

BILL ANALYSIS

Senate Research Center
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H.B. 3484
By: Coleman et al. (Shapiro)
Finance
5/20/2009
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Municipalities and counties use tax increment financing for purposes of redevelopment of specified areas within their jurisdictions. This type of financing provides for the reinvestment of existing tax revenue and does not involve new or additional taxation. Various provisions of the Tax Increment Financing Act are inconsistent or outmoded, in part due to the fact that taxing entities are no longer required to participate in tax increment reinvestment zones.

A municipal management district is a tool that provides supplemental services and improvements to propriety owners. These districts typically serve commercial and business property in urban areas, particularly in the Greater Houston Area. Like other types of local government entities, the legislative confirmation and validation of municipal management distinct acts and proceedings is needed to allow the districts to perform their functions without interruption due to technical deficiencies or challenges.

H.B. 3484 revises existing law relating to the funding, creation, and operation of tax increment reinvestment zones. The bill also provides for the validation of municipal management district acts. Additionally, this provides for the implementation of school district participation in certain zones, under the school finance formula,

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

ARTICLE 1. VALIDITY OF CERTAIN ACTS OR PROCEEDINGS OF MUNICIPAL MANAGEMENT DISTRICTS

SECTION 1.01. Amends Subchapter A, Chapter 375, Local Government Code, by adding Section 375.005, as follows:

Sec. 375.005. PRESUMPTION OF VALIDITY OF ACT OR PROCEEDING. (a) Provides that this section applies to a district created under this chapter, and a district created under a local law that in accordance with that local law operates wholly or partly under this chapter.

(b) Provides that the governmental act or proceeding is conclusively presumed, as of the date it occurred, to be valid and to have occurred in accordance with law, on and after the second anniversary of the effective date of a governmental act or proceeding of a district, including a governmental act or proceeding related to the district's creation, boundaries, operation, administration, annexation or exclusion of land or other property, levy or collection of ad valorem taxes, or adoption or implementation of a service and improvement plan and the determination, levy, and collection of assessments pursuant to the plan.

(c) Provides that the presumption provided by Subsection (b) does not apply to a governmental act or proceeding of a district regarding which a lawsuit to annul or invalidate the act or proceeding is filed on or before the second anniversary of the effective date of the governmental act or proceeding.

(d) Provides that the presumption provided by Subsection (b) does not apply to a governmental act or proceeding of a district that at the time the act or proceeding occurred was a misdemeanor or felony under a statute of this state or the United States; or a district rule that, at the time it was passed, was preempted by a statute of this state or the United States, including Section 1.06 (Code Exclusively Governs) or 109.57 (Application of Code; Other Jurisdictions), Alcoholic Beverage Code.

SECTION 1.02. Provides that the presumption provided by Section 375.005(b), Local Government Code, as added by this Act, does not apply to:

- (1) a governmental act or proceeding of a district regarding which a lawsuit to annul or invalidate the act or proceeding is filed on or before August 31, 2009; or
- (2) a matter that on September 1, 2009, is involved in litigation, if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or has been held invalid by a final judgment of a court.

SECTION 1.03. (a) Provides that the legislature validates and confirms, as of the dates on which they occurred, all governmental acts or proceedings of a district created under Chapter 375 (Municipal Management Districts in General), Local Government Code, or a district that is created by a local law and that operates wholly or partly under Chapter 375, Local Government Code, including governmental acts and proceedings related to the district's creation, boundaries, operation, administration, annexation or exclusion of land or other property, levy or collection of ad valorem taxes, or adoption or implementation of a service and improvement plan and the determination, levy, and collection of assessments pursuant to the plan, that were taken before the effective date of this Act.

(b) Provides that Subsection (a) of this section does not apply to a matter that on the 30th day after the effective date of this Act is involved in litigation, if the litigation ultimately results in the matter being held invalid by a final judgment of a court, or has been held invalid by a final judgment of a court.

ARTICLE 2. TAX INCREMENT FINANCING

SECTION 2.01. Amends Section 311.002(1), Tax Code, to redefine "project costs."

SECTION 2.02. Amends Sections 311.003(a) and (b), Tax Code, as follows:

(a) Authorizes the governing body of a county by order to designate a geographic area in the county or the governing body of a municipality by ordinance to designate a geographic area that is in the corporate limits of the municipality, in the extraterritorial jurisdiction of the municipality, or in both, rather than authorizing the governing body of municipality by ordinance or the governing body of a county by order to designate a contiguous geographic area in the jurisdiction of the municipality or county, to be a reinvestment zone to promote development or redevelopment of the area if the governing body determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future. Provides that the area need not be contiguous if the governing body determines that the tracts included in the area are substantially related. Provides that the designation of an area that is wholly or partly located in the extraterritorial jurisdiction of a municipality is not affected by a subsequent annexation of real property in the reinvestment zone by the municipality. Provides that the tax increment base of a municipality that annexes an area in a zone after the area is included in the zone is computed as if the area were located in the corporate limits of the municipality at the time the area was included in the zone.

(b) Requires a governing body of the municipality or county, before adopting an ordinance or order designating, rather than providing for, a reinvestment zone, to prepare a preliminary reinvestment zone financing plan. Deletes existing text requiring that a copy of the plan, as soon as the plan is completed, be sent to the

governing body of each taxing unit that levies taxes on real property in the proposed zone.

SECTION 2.03. Amends Chapter 311, Tax Code, by adding Section 311.0035, as follows:

Sec. 311.0035. PROCEDURE FOR DESIGNATING JOINT REINVESTMENT ZONE.

(a) Authorizes the governing bodies of two or more municipalities by ordinance adopted by each municipality to designate a contiguous area in the jurisdiction of each of the municipalities to be a joint reinvestment zone. Requires each of the municipalities, except as otherwise provided by this section, to follow the procedures provided by Section 311.003 (Procedure for Creating Reinvestment Zone) to designate an area as a joint reinvestment zone. Requires that the ordinances adopted by all of the municipalities designating an area as a joint reinvestment zone contain the same terms and:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) create a board of directors for the zone and specify the number of directors, the qualifications of directors, the manner in which directors are appointed, the terms of directors, the manner in which vacancies on the board are filled, and the manner by which officers of the board are selected;

(3) provide that the zone takes effect immediately on adoption of the ordinance by the last of the municipalities in the jurisdiction of which the area contained in the zone is located;

(4) provide a termination date for the zone;

(5) assign a name to the zone, which may include the name of one or more of the designating municipalities and may contain a number;

(6) establish a tax increment fund for the zone; and

(7) contain findings that improvements in the zone will significantly enhance the value of all taxable real property in the zone and will be of general benefit to the municipalities; and the area meets the requirements of Sections 311.005(a)(1) (relating to certain requirements for an area to be designated as a reinvestment zone) and (2) (relating to certain development and platting requirements for an area to be designated as a reinvestment zone) and (a-1) (relating to authorizing the governing body of a municipality may designate an area as a reinvestment zone, under certain conditions).

(b) Provides that for purposes of complying with Subsection (a)(7)(A) (relating to requiring the ordinance adopted by all of the municipalities designating an area as a joint reinvestment zone to containing certain findings, including improvements in the zone will significantly enhance the value of all taxable real property in the zone and will be of general benefit to the municipalities) the ordinances are not required to identify the specific parcels of real property to be enhanced in value.

(c) Authorizes the boundaries of a joint reinvestment zone to be enlarged or reduced by ordinance of the governing bodies of the municipalities that designated the zone, subject to the restrictions contained in this section.

(d) Authorizes the municipalities designating a joint reinvestment zone to exercise any power necessary and convenient to carry out this section and the other provisions of this chapter, including the powers listed in Section 311.008 (Powers of Municipality or County).

(e) Provides that the board of directors of a joint reinvestment zone has the same powers and duties and is subject to the same limitations as the board of directors of a reinvestment zone designated by a single municipality, except as otherwise provided by this section. Provides that Sections 311.011 (Project and Financing Plans), 311.012 (Determination of Amount of Tax Increment), 311.0123 (Sales Tax Increment), 311.013 (Collection and Deposit of Tax Increments), 311.014 (Tax Increment Fund), 311.015 (Tax Increment Bonds and Notes), 311.016 (Annual Report by Municipality or County), 311.0163 (Annual Report by the Comptroller), and 311.018 (Conflicts with Municipal Charter) apply to the municipalities designating a joint reinvestment zone, except that a reference in those sections to a municipality means all of the municipalities designating a joint reinvestment zone and an action required of a municipality under those sections is considered to be required of all of the municipalities designating a joint reinvestment zone.

(f) Authorizes that expenditures from tax increment financing funds or bonds secured by tax increment financing be made without regard to the location from which the funds were derived or the location within the joint reinvestment zone at which the funds are spent, but only if those expenditures are authorized as required by this chapter.

SECTION 2.04. Amends Section 311.005(a), Tax Code, to require that an area, to be designated as a reinvestment zone, meet certain criteria, including substantially arrest or impair the sound growth of the municipality or county designating, rather than creating, the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of the is in a certain condition; and be predominantly open, undeveloped, or underdeveloped and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality or county.

SECTION 2.05. Amends Section 311.007, Tax Code, as follows:

Sec. 311.007. New heading: CHANGING BOUNDARIES OR TERM OF EXISTING ZONE. (a) Authorizes the boundaries of an existing reinvestment zone to be reduced or enlarged by ordinance or resolution of the governing body of the municipality or by order or resolution of the governing body of the county that designated, rather than created, the zone. Deletes existing text making Subsection (a) subject to the limitations provided by Section 311.006 (Restrictions on Composition of Reinvestment Zone), if applicable.

(b) Authorizes the governing body of the municipality or county that designated a reinvestment zone by ordinance or resolution or by order or resolution, respectively, to extend the term of all or a portion of the zone after notice and hearing in the manner provided for the designation of the zone. Provides that a taxing unit other than the municipality or county that designated the zone is not 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. Deletes existing text authorizing the governing body of the municipality or county to enlarge an existing reinvestment zone to include an area described in a petition requesting that the area be included in the zone if the petition is submitted to the governing body of the municipality or county by the owners of property constituting at least 50 percent of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located. Deletes existing text providing that the composition of the board of directors of the zone continues to be governed by Section 311.009(a) or (b), whichever applied to the zone immediately before the enlargement of the zone, except that the membership of the board is required to conform to the requirements of the applicable subsection of Section 311.009 (Composition of the Board of Directors) as applied to the zone after its enlargement. Deletes existing text providing that the provision of Section 311.006(b) (relating to prohibiting a municipality from changing the boundaries of an existing reinvestment zone to include property

more than 10 percent of which, excluding property dedicated to public use, is used for residential purposes or to include more than 15 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality) relating to the amount of property used for residential purposes that may be included in the zone does not apply to the enlargement of a zone under this subsection.

SECTION 2.06. Amends Section 311.008, Tax Code, by amending Subsection (b) and adding Subsections (f) and (g), as follows:

(b) Authorizes a municipality or county to exercise certain powers necessary and convenient to carry out this chapter, including the power to acquire real property by purchase, condemnation, or other means and sell real property, on the terms and conditions and in the manner it considers advisable, to implement project plans. Makes conforming and nonsubstantive changes.

(f) Authorizes the governing body of a municipality or county to impose a fee on property owners who submit a petition under Section 311.005(a)(4) (relating to requiring an area, to be designated as a reinvestment zone, to be an area described in a petition requesting that the area be designated as a reinvestment zone, if the petition is submitted to the governing body of the municipality or county by the owners of property constituting at least 50 percent of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located) for processing the petition; or for reviewing a project designated or proposed to be designated under this chapter.

(g) Requires that a fee under Subsection (f) be reasonably related to the estimated cost to the municipality or county of processing the petition or reviewing the project, respectively.

SECTION 2.07. Amends Section 311.0085(a), Tax Code, to provide that this section applies only to a municipality with a population of less than 130,000 as shown by the 2000 federal decennial census that has territory in three counties, rather than has territory in three counties and a population of less than 120,000.

SECTION 2.08. Amends Sections 311.009(a), (b), and (e), Tax Code, as follows:

(a) Authorizes each taxing unit other than the municipality or county that designated the zone that levies taxes on real property in the zone to appoint one member of the board if the taxing unit has approved the payment of all or part of the tax increment produced by the unit into the tax increment fund for the zone. Makes conforming changes.

(b) Authorizes the governing body of the municipality or county that designated the zone, if the zone was designated under Section 311.005(a)(4), to provide that the board of directors of the zone consists of nine members appointed as provided by this subsection, unless more than nine members are required to comply with this subsection. Authorizes each taxing unit, rather than school district, county, or municipality, other than the municipality or county that designated the zone, that levies taxes on real property in the zone to appoint one member of the board if the taxing unit, rather than school district, county, or municipality, has approved the payment of all or part of the tax increment produced by the unit into the tax increment fund for the zone. Authorizes the municipality or county, if fewer than seven taxing units, other than the municipality or county that designated the zone, are eligible to appoint members of the board of directors of the zone, to appoint a number of members of the board such that the board comprises nine members. Authorizes the municipality or county, if at least seven taxing units, other than the municipality or county that designated the zone, are eligible to appoint members of the board of directors of the zone, to appoint one member. Deletes existing text providing that the remaining members of the board are appointed by the governing body of the municipality or county that created the zone. Makes a conforming change.

(e) Requires an individual, to be eligible for appointment to the board by the governing body of the municipality or county that designated the zone, to:

(1) if the board is covered by Subsection (a) be a resident of this state and a citizen of the United States, rather than a qualified voter of the municipality or county, as applicable; and, rather than or, be at least 18 years of age, rather than be at least 18 years of age and own real property in the zone, whether or not the individual resides in the municipality or county; or

(2) if the board is covered by Subsection (b) meet certain criteria, including be a tenant of a person that owns real property in the zone.

SECTION 2.09. Amends Section 311.0091, Tax Code, by amending Subsection (f) and adding Subsection (i), as follows:

(f) Requires that an individual, except as provided by Subsection (i), to be eligible for appointment to the board, meet certain criteria.

(i) Provides that the eligibility criteria for appointment to the board specified by Subsection (f) do not apply to an individual appointed by a conservation and reclamation district created under Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution; and the jurisdiction of which covers four counties.

SECTION 2.10. Amends Sections 311.010(b), (g), and (h), Tax Code, as follows:

(b) Authorizes an agreement to during the term of the agreement dedicate, pledge, or otherwise provide for the use of revenue in the tax increment fund to pay any project costs that benefit the reinvestment zone, including project costs relating to the cost of buildings, schools, or other educational facilities owned by or on behalf of a school district, community college district, or other political subdivision of this state, railroad or transit facilities, affordable housing, the remediation of conditions that contaminate public or private land or buildings, the preservation of the facade of a private or public building, the demolition of public or private buildings, or the construction of a road, sidewalk, or other public infrastructure in or out of the zone, including the cost of acquiring the real property necessary for the construction of the road, sidewalk, or other public infrastructure. Deletes existing text authorizing an agreement to dedicate revenue from the tax increment fund to pay a neighborhood enterprise association for providing services or carrying out projects authorized under Subchapters E and G (Enterprise Zones Benefits), Chapter 2303 (Enterprise Zones), Government Code, in the zone. Deletes existing text prohibiting the term of an agreement with a neighborhood enterprise association from exceeding 10 years. Makes a conforming change.

(g) Provides that Chapter 252 (Purchasing and Contracting Authority of Municipalities), Local Government Code, does not apply to a dedication, pledge, or other use of revenue in the tax increment fund for a reinvestment zone, rather than providing that Chapter 252, Local Government Code, does not apply to a dedication, pledge, or other use of revenue in the tax increment fund for a reinvestment zone by the board of directors of the zone in carrying out its powers, under Subsection (b).

(h) Authorizes the board of directors of a reinvestment zone, as necessary or convenient to implement the project plan and reinvestment zone financing plan and achieve their purposes, subject to the approval of the governing body of the municipality or county that designated the zone, to establish and provide for the administration of one or more programs for the public purposes of developing and diversifying the economy of the zone, eliminating unemployment and underemployment in the zone, and developing or expanding transportation, business, and commercial activity in the zone, including programs to make grants and loans, rather than including programs to make grants and loans 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, for activities that benefit the zone and stimulate business and commercial activity in the zone. Authorizes the approval required by this subsection 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. Makes a conforming change.

SECTION 2.11. Amends Section 311.01005, Tax Code, by adding Subsection (f), to provide that this section does not limit the power of the board of directors of a reinvestment zone or the governing body of the municipality that designates a reinvestment zone to dedicate, pledge, or otherwise provide for the use of revenue in the tax increment fund for the zone to finance the costs of a project involving real property located outside the zone.

SECTION 2.12. Amends Section 311.011, Tax Code, by amending Subsections (a), (b), (c), (d), and (g) and adding Subsection (h) as follows:

(a) Makes a conforming change. Deletes existing text requiring that the plans be as consistent as possible with the preliminary plans developed for the zone before the creation of the board.

(b) Requires that the project plan include a description of existing uses, rather than a map showing existing uses, and conditions of real property in the zone and proposed uses of that property, rather than a map showing proposed improvements to and proposed uses of that property; and a statement of a method of relocating persons to be displaced, if any, as a result of implementing the plan. Deletes existing text related to the master plan of the municipality and a list of estimated nonproject costs.

(c) Requires that the reinvestment zone financing plan include certain information, including a statement listing the proposed kind, number, and location of all public works or public improvements to be financed by the zone; a finding that the plan is economically feasible, rather than an economic feasibility study; the estimated time when related costs or monetary obligations are to be incurred; and a description of the methods of financing all estimated project costs and the expected sources of revenue to finance or pay project costs, including the percentage of tax increment to be derived from the property taxes of each taxing unit anticipated to contribute tax increment to the zone that levies taxes on real property in the zone. Makes nonsubstantive changes.

(d) Requires that the approval be by ordinance, in the case of a municipality, or by order, in the case of a county, that finds that the plan is feasible, rather than requiring that the approval be by ordinance, in the case of a municipality, or by order, in the case of a county, that finds that the plan is feasible and conforms to the master plan, if any, of the municipality or to subdivision rules and regulations, if any, of the county. Makes a conforming change.

(g) Provides that a school district, rather than an amendment to the project plan or the reinvestment zone financing plan for a zone does not apply to a school district, that participates in a zone is not required to increase the percentage or amount of the tax increment to be contributed by the school district because of an amendment to the project plan or reinvestment zone financing plan for the zone unless the governing body of the school district by official action approves the amendment. Deletes existing text relating to the effect of the amendment directly or indirectly increasing the percentage or amount of the tax increment to be contributed by the school district; or requiring or authorizing the municipality or county creating the zone to issue additional tax increment bonds or notes. Makes a nonsubstantive change.

(h) Provides that unless specifically provided otherwise in the plan, all amounts contained in the project plan or reinvestment zone financing plan, including amounts of expenditures relating to project costs and amounts relating to participation by taxing units, are considered estimates and do not act as a limitation on the described items.

SECTION 2.13. Amends Sections 311.012(a) and (c), Tax Code, as follows:

(a) Provides that the amount of a taxing unit's tax increment for a year is the amount of property taxes levied and assessed by the unit for that year on the captured appraised value of real property taxable by the unit and located in a reinvestment zone or the amount of property taxes levied and collected by the unit for that year on the captured appraised value of real property taxable by the unit and located in a reinvestment zone. Requires the governing body of a taxing unit to determine which of the methods specified by this subsection is used to calculate the amount of the unit's tax increment.

(c) Provides that the tax increment base of a taxing unit is the total taxable, rather than appraised, value of all real property taxable by the unit and located in a reinvestment zone for the year in which the zone was designated under this chapter. Provides that the tax increment base is increased by the taxable value of the real property added to the zone for the year in which the property was added, if the boundaries of a zone are enlarged. Provides that the tax increment base is 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, if the boundaries of a zone are reduced. Provides that the tax increment base is determined by the appraisal district in which the zone is located using assumptions regarding exemptions and other relevant information provided to the appraisal district by the municipality, if the municipality that designates a zone does not levy an ad valorem tax in the year in which the zone is designated.

SECTION 2.14. Amends Sections 311.013(f), (g), (l), and (n), Tax Code, as follows:

(f) Authorizes the agreement, in addition to any other terms to which the parties may agree, to specify the projects to which a participating taxing unit's tax increment will be dedicated and that the taxing unit's participation is authorized to be computed with respect to a base year later than the original base year of the zone. Makes conforming changes.

(g) Authorizes a taxing unit, subject to the provisions of Section 311.0125 (Tax Abatement Agreements), in lieu of permitting a portion of its tax increment to be paid into the tax increment fund, and notwithstanding the provisions of Section 312.203 (Expiration of Reinvestment Zone), a taxing unit, including, rather than other than, a municipality, rather than city, to elect to offer the owners of taxable real property in a reinvestment zone designated under this chapter an exemption from taxation of all or part of the value of the property. Requires that an agreement under this subsection exempt real property, to be effective, rather than any agreement concerning an exemption, from ad valorem taxes, to be approved by the board of directors of the reinvestment zone; and the governing body of each taxing unit that imposes taxes on real property in the reinvestment zone and deposits or agrees to deposit any of its tax increment into the tax increment fund for the zone. Deletes existing text requiring an agreement from ad valorem taxes to be executed in the manner and subject to the limitations of Chapter 312 (Property Redevelopment and Tax Abatement Act); provided, however, the property covered by the agreement need not be in a zone created pursuant to Chapter 312. Deletes existing text prohibiting a taxing unit from offering a tax abatement agreement to property owners in the zone after it has entered into an agreement that its tax increments would be paid into the tax increment fund pursuant to Subsection (f).

(l) Authorizes the governing body of a municipality or county that designates an area as a reinvestment zone to determine, in the designating ordinance or order adopted under Section 311.003 (Procedure for Creating Reinvestment Zone) or in the ordinance or order adopted under Section 311.011 (Project Financing Plans) approving the reinvestment zone financing plan for the zone, the portion of the tax increment produced by the municipality or county that the municipality or county is required to pay into the tax increment fund for the zone. Provides that the municipality or county is required to pay into the fund for the zone the entire tax increment produced by the municipality or county, except as provided by Subsection (b)(1) (relating to requiring each taxing unit to pay into the tax increment fund for the zone an amount to the tax increment produced by the unit, less the certain sum), if a municipality or county does not determine the portion

of the tax increment produced by the municipality or county that the municipality or county is required to pay into the tax increment fund for a reinvestment zone.

(n) Provides that this subsection applies only to a school district whose taxable value computed under Section 403.302(d) (relating to defining taxable value for purposes of that section), Government Code, is reduced in accordance with Subdivision (4), rather than (5), of that subsection. Deletes existing text requiring the school district to pay a certain amount and to not to exceed the amount the school district realizes from the reduction in the school district's taxable value under Section 403.302(d)(5), Government Code.

SECTION 2.15. Amends Section 311.014(b), Tax Code, as follows:

(b) Requires that tax increment and other funds deposited in the tax increment fund of the zone be administered by the governing body of the municipality or county that designated the zone or, if delegated by the governing body, by the board of directors of the zone, to implement the project plan and reinvestment zone financing plan for the zone during the term of the zone, as it may be extended, and for any period in which the zone remains in existence for collection and disbursement pursuant to Section 311.017(d). Authorizes money to be disbursed from the fund only to satisfy claims of holders of tax increment bonds or notes issued for the zone, to pay project costs for the zone, to make payments pursuant to an agreement made under Section 311.010(b) or a program under Section 311.010(h) dedicating revenue from the tax increment fund, or to repay other obligations incurred for the zone.

SECTION 2.16. Amends Sections 311.015(a) and (l), Tax Code, as follows:

(a) Authorizes a municipality, in lieu of issuing bonds or notes under this subsection, to issue certificates of obligation under Subchapter C (Certificate of Obligation Act), Chapter 271 (Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments), Local Government Code, to pay the project costs for a zone and to use tax increment from the zone to pay debt service on the certificates. Makes conforming changes.

(l) Requires that a tax increment bond or note to mature on or before the date by which the final payments of tax increment into the tax increment fund are due, rather than requiring a tax increment bond or note to mature within 20 years of the date of issue.

SECTION 2.17. Amends Section 311.016(a), Tax Code, as follows:

(a) Requires the governing body of a municipality or county, on or before the 150th, rather than 90th, day following the end of the fiscal year of the municipality or county, to submit to the chief executive officer of each taxing unit that levies property taxes on real property in a reinvestment zone designated by the municipality or county a report on the status of the zone. Makes a conforming change.

SECTION 2.18. Amends and reenacts Section 311.016(b), Tax Code, as amended by Chapters 977 (H.B. 1820) and 1094 (H.B. 2120), Acts of the 79th Legislature, Regular Session, 2005, to require the municipality or county to send a copy of a report made under this section to the attorney general and the comptroller.

SECTION 2.19. Amends Section 311.017, Tax Code, by amending Subsection (a) and adding Subsections (a-1), (c), (d), and (e), as follows:

(a) Provides that a reinvestment zone (zone) terminates on the earlier of certain date including the termination date designated in the ordinance or order, as applicable, designating the zone or an earlier or later termination date designated by an ordinance or order adopted under Section 311.007(b), rather than subsequent to the ordinance or order creating the zone. Makes a conforming change.

(a-1) Provides that a taxing unit that taxes real property located in the zone, other than the municipality or county that designated the zone, is not required to pay any of its tax increment into the tax increment fund for the zone for any tax year after the termination date designated in the ordinance or order designating the zone unless the governing body of the taxing unit enters into an agreement to do so with the governing body of the municipality or county that designated the zone, notwithstanding the designation of a later termination date under Section 311.007(b).

(c) Provides that a zone designated under other law as described by Section 311.0031 (Enterprise Zone) terminates for purposes of this chapter on the date specified in the ordinance or order designating the zone as a reinvestment zone under this chapter, regardless of whether the zone has terminated under the other law under which the zone was originally designated.

(d) Provides that the zone remains in existence solely for the purpose of collecting and disbursing tax increment with respect to tax years during the designated term of the zone, as it may have been extended, if tax increment bonds or other obligations issued or incurred for the zone are outstanding when the zone terminates, subject to Subsection (a-1). Requires that those funds be used to pay the tax increment bonds or other obligations issued or incurred for the zone. Provides that the termination date of a zone for purposes of any contract entered into by the board, or by the municipality or county that designated the zone, remains the termination date designated by ordinance or order in effect on the date the contract was executed unless a subsequent amendment to the contract expressly provides otherwise, notwithstanding the other provisions of this subsection or the extension of the term of a zone under Section 311.007.

(e) Authorizes the governing body of the municipality or county that designated the zone, after termination of the zone, to continue the zone for an additional period for the purpose of continuing the implementation of the reinvestment zone project plan and financing plan. Requires the zone, in that event, although tax increment is required to cease to be deposited with respect to tax years following termination of the zone, to retain all remaining funds, property, and assets of the zone to be used to implement the plans as authorized by the governing body.

SECTION 2.20. Amends Chapter 311, Tax Code, by adding Section 311.021, as follows:

Sec. 311.021. ACT OR PROCEEDING PRESUMED VALID. (a) Provides that a governmental act or proceeding of a municipality or county, the board of directors of a reinvestment zone, or an entity acting under Section 311.010(f) (relating to authorizing the board of directors of a reinvestment zone and the governing body of the municipality or county that created the zone to enter into a contract with a local government corporation or a political subdivision to manage the reinvestment zone or implement the project plan and reinvestment zone financing plan for the term of the agreement; and defines "local government corporation" for that subsection) relating to the designation, operation, or administration of a reinvestment zone or the implementation of a project plan or reinvestment zone financing plan under this chapter is conclusively presumed, as of the date it occurred, valid and to have occurred in accordance with all applicable statutes and rules if the second anniversary of the effective date of the act or proceeding has expired; and a lawsuit to annul or invalidate the act or proceeding has not been filed on or before the later of that second anniversary or August 1, 2009.

(b) Provides that this section does not apply to:

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

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

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

(4) a matter that on the effective date of the Act enacting this section is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or has been held invalid by a final judgment of a court.

SECTION 2.21. Amends Section 42.2516(b), Education Code, as follows:

(b) Entitles a school district, subject to Subsections (b-1) (relating to additional aid to taxation in the amount determined for a school district under Subsection (b) is increased or reduced by a certain formula), (b-2) (relating to additional aid to taxation in the amount determined for a school district under Subsection (b) is increased or reduced by a certain formula), (f-1) (relating to requiring the commissioner of education, in accordance with rules adopted by the commissioner, adjust the amount of a school district's local revenue derived from maintenance and operations tax collections, as calculated for purposes of determining the amount of state revenue to which the district is entitled under this section, if the district, for the 2007 tax year or a subsequent tax year if certain exemptions are adopted and granted and agrees to depositing taxes into a certain tax increment fund), (g) (relating to requiring the commissioner of education, if a school district adopts a maintenance and operations tax rate that is below the rate equal to the product of the state compression percentage multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, to reduce the district's entitlement under this section in proportion to the amount by which the adopted rate is less than the rate equal to the product of the state compression percentage multiplied by the rate adopted by the district for the 2005 tax year), and (h) (relating to requiring the commissioner of education to reduce the amount of state aid provided to the district for that school year by a certain amount), but notwithstanding any other provision of this title, to state revenue necessary to provide the district with the certain sum of, including an amount equal to the amount the district is required to pay into the tax increment fund for a reinvestment zone under Section 311.013(n), Tax Code, in the current tax year.

SECTION 2.22. Amends Section 42.253, Education Code, by adding Subsection (c-1), as follows:

(c-1) Requires that the amounts to be paid under Section 42.2516(b)(4) (entitling a school district to state revenue necessary to provide the district with the sum of an amount equal to the amount the district is required to pay into the tax increment fund for a reinvestment zone under Section 311.013(n), Tax Code, in the current tax year) be paid at the same time as other state revenue is paid to the district. Requires that payments be based on amounts paid under Section 42.2516(b)(4) for the preceding year. Requires that any deficiency be paid to the district at the same time the final amount to be paid to the district is determined, and any overpayment be deducted from the payments the district would otherwise receive in the following year.

SECTION 2.23. Amends Sections 403.302(d) and (i), Government Code, as follows:

(d) Redefines "taxable value" for the purposes of this section.

(i) Requires the comptroller of public accounts, in determining the taxable value of property in the school district under Subsection (d), if the comptroller determines in the annual study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is valid, for purposes of Subsection (d)(13) (relating to the definition of "taxable value" for the purpose of this section), rather than (d)(14), to subtract from the market value as determined by the appraisal district of residence homesteads to which Section 23.23 (Limitation on Appraised Value of Residence Homestead), Tax Code, applies the amount

by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23, Tax Code. Makes a conforming change.

SECTION 2.24. Amends Section 373A.151(b), Local Government Code, to provide that in addition to other provisions of this subchapter that modify or supersede the application of Chapter 311, Tax Code, to a zone established under this subchapter, Section 311.005 (Criteria for Reinvestment Zone), rather than Sections 311.005 and 311.006, Tax Code, does, rather than do, not apply to a zone established under this subchapter.

SECTION 2.25. Repealer: Sections 311.003(e) (relating to requiring the governing body of the municipality or county to notify in writing the governing body of each other taxing unit that levies real property taxes in the proposed reinvestment zone that it intends to establish the zone; and authorizing the notice to be given by a certain date if the governing body of each municipality, county, and school district, other than the municipality or county proposing to designate a reinvestment zone, that levies real property taxes in the proposed zone agrees to waive the requirement), (f) (relating to the requirements for designating a reinvestment zone, including a certain required formal presentation and notification to be given and relating to requiring the governing body of the municipality or county to provide the certain requested information), and (g) (relating to requiring each taxing unit that levies real property taxes in the proposed reinvestment zone to designate a representative to meet with the governing body of the municipality or county proposing to designate a reinvestment zone to discuss the project plan and the reinvestment zone financing plan and to notify the governing body of the municipality or county of its designation no later than a certain date; authorizing the governing body of the municipality or county proposing to designate a reinvestment zone to call a meeting of the representatives of the taxing units; requiring notice to be given regarding the meeting; the discussion at the meeting for designating a reinvestment zone;), 311.006 (Restrictions on Composition of Reinvestment Zone, and 311.013(d) (relating to providing that a taxing unit is not required to pay a tax increment into the tax increment fund of the zone after three years from the date the zone is created unless certain conditions exist or have been met within the three-year period) and (e) (relating to providing that if the reinvestment zone was created before August 29, 1983, a taxing unit is not required to pay a tax increment into the tax increment fund of the zone after September 1, 1986, unless certain conditions existed or were met before September 1, 1986), Tax Code.

SECTION 2.26. (a) Provides that the legislature validates and confirms all governmental acts and proceedings of a municipality or county, the board of directors of a reinvestment zone, or an entity acting under Section 311.010(f) (relating to authorizing the board of directors of a reinvestment zone and the governing body of the municipality or county that created the zone to enter into a contract with a local government corporation or a political subdivision to manage the reinvestment zone or implement the project plan and reinvestment zone financing plan for the term of the agreement; and defining "local government corporation" for that subsection), Tax Code, that were taken before the effective date of this article 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 under Chapter 311, Tax Code, including the extension of the term of a reinvestment zone, as of the dates on which they occurred. Prohibits the acts and proceedings from being held invalid because they were not in accordance with Chapter 311, Tax Code, or other law.

(b) Provides that Subsection (a) of this section does not apply to any matter that on the 30th day after the effective date of this article is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or has been held invalid by a final judgment of a court.

SECTION 2.27. (a) Provides that Section 311.002(1), Tax Code, as amended by this Act, applies to all costs described by that subdivision regardless of when they were incurred.

(b) Provides that Section 311.0091, Tax Code, as amended by this Act, applies only to an individual appointed by a conservation and reclamation district to the board of directors of a reinvestment zone on or after the effective date of this article. Provides that an individual appointed by a conservation and reclamation district to the board of a reinvestment zone before the effective date of this article is governed by Section

311.0091, Tax Code, as that section existed immediately before the effective date of this article, and the former law is continued in effect for that purpose.

(c) Provides that Section 311.012(c), Tax Code, as amended by this Act, applies 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 this article, 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), Tax Code, as amended by this Act, the determination is validated as if the amendment were in accordance with Section 311.012(c), Tax Code, as that section existed immediately before the effective date of this article.

SECTION 2.28. Provides that Section 42.2516, Education Code, as amended by this Act, applies as if Subsection (b)(4) of that section were in effect in the state fiscal year beginning September 1, 2006, and any amounts due a school district under Subsection (b)(4) of that section for the state fiscal years beginning September 1, 2006, September 1, 2007, and September 1, 2008, are required to be paid to the district in the state fiscal year beginning September 1, 2009, at the time payments are made to the district under Section 42.259(f) (relating to requiring any previously unpaid additional funds from prior years owed to a district to be paid to the district together with the September payment of the current year entitlement with certain exceptions), Education Code.

SECTION 2.29. Effective date, this article: upon passage or September 1, 2009.

ARTICLE 3. EFFECTIVE DATE

SECTION 3.01. Effective date, except as otherwise provided by this Act: September 1, 2009.