of taxable real property in the city and in the industrial districts created by the city exceeds 25 percent. For a city with a population of less than 100,000, a zone designation would be disallowed if the total appraised value of taxable real property in the city and in the industrial districts created by the city exceeds 50 percent, rather than 15 percent. Cities would not be permitted to change the boundaries of an existing reinvestment zone to include property in excess of the restrictions described above.

Section 5 would make a conforming change.

Section 6 would amend Section 311.007 to permit a city or county to extend, after public notice and hearing, the term of all or a portion of a zone that the city or county previously designated. A taxing unit other than the city or county that designated the zone would not be required to participate in the zone or portion of the zone for the extended term unless the taxing unit enters into a written agreement to do so.

Section 7 would amend Section 311.008(b) to make clarifying revisions.

Sections 8 and 9 would amend Chapter 311 to revise the appointment and eligibility requirements for reinvestment zone board members.

Section 10 would amend Section 311.010 to strike the existing limit on the amount of grants and loans made by a reinvestment zone. The existing limit is the amount of tax increment produced by the city

and paid into the tax increment fund.

Section 11 would amend Section 311.011 to clarify that a school district is not required to increase the percentage or amount of the tax increment it will contribute because of an amendment to the project plan or reinvestment zone financing plan. The bill also would specify that all amounts contained in the project plan or reinvestment zone financing plan, are considered estimates and do not act as a limitation on those amounts. The bill would make other changes to the project and financing plan requirements.

Section 12 would amend Section 311.012 to change the definition of the captured appraised value of real property in a taxing unit to the total taxable value (rather than appraised value) of all real property taxable by the unit and located in a reinvestment zone for that year less the tax increment base of the unit. Similarly, the bill would change the definition of a taxing unit's tax increment base to the total taxable value (rather than appraised value) of all real property taxable by the unit and located in a reinvestment zone. If the boundaries of a zone are enlarged, the tax increment base would be increased by the current taxable value of the real property added to the zone, and if the boundaries of a zone are reduced, the tax increment base would be reduced by the taxable value of the real property removed from the zone for the year in which the property was originally included in the zone's boundaries.

Section 13 would amend Section 311.013 to allow the parties in a tax increment financing agreement to specify the projects to which a participating taxing unit's tax increment will be dedicated and that the taxing unit's participation may be computed with respect to a base year later than the original base year of the zone.

Sections 14 and 15 would amend Sections 311.014 and 311.015 to clarify the disbursement of funds from a tax increment fund and payments from the proceeds of tax increment bonds or notes. Tax increment bonds or notes would be required to mature on or before the date by which the final payments of tax increment into the tax increment fund are due rather than within 20 years of the date of issue.

Section 16 would amend Section 311.016(a) to require submission of the reinvestment zone status report to the taxing units on or before the 150th day (rather than the 90th day) following the end of the fiscal year.

Sections 17 and 18 would make certain clarifying and conforming changes to Chapter 311.

Section 19 would require a presumption of validity for governmental acts or proceedings of cities, counties, boards of directors or other entities related to the designation, operation or administration of a reinvestment zone or the implementation of a project plan or reinvestment zone financing plan. These acts or proceedings would, as of the date of occurrence, be conclusively presumed valid and in accordance with all applicable statutes and rules with certain listed exceptions.

Sections 20 and 21 would make conforming and clarifying amendments to Section 403.302 of the Government Code.

Section 22 would repeal Sections 311.003(e), (f), and (g) regarding city or county notification to other taxing units of intent to establish a reinvestment zone, information requests, meetings, and required presentations related to the proposed zone. This section would repeal 311.006(c), which provides that a city may not create a reinvestment zone or change the boundaries of a zone if the proposed zone would contain more than 15 percent of the total appraised value of real property taxable by a county or school district. This section also would repeal 311.013(d) and (e) regarding provisions that taxing units are not required to pay into the tax increment funds of reinvestment zones created before August 29, 1983 under certain conditions.

Section 23 would provide that the Legislature validates and confirms all governmental acts and proceedings of a city or county, the board of directors of a reinvestment zone, or an entity acting under Section 311.010(f), that were taken before the effective date of the bill and relate to or are associated with the designation, operation, or administration of a reinvestment zone or the implementation of a

project plan or reinvestment zone financing plan as of the dates on which they occurred and that the acts and proceedings may not be held invalid because they were not in accordance with the law. The bill would provide certain exceptions to this legislative validation.

Section 24 would require that Section 311.002(1) as amended by the bill apply to all costs regardless of when they were incurred and that Section 311.012(c) as amended by the bill apply only to the determination of the tax increment base of a taxing unit for a tax year beginning on or after the effective date of the bill except that if the tax increment base of a taxing unit for a tax year beginning before the effective date was determined in the manner provided by Section 311.012(c) as amended by the bill the determination is validated as if the amendment were in accordance with Section 311.012(c) as that section existed immediately before the effective date of the bill.

Section 25 would require that to the extent of any conflict, the bill would prevail over another act of the 82nd Legislature related to nonsubstantive additions to and corrections in enacted codes.

To the extent that provisions of the bill result in the inclusion of more property in tax increment financing agreements the provisions would create a cost to taxing units and the state. Because information necessary to estimate the amount of new property included in tax increment financing agreements is not available, the cost cannot be estimated.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2011.

Local Government Impact

To the extent that provisions of the bill result in the inclusion of more property in tax increment financing agreements the provisions would create a cost to local taxing units.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, AG, SD, SJS

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 6, 2011

TO: Honorable John Davis, Chair, House Committee on Economic & Small Business Development

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB2853 by Davis, John (Relating to tax increment financing.), **As Introduced**

<p>To the extent that provisions of the bill result in the inclusion of more property in tax increment financing agreements, the provisions would create a cost to the State.</p>
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The bill would amend several sections of Chapter 311 of the Tax Code, regarding tax increment reinvestment zones.

Section 1 of the bill would amend Section 311.002(1) to add the actual costs of remediation, preservation, or demolition of public or private buildings; the cost of economic development programs under Section 311.010(h); and the school facilities costs to the definition of "project costs."

Section 2 would amend Section 311.003(b) to delete the requirement that, upon completion, the city or county must send a copy of the preliminary reinvestment zone financing plan to the governing body of each taxing unit that levies taxes on real property in the zone.

Section 3 would amend Section 311.005(a) to add undeveloped and underdeveloped land to the kinds of land that may be designated a reinvestment zone.

Section 4 would amend the Code to disallow the designation of a reinvestment zone by a city if the percentage of residential property in the proposed reinvestment zone is above 30 percent, rather than 10 percent. For a city with a population of 100,000 or more, a zone designation would be disallowed if the total appraised value of taxable real property in the city and in the industrial districts created by the city exceeds 25 percent. For a city with a population of less than 100,000, a zone designation would be disallowed if the total appraised value of taxable real property in the city and in the industrial districts created by the city exceeds 50 percent, rather than 15 percent. Cities would not be permitted to change the boundaries of an existing reinvestment zone to include property in excess of the restrictions described above.

Section 5 would make a conforming change.

Section 6 would amend Section 311.007 to permit a city or county to extend, after public notice and hearing, the term of all or a portion of a zone that the city or county previously designated. A taxing unit other than the city or county that designated the zone would not be required to participate in the zone or portion of the zone for the extended term unless the taxing unit enters into a written agreement to do so.

Section 7 would amend Section 311.008(b) to make clarifying revisions.

Sections 8 and 9 would amend Chapter 311 to revise the appointment and eligibility requirements for reinvestment zone board members.

Section 10 would amend Section 311.010 to strike the existing limit on the amount of grants and loans made by a reinvestment zone. The existing limit is the amount of tax increment produced by the city and paid into the tax increment fund.

Section 11 would amend Section 311.011 to clarify that a school district is not required to increase the percentage or amount of the tax increment it will contribute because of an amendment to the project plan or reinvestment zone financing plan. The bill also would specify that all amounts contained in the project plan or reinvestment zone financing plan, are considered estimates and do not act as a limitation on those amounts. The bill would make other changes to the project and financing plan requirements.

Section 12 would amend Section 311.012 to change the definition of the captured appraised value of real property in a taxing unit to the total taxable value (rather than appraised value) of all real property taxable by the unit and located in a reinvestment zone for that year less the tax increment base of the unit. Similarly, the bill would change the definition of a taxing unit's tax increment base to the total taxable value (rather than appraised value) of all real property taxable by the unit and located in a reinvestment zone. If the boundaries of a zone are enlarged, the tax increment base would be increased by the current taxable value of the real property added to the zone, and if the boundaries of a zone are reduced, the tax increment base would be reduced by the taxable value of the real property removed from the zone for the year in which the property was originally included in the zone's boundaries.

Section 13 would amend Section 311.013 to allow the parties in a tax increment financing agreement to specify the projects to which a participating taxing unit's tax increment will be dedicated and that the taxing unit's participation may be computed with respect to a base year later than the original base year of the zone.

Sections 14 and 15 would amend Sections 311.014 and 311.015 to clarify the disbursement of funds from a tax increment fund and payments from the proceeds of tax increment bonds or notes. Tax increment bonds or notes would be required to mature on or before the date by which the final payments of tax increment into the tax increment fund are due rather than within 20 years of the date of issue.

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Sections 20 and 21 would make conforming and clarifying amendments to Section 403.302 of the Government Code.

Section 22 would repeal Sections 311.003(e), (f), and (g) regarding city or county notification to other taxing units of intent to establish a reinvestment zone, information requests, meetings, and required presentations related to the proposed zone. This section would repeal 311.006(c), which provides that a city may not create a reinvestment zone or change the boundaries of a zone if the proposed zone would contain more than 15 percent of the total appraised value of real property taxable by a county or school district. This section also would repeal 311.013(d) and (e) regarding provisions that taxing units are not required to pay into the tax increment funds of reinvestment zones created before August 29, 1983 under certain conditions.

Section 23 would provide that the Legislature validates and confirms all governmental acts and proceedings of a city or county, the board of directors of a reinvestment zone, or an entity acting under Section 311.010(f), that were taken before the effective date of the bill and relate to or are associated with the designation, operation, or administration of a reinvestment zone or the implementation of a project plan or reinvestment zone financing plan as of the dates on which they occurred and that the

acts and proceedings may not be held invalid because they were not in accordance with the law. The bill would provide certain exceptions to this legislative validation.

Section 24 would require that Section 311.002(1) as amended by the bill apply to all costs regardless of when they were incurred and that Section 311.012(c) as amended by the bill apply only to the determination of the tax increment base of a taxing unit for a tax year beginning on or after the effective date of the bill except that if the tax increment base of a taxing unit for a tax year beginning before the effective date was determined in the manner provided by Section 311.012(c) as amended by the bill the determination is validated as if the amendment were in accordance with Section 311.012(c) as that section existed immediately before the effective date of the bill.

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Local Government Impact

To the extent that provisions of the bill result in the inclusion of more property in tax increment financing agreements the provisions would create a cost to local taxing units.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, AG, SD, SJS

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

82ND LEGISLATIVE REGULAR SESSION

April 26, 2011

TO: Honorable John Davis, Chair, House Committee on Economic & Small Business
Development

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB2853 by Davis, John (Relating to tax increment financing.), **Committee Report 1st
House, Substituted**

Because the bill would not create or impact a state tax or fee, no comment from this office is required by the rules of the House as to the general effects of the proposal on the distribution of tax and fee burdens among individuals and businesses.

Source Agencies:

LBB Staff: JOB, KK

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

82ND LEGISLATIVE REGULAR SESSION
Revision 1

April 20, 2011

TO: Honorable John Davis, Chair, House Committee on Economic & Small Business
Development

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB2853 by Davis, John (Relating to tax increment financing.), **As Introduced**

Because the bill would not create or impact a state tax or fee, no comment from this office is required by the rules of the House as to the general effects of the proposal on the distribution of tax and fee burdens among individuals and businesses.

Source Agencies:

LBB Staff: JOB, AG, KK

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

TAX/FEE EQUITY NOTE

82ND LEGISLATIVE REGULAR SESSION

April 5, 2011

TO: Honorable John Davis, Chair, House Committee on Economic & Small Business
Development

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: **HB2853** by Davis, John (Relating to tax increment financing.), **As Introduced**

Because the bill would not create or impact a state tax or fee, no comment from this office is required by the rules of the House as to the general effects of the proposal on the distribution of tax and fee burdens among individuals and businesses.

Source Agencies:

LBB Staff: JOB, KK